

The Cramdown

The Newsletter of the Tampa Bay Bankruptcy Bar Association

Editor-in-Chief, Larry Foyle, Esq.

Summer 2007

PRESIDENT'S MESSAGE

by Herb Donica, Esq.
Donica Law Firm, P.A.



We had a great year thanks to our volunteers.

It has been my pleasure to serve the Association this year. The most enjoyable part of the experience has been the chance to get to know many of you better.

Your Board has been very active and has accomplished a lot. Your Board Members have contributed many hours this past year on several important projects.

- Luis Martinez-Monfort and Carrie Lesser did a wonderful job in managing the makeover of the 10th Floor Attorneys' Resource Room.
- The CLE committee headed up by Luis Martinez-Monfort and Cheryl Thompson did a great job providing our core membership services through outstanding continuing education programs.
- Our Community Service Committee, headed by Ed Whitson, achieved a "first" by successfully applying for a grant from the Florida Bar Foundation. The committee undertook two very significant projects this year. In terms of the number of volunteer hours, this has been a huge undertaking.
- The Technology Committee, led by Greg McCoskey, brought our web-page active which includes a calendar and member profiles. We are now using the webpage as a platform for our e-mail communications.
- The publication committee, chaired by Larry Foyle, stuffed each edition of The Cramdown full of useful articles provided by many volunteers.
- The Membership Committee, headed by Elena Ketchum, did a great job in maintaining our membership at 300. Elena also redesigned our Membership Directory which got rave reviews.
- Pat Tinker is the Chair of our Judicial Liaison Committee. This committee arranges informal bi-monthly meetings with the Judges and promotes continued excellent Bench – Bar relations.
- Kelley Petry chaired our Consumer Committee which organized the monthly brown bag lunches which remain one of our most popular programs.

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The Cramdown is published four times per year. Advertising rates are as follows:

Full Page 7.875w x 9.75h \$400/single issue
\$1,200/4 issues

Half Page 7.875w x 4.75h \$200/single issue
\$600/4 issues

Quarter Page 3.75w x 4.75h \$100/single issue
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Kabul Letters

by *The Honorable Michael G. Williamson*
United States Bankruptcy Judge

In January of this year I received a call from a contractor working for the United States Agency for International Development (USAID®) requesting that I serve as a member of an AExpatriate Technical Team® to conduct an assessment of the commercial legal system in Afghanistan. The purpose of the assessment was to provide USAID with information and recommendations regarding opportunities for project assistance and reform in Afghanistan.

While there, I prepared daily emails home to family and colleagues that summarized some of my activities. The following are excerpts from some of those emails:

Day 1

I have arrived in Kabul and am staying in the Hotel Serena, a recently built project of the Aga Khan and the better of the two first-class hotels in the country. The trip from Dubai to Kabul was via UN Humanitarian Air Services. As nice as Dubai was, Kabul is a mess. Buildings observed on the drive in were in serious disrepair. Very little has been done to repair the damage from the battles that were fought here over the last decade. Our security detail met us at the airport. The chief security adviser spent 14 years with the British Special Forces, 11 months of which were in the war against the Taliban. He looks the part. After we checked in we went to our security firm's headquarters where we met the rest of the security team. A Gurkha (as in from Nepal) by the name of Chettri is assigned to stay with us 24/7 at the hotel. We were told to follow three cardinal rules: first, no walking outside the hotel except in prearranged designated bazaar areas and then only with one of our security people; second, we have to arrange our evenings to have our security detail get us back to the hotel by 12; and third, "Don't Leave Home Without Your Pocket Buddy." The Pocket Buddy is a combination cell phone and GPS that allows the command center to track us on a large wall map projection.



A typical scene of a battered house

The National Palace (due for a rehab).



A couple pix of the Kabul Golf Club (tee times are available)



And back to the Hotel Serena

Day 3

Today was our first work day. We started the day with a meeting attended by the key players in the USAID mission to Afghanistan. The general sentiment expressed by the leaders of the various missions was that this country started at a baseline of zero. Afghanistan is not a post-conflict country. It is a post devastation country--still in conflict. Fortunately, that conflict is restricted to the

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Gator Nation Claims Another National Championship (TBBBA Golf Tournament)

On Friday April 20, 2007, approximately 140 golfers met and played in the annual championship at MacDill Air Force Base on the Bay Palms South Course. Our hats are off to Mike Markham and all of the volunteers who organized and made the event fun filled and well paced. In addition Fred Dibella and his staff at the course deserve our thanks. With new rules invoked for the automatic 2 putt greens, the 5 and 6 hour rounds became a thing of the past. With the invention of the "skirt" which could be purchased as part of the super ticket for \$20, no par 5 was out of reach in two, providing ample opportunities for "birdies" and that very rare bird, the "eagle".

As predicted by Judge McEwen, she and her fellow Gator-color clad teammates won not only the Judge's Trophy, but the overall tournament, despite some stiff competition by several teams that would have needed just one more birdie to tie. There were a few moments of tension when it was learned that Judge Glenn had threatened an Ore Tenus Appeal with his teammates Judge Whittemore and Judge Moody who indicated an intention to overrule and reverse some of the scores recorded on the Judge McEwen official score card. Rumor has it, however that had such action been taken, an immediate appeal would be taken to the 11th Circuit. In the end Judges Glenn, Whittemore and Moody recognized that they did not perfect their record for the reversals that had been threatened and recognized their fait accompli. Judge Glenn is now the proud owner of a plush, new Gator golf club head cover -- presented by Judge McEwen-- which he must carry for one year under the terms of their wager.



"Ah, What's up Doc?"

"Not much, looks like another bunch of Bankruptcy Judges and Lawyers trying to golf"

Thank You! A special thank you to all of the Volunteers who make the Annual Golf Tournament the place to be. We also want to thank all of the Sponsors and all of those who provided prizes and gifts

1st place

Hon. Cathy McEwen • Paul Tynan
Brian Johns • Jeff Freeman

2nd place

Larry Foyle • Bob Nader
Dan Rock • Jim Calladine

3rd place

Beth Daniels • Cecil Rowe
Jerry Myer • Connie McMullen

4th place

Jeff Warren • Steve Oscher
Mike Lapan • Chip Diehl

Longest Drive Men

Sean Schreiber

Longest Drive Women

Beth Daniels

Closest to Pin Men

Sean Kelly

Closest to Pin Women

Susan Sharp

Putting Contest

Robert Watson



What You Do Not Know Can Hurt You

Nosek vs. Ameriquest

by Larry Foyle, Esq.

Kass, Shuler, Solomon, Spector, Foyle & Singer, P.A.

Recently, the Bankruptcy Court in Massachusetts rendered a decision that should send shock waves through the mortgage servicing industry. It is a decision that is readable, but difficult to understand. It involves a problem that is easily identifiable, but hard to remedy. The issue is one which suggests that normal accounting procedures will need to take a back seat to bankruptcy accounting requirements. Current accounting software may have to take a back seat to manual accounting when the Mortgagor files a Chapter 13.

The salient facts in *Nosek* were that a Debtor confirmed a Chapter 13 Plan which required the Lender to apply the sum of the monthly payments (the cure payments) to the months designated under the Plan to be cured and to apply other

payments made to the current monthly payments due. This sounds simple enough, except the Lender continued to use its normal and customary computer accounting methods to apply all payments received to the payments furthest past due. To further complicate things, the software used would not permit the lender to post partial payments and so some payments were "suspended" until there were enough dollars collected to apply to a payment.

The Debtor contended that the Lender's actions violated the terms of the Plan, and also violated several Massachusetts State law provisions including RESPA. As a result the Debtor claimed to suffer emotional distress. Debtor was in the process of seeking new mortgage financing and could not get a loan because the credit history on the account and credit reporting did not show that current monthly payments were being made. Instead the account history showed a persistent default in the current monthly payments.

The Bankruptcy Court (following an appeal) went on to impose sanctions against the Lender using a combination of two separate bankruptcy statutes (sections 105 and 1322(b)). The final award was for \$250,000 in actual damages and \$500,000 in punitive damages in favor of the Debtor. The Judge was obviously offended by the Lender and the positions it took in the case, and apparently had its ego bruised when the Lender took an appeal. The Court also wanted to send a message to the big bad Mortgagee. The Court did not find the fact that the Mortgagee might have to handle accounting in all of its Chapter 13 cases manually to be particularly relevant. The burden imposed on the industry did not concern this Judge in the least.

Despite the reasons articulated in the opinion, the result in the *Nosek* is surprising because under one part of the bankruptcy laws, Congress has given Mortgagees the status of most favored creditors and has provided that the Chapter 13 process cannot modify the rights of the holder of a mortgage on a debtor's primary residence. Though not apparently argued in the case, Chapter 13 prior to the BAPCPA Amendment was not designed to afford a Debtor such relief. BAPCPA has now added a specific provision to deal with the situation presented to

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Is BAPCPA Unconstitutional?

by Suzy Tate, Esq.

Smith, Clark, Delecie, Bierley, Mueller & Kadyk, P.A.

For years debtors have challenged the bankruptcy laws for violating the Constitutional requirement that federal bankruptcy laws be uniform throughout the states. U.S. Const., art. I, § 8, cl. 4. With the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), debtors have changed the focus of their arguments from differing state exemptions to the different Median Family Income levels and allowable monthly expenses applied to the states and within the states. These debtors argue that because the income levels and allowable monthly expenses under BAPCPA are not uniform throughout the states, various revised statutes of the Bankruptcy Code are unconstitutional.

Under BAPCPA, one of the changes to the Bankruptcy Code was that only individual debtors with annualized income levels that fall below the Median Family Income for their state or debtors with monthly disposable incomes that fall below the parameters of 11 U.S.C. § 707(b)(2) are able to file for Chapter 7 protection without a presumption of abuse. The limitations, in and of themselves, are not the bases for the argument that various statutes of the Bankruptcy Code are unconstitutional. The argument that the debtors make is that the Median Family Income varies state by state, as allowed under the Bankruptcy Code and that the allowed expenses in calculating monthly disposable income vary not only state by state, but also county by county. The debtors argue that these amounts should be uniform throughout the states.

In *Schultz v. U.S.*, being litigated in the Eastern District of Tennessee, Southern Division, the debtors, a husband and wife with three dependents, have an annualized currently monthly income under 11 U.S.C. § 101(10A) of \$84,975.84. Am. Verified Compl. for Declaratory Judm. Declaring Title 11 U.S.C. §§704(b), 707(b)(2), 707(b)(7), 1325(b)(3) and 1325(b)(4) Unconstitutional, Civ. Action No. 1:07-CV-12 (Dec. 27, 2006). The median

family income for a family of five in the state of Tennessee is \$63,174.00. Because the debtors in this case have an annualized family income above the Tennessee median family income, they cannot file for Chapter 7 bankruptcy protection without a presumption of abuse. Therefore, they have had to file under Chapter 13 of the Bankruptcy Code.

The debtors argue that if they lived in Connecticut, Hawaii, Massachusetts, Maryland, New Hampshire, or New Jersey, they would not have to file under Chapter 13 because the Median Family Income in those states is higher than their annualized income.¹ Moreover, the debtors argue that the determination of their monthly disposable income under the Means Test is based on the National and Local Standards of the Internal Revenue Service, which provide different standards for different states and even for different counties within the states. For example, the debtors note the difference in the allowed monthly housing and utility expense for their county

¹ The Median Family Income for a family of five for Connecticut is \$98,505; Hawaii is \$85,540; Massachusetts is \$91,720; Maryland is \$95,908; New Hampshire is \$87,822; and New Jersey is \$96,561.

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What You Do Not Know Can Hurt You

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the Court in *Nosek*. If the *Nosek* case been filed after October 16, 2007, it would have been decided using new Section 524(i). This small section is like a sleeping giant and may be the next cottage industry for debtors' attorneys who have seen their case loads dwindle and are looking for the next type of case to handle to fill their half empty plates.

Section 524(i) provides

524(i) "The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor".

As much as *Nosek* may be considered by some as a pre-BAPCPA aberration by an angry Judge, it may be prescient in its attack on Mortgagees who do not take steps to correct accounting problems. It is clear that Mortgage servicers cannot simply sit back and take a "business as usual" approach to how to account for the Debtor's payments received pursuant to a Chapter 13 Plan. Mortgage servicers should consider adopting new best practices designed to deal with this specific issue and avoid the kinds of decisions that may occur if *Nosek* or its 524(i) successors become household names in the bankruptcy world.

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United States Supreme Court Admits 21 Local Attorneys To The Court



On May 21, 2007, twenty-one lawyers from the Hillsborough and Clearwater Bar Associations were inducted into the Supreme Court of the United States in a ceremony held in Washington, D.C. The induction ceremony, which lasted only a few minutes, left a lasting impression on the inductees as it will likely be the only time most of the inductees appear before the highest court in the nation. In addition to participating in the induction ceremony, inductees toured Washington area attractions including The Arlington National Cemetery, Embassy Row, and the United States Capitol. The inductees also had an opportunity to network with one another at a cocktail reception held at the Ritz Carlton the evening prior to the induction ceremony and at a breakfast held at the courthouse the morning of the induction ceremony. Many of the inductees were fortunate enough to obtain a photograph with Justice Ginsburg. The ceremony and trip, which were organized by the Hillsborough and Clearwater Bar Associations, are held each May and are open to the first fifty lawyers to register. If you are interested in registering for next year's trip and applying for membership to the bar of the Supreme Court, contact the Hillsborough County Bar Association or look for the Hillsborough County Bar Association's January 2008 email blast advertising next year's induction ceremony, which is scheduled for May 19, 2008.

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New Orleans, Louisiana

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October 17, 2005

\$500 (play money)

The only even-numbered chapter in the code

Double Jeopardy

Who among the following filed for personal
bankruptcy, Henry Ford, Donald Trump, Paul
McCartney?

see page 27 for Questions

PRACTICE ALERT !

FLORIDA LEGISLATURE ADDS A NEW PERSONAL PROPERTY EXEMPTION

In its regular session, the Florida Legislature amended Section 222.25, Florida Statutes, to add a "wildcard" personal property exemption only for those individuals who DO NOT own a home. The amendment, which went into effect on July 1, 2007 [Chapter No. 2007-185], reads as follows:

The following property is exempt from attachment, garnishment, or other legal process

"(4) A debtor's interest in personal property, not to exceed \$4,000, if the debtor does not claim or receive the benefits of a homestead exemption under s. 4, Art. X of the Florida Constitution. This exemption does not apply to a debt owed for child support or spousal support."

**Federal Register/
Volume 72 No. 507
Wednesday, February 14,
2007, Notices**

Federal Registrar the dollar amounts that will become effective on such April 1 under sections 101(3), 101(18), 101(19A), 101(51D), 109(e), 303(b), 507(a), 522(d), 522(f)(3) and 522(f)(4), 522(n), 522(p), 522(q), 523(a)(2)(C), 541(b), 547(c)(9), 707(b), 1322(d), 1325(b), and 1326(b)(3) [of the Bankruptcy Code] and section 1409(b) of title 28.

(3) Adjustments amde in accordance with paragraph (1) shall not apply with respect to cases commenced before the date of such adjustments.

Revision of Certain Dollar Amounts in Bankruptcy Code

Notice is here by given that the dollar amounts are increased in the sections in title 11 and title 28, United States Code. These increases do not apply to cases commenced before the effective date of the adjustments, i.e. April 1, 2007. Official Bankruptcy Forms 6E and 10 also will be amended to reflect these adjusted dollar amounts.

Dated: February 7, 2007.

Francis F. Szczebak,
Chief, Bankruptcy Judges Division.

Chief Judge Glenn was reappointed to another 14 year term as a bankruptcy judge. However, this picture may be one of his proudest moments as his daughter Catherine graduated from University of Florida Law School.



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**March Luncheon Meeting
Traps for the Unwary:
Can This Contract Be Assumed?**

The TBBBA held its March Luncheon Meeting on March 20 at The University Club of Tampa. The Meeting was well-attended. Bankruptcy practitioners Paul J. Battista, Russ Blain, and Bob Glenn engaged in a panel discussion of issues regarding executory contracts and unexpired leases in a bankruptcy context with a special emphasis on the offensive and defensive opportunities provided by Section 365(c)(1)(A) of the Bankruptcy Code.

Contracts and leases that can be assumed and/or assigned may be valuable assets—or even the only assets—in a bankruptcy case, particularly in a case involving franchise agreements. Much of the panel’s discussion revolved around the special issues presented by franchise agreements and the panel gave several “real life” examples of how they had resolved franchise issues in bankruptcy cases, including some cases with other members of the panel. The lively discussion provided TBBBA members with a framework for identifying and analyzing the necessary issues regarding assignment and/or assumption of executory contracts and unexpired leases.

This successful luncheon was the result of the hard work of Elena Paras Ketchum and Stephanie Crane. Special thanks to Cheryl Thompson and Luis Martinez-Monfort for providing assistance with the planning of the program.

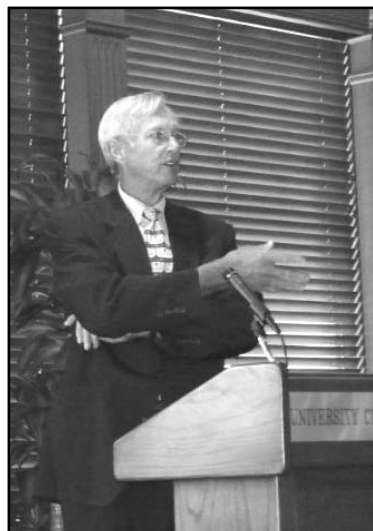


**April Luncheon Meeting:
Panel Discussion On Recent Consumer Issues**

The TBBBA held its April Luncheon Meeting on May 1 at The University Club of Tampa. Bankruptcy practitioners Zala Forizs, Esq., and Randy Hiepe, Esq. and Chapter 13 Trustee Terry Smith engaged in a panel discussion of consumer issues currently facing the Bar with a focus on the myriad of issues presented by the recent BAPCPA Amendments to the Bankruptcy Code. The panelists discussed suggested “best practices” procedures in regards to each step involved in filing a bankruptcy case for a consumer debtor. Terry Smith, discussed, among other things, the “red flags” and warning signs that he looks for when reviewing a Chapter 13 case and plan. One very interesting aspect of the luncheon was the discussion by attorneys Forizs and Hiepe as to how they had modified their practices to adapt to the changes brought about by BAPCPA.



This engaging and informative luncheon was the result of the hard work of Suzy Tate and Katie Brinson. Special thanks to Cheryl Thompson and Luis Martinez-Monfort for providing assistance with the planning of the program.



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Kabul Letters continued from p. 3

southern regions. Kabul, which is not in the southern region, is generally free from direct conflict other than the occasional incident. Overall, however, the country has in effect been in hibernation for 25 of the last 50 years as far as legal and economic systems due to internally and externally generated wars.

There is a general view that long-term success on developing Afghanistan will not depend on the military. The military can only hold the line and on that score they've done a good job. The ultimate outcome in Afghanistan, rather, depends on the ability to create a viable economy and jobs. While the illicit economy based on the growing of poppies will continue to be a major source of revenues, this must be replaced by providing alternative sources of income from investment in local job-creating industries.

Another peculiar and very significant factor in the creation of a commercial legal system is the interplay of the three types of laws: (1) legislative/secular laws; (2) Islamic laws; and (3) customary (loosely tribal) law, which predates both 1 and 2 and has merged somewhat with Islamic law. This aspect of the situation is one that we have spent a lot of time discussing among the group. What is emerging is that these types of laws when applied to dispute resolution and enforcement of agreements, even commercial agreements, may provide a workable short-term or even long-term alternative to a corrupt and incomplete formal legal system.

Day 4

One of the bright spots in the development that is going on is a project that is recreating all of the land records that were destroyed during the 1979-1985 time period in which the "freedom fighters" were warring throughout the land. Much of the recorded land and other official documents were destroyed. Creating land titles is an important part of the development here. In much of the country, buildings and homes are located on "informal settlements," that is, land passed on at one time by warlords to their friends and relatives without any formal deeding process. This has inhibited investment and growth as there is no assurance that someone won't show up and claim to own the land underlying your house or business premises.

I ran into Dan Rather today in the lobby. I recognized him and introduced myself. He made a point of coming over and shaking my hand. He asked me what I was doing in the country. I told him and introduced him to one of our team members that is working on the poppy production problem. Turns out he was doing a piece for a show he

is doing on the same subject. A lively discussion ensued. He kept calling me "Your Honor" when he learned I was a judge. What a kick that was. Anyway, the picture is below.



Day 5

We met with a justice at the Afghanistan Supreme Court today. The court was full of men in turbans, long flowing robes, and lined aged faces. These appeared to be the elders from their respective settlements seeking legal redress in one form or another. What we are trying to determine is the extent to which commercial disputes are decided on the basis of the Sharia law. General indications are that the Sharia forms the basis for legal decisions where there is no secular law on point. Because written laws are often unavailable, the application of Sharia law may be more the rule than the exception in much of the country.

Day 6

The highlight of the day was visiting a local settlement where USAID had just completed a project to title all of the property. Because of neglect, corruption, and wartime destruction, the land title records range from undependable to nonexistent. We attended a ceremony to thank the local Shura (village elders who act as a decision-making body) for their role in adjudicating all disputes concerning property ownership and boundary lines. Without their involvement, this project would not have been the success that it was. It is community involvement at its best.

Today was a ceremony to thank the local village elders for their role in adjudicating all disputes concerning property ownership and boundary lines. Attached are pictures of me on a tour of the neighborhood and with the key decision makers in the land titling system. Without their involvement, this project would not have been the success that it was. It is community involvement at its best.

continued on p. 13



Day 9

We are now in the home stretch to complete this trip. I've been going back and forth today with the one of the USAID representatives working inside the central bank on the new laws dealing with collateral. Afghanistan currently has no effective laws dealing with either real estate mortgages or secured transactions. The

Afghanistan Banks Association wants feedback on the draft of their new proposed legislation and the forms they have come up with to use once the new law goes into effect. This will be one of my primary areas of activity in the next few days.

Day 10

There is a tendency in development work to consider our way of thinking and system of laws to be the path to participation in the world economy and ultimate prosperity. With the other developing countries such as the former Soviet republics, this assumption has generally worked to one degree or another.

However, it is becoming apparent to us that this country is Islamic in more than name. A high percentage of the judiciary has grown up as students of Islamic law and has never been exposed to Western commercial concepts. Today at lunch, one of the most prominent of the local business community (and chair of the chamber of commerce) remarked in casual conversation that in non-commercial legal matters such as divorce, probate, and family matters, that Sharia-based law controls. When asked where one would find this law, he replied, "It's in the Koran." Even in commercial matters, Sharia law is the fall-back position when there is no explicit law on point. And in the smaller communities and settlements, Sharia or customary law generally governs.

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Annual Installation Dinner and Special Program

The TBBBA held its Annual Dinner on June 20 in the Grand Ballroom of the Palma Ceia Golf & Country Club. Approximately 100 members of the Association enjoyed a cocktail/social hour and a delicious “surf and turf” dinner. The program for the Dinner consisted of the installation of the Association’s officers serving for the 2007-2008 term, a “State of the Court” presentation by Chief Judge Glenn, and the presentation of the annual Alexander L. Paskay Scholarship Award.

The Association’s new President is Shirley Arcuri. Herb Donica will serve as Chair. Caryl Delano will serve as the Association’s Vice President, Donald Kirk will serve as Treasurer, and Luis Martinez-Monfort will serve as Secretary. The returning Directors are Elena Ketchum, Carrie Lesser, Kelley Petry and Patrick Tinker. The new Directors are Adam Alpert, Lara Fernandez, Brad Hissing, Edward Peterson, and Lynn Sherman. David Tong is stepping down as Chair and is due many thanks for his hard work and dedicated service on behalf of the Association over the last several years. The following Association members are stepping down from the Board this year and are also due many thanks for their hard work and service: Larry Foyle, Greg McCoskey, Luis Martinez-Monfort (now serving as Secretary), Cheryl Thompson, and Ed Whitson.

Danny Alvarez, former intern for Judges Paskay and McEwen, received the Scholarship Award. Judge Paskay then



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Robert W. Patton Outstanding Jurist Award: And The Winner Is... Chief Judge Paul M. Glenn

As bankruptcy attorneys, we are very aware of Chief Judge Paul M. Glenn's dedication to upholding the integrity of our profession and the judiciary. On May 1, 2007, the Hillsborough County Bar Association, Young Lawyers Division ("YLD"), recognized Judge Glenn as this year's recipient of the Robert W. Patton Outstanding Jurist Award. Judge Glenn received the award from his colleague and friend, Judge Michael G. Williamson.

In selecting the recipient, the YLD considers the jurists: (1) reputation for making sound judicial decisions, (2) record for integrity as a lawyer and judge, (3) recognition by members of the bar as highly qualified, (4) activity in bar-related activities open to the judiciary, and (5) demonstration of concern or willingness to assist young lawyers.

While you may have practiced in



front of Judge Glenn, did you know that he was appointed to the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, in 1993 and has written over 600 decisions and has published nearly 140 of these decisions arising in business and consumer cases? Even more impressive, apart from his appointment to the bench, is Judge Glenn's induction as a Fellow into the prestigious American College of Bankruptcy (the "College") in March of 2005. Fellows are selected on an invitation only basis after having proven that they possess the "highest professional qualifications and ethical standards," among other qualifications. Did you know that since 1994, Judge Glenn has spoken on bankruptcy topics at more than eighty-five (85) seminars and classes?

Judge Glenn's integrity is unquestioned. Indeed, this is one of the constants one hears over and over again when lawyers describe him. One of Judge Glenn's most outstanding characteristics as a Judge is his respect for, and patience with, pro se parties who appear in his courtroom.

Congratulations Judge Glenn! You are truly deserving of the Robert W. Patton Outstanding Jurist Award and we are privileged to practice before you.

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Is BAPCPA Unconstitutional?

continued from p. 7

is \$1,284 while in another Tennessee county, it is \$2,068. This difference is important because if the debtors' monthly income less the allowed monthly expenses results in monthly disposable income of less than the parameters provided under 11 U.S.C. § 707(b)(2), then the debtors would be allowed to file for Chapter 7 protection without the presumption of abuse.

The debtors argue that they are harmed by this disparate treatment because not only are they not allowed to file for Chapter 7 protection, but they also have to commit to a five-year plan, rather than a three-year under Chapter 13. The difference between a three-year plan and a five-year plan for the debtors in this case is an extra \$34,800 in payments. Debtors do not indicate what the difference is between filing for Chapter 7 protection and under a 5-year Chapter 13 plan.

The Constitution provides Congress with the power to establish "...uniform laws on the subject of Bankruptcies throughout the United States." Debtors cite in Plaintiffs' Brief in Support of Motion for Summary Judgment several Supreme Court decisions that have addressed whether previous versions of the bankruptcy laws violated the Bankruptcy Clause. In *Hanover Nat'l Bank v. Moyses*, the Court upheld the bankruptcy laws finding that differing state exemptions did not make the laws unconstitutional. 186 U.S. 181, 190 (1902); see also, *Stellwagen v. Clum*, 245 U.S. 605, 613-614 (1918) (determining that trustees' powers to avail themselves to differing state statutes to recover property constitutional); *Vanston Bondholders Protective Committee v. Green*, 329 U.S. 156 (1946) (upholding the differing effects of state law regarding the validity of creditors' claims in bankruptcy.) In a more recent case, the Court explained its interpretation of the Bankruptcy Clause and the Bankruptcy Code:

The uniformity requirement is not a straightjacket that forbids Congress to distinguish among classes of debtors, nor does it prohibit Congress from

recognizing that state laws do not treat commercial transactions in a uniform manner. A bankruptcy law may be uniform and yet "may recognize the laws of the state in certain particulars, although such recognition may lead to different results in different States."

Railway Labor Executives Assn. v. Gibbons, 455 U.S. 457, 469 (1982) (citing *Stellwagen*, 245 U.S. at 613.) However, the Court recently reiterated in a footnote that Congress is "constrained to enact laws that are uniform in application, whether geographically or otherwise." *Central Virginia Community College v. Katz*, 546 U.S. 356 (2006).

In the *Schultz* case, Debtors argue that the difference between these Supreme Court cases and the case at hand is that the Median Family Income and the allowed monthly expenses are not based on any state laws and are not related to the state law effects on creditor-debtor relationships. The debtors argue that "BAPCPA results in residents in States with lower Median Family Income, and Counties with lower housing and utilities allowances, being afforded less bankruptcy relief than residents in States with higher Medium Family Incomes." The actual statutes that Debtors argue are unconstitutional include 11 U.S.C. §§ 704(b), 707(b)(2), 707(b)(7), 1325(b)(3) and 1325(b)(4).

The U.S. argues that all debtors are subject to the means test, applicable commitment period for Chapter 13 cases, and the disposable income provisions. The U.S. adds that the application of these provisions only results in the lack of personal uniformity, which is not required by the Bankruptcy Clause.

Whether a court will determine if Debtors have a valid argument or are just rehashing an old argument may soon be known. The Eastern District of Tennessee has heard oral arguments in the Debtors' motion for summary judgment. However, the decision has been delayed because a University of Tennessee College of Law professor filed a brief as Amicus Curiae in support of the Debtors' motion to which the U.S. wants to respond.

PRACTICE ALERT:

New Personal Property Exemption Limits in Florida For People Who Do Not Have Homesteads

We reported on this in the Cramdown a couple of issues ago. It has become a reality.

The new legislation has been signed by Governor Charlie Crist and has become effective July 1, 2007

The Florida legislature recently passed bill CS/SB 2118, which amends Florida Statutes Section 222.25, to increase to \$4,000 from \$1,000 the amount of personal property exempt from creditor claims, **provided that the debtor does not receive the homestead exemption** under Florida's Constitution. The exemption for persons with homestead property will remain at \$1,000 as provided in the Florida Constitution Article X, Section 4(a)(2).

An argument can be made that the new exemption for non-homeowners is in addition to the \$1,000 exemption available to all residents. That would bring the total exemption to \$5,000 for an individual or \$10,000 for a couple. However, the bill provides that this exemption **does not apply to debts for child or spousal support.**

The question is whether the legislature went far enough. The \$1,000 exemption from creditor claims was carried over from the Florida Constitution of 1868. **According to the Office of Economic and Demographic Research, \$1,000 in 1868 is approximately \$15,000 today.**

Nevertheless, the impact of this amendment cannot be overstated. It means that many more Florida debtors will be able to keep all of their assets in bankruptcy. Additionally, it means that bankruptcy attorneys must pay particular attention to whether a potential debtor is on the deed to his or her home, and it may prompt a bankruptcy lawyer, **in certain circumstances, to recommend a potential debtor file bankruptcy individually rather than jointly with his or her spouse.**

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Unappealing and Appealing News Concerning Appeals

by Catherine Peek McEwen,
United States Bankruptcy Judge ©

The prospect for a Bankruptcy Appellate Panel (BAP) for the Circuit Court of Appeals for the Eleventh Circuit appears non-existent in the foreseeable future. But as an alternative to a BAP, creating a dedicated group of district court judges to handle bankruptcy appeals appears to be worth exploring given recent comments by Eleventh Circuit Judge Gerald Tjoflat.

The prospect for the Eleventh Circuit's acceptance of direct appeals under new section 158(d)(2) of Title 28, United States Code, appears hopeful – if the direct appeal is presented in an eye-catching way. Alas, however, the prospect for getting the United States Supreme Court to entertain a bankruptcy appeal is very slim, according to recent comments by Justice Clarence Thomas.

These revelations were the buzz at the recent Circuit Conference of the Eleventh Judicial Circuit in Atlanta during a break-out session of bankruptcy judges and bankruptcy practitioners from Florida, Alabama, and Georgia. Justice Thomas, the Circuit Justice for the Eleventh Circuit, and Judge Tjoflat, of Jacksonville, addressed the attendees.

Just prior to the conference, the Eleventh Circuit circulated a preliminary report on an investigation into the viability and desirability of creating a BAP for the Eleventh Circuit. The Eleventh Circuit had created a four-judge ad hoc committee to undertake the investigation, which began early this year. The

committee included Circuit Judge Charles Wilson of Tampa. Based on this reporter's knowledge, the current undertaking represented the second time that the Eleventh Circuit has seriously considered creating a BAP. The first time was after the enactment of the Bankruptcy Reform Act of 1994, which directed each judicial council to establish a BAP absent certain circumstances. By resolution of the Judicial Council of the Eleventh Judicial Circuit dated December 29, 1995, our circuit resolved not to create a BAP then due to insufficient judicial resources, one of the circumstances excusing establishment of a BAP.

This year's investigation apparently yielded conclusions that (i) there is an insufficient demand for a BAP given historical data and (ii) the cost would outweigh the benefit given such low demand. A discussion of all of the perceived benefits of a BAP are beyond the scope of this article, but three consistently mentioned benefits are the potential for uniformity in case law, the special expertise of BAP panelists – who are bankruptcy judges, and the perception that BAPs give litigants more expeditious relief. The cost would include the creation of a separate BAP clerk's office with its attendant space and staffing needs as well as additional law clerk capacity.

The number of bankruptcy appeals to the district courts over the last two years is stated below by judicial district within the Eleventh Circuit:

The bankruptcy appeals to the Eleventh Circuit during those same two years numbered 82 and 88, respectively.

Accordingly, absent a compelling rebuttal, there is no reason to believe that any final report will differ from the conclusions of the preliminary report.

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Having acknowledged the initial findings on the BAP issue, Judge Tjoflat suggested to those in the Circuit Conference break-out session that the represented jurisdictions consider the model of the Southern District of Florida's three district judges dedicated to handling bankruptcy appeals. Herb Donica, immediate past president of the Tampa Bay Bankruptcy Bar Association, has asked the bankruptcy judges of the Middle District of Florida to explore that idea.

While Judge Tjoflat had the floor, he additionally suggested – to practitioners – that the way to maximize the prospect of the Eleventh Circuit's acceptance of direct appeals pursuant to new 11 U.S.C. section 158(d)(2) is to have the parties on both sides of the appeal and the bankruptcy judge certify the question under one of the options stated in section 158(d)(2)(A) (i)-(iii). The benefits of this strategy are that the bankruptcy judge would be involved in framing the issue on appeal and the appeal would be presented by consensus.

After Judge Tjoflat's encouraging comments on dedicated district judges handling bankruptcy appeals and direct-appeal strategy, Justice Thomas

engaged in some candid conversation with the group. When asked by Florida Northern District Bankruptcy Judge Lewis Killian about the kinds of bankruptcy issues most likely to gain certiorari review, Justice Thomas, seemingly deadpan, stated, "The Supreme Court doesn't like bankruptcy." Nearly all present laughed out loud. It was not until he added the following that we learned he was not kidding: "The Supreme Court ranks bankruptcy appeals down with ERISA appeals."

"But," he added, "I personally like bankruptcy appeals." So, maybe not all Justice Thomas's news was bad.

[Practice note: The Norton Quick Reference Pamphlet Bankruptcy Code and Rules version of the Bankruptcy Code inaccurately reflects the actual structure of 11 U.S.C. section 158(d)(2) as passed by Congress in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, making it appear as if a direct appeal under section 158(d)(2)(A)(i) or (ii) is fait accompli upon the circuit court. That is because the discretionary authorization provision that is meant to apply to each of the subsections of section 158(d)(2)(A) is run into section 158(d)(2)(A)(iii) as if a part of that subsection only. The text of the actual legislation shows the discretionary authorization provision as a flush (i.e., margin to margin) or hanging provision under all three subsections of section 158(d)(2)(A).]



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13th Circuit's Business Litigation Makeover

by Suzy Tate, Esq.
Smith, Clark, Delecie, Bierley, Mueller & Kadyk, P.A.

The new Complex Business Litigation Division of the 13th Circuit has the goal of getting companies out of the courtroom and back to business. The Division hopes to achieve this by emulating much of the federal court processes.

Presiding over the Division is Judge Richard Nielsen, who was a board Certified Trial Lawyer with vast experience in complex business litigation. Cases that fall under the Division's jurisdiction are commercial, corporate, or other business cases that involve more than \$75,000 in controversy.

Judge Nielsen stated that attorneys familiar with the federal court system should feel comfortable litigating in the new Division because it is paper-focused. Some of the cases the Division has adjudicated include what are commonly referred

to as "Poor Man's Chapter 11" cases, which are assignment for the benefit of creditor actions under Chapter 727 of the Florida Statutes.

New rules applicable in the division include the following: a case management conference; memoranda of law for all motions (except for standard motions that only require statements of good cause and applicable rule); parties to confer prior to filing motions; and no oral arguments on motions unless court ordered. Discovery rules have also changed including increasing the number of interrogatories to 50 and the number of requests of admissions to 50 and limiting depositions to 12 for the plaintiff, defendant, and third-party defendant, regardless of the number of separate parties designated as plaintiffs, defendants, and third-party defendants. Alternative dispute resolution is required in every case and the parties are required to notify the court within 24 hours of settlement.

Two other Florida circuits, the Ninth Circuit in Orlando and the Eleventh Circuit in Miami, have instituted similar complex business litigation divisions.

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NOTE! Requirement for Summary for any change in schedules AO: 28 U.S.C. 159

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) includes a provision which requires the clerk's office to capture and report case statistics in "every individual consumer case", 28 U.S.C. 159 (c)(3)(A), (B) and (C).

The Administrative Office of United States Courts (AO) has directed courts to establish procedures for collecting and reporting these statistics in order for the AO to report to Congress as required by BAPCPA.

Therefore, if a debtor files an amendment to schedule A, B, D, E, F, I or J, a separate Summary of Schedules, reflecting a dollar amount in each "non-shaded" areas of Official Form 6, must be filed with the amendment.

The AO further directs the clerk's office to issue a deficiency notice if the Summary of Schedules is not filed with the amendment, and if repeated instances of failure to the Summary of Schedules arises, that the particular filer be brought to the attention of the judge for appropriate action. Your cooperation is anticipated.

American Bankruptcy Institute's Annual Spring Meeting

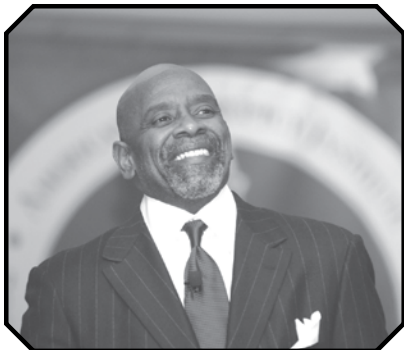
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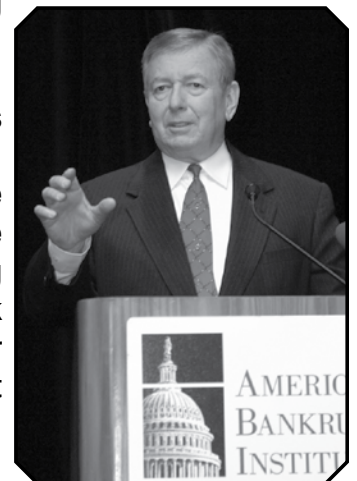
The American Bankruptcy Institute (ABI) held its 25th Annual Spring Meeting in Washington, D.C. in April, 2007. More than 1,000 bankruptcy professionals attended the conference. Several TBBBA members attended the conference, including Mike Horan, Steve Berman, Mark Hildreth, Dennis LeVine, Nathan Carney and Michael Barnett. The conference featured opening remarks by Senator Richard Durban (D. Ill.). An education highlight was the panel discussion on the Supreme Court's recent bankruptcy decisions, moderated by Judge Jeffrey Hopkins (who spoke to the TBBBA earlier this year).



The second day luncheon speaker was former U. S. Attorney General John Ashcroft. A panel discussion on Chapter 13 confirmation issues was moderated by the TBBBA's Dennis LeVine. The final night dinner featured entertainment by the musical group Hall & Oates, who provided a rousing show which included their eight No. 1 singles.



The true highlight of the conference was Chris Gardner, the keynote speaker at the first day lunch. Mr. Gardner told his life story of a rags to riches rise from homelessness to Wall Street, the basis of the current hit movie *The Pursuit of Happyness* starring Will Smith. Mr. Gardner gave a truly inspiring talk about the importance of dedication in raising your children and sticking to your dreams no matter what obstacles are put in front of you.



Douglas P. McClurg Professionalism Award

*Comments of Jeffrey W. Warren at the May 22, 2007
Tampa Bay Bankruptcy Bar Association Luncheon*

It is my distinct privilege and honor to present the Douglas P. McClurg Professionalism Award. . .

There are several reasons why I am particularly pleased to make this presentation. First, this is an opportunity for each of us to be reminded of the significant contributions to our Association, the practice of law in general and our society by Douglas A. McClurg. Second, it is an opportunity to be reminded of the past recipients of the award who provide a model of professionalism for all of us. Finally, this is an opportunity for me to present this wonderful award to a very deserving recipient and to note a few of the very important reasons why the recipient was selected.

Doug McClurg tragically and prematurely died in a hunting accident on November 10, 2002. . . . After his death, this Association adopted a Resolution in 2003 establishing the Douglas P. McClurg Professionalism Award. The award is presented from time to time “to an individual attorney who exemplifies the traits demonstrated by Douglas P. McClurg.” The award need not be given on an annual basis because this is the type of award that should be carefully and rarely presented and only to someone whose lifetime achievements are deserving of the recognition. A selection committee is assembled each year...The criteria for the award are set forth in the Resolution:

The award will be based upon the demonstration over a period of years of the traits exemplified by Douglas P. McClurg, which shall include the following:

Outstanding effectiveness in the presentation of matters to the Bankruptcy Court; A reputation for thorough preparation; Civility and courtesy to opposing counsel; Appropriate courtroom demeanor; Ethical conduct and professionalism at the highest level; and Long-term service to the bankruptcy bar.

There are many ways we look at professionalism. As lawyers we are members of a group which provides an essential service in which the public has a vital interest and requires of the performer extensive training

and the exercise of qualitative judgment. “Essential service”, “vital public interest,” “extensive training,” and “qualitative judgment” constitute the key phrases of the definition and provide each of us a checklist as a reminder that the distinction between a profession and a commercial enterprise is that a profession demands adherence to the public interest.

Upon becoming a professional, an individual is endowed with certain privileges which carry a debt that never is satisfied. Each lawyer owes a debt to the client, the law, the system of justice, fellow lawyers and the public. Doug [McClurg] was always well prepared as a service to his clients. To opposing parties and their counsel, he was fair, had integrity and was civil. He sought reconciliation and if that failed he strived to make the dispute a dignified one. To the courts, he offered respect, candor and courtesy and strived to do honor to the search for justice. To his colleagues in the practice of law, Doug was concerned about their welfare and strived to make each association a professional friendship. To the profession, Doug offered assistance and strived to keep our business a profession and our profession a calling in the spirit of public service. To the public and our systems of justice, Doug offered service. He strove to improve the law and our legal system and to seek the common good through the representation of his clients.

We are very privileged to have the prior recipients of this award present today. Don Stichter and Leonard Gilbert. They represent and reflect all of the traits demonstrated by Doug. . . .

Now, it is my privilege to present the latest member of our Association to become the recipient of this award. He is **Harley E. Riedel II**.

Harley is a graduate of Baylor University and received his Juris Doctorate from the University of Florida with high honors. Harley was editor-in-chief of the University of Florida Law Review and began practicing law in 1974. Harley is also a founding director of this Association and has served as president and chair. He served as an officer and director of the Tampa Bay Federal Bar Association and as chairman of the Hillsborough County Law Library. Harley is a Fellow of the American College of Bankruptcy and has lectured on bankruptcy related matters and authored numerous articles on bankruptcy- related topics.

It has been a great privilege for me to have known and worked with Harley for over 30 years. He unquestionably exemplifies the traits demonstrated by Douglas P. McClurg and meets or greatly exceeds all of the criteria for this award.

Outstanding effectiveness in the presentation of matters to the Bankruptcy Court. Harley is without a doubt one of the most effective presenters of matters to our Courts. He has a style and manner that reflect the integrity and candor he brings to Court. I will share that Harley did have a rocky start to his court appearances. His first appearance before Judge Paskay occurred in a matter that Harley was to monitor because he had not been admitted to the Bar. Judge Paskay, as he always does, asked for the appearances of the people in the Court room. Harley announced his presence to the Judge and advised the Judge that he was not admitted to the bar. To which Judge Paskay responded “I can’t hear you.” To which Harley responded in a louder voice “I am not admitted to the Bar.” To which Judge Paskay responded “I can’t hear you.” Eventually, Harley figured out that the judge meant he could not hear any legal argument from Harley.

A reputation for thorough preparation. Harley has a remarkable work ethic. I have never seen him unprepared for a hearing or a meeting. A large part of Harley’s success, in my judgment, is because he is always so well prepared that he understands all sides of an issue and therefore resolves those matters appropriately where he may not have the best argument or case, and then is most persuasive as to those matters where he has the prevailing position. Harley is best when the stakes are high and the issues complex. That is the time when preparation shows the most.

Civility and courtesy to opposing counsel. The benchmark of professionalism, in my judgment, is how someone treats other people. The great philosopher, Immanuel Kant, once wrote that the most important concept to employ in dealing with others is to “never treat people solely as a means to our ends, but as ends in themselves.” Harley is the epitome of civility and courtesy at all times. I have been involved with Harley in numerous difficult matters where tensions ran high because the stakes were high and I have never seen Harley act in an ugly or unprofessional manner.

Appropriate courtroom demeanor. Observing Harley in Court is always fascinating. He demonstrates a genuine respect for the law and the judge. He accepts adverse rulings with grace and dignity. Harley is a lawyer who exercises independent judgment and will not be governed by a client’s ill will or deceit.

Ethical conduct and professionalism at the highest level. We as lawyers should all follow the example that Harley has set by his actions, not just words, when it comes to ethical conduct and professionalism. Harley’s word is his bond. He strictly adheres to the spirit as well as the letter of the profession’s code of ethics and is always guided by a fundamental sense of honor, integrity and fair play. Once, Harley testified in a case without compensation on behalf of a member of the bar whose conduct had been challenged. The circumstances were difficult, the client unpopular and I have no doubt that many would have passed on this task. Nevertheless, Harley provided testimony on certain contested issues without condoning or sanctioning other actions in the matter. To me, that reflects the highest example of appropriate ethics and professionalism

Long-term service to the Bankruptcy Bar. From the outset of his career, Harley has been active in providing service to the Bar. To be a teacher, writer, author, and mentor which require a great sense of commitment and dedication. Harley has demonstrated that commitment and dedication.

To conclude, I would like to share a comment that Judge McEwen shared with me about Harley. When she was in private practice she represented a client whose principal was someone who frequently interacted with lawyers and had a great disdain for all attorneys. He would tell her “I hate all lawyers,” “I hate all lawyers.” His attitude toward lawyers was so bad that she did not enjoy working with him. Eventually, this client became involved in a matter where Harley was the lawyer involved. Shortly thereafter, this individual came up to Judge McEwen and began his harangue against lawyers stating as she had heard many times before “I hate all lawyer, I hate all lawyers, except Harley Riedel!”

Harley, the Association honors your lifetime achievements today and we have a plaque for you in recognition of this award. It is well deserved.

Kabul Letters continued from p. 13

Along these lines, today I visited Pakistani bank that does "Sharia Banking" as an alternative to Western-style commercial banking. The Sharia-based banking products that they have available are fascinating. If you delve into the financial structure of these products, however, in some ways it is form over substance. That is, while the Sharia may not permit the charging of interest on loans, such loans can be structured in a way that the bank's internal return for the time value of its money is relatively the same. Most interesting is that this bank (a leader in the world in Islamic banking) had lined up some of the leading Islamic scholars in the world to issue a Fatwah opining that the loans were Sharia compliant -- sort of an Islamic law opinion letter used for marketing.

Day 13

Tomorrow is our last full day here. We are delivering our preliminary findings to representatives of the government, as well as the donor and business community. Because the report will impact on future development assistance by USAID (by far the largest donor to the development of the country), there is great interest. We expect over 80 people to attend.

There are a number of areas in which work needs to be done and will be the subject of ongoing development efforts. These areas, not unexpectedly, range from corruption at various levels to the acute shortage of educated Afghans to perform many of the functions required to get the country on its feet. From a positive perspective, the country has an active and emerging commercial financing sector willing and capable of lending to borrowers that include small and medium business enterprises. This lending is succeeding despite the absence of an effective court system and a statutory framework for obtaining, recording, and enforcing security interests in personal property. While this may seem surprising in a society with a notoriously corrupt and unreliable legal system, the presence of community-based relationship banking has resulted in overall excellent performance of small business loans.

Day 14

Our UN flight back to Dubai was uneventful. Most of the team is on to other development work in exotic locations. The others of us are returning to our day jobs. On a personal level, all of us considered this a very worthwhile process. There is much to be done in Afghanistan, but we are all optimistic that there is a positive future for the country. Although security is essential, the ultimate success in Afghanistan will not be determined by military action. It will be dependent on

getting the economy working so that the Afghan people can devote their energies to commercial activity utilizing entrepreneurial skills that have been left undiminished by Soviet domination and tribal feuding that have been going on over the last 40 years.

This is my last email for this trip. See everyone soon.

Excerpts from "The Kabul Letters" were presented by Judge Williamson at our May TBBBA Luncheon. The meeting also involved the presentation of the Douglas P. McClurg Professionalism Award given this year to Harley Riedel. Lynn Sherman, Cheryl Thompson, and Luis Martinez-Monfort assisted with the May luncheon. The Association Membership owes each of them many thanks for their efforts which helped to make the Luncheon a tremendous success and wonderful program.

People On The Go

*by Andrew T. Jenkins, Esq.
Bush Ross, P.A.*

Harley E. Riedel II received the prestigious Douglas P. McClurg Professionalism Award from the Tampa Bay Bankruptcy Bar Association at the association's monthly luncheon held on May 22, 2007.

Dennis LeVine moderated a panel discussion on Chapter 13 confirmation issues in April at the American Bankruptcy Institute's annual meeting in Washington, D.C.

Elena P. Ketchum and **Edward J. Peterson, III** have been named shareholders in the law firm of Stichter, Riedel, Blain & Prosser, P.A. effective July 1, 2007.

Submissions to **People on the Go** may be emailed to ajenkins@bushross.com

Presidents Message continued from p. 1

Our officers Shirley Arcuri (Vice-president); Donald Kirk (Secretary), Caryl Delano (Treasurer); and Carrie Lesser (Historian) all did great jobs in attending to those important details that keep the organization operating smoothly, on track, solvent and also creating an institutional memory.

Although not an “official committee” Mike Markham and his group of volunteers deserve recognition for once again organizing a great golf tournament which continues to be one of our most popular events.

I want to thank our judges for their active involvement with the Association. All of our judges contributed to our seminars and we are very thankful for their first-rate presentations. Each of the judges also has participated in other projects with the Association, giving many hours of their time.

Due to the efforts of Chuck Kilcoyne, LeeAnn Bennet and the rest of the Clerk’s office, we get the fast breaking news we need to keep up to date.

I would like to extend my gratitude to all the people who volunteered this year. At the annual dinner we recognized 33 people who volunteered their time for various Association projects. Thanks again for all your hard work.

To recognize extraordinary contributions to the Association and the legal community, we present the Douglas P. McClurg Professionalism Award to honor individuals who have distinguished themselves by extraordinary professional service on all levels during their careers. Because this award is dedicated to those who have truly left their mark at the highest level of service, it is not awarded annually but only on those occasions when truly merited. This year, the McClurg Award Selection Committee unanimously voted to recognize Harley Riedel for his service to the Bar, our Association and to the community. Harley is one of the founding members of the Association and was past president of the Association, and has continued to contribute in many ways. This is well-deserved recognition and all of us should congratulate Harley for being recognized for all his service over the years.

David Tong’s continued guidance and counsel this past year as chairman have been invaluable. He was generous with his time this last year and we have benefited greatly.

Shirley Arcuri is your President for the coming year and she has great new ideas to further the Association. You are in good hands. Thank you again for allowing me to serve.

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The Annual Dinner cont. from p. 14

made some brief comments regarding Mr. Alvarez and regarding the Award given in the Judge's honor.

The Annual Dinner was the result of the tireless work of several members of the TBBBA, including Carrie Lesser, Stephenie Anthony, and Donald Kirk. Special thanks are also due Chief Judge Glenn, Judge Paskay, Herb Donica, Shirley Arcuri, and Robbie Colton for their presentations made at the Dinner.



We had an 11th Circuit conference in which various members of our bar and our Judges attended in Atlanta. The guest of honor was Justice Clarence Thomas.



Happy Hour The TBBBA Way

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BANKRUPTCY JEOPARDY!

Question

What is Chapter 15?

What is § 1321?

What is Chapter 9?

What is the effective date for most of BAPCPA?

What is Chapter 12?

Double Jeopardy

Who is Henry Ford?

see page 15 for Answers

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