

Inside

A publication of the Corporate Counsel Section
of the New York State Bar Association

Message from the Chair

To the Members of the Corporate
Counsel Section:

This past spring, the Executive Committee turned its attention to the issue of pro bono and its application, both actual and potential, to the corporate law department setting. Our first decision was to invite Jean A. O'Hare, Esq. of Pfizer Inc. to our next Executive Committee meeting. To the best of our knowledge, Ms. O'Hare is unique among corporate counsel in that she is a full-time pro bono counsel at a major U.S. corporation, concentrating all of her time and energy in this one area. Jean was kind enough to accept our invitation and spend some time with us. After listening to Jean, the Executive Committee decided to thoroughly review the subject of pro bono for corporate counsel. This issue of *Inside* is a direct result of that decision and marks the first time that our Section has produced an issue devoted entirely to that subject. The Executive Committee has also decided to revise its model pro bono policy for corporate legal departments to encompass the types of services that are described within the articles offered in this newsletter. The Executive Committee believes that corporate counsel are in a unique position to promote an expansion of the traditional concept of pro bono, i.e., "providing free legal work" to indigent persons, to encompass other ways of giving, such as providing financial and material support for non-profit legal service groups and volunteering as a law department or group to provide a service that is not legal in nature.

Included in this issue are two firsthand accounts of non-traditional support provided by corporate counsel. Jeff Futter, Executive Committee member and former



Chair, describes the acclaimed Angels Program and shows how your corporation could readily participate in it. On a personal note, I attended the June 30 Angels luncheon and was impressed by the thoughtfulness and camaraderie exhibited. Barbara Levi, Vice Chairman and Chair-Elect, offers a recap of her department's outing in support of Fresh Air Camps. Since it is our belief that most corporate counsel, and in fact most lawyers, are unaware of some of the benefits of traditional pro bono work, Steve Mosenson, Treasurer of the Section, has put together a piece on **CLE Credit Available for Pro Bono Work for Not-For-Profit Corporations**. Also in this edition we have included descriptions of the fine work being done by **The Pro Bono Partnership**, which has utilized the abilities of both inside and outside

Inside

PRO BONO FOR CORPORATE COUNSEL

The Angels Program	3
Fresh Air Camps	3
CLE Credit Available for Pro Bono Work for Not-for-Profit Corporations	4
Pro Bono Partnership	4
Project Teamwork	5
Related Web Sites	5

When the Lawyer Is Also a Corporate Director or Officer—Ethical Issues Raised by Wearing Two Hats.....	6
--	---

The New York Bar Foundation Can Help Corporate Counsel	8
(Robert L. Haig)	

counsel since 1997 and **Project Teamwork**, a special program created by Lawyers Alliance to engage lawyers at major corporations in pro bono legal work. Finally, for those corporate counsel either currently serving on a board of directors of a not-for-profit corporation or considering serving on one, we have reprinted **New York State Bar Association Committee on Professional Ethics Opinion 589**, which reviews certain conflicts and ethical considerations for a lawyer serving in such a capacity.

Speaking of ethical considerations, I am pleased to advise that the Section's **4th Annual Ethics for Corporate Counsel Program** on October 27 was a major success. Congratulations to Steve Mosensen (Program Chair) and Steve Nachimson for putting together a terrific panel that included Andral N. Bratton, Deputy Chief Counsel, Departmental Disciplinary Committee for the First Department, Professor Bruce A. Green of Fordham Law School and John Villa of Williams & Connelly in Washington, D.C. Special thanks goes to

Michael S. Ross, Esq. of New York City, who served as both moderator and panelist and who developed the program hypotheticals.

I am also pleased to report that the planning for our two-day program tentatively entitled "**Corporate Counsel Institute**" is proceeding well and remains on schedule for October 2004. More to come on this in future issues.

I hope that you enjoy this issue of *Inside* and that our focus on pro bono in the corporate setting, both traditional and non-traditional, resonates with you the way it has with your Executive Committee members. As always, if you or your outside counsel would like to contribute an article for future issues, contact the Editor, Bonni G. Davis, at bdavis@fnly.com.

Please feel free to contact me at jmonitz@fds.com if you have any suggestions or comments.

Jay L. Monitz

2004 New York State Bar Association *Annual Meeting*

January 27-31, 2004

New York Marriott Marquis • New York City

Corporate Counsel Section Meeting

Wednesday, January 28, 2004

The Angels Program

In the aftermath of the September 11 attack, a band of "Angels" began to pool their efforts to support New York City's not-for-profit legal service providers. The Legal Aid Society of New York had lost its downtown offices yet needed to serve many more clients and tasks than ever before as did other legal service providers. Initiated by Pfizer Inc. and its full-time Pro Bono Counsel, Jean A. O'Hare, there were initially only seven Angels, but the group has now grown to some thirty law firms, corporations and investment banks and is expanding even more. These firms and corporations or Angels donate new and used office equipment (e.g., computers), office furniture, legal reference materials and office supplies, and even coffee.

On June 30th, Pfizer sponsored its sixth luncheon at which the legal service providers bring their "wish lists" of items that they are hoping to have donated to them. The Angels take the lists back to their offices with the intent of ascertaining whether their respective corporations or law firms are able to donate the requested items. Recently, the Angels have also been bringing to the luncheons descriptions of available items that they could donate or the actual item itself if it was portable. For example, as a result of its involvement, Consolidated Edison Company of New York, Inc. recently offered to donate twenty Dell Optiplex personal computers, ten NEC 21-inch monitors, two Compaq laptops, four scanners and five HP printers.

The legal service providers are extremely appreciative of the Angels' donations. David Weschler, the Attorney-in-Charge of the Volunteer Division of the Legal Aid Society, recalled the circumstances facing his organization when its headquarters were destroyed on September 11th and its staff went to Lower Manhattan to assist displaced families and small businesses. Noting that the Angels Program contributed laptops to their lawyers to work in the field and provided some valuable furniture, office supplies and filing cabinets, David said that the Society "very much feels indebted to the Angels Program and that it really came to the rescue when assistance was most needed." Similarly, Michael Rothenberg, the Executive Director of the New York Lawyers for the Public Interest, cited the twenty or so computers that his group had received over the past two years and noted that the Program "has been a wonderful addition to the pro bono contributions being made by corporations and law firms."

The Angels Program offers an excellent vehicle for corporations (and their law departments) to support pro bono activities in the metropolitan New York area, since most companies have used (but still serviceable) equipment, furniture and law books that they are planning to retire. And through its in-house counsel, who can serve as coordinator, the company may donate these items to legal service provider organizations that need them to support their pro bono endeavors. For those companies that are not in the metropolitan area, you can start your own "Angels Program" for your area or region. To obtain further information about the next Angels luncheon or about the Program in general, please call Jean O'Hare at (212) 573-2900 or send her an e-mail to jean.ohare@pfizer.com. As Jean frequently says: "there are never too many Angels."

—Jeffrey L. Futter

Fresh Air Camps

On August 14th, the Unilever U.S. Inc. Law Department took the day off. In lieu of carrying on its everyday activities, the Manhattan-based department (including lawyers, paralegals and other professionals and support staff) traveled 65 miles north to Fishkill, New York to participate in the "Counselor for a Day" program sponsored by the Fresh Air Camps. Everyone left their briefcases at home and donned t-shirts and baseball caps as they prepared for their day at Camp Anita Bliss, one of five camps operated by the Fresh Air Fund at the Sharpe Reservation. The Camp provides a two-week sleep-away summer camp experience for over 200 girls ranging in age from nine to 15. Led by General Counsel Ronald Soiefer, 35 members of the Law Department participated in a variety of activities with the campers, including arts and crafts, cooking, hiking, nature studies and sports.

The Law Department's day at camp was very much in keeping with Unilever's corporate commitment to community service and volunteerism. Activities like "Counselor for a Day" are supported everywhere Unilever employees work and live, and employees are encouraged to volunteer in their communities through company sponsored programs and events. Social responsibility and "giving back" to the community are core values for Unilever, and the development and education of youth are a particular focus for philanthropic efforts. In addition to the Law Department's direct par-

ticipation, a contribution was made to Camp Anita Bliss to help cover the cost of the day's activities.

The day was a truly wonderful experience for all involved. The Law Department participants broke up into small groups and joined campers in various activities, which allowed everyone in the group to interact with the girls and their counselors. The campers had lots of questions—wanting to know what each member of the Law Department did, whether they liked their jobs, and how they had prepared for a career in law. When it was time to leave everyone agreed that the day had flown by much too quickly, and a follow-up visit was definitely in order. Time out of the office could be made up—and was more than compensated for by the positive feelings engendered by connecting with the campers and doing some good for the greater community.

—Barbara M. Levi

CLE Credit Available for Pro Bono Work for Not-for-Profit Corporations

Under the regulations of the Continuing Legal Education Board, one hour of CLE credit is available for each six hours of pro bono service performed through an accredited program. During each biennial reporting period, up to 6 CLE credits can be awarded to attorneys admitted for two years or more for this pro bono work. Although the CLE Board defines pro bono work as “uncompensated legal services within the State, for clients unable to afford counsel,” the CLE Board has also approved awarding of CLE credit for pro bono services to not-for-profit organizations.

In 2002, the Corporate Counsel Section endorsed and supported the efforts of then-NYSBA President Steven Krane to expand the definition of pro bono services to encompass work performed for not-for-profit organizations. He argued that inclusion of not-for-profit organizations among those eligible to receive pro bono would encourage non-litigating attorneys, including in-house attorneys, to do more pro bono work requiring corporate, real estate, tax and other expertise.

As a result of these efforts, the CLE Board issued an interpretation of its regulations permitting the award of CLE credits for attorneys serving not-for-profit corporations “serving the indigent” and who otherwise meet the eligibility requirements of the regulations. The requirement that the not-for-profit corporation serve “the indigent” is not otherwise defined, although it

appears that such service need not be direct service to individuals, but can relate to charitable works for a community as well. Volunteer work to effect public policy change, however, would not qualify for CLE credit.

Attorneys seeking to obtain CLE credit for such work must either be assigned by a court, or must work through an “Approved Pro Bono CLE Provider.” The New York State Unified Court System has issued FAQs discussing these issues at www.nycourts.gov/attorneys/cle/probono_providerfaqs.shtml. A current list of Approved Pro Bono CLE providers is located at www.nycourts.gov/attorneys/cle/probonoproviderlist.pdf.

—Steven H. Mosenson

Pro Bono Partnership

Founded in 1997, the *Pro Bono Partnership* provides free legal services to hundreds of nonprofit organizations in suburban Connecticut, New Jersey and New York. The *Partnership's* clients work primarily in the areas of health and human services, affordable housing, neighborhood revitalization and economic development. The legal work is done by the *Partnership's* legal staff and by the *Partnership's* large network of volunteer lawyers from many of the area's leading corporations and law firms.

The *Partnership* provides advice to its nonprofit clients on a broad range of legal matters including: corporate structure and governance; contacts; real estate; law of nonprofit and tax-exempt organizations; intellectual property; and merger, bankruptcy and dissolution. By far, the most prolific area of the *Partnership's* practice is employment law with over one-third of the matters it handles falling into this practice area. Most matters are discreet, manageable and not subject to time deadlines.

Since its inception in late 1997, the *Partnership* has engaged almost 700 lawyers to provide legal services to more than 550 nonprofit clients. The majority of these volunteers are in-house attorneys. The corporations that are particularly active with the *Partnership* include General Electric Company, Honeywell; Johnson & Johnson; Pitney Bowes; PepsiCo; Prudential Financial; Schering Plough; Sony Electronics; UBS; and Xerox Corporation.

Thanks to the efforts of so many volunteer attorneys, the *Partnership* continues to strengthen nonprofit organizations as they reach out to individuals and families who depend increasingly on them for support.

PRO BONO FOR CORPORATE COUNSEL

If you are interested in volunteering with the *Partnership*, phone us at (914) 328-0674 or visit our Web site at www.probonopartnership.org.

—Richard S .Hobish

Project Teamwork

Founded in 1969, Lawyers Alliance for New York is the leading provider of free and low-cost business and transactional legal services to nonprofit and community development organizations that are working to improve the quality of life in New York City's low-income and disadvantaged neighborhoods. With the assistance of a staff of twenty, including eleven attorneys, and a network of over 650 volunteer attorneys from over 115 law firms and corporate legal departments, Lawyers Alliance uses its \$1.5 million annual budget to leverage many millions worth of legal services to over 440 nonprofit groups each year.

Project Teamwork is a special program created by Lawyers Alliance to engage lawyers at major corporations in pro bono legal work, by teaming them with lawyers at major law firms on assignments with nonprofit organizations. Studies show that the biggest obstacle to getting corporate lawyers to take on pro bono work is their fear that pro bono work will require too much time and expertise outside their field. Lack of malpractice insurance is often seen as a problem, and there is a lack of projects that are consistent with the corporation's interest in promoting a healthy social and economic environment.

Project Teamwork addresses each of these issues. By teaming the corporate lawyer with outside counsel, the problems of time and expertise are solved. By extending Lawyers Alliance's malpractice coverage to its volunteers, the liability problem is solved. By carefully select-

ing projects that meet the interests of the corporate lawyer and his or her employer (typically projects that require a business law expertise), Project Teamwork can offer projects that meet and further the corporation's interests in a healthy social and economic environment.

Corporations interested in Project teamwork can learn more by contacting Carrie Marker at (212) 219-1800, ext. 228 or cmarker@lany.org.

—Steven H. Mosenson

Related Web Sites

New York State Bar Association

Corporate Counsel Section

Model Corporate Pro Bono Policy

<http://www.nysba.org>

(follow links to Corporate Counsel Section > General Information > Model Pro Bono Policy)

Lawyers Alliance of New York

<http://www.lany.org>

Corporate Pro Bono.org

<http://www.corporateprobono.org>

Legal Services Corporation

Equal Justice Magazine

(Summer 2003 issue on corporate pro bono)

<http://www.ejm.lsc.gov>

Power of Attorney, Inc.

<http://www.powerofattorney.org>

Probono.net

<http://www.probono.net>

Probonopartnership.org

<http://www.probonopartnership.org>



Catch Us on the Web at
WWW.NYSBA.ORG/CORPORATE

When the Lawyer Is Also a Corporate Director or Officer—Ethical Issues Raised by Wearing Two Hats

Many in-house counsel fulfill their moral obligations toward pro bono by serving on the board of directors of a not-for-profit corporation. Frequently, attorneys on boards of directors also provide legal services to the corporation. In serving this dual role, several ethical issues arise. In order to guide attorneys who wear two hats, the New York State Bar Association's Committee on Professional Ethics addressed these issues in an opinion in 1988, reprinted here.

New York State Bar Association Committee on Professional Ethics

OPINION 589—3/18/88 (25-87)

Topic: Conflict of interest; lawyer serving as director of client organization.

Digest: Not *per se* improper for lawyer to serve as director of client organization or as chair of board of directors; ethical constraints reviewed.

Code: DR 1-102(A)(6), 2-103(A), 5-101(A), 5-102, 5-105(D); EC 5-1, 5-2, 5-9, 5-10

QUESTION

1. What are the ethical constraints upon a lawyer for a corporation or other organization who also serves as a member of its board?
2. Are there additional ethical considerations where the lawyer for the organization is also the chair of its board?

OPINION

Without endorsing the practice, which has received considerable attention and criticism, we conclude there is no *per se* rule of professional ethics that prohibits a lawyer for a corporation or other organization from also serving on its board of directors or trustees. In fact, a number of ethics opinions from various jurisdictions have established the ethical propriety of a lawyer serving as a director of a client organization. *See, e.g.*, ABA Inf. C-431 (1961), Illinois Op. 483 (1975); Ill. B.J. 136 (1975), indexed in Maru's Digest No. 8371 (1975); Maryland Op. 87-29 (1987); indexed in ABA/BNA Manual (Vol. III, No. 21 Nov. 11, 1987); N.Y. City 611 (1942); North Carolina Op. 802 (1972); N.C.S.B. II-250 (1972); indexed in Maru's Digest No. 9553 (1975); Oregon Op.

461 (1981), indexed in ABA/BNA Manual 801: 7107; Virginia Op. 453 (1983); indexed in ABA/BNA Manual 801: 8809; Wisconsin Op. E-84-12 (1984), indexed in ABA/BNA Manual 801: 9913. Nevertheless, the potential for compromise of a lawyer's independent professional judgment presented by such dual service has led many commentators to condemn the practice. *See, e.g.*, C. Wolfram, *Modern Legal Ethics* 738-40 (1986); Lorne, "The Corporate and Securities Adviser, the Public Interest, and Professional Ethics," 76 Mich. L. Rev. 423, 490-95 (1978); Cary, "Professional Responsibility in the Practice of Corporate Law—The Ethics of Bar Associations," 29 Rec. Ass'n Bar City of N.Y. 443, 446 (1974).

It is the view of this Committee that a lawyer representing an organization may also serve as one of its directors, provided the responsibilities of the two roles do not conflict. Thus,

1. the lawyer may not take advantage of the directorship as a feeder of his or her legal practice;
2. the lawyer must disclose to the client the risk of loss of the attorney-client privilege and any other consequences of counsel's dual role; and
3. in carrying out his or her role as counsel, the lawyer must exercise independent professional judgment free of compromising influences that arise in connection with service as a director.

There is no question that the lawyer/director relationship raises a number of concerns under the Code of Professional Responsibility. An examination of these concerns, in turn, allows us to articulate guidelines by which a lawyer serving as a director of a client organization may govern his or her conduct.

DR 2-103(A) of the Code prohibits solicitation of employment by a lawyer in violation of any statute or court rule. *See also* N.Y. Judiciary Law Section 479; *In re Greene*, 54 N.Y. 2d 118 (1981) *cert denied*, 455 U.S. 1035 (1982); *In re Koffler*, 51 N.Y. 2d 140 (1980) *cert denied*, 450 U.S. 1026 (1981); *In re Alessi*, 60 N.Y. 2d 229 (1983); N.Y. State 566 (1984); N.Y. State 549 (1983). This provision prohibits a lawyer from taking advantage of his or her position as a director to procure professional employment for the lawyer or this lawyer's firm. *See, e.g.*, N.Y. State 465 (1977); N.Y. State 206 (1971); *cf.* ABA Inf. C-431 (1961). This provision also must be interpreted to preclude a lawyer/director from participating in the decision-making process concerning the retention of the

lawyer as the organization's legal counsel. *See* N.Y. City 611 (1942); Wisconsin Op. E-84-12 (1984); indexed in ABA/BNA Manual 801: 8913.

The Code expressly forbids a lawyer, absent client consent, from accepting employment if the lawyer's exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's own financial, business, property, or personal interests. DR-5-101(A). An attorney has an ethical responsibility to exercise professional judgment solely for the benefit of the client and should not allow personal interests, other clients' interests, nor third persons' desires to dilute this loyalty. EC 5-1. In addition, EC 5-2 warns that a lawyer should not assume a position that would tend to make the lawyer's judgment less protective of the interests of the client.

This general conflict of interest provision is also contained in the American Bar Association's Model Rules of Professional Conduct. The Model Rules have not been adopted in New York State. We believe, however, that the Comment to Rule 1.7 of the Model Rules accurately reflects the relevant concerns under the principles articulated in the Code of Professional Responsibility. That Comment notes the potential conflict that board service by an organization's lawyer entails:

A lawyer for a corporation or other organization who is also a member of its board of directors should determine whether the responsibilities of the two roles may conflict. The lawyer may be called on to advise the corporation in matters involving actions of the directors. Consideration should be given to the frequency with which such situations may arise, the potential intensity of the conflict, the effect of the lawyer's resignation from the board and the possibility of the corporation's obtaining legal advice from another lawyer in such situations. If there is material risk that the dual role will compromise the lawyer's independence of professional judgment, the lawyer should not serve as a director.

These general conflict of interest principles coupled with the universal prohibition against fiduciary self-dealing would prohibit a lawyer/director from participating in any decision of the client that will or reasonably may affect the lawyer's own personal or financial interests as counsel. *See also*, DR 1-102(A)(6); Business Corp. Law Section 713; Not-for-profit Corp. Law Section 715. In addition to such obvious situations, the lawyer serving on the client's board must be sensitive to more

subtle influences that could impair his or her independent professional judgment.

The risk that professional judgment may be improperly influenced by the lawyer/director's dual role will depend on such factors as the nature of the matter on which legal advice is sought, the financial remuneration paid to the director and the fees paid to the lawyer. It is clear, for example, that a lawyer who also serves as director would be disqualified as counsel in any controversy between the organization and its directors. Other situations, such as rendering legal advice to the client regarding a lawsuit involving the directors, or the personal liability of directors to the organization, likewise present a serious risk that professional judgment would be improperly influenced. Less obviously, if the directorship fees are financially significant to the lawyer, his or her professional judgment on behalf of the client reasonably may be affected. It is the duty of each lawyer to examine carefully the potential for conflict presented by different circumstances, and to disqualify himself or herself (and the lawyer's firm) as counsel wherever there exists a risk that professional judgment or loyalty may be compromised.

Further ethical qualifications upon a lawyer sitting on a client's board are found in DR 5-102 which, with certain specified exceptions, requires a lawyer to withdraw as counsel when the lawyer becomes a potential witness in contemplated or pending litigation. *See also* EC 5-9, 5-10. It has also been held that the lawyer/director must fully disclose to the client the potential loss of the attorney-client privilege incident to the lawyer's involvement in the client's business decisions. *See* Illinois Op. 483 (1975), Ill. B.J. 136 (1975); indexed in Maru's Digest No. 8371 (1975); *cf.* C. Wolfram. *Modern Legal Ethics* 739-40 (1986).

As to the second question, we do not believe that a different analysis should apply where the lawyer is serving as chair of the client's board of directors. *See, e.g.*, ABA Inf. C-431 (1961) (lawyer may serve as chair of bank's board of directors). Because of the chair's more extensive involvement in decision-making concerning the management of the organization, however, it is possible if not, indeed, likely that the responsibilities of the two roles will conflict more frequently than in the case of a mere director. If that in fact occurs, and if the non-participation of the chair in such matters is seriously detrimental to the functioning of the board, then the lawyer should not serve as chair. Moreover, in that circumstance that mandate of DR 5-105(D) would also apply, namely that if a lawyer would be required to decline or to withdraw from service as a member or chair of the client's board, no partner or associate of that lawyer may accept that board position.

The New York Bar Foundation Can Help Corporate Counsel

By Robert L. Haig

The New York Bar Foundation is uniquely qualified to help corporate counsel and their clients make charitable contributions for law-related purposes. In particular, a corporation may establish a restricted fund in the name of the corporation within The Foundation to be used for particular purposes defined by the corporation. A fund established recently by CT Corporation is discussed in this article as an example; the same principles may apply to any law-related charitable contribution by a corporation.

The CT Corporation Legal Scholarship Fund

CT Corporation has established the CT Corporation Legal Scholarship Fund to promote the advancement of technology to improve the practice of corporate law.

CT Corporation will award four scholarships of \$2,500 each to four second-year law students at New York City law schools. The scholarships will be awarded by selecting essays written by the law students about how technology can change the practice of law for general counsel and other attorneys who represent corporations. The selection panel will consist of representatives of The New York Bar Foundation, three New York State Bar Association entities (including the Corporate Counsel Section), and CT Corporation. The Foundation will disburse the funds provided by CT Corporation to the winning students' law schools for application to their tuition.

Other Restricted Funds in The Foundation

The Foundation administers other restricted funds which may be of interest to corporate counsel and their clients. For example, the Business Law Pro Bono Service Fund was established within The Foundation at the recommendation of the New York State Bar Association's Business Law Section for projects that promote pro bono service by business lawyers outside New York City. The Foundation also administers a fund which provides annual fellowships for employment of minority law students with public interest organizations and agencies. In addition, The Foundation administers restricted funds which make contributions for the purposes of: improving legal services for indigent clients; assisting in the profession's disaster relief efforts; sponsoring contests for law students to write original research papers; preparing reports on improvements in certain statutes; and presenting public information and preparing written materials for the public.

The Foundation

We want you to know that The New York Bar Foundation welcomes the establishment by corporations of appropriate restricted funds within The Foundation. A corporation may include its corporate name in the title of the restricted fund (for example, the "CT Corporation Legal Scholarship Fund") and may specify the particular purpose for which the fund will be used (for example, tuition scholarships for law students). All contributions to such funds will be recognized in The Foundation's Annual Report and in *State Bar News*. The Foundation will work with your company on additional publicity for your contribution.

Let me tell you a little about The New York Bar Foundation and why your company should select The Foundation as the vehicle for a restricted fund of this nature.

The New York Bar Foundation is the charitable and philanthropic arm of the New York State Bar Association. Founded in 1950, The Foundation is dedicated to aiding educational, direct legal services, and charitable projects aimed at meeting the law-related needs of the public and the profession. The work of The Foundation is made possible through the contributions of lawyers, other individuals, corporations, and other organizations. The Foundation is a not-for-profit corporation organized for charitable and educational purposes and is classified as tax exempt under Section 501(c)(3) of the Internal Revenue Code. Contributions to The Foundation are tax deductible to the extent provided by law.

Why This Foundation?

The New York Bar Foundation is uniquely qualified to administer a restricted fund established by a corporation for a law-related purpose.

The Foundation makes grants after careful review by The Foundation's Board of Directors. The Foundation's Board has extensive knowledge and experience with law-related organizations and programs throughout New York State. The grant review process reflects the quality and sophistication of our Board's judgment as to which organizations deserve funding and which do not; which programs are meritorious and which are not; and the Board's ability to add value to the grants by suggestions and, sometimes, conditions which make programs more cost-effective.

In that connection, our Board has adopted guidelines over the past year to improve our grant review process. One of the criteria we have adopted is the “bang for your buck” test, that is, whether a grant recipient can leverage the funds it receives from The Foundation to achieve results which could not be obtained if The Foundation merely subsidized the grant recipient’s operating budget.

Another reason for a corporation to consider The New York Bar Foundation when establishing a restricted fund for a law-related purpose is the cost-effectiveness of The Foundation. As its Annual Report readily demonstrates, The Foundation’s expenses are minimal in relation to its revenues and assets. The result of this frugality is that contributions to The Foundation are used almost entirely for grants to benefit worthy recipients, not for overhead or administrative expenses.

Finally, earnings on restricted funds held by The Foundation are exempt from federal income taxes under

Section 501(a) of the Internal Revenue Code to the extent provided by law. Accordingly, creating a restricted fund with The Foundation may enable your corporate client to facilitate tax-exempt growth of its charitable contributions and to thereby increase the impact of the money it allocates for charitable purposes.

How to Obtain Further Information

We are happy to work with corporate counsel to help their clients establish restricted funds within The Foundation. We also welcome contributions to The Foundation from corporate counsel and their clients. If you would like further information, please call me at (212) 808-7715.

Robert L. Haig is the President of The New York Bar Foundation.

Inside Available on the Web

Back issues of *Inside* (2000-2003) are available on the New York State Bar Association Web site.

www.nysba.org/corporate

Click on Member Materials

Back issues are available at no charge to Section members only. You must be logged in as a member to access back issues. For questions, log-in help or to obtain your user name and password, e-mail webmaster@nysba.org or call (518) 463-3200.

***Inside* Index**

For your convenience there is also a searchable index in pdf format. To search, click “Find” (binoculars icon) on the Adobe tool bar, and type in search word or phrase. Click “Find Again” (binoculars with arrow icon) to continue search.

Corporate Counsel Section Executive Committee Members

Lawrence D. Chesler

Navigation Technologies Corp.
222 Merchandise Mart Plaza
Suite 900
Chicago, IL 60654

Marcy S. Cohen

WestLB
1211 Ave of Americas
New York, NY 10036

Bonni G. Davis

Finlay Fine Jewelry Corporation
529 Fifth Avenue, 6th Floor
New York, NY 10017

Albert W. Driver, Jr.

The Metropolitan Corporate Counsel
1180 Wychwood Rd.
Mountainside, NJ 07092

Alan J. Flink

Federated Dept. Stores Inc.
Law Office, 13th Floor
151 West 34th St.
New York, NY 10001

Jeffrey L. Futter

Con Edison
4 Irving Place, 1625-S
New York, NY 10003

Robert S. Gorin

130 East 59th Street
New York, NY 10022

Peter A. Irwin

Con Edison Co. of NY, Inc.
4 Irving Pl., Rm 1618-S
New York, NY 10003

Michael E. Kreitman

Federated Dept. Stores Inc.
151 West 34th St.
New York, NY 10001

Conal E. Murray

196 Croton Ave.
Mount Kisco, NY 10549

Steven Nachimson

3 Greenwich Office Park
Greenwich, CT 06831

David B. Perlman

15 Country Club Lane
Scarborough, NY 10510

Michael J. Pisani

Reliance National
5 Hanover Sq., 17th Floor
New York, NY 10004

Thomas A. Reed

BT North America Inc.
350 Madison Avenue, 4th Floor
New York, NY 10017

Gary F. Roth

Broadcast Music, Inc.
320 West 57th Street
New York, NY 10019

REQUEST FOR ARTICLES

Inside welcomes the submission of articles of timely interest to members, in addition to comments and suggestions for future issues. Please send to:

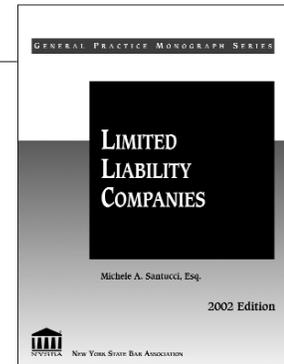
Bonni G. Davis, Esq.
Finlay Fine Jewelry Corporation
529 Fifth Avenue, 6th Floor
New York, NY 10017

Articles should be submitted on a 3½" floppy disk, preferably in WordPerfect or Microsoft Word, along with a printed original and biographical information.

NYSBA BOOKS

Limited Liability Companies

2003 Edition



This practical guide, written by Michele A. Santucci, enables the practitioner to navigate the Limited Liability Company Law with ease and confidence.

Complete with useful practical tips, appendixes and numerous forms, this is a "must have" reference for all attorneys who practice in this area.

- Tax Background
- Differences Between the New York and Delaware LLC
- Formation
- Management of the LLC
- Voting by Members
- Meetings of Members
- Capital Contributions and Finance
- Members and Membership Interests
- The Operating Agreement
- Dissolution
- Merger and Consolidation
- Foreign Limited Liability Companies
- Professional Services Limited Liability Companies
- Foreign Professional Service Limited Liability Companies
- Miscellaneous LLCL Provisions

PN: 41243
List Price: \$75
Mmbr. Price: \$60

To order call **1-800-582-2452** or visit us online at **www.nysba.org/pubs**

Mention code: CL1999 when ordering.



New York State Bar Association

Submission of Articles

Inside welcomes the submission of articles of timely interest to members of the Section. Articles should be submitted on a 3½" floppy disk, preferably in WordPerfect or Microsoft Word, along with a printed original and biographical information. Please submit articles to Bonni G. Davis, Finlay Fine Jewelry Corporation, 529 Fifth Avenue, 6th Floor, New York, NY 10017.

Inside

Editor

Bonni G. Davis, Esq.
Finlay Fine Jewelry Corporation
529 Fifth Avenue, 6th Floor
New York, NY 10017

Section Officers

Chair

Jay L. Monitz
Federated Dept. Stores, Inc.
Law Office, 13th Floor
151 West 34th Street
New York, NY 10001

Chair-Elect

Barbara M. Levi
Unilever U.S., Inc.
Lever House
390 Park Avenue
New York, NY 10022

Vice-Chairs

Mitchell F. Borger
Federated Dept. Stores, Inc.
Law Office, 13th Floor
151 West 34th Street
New York, NY 10001

Janice Handler, Esq.

The Association of the Bar of the City of New York
42 West 44th Street
New York, NY 10036

Secretary

Michael J. Pollack, Esq.
Elektra Entertainment
75 Rockefeller Plaza
New York, NY 10019

Treasurer

Steven H. Mosenson, Esq.
United Cerebral Palsy Associations of NYS, Inc.
330 West 34th St., 13th Floor
New York, NY 10001

Inside is a publication of the Corporate Counsel Section of the New York State Bar Association. Members of the Section receive a subscription to the publication without charge. Each article in this publication represents the author's viewpoint and not that of the Editors, Section Officers or Section. The accuracy of the sources used and the cases, statutes, rules, legislation and other references cited is the responsibility of the respective authors.

© 2003 by the New York State Bar Association.
ISSN 0736-0150



Corporate Counsel Section
New York State Bar Association
One Elk Street
Albany, NY 12207-1002

ADDRESS SERVICE REQUESTED

NON PROFIT ORG.
U.S. POSTAGE
PAID
ALBANY, N.Y.
PERMIT NO. 155