

MINUTES OF THE FLORIDA BAR'S REAL PROPERTY, PROBATE AND TRUST LAW SECTION

EXECUTIVE COUNCIL MEETING

Friday, September 20, 2013
The Four Seasons – Lisboa, Portugal

I. Call to Order - Margaret Ann Rolando, Chair

Ms. Rolando called to order the meeting of the Executive Council of The Florida Bar's Real Property, Probate and Trust Law Section, at 8:00 a.m. on Friday September 20, 2013, in the Fernando Pessoa Room at the Four Season's Hotel, in Lisboa, Portugal. She warmly welcomed members and their guests. She thanked the Section's many sponsors for their generous support, adding a special note of appreciation for those represented at the meeting, as follows:

Attorneys' Title Fund Services, LLC - Ted Conner, Norwood Gay, Pat Jones, and Sylvia Rojas.

Old Republic National Title Insurance Company - Jim Russick

SunTrust Bank – Maxine Noll?*

U.S. Trust - Stacey Cole

Wells Fargo Private Bank - George Lange

II. Attendance — Andrew M. O'Malley, Secretary

In Mr. O'Malley's stead, Mr. Gelfand reminded members that the attendance roster was circulating to be initialed by council members in attendance. [*Secretary's Note: The Roster showing members in attendance is attached as Addendum "A"*]

III. Minutes of Previous Meeting — Andrew M. O'Malley, Secretary

Mr. Gelfand moved:

**To Approve Minutes of the Executive Council Meeting occurring on Saturday, July 27, 2013,
Executive Council meeting held at The Breakers', Palm Beach, Florida**

The Minutes appear on Page 1 of the Agenda Materials¹. The Motion was approved unanimously.

IV. Chair's Report — Margaret Ann Rolando, Chair

¹ References in these minutes to Agenda pages are to the Executive Council meeting Agenda and Supplemental Agenda posted at www.RPPTL.org.

Ms. Rolando recognized special guests, President-Elect of The Florida Bar, Greg Coleman, and The Florida Bar's Executive Director, Jack Harkness. She noted that the position of Section Administrator is vacant as a result of Yvonne Sharron's recent resignation. Ms. Rolando introduced Ms. Dixie Teel whom she and the Section thank for literally filling in at the last minute to help ensure a successful meeting. Ms. Rolando also introduced Ms. Anna Sang of the Helms Brisco organization whom provided critical advance site planning necessary for the success of the meetings. She also noted the presence of Board of Governor member, Section Past Chair, Sandra Diamond, and past Bar President, Gwynne Young.

V. Chair-Elect's Report — *Michael A. Dribin* [Deferred; the 2014 -2015 Meeting Schedule was published in The Breaker's Agenda materials.]

VI. Liaison with Board of Governors' Report

Ms. Sandra Diamond appeared for Mr. Sasso. She reported on the process of The Florida Bar's Professional Ethics Committee's proposed Advisory Opinion concerning auditing of trust accounts which is a matter of significant Section interest. The proposal is in a commentary period. Then the proposal will be reported to the Board of Governors for consideration.

VII. Treasurer's Report — *S. Katherine Frazier* [Deferred]

VIII. Director of At-Large Member's Report — *Debra L. Boje* [Deferred]

IX. CLE Seminar Coordination Report — CLE Seminar Coordination – Robert Freedman (Real Property) and Tae K. Bronner (Probate & Trust), Co-Chairs

Mr. Freedman, Committee Co-Chair, reported on the current schedule, including recent webinars.

X. Probate and Trust Law Division — *Deborah P. Goodall, Director* [Deferred]

XI. Real Property Law Division — *Michael J. Gelfand, Real Property Law Division Director*

Mr. Gelfand introduced Real Property Division information items.

1. Condominium & Planned Development Committee — *Steven H. Mezer, Chair*

Mr. Gelfand provided Mr. Mezer's report that the Committee continues with briefing and motions *In re: Activities of Community Association Managers*, Supreme Court of Florida Case No. SC13-889. Status of Briefing Regarding Proposed Advisory Opinion, FAO #2012-2, Activities of Community Association Managers.

2. Real Property Litigation ---*Martin Awerbach, Chair*

Mr. Gelfand provided Mr. Awerbach's report that The Committee reconsidered, and decided to withdraw, the referral of the *Clipper Bay v. FDOT* decision to the Amicus Committee.

3. Residential Real Estate and Industry Liaison – *Frederick W. Jones, Chair*

Mr. Jones reported that efforts were anticipated to reach fruition for the posting of the 2013 FR/BAR Residential Contract Use, Distribution and Posting on Website. He also reported that the Florida Bar has opened the nomination process for the Florida Realtor-Attorney Joint Committee, one attorney to be appointed from each appellate district by the Bar President. Members are encouraged to provide nominations to this important committee.

4. Foreclosure Reform (Ad Hoc) ---*Jeffrey Sauer, Chair*

Mr. Gelfand provided Mr. Sauer's report on his efforts as Section liaison with Rules of Civil Procedure Subcommittee, and the Subcommittee was proposing new mortgage foreclosure complaint form, *Fla.R.Civ.P.* Form 1.994, to implement Chapter 2013-137 Fla. Laws (H.B. 87).

XII. General Standing Committees — *Michael A. Dribin, Director and Chair-Elect*

Ms. Rolando introduced the General Standing Committees' information items for Mr. Dribin.

1. Budget Committee --- *S. Katherine Frazier, Chair*

Ms. Rolando reported for Ms. Frazier that the Budget Committee is preparing the proposed budget for the 2014-2015 Section year, and anticipates submission of a proposed budget for consideration by the Executive Council at the Sarasota Executive Council meeting.

2. Member Communications and Information Technology Committee --- *Nicole C. Kibert, Chair*

Ms. Rolando reported for Ms. Kibert. First, members need to ensure that their information, including photographs, is up to date for the new Section Directory. Second, the Communications Committee has been working on the format and appearance of the Section's new website, anticipating transitioning to the new website by the end of the year. To facilitate the transition, the Committee anticipates a mandatory training meeting for posting and use, of all Section Chairs and Vice-Chairs at the Sarasota meeting.

There was an inquiry as to whether a new logo has been approved by the Council, noting that there have been a number of inquiries from the Long Term Planning Committee members regarding information distributed about a new logo.

3. Fellows --- *Marsha G. Madorsky, Chair*

Ms. Madorsky reported that though there was a seemingly slow start of submissions, forty applications have been received for the next Fellows class. Rather than a two year Fellowship, the next class will be for one year. If a Section member did not submit for this year's review, as soon as the applications are reviewed and a decisions made, then a new application process will start anew for next year.

XIII. Probate and Trust Law Division Committee Reports — *Deborah P. Goodall, Director*

1. **Ad Hoc Committee on Creditors' Rights to Non-Exempt, Non-Probate Assets** – Angela M. Adams, Chair
2. **Ad Hoc Guardianship Law Revision Committee** – David Brennan, Chair; Sancha Brennan Whynot, Sean W. Kelley and Charles F. Robinson, Co-Vice Chairs
3. **Ad Hoc Study Committee on Jurisdiction and Service of Process** – Barry F. Spivey, Chair; Sean W. Kelley and Christopher Q. Wintter, Co-Vice Chairs
4. **Ad Hoc Study Committee on Estate Planning Conflict of Interest** - William T. Hennessey III, Chair; Paul Roman, Vice Chair
5. **Ad Hoc Committee on Personal Representative Issues** – Jack A. Falk, Jr., Chair
6. **Ad Hoc Committee on Treatment of Life Insurance Payable to Revocable Trust** – Richard R. Gans, Chair
7. **Asset Protection** – Brian C. Sparks, Chair; George Karibjanian, Vice-Chair
8. **Attorney/Trust Officer Liaison Conference** – Jack A. Falk, Jr., Chair; Sharon DaBrusco, Corporate Fiduciary Chair; Patrick Lannon, Deborah Russell and Laura Sundberg, Co-Vice Chairs
9. **Digital Assets and Information Study Committee** – Eric Virgil, Chair; Travis Hayes and S. Dresden Brunner, Co-Vice Chairs
10. **Elective Share Review Committee** – Lauren Detzel, Chair; Charles I. Nash and Robert Lee McElroy IV, Co-Vice Chairs
11. **Estate and Trust Tax Planning** – Elaine M. Bucher, Chair; David Akins, Tasha Pepper-Dickinson and William Lane, Co-Vice Chairs
12. **Guardianship, Power of Attorney and Advanced Directives** – Sean W. Kelley, Chair; Seth A. Marmor, Tattiana Brenes-Stahl, Cynthia Fallon and David Brennan, Co-Vice Chairs
13. **IRA, Insurance and Employee Benefits** – L. Howard Payne and Lester Law, Co-Chairs
14. **Liaisons with ACTEC** – Michael Simon, Bruce Stone, and Diana S.C. Zeydel
15. **Liaisons with Elder Law Section** – Charles F. Robinson and Marjorie Wolasky
16. **Liaisons with Tax Section** – Lauren Y. Detzel, William R. Lane, Jr., David Pratt, Brian C. Sparks, Donald R. Tescher and Harris L. Bonnette, Jr.
17. **Principal and Income** – Edward F. Koren, Chair; Pamela Price, Vice Chair
18. **Probate and Trust Litigation** – Thomas M. Karr, Chair; Jon Scuderi, James George, J.

Richard Caskey and Jerry Wells, Co-Vice Chairs

19. **Probate Law and Procedure** – John C. Moran, Chair; Sarah S. Butters, Michael Travis Hayes and Marsha G. Madorsky, Co-Vice Chairs
20. **Trust Law** – Shane Kelley, Chair; Angela M. Adams, Deborah L. Russell, and Tami F. Conetta, Co-Vice Chairs
21. **Wills, Trusts and Estates Certification Review Course** – Richard R. Gans, Chair; Jeffrey S. Goethe, Linda S. Griffin, Laura Sundberg and Jerome L. Wolf, Co-Vice Chairs

XIV. Real Property Law Division Reports — *Michael J. Gelfand, Director*

1. **Ad Hoc Foreclosure Reform** – Jeffrey Sauer, Chair; Mark Brown, Burt Bruton and Alan Fields, Co-Vice Chairs.
2. **Commercial Real Estate** – Art Menor, Chair; Burt Bruton and Adele Stone, Co-Vice Chairs.
3. **Condominium and Planned Development** – Steven H. Mezer, Chair; Jane Cornett, Christopher Davies and Lisa Van Dien, Co-Vice Chairs.
4. **Construction Law** – Hardy Roberts, Chair; Lisa Colon Heron, Scott Pence and Lee Weintraub, Co-Vice Chairs.
5. **Construction Law Certification Review Course** – Lee Weintraub, Chair; Bruce Alexander, Deborah Mastin and Bryan Rendzio, Co-Vice Chairs.
6. **Construction Law Institute** – Reese Henderson, Chair; Sanjay Kurian, Diane Perera and Jason Quintero, Co-Vice Chairs.
7. **Development & Green Building** – Anne Pollack, Chair; Mike Bedke, Vinette Godelia, and Neil Shoter, Co-Vice Chairs.
8. **Landlord and Tenant** – Lloyd Granet, Chair; Rick Eckhard, Vice Chair.
9. **Legal Opinions** – Kip Thornton, Chair; Robert Stern, Vice-Chair.
10. **Liaisons with FLTA** – Norwood Gay and Alan McCall, Co-Chairs; Alan Fields and James C. Russick, Co-Vice Chairs.
11. **Property & Liability Insurance/Suretyship** – W. Cary Wright, Chair; Fred Dudley and Michael Meyer, Co-Vice Chairs.
12. **Real Estate Certification Review Course** – Raul Ballaga, Chair; Jennifer Tobin, Co-Vice Chair.

13. **Real Estate Structures and Taxation** – Wilhelmina Kightlinger, Chair; Cristin C. Keane and Salome Zikakis, Co-Vice Chairs.
14. **Real Property Finance & Lending** – Jim Robbins, Chair; Homer Duval, III, Brenda Ezell and Bill Sklar, Co-Vice Chairs.
15. **Real Property Litigation** – Marty Awerbach, Chair; Manny Farach and Susan Spurgeon, Co-Vice Chairs.
16. **Real Property Problems Study** – W. Theodore “Ted” Conner, Chair; Mark A. Brown and Patricia J. Hancock, Co-Vice Chairs.
17. **Residential Real Estate and Industry Liaison** – Frederick W. Jones, Chair; Deborah Boyd and E. Ralph Tirabassi, Co-Vice Chairs.
18. **Title Insurance and Title Insurance Liaison** – Kristopher Fernandez, Chair; Raul Ballaga and Julie Horstkamp, Co-Vice Chairs.
19. **Title Issues and Standards** – Christopher W. Smart, Chair; Robert M. Graham, Patricia P. Jones and Karla J. Staker, Co-Vice Chairs.

XV. General Standing Committee Reports — *Michael A. Dribin, Director and Chair-Elect*

1. **Ad Hoc Leadership Academy** – Tae Kelley Bronner, Chair
2. **Ad Hoc LLC Monitoring** – Lauren Y. Detzel and Ed Burt Bruton, Jr., Co-Chairs
3. **Ad Hoc Trust Account** – John B. Neukamm and Jerry E. Aron, Co-Chairs
4. **Alternative Dispute Resolution (ADR)** – Deborah Bovarnick Mastin and David R. Carlisle, Co-Chairs
5. **Amicus Coordination** – Robert W. Goldman, John W. Little, III, Kenneth B. Bell and Gerald B. Cope, Jr., Co-Chairs
6. **Budget** – S. Katherine Frazier, Chair; Andrew M. O’Malley, Pamela O. Price, Daniel L. DeCubellis, Lee Weintraub, and W. Cary Wright, Co-Vice Chairs
7. **Childrens Advisory Committee** --- Steven Goodall, Chair
8. **CLE Seminar Coordination** – Robert Freedman (Real Property) and Tae K. Bronner (Probate & Trust), Co-Chairs; Laura K. Sundberg (Probate & Trust), Sarah S. Butters (Probate & Trust), Lawrence J. Miller (Ethics), Jennifer S. Tobin (Real Property) and Hardy L. Roberts, III (General E-CLE), Co-Vice Chairs
9. **Convention Coordination** – Laura K. Sundberg, Chair; Marsha G. Madorsky, S. Dresden Brunner and Chris N. Davies, Co-Vice Chairs

10. **Fellows** – Marsha G. Madorsky, Chair; Brenda B. Ezell, Hung V. Nguyen and Benjamin B. Bush, Co-Vice Chairs

[Sec. Notes: Ms. Madorsky provided a report, above]
11. **Florida Electronic Filing & Service** – Patricia P. Jones and Rohan Kelley, Co-Chairs
12. **Homestead Issues Study** – Shane Kelley (Probate & Trust) and Patricia P. Jones (Real Property), Co-Chairs
13. **Legislation** – William T. Hennessey, III (Probate & Trust) and Robert S. Swaine (Real Property), Co-Chairs; Sara S. Butters (Probate & Trust) and Alan B. Fields (Real Property), Co-Vice Chairs
14. **Legislative Update (2013)** – Stuart H. Altman, Chair; Charles I. Nash, R. James Robbins and Stacy Kalmanson, Co-Vice Chairs
15. **Legislative Update (2014)** – Stuart H. Altman, Chair; Charles I. Nash, R. James Robbins, Brian F. Spivey, Stacy Kalmanson and Jennifer S. Tobin, Co-Vice Chairs
16. **Liaison with:** No Reports.
 - a. **American Bar Association (ABA)** – Edward F. Koren and Julius J. Zschau
 - b. **Board of Legal Specialization and Education (BLSE)** – Raul P. Ballaga, David M. Silberstein and Deborah L. Russell
 - c. **Clerks of Circuit Court** – Laird A. Lile and William Theodore (Ted) Conner
 - d. **FLEA / FLSSI** – David C. Brennan, John Arthur Jones and Roland “Chip” Waller
 - e. **Florida Bankers Association** – Mark T. Middlebrook
 - f. **Judiciary** – Judge Linda R. Allan, Judge Melvin B. Grossman, Judge Hugh D. Hayes, Judge Claudia Rickert Isom, Judge Maria M. Korvick, Judge Lauren Laughlin, Judge Celeste H. Muir, Judge Robert Pleus, Jr., Judge Richard J. Suarez, Judge Morris Silberman, Judge Patricia V. Thomas and Judge Walter L. Schafer, Jr.
 - g. **Out of State Members** – Michael P. Stafford and John E. Fitzgerald, Jr.
 - h. **TFB Board of Governors** – Andrew Sasso
 - i. **TFB Business Law Section** – Gwynne A. Young
 - j. **TFB CLE Committee** – Robert S. Freedman
 - k. **TFB Council of Sections** – Margaret A. Rolando and Michael Dribin
 - l. **TFB Pro Bono Committee** – Tasha K. Pepper-Dickinson
17. **Long-Range Planning** – Michael Dribin, Chair
18. **Meetings Planning** – George Meyer, Chair
19. **Member Communications and Information Technology** – Nicole C. Kibert, Chair; S. Dresden Brunner, William A. Parady and Michael Travis Hayes, Co-Vice Chairs
20. **Membership and Inclusion** – Michael A. Bedke, Chair; Lynwood F. Arnold, Jr., (Diversity); Stacy O. Kalmanson (Law Schools), Phillip A. Baumann (Career Coaching),

Navin R. Pasem (Diversity) and Guy S. Emerich (Career Coaching and Liaison to TFB's Scope program), Co-Vice Chairs

21. **Model and Uniform Acts** – Bruce M. Stone and S. Katherine Frazier, Co-Chairs
22. **Professionalism and Ethics--General** – Lawrence J. Miller, Chair; Tasha K. Pepper-Dickinson, Vice Chair
23. **Professionalism and Ethics—Special Subcommittee on Integrity Awareness and Coordination** – Jerry Aron and Sandra Diamond, Co-Chairs
24. **Publications (ActionLine)** – Silvia B. Rojas, Chair; Scott P. Pence (Real Property), Shari Ben Moussa (Real Property), Navin R. Pasem (Real Property), Jane L. Cornett (At Large), Brian M. Malec (Probate & Trust), George D. Karibjanian (Probate & Trust), Hung V. Nguyen (Probate & Trust) and Lawrence J. Miller (Professionalism & Ethics), Co-Vice Chairs
25. **Publications (Florida Bar Journal)** – Kristen M. Lynch (Probate & Trust) and David R. Brittain (Real Property), Co-Chairs; Jeffrey S. Goethe (Editorial Board – Probate & Trust), Linda Griffin (Editorial Board – Probate & Trust), Michael A. Bedke (Editorial Board – Real Property) and William T. Conner (Editorial Board – Real Property), Co-Vice Chairs
26. **Sponsor Coordination** – Kristen M. Lynch and Wilhelmina F. Kightlinger, Co-Chairs; J. Michael Swaine, Adele I. Stone, Deborah L. Russell, W. Cary Wright and Benjamin F. Diamond, Co-Vice Chairs
27. **Strategic Planning** – Margaret A. Rolando and Michael A. Dribin, Co-Chairs

XVI. Adjourn

Mr. Gelfand remarked receiving numerous inquiries for the 2015, out of state meeting. Significant selection criteria include: ease of travel connections, being a new venue for members; stability and safety; and, the venue's history as it relates to the Section's mission and the meeting's educational function. Council members' effusive comments concerning a Chattanooga, Tennessee venue were appreciated!

Ms. Rolando thanked Ms. Julie Williamson for her extra efforts to create a special panel of experts in the area of real property and financing practice in Lisboa, specifically, and Portugal in general. Ms. Rolando then welcomed the speakers: Manuel Álvares de Calvão, Imoseguros; Filipa Arantes Pedroso, Esq., Morais Leitão, Galvão Teles, Soares da Silva; Miguel Braga da Costa, Esq., AMBA – Braga da Costa, Sousa de Macedo, Ascensão, Almeida Garrett & Associates; Mr. Francisco Horta e Costa, CBRE; Mr. Eric Van Leuven, Cushman & Wakefield.

There being no further business to come before the Executive Council, a motion to adjourn was unanimously approved at 8:24 a.m. to proceed with the panel discussion.

Respectfully submitted,

Andrew M. O'Malley, Secretary