

**THE FLORIDA BAR BUSINESS LAW SECTION**  
**ANNUAL MEETING OF THE**  
**CORPORATIONS, SECURITIES AND FINANCIAL SERVICES COMMITTEE**

**Thursday, January 27<sup>th</sup>, 2022, 10:00 AM – 12:00 PM**  
**2022 Winter Meeting**  
**Held Remotely via Zoom**

**MINUTES**

1. Call to Order and Welcome. The meeting of the Corporations, Securities and Financial Services Committee (the “**Committee**”) was called to order at 10:00 A.M. by Stephen Sandiford, Chair of the Committee, who presided at the meeting. Mrs. Michelle Suarez, the Vice Chair, and Ms. Toni Tsvetanova, the Second Vice Chair, were also present.
2. Approval of Meeting Minutes. The Committee, upon motion duly seconded, approved the minutes of meeting of the Committee’s meeting held on September 1, 2021.
3. Report of 605 Task Force regarding Series LLC’s. Louis (“Lou”) Conti reported that there was poor attendance at the Ch. 605 Task Force and we need more people to volunteer. The Bankruptcy/UCC and Business Litigation Committees will bring this up at their meeting as there are implications for both. Secretary of State of FL does not track Series LLCs, but there are Series LLC’s operating in FL. He stated that even if there is opposition to FL adopting a Series LLC’s statute, FL needs to adopt legislation as to how FL treats foreign Series LLC’s operating in FL. The Series Task Force had two meetings in January already before this meeting, and they would like to have some kind of legislative draft ready to present at the 2022 Labor Day Retreat. Professor Stu Cohn asked if there is a concern that internal affairs doctrine will govern series LLC’s operating in FL.
4. Ch. 617 - Not for Profit Act Discussion. Toni Tsvetanova led the discussion. The Ch. is outdated. The Model Nonprofit Corporation Act was updated in 2021 to more closely mirror the Model Business Corporation Act (“MBCA”), and the version with comments should be available in 2022. Updating Chapter 617 in light of the Model Nonprofit Corporation Act would be one avenue to pursue. The second thing that would need to be done is to see what changes were adopted to Ch. 607 and see how these two acts could align. Stuart Ames encouraged Toni to reach out to the drafters of the Model Act, Bill Clark (located in Philadelphia) to see what they would suggest as to how to get started. Phillip Schwartz stated that we should reach out to the Tax Section and the RPPTL section as those sections are also impacted. Phil noted that we should recognize the differences between our act and the MBCA because, for example, we harmonized Ch. 607 to be in line with Ch. 605, and we should do the same in this instance. Stephen made a motion to create a study

subcommittee for Ch. 617 matters. Karen J. Orlin seconded. Motion passed. It will be led by Toni Tsvetanova with the support of Professor Stu Cohn.

5. Ch 517 Task Force/Bill. Professor Stu Cohn reported that the Ch. 517 is not going to pass in this session and is not going to pass as an OFR bill. Professor Stu Cohn indicated that if the Bill is to pass it will have to be a Business Law Section drafted bill, supported by OFR, not the other way around. Professor Stu Cohn mentioned that the Committee will need to wait and see what happens with the current OFR Bill and then undertake the work through the task for if/when the OFR Bill doesn't pass. Greg Yadley stated the 2 main sticking points in the OFR Bill are 1.) regarding finders, and 2.) crowdfunding.
6. BLS Leadership. They reported that they are looking for more mentors to step up, especially for the BLS Fellows and Scholars. Stefanie Lieb reported on the 6 legislative bills that are currently BLS proactive bills that the section has taken positions on or assisted with.
7. Mergers & Acquisition HB 705 Triple Motion. Gary Teblum reported on HB 705 which requires a pre-closing notice filing and/or other information to be filed with the State Attorney General at the same time an entity files its notice filing with the DOJ or FTC under the Hard-Scott-Rodino Act ("HSR"). There are several concerns with the Bill surrounding ambiguous terms within the text, as well as the implication that the Sunshine Act may obviate the confidentiality protection that is offered by the HSR filing. The Committee is taking the position to oppose the Bill in its current form and has prepared a White Paper regarding the opposition position. The White Paper opposing the legislation was prepared by Michelle Suarez, with revisions by Gary Teblum, Lou Conti, Phillip Schwartz, and other members of the Committee. A draft of the White Paper was circulated to members of the Committee. After discussion by the Committee, Gary Teblum made a triple Motion for the Committee to approve the draft of the White Paper (subject to minor clean-up changes). Michelle Suarez seconded the Motion. The Motion carried unanimously.
8. Ch. 607 Revisions. Phillip Schwartz reported on several changes that are being discussed with regard to direct v. derivative issue, and the *Manti* decision regarding consideration and appraisal rights. *Manti Holdings, LLC v. Authentix Acquisition Co., Inc.*, 2021 WL 4165159 (Del. Sept. 13, 2021). The *Manti* decision while coming out of Delaware, raises an interesting issue as to the extent appraisal rights may or may not be waivable in Florida, and if so, under what conditions. After discussion by the Committee, the Committee concluded that at some point in the future after the case law has developed more, the Committee may need to look at our LLC and FBCA Act and determine if there are things that are non-waivable despite a party's right to contract.

9. Opinions Standard Committee. Gary Teblum reported on general updates regarding the First Supplement to Florida's Opinion Standards and that it is available on the BLS website.
10. LIBOR Bill report. Robert Barron reported on HB 925. LIBOR stopped trading in December of 2021, but they are still quoting rates. If you don't have another rate default built into your contracts, this bill says that the default shall be the SOFR rates with a spread to avoid such contracts being disregarded and void. You can expressly opt out of this statute with your loan documents. If there is a benchmark replacement in your loan and securities documents, this act does not apply. If you have picked a replacement that calls for Interbank lending rates or a survey, that clause is void. Also provides an immunity for a person that selects SOFR rates or a spread.
11. Corporate Transparency Act. Phillip Schwartz reported. The Corporate Transparency Act, which is governed by The Financial Crimes Enforcement Network (FinCEN), was enacted of 2019, and was supposed to take effect in Jan. 1, 2022, but will not be in effect until FINCEN releases more definite details on the requirements and definition of filing. There is a very broad concept that any entity, unless it meets one of the exceptions, will have to file this reporting document which requires providing information of an entity's beneficial owners. The CTA defines a beneficial owner of an entity as any individual who, directly or indirectly, (1) exercises substantial control over the entity or (2) owns or controls not less than 25 percent equity in the entity. The phrase "substantial control" is not defined in the CTA, so further regulations should clarify its meaning. The legislation expressly excludes certain individuals from the definition of beneficial ownership, including (1) a minor child (as long as the child's parent's or guardian's information is reported); (2) an individual acting as an intermediary or agent on behalf of another; (3) a person whose control over a reporting company derives solely from their employment; (4) an individual whose only interest in a reporting company is through a right of inheritance; or (5) a creditor of a reporting company (unless they qualify as a "beneficial owner" through substantial control or equity ownership). Violations include fines up to \$10,000 or imprisonment of up to 10 years. The Committee concluded that further action may be required in connection with the CTA.
12. BLS Ad Hoc Committee. Professor Cohn reported that we are using the survey results as part of a Florida Bar Journal article that will be published including these results.
13. Federal Securities Institute. Greg Yadley reported that it was decided to cancel the event because registrations were too low to make sense to proceed. The Florida Bar is also very strained to support this program at this time. It has been slated for February 2023.
14. Lorna Burton Brown. Lorna Burton Brown briefly discussed her platform and encouraged members to vote for her on March 1, 2022, in a contested election.

15. CLE Committee. Michelle Suarez reported that she, Professor Cohn, and Dan Aronson are preparing a Florida Bar Journal article reporting the Ad Hoc Committee's survey results along with a comparative analysis of Florida versus Delaware law, which is slated to be published in the journal in the Spring. We are also preparing a one hour CLE on how a bill becomes a law, paneled by Gary Teblum, which we hope to have available before June, and a second CLE on the recent SEC amendments to Regulation A+ and Regulation D, paneled by Will Blair and possibly others. Anyone who has an idea for an article or a CLE is encouraged to reach out to Michelle as the CSFS liaison to the BLS CLE Committee.
16. Meeting Adjourned. The meeting of the Committee was adjourned at 12:05 PM.

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**CORPORATIONS, SECURITIES & FINANCIAL SERVICES**  
**COMMITTEE MEETING**

**Winter Meeting - January 27, 2022**

**Virtual Meeting: 10.00 am – 12.00 pm**

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**Stephen Sandiford, Chair / Michelle Suarez, Vice Chair / Toni Tsvetanova, Second Vice Chair**

**Attendance Sheet**

1. Stephen Sandiford
2. Michelle Suarez
3. Toni Tsvetanova
4. Doris Payer
5. Valeria Angelucci
6. Zana Dupee
7. Robert Barron
8. Gary Teblum
9. Karen J Orlin
10. Will Blair
11. Philip Schwartz
12. Louis Conti
13. Stuart Ames
14. Professor Cohn
15. Reinaldo Gomez
16. Philip Kabler
17. Robert Brighton
18. Cody Bilgrien
19. Leslie Hudock
20. Gregory Yadley
21. Stefan A Rubin
22. Zachariah Evangelista
23. Negin Kordbacheh
24. Garrett LaBorde