Corporate Governance and the Environment: Beyond the Transactional Audit

"Contemporary corporate governance requires up-to-date and accurate information on the corporation's environmental responsibility and exposure," says Cardozo School of Law Professor Arthur Jacobson. "Although the environmental audit has become a standard part of any major real estate transaction, the information generated by such audits is not sufficient for ongoing governance," he says.

Sponsored by Cardozo's Samuel and Ronnie Heyman Center on Corporate Governance, the one-day conference held on September 17th addressed the "appropriate nature and scope of routine environmental self-assessments," says Jacobson.

In his keynote address, George Van Cleve, Deputy Assistant Attorney General, Environmental and Natural Resources Division, U.S. Department of Justice, said "...enforcement policy can influence the decision to conduct environmental audits. As presently structured, enforcement policy provides only limited incentives, but in view of the shifts in criminal enforcement policy, and consideration of voluntary disclosure issues, these incentives may well increase."

The day's panels and panelists were:

"Expanding Environmental Liabilities: The Need for Environmental Management," chaired by Daniel Riesel of Sive, Paget & Riesel, PC.

Panelists included Gerald Krovatin, Lowenstein, Sandler, Kohl, Fischer & Boylan; Michael E. Herz, a professor at Cardozo; and Alan Kenner, of Alan Kenner & Associates.

"Environmental Management and Corporate Governance," chaired by Cardozo Professor Michael E. Herz. Panelists included Henry Breck, Chairman of Lehman Ark Management Co. and a board member of the Natural Resources Defense Council; Frank Friedman, Vice President for Health, Environment and Safety at Occidental Petroleum and author of *Practical Guide to Environmental Management*; Richard L. Revesz of New York University School of Law; Jeanne L. Schroeder of Cardozo School of Law; Hein F. Tomfohrde III, President of GAF Chemicals Corp. and Director of Chemical Manufacturers Assn.; John S. Wilson, director of Environmental, Health and Safety Practice at Arthur D. Little, Adjunct Professor of urban and environmental policy at Tufts University and author of *Comprehensive Planning and the Environment*; and Michael D. Zarin of Sive, Paget & Riesel.

"The Competing Needs for Disclosure and Confidentiality," chaired by Cardozo Professor Elliott J. Weiss. Panelists were Joseph P. Garrity of Deloitte & Touche; Margaret Mellon of the National Wildlife Federation; Walter Mugdan, Regional Council, United States Environmental Protection Agency, Region II; Stephen D. Ramsey, Vice President for Corporate Environmental Programs at General Electric Corp.; and Daniel Riesel of Sive, Paget & Riesel, who is an adjunct professor at Cardozo.

"Environmental Accountability: Beyond Compliance," chaired by Cardozo Professor Charles M. Yablon. Panelists were Cardozo Professor Arthur J. Jacobson; Mark L. Manewitz, Assistant General Counsel at Coltec Industries and Adjunct Professor at Fordham University School of Law; David Sand, Project Director, The Valdez Principles and Managing Director of Commonwealth Capital Partners; (continued on page 6)
“Derrida II” Draws Scholars from Across the Country

Cardozo’s Jacob Burns Institute for Advanced Legal Studies has followed last year’s successful conference: “Deconstruction and the Possibility of Justice,” which featured a keynote address by the renowned scholar Jacques Derrida, with what has come to be affectionately known as “Derrida II” on October 1st.

The full-day symposium with Jacques Derrida, entitled “On the Necessity of Violence for Any Possibility of Justice,” featured a panel discussion on “Walter Benjamin: Justice, Right and the Critique of Violence” and a roundtable discussion entitled “The Call to the Ethical: Deconstruction, Justice and the Ethical Relationship.”

Cardozo Professor Drucilla Cornell (left), the conference’s coordinator, with Jacques Derrida (center) and Cardozo Chairman of the Board Jacob Burns.

Justice Scalia’s Jurisprudence Examined

A full-day conference, sponsored by Cardozo’s Jacob Burns Institute for Advanced Legal Studies, presented papers and panel discussions on aspects of Supreme Court Justice Scalia’s Jurisprudence viewed from a number of angles. The keynote address was given by Charles Fried, Carter Professor of General Jurisprudence at Harvard Law School. The conference’s director was Cardozo Professor David Rudenstine.

The panels were entitled “Justice Scalia’s Theory of Statutory Interpretation”; “Justice Scalia and Judicial Respect for Stare Decisis”; “Justice Scalia’s Interpretation of the Commerce Clause”; and Justice Scalia’s View of the Good Society.”
Legal Reform in the Soviet Union: Prospects for Human Rights and Economic Transformation

Leading Soviet and American scholars and practitioners participated in a two-day conference held at Cardozo School of Law on November 4th and 15th. The conference was sponsored by Cardozo's Program in International Law and Human Rights.


Speakers were Columbia Professor John Hazard; Gannady Danilenko, Senior Researcher, Institute of State and Law; Jonathan Fanton, President, New School for Social Research; Paul Goble, Special Assistant for Soviet Nationalities, U.S. Department of State; Yelena Lukasheva, Chief of Department of Human Rights, Institute of State and Law; Michael Posner, Executive (Continued on page 4)

Cardozo's Board of Directors Expands

Cardozo has added six new Directors to its Board:

**Robert Carmel**

Robert Carmel, Executive Vice President of Williams Real Estate, sits on the Brokerage Committee of The Real Estate Board of New York.

**Arthur M. Goldberg**

Arthur M. Goldberg, Managing Partner of Arveron Investments, L.P., serves on the Board of Trustees of Villanova Law School and on the Executive Committee of the Board of First Fidelity Bancorporation, the 18th largest bank in the U.S.

**Hedi Kravis**

Hedi Kravis, an interior designer for collectors of fine art and antiques, is a member of the American Jewish Committee's Women's Board of Directors. Active in community affairs, she serves on the Museum of Modern Art's Associate Council, and co-chaired an event for the New York City Ballet.

**Leon Silverman**

Leon Silverman, Senior Litigation Partner at Fried, Frank, Harris, Shriver & Jacobson, is a former Assistant Deputy Attorney General of the United States. President of the American College of Trial Lawyers from 1982-1983, he graduated from Yale Law School and from the London School of Economics.

**Hon. Abraham D. Sofaer**

Hon. Abraham D. Sofaer, currently with Hughes Hubbard & Reed, is a former Legal Advisor to the U.S. Department of State, sat as a U.S. District Judge for the Southern District of New York from 1979-1985, and was law clerk to both the Hon. J. Skelly Wright and the Hon. William J. Brennan, Jr.

**Sheldon H. Solow**

Sheldon H. Solow, President of Solow Building Company, is a member of the Board of The Real Estate Board of New York, the Central Park Conservancy, and the Lincoln Center Real Estate and Construction Council.
A.B.A. Regional Negotiation Competition Held at Cardozo

Twenty-two teams participated on Sunday, November 18th, in the largest negotiation competition in the history of the American Bar Association.

The size of the competition "points to an increase in interest in the negotiation method of conflict resolution," says Lela P. Love, director of the Kukin Program for Conflict Resolution at Cardozo.

There were 46 competition judges from law firms and academia. They included Frank Scardilli (Cardozo adjunct faculty and U.S. Court of Appeals, 2nd Circuit); Sue Watson and Cathy Whipple (N.Y.S. Dept. of Law); Mark Kleiman (Director, Community Mediation Services); Rochelle Kraus (Principal Court Attorney, N.Y.S. Supreme Court); Howard Finklestein (Weil, Gotshal & Manges); Larry Friedman (Skadden, Arps, et. al.); Reginald Paige (White & Case); and Jerome Shelby (Cadwalader, Wickersham & Taft).

Schools that sent teams included Cardozo, Albany, Boston University, Boston College, Brooklyn Law School, Franklin Pierce Law Center, Temple, Touro, Western New England, York University (Canada), University of Pennsylvania, and Rutgers.

The Writer and The State

In its third number, Cardozo Studies in Law and Literature has published a selection of political writings from around the world entitled "The Writer and the State."

Legal Reform

(Continued from page 3)

tive Director, Lawyers Committee for Human Rights; and Cardozo professors Malvina Halberstam and David Rudenstine.

The second day’s focus was issues of the Soviet economy and featured presentations on "New Approaches to Ownership Under Soviet Law"; "The Reorganization of Foreign Trade and the International Economy"; and "Is the Soviet Union Undergoing Real Economic Transformation?"

The keynote address was presented by Oleg V. Kozhevnikov, former trade representative of the USSR to the US. Other speakers were Andrew Arato of the New School for Social Research; Peter Juveler of Columbia University’s Barnard College; Nicolai Krylov of the Institute of State and Law; Alan Woolfe, Dean of the Graduate Faculty, New School for Social Research; Cardozo Dean Monroe Price; and Cardozo professors Michel Rosenfeld, Andras Sajo, and Charles M. Yablon.

"To effect radical transformation of the Soviet Union, Mikhail Gorbachev, Boris Yeltsin, and others have shepherded a broad program of legislation through the Congress of Deputies and the Supreme Soviet," says Cardozo PILHR Director Stephen Marks. "In spite of this extraordinary progress, the gap between theoretical and actual reform persists. The conference is designed to cultivate a dialogue on the critical issues of Soviet reform between American and Soviet practitioners and policymakers."
Scenes from Cardozo's Summer Program in Eastern Europe

Gabor Hamza, Cardozo Visiting Professor, with students.

Cardozo Professor Charles M. Yablon and Ana Haluskit.

Miklosh Harshdi, a member of Hungary's Parliament, receives a 19th century political cartoon from Dean Price.

Hungarian Parliament member Josef Szajer speaks to students.

Cardozo Professor Charles M. Yablon (left) and Dean Monroe Price (center) at a reception for students and faculty held at Baker & McKenzie's offices in Budapest.

Participants took time out for a group museum tour. The exhibit focused on Stalin.

An expanded program, but one which will still include Budapest, is planned for the summer of 1991.
New Associate Deans Named

Peter Lushing

Cardozo Professor Peter Lushing has been named Associate Dean for Academic Affairs. Dean Lushing earned his J.D. from Columbia University School of Law, where he was a Harlan Fisk Stone Scholar and Notes and Comments Editor of the Columbia Law Review.

He serves as Executive Director of the New York Council of Defense Lawyers, was a Reporter for the United States District Court for the Eastern District of New York Criminal Procedure Committee, and was a member of the Criminal Law Committee of the Association of the Bar of the City of New York from 1986 - 1989.


He has been a professor of law at Cardozo since 1976, where he teaches civil procedure, criminal procedure, evidence, conflict of laws, criminal law, and family law.

In his first year at Cardozo, Dean Lushing expects to respond to student, faculty and alumni concerns and to deal with "administrative troubleshooting."

Dr. Dorrit Cowan has been named Associate Dean for Placement.

Dean Cowan earned her Ed.D. in higher education administration at Columbia, where she had previously received an M.A. in higher education administration, and an M.A. in special education for the hearing-impaired.

She comes to Cardozo from Baruch College, where she was Director of External Affairs. There she oversaw the activities of the Office of Career Services and supervised the Director of Placement. She also managed the Office of Executive Education including the Executive MBA, Executive MPA, Executive MST and MSILR programs.

Her focus at Cardozo will be, as she puts it, "to create employment options" for Cardozo graduates. "The administration," she says, "has recognized the importance of Placement as an integral component of Cardozo’s programs and is willing to devote the resources necessary to insure its success."

She plans to work closely with alumni. "We need the cooperation and support of our alumni. They are the best resource for making sure that our future graduates are placed well."

Through a strategy of personal contact and a dynamic marketing effort, she plans to expand Cardozo’s relationships with mid-sized and smaller firms, providing "more options in the total picture" for Cardozo graduates.

Corporate Governance

(Continued from page 1)

James Simon of the Natural Resources Defense Council; and Christopher Stone of the University of Southern California Law Center, who is the author of Earth and Other Ethics.

"Self-assessment requirements are appearing with increasing frequency in proposed legislation, consent degrees and codes of corporate responsibility," says Jacobson. "However, the need to assess environmental exposures may clash with concerns over confidentiality and the preservation of traditional privileges.

"The conference served to cultivate dialogue on critical issues in corporate environmental management and to assist managers in establishing accounting systems and corporate structures for managing environmental liabilities."
Faculty News

Professor Malvina Halberstam served as counsel for Israel on the issues of Palestinian claims to self-determination and Israel's rights to sovereignty in Judea and Samaria in a "Mock Arbitration of the Palestinian-Israeli Dispute," held at the Annual Meeting of the American Bar Association. Professor Halberstam argued that Israel's presence in Judea and Samaria is consistent with general principles of international law, the U.N. Charter, and Security Council Resolution 242 and that Arab claims to a Palestinian state in Judea and Samaria based on a "right" to self-determination are not warranted since (a) the Arabs in Judea and Samaria are not a distinct racial, religious, or ethnic group; (b) there already exists a state, the majority of whose population is Palestinian: Jordan; and (c) the International Court of Justice has held that self-determination does not require establishing an independent state.

Professor Halberstam also participated in a two-day conference in Washington on "Separation of Powers and the Debate About Treaty Interpretation Under the Constitution," sponsored by the American Bar Association Standing Committee on Law and National Security and the University of Virginia Center for Law and National Security. In a paper entitled "A Treaty is a Treaty is a Treaty," she took the position that both as a constitutional matter and as a policy matter, treaties should have the same interpretation domestically and internationally, contrary to the position that had been taken by some during the controversy over the ABM treaty interpretation.

Last August, Adjunct Professor Michael Ross served on the faculty of the National Institute of Trial Advocacy. The Institute taught 160 attorneys advanced trial practice techniques. While at the Institute, Professor Ross taught classes and gave demonstrations dealing with "destructive cross-examination."

A translation of Professor Richard Weisberg's The Failure of the Word (Yale, 1984) has just been published by II Mulino Press in Bologna, Italy. His article, "DeMan Missing Nietzsche: 'Hinzugedichtet' Revisited," has been published in Koelb, ed., Nietzsche As Postmodernist (SUNY Press.) Professor Weisberg was the keynote speaker at a gathering of the New Hampshire Humanities Council, where he presented "Towards A Literary Jurisprudence, or What Stories Teach Us About Law." He also delivered a continuing legal education lecture to 350 Ohio government lawyers on "Effective Legal Writing." Professor Weisberg has received a research grant from the Sassoon International Center for the Study of Antisemitism for his "Defining and Criminalizing the Status of Jews: The Practice of Law under Vichy and Occupation." Professor Weisberg also authored an Op Ed piece in the Wall Street Journal International edition, entitled "France: from Vichy to Carpentras."

AIDS Testing and Rape Cases: Clashing Interests

Balancing privacy rights against a victim's need to know whether a rape suspect has AIDS was the subject of a symposium sponsored by Cardozo's Women's Annotated Legal Bibliography on November 7th.

Speakers included Lisa Friel, Assistant District Attorney with the New York County D.A.'s Office, Sex Crimes Prosecution Unit; Ruth Jones, Esq., staff attorney at NOW Legal Defense and Education Fund; Judith Levin, Esq., Director of Litigation for the American Civil Liberties Union AIDS Project; and Kathleen E. Powderly, C.N.M., M. Phil., Assistant Director of the Division of Humanities in Medicine and Assistant Professor of Nursing at SUNY Health Sciences Center in Brooklyn.

At issue was the unusual plea bargain struck between Manhattan prosecutors and a defendant whose sentence was reduced in exchange for his promise to take an AIDS test and disclose the results to his victim. The case was the cover story of the July/August 1990 issue of Manhattan Lawyer.

What's News?

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Inside:

Cardozo’s Summer in Eastern Europe