

Inside 4Q2010

- 2...The Bounty Boondoggle: Dealing A Devastating Blow
- 4...Ethics Follies Are Making a Difference
- 6...Follies Cast Costume Party
- 7...Tax Increases Are Coming — Start Planning Now!
- 8...Reducing Organization Costs and Risks
- 11...2011 ACC South/Central Texas Chapter Officers
- 11...ACC News
- 12...ACColades
- 13...Don't Miss! & Upcoming ACC Events
- 14...Let Us Know... & Welcome New Members

FOCUS

President's Message

Ingrid Etienne, counsel for NuStar Energy, L.P.

As many of you know, San Antonio hosted the 2010 ACC Annual Meeting. I had an immense sense of pride in representing our chapter when I accepted the award for ACC Small Chapter of the Year. The ACC members attending the meeting were able to meet our members and see firsthand why our chapter merits recognition. It is because of you that we won the award — thank you!

I saw many of our members attending the various conference events and seminars, and milling around the Texas welcome center. I overheard many conversations about our city, what businesses are located here and how we weathered the recession. I also heard conversations about how much fun attendees had in San Antonio, especially at the party the Texas Chapters hosted at Howl at the Moon. But the comment I heard most often was about people's impression of the Ethics Follies. During the lunchtime performance on the first day of the conference, I was lucky enough to share a table with attorneys from Germany, the United Kingdom, Nebraska and Pennsylvania. As the lights dimmed, no one at my table knew what to expect, but there was a sense of nervousness as they wondered how they would endure an ethics presentation. Within minutes, not only did our chapter blow away my table's expectations but the audience's

as well. Many of the songs led to rolls of laughter and standing ovations. People were also impressed with our casting and couldn't believe we found such a great Heloise look-alike (as many of you know, we don't have to resort to a Heloise look-alike; we are honored by having Heloise as a cast member).

Our chapter continues to receive emails from the conference participants and the 16,000 attorneys who logged in to see the lunchtime Ethics Follies performance. They were astounded not only by the talent we have, but also by the friendship and dedication shared by the cast and crew. We all know that our chapter has a unique sense of "family." We have all felt that inclusion — that friendship — at meetings and at our other events. I am willing to bet that most people attend our events for that reason — to catch up with their friends and make new ones. I want to express my gratitude to each and every member, and to the entire cast of the Ethics Follies, because without you, we wouldn't have won the award for Small Chapter of the Year.

With Ethics Follies and the Annual Meeting behind us, we can focus on our



final events for the year. We will have our monthly luncheons on the first Wednesday of each month and will conclude the year with a holiday party on Dec. 15, at Maggiano's Little Italy at the Rim. And while it is still a couple months away, our chapter's board is starting to plan for next

year. I would like to encourage you to consider volunteering for our chapter in 2012. We are looking for a couple members who would be interested in serving on a Programming Committee to help plan next year's topics. Also, if there are any specific topics you would like to see addressed at either a monthly luncheon or during a quarterly roundtable, please let us know. We are also looking for a couple members to work with the chair of the Pro Bono and Social Outreach Committee to help plan next year's pro bono event.

As I finish my term as our chapter's president, I want to thank our board for their assistance and you for your support. I look forward to working with Kelli Cubeta, our incoming president, and the new board.

Yours truly,
Ingrid Etienne

The Bounty Boondoggle: Dealing A Devastating Blow To Corporate Compliance

Susan Hackett, Senior Vice President and General Counsel, ACC
hackett@acc.com

Like many of you, I attend all kinds of corporate counsel meetings — industry legal group meetings, CLE sessions, ACC networking and education events through our chapters and committees. At these gatherings, we hear about the myriad laws, regulations, rulemakings, litigation and management issues that impact and challenge us in our work everyday. At ACC, I also think about how this growing tsunami of issues impacts our members in more than 70 countries. Given the noise and number of issues competing for corporate counsel's attention, it can be hard to discern the truly momentous "global" issues from the more mundane and routine requirements.

But at this point in time, I have to say — *never* have I seen a single issue generate such singular commonality of concern and negative response as the whistleblower/bounty hunter provisions in the US Congress' new financial reform law, otherwise known as Dodd-Frank [<http://financial-reform.weil.com/wp-content/uploads/2010/07/Dodd-Frank-House-and-Senate-Final.pdf>].

Dodd-Frank was intended to address the maladies stemming from the financial implosions of 2008 and 2009. While most of the provisions were aimed at financial service issues, the legislation was amended in the final hours of passage to include a broader provision (Section 922) authorizing the Securities and Exchange Commission to expand its whistleblower/bounty program to better encourage the submission of useful information about the violation of securities laws.

In a nutshell, under this provision, a provider of "original information" about securities law violations (broadly writ) can now be awarded between 10 percent and 30 percent of a large settlement

or verdict. Moreover, whistleblowers — who believe that they have suffered retaliation for contributing information to the SEC — can bring cases against their employers. And while the general concept of whistleblower bounty provisions is not new, this one is particularly pernicious to the efforts of in-house lawyers as it could upend the compliance and reporting systems they have worked hard to create in order to provide avenues and protections for whistleblowers within the corporate structure, and upon which they rely in order to help the company effectively police and remedy its own behaviors.

ACC members are the strongest supporters and facilitators of internal reporting and employee whistleblower protections. Indeed, it is in-house counsel who have envisioned, championed, implemented, managed, and assured that such systems are vibrant and offer robust mechanisms by which companies can assure better compliance and maintain a healthy ethical culture. It is key to note in reviewing the provisions of Dodd-Frank, that we have premised all of our efforts to date on the very internal corporate reporting mechanisms which this law threatens to gut: if employees are financially incented by the promise of large amounts of money to go *outside* to report potential violations — rather than to communicate these concerns through established internal company channels — then the employer will be *the last* to know about problems it could have investigated and addressed immediately. Even more ironically, the company will be held liable for addressing failures, losses or problems they could have prevented.

Internal reporting systems, the focus of so much time and investment by in-house lawyers, **must** be given an opportunity to identify and resolve problems first, or sophisticated compliance

programs will be toothless. How else will companies uncover their problems if their employees have no incentive to report concerns and companies can't make it a condition of continued employment that they report and contribute to internal investigations? Isn't it the *job* of every employee to act responsibly within the entity to promote its appropriate behavior?

In recent years, government has passed laws and enacted policies that require companies to create effective internal compliance and reporting programs — in recognition that such programs lead to more legally compliant companies. In fact, it is the standard by which companies are judged in the event that there is a failure and the company would like to demonstrate that they did everything possible to prevent rogue actors from succeeding (see, e.g., Chapter 8 of the US Sentencing Guidelines and the many cases resolved either through settlement with the government or in the courts).

So, it will be interesting to see in the coming weeks, as the SEC, under its authorization in Dodd-Frank, now turns its attention to the language implementing Dodd-Frank and particularly, Section 922's whistleblower provisions. If you were able to listen to the SEC webcast featuring SEC leaders discussing the rule-making process [<http://sec.gov/news/openmeetings/2010/spch110310mls-whistleblowers.aspx> for the webcast, and <http://sec.gov/news/press/2010/2010-213.htm> for the press release], and then read the proposed rule issued by the SEC staff for comments a few hours later on the same day — November 3, 2010 [<http://www.sec.gov/rules/proposed/2010/34-63237.pdf>], you will have noticed a clear and unfortunate disconnect. At this stage, it seems that officials are willing to establish two inherently contradictory tracks — one placing value on compa-

Continued on page 3

Continued from page 2

nies owning their own internal reporting process, and the other on a newer and more problematic inclination to address failures by inciting employees to come to the government with their concerns first, and not voice their concerns through internal mechanisms.

As these regulations unfold, ACC will actively represent our members in the comment process. **Our comments are due to the SEC on Friday, December 17, 2010. We will be asking ACC leaders to co-sign our comment letter to the Commission not only to reiterate our ongoing support for the integrity and viability of internal reporting processes, but also to clarify the importance of encouraging employees to step forward internally without fear of retaliation.**

Here are some issues for you to consider:

- The government cannot possibly police all corporate misconduct; therefore continued self-policing and reporting is essential. And while Dodd-Frank applies to public companies, just as Sarbox set the standard for reasonable behaviors and responses, so too will these provisions' impact bleed into the standards by which every companies reporting mechanisms are judged.
- The SEC has no practical means by which to investigate the countless claims they will now receive from employees hoping for a huge financial windfall. Anyone familiar with sophisticated in-house corporate whistleblowing systems can tell you that the vast majority of the numerous reports into their systems are not in fact flags of serious corporate misconduct. They are often rather mistaken or uninformed employee reporting, imagined conspiracies, or personnel matters that do not uncover fraud or larger misconduct. And, those few reports that do give vital notice of percolating problems will be difficult to distinguish or weigh without context, given that the SEC staff won't know what they're looking for without intimate knowledge of the company and industry from which the report

emanates. In its proposed rule, the SEC has suggested that they will send complaints back to the company for evaluation and investigation, while the Commission opens a matter to investigate each and every one. One can only imagine the chaos this will create in compliance matters.

- Dodd-Frank contains multiple whistleblower provisions: the aforementioned one involving the SEC and bounty awards; a parallel program to be managed by the Commodity Futures Trading Commission; and a final one that the newly-created Consumer Protection Financial Bureau will initiate when it is up and running next summer. Each of these whistleblower bounty provisions was modeled on similar language in the False Claims Act. In its proposed rule, the SEC draws heavily on caselaw interpreting the FCA and companies seeking best practices would do well to rely on that caselaw as well. One long-term thought for the in-house counsel bar is whether there should be rationalization of all these various whistleblower programs so that they work hand-in-hand.

Finally, it is important to point out that there are other perverse implications of this rule:

- It is conceivable that it not only incents employees to report outside the company first, but to wait until a problem festers sufficiently that the likelihood of a higher penalty or award because of increased culpability and damage goes up, increasing the whistleblower's take.
- What about the impact on corporate personnel manuals and policies that universally state that not cooperating in an internal investigation could lead to dismissal, or that employees will be dismissed for engaging in or not reporting on fraudulent behavior? Given the anti-retaliation language of the bill, the employee who's reporting may not be disciplined for the underlying problems they've contributed to or facilitated. The bill suggests that payments should not be made to those who perpetrate the crime, but specifically notes that some involve-

ment in the fraud doesn't necessarily prevent the whistleblower from collecting. The proposed rule attempts to remedy this by preventing wrongdoers from collecting bounties on any portion of the verdict caused by their misconduct.

- What about the rules of ethics? The proposal authorizes the SEC staff to communicate directly with whistleblowers who are directors, officers, members, agents or employees of an entity that has counsel, without first seeking the consent of the entity's counsel. The rule attempts to create an exemption under state bar ethics rules forbidding lawyers from communicating directly with represented persons by permitting the SEC's lawyers to communicate with a whistleblower under these circumstances. The rules of professional responsibility should apply to all lawyers, not just those in the private sector.

Going forward, in response to the SEC's recently announced comment process and to prepare our letter, ACC's advocacy team will:

Engage with in-house counsel working on this issue through the Association. You are the infantry on the ground overseeing internal compliance and investigations. Your input will enable us to propose better solutions, while also better educating the SEC about the multiple minefields inherent in permitting whistleblowers to have the option of an end-run around internal reporting systems.

Coordinate with other like-minded groups. ACC will work with trade associations and outside counsel-leading client groups in an effort to ensure that we stay apprised of the latest developments and strategies.

We hope you will join us. Contact me at hackett@acc.com, or ACC's new staff director on advocacy issues, Associate General Counsel Amar Sarwal at sarwal@acc.com, if you are interested in signing on or have thoughts/comments to share with us to help us better fulfill our role as the Voice of the In-House Bar on this important topic.

Top 10 Ways You Know the Ethics Follies Are Making a Difference

By Debra Innocenti, Follies cast member and bankruptcy attorney, Oppenheimer Blend Harrison & Tate

10. The arrogant litigator who always engages in discovery abuse was embarrassed at the last bar luncheon when everyone referred to him as Ms. Skanklin.

9. Most everyone in your office knows the Rules of Professional Conduct by heart because they've had to watch you perform them in dance numbers.

8. Your law partner that never volunteers "just took one" at the Community Justice Program, and yes, she really liked it.

7. You heard that a shy corporate accountant agreed to come forward to expose her CFO's embezzlement scheme

on the condition that Shavonne Conroy would play her in the Follies parody.

6. The lawyers in your office have started a pool attempting to predict which ethical debacles are going to be featured in next year's production.

5. You overhear colleagues around the water cooler bragging about the latest ethical decisions they made.

4. Your chairman mentions at the directors' meeting that maybe the company needs to "get that ethics and compliance program thing that all the characters in the Follies kept talking about."

3. No one in your office ever has to scramble at the last minute to make their ethics CLE requirements.

2. Your law partner's explanation for refusing to issue an opinion letter on the tax legality of a client's restructuring was, "It tastes just like candy."

And the number one way you know the Ethics Follies is making a difference ...

1. Your CEO is more afraid of being parodied in the Follies than he is of the SEC.



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Follies Cast Costume Party



Tax Increases Are Coming — Start Planning Now!

By Bennett Allison, shareholder at Sol Schwartz & Associates, P.C., cba@ssacpa.com

Year-end tax planning is always a helpful exercise. 2010 takes on an added significance with tax rates increasing in 2011. The top income tax rate in 2010 is 35 percent. Starting Jan. 1, 2011, this rate will increase to 39.6 percent. However, tax rates will increase at all levels, not just at the top. In spite of this, there are some effective strategies that you can employ now to mitigate the coming tax hikes.

Accelerate income and delay expenses? Can this be right?

The conventional wisdom of tax advisors is usually the exact opposite, delay income and accelerate expenses. However, in an environment of rising tax rates, conventional advice gets turned on its head.

Let's assume that you are making well over \$400,000 each year and will always be in the top income tax bracket. You now have the option to (1) recognize \$100,000 in 2010 and pay \$35,000 tax at April 15, 2011 or (2) delay the income until 2011 and pay \$39,600 at April 16, 2012. If you chose option (2) you would have to earn interest at a rate of 21.76 percent on the \$35,000 of income tax saved in 2011 to pay the \$39,600 of tax in 2012.

Carefully consider how your 2010 and 2011 taxes will play out and whether it makes sense to shift more taxable income into 2010. There are several techniques (especially relevant for cash basis taxpayers) for doing this:

- Delaying the purchase of machinery and equipment
- Delaying the payment of tax deductible expenses
- Delaying billing and collections.

Harvest your capital gains

Long-term capital gains are currently taxed at a maximum rate of 15 percent. This rate will go up to 20 percent on Jan. 1, 2011, a 33 percent increase! Of course, there's no reason to recognize capital gains unnecessarily. Many investors have profited from buying and holding securities over very long time periods. There may, however, be good reasons to recognize capital gains such as the need to convert securities

into cash (e.g., buy a house) or the need to diversify out of concentrated stock positions.

Dividend income will take a hit

Since 2003 most corporate dividends enjoyed a special maximum tax rate of 15 percent. Starting Jan. 1, 2011, corporate dividends will again be treated like most other income items and taxed at rates of up to 39.6 percent. Dividend paying stocks may still be a good investment, but it is important that you sit down with your investment advisor and tax advisor to see how this tax change will affect you and whether changes should be made to your investment portfolio.

Many business owners who operate under a corporate structure may have accumulated significant profits in their companies over the years. If these owners want to take profits out of their companies, they should look at paying dividends on or prior to Dec. 31, 2009.

Consider tax-exempt income

Interest income from state and local governments is typically exempt from Federal income tax. As income tax rates rise next year, you should consider whether tax-exempt income will be more advantageous, especially if you are in the top income tax bracket of 39.6 percent. For example, let's assume that you have a choice between two \$10,000 bonds. One pays 5 percent taxable interest while the other pays 3.5 percent tax-free interest. If you are in the 39.6 percent bracket, your after-tax earning on the taxable bond would be \$3,020 each year, whereas your after-tax earnings on the tax-free bond would be \$3,500. Again, these decisions should be made considering both the tax and investment implications.

Maximize your 401(k)

Many employees over the last several years have had the frustration of their 401(k)s turning into 201(k)s. In addition, they don't like the idea of their savings being tied up until retirement age. While it's understandable that people shy away from participating in 401(k)s for these reasons, they continue to be a great way to accumulate wealth for the following reasons:

- Your contribution may be subject to an employer match.
- Your funds will grow on a tax-deferred basis while in the 401(k).
- It's likely that you will be in a lower-income tax bracket when you retire and start withdrawals from your 401(k) (i.e., more tax saving going in and less taxes paid coming out).

401(k) contributions are almost always a good deal, and as tax rates increase next year, the benefit to making contributions will increase as well. As a reminder, if you are eligible to participate in a 401(k) plan, you can defer tax on up to \$16,500 of income (+ \$5,500 if age 50 or older). If you are not eligible for a retirement plan or are already maximizing your 401(k) contributions, you should look at making individual retirement account (IRA) contributions.

With tax rates on the rise next year, proper planning takes on added significance. There are viable options for mitigating the tax rate increases coming next year as well as best practices for operating in a higher tax environment, so start planning now. It may help you avoid a very painful tax bite in the future.

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REDUCING ORGANIZATION COSTS AND RISKS: A Case Study in Centralizing Legal and Risk Management Information Tracking to a Single Technology Solution

Contributors, Pratik Patel and Nancy Jessen, Huron Consulting Group

Introduction

With 2010 in full swing, a growing trend among companies, and especially corporate law departments, is emerging: consolidating the use of technology to fewer, more capable foundational systems. In the general counsel's office, the adoption of this trend is considered to be an essential step towards realizing long-term operational efficiencies and cost savings for the enterprise. Corporate law departments are finding tremendous value in breaking down organizational barriers between risk management, finance and compliance units by centralizing the tracking of information within a single, principal technology solution. By consolidating the use of technology to a single point solution, these cost centers are able to perform more efficient and consistent operations, reporting, and knowledge sharing.

Some visionary companies, such as Express Scripts, were quick to understand the long-term value associated with centralizing legal and risk management information to a single foundational system. These companies have successfully completed steps to fully upgrade, integrate and consolidate their risk management and legal department technologies into a single, newly acquired technology solution and are already realizing the benefits. Introducing consolidation and new technology solutions does raise questions. What pieces of information from both the legal and risk management groups are centrally stored and managed? How are roles and responsibilities shifted when this type of technology consolidation occurs? And what are the benefits of making the investment of time, resources, and change? Using Express Scripts as a case study, we hope this article will answer questions you may have about formulating a cost-cutting legal and risk management information centralization strategy.

The benefits of single-solution information tracking for legal and risk management

For many companies, the legal and risk management units are significant cost centers within the organization. Quick and easy access to legal and risk management related information, which carries critical indications of current and potential costs of doing business, is vital to maneuver the company through difficult economic times. Proactively managing risk can minimize overall costs for the company while also significantly minimizing the potential for unexpected damage to the organization (e.g., due to inadequate financial reserves or insurance coverage). However, for most companies, the ability to easily and proactively manage, connect and report this type of information across the two departments proves troublesome and may ultimately affect the ability of the organization to formulate accurate legal-related risk strategies.

Specifically, most organizations struggle to provide their matter managers with comprehensive financial information to help them make fully-informed decisions on whether to settle or pursue each of their pending matters. This type of decision is usually made considering a number of factors, but from a financial standpoint, matter managers need to know actual legal fees and expenses incurred, estimated potential future costs, insurance coverage limits, and financial reserve balances, among other financial data. Unfortunately, rarely are all of these vital pieces of matter-related financial information available from a single source for easy access and reporting.

As a result, legal and risk management may be incurring various unnecessary costs. Attorneys may be pursuing matters that should be settled earlier, and therefore incurring unnecessary outside counsel fees. Legal-related insurance premiums may be unnecessarily forced higher due to the volatility in estimated liability and

uncertainty in company risk. Financial reserves associated with matters may be unnecessarily inflated; costing the organization valuable dollars that could be invested elsewhere. Conversely, reserves may be deflated, exposing the organization to unexpected financial risk under severe or unexpected circumstances.

In addition to helping minimize enterprise-wide costs, a consolidated technology solution and information centralization strategy for legal and risk management, if fully optimized, can:

- increase widespread visibility and transparency of legal-related financial risk across the enterprise;
- maximize attorney efficiency by engaging them only for risk management tasks related to high-value, high-risk matters;
- eliminate redundancies in information tracking and/or manual reporting processes;
- enable centralized tracking and management of insurance policy exhaustion limits and coverage limits related to matters;
- provide real-time, "full-picture" matter cost information that can be used to monitor and influence risk strategy on whether to settle or pursue a matter;
- prevent the organization from mistakenly paying outside counsel invoices that should be insurance paid (indemnified matters);
- ensure the necessary approvals are completed for high-risk, high-exposure matters, thus minimizing instances of "surprise risk" or catastrophic financial reserve failure; and
- minimize the effort and cost to support and maintain technology across the enterprise.

"Combining the ability to receive and manage outside counsel invoices with the ability to track and manage matter reserve and insurance coverage limits through a single application has significantly improved our attorney's ability to make

Continued on page 9

Continued from page 8

more information-based decisions on their matters,” says Lisa Cannone, senior director of legal services at Express Scripts. “In addition, our attorneys are more proactive in engaging risk managers when needed since all necessary reserve and insurance coverage information is available to them at the time of invoice approval.”

“Centralizing information related to both of our groups to a single system definitely helps my team become more efficient,” adds Dave Jones, senior director of risk management for Express Scripts.

“My team is notified when a new insured matter is opened, and thereafter, we collaborate closely with legal through the system to ensure all reserve and insurance policy information is up to date. Most importantly, because approved incoming invoices are immediately validated and posted against litigation financial reserves, I can run my needed reports well in advance of standard reporting periods, which allows my team to manage and escalate legal-related risk and insurance issues across the company in a proactive and timely manner.”

The Legal-Risk Management Centralization Maturity Model

The degree of change needed to experience the full range of benefits associated with centralizing legal and risk management information to a single technology solution is defined by an organization’s current state. Moving to more centralized, structured, and consistent processes and usage of technology across both groups may also be affected by an organization’s culture and resistance to change. Therefore, in order to identify and proactively manage the potential barriers to a successful information technology consolidation, it is essential to clearly define and agree upon the organization’s desired future state.

Understanding where your organization currently resides on the Legal-Risk Management Centralization Maturity Model can help your organization determine and plan for the level of change needed.

Some level of process and technology centralization between the legal and risk man-

agement units may already exist within your organization. But if a gap exists between your current and desired future state, what are the steps your organization needs to take to close it? What are some best practices to follow during the process? Hopefully, the next section will provide some of these answers.

Express Scripts: A case study for success

Recently, the Express Scripts law department successfully completed an initiative to implement a new matter management solution, and in doing so, leveraged the implementation as an opportunity to better integrate its legal and risk management operations and information tracking through the use of a single, central solution. The primary goal was to establish a centrally accessible, matter-centric platform that could be utilized by both the legal and risk management units for more efficient knowledge sharing and reporting. To ensure a successful transition, Express Scripts engaged Huron to assist it in

implementing a technology solution that could accommodate the centralized needs of both groups. Express Scripts adopted an implementation strategy that minimized operational risks associated with converting from legacy systems to new systems and managed change associated with refined process and information tracking requirements.

“Change within any organization is difficult, especially when that change involves the support, participation and agreement from multiple organizational units,” says Ms. Cannone. “The successful centralization of legal and risk management information to a single solution definitely required the support from members of both groups, but more importantly, demanded that clear roles, responsibilities and processes be established and agreed upon by the leaders of both groups. Establishing common goals, making combined decisions, and gaining high-level sponsorship throughout the project was the key to our success.”

continued on page 10

LEGAL-RISK MANAGEMENT CENTRALIZATION MATURITY MODEL

Maturity Level →

Process	Separate, silo operations exist across legal and risk management	Integrated processes allow for seamless transfer of knowledge and work across groups
	Misaligned risk management strategy and goals exist between the legal and risk management groups	Single, common risk strategy and goals exist across groups
	Lack of defined roles and responsibilities across groups for managing matter-related financial risk	Clearly defined roles and responsibilities and shared accountability for managing matter-related financial risk
Technology	Separate, non-integrated solutions used to track legal and risk management information	Single, centrally accessible solution supports matter management, e-billing, risk management, financial budgeting and reserve management, and insurance policy management
	Manual consolidation effort required to produce needed matter and risk management reports	Matter-related risk management reports generated from a single data reporting warehouse
	Risk assessments and approvals are performed manually and then data is entered into the system for audit tracking purposes	System auto-generates, distributes and tracks approval matter-related risk assessments and approvals based on pre-determined approval routes

The Legal-Risk Management Centralization Maturity Model was developed by Huron as a sample best practice guideline for evaluating an organization’s current state.

Continued from page 9

In its efforts to implement a new matter management solution and centralize legal and risk management information tracking to a single solution, the Express Scripts law department performed the following steps to maximize its potential for success:

Step One — Clearly define project goals and future state vision

- Identify the desired benefits that should result from an implementation or consolidation of technology
- Define the business drivers that should be met as a result of a successful implementation
- Develop and agree upon a vision for how the tool should be used by the key stakeholders involved
- Identify performance measures that can be used to evaluate the benefits of the changes implemented

Step Two — Identify and prepare for implementation challenges

- Identify the cultural challenges that may arise due to a shift in legal and risk management department roles and responsibilities
- Plan for a phased implementation approach that increases the ability to accommodate changes in requirements
- Develop necessary training programs that can be deployed to facilitate change in process and technology
- Employ subject matter experts across groups who can serve as facilitators for change

Step Three — Define and confirm roles and responsibilities

- Clearly identify the roles and responsibilities of members from legal and risk management as they relate to usage of the system
- Identify the parties responsible for various tasks related to managing a matter and its related financial risk
- Clearly define the roles and responsibilities across both departments for quarterly financial reserve reporting processes
- Identify the proper approval chains that must be met prior to finalization of estimated reserves

Step Four — Refine and improve processes

- Identify and eliminate areas where legal and risk management users duplicate work efforts
- Capitalize on opportunities for attorneys to shift low-complexity risk management tasks to risk management group/users
- Enforce updates to matter-related risk and financial information on a standard periodic basis
- Where possible, automate the process for generating, distributing, and capturing approvals for matter-related risk assessments

Step Five — Select and implement a tool






- Select a tool that fits the process, information tracking, and reporting needs of both legal and risk management
- Involve members from both groups in the design, design validation, and roll-out phases of the project
- Perform various levels of testing (unit, functional, and user acceptance) to

ensure the intended design meets the needs of the department

- Perform process-based training to ensure consistent utilization of the tool by users from legal and risk management
- #### Step Six — Monitor and improve performance
- Monitor performance and data quality regularly to identify potential gaps in the process
 - Utilize reports to understand user trends, data quality, and data integrity
 - Gather user feedback to identify areas of potential improvement
 - Tie performance-based incentives to active use of the system

Naturally, the benefits experienced and approach taken by Express Scripts may not fit, apply, or address perfectly the complex business challenges individual


continued on page 11



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Continued from page 10
organizations face in efforts to centralize information tracking for the legal and risk management units. The steps outlined in this article provide a small sampling of the issues and challenges that need to be addressed when consolidating the use of technology across both groups to

a single, central solution. However, these items can be used as a basis for analyzing your current state in terms of process, knowledge sharing, use of technology, information tracking, and reporting across the legal and risk management units. The decision of how much energy and time to invest in improving the centralization

of information and reporting across the units will ultimately depend on how much value your organization places on having comprehensive, matter-related financial information at your fingertips.

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2011 Chapter President: Kelli Cubeta, BSG Clearing

President-Elect for 2012: Mark Howard, USAA

Secretary: Abel Martinez, HEB

Treasurer: Bob Leckie

Vice Presidents:

Timothy Alcott, San Antonio Housing Authority

Michael Gibbs, Whataburger Restaurant

Dan Lopez, Sea Island Development Company

Michael Shearn, Genzyme Corporation

Monica Trollinger, Southwest Research Institute

Kathy Yates, CPS Energy

New Officers:



Michael Gibbs



Michael Shearn



Monica Trollinger



Kathy Yates

ACC News

Free Full Board Trial Membership for ACC Members

The National Association of Corporate Directors (NACD) has partnered with ACC to offer ACC members a full board trial membership through March 31, 2011. Enrollment ends on December 31, 2010. Full board membership allows you to receive the greatest level of membership value and a wide range of benefits. Sign up today to maximize your board's trial experience. To learn more and to download the application, go to www.NACDonline.org/acc.

Mini MBA – Bring More Than Your Legal Skills to the Table

In today's dynamic business environment, in-house counsel are facing new challenges everyday to manage increasingly complex business issues. The Mini MBA for In-house Counsel, jointly developed by the Boston University School of Management and ACC, is designed to strengthen your business skills and help

you make better decisions. It explores key business principles and covers various topics such as corporate strategy, risk analysis, and management skills. The December 1-3, 2010 session has sold out. Remaining upcoming program dates in 2011 are: March 21-23; June 13-15; and June 15-17. To learn more and to register, go to www.acc.com/minimba.



Chapter of the Year!

ACC South/Central Texas received the prestigious **Small Chapter of the Year Award for 2010** by the Association of Corporate Counsel. This is no small achievement! The award serves to recognize our chapter for exhibiting excellence in meeting members' needs, providing quality educational and networking events, and setting a standard of leadership that other

ACC chapters throughout the world strive to achieve. This is the second time in four years that our great chapter has received this award! Congratulations and a big thanks to our outstanding members, our present and past volunteer officers, board of directors, committee chairs, and our loyal sponsors — all of whom have made significant contributions to our chapter!



On the Move:

Mary Brennan Stich, former ACC Chapter President, has joined the legal team at Rackspace Hosting as VP — associate general counsel, Litigation and Employment.

Cynthia Smith is the new associate general counsel, assistant secretary at GPM Life Ins. Co.

Round of Applause:

Congratulations to the following ACC Members who were recently named "Outstanding Lawyers" by the *San Antonio Business Journal*: **Lee Cusenbary** (solo GC); **Ed Kershner** (small staff); **Judy Norris** (large staff); and **Kim Bowers** (community service).

New to In-house:

Rebecca K. Lively, formerly with the firm of Hanor, Cernyar & Lively has joined the 67th NWW with the US Air Force.

Giving Back:

ACC South/Central Texas participated in ACC National's Charity Challenge, which was directed at the ACC Texas chapters, to choose a local charity to receive a monetary donation at the ACC Annual Meeting that National would match. Our chapter, along with Dallas and Houston, came up with \$7,500. A committee led by Kay Grimes chose Morgan's Wonderland to be the recipient of the \$15,000 Texas donation. Morgan's Wonderland is the world's first ultra accessible family fun park designed specifically for children and adults with special needs and it is located right here in San Antonio.



Our Chapter is donating the net proceeds of this year's ethics follies to the Community Justice Program. The Community Justice Program (CJP) is a collaborative effort by the entire legal community to provide free neighborhood-based legal services to individuals who may not otherwise have access to the legal system.

Howl at the Moon Party



Welcome Center



Don't Miss!

We continue to hold our monthly luncheons on the first Wednesday of the month from 12–1:30 PM at the San Antonio Plaza Club. The cost to attend the luncheons is \$10 for members and \$20 for non-members (in-house counsel and sponsoring firm only, please.) To view our current calendar of events and registration information, check out our chapter webpage at www.acc.com/chapters/sanant/index.cfm.

No other professional organization in San Antonio offers better CLE programs specifically geared to meeting the needs and issues of in-house counsel at a more affordable price.

Upcoming ACC Events

January 12, 2011: CLE Luncheon at the Plaza Club,
Topic: "The Dodd-Frank Act: What We Know Now?"
Sponsored by Haynes & Boone
***Please Note Date** — not the usual 1st Wednesday*

For more information, or to register for any of these events, contact Amber Clark at accasouthcentral@yahoo.com.

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Amber Clark

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Job Openings?

Is your company looking to fill an in-house position? Do you know about a current in-house job opening? If so, please let us know so that we can advertise the position to our membership. Send an email to our chapter executive director at accasouthcentral@yahoo.com.

ACC AMERICA

Association of Corporate Counsel
South/Central Texas Chapter

1025 Connecticut Avenue, NW, Suite 200
Washington, DC 20036-5425

Let Us Know...



- What CLE presentation topics interest you?
- How can we help you make the most out of your ACC membership?
- Would you like to serve on a committee?
- Are we meeting your needs?
- Do you know someone interested in joining?
- Do you have some corporate counsel news you'd like to share?
- Do you know someone who would be interested in becoming a speaker and/or sponsor?

Email your comments to accasouthcentral@yahoo.com.

Welcome New Members

Gregory Ahlgren, NovaTel Ltd.

Brad Allen, USAA

Jerome Cohen, Gabriel Investment Group, Inc.

Jennifer Heath, H-E-B

Cynthia Smith, Government Personnel Mutual Life Insurance Company

Jennifer Thiel, USAA