Exploring Conflicts of Interest

by Nancy Mays

The School of Law’s F. Hodge O’Neal Symposium on Corporate and Securities Law, which centered on corporate and accounting conflicts of interest, covered a topic that could not have been more timely for the 250 legal and accounting practitioners and academics who attended the February 22–23, 2002, conference.

With the Enron debacle foremost in the news media and a major source of concern for corporate America, countless other practitioners viewed the conference through a simultaneous offering insights on conflicts of interest were (from the top) Bevis Longstreth, former SEC commissioner; John H. Biggs, chairman, president, and chief executive officer of TIAA-CREF; and David Becker, SEC general counsel.

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Web cast via the School of Law’s homepage.

Todd Kaye, the Washington University Law Quarterly’s 2001–02 executive developments editor who served as chief organizer of the annual symposium, said the original planning for the conference included analysis of the wisdom of law firms and accounting firms being all things to their clients: auditors, consultants, accountants, and lawyers.

As the word Enron became shorthand for corporate mismanagement, conflicts of interest in the accounting
profession assumed a particularly relevant focus for one of the panels.

Troy Paredes, associate professor of law and a conference organizer, notes, “Generally, the concern with conflicts of interest is that they can undermine independence in a variety of ways that can negatively affect investors. With the accounting profession, for example, a major issue is that conflicts of interest can hamper auditor independence.”

Kaye observes the discussion naturally shifted from general conflicts-of-interest issues to specific analysis of Enron and the fallout it caused, ranging from individuals losing their life’s savings to the reverberations on Wall Street: “At the time of the conference, everyone was talking about Enron and Andersen’s role in the company’s demise. People thought we put the conference together in response to the issue, but we’d been planning it for a long time, which is why we had some of the top people in the field on our panels.”

In addition to conflicts of interest in the accounting profession, the symposium also featured two other panels on cutting-edge issues:

**Corporate Consulting**
- Conflicts of interest for lawyers serving on corporate boards of directors and for law firms that take equity interests in clients in exchange for legal services.
- Multidisciplinary practice, when firms offer multiple services, including legal, accounting, and consulting services.

Co-sponsoring the symposium was Washington University’s Weidenbaum Center on the Economy, Government, and Public Policy in Arts & Sciences.

David Becker, general counsel to the Securities and Exchange Commission, delivered the keynote address on “Current Issues at the SEC.” As the world “sifts through the rubble” of Enron, Becker says it is crucial that analytical tools be developed to differentiate between those conflicts of interest that matter and those that don’t. “We have to guard against corrosive conflicts of interest while not imposing impossible standards,” he says.

The panels were comprised of a virtual “who’s who” in securities law, including the following:

- **John H. Biggs**, chairman, president, and chief executive officer, TIAA-CREF; trustee and alumnus of Washington University in St. Louis.
- **Harvey J. Goldschmid**, the Dwight Professor of Law at Columbia University; former general counsel to the SEC; recently appointed an SEC commissioner.
- **Bevis Longstreth**, of counsel, Debevoise & Plimpton; former commissioner, Securities and Exchange Commission.
- **Walter L. Metcalfe, Jr.**, chairman, Bryan Cave LLP; trustee of Washington University in St. Louis.
- **Shaun F. O’Malley**, former chair of Price Waterhouse (now PricewaterhouseCoopers).

**Joel Seligman**, dean of the Washington University School of Law and the Ethan A.H. Shepley University Professor; co-author of the 11-volume treatise, Securities Regulation.

**Lynn Turner**, former chief accountant, Securities and Exchange Commission.

Joseph Lehrer, JD’73, chairman of the Business Law Department at the St. Louis firm of Greensfelder, Hemker & Gale PC and a conference participant, says the issues discussed were extremely topical: “The presentations clearly defined the issues and their legal and financial importance. The various solutions presented by the panelists were thought provoking. Overall, the conference dealt with controversial issues candidly and thoroughly.”

The Quarterly is publishing the conference papers. For more information, go to the Quarterly’s Web site at law.wustl.edu/WULQ/index.html.

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**2003 Conference**

Next year’s F. Hodge O’Neal Corporate and Securities Law Symposium is scheduled for February 21–22, 2003. The discussion on Enron—and other companies—will continue. The conference, “After Enron: Whither the Mandatory Disclosure System,” will include three panels:

- Disclosure under the Federal Securities Laws: What Should Be Disclosed and How?
- Enforcing the Federal Securities Laws
- The Mandatory vs. Voluntary Disclosure Debate Revisited

Additional information and registration materials will be posted when available on the School of Law’s Web site, law.wustl.edu.