

# FLNB Board of Advisors Meeting Summary

January 8, 2013 – 1:30pm Eastern/12:30 pm Central

Tallahassee Division Bankruptcy Courthouse 2<sup>nd</sup> Floor Conference Room

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## Attendees

William Blevins, Traci Abrams, Melissa McClure, Philip Bates, Mary Beth Colón, Steve Jurnovoy, Jeff Dollinger and Kathryn Hathaway

## Updates re Old Business

### New Function of the Board

- Traci Abrams' article on the new function of the Board was added to the December newsletter.
- Board members will actively solicit input (e.g., agenda items, ideas, feedback, etc.) from their peers as part of this new function. The Clerk's Office will send a reminder email to the Board two weeks prior to each meeting so that Board members can plan to report the information they have received during the next meeting. Discussion topics will not appear on the draft agenda but will be offered during the meeting by each Board member.

### Membership Renewals

- Bill Miller will be contacted by Traci to confirm whether or not he would like to renew his membership for another year. If not, then Board members will be asked to suggest replacement candidates.

### Newsletter Article by Board Members

- Philip Bates volunteered to contribute an article later in the year.
- Traci volunteered to assist any Board member with the writing or editing of articles.

### Chapter 13 Streamlining Recommendations Requested

- An *ad hoc* committee was formed by Kathryn Hathaway and includes Allen Turnage, Sharon Sperling and Martin Lewis. Their goal is to review the current Chapter 13 process in the FLNB and in other districts, suggest improvements and produce a set of recommendations for Board review.
- Bill Blevins provided an overview of the committee's work thus far.
- Kathryn Hathaway also provided a written and oral status update and indicated that her written update will be amended to include additional information. [Addendum: The updated written report was received by the Clerk's Office on 1/8/2013.]
- Some highlights of the discussion include:

- *Position papers.* Kathryn suggested that the position papers of Jeff Norman in Columbus, Ohio be reviewed as an example of similar documentation that the FLNB Chapter 13 trustee could provide to counsel as a litigation aid. It was also suggested that the trustee provide an inclusive and broad standard budget as an additional tool/guide.
- *Duties of the Debtor document.* A suggestion was made to create a more simplified version (or adopt the amended draft by Sharon Sperling) for the specific consumption of the debtor. Draft feedback is due by January 14, 2013.
- *Consolidation of Ch. 13 information resources.* A suggestion was made to incorporate as much information as possible into the Local Rules concerning Ch. 13s and, for the information not suited for the Local Rule format, consolidate all the Ch. 13 information found in various standing orders and in the detailed “Duties of the Debtor” draft into one new standing order concerning Ch. 13s.
- *Access to electronic devices during hearings.* The issue of access concerns mainly Gainesville and Panama City. Smart phones were discussed as an item that could be added to the list. However, such a change would have to be vetted from a security standpoint by the U.S. Marshal’s service.
- *Chapter 13 Plan revision.* A suggestion was made that one-page plans used in other districts be reviewed as a template for the modification of the FLNB’s current plan.
- *Case closing language re last payment.* It was suggested that the language be changed to remind the debtor that, although the case is being closed, the last payment is still due.

### **Mortgage Modification Mediation**

- The FLMB’s program was discussed in general, and Bill Blevins remarked that the FLNB plans to mirror it closely since it has already proven to be successful.
- Several questions were posed that remain unanswered:
  - Do we have to have a “Duties of the Debtor” document in order to go forward with the program?
  - Does the mortgage payment have to be paid through the trustee in order for mortgage companies to participate in the program?
  - Would the trustee’s transaction percentage re mortgage payments decrease as it has in the FLMB if all payments are made through the trustee?
- One issue was discussed along with a possible solution. Currently, mortgage payments made through the trustee are “front loaded” which causes the mortgager to receive no payments during the last year of the Plan. As a result, mortgagers are adding non-payment fees which they are attempting to collect from the debtor after their Plan period has ended. If the trustee instead pays a mortgage payment each month through the life of the Plan, then the debtor’s attorneys will not need to spend time dealing with the mortgager, and no additional fees will be assessed. That combined with the possible lowering of the trustee’s fees would make Chapter 13s a more attractive alternative to debtors and their counsel.
- Philip Bates inquired as to how counsel for the creditor will be compensated for the time needed to participate in mediation. He was concerned that non-compensation would discourage overall

participation. Bill Blevins reviewed documentation from the FLMB's program and found that it included a mechanism for creditor's counsel to recoup fees.

- The goal is for the FLNB to initiate the program by March 1, 2013 as noted in the December newsletter.

#### **Formulation of a Formal Local Rules Committee**

- The FLNB Bankruptcy Bar has agreed to form and manage this committee.

#### **Proposed Orders Requirements**

- Guidelines have been posted to the Internet site and are available through the proposed order program. The compliance deadline was set to 12/20/2012 by Judge Specie.

#### **2013 Hearing Date adjustments**

- The new schedule has been released and included in the December newsletter.

#### **New law clerk and continuance of request for new judgeship**

- Law Clerk Alfred Lojo has joined Law Clerk Courtney McCormick as of January 7, 2013.

## **New Business**

#### **FY2013 and FY2014 Budget Outlook**

- No new developments at this time.

#### **Process Efficiency Improvement Ideas (Colón)**

- Automatic Approval of Professional Fees
  - Would the court consider increasing the amount from \$1000 to \$1500 or \$2000 re LR 2016-1 A(3)(a)?
    - Per Mary Beth, such an increase would eliminate the need for a hearing and would decrease the court's processing work time. Bill Blevins asked that she check with the other panel trustees to see if they concur and to report her findings back to the Board.
    - It was noted by Melissa McClure that the \$1000 threshold is found in the Local Rules but that it could be increased via standing order until such time as the Rules are amended.
  - Are there instructions or Guide for Filing Unusual Motions e.g., Motion to File Under Seal?
    - Traci Abrams noted that instructions can be found in the [Administrative Procedures Regarding Electronic Case Filing](#) document located on the court's Internet site on page 7 but that it would be beneficial to the court's external users to create a more easily

accessible link that takes the user directly to this information. Traci to consult with the Systems and Operations Support (SOS) team on this concept.

- Revision to Filing Motions to Sell Under 363 re FRB 6004 and LR 6004-1(C).
  - Could the Motion and the Notice of Intent to Sell be combined?
    - Per Mary Beth, such a change would require a Local Rule amendment. Bill to add this question to his Local Rules committee item list.
    - Jeff Dollinger noted that the Florida Uniform Title Standards Committee is working to rewrite chapter 2. The issue is to determine how real estate attorneys will be able to know for sure when a property has a clear title. He also noted that title insurers are looking for the motion to be filed and a hearing to be set on the matter.
    - Mary Beth noted that the FLMB has a more simplified process in place that we could look to for guidance.
    - Kathryn suggested that we could have one rule streamlined for the sale of personal property, as no hearing is actually necessary. A separate rule could be created for real estate sales which might require a hearing so as to satisfy future title examiners' desire to have an actual hearing on the record.
    - Melissa McClure indicated that the Notice is currently served on all creditors. Therefore, if the Notice and the Motion are combined, then the Motion will need to be served on all creditors under the proposed new process.

## Board Member Feedback

### Jeff Dollinger

- **Lien Stripping:** A local Gainesville attorney asked if the process could be streamlined. Jeff reviewed the process and determined that it is as basic as it can be while still requiring all pertinent information.
- **Venue:** The FLMB allows debtors located in the FLNB to file in the Middle District of Florida unless someone objects to venue. Melissa McClure and Board members discussed in general how it is often difficult to determine proper venue because it can depend on where the debtor was living and for how long in relation to when the petition was filed or where a majority of the assets are located. Melissa noted that FLNB procedures direct the case manager to contact the filing attorney when a petition is reviewed containing an out of district address. The case manager makes the attorney aware of the issue but leaves the decision to the attorney as to what action should be taken. Otherwise, it is up to other case participants to object to the choice of venue.

## Next Meeting

**April 9, 2013 @ 1:30pm ET/12:30pm CST**

**Meeting Adjourned**