



Trading Places

First Scheffman,
Then Froeb Bring
Economics Heft
to the FTC

QUEST FOR THE BEST

Owens's \$60 Million
Human Capital Campaign

MCI

How Mike Capellas
Turned the Giant Around

THE NEW TRADE LAW

What It Means for Business

SPECIAL SECTION

Best Strategy:
Consultants Can Help You
Make the Right Move

SUMMER 2004
Volume 24, Issue 1

ACTING DEAN
JIM BRADFORD

EDITOR
BETH MATTER, MLAS'02

CONTRIBUTORS

JAMES BACCHUS, A'71; JIM BRADFORD, L'73; TIM BREENE; HAYES BRYANT, '04; TED BUSWICK; CHARLES CONTE; DAVID DEAL; LISA DUBOIS; BUELL DUNCAN, A'75; DAVID EGNER, '04; JAMES ENDICOTT; PAUL FRANKENBERG, E'03; GORDON GOETZMANN; LEW HARRIS, A'68; SHANDY HUSMANN, E'98; LIZ LATT; SUSANNE HICKS; CHRIS MCCARTHY, E'92; JIM MARTINEAU; KELLY NOLAN; GRACE RENSHAW; WILLIAM RUNGE; LAVONA RUSSELL, A'72; MIKE SHOR; JEFFREY SMAGACZ; CHRISTIE ST-JOHN; ALEC TAYLOR, L'78; VANDERBILT HUSTLER; VANDERBILT REGISTER; CAROL WISSMANN; ELAINE WOO, '04; CHRISTOPHER YOO

DESIGNER
MICHAEL T. SMELTZER

ART DIRECTOR
DONNA PRITCHETT

DESIGN CONSULTANT
J PORTER

DIRECTOR OF ALUMNI
COMMUNICATIONS AND PUBLICATIONS
KEN SCHEXNAYDER

EDITORIAL OFFICES: Vanderbilt University, Office of Alumni Publications, VU Station B 357703, 2301 Vanderbilt Place, Nashville, TN 37235-7703, Telephone: 615.322.0817, Fax: 615.343.8547, owenmagazine@vanderbilt.edu

PLEASE DIRECT ALUMNI INQUIRIES TO: Alumni Affairs Office, Owen Graduate School of Management, 1207 17th Avenue South, Suite 303, Nashville, TN, 37212, Telephone: 615.322.0815. Vanderbilt University is committed to principles of equal opportunity and affirmative action. Visit the Owen School on the Web: mba.vanderbilt.edu. Alumni Publications on the Web: <http://www.vanderbilt.edu/alumni/publications>

Vanderbilt Business Magazine is published twice a year by the Owen Graduate School of Management at Vanderbilt University, 401 21st Avenue South, Nashville, TN 37203-9932, in cooperation with the Vanderbilt Office of Alumni Communications and Publications. ©2004 Vanderbilt University. "Vanderbilt" and the Vanderbilt logo are registered trademarks and service marks of Vanderbilt University.

Business at Hand

What's in a name? Plenty, when you are talking about choosing a name for a magazine.

By BETH MATTER



JAMES ENDICOTT

I BECAME EDITOR OF THE OWEN SCHOOL alumni magazine in late 1998, shortly before the magazine's name was changed from *Owen Manager* to *Owen@Vanderbilt*. The magazine had been the *Owen Manager* for 20 years, but in the midst of the e-commerce boom in the late 1990s, the name was changed to reflect Owen's position of leadership in e-commerce education.

In recent times, Owen's evolving role in business and education has made it necessary to change the name again. *Vanderbilt Business* was chosen for a number of reasons, among them to capitalize on the recognition of the Vanderbilt name, and to reflect that Owen again is on the forefront of education, this time in the realm of transinstitutional initiatives. Such initiatives are a priority at Vanderbilt, and Owen is playing its part by bringing management practices to the fields of legal, engineering, and medical education, among others.

There is no doubt about it—business is booming at Vanderbilt. On the rise is technology transfer—translating academic research and innovations into solutions for the marketplace. While technology transfer is originating at the Medical School and Engineering School and other points around campus, Owen often serves as the linchpin in these efforts, and is educating entrepreneurs interested in commercializing such technology. Owen and Vanderbilt are also taking a lead in helping to create wealth in Nashville and surrounding areas, through the development and nurturing of a network of entrepreneurs and investors. Owen and the Law School have teamed up to offer the unique Law and Business Program that offers students in both schools the skill set to succeed

in today's increasingly complex business environment. Undergraduate offerings in business are blossoming, and more and more high profile business people, many of them alumni, are sharing their insights and successes as speakers on campus. These are just a few examples.

While *Vanderbilt Business* remains the Owen School alumni magazine and will continue to showcase Owen alumni, students, faculty, and friends, it will now also feature more Vanderbilt experts beyond Management Hall who are helping to transform business locally, nationally, and internationally.

IN THIS PREMIERE ISSUE, AMONG OTHER things, you will discover that Owen professors Luke Froeb and David Scheffman are making a mark on the FTC; what Vanderbilt alumnus James Bacchus, former member of the Appellate Body of the WTO and visiting professor at the Law School, has to say about the new trade law; and how Mike Capellas, MCI CEO, helped to turn that giant around in our exclusive interview with him.

In my time as editor, I have enjoyed getting to know many of you and am looking forward to meeting all of you. I have been positively affected by the collegial and innovative environment at Owen, and this magazine is intended to capture that same energy. As we say at Owen, it's really all about the people.

I hope you enjoy the magazine. Feel free to drop me a line personally (beth.matter@vanderbilt.edu) if you have a story idea or class note to share, or a letter to the editor about the content for Inbox, a new department that will debut in the next issue.

CONTENTS

DEPARTMENTS

- 2 PERSONAL ASSETS
For Professor David Rados, It Is All in the Details
- 11 BUSINESS ROUNDTABLE
What Is on the Horizon for Mutual Funds?
- 15 STUDENT EXPERIENCE
Discovering That Business Can Be a Lifesaver
by ELAINE WOO
- 23 IN THE NEWS
Headlines From Around the Nation
- 24 INFORMED OPINION
The New Trade Law: What Does It Mean for Business?
by JAMES BACCHUS
- 27 CORPORATE SPOTLIGHT
Relax, Honeywell Is in Control
by BETH MATTER
- 68 BOTTOM LINE
International Student Enrollment in Peril?
by CHRISTIE ST-JOHN
- ON THE COVER
Professors David Scheffman and Luke Froeb



44



28

FEATURES

- 40 TRADING PLACES
First David Scheffman, Then Luke Froeb Bring Economics Heft to the FTC
by CHARLES CONTE ★
- 44 NAVIGATING THE TURBULENCE—IN THE AIR AND ON THE GROUND
Mike Capellas and Doug Parker, '86, Tell the Compelling Stories of the MCI and America West Turnarounds
by GRACE RENSHAW
- 50 QUEST FOR THE BEST
Owen's \$60 Million "Human Capital" Campaign
by LISA A. DUBOIS

MISCELLANEOUS

- 4 INSIDE OWEN
Angels Among Us; Nothing Ventured, Nothing Gained; Downloading in Music City; Free Legal Help for Struggling Entrepreneurs; and more
- 16 INSIDE BUSINESS
Making a (Non)Profit; How Do You Verify Integrity?; The Case for the Non-Executive Chairman; Where Have All the Women Gone?; and more
- 38 IN MEMORY
Dean Emeritus Sam Richmond: The Man and His Mission
- 56 "CLASS ACTS"
Bruce Heyman, '80—A Passion for People; Ron Ford, E'92—Giving Back; Kevin Ogilby, E'03—Open to Opportunity; Jonathan Ishee, '03, Jackson Moore, '03—Starting Out; Doug Parker, '86—Newest Distinguished Alumnus; Lise Buyer, '84—Gets Googled; Class Notes

SPECIAL SECTION

- 28 BEST STRATEGY
Consultants Can Help You Make the Right Move, by JIM BRADFORD, MIKE SHOR, AND OTHERS



50

In the Details

Whether a fine press book or a marketing problem, nothing gets past Professor David Rados.

DAVID RADOS, A LONGTIME PROFESSOR in marketing—a field where perception is everything—knows you can't judge a book by its cover, especially those that he owns that challenge the very notion of a book. His volumes, mostly produced since 1980, are fine press books and private press books made with the finest paper, printing, and binding techniques, some with minimal text. A few books have waxed pages; one is bound in stone. His home library also contains more traditional limited-edition books and classics such as *Moby Dick* and *The Old Man and the Sea* that are illustrated with original art or art photographs. His passion began at age 8, when he spotted a Superman book he had to have, and saved for months to buy. His appetite never waned, last year leading him to buy a complete run of a press. "I collect everything there is; there is always an itch. The beauty of the books is what attracts me—it makes my heart beat faster, just like it does when I hear a good string quartet play." Rados, who joined the Owen faculty in 1977, will be sorely missed since retiring this spring. Known as a tough teacher and a stickler for details, he has spent his life doing what he loves: teaching students to think through unstructured problems. **VB**

NEIL BRACE



I N S I D E O W N

Speakers *Angels, VCs, Others* | Students *Lending a Hand, Competitions* | Faculty Research *Private Prisons, Grocery Prices, Audits* | Professional *Exec Ed Abroad, Free Legal Help for Struggling Entrepreneurs*

SPEAKERS

Angels Among Us

ANGEL GROUPS ARE PROLIFERATING and deals are being made, but entrepreneurs have to work harder and smarter to raise less money and make it last longer than was true during the recent boom times, said Bill Henagan, E'80, managing director of Blueridge International and a founder of Atlanta Technology Angels (ATA), in a talk sponsored by the Owen Entrepreneurship Center (OEC) and Nashville Capital Network (NCN).

"The marketplace is tougher because we are back to basics," he said. "The current situation is normal; what we had before was not."

What is easier, however, is for entrepreneurs to get noticed by angels and to obtain expert advice on how to proceed with their start-ups. Angel groups—historically fragmented and unorganized—"the wild west" as Henagan put it—are now starting to organize and provide educational direction.

NCN works to streamline the process of getting entrepreneurs in front of the right angels—matching the idea with smart money that understands the particular industry niche, said Tom Wylley, NCN chairman and a partner with Brentwood Capital Advisors, at a breakfast sponsored by the OEC. NCN's executive director, Sid Chambless, '02, is located in the Owen School, and Owen students serve as interns in assisting entrepreneurs with business plans and helping angels make due diligence calls.

ATA offers coaching, including assigning a team to the entrepreneur, running the financials, and helping to present the investment to angels in the most optimum way.

Events sponsored by the OEC and NCN have become a hot ticket in town, with standing room only in some cases. For information on upcoming events, visit the OEC and NCN websites: <http://mba.vanderbilt.edu/oec/> and <http://www.nashvillecapital.com>.



Hall's own venture:
Pearl Vodka

"The amount of money flowing into the venture sector has deteriorated, making it harder for firms to raise new money. There is a lot of consolidation, and people are leaving the business—it is a tough environment," Bonsal said.

Despite this situation, it is a good time for VCs to invest, because both deals and valuations are better, they added.

What do they look for when they are considering whether to invest in a company? High on their lists are a good management team with solid experience, including operations experience, good credentials, and scientific advisors, when applicable.

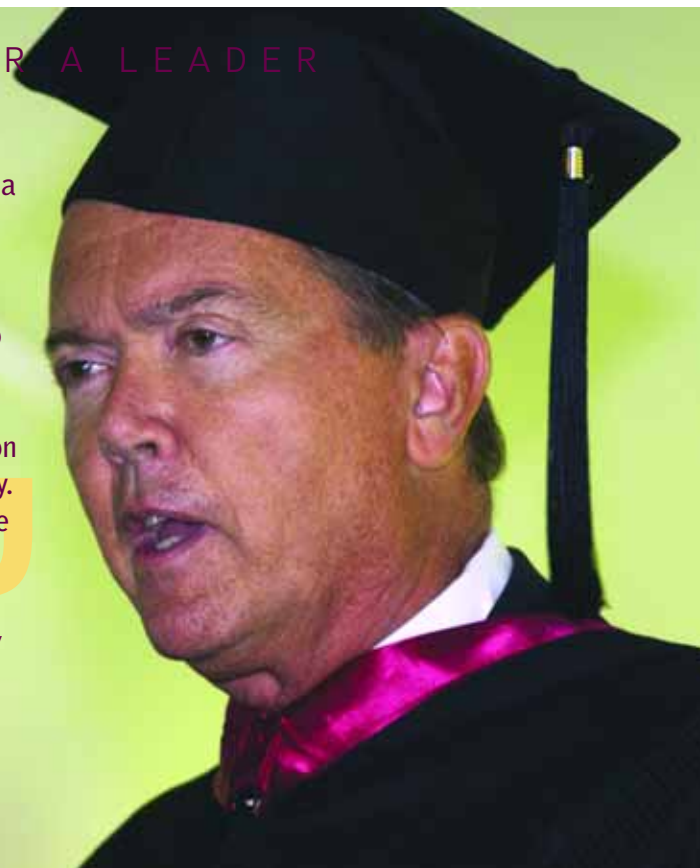
What Hall doesn't want to see is an exit strategy. "That is the last thing I want to hear about," he said. "Entrepreneurs instead need to focus on the basics and what it takes to be leaders in their fields." Referring to his own company, Pearl Vodka, he added: "There is blood on every bottle sold or given away. If you build a great company, they will come to you."

Only a few of the thousands of business plans sent annually to the firms get funded. "The plans that get funded usu-

NO TASK TOO SMALL FOR A LEADER

At work, be ready to pitch in to help with the most menial of tasks. You will be recognized as a team player who is willing to support the team. Also, engage in community service, and again volunteer for the most menial of tasks. You will learn how an organization really runs and get to know people outside of your work area. In the process, you will sharpen your leadership skills and become known as a doer and a 'go to' person for those who want a clear cut answer in a hurry. Believe it or not, there are precious few of those types of people in the best of organizations.

—JAMES BEARD, vice president of Caterpillar Inc., and president of Caterpillar Financial Services Corporation, Commencement speaker, May 14



Nothing Ventured, Nothing Gained

UNLIKE ANGEL MONEY, VENTURE capital is harder to come by today, said Frank Bonsal, co-founder and general partner, New Enterprise Associates, and Eric Hall, '78, partner and CFO, mc3ventures, and founding CFO of Yahoo! during a program sponsored by the Owen Entrepreneurship Center.

ally come in with strong referrals," Hall said.

NEA, created in 1978, has evolved into a top 10 U.S. venture firm with more than \$6B in managed assets. NEA recently raised its 11th fund, \$1.1B, the largest fund raised since the Bubble days. mc3Ventures is an early stage venture capital fund focusing on wireless infrastructures and enterprise software that was created in 2000.

Downloading in Music City

MOST SPEAKERS AT VANDERBILT don't cause a stir or come shadowed by a *60 Minutes* film crew.

But Wayne Rosso, the self-proclaimed "sultan of swap" and former president of Grokster, a peer-to-peer file sharing service, faced the music last fall when he defended file sharing technol-

ogy in this city populated by singers, songwriters, and musicians. His talk, "Take Back the Music," was part of Vanderbilt's 2003-04 Project Dialogue series, "Ideas, Images, Internet: Who Owns What?"

The Internet inevitably affects everything—including music—and the music industry must adapt in response, Rosso contended. Technology that makes music more widely available has always increased music sales, and works

in the musicians' favor, he said, citing radio as an example.

The cadre of songwriters and musicians mixed in among the student audience took Rosso to task for contributing to what they consider the theft of song files and negative effects to the economy and their livelihoods.

Rosso suggested musicians redirect their anger to record companies, which refuse to negotiate on licensing. The way to prevent unauthorized content on a P2P network is to license it, he pointed out.

Grokster allows personal computer users to download digital files, including images, audio, video, reports, and documents. The company made headlines when it won a landmark federal court decision in a copyright infringement suit filed by the recording and motion picture industries. Rosso also has formed a lobbying organization, P2P United that represents the interests of file-sharing services on Capitol Hill. One of the organization's primary

efforts has been to raise money to reimburse those being sued for illegal downloading. Seven Vanderbilt students were among 532 users recently sued by the Recording Industry Association of America. Two of the students were identified, and the lawsuits are still pending. (Vanderbilt's policy is that using its network to share or trade copyrighted material without the permission of the owner is a violation of University policy and subjects the user to disciplinary, and possibly legal, action.)

60 Minutes had been following and filming Rosso for an episode of the show on file sharing.

Wall Street's Take on the Candidates

WALL STREET IS DIVIDED on George Bush and John Kerry, said Jack Lavery, an economist and chairman and CEO of the Lavery Consulting Group, at Owen's Financial Markets Research

Center's Conference on Exchange Governance and Securities Market Structure in April.

"The general thinking is that Bush would be good for stocks—if he is re-elected, and the GOP retains a majority in the house and the Senate, we can look for him to make the tax cuts permanent. The thinking on the street, however, is that Kerry would be good for bonds because of his focus on reducing the deficit and keeping interest rates lower than would otherwise be the case. Kerry's people have indicated that he would plan to raise taxes of families with incomes over \$200,000 and impose a higher statutory rate."



Bush: Stocks



Kerry: Bonds

JOHN COSTELLO

CHUCK KENNEDY

competition. Owen students Consuela Sawyers, Calandra Turner, and Temilade Oyeniyi came up with the best solution, outshining 35 other schools and claiming the \$12,000 prize.

Chrysler wanted both short and long term marketing strategies, with the end goal of improved brand image. Owen's plan provided a unique and sustainable competitive advantage through a cohesive fit of core marketing activities.

"When people think about marketing, they sometimes think 'fluffy,'" says Sawyers. "We backed our 'fluffiness' with solid financials."

Easy as Dell: Students Rene Vuskovic, Luis Mirabal, Gustavo Nucci, and Javy Canas won handily in the National Society of Hispanic MBAs (NSHMBA) case competition sponsored by Dell. The team beat out 48 teams in the first round, and in the second had four hours to come up with the winning plan, edging out four other finalists. The problem: to analyze the electronic consumer market, and design and introduce a new product based on the Media Center PCs concept. Owen suggested Dell design an integrated digital device to connect all entertainment electronics around the house to a single wireless unit with multiple outputs to flat-panel and regular TV screens. Michael Dell presented the winners with a trophy and new laptops.

Best of Business: Second-year students Jerome Edwards and Evan Austill won the InfoUSA Business Plan Competition, hosted by the University of Nebraska. Their entry, based on their real-life company, Veran Medical Technologies, eclipsed 22 other teams to win \$10,000 and a

STEVE GREEN

GEOPOLITICS THREATEN ECONOMY

WE ARE AT A CRITICAL JUNCTURE IN OUR ECONOMY: Housing sales are spectacular, consumer spending is up, and the economy has been hitting its stride. The key to the expansion has been the business sector.... The third tax cut was important to getting the economy going.... The insourcing of jobs outnumbers outsourcing.... But Greenspan's fear is that we fall off a cliff.

We have clouds hanging over us because of the geopolitical situation. A low probability event, such as another terrorist attack, could have catastrophic effects on the economy.... We need to let the economy grow for a while. At some point, we need to reload, or we won't be ready for the next downturn.

David M. Jones, president and CEO, DMJ Advisors, senior economic advisor to Mizuho Securities U.S.A., Inc., and author of Fed Watching and Interest-Rate Projections: A Practical Guide, April 27, 7:29 Owen Associates breakfast

berth in the Super Bowl of B-School business plan competitions: the "Moot Court" at UT-Austin in May. Last year, the team took home a third place in the Southwestern Business Plan Competition at Rice University.

On the other side of the coin, Owen held a wildcard round of the 2004 Venture Capital Investment Competition, in which student teams listened to actual CEOs seeking funding. The teams decided which companies to

invest in and defended their decisions to a panel of venture capital professionals. The student winners proceeded to the national competition at the University of North Carolina.

Owen's own eStrategy contest drew 15 teams, with six competing in the finals in February on the topic of growing strategic services for sponsor WebMD Envoy. McGill University captured the first place prize of \$15,000 and Ohio State the runner-up prize of \$3,000. "The goal of the contest was to develop a talent base to help us transition the company organically, rather than to solve a particular problem," said company president Philip Hardin. WebMD Envoy provides innovative connectivity and information exchange services to health care organizations.

Lending a Hand

OWEN STUDENTS ROUTINELY PITCH IN to help the community, even filling in last minute at fundraisers. Ben Elrod,



Piracy Abroad

"COUNTERFEITING IS A FORM OF flattery but also a liability. We are very aggressive in trying to control piracy, and are making headway in China. You can't stop it, because there are so many opportunities, but we get local authorities to raid counterfeiters and create a problem. We want to make it more difficult for them to counterfeit our brands than someone else's brands."

— Mackey McDonald, CEO, VF Corporation, maker of Lee and Wrangler jeans, Nautica and NorthFace wear, Distinguished Speaker, March 17

Other 2003-2004 Distinguished Speakers include John Bogle, founder, Vanguard Group/president, Bogle Financial Markets Research Center, November 11; Charles O. Holliday, chairman, CEO, DuPont, November 19; Joe Scarlet, CEO, Tractor Supply, January 10; Murray Dashe, chairman, CEO, president, Cost Plus World Market, March 25



STUDENTS

The Thrill of Victory

PARTICIPATION IN CASE COMPETITIONS is time-consuming and challenging, but an excellent way for MBA students to gain business experience and notice by recruiters. Owen again had a stellar year in this area, capturing three first-place wins, and hosting and holding two other successful competitions.

The Case for Chrysler: To compete in an industry characterized by high incentives and foreign competition, Daimler Chrysler sought help through the National Black MBA Association case

'02, compensation manager at Corrections Corporation of America, and former president of 100% Owen, contacted the club in February to seek help with Our Kids Soup Sunday fundraiser after another volunteer group cancelled. Elrod was volunteer chair of the competition that brings together 40 of Nashville's best restaurants to decide the best soup in town and benefits the organization that provides expert evaluation for children suspected of sexual or physical abuse. True to form, 10 Owen students showed up, ladle in hand.

This spirit of altruism was captured in a January 26 article in *Financial Times*, titled "Volunteers—Social Awareness Takes a Higher Profile; Ethical, Social, and Environmental Issues Are Now Woven into Many Business Schools' Curricula."

"Voluntary work in the community has always been a feature of many campuses, but social awareness in U.S. business schools has assumed a higher profile in the aftermath of the events of September 11, swiftly followed by corporate scandals, such as Enron," the article stated.

Owen, the article continued, has a student club—100% Owen—that aims to get all of the students involved in voluntary work.

Mike Humber, '04, a board member of the club, was quoted in the article as saying that students in recent months have shown more enthusiasm for volunteering.

This change has extended to the job hunt as well, added Melinda Allen, director of the Career Management Center. "Students are asking a lot more questions of companies on the recruitment side. Corporate social responsibility is far more important to them."

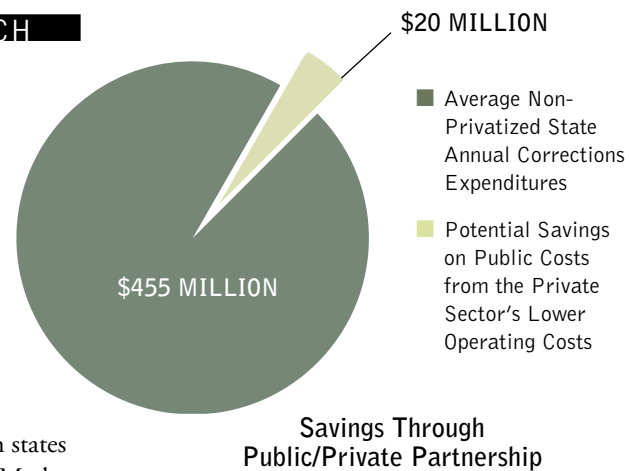
FACULTY RESEARCH Private Prisons Help Contain Runaway Expenditures

STATES THAT USE PRIVATE PRISONS have considerably more success in keeping public corrections spending under control than states with no private prisons, say Mark Cohen, professor and associate dean, and James F. Blumstein, Centennial Professor of Law, in their study published last year, funded by the Association of Private Correctional & Treatment Organizations and Corrections Corporation of America.

Analyzing 1999-2001 data, the pair found that:

- Private prisons result in slower growth of corrections expenditures. States that utilized private prisons experienced lower growth in the cost of housing their public prisoners compared to states with no corrections privatization. For those states, the growth in daily costs of housing prisoners in the public corrections system was reduced by 8.9 percent or about 4.45 percent per year.
- Utilizing private prisons can generate significant budget savings.

In 2001, states without private prisons spent an average of \$455 million in corrections expenditures. Introducing private prisons could save the "average" state in that group \$20 million for one year in public prison operating costs alone. Additional savings would be generated from lower operational costs in



the private prisons themselves; according to numerous independent studies, the operating costs of private prisons are, on average, 5 to 20 percent lower than at public corrections facilities.

- Even small levels of private prison use can have a large impact on correctional expenditures. States with less than 5 percent of their prison population under private management experienced a 12.5 percent growth in public corrections expenditures compared to an 18.9 percent increase in states with no private prisons. States with even larger percentages (20 percent and above) of prisons under private management generated even greater savings, with per capita increases in public prisons of only 5.9 percent.

A complete copy of the study can be obtained by contacting Cohen at Mark.Cohen@owen.vanderbilt.edu.

Audit Firms Still Cooking the Books

THINK THE ACCOUNTING SCANDALS of the last few years have straightened out the audit industry? Not so. A the-

oretical study by Owen accounting faculty Debra Jeter and Paul Chaney, with Pam Shaw of Tulane University, reveals that, despite the attention called to the industry for its complicity in the corporate scandals, audit firms under pressure from major clients bending the rules are still prone to produce inaccurate audit opinions, if they think they won't be caught.

"Our study demonstrates that audit firms may lie to keep a profitable audit client if the expected benefits of keeping the client happy outweigh the expected costs of an audit failure if the firm gets caught," says Jeter.

Their study also suggests, however, that recent changes may improve the situation. As the public debate continues over whether the Sarbanes-Oxley Act has reduced corporate fraud or improved the quality of corporate reporting, the increased public awareness and scrutiny will increase the likelihood of the audit firm getting caught, resulting indirectly in improved reporting. Similarly, increased SEC enforcement and new rules set by the Public Company Accounting Oversight Board (PCOAB) have the potential to influence auditors' decisions.

The study, published in the November/December issue of the *Journal of Accounting and Public Policy*, is one of the first to demonstrate that auditors will act in their own best interests. The

study also shows that

- Regulators can ensure more truthful audit opinions by increased scrutiny of financial statements and increased penalties,
- Companies being audited must constantly monitor and improve the internal audit function, and require managers at various levels within the firm to certify the numbers for which they are responsible, and
- Audit firms should rotate partners in charge of large audits, and that audits should remain independent of consulting work by the same firm.

Grocers' Pricing Theories Shelved

GROCERY SHOPPERS EXPECT PRICES to vary from one supermarket chain to another, but may find themselves scratching their heads when finding the same brand priced differently at stores within the same chain. What looks like capricious pricing is actually an ultra-

sophisticated strategy aimed at thwarting the competition, rather than winning over customers—and it turns out the local store manager is often the mastermind.

Two studies by Professor Ruth Bolton and Professor Venkatesh Shankar of the University of

Savvy managers can generate profit even with the industry's razor-thin margins.



PREPARE YOURSELF FOR LEADERSHIP

Executive Leadership
October 4-6

Finance and Accounting for Non-Financial Managers
October 11-13

Marketing for Growth and Profitability
November 1-2

Leadership Dynamics
October 25-27

Strategic Innovation
November 8-9

For information on executive education programs, contact Martin Rapisarda, associate dean for Executive Education, 615.322.3120 or emba@owen.vanderbilt.edu.

Maryland are laying to waste the belief that individual grocers practice only two standard pricing strategies: every-day-low prices and temporary deep price discounts, and that pricing and promotion issues are decided primarily at the chain level or prompted by trade allowances from manufacturers.

"Our findings prove savvy managers can generate profit—even with the industry's razor-thin margins—by devising a customized strategy based on a keen knowledge of brands, categories, store data, and local competitors' moves," Bolton says.



PROFESSIONAL

Free Legal Help
for Struggling
Entrepreneurs

AN ONLINE FASHION MAGAZINE, A Web-based furniture business, a publishing and entertainment company, a non-profit organization offering financial aid to families adopting children with special needs, and a Kosher catering company all had one thing in common: Owners needing legal help in setting up their businesses and no money for an attorney. So the entrepreneurs turned to Vanderbilt's new Business Law Clinic for help.

"Many people in Tennessee, particularly in economically challenged areas, have the ideas and desire and drive to start a business, but not a lot of money," says Steve Wood Jr., visiting assistant clinical

professor of law and director of the clinic, and adjunct professor of entrepreneurship at Owen, who co-teaches a class on small business management. "We hope we can help some of those entrepreneurs succeed."

Wood each semester supervises eight law students, who gain experience by consulting with the clients. The intent is to provide one-time legal help. The clinic does not do litigation work, and clients must be residents of Tennessee. The program works in conjunction with other organizations such as the Tennessee Small Business Development Center in assisting the entrepreneurs.

ExecEd—Latin
American Style

EXECUTIVE EDUCATION HAS GONE international with its first open enrollment program in São Paulo, Brazil.

David Owens, clinical professor of management, teamed with James Wright, MS'82, professor of management at the University of São Paulo, and Vanderbilt alumnus (masters in engineering management) to offer the Innovation for Competitiveness executive program in December. The program focuses on leveraging an enterprise's innovation capability to make it more competitive.

Twenty-nine business executives participated, representing such companies as Aventis Pharma, Petrobras, Banco Bradesco, Credicar/Mastercard, Roche, and Unilever.



"In Latin America, as can be the case in the U.S., business culture tends to be more conservative than social culture," Owens says. "That conservatism evaporated in our course, however, as we reframed the issue of innovation as not simply a 'business problem,' but one that involves and affects individuals, groups, organizations, society, and culture. Defined this way, openness returned and creative ideas began to flow, setting the stage for innovation."

A second program on the subject was held in May. For more information on the program, contact Hermano Rocha: Hermano.rocha@owen.vanderbilt.edu.

Owens has an ongoing relationship with the University of São Paulo, including hosting USP Executive MBA students every year when they come to Nashville for their international residency.

VB

MARC BRUCE

DANIEL DUBOIS

MARC SHAYER

What Is on the Horizon
for Mutual Funds?

Advocate for Reform, Vanguard's John Bogle Offers Solutions
for Industry Woes.

JOHN BOGLE, FOUNDER OF THE Vanguard Group and president of the Bogle Financial Markets Research Center, spoke as a Distinguished Speaker at Owen November 11 on the topic "A New Era for Corporate America, for Mutual Funds, and for Investors." Following his talk, he sat down with a few professors and students to further discuss current issues and his philosophy surrounding the mutual fund industry.

Charu Raheja (assistant professor of finance): Should mutual fund companies be involved with the corporate governance of companies, and if so, how involved should they be? Especially mutual funds like Vanguard, which is more of an index fund.

John Bogle: The industry is divided into long term investors and short term speculators, and corporate governance inevitably is left to long term investors. Index funds by definition do not trade stocks in the index, they buy and hold. If they don't like what management's doing, they can't just sell the stock, so they have no choice but to get involved in governance. Speculators don't have to get involved. The odds are good that they won't even own the stock by the time the annual meeting rolls around. I'm in favor of the recent SEC decision that forces mutual fund managers to disclose their proxy votes. My position always has been that our fund



John Bogle, founder of the Vanguard Group and president of the Bogle Financial Markets Research Center

investors are entitled to know how we are voting their shares.

Raheja: How should index funds be involved if management dictates that this person should be on the board and that person not?

Bogle: The SEC is dealing with this, but I believe they are too limited regarding access to corporate proxy statements. They are saying that if at least 35 percent of all votes were withheld for a director,

or if a shareholder proposal to add an outside director to the slate gains at least 50 percent of the votes, shareholders can nominate up to 3 directors a year later, which makes the whole process a two year cycle, which I think is too long. I recommend they have some kind of threshold—for example, if you get 20 institutions that own 30 percent of the stock, they can nominate a director immediately or a number of directors. And that gets into some new issues, like

"I have said more times than I care to count, that if OWNERS don't give a damn about corporate GOVERNANCE, who on earth should care?"

cumulative voting. We are making our way in a brand new world, where we are asking investors to speak and asking citizens to take responsibility for corporate governance, and they have to do it. I have said more times than I care to count, that if owners don't give a damn about corporate governance, who on earth should care? I think we are moving in the right direction, but it might be three steps forward and one step back.

Raheja: But instead of making shareholders care, we are telling mutual fund man-

agers to watch out for shareholders. It's almost like investors don't have the initiative to look after their investments.

Bogle: We all have much to answer on that score. What you are saying is that if we want individual responsibility, we have to go to the people who can actually vote. But there is such a diffusion of mutual fund ownership, we would not get anywhere. An important difference between corporate America and mutual fund America is that the 100 largest institutions in corporate America own 56 percent of

all stocks. The 100 largest owners of mutual funds probably own .00056 percent of all mutual fund shares. So the approach to mutual fund governance has to be distinctively different. I'm not saying that mutual fund managers should tell a General Motors to drop a Cadillac for instance, but we should make sure a company is being run in such a way that every decision is being made by directors who ask themselves, "How would I feel about this if I were the sole shareholder of the company?"

Craig Lewis (associate professor of management): What role should mutual funds shareholders play in the governance of the funds they invest in, and what role should a mutual fund play in the corporate governance of regular companies? What is Vanguard's policy—do they vote shares in a proxy statement? Is that part of the decision making, or do you pass on certain exercises?

Bogle: When I ran Vanguard, the group that voted our corporate proxies reported directly to me, but to be honest, there wasn't much to do. Compensation hadn't gotten out of hand. Portfolio managers would take on a merger here or a bad dividend decision there, with not much success in those days. One thing we were very conscious of was stock option plans, particularly as our funds started to own more and more small companies. That is where you see extreme dilution, and we would vote against those plans. There was an article recently in *Business Week* about what Vanguard is now doing—that we have gotten more aggressive in our voting proxies since we bought into the idea of disclosing our vote. We only voted in favor of 29 percent of the board slates that came up this past year, explained by the fact that we didn't like the composition of the audit committee or the compensation committee. So we have gotten more active, and I think everyone will. But I have been talking for a long time about the role of institutional investors and mutual fund investors in corporate governance. It is complicated, because no one investor can step up to the plate. No big

investors dominate, so this encourages strong managers, weak directors, and passive owners, so it shouldn't have been a surprise when the looting began. What's to be done about that? We have to empower some unit to watch after the interests of the funds themselves. Through legislation, we have to change the mutual fund governance to be more like that of pension fund trustees—they don't manage the money but make sure that the money is managed well.

Hayes Bryant ('04): Is there a better way to compensate managers? It is important to me as a shareholder to make sure that managers' benefits are aligned with what I want, which is capital growth or low fees. I think there is no question that managers' real intent is to raise assets. It is easier to grow your fund by 5 percent in new assets than it is to grow it by 5 percent in capital appreciation.

Bogle: Some say we need an incentive fee. Vanguard imposes them on their managers, even though some refuse it, and we do not always insist on it. In some ways, incentive fees are a great way to go, but they are basically vanishing from the industry, because they are so hard to earn. I can't blame managers for not wanting them—if you can make a big fee regardless of how you perform, why would you take the risk of an incentive fee that might lower your compensation year after year? But directors need to insist on some kind of incentive fee. That is the best way I can think of to align the interests of fund managers and fund investors.

Stephen Burr ('04): Do you think that the traditional mutual fund industry is experiencing a loss of talent in the direction of hedge funds?

Bogle: I would say yes, but I am still not sure what talent is. Talent is great performance, but a great performance is not a great way to buy funds. The stated strategy of about 30 hedge funds was timing mutual funds. I'm not sure that talent had a great deal to do with the performance of those funds, but it was certainly a risk free return while it lasted.

Bryant: If index funds resume popularity 25 or 30 years down the road, on what basis are the investing fund managers to be compensated, either solely on cost or on fees? Service?

Bogle: They are going to have a hard time. Cost is enormously important. If you examine the performance of the high cost quartile versus the low cost quartile in any equity style, you'll find that the low cost funds outperform by about 3.5 percent a year over a decade. Think what that means in a 7 percent market. And think that even low cost funds have costs. Your chances of beating the index go up in direct proportion to the reduction of your costs, so if you are of the mind that you would like to try to beat the market, you're crazy if you're considering anything outside of that low cost quartile. Indexing is owning the market at low cost, and owning it forever, which is what we should talk about. That is going to be formidable competition for managers.



Bogle: "We are making our way in a brand new world, where we are asking investors to speak and asking citizens to take responsibility for corporate governance, and they have to do it."

DANIEL DUBOIS

*Bogle: “We **NEED** disclosure, **DISCLOSURE**, disclosure, especially on compensation. I think government has an **OBLIGATION** to make sure that not too many people get taken to the cleaners.”*

Raheja: What do you think will happen in the mutual fund industry?

Bogle: I know what should take place, but I don’t know if it will. What should happen is that we see mutualization discussed at a handful of the firms caught up in the scandals. Reading Sen. Fitzgerald’s statement, you would think Vanguard is a new religion. I was stunned. In a matter of two months, our work went from heresy to dogma. What will likely happen is that we will have federal regulation of these bad practices. Closing time for funds should be 2:30 rather than 4 p.m., so that managers have the money available to invest that same day. I think we will have a redemption fee of 2 percent for 30 days. The first thing I would do is add 7 little words to the Investment Company Act of 1940, which is our guiding statute. It currently says “Mutual funds must be organized, operated, and managed in the interest of fund shareholders, rather than in the interest of officers, directors, investment advisors, underwriters, and distributors.” I would add to this, “It shall be the fiduciary duty of directors to insure that mutual funds are organized....”

Bryant: Is it naïve to think that the market could take care of that itself, and that investors would not invest in a Putnam or Strong?

Bogle: I discussed this with Hans Stoll at lunch—it’s what you could call the Chicago School argument. That is not what the law says for better or worse. The whole thrust of the federal securities law goes back to the early 30s, coming

out of the abuses of 1929, and concerns the protection of the average public investor. A lot of people say every man to himself. I personally don’t think it is a good idea, but that is an arguable debate.

Raheja: But I think the problem is with hedge funds....

Bogle: If shareholders get hurt by hedge funds, they only have themselves to blame. At some point, you need to take responsibility for your own financial future and for your actions. The hedge fund investor is someone who is reasonably sophisticated and reasonably wealthy. We should be concerned about the average person who’s trying to save to send their kid to college. Or have a comfortable retirement—something pretty fundamental to our society. I think government does have an obligation to make sure that not too many people get taken to the cleaners. We need disclosure, disclosure, disclosure, especially on compensation. This industry gets a kind of free pass on compensation, because of being private. But the fund is paying the manager perhaps hundreds of millions of dollars a year. The law should pierce that corporate veil and say your shareholders have a right to know how much you get paid. That the industry hates this so much lets me I know I am on the right track.

Lewis: Do you have an opinion on the quality of equity research following Regulation Full Disclosure? Are market investors more informed post FD, and if so, is there a level playing field as a result of more information?

Bogle: I haven’t heard complaints about corporations clamming up on FD. I think what FD is doing, and what it is supposed to do, is to make sure there is even access to information. That is better than selectively parsing that information to your friends. It is the right policy—but no one can argue with that—but there are implementation problems. Let’s fix the implementation.

Raheja: What is the advantage of SPDRs [Standard & Poor’s Depository Receipt]?

Bogle: Or the disadvantage? If you are in our index fund, you are paying maybe 15 or 18 basis points, and with the SPDR you are paying 12. But with the spider, you will be paying commission costs on every purchase, so it’s not the right choice for someone who’s dollar-cost-averaging, and you can’t be sure that you are going to get the asset value when you redeem. So why does the typical investor choose a SPDR? Because they are traded in real time all day long. These instruments trade 6 or 7 billion dollars every day. Why are people doing this? I don’t know—they can’t win in the long run. It is possible that SPDRs will capture the market return—it is a trading game. It is a wonderful instrument for long term investing that is badly used for short term speculation; when it is used right, it is fine. **VB**

DANIEL DUBOIS

IT’S 6:30 A.M., AND I’M IN my car rushing to work. Maybe today will be the day. Maybe today, what we purify will lead to the cure for cancer! Or maybe we will discover a novel anti-infective for immunocompromised patients. Either way, I didn’t think it could get better than this. Everyday I faced such challenges as how will I purify the next new drug? What experiments will make the production process faster, better, cheaper? My drive to ask such questions and make them the focus of my work is one reason why science has always played a large part in my life.

I had just graduated with a bachelor’s degree in molecular and cell biology, was full of energy, and working for a company where I could make an immediate impact. The biotech industry was booming, and Kosan’s culture was highly entrepreneurial and encouraged youthful and innovative ideas. I thrived there. During my four-year tenure, the company became public, partnered with three major corporations, and grew from 40 to more than 100 employees. I started as a molecular biologist reengineering

.....
ELAINE WOO, ’04, is a process engineer with Vistakon in Jacksonville.

Discovering That Business Can Be a Lifesaver

Improved processes and streamlined operations allow pharmaceuticals/biotechs to produce miracles. By ELAINE WOO



Elaine Woo

bacteria to produce certain compounds, but also had the opportunity to purify novel drugs and optimize their production in large bioreactors. I experienced first hand the research cycle of a drug from conception, development through manufacturing, to purified product. Most importantly, I learned the interdependent and intricate relationship between science and business within industry.

Consider this: Biotech is a rapidly growing industry, with revenues increasing from \$8 billion in 1992 to more than \$34 billion in 2001.¹ Spending on prescription drugs in the U.S. has increased at an annual rate in excess of 10 percent with no signs of slowing down.² The Health Care Financing Administration anticipates that spending on pharmaceuticals will increase by 117

Continued on page 66

INSIDE BUSINESS

In-House Counsel *Involve Lawyers Early* | Governance *The New Director, The Case For a Non-Executive Chairman* | Balance Sheet *Making a (Non)Profit* | Executive Search *How Do You Verify Integrity?*

IN-HOUSE COUNSEL

Involve Lawyers Early in the Business Decision Making Process

By CHRISTOPHER WOO

AS ONE OF TWO MEMBERS OF THE Vanderbilt law faculty with an MBA, I am delighted to offer a few words about the interrelationship between law and business.

When I was a business student, I regarded lawyers as professionals to be called in after the principals had hammered out the basic economics of a deal. Since then, I have been struck by how often legal advice needs to be incorporated into business decision making on a dynamic basis. Here are a few examples:

- **Tax effects of the deal**—Tax lawyers traditionally have reviewed deals at the end of negotiations. It is increasingly clear, however, that tax effects can represent a significant portion of a transaction's value and that waiting to seek tax advice can be a costly mistake.
- **Financing a merger**—A basic decision for a business considering a merger is how to finance the deal. Compensating the target firm's shareholders with cash requires the acquiring company to raise a significant amount of capital. Financing the deal through a stock swap avoids the need to raise cash, but exposes the merging parties to a degree of risk, as



- companies' stock prices continue to change until the deal actually closes. As a student, I did not realize that legal considerations also affect the decision whether to finance a deal through cash or stock swap. Using cash to compensate shareholders increases the likelihood that a company will be regarded as "in play." If a firm is in play, management is no longer permitted to select the particular deal it believes to be best. Instead, the law imposes a duty on management to obtain the most lucrative deal possible.
- **Merger clearance process**—Another consideration not emphasized while I was in school is the manner in which the merger clearance process affects deal dynamics. It is not unusual for the government agency reviewing a merger to require the parties to sell certain assets or to forego certain lines of business before permitting the merger to go forward. These restrictions often change the basic economics of the deal, and parties typically cannot abandon the deal without facing significant breakup penalties. It is therefore important to anticipate how regulatory authorities will view a deal

before committing to it. Legal advice can help structure a counteroffer to meet regulatory concerns while preserving the value of the deal to the merging parties.

- **Impact of regulatory limits on business strategies**—Lastly, the regulatory environment shapes and limits the business strategies available to particular firms. This is perhaps clearest in my areas of expertise—telecommunications and intellectual property.

These considerations make me particularly proud to be part of the innovative Law and Business curriculum at Vanderbilt. A better appreciation for the interaction between these two disciplines helps prepare our students for the challenges posed by an economy in which law and business intersect with increasing frequency.

CHRISTOPHER YOO, an associate professor at Vanderbilt Law School, specializes in telecommunications and intellectual property. He received an MBA from the Anderson School at UCLA and earlier worked in brand management for Procter & Gamble.

GOVERNANCE

The New Director

By JIM MARTINEAU

HAVING BEEN A BUILDER OF businesses, it wasn't long after retirement from Apogee Enterprises (NASDAQ: APOG) that I found myself missing the workplace and decided to retool myself as a director. I now serve on two public and three private company boards, with



EXECUTIVE SEARCH

Where Have All the Women Gone?

CORBETTE DOYLE, E'87, WANTS TO KNOW. "Over the past 30 years, women have made significant strides in the workplace, rewriting the book on how women live, work, marry, and raise children, and yet there are only eight female CEOs among the Fortune 500," she says on her Website, www.womensopinions.com. "Is it because a glass ceiling is halting upwardly mobile women or are women again redefining the rules this time by saying no-no to more promotions, more travel, and more power as defined in the traditional sense? If women don't want what companies have to offer, who will run the companies of the future?" Doyle and her co-author Elizabeth Hand invite women to take the survey on the Website to help discover the answers. Results from the survey will be used in their forthcoming book, *Where Have All the Women Gone?* which will be a pragmatic tool for women seeking to manage their careers for the long haul, and for companies that want to hire and retain them. Doyle's day job is as CEO of Aon of Tennessee in Brentwood.

DANIEL DUBOIS

revenues ranging from \$10 million to \$700 million. My qualifications for board service include extensive business experience and good judgment, coupled with trust and integrity. These characteristics are essential to being a successful board member.

Throughout my career, I have seen evidence of executive and corporate greed. For example, I had an occasion to visit a corporate hangar and was astounded to see seven very expensive airplanes. That signaled to me that there were some problems with the company, and I was not surprised later when negative news hit the media.

The changes in public companies, brought about by the Sarbanes-Oxley Act, have been favorable. An upgraded nominating process is improving board selection by emphasizing qualifications rather than friendship. Boards are now scrutinizing such issues as executive compensation, and most companies have instituted annual evaluation of the board in addition to evaluation of the CEO. I now see board members engaging management more frequently on important issues.

Special committees, which study specific situations, and executive sessions of the board (meetings of the board without the CEO) are being utilized more. Consequently, the level of communication and governance is improved, which can only be good news for shareholders and employees.

Being a director at a private company is different than at a public company because it involves more management coaching and sharing of experience. Pri-

ate companies, however, can be surprisingly similar to public companies. Private companies with minority shareholders have a fiduciary duty to those owners, and the best private companies today seem to want to emulate public standards. Some public companies are now considering going private, so there is definitely a bridge between the entities. Entrepreneurial managers at private companies often will only accept criticism from an experienced peer person; therefore, it is advantageous to say that I have attended Vanderbilt's Directors College, and that I stay current on best practices through my membership in the National Association of Corporate Directors.



Sarbanes-Oxley talks a lot about improving the financial/audit function of companies, and that is appropriate. But we also need to pay attention to the business and customers of our companies. Too many boards in the past have fallen short on practical business experience, so there needs to be a few members on every board with an affinity for that particular industry and an understanding of the drivers of the business, and who intuitively know how to ask the pertinent business questions. Direc-

tors need to be more independent, not only in their affiliations, but in their views. They should be able to understand, accept, and support change—to recognize breakthroughs, and do their due diligence on company issues. As I have matured, I understand that younger minds and faster legs may be better at developing the ideas, but what I can bring to the table as a director is my business experience and judgment.

The new regulations do not pose problems for good board members. They actually give us guidelines to operate even better, and empower us by granting permission to improve corporate governance. Shareholders in general will see improved value, and we will have better companies. For example, I know that the number of airplanes in the corporate hangar, as previously mentioned, has been drastically reduced and HealthSouth, under new direction, may well survive.

JIM MARTINEAU *previously served as executive vice president of Apogee Enterprises, and as founder/president/CEO of Viracon, Inc., a division/subsidiary of Apogee.*

BALANCE SHEET

Making a (Non) Profit

By CHRIS MCCARTHY

MBAs INTERESTED IN TAKING THEIR career to the next level or taking on a new challenge might want to consider making their mark in the non-profit sector.

I did in 2000, after 26 years in the corporate world. I was senior vice president of a \$50 million organization, directing its accounting, information systems, and



JOHN LABBE

human resources department, but found that I had fulfilled many of the goals I had set for myself.

I decided to look at opportunities with non-profit organizations, because I wanted to do something that would allow me to utilize my business skills while giving back to the community.

During my interviews, it became clear that many non-profits were in need of improved business processes. In 2002, I became executive director of the Nashville Area Habitat for Humanity (NAHFH). On my first day I learned that the strategic goals of the board and the action plans of the staff were misaligned. I knew I would have to employ strategic planning and project management to develop objectives and goals that would allow the agency to operate effectively and achieve the vision of the board and the mission of Habitat

for Humanity International.

NAHFH is really three businesses in one—a construction company, a mortgage banking company, and a social services agency. It takes sponsors, families, volunteers, and developed land to make someone's dream of homeownership a reality. This complexity led to a high turnover rate in Habitat leadership.

At the time I joined NAHFH, the staff had shrunk to four full-time employees, one part-time, and one temp, and the agency had been without an executive director for six months. Whether it was upgrading the computer systems, developing the marketing strategy, analyzing cash flow needs or capital projects, managing land development projects, or developing and implementing human resources policy, I was going to have a great opportunity to put my Owen education to use.

I hired seasoned professionals who could handle varied tasks. There were many broken business processes and procedures, but we took each challenge as it came, and continued to focus on our vision and take steps to achieve our goals. As a result, we had a great last year:

- We increased our homebuilding capacity by 191.7 percent since March 2002.
- We received and implemented a donation of 43 acres of land for a new Nashville Habitat neighborhood, Providence Park, where we will build 141 homes by 2009.
- With the support of HCA's Jack Bovender and Nashville Mayor Bill Purcell, our message was taken to more than 20 CEOs in the Nashville community, resulting in double digit "home build" commitments.
- We quadrupled our grant application rate and have been awarded more than \$500,000 for land development.
- We completed our first neighborhood development and established our first homeowners association.
- We launched our new Habitat HomeStore, a retail operation selling quality new, used, and salvage items, which will support our mission of building homes.
- We have doubled our sponsors and volunteers, and enhanced our pre-build training processes.

This past November, we built nine homes in eight days for our Nashville neighbors in need. This is the greatest number of homes built at one time since the agency's incorporation in 1985. We then dedicated these homes for 42 family members who without our help might never have had the chance to achieve the American dream of homeownership.

As an MBA, there are many worthwhile non-profit agencies needing your talents and abilities.

I'm grateful for my education at Owen, which has taken me from the corporate world to a satisfying career with NAHFH. Five years ago I would not have thought I'd be in my current position. But the timing was right, and now I'm enjoying a rewarding job experience while contributing to my community. It doesn't get much better than that.

CHRIS MCCARTHY, E'92, is executive director of the Nashville Area Habitat for Humanity.

GOVERNANCE

The Case for a Non-Executive Chairman

By ALEC TAYLOR

IN THIS POST ENRON, SARBANES-Oxley, heightened-awareness-of-corporate-governance era, the concept of a non-executive chairman of the board has gained popularity. The notion is simple: while the chief executive officer is an employee of the company and in charge of running the enterprise, a non-employee chairs board meetings and interacts with the CEO in developing board meeting agendas, establishing board committee assignments, and the like.

I sit on the boards of directors of four companies with annual revenues ranging from \$235 million to \$800 million. Two have publicly traded equity and debt securities; one has privately held equity and publicly traded debt; and one is closely held. Of these corporations,



three have non-executive chairmen. Two are retired CEOs of the companies for which they now serve as non-executive chairman, while the third is an outside board member who was never employed at the enterprise he now chairs.

In each case, the non-executive chairman functions effectively with the CEO and serves as an independent liaison with outside board members, ensuring that the board meetings address issues of relevance to the entire board and not just those that the CEO and management want covered. Additionally, the non-executive chairman leads the all-important effort of setting committee assignments. This obviously ensures the committees are not "packed" in a way that might be advantageous to management but not in the shareholders' best interest.

A case can be made that the "ideal" non-executive chairman should not ever have been a member of management of the enterprise he chairs, thereby creating total independence. This thinking pre-

sumes an unaffiliated chairman is more likely to be objective and independent, thus less likely to "ride herd" on a CEO whom he hand picked. I generally disagree with this thinking, as the boards I serve on with non-executive chairmen function best where the chairman has come from the management ranks. A chairman with an insider's familiarity is more likely to identify critical issues for board consideration and be able to recognize more readily early warning signs of trouble in the business. And rather than protecting the CEO, my experience has been that the non-executive chairman is the toughest critic of incumbent management and has vested interest in seeing them succeed: In addition to having a good dose of pride of authorship, the non-executive chairman is likely to have a sizable economic vested interest (e.g. unexercised stock options and restricted stock).

This is not to say that corporations that have one person as chairman and CEO are practicing poor corporate governance or more likely headed for trouble. In fact, the company where I work functions very effectively in this fashion, with an active and involved board of outside directors. Our board committees have a high degree of independence, and meetings involve a healthy dialogue regarding issues critical to the success of the enterprise. The lesson here seems to be that it is the quality of the directors, not whether the chairman is also the CEO, that results in good corporate governance and in turn enhancement of shareholder value.

ALEC TAYLOR, a 1978 graduate of Vanderbilt Law School, is president & COO of Chattem, Inc. (NASDAQ: CHTT)

OTTO STEININGER



NEIL BRAKE

ETHICS

Bringing Ethics to Action

BUSINESS IS THE SINGLE MOST SIGNIFICANT social defining force in the world today, says Bart Victor, the Cal Turner Chair of Moral Leadership. "Business reaches everywhere; the world has never seen a social movement as significant, as powerful, as pervasive as business." With this much power—and on the heels of the recent spate of corporate scandals—how can business leaders be sure they are doing the right thing? "Not many people wake up in the morning, look in the mirror, and see a bank robber; most see a pretty good person. But how do they bring that to action?" Business ethics is about recognizing that our work matters to others, and that ethical dilemmas are buried in mundane day-to-day decisions, he continues. Not surprisingly, he can't tell executives and students what the correct ethical choices are. What should they do? "They can start by recognizing that they do have a choice among the many choices presented them. That's where moral courage gets called upon and where moral leadership really begins."

EXECUTIVE SEARCH

Trying to Hire the Right Person? How Do You Verify Integrity?

By PAUL FRANKENBERG

THERE HAS BEEN A FLURRY OF negative publicity surrounding athletic coaches, university administrators, financial executives, and industry leaders who have lied, misstated, or “confused” their true level of education, credentials, or past success. This begs the question: Does your organization invest the time to ensure the integrity of each professional hired? If not, you might wake up one morning to find your organization publicly scrutinized for the actions of an individual employee or group of employees.

The press and background service organizations have led us to believe that many professionals overstate their achievements to make a good impression on a potential employer. And unfortunately, our culture appears to allow minor “fluffing” statements so long as you don’t cross the line.

But at what point does an individual cross the line, and how are we to know? For example:

- Is it safe to assume that stated degrees earned 10, 15, or 20 years ago are accurate? If they were false, someone would have caught them by now, right?
- Is it safe to assume that someone who worked in public accounting for two or three years is a CPA?
- At what point do you draw the line between the clerk who “borrows” five dollars for lunch from the petty cash fund and the CFO who lies on his

travel expense account or on the financial statements?

- At what point does an overstatement become a lie?

According to the Raleigh *News & Observer*, Avert, Inc. conducted a 2002 survey of 2.6 million job applicants. The results indicated that 44 percent of all resumes contain outright lies. Finding data relative to CPA certifications was more difficult. State boards of accountancy and the AICPA have only recently developed systems to track and compile false certification claims. State boards are beginning to see a large number of false claims, although the percentage may not be greater than in past years due to insufficient historical data. The public, however, may have a difficult time accessing the data because complaints are filed as private information. Just knowing that the problem is rampant, however, should alert employers to verify background for each hire.

As an executive recruiter, I have seen numerous candidates take overstatement too far: Individuals claiming degrees not earned, certifications not earned or that have lapsed, experience they didn’t have. These are the kind of people you want to avoid. Below are a couple of ways to verify certifications and educational claims.



Verify education

Education claims can be verified through a university’s registrar office or online at www.studentclearinghouse.org. Not every institution utilizes this clearinghouse, so you will need to understand the process at each institution. The online system is quick and user friendly; however, there are instances when the system requires additional time to research a social security number and name if the two are not identical matches.

Verify certifications

To verify certifications, ask for the candidate’s certification number and then call or go online to verify with the governing body. Many organizations have their Website arranged to easily verify a certificate in a few minutes. Verifying a professional’s background may require time and resources, but the exercise will minimize your risk and exposure.

People who have lied about their work history, credentials, and education are unemployable. Identifying these people, however, takes time. Organizations need to assess a candidate’s technical skills and “fit” while doing the legwork to ensure that the person you are preparing to hire has been forthright and honest throughout your process.

Performing this exercise will help you analyze your internal hiring process to ensure integrity within your internal operations and the integrity of candidates you’re considering for employment. While trying to verify integrity may take additional time, hiring someone who lacks it is very costly!

.....
PAUL FRANKENBERG, E’03, is president of Kraft Search Associates, LLC.

JAMES YANG

Headlines from Around the World

Online romance, returned merchandise, a subservient chicken, and wireless technology make for good press.



Lynskey, clinical professor of entrepreneurship, cautioned in “Buzz About New Biz.”
—*London TimesOnline*, January 26

IN JANUARY, SIX COMPANIES announced a dual listing with Nasdaq, with their executives saying the move should benefit shareholders by spurring competition in the trading markets. “In terms of investors, it is a non-event. But it is highly symbolic of the mood around the New York exchange and the desire for change,” said former Dean Bill Christie, “Six Firms Boost Big Board Rival By Also Listing On Nasdaq.”
—*Globe and Mail*, January 13

EFFECTIVE NETWORKING ISN’T AN effective tool for just those people looking for a full-time job. It’s an important tool when landing the right internship. “Start by working through your alumni. Who do you have relationships with?” Melinda Allen, director, Career Management Center, “Internships Can Bridge Distance Between College and Career: Networking With Others Plays An Important Role.”
—*Chicago Tribune*, January 11

BECAUSE MERCHANDISE THAT EITHER IS returned or did not sell for the holidays must be offloaded quickly, many retailers mark

down items for post-holiday shopping weeks. Time-sensitive products like personal electronics can depreciate several percent per week, according to Professor Joe Blackburn, “January No Time to Let Customers Down.”

—*CRM Daily*, December 30.

THE INFLUENTIAL ACADEMIC WHOSE research led to the order handling rule says its now time to reform the U.S. equity markets again—with a nickel minimum price increment. “The penny tick has destroyed the critical roles played by price priority and limit orders. Moving the tick size back to \$0.05 seems a reasonable tradeoff that I hope the markets and regulators will seriously discuss,” former Dean Bill Christie, “Price-Fixing Scholar Urges Nickel Tick.”

—*Traders Magazine*, November 18

ACCORDING TO A VANDERBILT UNIVERSITY study, the number of entrepreneurs age 45 to 64 will grow by 15 million by 2006, compared with a 4 million decline in entrepreneurs age 25 to 44—“Retirement Age Not Too Late to Start New Business.”

—*Huntsville Times*, November 4.

ONLINE IS NOT ONLY BECOMING A source of profits, but it can also help boost offline performance as well. Traditional retailers are looking to their Internet operations as a creative and highly effective means of boosting sales and profitability. “The ones with the most leverage are in all channels. They can cover their costs much better,” Professor Donna Hoffman, “Web Synergies Pay Off.”

—*BusinessWeek online*, November 3.

The New Trade Law: What Does It Mean for Business?

Trade law no longer just affects business "down at the port."

By JAMES BACCHUS

TRADE LAW HAS LONG RELATED TO BUSINESS "down at the port"—customs, tariffs, and the like. Now, trade law has expanded far beyond "the port." Today, trade law can relate in some way to almost every exchange of almost every good and service traded domestically or internationally in every part of the world.

What is the new trade law?

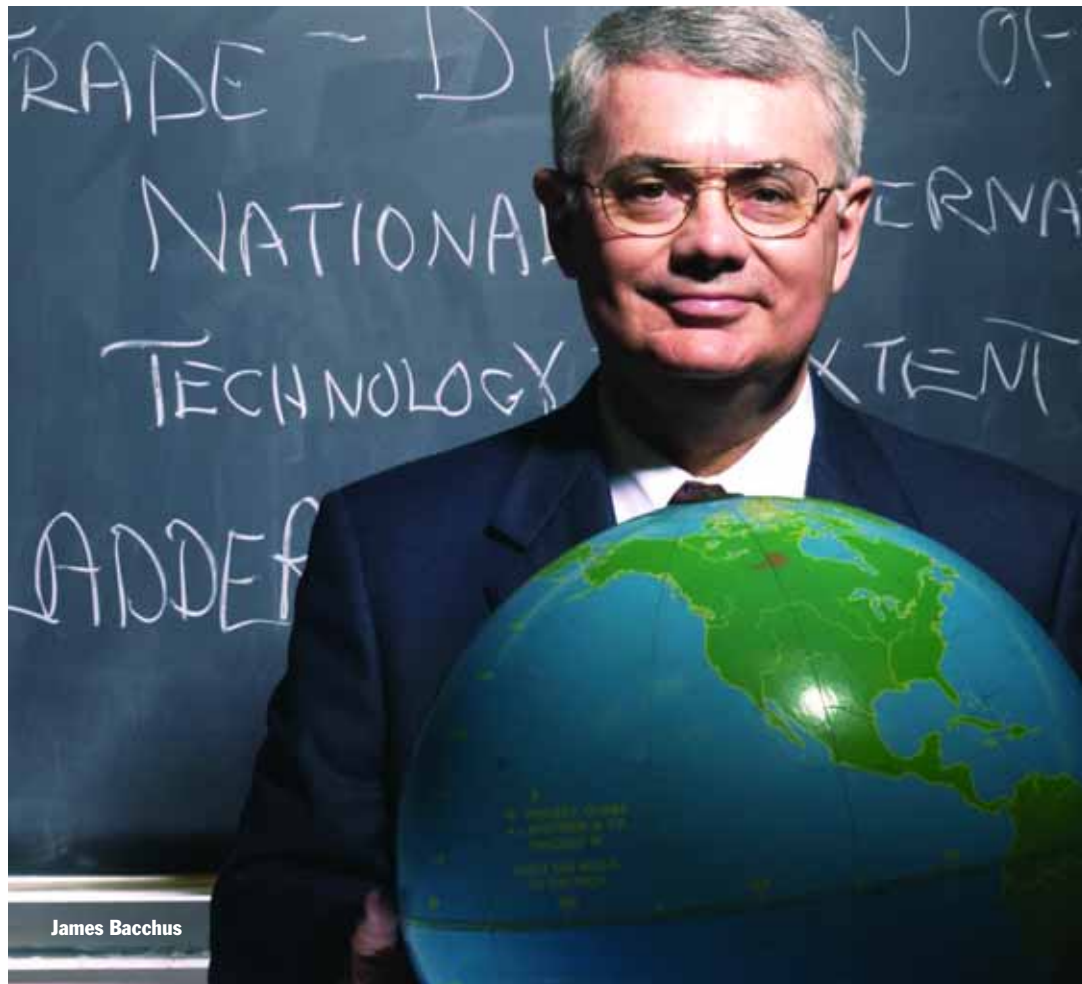
The new trade law is largely the law of the World Trade Organization, or "WTO." Less than a decade old, the WTO consists of, at last count, 148 countries and other customs territories. These members have agreed to be bound by a global treaty that affects nearly 95 percent of all world commerce.

The treaty includes more than two dozen international agreements that are part of a WTO-based world trading system. The oldest and best known of these is the General Agreement on Tariffs and Trade—the "GATT." The treaty encompasses more than 30,000 pages of rules for world trade on which all WTO members have agreed. Only a few dozen countries in the world are not yet members of the WTO, but most are trying to become members and thus will become bound by the treaty.

The new law is also found in the rulings of the Geneva-based international

trade tribunal that serves the "WTO dispute settlement system." More than 20,000 pages of these rulings from dispute settlement have been adopted by members of the WTO. I have served for eight years as one of seven members worldwide of the Appellate Body of the WTO, the "court of final appeal" in WTO dispute settlement, and have written many of these pages.

The law is also found outside the WTO, for example, in the North American Free Trade Agreement—"NAFTA"—and other regional trade agreements. There are several hundred such agreements worldwide. Where these regional arrangements involve WTO Members—and most do—they must be consistent with the overarching WTO rules.



DANIEL DUBOIS

WTO rules relate to customs and tariffs as well as other aspects of trade in manufactured and agricultural goods, trade in services of all kinds, intellectual property, investment, taxation, regulation, environmental protection, public health and safety, and more.

Think of the WTO treaty as akin to a global "Uniform Commercial Code" for sovereign countries and customs territories. Think of it as not only affecting what happens "down at the port," but as potentially affecting virtually every aspect of domestic or international commerce that affects international trade or that is affected by international trade.

Why must business be mindful of the new trade law?

There are literally thousands of treaties and other international agreements. Most are ignored by business, and can be safely ignored by business, because no one is required to use them or to abide by them.

International jurists and other advocates of international law and the international rule of law (such as me) maintain steadfastly that many of these treaties and other agreements are needed and are indeed "law." Legally, they are binding on those who have signed and ratified them. Yet, in the absence of any effective way to make them truly binding—in fact as well as in theory—those treaties and other international agreements do not have the full force and effect of "law" in the day-to-day world of business decisions. They represent wishful thinking on the part of lawmakers.

Business must be mindful of the new trade law, however, because it is not wishful thinking. The WTO treaty is unique in two ways that give it the real force and effect of law.

First, members have agreed to take their treaty-related disputes with other members to the WTO for "dispute resolution," in what we lawyers call "compulsory jurisdiction."

Second, members have agreed in the treaty to the possibility of economic sanctions by other members if they choose not to comply with rulings in WTO dispute settlement. They need to make sure their domestic laws, regulations, and administrative practices are consistent with their obligations under the treaty.

Whether to comply with WTO rulings is always a matter of sovereign choice for members. The price of not complying, however, can be high, with potential sanctions in the form of lost trade opportunities ranging into the billions of dollars annually, as well as other increased costs and adverse legal consequences. For this reason, WTO members almost always choose—in an exercise of their sovereignty—to uphold WTO rules.

What kinds of business are affected by the new trade law?

Almost every business can be affected by the new trade law.

It is expected that businesses engaged in international trade of goods "down at the port" are affected, but more and more, so are other businesses that are

largely or exclusively domestic, including many businesses not primarily engaged in the trade of goods.

This is because the global sweep of the WTO treaty, covering virtually the width and depth of the entire global economy, ranges deep into non-customs and non-tariff matters previously the exclusive province of domestic governmental decision-makers.

As it has for more than half a century, the GATT still covers trade in goods. And other international agreements comprising the WTO treaty cover such traditional "trade" areas as customs valuation, import licensing, and "remedies" that counter import surges and offset unfair trade.

But portions of the new law go farther. One agreement in the treaty covers trade in services. Another deals with intellectual property rights. Another deals with investment, and others with agriculture, textiles and clothing, and information technology, among other areas.

Agreements also deal with domestic regulations on human, plant, and animal health and safety, and with a host of other standards and "technical regulations" applied around the world that have the effect of restricting trade.

Especially affected are large multinational companies and trade associations. Many smaller and medium-sized businesses are not accustomed to thinking that they could be affected by the law of "international trade," but are increasingly finding that they too are affected by the long reach of the new law.

This is evidenced by the ever-growing

“Whether to comply with WTO rulings is always a matter of SOVEREIGN CHOICE. The price of not complying, however, can be high, with potential SANCTIONS in the form of LOST TRADE opportunities ranging into billions of dollars annually.”

variety of cases among the more than 300 international disputes resolved thus far in WTO dispute settlement. Cases have involved apples, airplanes, automobiles, bananas, computers, cement, chemicals, sugar, butter, shrimp, liquor, lumber, magazines, semiconductors, poultry, textiles, clothing, coconuts, milk, pharmaceuticals, telecommunications, and steel. One case alone involving India affected several thousand different products.

These and other cases that I have judged in the WTO have not only related strictly speaking to international trade, but also to taxation, regulation, intellectual property protection, environmental protection, and other aspects of domestic and global concerns affecting the terms of trade.

The cases in Geneva have affected businesses all over the world in ways most are only beginning to realize. The parties to these cases are member countries and customs territories of the WTO. But there is a reason why the case that the WTO called “Japan—Photographic Film” was known to the media as the “Kodak-Fuji” case. Those two companies had a huge stake in the outcome of that case. In WTO dispute settlement, as in everything relating to the WTO, members try to serve their own domestic interests. Business must now try to serve what it sees as its interests through the new trade law of the WTO.

How can business use the new trade law to profit now and in the future?

Business profits most in a world where there is a measure of certainty. Business needs a world where there is—as members

of the WTO stated in the treaty—“security,” “stability,” and “predictability.” In an increasingly “globalized” economy, business needs the assurance of such certainty in order to make decisions that will stimulate global economic growth.

Certainty only comes with rules, and the enforcement of those rules. The purpose of the new trade law is to provide rules. The best way for business to profit from the law is by making certain that we have the right rules, that the rules are enforced, and that business decisions are made in a way that maximizes the advantages of enforcement of such rules.

Members of the WTO are now engaged in a new “round” of global trade negotiations to improve current rules and agree on new rules. In addition to such traditional trade issues as improved “market access” through additional tariff cuts, these negotiations are addressing an array of other “new” issues—everything from electronic commerce to antitrust policies. Business can profit by also being engaged in the process and helping to shape the outcome.

Numerous other “trade” negotiations are also underway with the aim of creating new “bilateral” and regional trade arrangements. As with the WTO, the agendas of many of these negotiations extend far beyond traditional “trade” issues.

Meanwhile, the WTO dispute settlement system remains “open for business” for resolving international trade disputes. Because WTO rulings are enforceable, and are in fact enforced, WTO dispute settlement has rapidly become the busiest and most effective global tribunal in the world.

Governments alone are entitled to “standing” to assert their rights as “parties” in WTO dispute settlement. Governments, however, are routinely advised and assisted in this by business. Business clearly can profit from such efforts to enforce WTO rules. Ask any business that may have been affected by a win—or loss—in one of the 60 appeals I have judged in Geneva.

But business can profit most by knowing the new trade law and seizing opportunities offered by the law to make strategic decisions on trade, investment, and other aspects of business in the ever-changing world economy. The new trade law is intended to lower many of the remaining barriers to trade, which should open many more doors to business worldwide.

Business can profit most of all by pushing through those doors. And not all of those doors by any means are “down at the port.”

VB

.....
JAMES BACCHUS recently completed eight years as one of seven members worldwide of the Appellate Body of the World Trade Organization in Geneva, Switzerland. He served two terms as chairman of the global trade tribunal, which serves 148 countries and 95 percent of the world economy. Bacchus has been a member of Congress (Florida) and an international trade negotiator for the United States. He is chairman of the global trade practice group of the international law firm Greenberg Traurig, P.A., and a visiting professor at Vanderbilt Law School. He is a 1971 graduate of the College of Arts and Sciences.

Relax, Honeywell Is in Control

And Owen grads are helping to keep the company at the forefront of increasing technological change. By BETH MATTER



MOST ARE NOT AWARE THAT WE routinely rely on Honeywell products to be safe and effective whether we are flying on a plane, driving a car, heating or cooling our home, taking a medication, or playing a sport.

But consider the thermostat.... How different our lives would be without that invention, or if it only worked half of the time! The diversified technology and

manufacturing company today known as Honeywell essentially was born in 1885 when Albert Butz invented the damper flapper, forerunner to the thermostat and the building regulation equipment the company provides today.

... or the water heater. Butz's company in 1927 merged with Honeywell Heating Specialties, a manufacturer of hot water heat generators, and later of

industrial controls. Ahead of its time, the company sold these products around the world, and in 1934 acquired Time-O-Stat Controls Corporation and embarked on a global expansion.

The company over the years has expanded in diverse ways, buying GE's computer division, and acquiring and designing control systems in such areas as

Continued on page 67