



107 Care & Feeding of the Board of Directors

John E. Henry
Senior Vice President, General Counsel and Secretary
Investors Financial Services Corporation

Samantha Horn
Partner
Stikeman Elliott LLP

John C. Tanner
Senior Vice President & Claims Counsel
McGriff, Seibels & Williams, Inc.

Kellye L. Walker
Senior Vice President, General Counsel
BJ's Wholesale Club, Inc.

Faculty Biographies

John E. Henry

John E. Henry has been general counsel of Investors Financial Services Corp. and its primary operating subsidiary, Investors Bank & Trust Company and has been a senior vice president. Mr. Henry is a member of the company's executive and management committees and is responsible for all legal, regulatory and compliance matters.

Prior to joining Investors Financial, Mr. Henry was an associate at the Boston law firm of Testa, Hurwitz & Thibault, LLP. During his tenure at Testa, Hurwitz, Mr. Henry represented underwriters, venture capital funds and growth-oriented technology and financial services companies in corporate, securities and intellectual property matters. Before attending law school, Mr. Henry was a software systems analyst at GTE and acted as assistant general manager of the South Shore Music Circus and the Cape Cod Melody Tent. Mr. Henry is Chairman of the Arts and Business Council of Greater Boston.

Mr. Henry holds a B.A. from the Hartt School of Music and a J.D. from Boston College.

Samantha Horn

Samantha Horn is a partner of Stikeman Elliott LLP in the Toronto office and practices corporate and commercial law, advising both public and private corporations. Her practice is primarily in the areas of mergers and acquisitions and private equity and venture capital financing. Ms. Horn is the head of Stikeman Elliott's private equity and venture capital group in Toronto and co-chair of the firm's continuing legal education committee.

Ms. Horn is a member of the Canadian Bar Association, the ABA business law section, the Canadian Venture Capital & Private Equity Association, the task force on directors and officers of the ABA business law section and women in capital markets. Ms. Horn is also a founding member of WAVE – Women's Association of Venture and Equity, a U.S. Organization. Ms. Horn was seconded for a short period of time to Working Ventures Canadian Fund Inc., a labor-sponsored venture capital fund, as an investment analyst.

Ms. Horn is the chair of the private equity and venture capital subcommittee of the business law section of the ABA. She has participated as a speaker in various seminar programs, including a 2000 seminar with respect to venture capital financing and as a speaker at the CVCA annual conference. Ms. Horn chaired a panel on D&O insurance issues at the ABA annual meeting. She also participated in a mock negotiation of a term sheet at the venture all-stars conference in Seattle.

She received her LL.B. from Queen's University.

John C. Tanner

John C. Tanner is senior vice president & claims counsel to the financial services division of insurance broker McGriff, Seibels & Williams, Inc. where he assists brokers with insurance contract interpretation, negotiation, and manuscript drafting, as well as claim resolution matters.

Mr. Tanner joined McGriff from the Atlanta office of Alston & Bird, LLP where he gained extensive experience in securities litigation and professional liability defense. His prior experience in private practice includes defending public companies and directors and officers in multi-million dollar securities class action litigation, defense of law firms sued by former clients or third parties (such as trustees in bankruptcy), as well as participation on the Enron Examiner's legal team assigned with the responsibility of analyzing in-house and outside counsel representation of Enron pre-bankruptcy. He also has significant experience with defending and prosecuting claims of insurer bad faith and the issuance of formal insurance coverage opinions.

He has authored a number of articles and industry white papers pertaining to securities litigation and as to director and officer liability insurance. He is also a frequent speaker at legal and business conferences on those topics.

Mr. Tanner received his B.A. from Maryville College in Tennessee and is a graduate of Georgia State University College of Law.

Kellye L. Walker

Kellye L. Walker is senior vice president, general counsel and secretary of BJ's Wholesale Club, Inc. in Natick, Massachusetts. Ms. Walker's responsibilities include oversight of all of BJ's legal, regulatory and compliance matters.

Prior to joining BJ's, Ms. Walker was a partner at the Boston, Massachusetts law firm of Hill & Barlow, LLP. Previously she was a partner at Chaffe, McCall, Phillips, Toler & Sarpy, L.L.P. in New Orleans, where in addition to her legal work, she developed the firm's Women in Business Seminar series. She began her career as an associate at the law firm of Boulton, Cummings, Connors & Berry, PLC in Nashville, Tennessee.

Ms. Walker's professional affiliations include being a member of ACC's BOD, the New England Legal Foundation, a member of the business law section of the ABA, the Commonwealth Institute General Counsel Forum and the YWCA Boston Academy of Women Achievers. She is also a member of the board of directors of the Museum of Afro-American History, South Shore Hospital, and a member of the advisory board of the Women of Ethnic Diversity Initiative.

Ms. Walker received her B.S. from Louisiana Tech University and her J.D. from Emory University School of Law, where she was Research Editor of the Emory International Law Review.



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Faculty

*John E. Henry
Samantha Horn
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ACC's 2006 Annual Meeting: The Road to Effective Leadership

October 23-25, Manchester Grand Hyatt



Recruiting and On-Boarding New Directors

- Recruitment
 - Sources of Candidates
 - Background Checks
 - Interviews
 - Written Materials
 - Hot Topics
 - Nuts and Bolts
 - Insurance/Indemnification

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Recruiting and On-Boarding New Directors

- Director Orientation
 - Written Materials II
 - Meetings with Management
 - Hot Topics
 - In-Depth Industry and Company Information
 - Board Practices
 - Internal Controls
 - Pair with Existing Board Member

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Board Process & Communication

- Meeting Preparation
 - Calendar/Schedule
 - Agenda
 - Materials
 - Content/Format
 - Distribution
 - Electronic/Paper

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Board Process & Communication

- Secure Board Web Sites
 - Rationale
 - Buy or Build
 - Challenges
 - Implementation
 - Electronic Communication Guidelines
 - Beware the Dangers of Board Email



Board Process & Communication

- Meetings
 - Attendance
 - Executive Sessions
 - Two-Meeting Rule
 - Minutes
 - Director Notes and Other Land Mines
- Board Retreats



Board Training

- The Internal v. External Debate
 - Internal
 - Relevant Content
 - Control the Tenor of the Message
 - On-Line Training Options
 - Cost Effective
 - Is it Independent Enough?
 - External
 - Prestigious Programs Available
 - Opportunity for Networking
 - Expensive
 - Excitability Factor
- Duties & Liability
- Exculpation, Indemnification & Advancement
- D&O Insurance

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Board Training

Hot Topics for Board Training

- Director Liability Under State Law:
 - *Disney*: It's still Care and Loyalty
 - State securities laws
 - Exculpation provision in Articles of Incorporation
- Director Liability Under Federal Law:
 - Liability in Public Offerings (Section 11 claims)
 - Liability for Securities Fraud (10b-5 claims)
 - SEC regulation

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Board Training

Personal Asset Protection

- Indemnification (mandatory or permissive)
 - “fullest extent authorized by law”
 - Contract right or subject to change?
- Advancement (mandatory or permissive)
 - Unsecured?
 - Final adjudication required?
- Director & Officer Liability Insurance

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Board Training

D&O Insurance - Hot Topics

- Over 50 settlements greater than \$100 million
- Record Number of Restatements
- Record Number of Rescission Cases
- Enron/WorldCom-outside director personal contribution to settlement
- Option backdating claims

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Board Training

D&O Insurance

1. Understand the A, B, Cs of D&O Insuring Clauses
 - Side A/Clause 1 coverage for non-indemnifiable claims
 - Side B/Clause 2 corporate reimbursement coverage
 - Side C/Clause 3 entity coverage for securities claims
2. Stay Abreast of “hot topics” in D&O Coverage
 - Severability & Rescission
 - Fraud Exclusion
 - Personal Profit Exclusion
 - Insured vs. Insured Exclusion
 - Side A-only Difference-in-Conditions (“DIC”) coverage
 - Independent Director Liability coverage

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Hot Topics in Corporate Governance

- Majority Voting
 - Minority Approval of transactions
 - Pfizer solution
 - Delaware and other state laws
- Activist Shareholders/Hedge Fund Attacks
 - Shareholder proposals
 - SEC not receptive to attempts to keep proposals off agenda
 - Need for pro-active approach
 - Shareholder/Hedge Fund/Activist Attacks
 - Plan ahead in structuring and disclosing transactions
 - Have crisis team, legal, PR, IR, finance
 - Be proactive explaining benefits of the transaction
 - Role of proxy advisory firms

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Hot Topics in Corporate Governance

- Compensation review and approval process
 - Committee and Board involvement
 - Effect of Disney opinion
 - Use of consultants
 - 409A and 162(m) issues
 - Tally sheets
 - Focus on incentive comp as majority of package

- Performance Evaluations
 - Board/Committee
 - Individual Director
 - CEO and Key Management

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Hot Topics in Corporate Governance

- Succession Planning
 - Replacement of the board of directors and individual directors

- Separate Chair/CEO v. Lead Director

Advantages: real and apparent
Small companies vs. large companies

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Hot Topics in Corporate Governance

- Anti-Takeover Defenses
 - Fiduciary Duties
 - Preparatory Measures
 - Typical Defensive Tactics
 - Third Party Arrangements and Internal Reorganizations
 - Poison Pills
 - Staggered boards



Crisis Management

- The Board's Role in Crisis Management
 - Crisis Management Plan
 - Crisis Management Team
 - Senior Management, Board, Legal, Risk, PR, Others
 - Team Communications/Information Flow
 - Stakeholder Communications
 - Employees
 - Regulators
 - Clients/Customers
 - Shareholders
 - Community
 - Operational and Strategic Decisions
 - Plan for the Foreseeable but be ready for the Unexpected
 - Mock Crisis Exercises