



HISTORY

*An Update,
Adding Twenty-Five Years
to The 1999 History*

ACTEC

THE AMERICAN COLLEGE OF
TRUST AND ESTATE COUNSEL



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Adding Twenty-Five Years
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The *75th Anniversary History* was published on March 6, 2024, in conjunction with the first day of the 2024 Annual Meeting, as part of ACTEC's 75th Anniversary Celebration. An electronic version, including links to references noted throughout the book, is available to ACTEC Fellows at [ACTEC.org/history](https://www.actec.org/history).

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THE AMERICAN COLLEGE OF
TRUST AND ESTATE COUNSEL

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The Probate Attorneys Association, the predecessor of The American College of Trust and Estate Counsel (ACTEC), was incorporated as a California nonprofit corporation on April 19, 1949. In April 1999, to commemorate its fiftieth anniversary, ACTEC published *The History of The American College of Trust and Estate Counsel 1949–1999 (The 1999 History)*, available at www.actec.org/history.

On the occasion of ACTEC's 75th anniversary, I am honored and privileged to introduce this update of the History, focusing on the past 25 years. This quarter-century has been not only a period of growth and evolution for ACTEC, but also a time of evolving legal landscapes, significant technological advancements, and a growing awareness of the global nature of estate and trust planning. ACTEC's move from West Los Angeles to Washington, D.C., near the middle of this quarter-century, is just an example of the transformations ACTEC has experienced. In the process, ACTEC solidified its status as a nationally recognized leader in estate and trust law, resilient, innovative, committed to excellence, dedicated to the legal profession, and devoted to our clients and the public.

As we celebrate our 75th anniversary, it is appropriate to reflect on the journey that has brought ACTEC to its current place in the legal community, the challenges we have overcome, and the milestones we have achieved. This transformational journey has been made possible and kept vibrant by the contributions of Fellows who continually devote their expertise, insights, relationships, and resources to ACTEC's mission. Their collective wisdom and experience have been instrumental in shaping ACTEC's strategic direction, influencing policy, and enhancing ACTEC's reputation as a leading voice in the estate planning legal community.

ACTEC's success and significance have been nourished by the motivation and inspiration of our past presidents and other leaders, whose foresight and dedication have been pivotal in guiding our association to its current position. Their contributions, along with those of every Fellow who has joined us on this journey, have been invaluable. They built a legacy of excellence, influence, and education in the legal profession.

Over the last 25 years, the perspectives and analysis of ACTEC Fellows have been sought and have been influential in critical policy formation and technical execution in trust and estate law and related tax law. Moreover, the active involvement of Fellows in high-profile legal cases, including filing amicus briefs in the Supreme Court, demonstrates the depth of our Fellows' expertise and their commitment to shaping the legal landscape for the better.

ACTEC's growth over this last quarter-century has been marked by significant institutional changes. Under the leadership of our accomplished Executive Director Deborah McKinnon, hired at the time of our move to Washington, new levels of professionalism, efficiency, and effectiveness were brought to ACTEC's operations, to meet the increasing demands of the legal, social, and technological environment. The staff has assisted ACTEC in expanding its reach and impact by effectively managing an increasing number of national, regional, and state meetings and Fellows Institutes, and by enabling the recognition of ACTEC Fellows at the forefront of legal developments and trends.

ACTEC's outreach efforts in educating other lawyers in our specialized fields affirm the commitment of Fellows to the broader legal community. Through Fellows Institutes and many other educational initiatives, Fellows have shared their knowledge, helping to shape the future of trust, estate, and related tax law, set the example of service to the community, and extend ACTEC's influence.

Many of these outreach efforts to educate lawyers and the broader community would not have been possible without the support of grants from the ACTEC Foundation and the support of the Foundation by Fellows. During the last 25 years, the Foundation has focused its initiatives on educating the public about important estate planning topics, expanding the public's access to necessary estate planning services, and supporting aspiring young leaders in the field.

This History not only chronicles ACTEC's achievements over the last 25 years, but also serves as a blueprint for our future endeavors. As we look back, we also set our sights forward, using the lessons and achievements of the past to guide ACTEC into the future. ACTEC remains committed to providing Fellows with unparalleled resources, education, and networking opportunities.

I invite you to join me in this reflective journey as we celebrate ACTEC's past 25 years, acknowledge our present status, and envision an even brighter future.

With great gratitude, we thank Ron Aucutt, who meticulously edited this compilation, alongside Karen Moore, Jack Terrill, Randy Harris, and Deb McKinnon. We also wish to thank each contributor to this historical review. This History documents ACTEC's journey and stands as a testament to ACTEC's evolution and impact in the field of estate, trust, and tax law.

Kurt A. Sommer, President, 2023–2024

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In addition, thanks are due to many Fellows and the ACTEC staff, who offered very helpful recollections, photos, research, and other support throughout the process.

CHAPTER 1: MEMBERSHIP

Contributors Leigh-Alexandra Basha, Edward Jay Beckwith, Monica Dell'Osso, and Peter S. Gordon¹

Statistics

At the start of the twenty-first century, there were 2,724 Fellows in ACTEC. There were four classes of membership: Fellows, Academic Fellows, Judicial Fellows (Fellows who had become judges), and Honorary Fellows. That would change significantly over the next 24 years with the addition of Retired Fellows and International Fellows and (as explained below) with the decision to admit fiduciary counsel as Fellows. As of December 31, 2023, there were 2,449 Fellows in ACTEC, representing all of the membership classes.

In 2005, ACTEC first established the criteria for qualification as a Retired Fellow. This was no doubt due to the recognition that Fellows in all classes were growing older and, while retiring from the practice of law or teaching, wished to remain connected to ACTEC.

International Fellows were added to ACTEC in 2008. Before then, Canadian lawyers were elected as Fellows, but the International Fellow class did not exist. More discussion of International Fellows is included in the Changes in International Membership section below.

In 2015, fiduciary counsel were added, not as a new class of Fellows, but as a new path to election as a Fellow for a lawyer who works for a fiduciary services company (for example, a trust company) and provides T&E counsel comparable in breadth, tone, and independence to the counsel provided by a Fellow in the private practice of T&E law. The ACTEC Bylaws were amended on October 18, 2015, to allow the admission of fiduciary counsel to ACTEC. More discussion of fiduciary counsel nominees is included in the Fiduciary Counsel section below.

It is difficult to determine how many Fellows there were in each class of membership prior to 2010. Starting in 2010, ACTEC kept detailed records of membership in each class and presented those records to the Board of Regents. The following table illustrates the evolution of ACTEC membership from 2010 to 2023 broken down by membership class:

	U.S.	Judicial	Academic	Canadian	Canadian Judicial	International	Retired	Canadian Retired	Honorary	Total
September 2010	2,332	34	69	29	0	7	142	0	3	2,616
February 2011	2,314	33	67	28	2	7	157	0	2	2,610
August 2012	2,340	23	66	29	3	12	166	0	2	2,641
August 2013	2,304	21	67	26	3	14	164	0	3	2,602
August 2014	2,333	21	66	25	3	14	160	0	3	2,625
August 2015	2,318	20	68	22	2	17	167	0	3	2,617
August 2016	2,277	17	62	19	2	16	166	0	4	2,563
August 2017	2,259	17	67	24	2	16	162	0	4	2,551
August 2018	2,220	16	62	23	2	20	157	0	4	2,504
August 2019	2,197	13	60	21	1	26	166	0	4	2,488
August 2020	2,165	13	60	21	1	33	169	1	4	2,467
August 2021	2,132	13	61	19	2	41	184	1	4	2,457
August 2022	2,096	11	61	20	2	44	186	1	4	2,425
August 2023	2,034	12	57	20	2	54	167	0	4	2,350

¹ Vice President, 2023–2024.

Proportion of Women

On May 25, 2017, Trent S. Kiziah submitted a detailed and comprehensive report titled “Analysis of Membership in the 21st Century” (the Kiziah Report).² Based on meticulously assembled data and statistics, the Kiziah Report summarizes the history and trends in the membership of ACTEC from January 1, 2000, to March 31, 2016. The report devotes several sections to a discussion of the election of women and their participation in ACTEC. It is a history of increasing numbers and influence, a pattern that continues to the present.

In 2000, ACTEC had 2,724 Fellows, of whom 297 (10.9 percent) were women. By 2016, the number of Fellows had declined to 2,563, but the number of women had increased to 563 (22 percent of the total membership). As of January 31, 2023, the membership of ACTEC stood at 2,433, and women numbered 718 (29.5 percent).

The increase in the number of women Fellows was a natural result of the steady rise in the percentage of women admitted to ACTEC each year. From 2000 to 2015, the percentage of women admitted annually grew from 27.9 percent to 41.9 percent. In 2016, the percentage reached 50 percent, the highest to date at that time.³ Over the next several years, there was a modest decline in that percentage, but that trend was reversed in 2022 when women comprised 52.5 percent of the new Fellow admissions.

Historically, women have been active participants in ACTEC. The Kiziah Report explained that in 2016–2017, 68.9 percent of the women Fellows had attended at least one national meeting in the previous five years, compared to 51.4 percent of men. Women also attended national meetings more frequently than men. During the five years prior to 2016–2017, 31.4 percent of women Fellows had attended 50 percent or more of the national meetings, but only 19.5 percent of the men had done so. From 2016 to 2022, women comprised, on average, 34.6 percent of the total Fellows at national meetings, a figure that exceeded the percentage of their overall membership in ACTEC during those years.

From 2000 through 2023, the percentage of leadership positions held by women has consistently exceeded their overall membership percentage in ACTEC. In 2000–2001, women constituted only 11 percent of the total membership, but 22 of the 115 leadership positions (19.1 percent) were held by women. By 2016–2017, women constituted only 21.9 percent of the total membership, but held 50 of 130 (38.5 percent) of the leadership positions.⁴

In 2022–2023, women held 90 of the 162 leadership positions (55.6 percent of the total).⁵ Of the 41 voting Regents, 23 (56.1 percent) were women. There were 54 state chairs, of whom 23 (42.6 percent) were women. Women held 54.5 percent of the 44 editor and committee chair and vice chair positions. Of the 13 Foundation officer and committee chair positions, six (46.2 percent) were filled by women.⁶

The first woman president of ACTEC, Geraldine S. Hemmerling, became president in 1989. The next woman president, Carlyn S. McCaffrey, did not become president until 2002. Since 2000, there have been eight women presidents. Six of them have served within the last ten years. That trend will likely continue as three of the five officers of ACTEC for 2023–2024 are women, and four of the five Fellows nominated to be officers for 2024–2025 are women.

² The Kiziah Report is available at [ACTEC.org](https://www.actec.org/kiziah-report).

³ Kiziah Report at 37.

⁴ In the Kiziah Report, “leadership” includes executive officers; voting Regents (that is, not including past presidents who are Regents emeriti); state chairs; chairs and co-chairs of committees (substantive, editors, administrative, task force and steering); delegates; liaisons and observers and the Foundation Board. Kiziah Report at 24, 33–34, 37–38.

⁵ The “leadership” definition from the Kiziah Report was used in compiling these statistics.

⁶ The numbers are the numbers of leadership positions occupied. Thus, no reduction is made for the fact that the same Fellow may hold more than one leadership position.

Changes in International Membership

Historically, ACTEC has had different classes of Fellows, one of which is the International Fellow class. Before 2008, the international membership of ACTEC was primarily intended for Canadian lawyers. For example, in 2006, all the non-U.S. Fellows were from Canada, with the exception of one Mexican lawyer admitted in 1952.⁷

In the pre-2008 years, there was reluctance to accept any non-Canadian lawyers as International Fellows. In 2006, the Strategic Planning Task Force recommended that the Board of Regents preclude the election of new Fellows who are not U.S. or Canadian lawyers practicing law there. The task force supported this under the premise that ACTEC lacked the procedures and resources to elect new International Fellows under standards comparable to those applied to the election of U.S. and Canadian Fellows. In addition, the task force noted that the interests of such International Fellows would be so diverse from those of the current members that there was a risk of the character of the programs, and even of the organization itself, becoming too diverse and unfocused.

That recommendation, however, was not voted into effect. Instead, in 2008, there was a shift in the direction of broader international representation in ACTEC. ACTEC adopted a more open position toward International Fellows, including Fellows from countries other than Canada. In 2008, ACTEC created an International Voting Committee, which in 2010 became the International Membership Committee. The first International Fellow elected as a result of this new process was admitted to ACTEC in 2008. Although ACTEC had adopted this new inclusive position, there still was for some years an informal commitment to keep the number of International Fellows' memberships (from countries other than Canada) at approximately 30.

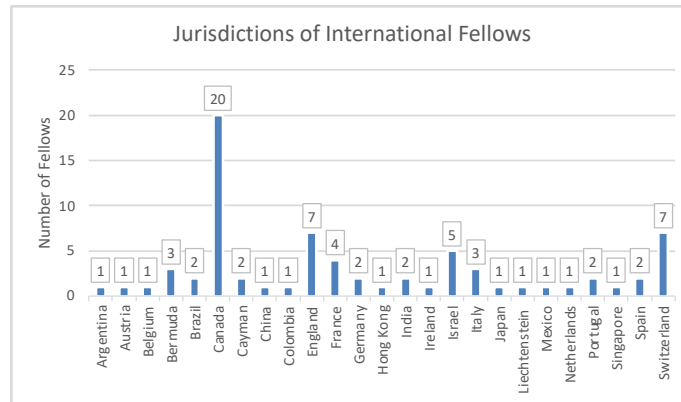
Since then, the number of International Fellows from countries other than Canada has continued to grow each year — from seven in 2010 to 53 in 2023 (when there were 20 Canadian International Fellows). See the following table:⁸

Year	Number of International Fellows (from countries other than Canada)	Number of International Fellows from Canada	Total Number of International Fellows
2010	7	29	36
2011	7	28	35
2012	12	29	41
2013	14	26	40
2014	14	25	39
2015	17	22	39
2016	16	19	35
2017	16	24	40
2018	20	23	43
2019	26	21	47
2020	33	21	54
2021	41	19	60
2022	44	20	64
2023	53	20	73

As of 2023, the International Fellows comprised 3 percent of the total number of ACTEC Fellows across all different classes and represented 25 different countries from around the world, as illustrated in the following table:

7 In 2006, there was one Canadian Fellow who had an office in Bermuda.

8 The number of Fellows is as of January 31 of each year, except for 2010 which is as of February 22.



The criteria for selecting International Fellows has been consistent through the years. It is very similar to the criteria for domestic Fellows, with the main difference being that the International Fellow must be regularly involved in cross-border T&E, or similar,⁹ work between the United States and another country, which requires coordination and cooperation with lawyers of both countries.

The process of nomination for International Fellows has also remained virtually the same through the years. The nomination is reviewed by the chair of the International Membership Committee (IMC) and by the membership director at the ACTEC office. After the IMC chair and the membership director finish their review and conclude that the nomination meets the applicable standards and that there is no defect in the nomination, the nominee is polled with the International Estate Planning Committee, all Fellows who served on that committee during the two prior years, and all International Fellows. On the basis of the poll and any further investigation deemed appropriate by the IMC, the IMC determines whether to recommend the nominee to the Membership Selection Committee (MSC). If the IMC decides to recommend the nominee, it submits a written recommendation and detailed report to the MSC. After a nominee is recommended to the MSC, a plenary survey is taken by the membership director that consists of an electronic inquiry of all Fellows and Academic Fellows of ACTEC. The MSC reviews the nominations, together with the results of the polls and plenary surveys and the reports from the IMC chair, and then presents to the Board of Regents the nominees it recommends for election. The Board of Regents then elects to membership those individuals it deems qualified, generally following the recommendations of the IMC and the MSC.

Fiduciary Counsel

President-Elect Bruce Stone gave a report to the Regents at the ACTEC Fall Meeting on October 19, 2014, that first introduced the concept of what would later be known as “fiduciary counsel.” Bruce reported that the Long Range Planning Committee had approved the concept of expanding the criteria for admission of Fellows to include lawyers who work in certain defined positions at entities that provide services to the public.

Following that meeting, Cynda C. Ottaway, who succeeded Bruce as president-elect of ACTEC, presented a Long Range Planning Committee report to the Executive Committee on April 2, 2015. Cynda addressed the matter of how to move forward with changes to membership criteria to add Fellows who work at financial institutions. Cynda reported that Vice President Susan T. House and Ronald D. Aucutt, who co-chaired the Long Range Planning Subcommittee working on the proposal, would develop language for the proposed Bylaw changes needed to implement the proposal for consideration by the Regents.

Susan and Ron, as co-chairs of the Membership Expansion Subcommittee of the Long Range Planning Committee, introduced a proposal to amend the Bylaws and make related modifications to the Require-

⁹ In 2019, ACTEC changed the definition of “trust and estate legal practice” in the [Requirements And Procedures For The Election Of Fellows](#) to include succession, inheritance, civil law foundations, and other private client representations that are typical in jurisdictions outside the United States. In that way, lawyers practicing in civil law countries were more likely to be considered for ACTEC membership.

ments And Procedures For The Election Of Fellows for the addition of a category known as “fiduciary counsel.” The proposal was made to the Regents at the fall meeting held on October 18, 2015. Ron described the origin, evolution, and proposed implementation of the fiduciary counsel initiative in some detail, noting that many Fellows (elected while in private practice), including Fellows in leadership positions, had over time moved from private practice to fiduciary counsel positions. Susan followed by carefully reviewing the wording of the proposals. She expressed her view that the criteria fiduciary counsel nominees must meet in the complex structure for evaluation and election would ensure that fiduciary counsel nominees would be limited to relatively few, very highly qualified individuals.

After Susan finished her remarks, President Bruce Stone opened the floor for comments and questions. There was a lengthy and respectful discussion of the pros and cons of allowing fiduciary counsel into ACTEC. Following the discussion, a motion was made and seconded to approve the proposals. Thirty-one Regents were present at the meeting. Thirty voted to approve the proposal, with one Regent abstaining. Admission to ACTEC membership was thus expanded to include fiduciary counsel nominees.

At the Board of Regents meeting on March 20, 2016, Membership Selection Committee Chair Peter S. Gordon reported the list of nominees for admission to ACTEC. Among them were nine fiduciary counsel nominees. The Regents unanimously approved the recommendation of the Membership Selection Committee, and all nine fiduciary counsel were admitted to ACTEC. These were the first fiduciary counsel nominees to be elected. As of December 2023, a total of 50 fiduciary counsel nominees had been admitted to ACTEC through this new path to membership.

The Membership Selection Committee and the Process of Selection of Fellows

By 2000, the election of members had developed into a highly selective process. Although there was, particularly in the early years of ACTEC, a need for new Fellows, that goal was balanced with and did not undermine consistent adherence to the well-developed standards of eligibility. A notable development occurred in 1975 with the establishment of the national Membership Selection Committee to consider the nominations submitted by the state membership committees and make recommendations to the Board of Regents. The [1999 History](#) observed that the selection process then in effect “commands widespread approval among the College membership ... although College members and the Board of Regents continue to consider useful changes that might be made for the future.”¹⁰

A similar assessment could be made as of 2023. Though the membership selection process in effect in 2000 essentially continues, the intervening years have seen continuing refinements, clarifications, and improvements. Some have been the necessary result of the expansion in the categories of membership to include Retired and International Fellows and the addition of the fiduciary counsel path to membership. Others have been implemented to ensure consistent application of the membership standards in the context of changing demographics.

The role of the Membership Selection Committee has remained consistent since its establishment, namely, to consider current nominations for membership, determine which nominees are qualified for election to membership, and submit recommendations to the Board of Regents for election of those nominees to ACTEC. Since 2000, however, the sources for nominations have expanded. In 2000, there were four classes of membership: regular Fellows in private T&E practice, Academic Fellows, Judicial Fellows (Fellows who had become judges), and Honorary Fellows. Nominations for regular Fellows came to the Membership Selection Committee from the state membership committees. A separate Academic Membership Committee was established prior to 2000 to promote the nomination of eligible academics in the trust and estate field

¹⁰ Edward B. Winn, “Evolution of Membership Selection,” [1999 History](#), at 20.

and to submit the nominations of such individuals to the Membership Selection Committee. The expansion of the category of International Fellow to include lawyers outside the United States and Canada also resulted in the creation of a separate membership committee. As was the case with Academic Fellows, there was a recognition that identifying qualified nominees for International Fellow could best be accomplished by Fellows who worked in that particular arena. Although another path to membership for fiduciary counsel was established in 2016, no separate membership committee was formed to address those nominations. Therefore, as of 2023, the Membership Selection Committee receives nominations from three sources — state membership committees, the Academic Membership Committee, and the International Membership Committee.

The Membership Selection Committee has nine members, one of whom serves as chair. Until a Bylaw amendment approved at the 2012 Annual Meeting, all were required to be past or current Regents. As of 2023, only a majority of the members of the committee must be past or current Regents. The president-elect appoints three members to the committee each year to serve three-year terms. No member of the committee may serve more than two consecutive terms. The committee meets twice a year, at the annual and fall meetings.

To preserve the integrity of the process and avoid the appearance of favoritism, there was an unwritten rule that ACTEC officers and other leaders should not nominate candidates to become Fellows. In 2017, a change to the Requirements And Procedures For The Election Of Fellows formalized that policy. As revised, Section F of the Requirements And Procedures states that a Fellow may not nominate a person from his or her own firm, fiduciary services company, or law school faculty. Further, a Fellow serving on the Membership Selection Committee or the Executive Committee may not submit a nomination.

On the basis of its review of the nominations submitted from the state membership committees, the Academic Membership Committee, and the International Membership Committee, the Membership Selection Committee makes a decision about those nominees who meet the eligibility requirements and presents a recommendation to the Board of Regents for admission of those individuals. Historically, the recommendations of the Membership Selection Committee have been accepted by the Regents, an indication of the credibility of the committee and the overall confidence in the membership selection process.

Despite ongoing concerns about the declining pool of potential members, election to ACTEC has remained highly selective. The 2006 Report of the Strategic Planning Task Force addressed the question of whether ACTEC needed to change its qualifications for nominees. The report explored three options: (1) expand the membership criteria to broaden the membership of ACTEC; (2) keep the membership criteria the same; or (3) refine the membership criteria, but only to the extent that ACTEC will be able to include the best trust and estate lawyers as Fellows. The task force viewed the third option as the most viable for ACTEC and recommended maintenance of the high standards of ACTEC, “even if that results in a smaller membership.”

Consistent with the task force recommendation, modifications to the membership criteria have been comparatively modest. They have included elimination of an AV Martindale Hubbell rating and a broadening of the standards for a nominee’s contributions to trust and estate law. Under the Requirements And Procedures For The Election Of Fellows, a nominee must show substantial contributions in one or more of the following: teaching, writing, bar and legislative activities, and outreach, education, and mentoring to communities that have been historically underrepresented in estate planning.

The state chairs and the state membership committees have played an increasingly critical role in the identification and nomination of private practice and fiduciary counsel nominees. Particularly with the increasing challenge to identify qualified nominees, the cultivation and mentoring provided at the state level is essential. In recent years, significant emphasis has been placed on educating the state chairs about the membership selection process. The chair of the Membership Selection Committee is typically included in the formal orientation session that is conducted for new state chairs. The chair of the Membership Se-

lection Committee also reports at the state chairs meetings, which occur at the annual and fall meetings of ACTEC. This continuity has improved the overall efficiency and effectiveness of the membership selection process.¹¹

Summary of the Process

The membership selection process is detailed in the Requirements And Procedures For The Election Of Fellows.¹² The preferred protocol is submission of the nomination, other than one for an Academic or International Fellow, to the state chair, who, after review, forwards it to the membership director in the national office. Nominations for Academic Fellow and International Fellow are reviewed first by the Academic Membership Committee and International Membership Committee, respectively, and are then forwarded to the membership director. If the membership director does not identify any technical defects in the nomination, it is sent out for electronic polling in the jurisdiction in which the nominee currently practices or has practiced during the previous ten years. In the case of a fiduciary counsel nominee, the polling is conducted in each jurisdiction in which the nominee has or had a principal office as fiduciary counsel in the prior ten years and each jurisdiction in which the nominee practiced within the prior ten years. In addition, a plenary survey is conducted among all Fellows for a fiduciary counsel nominee. For Academic Fellows, the poll is conducted in the jurisdiction in which the nominee has taught or practiced during the prior ten years and is also circulated to all Academic Fellows. The nomination of an International Fellow is polled first with the Fellows who currently serve or have served on the International Estate Planning Committee during the prior two years and all International Fellows of ACTEC. A plenary survey is also conducted for the nominee among all Fellows of ACTEC. (A detailed discussion of the election of International Fellows is included in the Changes in International Membership section above.)

The polling results for Academic and International Fellows are provided to the appropriate membership committee. The polling results for other nominees are submitted to the appropriate state chair or chairs for distribution among the members of the state membership committee. After deliberation, the state membership committee, Academic Membership Committee, or International Membership Committee submits a report and recommendation to the Membership Selection Committee regarding the nominations.

Electronic polling of nominations, which was introduced prior to 2010, has provided the potential for greater involvement of the Fellows in the membership selection process. The response rates for the state and plenary polls, however, remain relatively low, typically well below 50 percent, despite efforts by the state chairs to encourage participation.

Membership Diversity

While, as described in the Proportion of Women section above, ACTEC addressed gender imbalance over time, it did not formally address the broader challenge and importance of diversity, equity, and inclusivity until 2012. Then President Louis A. Mezzullo recognized the importance of focusing on diversity. He established a task force, chaired by Past President Bruce S. Ross, to address those aspects of ACTEC's governance and membership selection process that could better reflect ACTEC's goals and aspirations. This resulted in the Board of Regents' approval of changes in both areas, including the following addition to Article I of the Bylaws, which was unanimously approved, effective at the conclusion of the 2015 Annual Meeting:

The College shall encourage women, racial and ethnic minorities, lesbian, gay, bisexual and transgender persons and persons with special needs who are prospective candidates for election to the College to qualify for nomination and, if elected, to participate meaningfully in the activities of the College. The College shall foster and maintain a welcoming and inclusive environment for all persons.

¹¹ See Chapter 3, "States and Regions," in this History.

¹² The Requirements And Procedures For The Election Of Fellows is available at [ACTEC.org](https://www.actec.org).

Recognizing the importance of sustaining an ACTEC-wide focus on diversity, equity, and inclusivity, in 2015 the Executive Committee determined that the task force should become a standing administrative committee of ACTEC. The mission statement for the committee, which the committee adopted on June 15, 2015, states:

The mission of the ACTEC Diversity and Inclusivity Committee [the Diversity, Equity and Inclusivity Committee since 2020] is to develop strategies, recommendations and a comprehensive plan to help ACTEC become a more diverse and inclusive College (consistent with ACTEC's purposes as set forth in Article I of the ACTEC Bylaws). The Committee seeks to create a stronger and better College through implementation of such strategies, recommendations and a strategic plan, with the goal of promoting the full participation of groups historically underrepresented in the College and in the estates and trusts legal community. The Committee will work with the College to encourage women, racial and ethnic minorities, lesbian, gay, bisexual and transgender persons and persons with special needs who are candidates for election to the College to qualify for nomination and, if elected, to participate meaningfully in the activities of the College. The Committee will also work to encourage the elimination of bias in the College, and to foster and maintain a welcoming and inclusive environment within the College for all persons.

Since then, the committee has launched a number of internal and external educational initiatives and has proposed policies to ensure that all meetings of Fellows provide a safe and welcoming environment for all. Those policies were adopted by the Board of Regents and became a mandatory part of the registration for all ACTEC related events.¹³

Other ACTEC-wide efforts also were designed to encourage a diverse membership reflective of the public served by Fellows and the entire community of T&E lawyers. One example of those efforts has been the ACTEC Foundation's support of the Young Leaders Program. Named in memory of the late Past President Dennis I. Belcher in 2018, the Young Leaders Program was designed to foster scholarship and education in trust and estate matters, promote diversity and inclusivity and encourage the development of potential ACTEC Fellows. Initiated in collaboration with the American Bar Association Real Property, Trust and Estate Law Section (RPTE), the Program provides successful T&E graduates of the two-year RPTE Fellows Program an opportunity to extend their participation in RPTE leadership. In addition to their skills and prior efforts, part of the selection process included identifying people who represented diverse backgrounds.¹⁴

Another effort to encourage young lawyers to excel in the field involved ACTEC's creation of "Fellow Institutes." First established by Florida Fellows in 2015, by 2023 six active Institutes are reaching or planning to reach lawyers in 34 states and the District of Columbia. Each Institute is designed to develop future leaders through a series of in-depth educational presentations led by ACTEC Fellows who are outstanding subject matter experts. Each Institute provides an in-depth CLE experience. Participants who successfully complete all sessions of an Institute, totaling six days, are formally recognized as graduates. The Institutes have become an important way for Fellows to bond with and then encourage many of the class members to aspire to membership in ACTEC. Like the Dennis I. Belcher Young Leaders Program, in addition to recognizing their skills and prior accomplishments, the selection process for each Institute class includes identifying people who represent diverse backgrounds.¹⁵

¹³ The Diversity, Equity and Inclusivity Committee is discussed in detail in Chapter 11, "Diversity, Equity and Inclusivity," of this History.

¹⁴ The Dennis I. Belcher Young Leaders Program is also discussed in Chapter 12, "The ACTEC Foundation," in this History. The ABA RPTE Fellows Program is discussed on its [website](#).

¹⁵ Fellows Institutes are discussed in detail in Chapter 4, "Fellows Institutes," in this History.

CHAPTER 2: NATIONAL MEETINGS

Contributors: Keith Bradoc “Brad” Gallant, Robert W. Goldman,¹⁶ Robert K. Kirkland, and Karen M. Moore¹⁷

Over the past 25 years, ACTEC’s national meetings have developed a distinctive cadence. The summer meeting is the first national meeting in each ACTEC fiscal year, which begins on May 1. In some respects, the summer meeting is transitional. New committee members and new committee chairs attend or preside at the committee meetings. The terms of the ACTEC president and other officers begin immediately following the annual meeting, but the summer meeting is the first national meeting that they attend in their new roles. The fall and annual meetings also offer significant continuing legal education, but the hallmark of the fall and annual meetings involves the engines of ACTEC: membership selection and Board of Regents meetings.

All three meetings have robust excursion opportunities for Fellows and their friends and family members to enjoy.

The simplicity of the meeting cadence was developed over the years through the thoughtful planning of the ACTEC staff, Convention Coordinators directors, the officer who will preside over particular meetings as the ACTEC president, hotel staff, members of the Program Committee, and members of the Executive Committee. The Executive Committee meets at least monthly, and its members are always on call with respect to issues affecting the national meetings.

Evolution of the Oversight and Structure of National Meetings

CONVENTION COORDINATORS, INC. (CCI)

As described in the 1999 History, for many years the tasks of selecting national meeting sites and negotiating and monitoring meeting contracts and other arrangements were overseen by Convention Coordinators, Inc. (CCI), a for-profit company incorporated in Montana in 1982 by Past President Bjarne Johnson.¹⁸ Among other benefits, ACTEC’s use of CCI as, in effect, its travel agency maximized the benefits to ACTEC Fellows of commissions paid by hotels at which ACTEC held its meetings.¹⁹

By 1999, the CCI Board of Directors was meeting regularly at the three ACTEC national meetings. The CCI bylaws provided that the “the corporation shall consist of five members, except that so long as founding member, Bjarne Johnson, shall wish to serve as a director there shall be six members of the Board.” The six directors who attended the March 1999 meeting were CCI President James M. “Mack” Trapp, Vice President L. Henry Gissel, Jr., Secretary Jerold I. Horn, Treasurer Gerhild A. “Gerry” Vogt, Charles A. Collier, Jr., and Bjarne Johnson.

CCI MEETINGS

The CCI minutes in 1999 and in subsequent years reflect frequent thoughtful discussions of a variety of topics, including: (1) various cities and hotels within cities that would be appealing to Fellows, (2) hotels that offer sufficient meeting space and rooms that meet ACTEC’s requirements and standards, (3) the unique requirements and features of particular hotels that might be of interest, (4) difficulties associated with negotiating contracts with particular hotels, and (5) focus on adding provisions to ACTEC’s pro forma contract that protect ACTEC.

16 President, 2022–2023.

17 President, 2010–2011.

18 Bjarne Johnson, from Great Falls, Montana, was ACTEC’s 18th president (1972–1973). His son, W. Bjarne Johnson, was ACTEC’s 54th president (2008–2009).

19 Bjarne Johnson, “Meetings and Conventions,” [1999 History](#), at 33–35.

ACTEC's pro forma contract was used as a starting point in hotel negotiations. Discussions regarding the pro forma contract with hotels centered on a variety of issues. Some hotels were not paying CCI the negotiated commission within the time period specified in the contract. A provision providing for interest was added to the pro forma contract. Choice of law provisions were discussed, and it was concluded that it might be wisest not to include a choice of law provision. Obtaining the signature of the owner or operator on the contract and confirming that the person who signed the contract had the authority to do so was another concern. Also, after signing the contract with CCI, some hotels undertook construction that would have an impact on the meeting space that ACTEC had contracted to use at the national meeting.

Various contract problems cropped up from time to time that were addressed by CCI. For example, ACTEC's contract with the Fairmont Copley Plaza in Boston included use of the hotel ballroom for ACTEC's Saturday evening event at the 1999 Fall Meeting. At the March 1999 Meeting at the Grand Wailea in Maui, however, CCI President Mack Trapp reported that the Fairmont Copley Plaza in Boston had entered into another contract to hold a wedding reception in the hotel ballroom on the date of ACTEC's event. Hanson S. Reynolds resolved the situation by negotiating to hold the ACTEC event originally scheduled to take place in the hotel ballroom at the Boston Public Library instead. The Fairmont Copley Plaza paid the fee required by the Boston Public Library.

Another contract problem occurred when the Southampton Princess Hotel in Bermuda decided to redo its ballroom and foyer to create a spa after the contract with ACTEC had been signed. Neill G. McBryde resolved the matter by negotiating concessions from the Princess Hotel, including a \$50 reduction in all room rates, an increase in the number of room upgrades, waiver of the rental fee for the tent for the welcome reception, and rum swizzles on the two registration days.

Contract issues also arose when the Boca Raton Resort undertook extensive renovation of its beach club. The renovation made 100 beach club rooms in the ACTEC contract unavailable and potentially interfered with the outdoor theme party planned at the beach club. Daniel H. Markstein, III and Gerry Vogt obtained concessions that (1) the hotel would waive the daily resort fee for all Fellows, resulting in a \$56,000 savings, and (2) if the beach club site were unavailable for the theme party, the hotel would pay ACTEC \$55,000 against the costs of décor to be incurred in holding the function at another location.

From time to time CCI directors dealt with other issues. The November 2, 2003, Charleston, South Carolina, CCI meeting minutes describe an extensive discussion regarding complaints that the band was too loud during the dinner portion of the dinner dance. The directors noted that this was a recurring problem and agreed that the music should be more controlled.

BJARNE JOHNSON

At the February 2002 Annual Meeting in La Quinta, Bjarne Johnson requested that his resignation as a director be accepted. He indicated that with his age, his health, and his confidence in his successors, he did not expect to attend meetings in the future. CCI President Chuck Collier thanked Bjarne for his enormous contributions to ACTEC and CCI over many years and his very real contribution to ACTEC's financial success because of his vision and leadership. Bjarne received a standing ovation.

The contributions of Bjarne Johnson to CCI and the financial success of ACTEC cannot be overstated. A resolution approved by the CCI Board of Directors and the ACTEC Board of Regents at their meetings on February 27, 2002, and March 4, 2002, respectively, attempted to capture these contributions. The resolution noted that Bjarne originally had conceived and was a founder of CCI; that CCI had collected approximately one million dollars in commissions from hotels and meeting service providers; that Bjarne had served as a director of CCI since its founding in 1983 and served as CCI president until 1992; and that Bjarne's "long, valued and unique contributions and service to ACTEC and its Fellows" were "carried out ... with good humor and collegiality and in the process [Bjarne became] a good and lasting friend of scores of Fellows."

PRE- AND POST-MEETING TRIPS

The minutes from 2000 to 2006 reflect that there were a number of pre- and post-meeting tours associated with the meetings, including tours to:

- Napa Valley in conjunction with the Summer 2000 San Francisco Meeting;
- Alaska on a cruise after the Summer 2001 Vancouver Meeting, for which 140 Fellows signed up;
- Natchez, Mississippi, following the Fall 2001 New Orleans Meeting;
- Old San Juan, Puerto Rico, prior to the 2003 Annual Meeting at the El Conquistador;
- Catalina Island before the 2006 Summer Meeting in Los Angeles and two days at Pasadena's museums and gardens after the meeting; and
- Newport, Rhode Island, prior to the Fall 2006 Providence, Rhode Island, Meeting.

EXPANSION OF THE CCI BOARD

At the November 2007 meeting at the Greenbrier in White Sulphur Springs, West Virginia, the CCI directors discussed adding two additional directors to the board who were not past presidents of ACTEC, thus expanding the board from five directors to seven directors. At the March 2008 CCI meeting in Boca Raton, Florida, the directors approved a CCI bylaw amendment that added two directors to the CCI board who were "State Chairs or Committee Chairs or Members of ACTEC's Board of Regents (other than Officers of ACTEC) at the time of election." The Regents approved the bylaw amendment on March 10, 2008.

THE OVERSOLD ROOM BLOCK PROBLEM

By 2007–2008, ACTEC faced an ongoing problem: Fellows were cancelling their hotel reservations in the ACTEC block and/or staying at hotels other than the hotel(s) in the ACTEC block. This created challenges in negotiating hotel contracts and determining the proper number of rooms to block. Contracts often contained provisions providing financial penalties if ACTEC did not meet its room block.

ACTEC President W. Bjarne Johnson discussed the problem in an article titled "Convention Coordinators, Inc., The Wizards Behind the ACTEC Meeting Curtains" in a 2008 issue of the ACTEC Newsletter. He pointed out that 1,500 room night reservations were made immediately for the Coeur d'Alene summer meeting. This was quite a bit above normal for a summer meeting. Because the room block was immediately oversold, Fellows who tried to reserve a room when they received the meeting brochure found that "there was no room at the inn." The anticipated number of room cancellations occurred, and the actual number of room nights reserved was 1,050. This resulted in an unfavorable meeting statistic for ACTEC. Unfavorable statistics impact ACTEC's negotiating ability. Bjarne wrote:

We suspect that Fellows have figured out that it costs nothing to make a reservation or cancel it, resulting in what is in effect a no-cost option on a hotel room just in case they decide to attend. While certainly helpful to the individuals owning the options, it wreaks havoc on others and on the College itself. As a result, we are working on changing the process so that in the future, room blocks for meetings will not be opened until closer to, or perhaps only in conjunction with, registration for the meeting itself.

At the June 2014 Summer Meeting in Dana Point, California, the Site Selection Committee (which is described below) discussed this issue and agreed that, beginning with the reservations at the Roosevelt Hotel in New Orleans for the 2014 Fall Meeting, a Fellow would be able to reserve a room in the ACTEC block only after registering for the meeting.

CCI AND ACTEC FINANCES — IN THE EARLY YEARS

At the June 2008 meeting in Coeur d'Alene, Idaho, the directors unanimously approved a motion by Judith W. McCue to post CCI minutes and financial statements on the ACTEC website going forward. With

respect to finances, CCI funds were used to support site visits and planning meetings. Additionally, CCI reimbursed ACTEC for staff time working at the national meetings. The minutes show that the ACTEC officers continued the regular practice of reporting to the CCI directors regarding the planning for national meetings that would take place during the year when each officer served as ACTEC president. An ongoing discussion topic at meetings was the degree of support that the national office should provide to state and regional meetings. A committee was appointed to consider possible changes to the CCI bylaws.

At the March 2009 meeting in Rancho Mirage, California, CCI President Ronald D. Aucutt described CCI as a captive travel agency with only one client, ACTEC. He said that CCI's principal mission was finding meeting sites and negotiating contracts for ACTEC. In support of this mission there is also an element of promotion of the meeting sites. Ron noted that "a majority of CCI directors are past ACTEC presidents, who are in a unique position to share with current ACTEC officers their collective experience and the wisdom that such experience has produced."

The minutes of the October 2009 CCI meeting in Williamsburg, Virginia, reflect a discussion regarding assistance offered by the national office for state and regional meetings. The discussion centered on the allocation of the time of the staff members. It was pointed out that CCI and ACTEC are different entities with different tax consequences. CCI was a for-profit organization, ACTEC was (and is) a not-for-profit organization. If CCI were to be folded into ACTEC under a new structure, issues associated with record keeping and allocating staff time between CCI and ACTEC would disappear. Past President Judy McCue and President Dennis I. Belcher were asked to report on a possible new structure for CCI.

SHORTENED MEETING SCHEDULE FOR REGENTS

Also at the October 2009 CCI meeting, President Dennis Belcher reported that he had scheduled the Regents meeting on Sunday afternoon, rather than Monday morning, and had shortened the meeting time from three hours to two and a half hours. He said that this change would continue for the 2010 annual meeting at Bonita Springs, Florida. This change in the timing and length of the Regents meeting has been continued.

FONTAINEBLEAU CONTRACT TERMINATION

Also at the October 2009 CCI meeting, it was reported that the contract with the Fontainebleau Hotel in Miami for the 2012 Annual Meeting had been terminated because the finished hotel was not what had been originally represented during a hard-hat tour of the hotel. The hotel disputed ACTEC's termination of its contract. The minutes reflect that ACTEC offered \$25,000 to resolve the dispute, which was accepted by the hotel. The CCI directors discussed the need to include broad cancellation clauses in future contracts, allowing ACTEC to cancel a national meeting "for cause."

DISSOLUTION OF CCI AND CREATION OF THE SITE SELECTION COMMITTEE

At the 2010 Bonita Springs Annual Meeting the directors discussed issues associated with ACTEC's increasingly more active role in contracting for and organizing state and regional meetings. The industry trend for hotels to offer rebates directly to groups instead of paying commissions to travel agents was noted. During this meeting, the directors recognized Executive Director Gerry Vogt for her service to CCI from the time of its creation to her announced retirement. Malcolm A. Moore pointed out that Gerry was the first and only treasurer since CCI's inception.

At the June 2010 St. Louis Summer Meeting, ACTEC President Karen M. Moore, acting on behalf of the Executive Committee, requested that CCI move forward to make CCI an ACTEC committee. Discussion of this matter continued at the 2010 Baltimore Fall Meeting. Karen reported on an October 8, 2010, staff memo regarding switching CCI, a for-profit corporation, to an ACTEC committee. With respect to changing CCI

to a new ACTEC committee, the staff memo said, “There is a true benefit to having past presidents be involved in site selection and preliminary planning for the annual meeting. Their experience in planning past meetings provides insight for the selection of new meeting sites.” Bruce S. Ross moved to dissolve CCI and replace it with an ACTEC committee that mirrored the CCI membership structure in the new committee’s membership structure. The motion passed unanimously.

Incoming CCI President Bruce Ross appointed a subcommittee on the transition of CCI from a for-profit entity, separate from ACTEC, to an ACTEC committee. He appointed Judy McCue as the subcommittee chair and appointed himself, Nancy G. Fax, and Milford B. Hatcher, Jr. as the other members. The minutes from the 2011 Summer Meeting in Atlanta reflect approval of a proposed Bylaw amendment, which would establish a standing ACTEC committee, the Site Selection Committee, to replace CCI. It was reported that ACTEC’s independent CPA had said there would not be a tax problem folding the for-profit CCI into the not-for-profit ACTEC. Liquidation of CCI was to be effective at the close of its fiscal year on January 31, 2012. In October 2011, at the Coronado Island Fall Meeting, the Regents approved the dissolution of CCI with the transition of its functions to an ACTEC committee. In March 2012, at the Lowe’s Miami Beach Annual Meeting, the members of the new Site Selection Committee were named. These members were Daniel H. Markstein, III, Chair, Nancy G. Fax, L. Henry Gissel, Jr., W. Bjarne Johnson, Jr., Randall M. L. Yee, Karen M. Moore, and Mary F. Radford. Past presidents of ACTEC were named as non-voting members. The minutes state that CCI and the Site Selection Committee would continue to meet jointly until the dissolution of CCI was complete. It was agreed that an amendment should be prepared for action by the Regents at the 2012 Fall Meeting. The final dissolution of CCI, however, was deferred to allow Bruce Ross time to review existing hotel contracts and anticipate pitfalls, if any.

At the June 2012 Summer Meeting in Colorado Springs, the CCI directors agreed that hotels with current contracts with CCI should be notified of the proposed dissolution of CCI and asked to sign an addendum stating that payments would be made to ACTEC. Four hotels were notified, and each of them executed the addendum. CCI approved the text of the bylaw change at its October 2012 Fall Meeting in Washington, D.C.

At the March 2013 Annual Meeting in Maui, W. Bjarne Johnson reported that the dissolution of CCI under Montana law was effective as of the end of CCI’s fiscal year on January 31, 2013. There was a poignancy here, in that 30 years after CCI was incorporated in Montana by Bjarne Johnson it was dissolved by his son, W. Bjarne Johnson. CCI had served its purpose and had served it well.

Subsequent to the dissolution of CCI, expenses for site selection became part of the ACTEC budget.

BEGINNING AND END OF THE SITE SELECTION COMMITTEE

During the October 2013 Fall Meeting of the new Site Selection Committee in Fort Worth, Texas, Chair W. Bjarne Johnson summarized the discussion at the committee meeting in Philadelphia, stating that the focus of the Site Selection Committee would be “official guidance and counsel to the Officers. The committee serves as a sounding board for new ideas and concepts.” At that meeting, the committee discussed a pressing problem: the hotel had double booked foyer space that it was contractually obligated to hold for ACTEC. The Camp Fire Organization was holding a silent auction for artwork that was displayed in the contracted foyer space. The hotel initially was not responsive to ACTEC regarding the problem. President Duncan E. Osborne offered a donation to the Camp Fire Organization for removing the artwork and discussed obtaining a temporary restraining order if the contract terms with ACTEC were not met. The Wednesday before the meeting Duncan had a telephone call with the general manager of the hotel. Fort Worth litigation counsel also participated. The general manager stated that the artwork was being relocated to another more suitable part of the hotel.

At the June 2014 Summer Meeting in Dana Point, California, the Site Selection Committee endorsed an amendment to ACTEC’s Bylaws addressing the succession to the chair of the committee if an ACTEC past president elected not to serve on the committee.

At the March 2015 Annual Meeting at Marco Island, Florida, Chair W. Bjarne Johnson shared his reflections regarding CCI. The minutes state:

[Bjarne] remembered that in his early days on (CCI), the goals were to develop a pro-forma contract, and to gain better knowledge of how the business worked from the hotel side of the negotiations, etc. ... He acknowledged that ACTEC has accomplished those goals which, at the time, seemed largely aspirational, but as with all gradual changes, they are, perhaps, not so obvious until one stops to consider them.

Chair Karen Moore invited Stephen R. Akers, the nominee for ACTEC secretary, to attend the 2015 fall committee meeting in Monterey. Steve ultimately chose three marvelous locations for national meetings: Asheville, North Carolina; Austin, Texas; and Paradise Island, Bahamas. Little did anyone know at the time that Covid would come on the scene and result in the cancellation of all three of those in-person national meetings.²⁰

At the October 23, 2016, meeting of the Site Selection Committee in Charleston, South Carolina, President-Elect Susan T. House reported “the unanimous decision of the Executive Committee to recommend the sunset of the Site Selection Committee to the Board of Regents.” The minutes add:

There is consensus that with the professional meeting planning staff of the College and their skills, contacts, knowledge, and historical awareness of success and failures with national meetings, the role of vetting prospective sites best rests with the staff. The benefit of the experience and guidance of the past presidents was appreciated and valued. It was suggested that the role of advisor to the incoming [ACTEC] Secretary by the past presidents continue. However, the role would not be formalized in a Bylaw of the College as is the current Site Selection Committee. The staff and officers of the College have a common goal in selecting interesting, appropriate meeting venues that offer variety, geographic diversity, with cultural and historic opportunities for Fellows, guests and sponsors to enjoy. The Secretary, as needed, would call on input from the past president(s) for his/her guidance.

After what the minutes describe as “a very engaged and thoughtful discussion,” the committee approved presenting the sunset to the Regents at the March 2017 Annual Meeting. At that meeting the Regents approved a change to the Bylaws that eliminated the Site Selection Committee.

Sponsors at National Meetings

Although it seems like sponsors at ACTEC meetings have always been part of the fabric of ACTEC, in fact sponsors were not added to national meetings until 2003, during Carlyn S. McCaffrey’s presidency. The first sponsorship policy applicable to national meetings was adopted by the Board of Regents at the fall meeting in Tucson, Arizona, in October 2002. That action was accompanied by extensive debate within ACTEC before the meeting and at the meeting itself, centering on the extent to which allowing sponsors would disrupt the professionalism of ACTEC and the collegiality of Fellows. The proposed policy was approved by the Regents by a vote of 29 to 6.

The policy clearly reflected an “event sponsorship” format. The highlights of that policy statement include a statement that in any sponsored activity the identity or presence of ACTEC must predominate and must never be compromised or confused by association with the sponsor. In addition, any acknowledgment must not be so extensive as to suggest that the sponsor “owns” or “controls” the sponsored event.

The first national meeting at which sponsors were officially involved was Carlyn’s 2003 Annual Meeting in Puerto Rico. Four sponsors contributed to and participated in that meeting:

- Merrill Lynch Private Wealth Management contributed \$25,000 for the committee dinner;
- Sotheby’s contributed \$25,000 for the welcome reception;

²⁰ There is more discussion about this in the Covid and Beyond section below.

- Empire Valuation Consultants contributed \$25,000 for the theme party; and
- HSBC Bank U.S.A. contributed \$25,000 for the dinner dance.

The experiment in Puerto Rico was a success, but it begged many questions. For example, how will sponsors be recruited? Who will do it? What limitations on participation at ACTEC meetings will be imposed on sponsors? Who will oversee those limitations? Not all events are the same, so what amount of a sponsorship contribution will be required for each event? In addition to event-based sponsorship opportunities, will there be less expensive print-based sponsorships? Carlyn's successor as president, Ron Aucutt, working with the ACTEC staff, developed protocols and contracts for the short term, which were intentionally designed to be conservative, recognizing that many had viewed the addition of sponsors at national meetings as a bold and controversial step. It was understood that it would be easier to start modestly and expand the roles of sponsors after more experience with them (which in fact has happened). The initial contract letters addressed subjects such as the sponsor's opportunity to bring representatives to the meeting (generally limited to four), ACTEC leadership's acknowledgment of those representatives at the sponsored event, the sponsor's use of a table with the sponsor's sign and materials near the entrance to the event (limited to immediately before, during, and immediately after the event), and the other events at the meeting to which the sponsor representatives would have access (limited to receptions and dinners open to all Fellows, educational programs, and tours, but not including committee meetings).

Those questions and others that arose with the inclusion of sponsorships at national meetings led in 2004 to the creation of the Sponsorship Advisory Committee, with Past President Neill McBryde as its first chair. The focus of that committee was to develop and maintain standardized sponsorship prices and expectations and to discourage ad hoc negotiations by prospective sponsors. The committee, along with staff, developed an event/print-based sponsorship strategy. Event and print-based sponsorships varied in amounts from \$10,000 to \$25,000. The \$25,000 evening event sponsorships allowed top-dollar sponsors exclusive attendance at the sponsored event to network and engage with Fellows and guests without any other sponsors in attendance. These exclusive events included an invitation from an Executive Committee member to join him or her for dinner at his or her reserved table along with other ACTEC Fellows and guests.

Sponsors were originally selected for national meetings by the executive director and the incoming president. That selection process evolved over time to include both a staff person dedicated to sponsorships (the sponsor development director) and the executive director, with some potential sponsors identified by Fellows but recruited and brought under contract by the sponsor development director and the executive director. Some sponsors are under multi-year contracts with ACTEC.

After some trial runs in 2016 at regional meetings, ACTEC switched from sponsorships based on event to sponsorships based on financial levels. Sponsorship levels at national meetings officially rolled out in 2019 with opportunities at bronze, silver, gold, and platinum levels, although some events continued to be identified with one or two specific sponsors. Sponsor representatives at the bronze and silver levels became able to attend the "day" events, such as committee meetings, breakfasts, and educational programs, with an option to purchase a dinner ticket for select evening events. The gold and platinum sponsors were recognized at the highest level. These sponsors still were exclusively invited to attend select evening events and dine with Executive Committee members at various dinners, and they could also attend all evening events open to all Fellows and all "day" events. In addition, all sponsors would be able to maintain and staff display tables in an area made available for that purpose throughout the meeting.

Recently, national meeting sponsorship fees have increased and with it some value-added services to sponsors, including the *Sponsor Quarterly Newsletter* produced by ACTEC to keep sponsors informed about ACTEC between national meetings, participation of sponsors in the pre-meeting "Know Before You Go" Zoom briefing to ensure that they have necessary information about the meeting, provision to sponsors of PowerPoint presentations in hardcopy for reference during the meeting, and inclusion of sponsors in notices from ACTEC of ACTEC/ALI CLE webinars and of the ACTEC negotiated sponsor discount.

Continuing Legal Education (CLE) at National Meetings

In ACTEC's early years, there was relatively little focus on formal professional education programs at national meetings. There was, of course, much highly knowledgeable discussion about legal issues of concern to Fellows, and occasionally a symposium, but the notion of formal or "mandatory" continuing legal education was largely unknown among American lawyers. Indeed, as recently as 1976 only two states had established requirements for continuing professional education "credits" for practicing lawyers.²¹ But by the late 1980s, a series of professional education programs, organized by a Program Committee, had developed.

THE JOSEPH TRACHTMAN MEMORIAL LECTURE

In 1974 and 1975, ACTEC's annual meetings did include what was called the "Learned Lecture." After Joseph Trachtman (who was the president of ACTEC in 1966–1967) died in October 1975, the Board of Regents renamed the "Learned Lecture" the "Joseph Trachtman Memorial Lecture" in his honor. Later, in writing for the 1999 History, two of President Trachtman's successors, Harrison P. Durand and J. Pennington "Joe" Straus, wrote that "No one did more to improve the quality and reputation of the American College of Probate Counsel [now ACTEC] than Joseph Trachtman."²²

Each president invites a distinguished person to deliver the Trachtman Lecture at that president's annual meeting. These lectures have been presented sometimes by ACTEC Fellows and sometimes by others, and the vast array of important topics they have covered testifies to the significant role they have played in ACTEC's history. The following are the titles and speakers from the inception:

- 1974 Post Mortem Planning (Alfred C. Clapp)
- 1975 Uses of Trusts in Estate Planning (Edward C. Halbach, Jr.)
- 1976 Income in Respect of Decedent: Liquidation or Sale of Business Interests (M. Carr Ferguson)
- 1977 Role of the Lawyer as a Fiduciary (Luther J. Avery)
- 1978 Charity and Dynasty Under the Federal Tax System (John G. Simon)
- 1979 The Marital Deduction Thirty-one Years Later (Stanley M. Johanson)
- 1980 Man + Woman + Property = ? (William P. Cantwell)
- 1981 The Will Regenerate: From Whipping Boy to Workhorse (Malcolm A. Moore)
- 1982 Preparation, Probate and Prophecy (J. Pennington "Joe" Straus)
- 1983 The Estate Lawyer (Edward B. Winn)
- 1984 A Writer's Use of Fact in Fiction (Louis S. Auchincloss)
- 1985 Wealth, Poverty and Inheritance: The Voice from the Coffin (George Gilder)
- 1986 Attitudes Toward Wealth (J. Thomas Eubank)
- 1987 The Trust as a Picture of the Family: Yesterday, Today — and Tomorrow? (D.W.M. Waters)
- 1988 The Twentieth Century Revolution in Family Wealth Transmission and the Future of the Probate Bar (John H. Langbein)
- 1989 Estate Planning — Past, Present, and Possibly a Different Future (A. James Casner)
- 1990 Reflections of a Fellow on Lawyers, the Law and the Rule of Law After Thirty Odd Years of Exposure (L. Henry Gissel, Jr.)
- 1991 Reflections on Tax Writing and the Regulatory Process as It Affects Trusts and Estates (Richard B. Covey)
- 1992 Marital Property Rights in Transition (Lawrence W. Waggoner)

21 See, generally, Herschel H. Friday, "Continuing Legal Education: Historical Background, Recent Developments and the Future," 50 St. John's Law Rev. No. 3, p. 507 (1976).

22 Harrison P. Durand and J. Pennington Straus, "Joe Trachtman, The New York Lawyer," 1999 History, at 8.

- 1993 Tax Policy and the Economy: Can the Tail Wag the Dog? (Pierre S. du Pont, IV)
- 1994 Conflict of Interest in Estate Planning for Husband and Wife (Geoffrey C. Hazard, Jr.)
- 1995 Equity, Efficiency and Administrability (Joseph Kartiganer)
- 1996 Trust and Estate Lawyers in the 21st Century World Without Estate Taxes
(ABA President Roberta Cooper Ramo)
- 1997 The Impact of Uniform Laws (Robert A. Stein)
- 1998 Modern Financial Theory (Burton G. Malkiel)
- 1999 Uniform Acts, Restatements and Other Trends in the Trust Law of ACTEC's Future
(Edward C. Halbach, Jr.)
- 2000 ACTEC and the Practice at 2000: Where Have We Been and Where Are We Going?
(Rodney N. Houghton)
- 2001 A View Through a Glass Darkly: The Impact of Transfer Tax Repeal on Trusts and Estates
Lawyers (John A. Wallace)
- 2002 Some Thoughts on Philanthropy and Net Worth (William H. Gates, Sr.)
- 2003 Beowulf to Bush: Lurking Tax Monsters (Mary Louise Fellows)
- 2004 The U.S. Tax Code in the 21st Century: Does the Estate Tax Fit? (Margo Thorning)
- 2005 A Conversation with U.S. Supreme Court Justice Sandra Day O'Connor
- 2006 The Origin of Our Species: Trust and Estate Lawyers and How They Grew (Malcolm A. Moore)
- 2007 A Conversation with William F. Schulz, Executive Director of Amnesty International USA
- 2008 Estate Planning for the Next Generation(s) of Clients: It's Not Your Father's Buick, Anymore
(Jeffrey N. Pennell)
- 2009 The Quiet Revolution in Modern American Trust Law: An Empirical Assessment
(Robert H. Sitkoff)
- 2010 Looking Back and Looking Ahead — Preparing Your Practice for the Future
(Jonathan G. Blattmachr)
- 2011 Creed or Code: The Calling of the Counselor in Advising Families (Ronald D. Aucutt)
- 2012 Restating and Renewing the Law of Donative Transfers
(John H. Langbein and Lawrence W. Waggoner)
- 2013 The Life and Death of John J. Stevens, Esq., a Member of the Legal Profession
(Max Gutierrez, Jr.)
- 2014 Drugs ... What Are We To Do? (Ethan Nadelman)
- 2015 Our Wealth Transfer Tax System — A View from the 100th Year (Carlyn S. McCaffrey)
- 2016 Do We Need a Canary or Did the Canary Stop Singing and We Missed It? (Dennis I. Belcher)
- 2017 A Different Look at Aging and Guiding Clients Through Difficult Times (Hanson S. Reynolds)
- 2018 Estate Planning and Trust Management for a Brave New World (R. Hugh Magill)
- 2019 Balancing Independence and Vulnerability of Older Adults: What if Granny Wants to Gamble?
(Mary F. Radford)
- 2020 Truth, Transparency and the Right of Privacy (Duncan E. Osborne)
- 2021 [No in-person meeting or Trachtman Lecture during the Covid pandemic]
- 2022 The Calling of the Counselor, Part 2 (Ronald D. Aucutt)
- 2023 What Does It Mean To Be a Trusted Adviser? (Bruce Stone)
- 2024 Civilization Depends on Us: The Virtues of Estate Planning & Estate Planners (Turney P. Berry)

Many of these lectures have been adapted for publication in the *ACTEC Law Journal* and its predecessors.

PROFESSIONAL EDUCATION AT THE ANNUAL MEETINGS — THE EARLY YEARS

Efforts to expand and formalize professional education programs at ACTEC national meetings began in 1967 during Joe Trachtman's presidency with the first formal seminars presented at what was then ACTEC's mid-winter meeting. These efforts continued in the following years, notably with the expanded national meeting schedule in Hawaii in March 1973, which President Bjarne Johnson's November 1972 newsletter described as including a panel of speakers that were "among the most distinguished and sought-after speakers in the country."²³ An official Program Committee, with ACTEC's vice president as chair, was established at about the same time. The advance circulation of written program materials began in 1983. Professional education programs were added to the fall meeting in 1988 and to the summer meeting in 1997. These developments were part of a gradual, largely ad hoc, process responding to the needs and wishes of Fellows.

During the last two decades of the twentieth century, ACTEC's education programs also reflected the increasingly broad scope of the professional interests of Fellows. Presentations regarding fiduciary litigation, elder law, and other evolving areas of the practice were added to the traditional estate and tax planning and will and trust drafting topics.

By the turn of the millennium, the professional education programming unquestionably had become one of the most important aspects of ACTEC's national meetings. At the 2000 Annual Meeting in Scottsdale, for example, there were eight seminars, with topics as diverse as "Selecting the Appropriate Split Interest Technique" to "Disposition of Remains, Posthumous Reproduction, Cloning and Associated Problems" to "The Multidisciplinary Practice Firm: Problem or Panacea." The same four seminars were presented on two successive days, allowing Fellows to attend two of those four seminars, or four of all eight of the seminars. There was a special session on "Client Capacity" as well as the Sam Smith Memorial Lecture,²⁴ the Trachtman Lecture, "Hot Topics," and a "Computer Workshop" series (also presented twice) for a total of over 40 hours of professional education programming.

Not all annual meetings offered such extensive programming. In 2005, just under 30 hours were offered, including the Trachtman Lecture given by United States Supreme Court Associate Justice Sandra Day O'Connor. By 2010, the annual meeting professional education programming had settled on a more or less manageable and predictable 30 hours divided among eight seminars (each presented two times, as noted above), two symposiums, the Trachtman Lecture, and Hot Topics, with occasional special programs.

FURTHER SHORTENING OF THE ANNUAL MEETING

With substantive and administrative committee meetings, a full slate of CLE programming, symposiums, the Trachtman Lecture, and a Board of Regents meeting, the annual meeting required Fellows to be away from their homes and offices for many days. In 2007, the Board of Regents received a strategic planning report authored by Dennis Belcher and Mary Radford that introduced the idea of a shortened annual meeting. The Executive Committee and Board of Regents took no action on that report. Beginning in 2010, the Long Range Planning Committee studied ways to shorten the annual meeting. The minutes of the Long Range Planning meeting held on March 10, 2010, stated, in part:

Kathy [Sherby], Martin [Heckscher] and Deb [Tedford] will work to prepare a mock-up schedule of a shortened Annual Meeting. This may involve restructuring the CLE programs, shortening committee meetings, rethinking the problem of conflicts among the committee meetings, etc. The goal is to see if such a shortening is possible so that Kathy can take this into account when she starts negotiating contracts for the hotels at which the meetings will be held when she is President [2014–2015].

The 2016 Annual Meeting was the first in which the educational programming was not repeated on a second day, thereby shortening the meeting by one day for most Fellows. Members of the Executive Committee

²³ Bjarne Johnson, "Meetings and Conventions," [1999 History](#), at 27.

²⁴ The Sam Smith Memorial Lecture was a presentation then envisioned to be scheduled every couple of years or so at the meeting of the Fiduciary Litigation Committee. It was named in memory of the committee's 1994–1997 chair, Samuel S. Smith, after his death in 1999.

typically arrive earliest to both the fall and the annual meetings. Since the 2009 Fall Meeting (as noted in the Shortened Meeting Schedule for Regents section above), Regents and state chairs meet in the afternoon and end with a dinner on Sunday, which is the last day of the fall and annual meetings.

PROFESSIONAL EDUCATION AT RECENT ANNUAL MEETINGS

In 2017, with the change in the length of the annual meeting (and with the gratitude of most speakers!), the seminars were no longer repeated, but their number was expanded to nine, thus providing opportunities for a broader range of topics. The Fellows' professional interests were increasingly more diverse and reflected a more holistic concept of the role of trust and estate lawyers. This broad range of topics was exemplified by Professor Mary Radford's 2019 Trachtman Lecture titled "Balancing Independence and Vulnerability of Older Adults: What if Granny Wants to Gamble?" and Terrence M. Franklin's special presentation in 2017 on "The 1846 Will of John Sutton," based on his research into his own family history. These changes resulted in a total of approximately 20 hours of original content programming, remarkably close to what had existed almost two decades previously (although the total declined slightly in some subsequent years.)

While the seminar topics continued to evolve, the programs never lost their strong commitment to sophisticated tax strategies, ethical concerns, and new and complex legal issues. Thus, for example, the topics included "Crypto Currencies and Bitcoins," "Tax Basis of Assets," "AI," "The Impact of the Uniform Trust Code," and "Settlor's Intent." At the last pre-Covid pandemic annual meeting in Boca Raton, Florida, the difficulty of reconciling "Truth, Transparency and the Right of Privacy" was explored in Duncan Osborne's Trachtman Lecture.

PROFESSIONAL EDUCATION AT THE FALL AND SUMMER MEETINGS

The long-term trajectory of professional education programming at the fall and summer national meetings was similar. The 2000 Fall Meeting in Bermuda, for example, featured a rather intense eight-hour seminar on one day on "Change in the World of Trusts" (for which, as is still the custom at the fall and summer meetings, a separate registration fee was charged). By 2002, the fall meeting seminars had been split between Friday and Saturday, which has continued to be the general practice except during the Covid hiatus. The fall meeting seminars often have had a single overarching theme, at least one for each day, although their boundaries have been fairly flexible.

Over the four days (Monday through Thursday) preceding the 2003 Fall Meeting in Charleston, South Carolina, ACTEC tried something new, offering 30 hours of mediation training. This offering was initiated by ACTEC Treasurer Bruce Ross and featured renowned mediator James Melamed, the co-founder and CEO of Mediate.com in Eugene, Oregon. It was very well received, it was repeated at the 2004 summer and fall meetings, and it set the stage for what became a regular tradition of "stand-alone" professional programming, including CLE credit, at ACTEC's summer meetings. The first of these, organized under the leadership of President Danny Markstein in 2007, was titled "Pass-Through Entities — Income and Transfer Tax Strategies."

The stand-alone program offers a deep dive into a particular trust and estate topic, typically for two half-days preceding the meeting, and then the summer meeting itself typically also includes an additional half-day of seminars. The stand-alone programs usually have a single theme such as "Boot Camp on Fiduciary Income Tax" (2016) and "Income Tax Planning Strategies" (2019), with multiple presentations over two days for a total of about eight hours of CLE credit. The summer seminar consists of a four-hour, single-morning program, again often with a unified theme that sometimes has been a bit more "cutting edge," such as "Are the Kids Alright? Modern and Practical Challenges of Minors in Trusts and Estates" (2018) and "Cultural Variables in the Estate Planning Context" (2017). The different formats and scheduling arrangements at national meetings allow Fellows to design a personal CLE program that is expansive or more limited, as they choose.

THE PROGRAM COMMITTEE

The role and membership of the Program Committee have expanded significantly since the committee's origin in the mid-1970s, in response to both the increasing range of professional education programming and the ongoing desire to improve the quality and relevance of ACTEC's CLE. In 2018, with approximately two dozen Fellows (most of whom serve a maximum of two three-year terms) as Program Committee members, the Executive Committee, at the urging of Vice President John A. Terrill, II, decided to appoint the Program Committee chair from among the ACTEC membership rather than to continue to place this responsibility on the vice president, who changes each year.

Keith Bradoc "Brad" Gallant was the first Fellow to serve in this role. He was succeeded by Lauren Detzel in 2021. The idea was to provide sustained, multi-year leadership for the Program Committee in its effort to expand the range of seminar and symposium topics and speakers at national meetings, while, needless to say, maintaining the extraordinarily high standards for which ACTEC's professional education programs are so well known and which are of such importance to Fellows.

From 2018 through early 2020, the national meeting programs successfully continued the in-depth analyses favored by Fellows, such as the six-part "Life Cycle of a Business Entity" in 2018. Topics were expanded to include subjects that, just a few years earlier, may have raised some eyebrows. These included "The Impact of Unconscious Bias on the Practice of Law," "Lawyer Well-Being," and programs on the implications of "DNA Testing for Estate Planning." Many of the presenters were first-time, often diverse, speakers at national meetings. The Fellows' response to these programs was overwhelmingly positive.

The work of the Program Committee involves not only the selection of topics and speakers but also crucial "behind the scenes" tasks such as assuring that the professional education programs qualify for CLE credit from state bars and that Fellows with special needs are able to benefit from, and present at, these programs. In all of this, in recent years, ACTEC's Committees and Education Director Donna Braman has played an essential role.

COVID AND BEYOND

Life, everywhere, suddenly changed when Covid arrived, and ACTEC's professional education programming had to be re-invented as well. Beginning in the summer of 2020 (during Steve Akers' presidency, as noted above), ACTEC's professional education programs at all national meetings were virtual. It was crucial that ACTEC continue to provide both professional support and professional collegiality for Fellows. In order to accommodate the multiple time zones in which Fellows would attend remotely, the professional education programs were presented over several days. While some programs addressed the effect of Covid on the practice, for example "Estate Planning in a Pandemic," others continued to focus on substantive topics of interest to Fellows, such as programs on the recently enacted "SECURE Act" and the monumental two-day "Deep Dive Drafting" program moderated by long-time Program Committee member and past president Ron Aucutt, which ran for eight hours over two afternoons (in the Eastern time zone). These arrangements had the unintended but highly fortuitous effect of introducing ACTEC's national meetings and the professional education programs to many Fellows who had never attended in person.

With the return to a somewhat more familiar, if also somewhat forever changed, world, the national meetings' professional education programs also returned to their pre-pandemic in-person format with the same focus on in-depth analysis and cutting edge topics. The 2023 Annual Meeting offered over 16 hours of professional education programming, including, along with the traditional Trachtman Lecture, the first L. Henry Gissel, Jr. "Spirit of ACTEC" Lecture, which is expected to be a biennial presentation.²⁵ The 2023 Summer Meeting offered an eight-hour stand-alone program on the many aspects of "Finding, Friendings, and Firing Clients," along with additional seminars on the Tax Court and the IRS, as is traditional at national meetings in Washington D.C., and on the ethical issues presented by Fellows' continued post-pandemic in-

²⁵ The L. Henry Gissel, Jr. "Spirit of ACTEC" Lecture is discussed in Chapter 12, "The ACTEC Foundation," in this History.

terest in working remotely. At the 2023 Fall Meeting in Louisville the program addressed the complications that Fellows face and the solutions that exist when a client has diminished capacity, an issue that has been considered again and again at national meetings and remains of great interest to Fellows.

While a diverse range of topics and speakers continues to be important to the Program Committee, during the last 25 years the ultimate goal of ACTEC's national meetings' CLE has been to present the finest professional education programs to ACTEC Fellows, much as it was not only 25 years ago but over 50 years ago at President Bjarne Johnson's 1973 national meeting in Hawaii. If, as Shakespeare says, "Past is Prologue,"²⁶ there can be no doubt that during the next 25 (and even 50) years, this goal will remain unchanged.

ACTEC Meetings App

Since the 2018 Annual Meeting, ACTEC has been utilizing the "ACTEC Meetings" App, which is now used for all national and regional meetings, as well as large state meetings. This app serves as a centralized hub where Fellows can access all meeting information in one convenient location.

26 "The Tempest" (1610–1611).

CHAPTER 3: STATES AND REGIONS

Contributors: Gerard G. Brew, Ann B. Burns,²⁷ and Melissa J. Willms²⁸

Throughout much of its history, ACTEC has supported and encouraged meetings at a state and regional level. Since 1999, ACTEC has devoted substantial attention to strategically developing state and regional activities. In turn, the states and regions have developed innovations and activities that have benefited all levels of ACTEC.

States, State Chairs, and State Activities

As of 2023, ACTEC has 54 “states,” being all 50 states of the United States, plus Washington, D.C., Western Canada, and Central and Eastern Canada,²⁹ while New York is divided into two “states,” Downstate New York (which includes New York City and surrounding counties) and Upstate New York (which includes the rest of the state). Western Canada consists of four provinces, and Central and Eastern Canada consists of six provinces.

Long before 1999, a state chair was appointed for each state. The president-elect of ACTEC appoints a state chair to begin serving immediately after the end of each annual meeting. Although each appointment is for a one-year term, typically a state chair serves for five years, being reappointed each year by successive presidents-elect. Although ACTEC’s Bylaws provide that a state chair may also be a Regent, typically this is not the case so that more Fellows may be involved with ACTEC’s governance. In order to facilitate the transition to a new state chair, the president-elect will often designate a state chair-elect in the last year of a state chair’s term.

State chairs historically focused on the identification of potential Fellows within their state and took part in the process of working toward the election of Fellows within their state. They maintained communications with Fellows in their respective states and organized and managed state membership selection committees. While these are still roles of state chairs, in the last 25 years state chairs have developed other activities and innovations that vary greatly from state to state. Many of these activities and innovations are designed to provide opportunities for Fellows to participate at the state or regional level, offering an alternative source of ACTEC activities for those who, for various reasons, do not participate in national meetings and activities. These programs create opportunities for newer Fellows who have young families at home and thus limited opportunities to travel, or more “senior” Fellows who encounter different challenges in traveling.

According to Alvin J. Golden (Texas State Chair, 1989–1994), Hanson S. Reynolds (President 1999–2000; Massachusetts State Chair, 1989–1993) was the driving force behind coordinating the state chairs. Hanson reached out to Al and to William C. Weinsheimer (Illinois State Chair, 1989–2002) and discussed the need to expand the work of state chairs, while educating them as to what they are supposed to do in fulfilling their role. As a result, the three of them organized a state chairs’ meeting. The state chairs meet as a group at every ACTEC annual and fall meeting.

State-level activities include annual, or more frequent, periodic lunch and dinner meetings. Some states or localities, such as Washington, D.C., and Seattle, Washington, host “study group” events that might be as simple as a periodic lunch gathering hosted at a law firm office. Other states, such as New Jersey, conduct periodic seminars, even to the extent of obtaining CLE accreditation in order to provide local CLE oppor-

27 President, 2021–2022.

28 Secretary, 2023–2024.

29 In the [1999 History](#), at pages 79–81, a table titled “Total Committee Positions and Members” shows that from 1988 to 1999, there were 55 state chairs instead of 54. Section 18.3(6) of the January 1994 edition and Section 6.3(f) of the January 2007 edition of the ACTEC Policies, Practices and Procedures Manual noted that at that time Canada was divided into three districts (Eastern, Central, and Western) and there was a chair for each. In approximately 2003, the Eastern and Central districts were combined.

tunities for Fellows. The advent of Zoom and other virtual meeting platforms has made it even easier for Fellows in states to gather, such as for monthly virtual “lunch” meetings.

Other events focus on social interaction among Fellows, such as the annual dinner gatherings in Connecticut or Massachusetts and the annual golf outing in New Jersey. In other states, like Florida and Texas, the state chair hosts events for Fellows that are conducted in conjunction with broader State Bar activities (such as state-level CLE programs). These types of activities also provide opportunities for Fellows to interact with potential future nominees. For example, up-and-coming trust and estate lawyers may be invited to attend a state-level Fellows’ dinner or other event held either by itself or in connection with a State Bar meeting.

Florida Fellows took their statewide programs to another level in 2015 by developing the Florida Fellows Institute, an educational program for up-and-coming trust and estate lawyers that became the model for ACTEC’s other Fellows Institutes. While the Florida Fellows Institute remains a stand-alone state program, the other Institutes are conducted throughout most of the country on a regional level. In the words of Bruce Stone (President, 2015–2016; Florida State Chair, 1998–2003), the initiative of Florida Fellows in this regard is an example of why “you want to encourage and set Fellows free to innovate.”³⁰

Regions, Region Chairs, and Regional Activities

ACTEC activities on a regional level have also developed substantially in the past 25 years. Although activities may have taken place at a regional level from nearly the beginning, assigning states to specific regions wasn’t formalized until 2004. According to the 2004–2005 edition of *ACTEC’s Membership Roster* (the “Blue Book”), page iv, “regional assignments are for the purpose of regional meetings.” It took more than a decade for the regions to settle on names and composition of states.³¹

As an example of the evolution of regions, for eight years, from 2004 to 2012, Louisiana and Texas were paired together as the Southwest Region. When it became apparent that Fellows from one state were not attending the annual event in the other state, Louisiana joined the Southern Region in 2012. Texas remained the only state in the Southwest Region for three years until 2015, when it became part of the Rocky Mountain Region and the Southwest Region was no more.

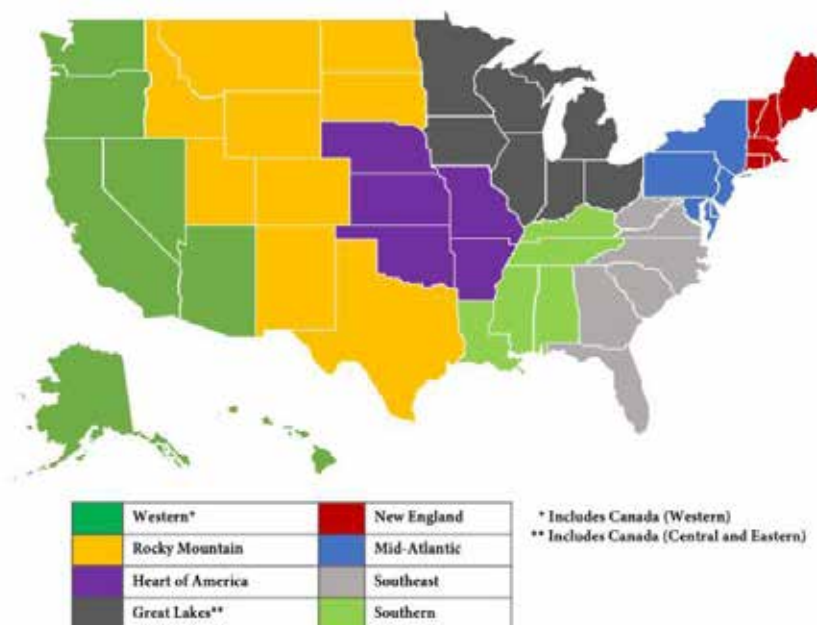
As of 2016, each state is part of one of eight regions. Although the regions have changed in name and composition over time, the regions and the states assigned to each (shown in the map below) are:

- (1) Western Region: Alaska, Arizona, California, Western Canada, Hawaii, Nevada, Oregon, Washington
- (2) Rocky Mountain Region: Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Texas, Utah, Wyoming
- (3) Heart of America Region: Arkansas, Kansas, Missouri, Nebraska, Oklahoma
- (4) Great Lakes Region: Central and Eastern Canada, Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Wisconsin
- (5) New England Region: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island
- (6) Mid-Atlantic Region: Delaware, Maryland, New Jersey, Downstate New York, Upstate New York, Pennsylvania, and Washington, D.C.
- (7) Southeast Region: Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia
- (8) Southern Region: Alabama, Kentucky, Louisiana, Mississippi, Tennessee.

Canadian Fellows are the only International Fellows who are members of states and regions.

³⁰ Fellows Institutes are discussed in detail in the following Chapter 4, “[Fellows Institutes](#),” in this History.

³¹ Initially, there were nine regions — the Western, Rocky Mountain, Five State, Southwest, Big Ten, New England, Mid-Atlantic, Southeast, and Southern Regions.



A typical regional meeting includes several hours of professional programs for the Fellows in attendance, normally qualifying for CLE credit. Regions tend to identify and advance presenters who are relatively new to ACTEC and may not have had the experience of presenting at a national meeting. In addition, programs at regional meetings often address new and “hot” topics and those topics often lead to programs at national meetings.

The level of participation of Fellows of any one state in the activities of its region varies widely. As an example, larger states like Florida and Texas had a long history of the state chair organizing a seminar and dinner (in Florida) or a stand-alone dinner (in Texas) tied to another event like an annual CLE course or State Bar meeting. Those traditions continue. In Florida, as Bruce Stone (President, 2015–2016; Florida State Chair, 1998–2003) noted, there is a long history of an annual meeting of Florida Fellows. As Al Golden (Texas State Chair, 1989–1994) shared, the feeling of Texas Fellows was that they had one of the best CLE programs in the country, so there was no need to be part of a region to bring Texas Fellows together. Plus, Al noted that with three national meetings and all of the offerings of Texas CLE,³² there just isn’t enough time to travel to a regional meeting.

State Chairs Steering Committee

The president-elect appoints a state chair within each region to serve as the region chair, who then serves on the State Chairs Steering Committee (SCS Committee). A region chair typically serves for three one-year terms.

The SCS Committee consists of the region chairs and a committee chair, who is appointed by the president-elect, but the committee has not existed as long as there have been state chairs. David F. Edwards (Louisiana State Chair, 1999–2004) recalls the SCS Committee being formed the last year he served as the Louisiana State Chair. The committee “oversees the State Chair organization, facilitates communication between the State Chair organization and the Board of Regents and the Executive Committee, and assists State Chairs in fulfilling their duties by identifying and promoting best practices.”³³ The SCS Committee meets at

32 In Texas, the State Bar sponsors at least seven annual CLE programs in the T&E area. Law schools such as The University of Texas School of Law and the Texas Tech University School of Law sponsor additional programs.

33 [Policies, Practices and Procedures Manual](#), Section 4.2(b)9.

or prior to each ACTEC national meeting and sets the agenda for the state chairs/chairs-elect meeting at the national annual and fall meetings, which usually occurs just before the Board of Regents meeting. The SCS Committee also organizes and conducts the orientation program for new state chairs and state chairs-elect (those who are notified of their appointment the year before their tenure as state chair begins).

The state chairs meetings are attended by all state chairs (and state chairs-elect, if then designated). The meetings serve as an important conduit for information in two directions. First, the chair of the SCS Committee and the state chairs share information and activities among all state chairs (and with ACTEC's Executive Committee and staff). This sharing of information enables other state chairs to gain ideas and learn methods for handling their role, such as how to develop a pipeline of potential nominees, ideas for outreach to law schools, and ways to communicate and engage Fellows in their states. Second, the Executive Committee, staff, and administrative committee chairs share information on numerous activities and initiatives within ACTEC, so state chairs can communicate that information to Fellows within their states. In addition, at each of these meetings, there are regional break-out sessions that involve, among other things, planning for upcoming regional meetings. Some of those sessions involve significant initiatives, such as the recent development of Fellows Institutes within most of the regions.

National Office Involvement and Improved State and Regional Experiences

Being part of a region takes advantage of the ties among the states to promote cooperation and educational opportunities through regional meetings. Each region organizes and hosts a "regional meeting" at a location within the region, annually or at other intervals. Some regions choose to conduct their regional meeting in the same city each year. Other regions rotate their regional meetings such that each state in the region has the opportunity to host a meeting within that state. Regional meetings — typically a weekend program that features both educational programming and social events — provide another opportunity for Fellows to participate in ACTEC activities.

Meanwhile, the structure of state and regional operations has developed from the informal arrangements of the past to a far more professionally managed operation. For example, in the early 2000s, many state-level events were conducted on an impromptu basis. Frequently, the state chair would advance funds to pay for a state-level dinner or event and then would "pass the hat" to collect payment from Fellows who attended the event.

Similarly, early regional meetings (which first began to occur in the mid-1990s, but developed into regularly recurring events in the early 2000s) were often planned by the state or region chair, who would be involved in every aspect from negotiating and signing hotel contracts to arranging entertainment to organizing a CLE program. The national office had minimal involvement.

Section 18.5 of the January 1994 edition and Section 6.5 of the January 2007 edition of the ACTEC Policies, Practices and Procedures Manual specifically provided that "[t]he College endorses and encourages state and regional meetings on a regular basis. However, the College is not able to provide financial support ... or any financial guarantees relating to those meetings." The manual went on to provide that ACTEC would give "logistical assistance" for those meetings and assistance with negotiating contracts by telephone, but staff would not travel for purposes of a state or regional meeting. In addition, the manual stated that contracts should be signed by Fellows, but not on behalf of ACTEC. Also, a specific disclaimer was to be included in all contracts clarifying that ACTEC was not a party to the contract and had no liability, regardless of whether the name of ACTEC was included.

Therefore, state and region chairs were handling virtually all aspects of organizing and holding a state or regional meeting, including the planning, negotiating and signing of contracts, and handling all financial

aspects. The state or region chair became the meeting planner who was also liable for the costs of the event. Robert D. Borteck (New Jersey State Chair, 2000–2005) recalled organizing one of the early Mid-Atlantic Regional Meetings, held at the Seaview Golf Resort near Atlantic City. He noted that the state chair (with some assistance from Executor Director Gerhild A. “Gerry” Vogt in the national office) organized every aspect of the entire event: the planning, the contracting, the arrangement of sponsors, and even the payment mechanisms (often advancing funds for deposits and the like).

Some states and regions began to create a more formal structure for their events and implemented regularly scheduled activities, including involving local sponsors who would attend and provide financial sponsorship. While some states accumulated a small reserve, in other states with more frequent or regularly held activities the reserve funds began to accumulate such that they would permit more activities to be conducted and would serve as a buffer for the current state or region chair’s risk of personal financial responsibility for future meetings. Those funds were typically held “locally” (commonly in the state or region chair’s attorney trust or similar account) and were transferred from successor to successor.

Beginning in about 2009, the ACTEC national office became involved in the planning of the regional events and many state-level events, and, thankfully, state and region chairs were given a reprieve! The national office assumed responsibility for overseeing the budget for each meeting, assisting with site selection, negotiating contracts, etc. As an example, for regional meetings, ACTEC’s Meetings Director Virna Tavarez handles all aspects of the meeting planning after obtaining input from the region chair regarding potential sites and other considerations.

Meanwhile, between 2010 and 2015, all funds held by state and region chairs were transferred to the national office, where they are properly tracked and managed by the national office and ACTEC’s Financial Management Committee. After the national office had moved from California to Washington, D.C., in 2010, the auditor in Washington required the funds being held by state and region chairs to be transferred to ACTEC’s financial accounts because of the organizational structure of ACTEC and because these events are reported as an activity of ACTEC. Holding the funds by the national office allows for better accounting and planning, and each state’s and region’s reserve funds are separately reported. ACTEC’s Financial Management Committee has worked on policies and practices for reserve funds and encourages the use of those funds by the respective state or region for things such as outreach and mentoring.

Over the past 25 years, the roles of states and regions within ACTEC have continued to evolve. In furtherance of the role of the State Chairs Steering Committee, a project of the committee was to develop and publish a *State Chairs Manual*, which is published on ACTEC’s website. The manual provides an invaluable resource to state chairs regarding the duties and responsibilities of a state chair, but also serves as a resource for all Fellows about the role of state chairs. The manual outlines not only the process for membership selection and identifying and mentoring potential Fellows, but also the organization of ACTEC in terms of regions, tips and tricks for planning a regional meeting, and ideas for using state meetings, study groups, and regular list service communications within a state as ways to have strong state organizations.

Although details about planning and organizing state and regional meetings are part of the State Chairs Manual, budgeting for, planning for, and assisting with state and regional meetings and events is coordinated through the national office. ACTEC staff has helped foster attendance by regularly sending meeting announcement emails providing details about upcoming meetings across ACTEC. In addition, list services provide a way for Fellows in states and regions to communicate with each other, and state and region chairs use the list services to update and stay connected with Fellows in those areas.

State Chairs Being Prepared to Become National Officers

States and regions serve not only as incubators for national programs and ideas, but also as training grounds for all levels of ACTEC leadership. A typical regional meeting includes several hours of professional programs for the Fellows in attendance, normally qualifying for CLE credit. Unlike most programs at national meetings, Regions tend to identify and advance presenters who are relatively newer to ACTEC and may not have had the experience of presenting at a national meeting. Of equal importance is that programs at regional meetings often address new and “hot” topics and those topics often lead to programs at national meetings. As an example, the following is a list of the 14 former state chairs who have served or been nominated as an officer over the 25 years from 1999 through 2023:

Hanson S. Reynolds, Massachusetts State Chair 1989–1993 and President 1999–2000

Daniel H. Markstein, III, Alabama State Chair 1994–1998 and President 2007–2008

W. Bjarne Johnson, Montana State Chair 1996–2001 and President 2008–2009

Karen M. Moore, Ohio State Chair 2000–2005 and President 2010–2011

Kathleen R. Sherby, Missouri State Chair 2002–2007 and President 2014–2015

Bruce Stone, Florida State Chair 1998–2003 and President 2015–2016

Susan T. House, California State Chair 1996–2001 and President 2017–2018

John A. Terrill, II, Pennsylvania State Chair 2012–2015 and President 2019–2020

Robert W. Goldman, Florida State Chair 2008–2013 and President 2022–2023

Kurt A. Sommer, New Mexico State Chair 2011–2016 and President 2023–2024

Susan D. Snyder, Illinois State Chair 2013–2018 and President 2024–2025

Peter S. Gordon, Delaware State Chair 1997–2002 and Vice President 2023–2024

Melissa J. Willms, Texas State Chair 2020–2022 and Secretary 2023–2024

Elaine M. Bucher, Florida State Chair 2013–2018 and nominated as Secretary 2024–2025

CHAPTER 4: FELLOWS INSTITUTES

Contributors: Elaine M. Bucher³⁴ and Robert K. Kirkland

History

In July 2013, Laird A. Lile (who was then the immediate past Florida State Chair for ACTEC) and Elaine M. Bucher (who was then the Florida State Chair) had a telephone call to discuss how to foster interest among associate-level trust and estate lawyers in getting involved with bar-related activities, lectures, and publications. As law firms focused more and more on billable hours, it had become more difficult for associates to find the time or interest in taking on non-billable work related to the trust and estate field. As a result, after ten years of practice in the trust and estate field (the point at which a lawyer could first be nominated for ACTEC), many lawyers had little or no experience to help make them “ACTEC ready.”

During the call, Laird and Elaine came up with the idea of a program focused on trust and estate associate-level lawyers. This program could provide stellar CLE, but that would not be sufficient to create enthusiasm among lawyers in involving themselves with trust and estate related activities. There had to be a hook. They decided that the hook could be a program that exposed lawyers at an early stage of their careers to the many benefits ACTEC had to offer — education, collegiality, and involvement with the best and brightest in the trust and estate field. The program could be an “institute” or “university” of sorts — Fellows could be asked to identify potential class members, Fellows would be called upon to provide those class members with ACTEC-level presentations, the program would be structured in a way that the class members were encouraged to spend time with and learn from one another and develop long-standing professional relationships, and there would be significant interaction among class members and Fellows.

In October 2013, at the Florida annual meeting, Elaine met with Duncan E. Osborne (who was then ACTEC’s president) and Bruce Stone (a Florida Fellow who was then ACTEC’s vice-president) to present the idea of a Florida Fellows Institute (FFI).³⁵ Duncan and Bruce were extremely supportive and took the idea back to ACTEC’s Executive Committee, and then to the Board of Regents, both of which were also supportive.

The Executive Committee and Board of Regents did express one significant concern — they wanted to ensure that lawyers understood that graduation from the FFI did not mean admittance into ACTEC. It was agreed upon by all involved that the FFI leadership would, every step of the way, ensure that class members understood that the FFI was meant to expose lawyers to ACTEC, but did not, in any way, guarantee admittance. The Board of Regents voted at the 2015 Annual Meeting to support the creation of the FFI.

Laird and Elaine immediately recruited two additional Florida Fellows, Jerome L. Wolf (who in 2024 is the Florida State Chair) and Deborah I. Russell, to assist in getting the FFI off the ground. They also engaged a marketing firm, Gravina, Smith, Matte & Arnold, to help with a logo, website, and overall organization of the initial Institute. The FFI was formed as a Delaware limited liability company, and monthly calls were held among Florida Leadership to make decisions regarding all FFI details. It was decided that the initial Institute would kick off in September 2015.

The inaugural class of the FFI had 33 members, 23 of whom graduated in May 2016. The other ten graduated with subsequent classes. Florida Fellows, class members, and sponsors raved about the FFI.

ACTEC leadership was ecstatic about the FFI’s success. The FFI leadership was asked to create a handbook to be used as a model so that other regions could develop similar Institutes. The handbook was completed at the end of 2016 and circulated to ACTEC leadership, including all state chairs, at the 2017 Annual Meeting.

³⁴ Nominated to be Secretary, 2024–2025.

³⁵ The initial proposed name was “FLACTEC U,” but it was later decided to change the name to Florida Fellows Institute.

Missouri Fellow Robert K. Kirkland was invited to be a presenter for Class II of the Florida Fellows Institute in the Fall of 2016. He was thoroughly impressed by the entire FFI package, and wanted to replicate it in his geographical area. Realizing that the state of Missouri did not have the trust and estate lawyer population to make such an Institute successful, he approached the five state chairs in the ACTEC Heart of America Region about hosting a regional Institute. The Heart of America Region invited the state of Iowa to join in, and the regional Institute concept was born as the Heart of America Fellows Institute (HOAFI) under the leadership of Bob Kirkland, joined by Past Presidents Cynda C. Ottaway and Kathleen R. Sherby. After presentation to and approval by the ACTEC Board of Regents, the inaugural HOAFI class began with 30 class members in November 2018 in Kansas City.

Building on the success of the FFI and HOAFI, additional regions formed Institutes: the Mid-Atlantic Fellows Institute (MAFI) started in 2019, and the New England Fellows Institute (NEFI) and Southeast Fellows Institute (SEFI) both started in 2022. Furthermore, as of the date of publication, two additional regions, Rocky Mountain and Great Lakes, are forming Institutes with plans to begin in 2024.

Leadership Structure

The Institutes are created by the state chairs of the region (or, in the case of Florida, by the state chair and his or her delegates). The structure for leadership has taken on an academic feel, typically led by three “chancellors,” who provide overall direction and organization for that particular Institute. Next, there are three “deans,” who provide leadership in forming the educational programs, curriculum, and speakers. The chancellors and deans are sometimes assisted on “game day” by “program chairs,” typically one for each day of the Institute, who act as program managers on their assigned day. The leadership team of chancellors and deans is rounded out by a senior advisory committee, consisting of selected Fellows in that state or region who bring ACTEC institutional experience, wisdom, and support to the overall effort.

Nomination of Class Members

Approximately eight to nine months prior to the scheduled first session of the next Institute class, the leadership team will send out a solicitation to ACTEC Fellows for nominations of candidates for that class. Although there may be exceptions, the pool of candidates typically consists of younger lawyers who have three to eight years of experience and who have committed to a concentration of practice in the trust and estate field (as defined in ACTEC parlance). The leadership team encourages ACTEC Fellows not only to nominate lawyers within their firms, but also to think “outside the box” and identify potential candidates who may not otherwise be exposed to ACTEC. Diversity in nominations — whether it be geographic, gender, race, or otherwise — is encouraged. Fellows in each state or region may submit as many nominations of potential class members as they wish. Unlike the nomination of persons to be elected as ACTEC Fellows, Fellows may nominate lawyers in their own firms to be class members in an Institute.

Once the Institute receives a nomination, the leadership team notifies the candidate of his or her nomination, and invites him or her to submit an application for acceptance as a class member in the Institute. The application form is developed by the Institute leadership team, and is not as detailed as an ACTEC Fellow nomination form. This nomination/application process typically remains open for at least 60 days.

Once the deadline for submission of applications has passed, the leadership team meets to decide whom to admit as class members in the next Institute class. Although each state or region has its own norms, the class is typically made up of 30 to 35 class members.

Budget

Before the selection of venues and faculty, it is important for each Institute to develop a budget. The revenue side is fairly easy to project, as the primary sources are participant tuition and sponsorships. From there, the expenses of venue space and out-of-town speakers can be managed. In order to encourage law firms to pay the tuition for their lawyers to participate, there has been a focus on selecting venues that are nice and professional, but not ultra-luxurious. The event planners have been extremely helpful in this process, with several templates from across the multiple Institutes at their disposal.

Format

The typical format of the Institutes is three separate two-day sessions through the year (although the Rocky Mountain Fellows Institute is planning to have two three-day sessions). For instance, Session I could be held on two consecutive days in September/October, Session II could be held on two consecutive days in January/February, and Session III could be held on two consecutive days in April/May. Each day consists of approximately seven to eight hours of CLE. A cocktail hour is held after the end of the first day of Sessions I and II, and a graduation dinner is held after the end of the first day of Session III, as discussed in detail below.

In selecting the Institute dates, care is given to all potential conflicts, including holidays and meetings of ACTEC, the ABA Real Property, Trust and Estate Law Section, the ABA Tax Section, and state and local bar meetings. In general, different geographic locations are selected for each meeting so that the various states (or in the case of Florida, cities) are included, making it easier for class members, as well as Fellows, from all over the region or state to participate.³⁶

One of the motivations behind the Institute format was to encourage class members to get to know one another and develop collegial relationships. A second motivation was to expose class members to ACTEC and to get to know ACTEC Fellows. By holding three separate two-day sessions, class members spend significant amounts of time together, socializing at lunch and in the evening with one another and ACTEC Fellows in attendance. They begin to form professional relationships and friendships, just as Fellows do at state, regional, and national meetings.

Curriculum

The Institute curriculum is developed with the thought that the class members will be at the intermediate level. Some of the class members are estate planners, while others are fiduciary litigators, and the topics are selected with this in mind in order to best educate and interest all of the class members. The curriculum contains diverse topics and varies among Institutes; some presentations are based on federal law, while some are specific to the law of the state or region. All Institutes have a heavy focus on providing materials that are not just academic but can be used regularly in practice.

By way of example, the presentations at the Institutes have included the following: The Use of Trusts; Marital Deduction Planning; International Estate Planning; Planning for Retirement Assets; Elder Law; Discovery and Expert Witnesses; Representing the Individual Trustee; Trust Modifications and Decanting; Will and Trust Contests; Fiduciary Liability; Drafting to Avoid Litigation; Asset Protection; Generation-Skipping Transfer Tax; Tax Court Procedures; and Challenges and Opportunities Facing the Trust and Estate Practice.

Class members are asked to complete a survey at the end of each session in order to provide feedback on each presentation. Such feedback is taken into account when planning future Institute curricula.

³⁶ An exception is the New England Fellows Institute, which holds all its classes in the Boston area.

Faculty

Institute faculty consists primarily of ACTEC Fellows. The objective is to provide Institute class members with the high-quality presentations which ACTEC Fellows have traditionally enjoyed.

For most Institutes, the core of the Institute faculty comes from the state or region that is hosting the Institute. Most of the Institutes, however, have selectively recruited national speakers from within ACTEC, subject to budget constraints. Fellows have been incredibly generous with their time, often offering to speak at multiple Institutes and/or lend their written materials to others to use for presentations.

Sponsorships

The involvement of third-party sponsors is integral to the success of the Institutes. Indeed, a variety of sponsors have developed a healthy appetite for the unique format of the Institutes. Sponsors appreciate the combination of the “run-of-the-house” access to all class members and to the ACTEC Fellows in attendance. The number of class members makes for great one-on-one access for the sponsor representatives.

Each Institute handles sponsorship slightly differently. For instance, all sponsors of the Florida Fellows Institute pay the same sponsorship fee and select one day to sponsor. The sponsorship fee allows two to four sponsor representatives to attend that day’s presentations, as well as the cocktail hour that evening (or, if the sponsor is sponsoring the second day of the session, the representatives can attend the cocktail hour the evening before). For most of the other Institutes, each sponsor pays the same sponsorship fee and is typically allowed to have two to four sponsor representatives attend all Institute activities for the session they sponsor. For all of the Institutes, a sponsor representative may say a few words at lunch during that sponsor’s day in order to ensure that the class members and Fellows in attendance know who the sponsors are and what services they provide.

The Institutes have proven to be attractive to those companies which have long sponsored national and regional ACTEC meetings. Additionally, there are multiple examples of sponsoring companies who are first-time ACTEC sponsors, “dipping their toe” in the ACTEC waters by sponsoring an Institute. Indeed, many such first-time sponsors have become sponsors of regional and national ACTEC activities.

Fellow Involvement

As discussed above, ACTEC Fellows make up most of the Institute faculty. In addition, ACTEC Fellows are invited to attend Institute presentations, lunches, cocktail hours, and graduation. All Fellows, and especially Fellows who are local to the session, are encouraged to attend and get to know the class members and the sponsors.

Graduation

The Institute keeps rigorous attendance records at each session. Each class member is required to attend each CLE presentation throughout all sessions of each Institute Class in order to graduate from the Institute. If a class member misses some of the class time, they may make it up by attending the next Institute class, and then graduate with that subsequent class.

On at least one occasion, two class members began in one Institute, were not able to finish as scheduled, and were allowed to finish in another region’s Institute, giving further testimony to the collegiality that is an objective of the Institutes.

Each Institute elaborately celebrates the graduation at the third and final session of each Institute class. On the middle night of the third session, the celebration begins with a sit-down dinner. ACTEC Fellows

from the state or region are encouraged to attend the dinner, and a national ACTEC officer will travel to attend the dinner and give a congratulatory speech. Typically, the graduating class will select one or more members to give a speech on behalf of the class.

After the conclusion of the CLE on the final day of the third session, graduates are called up one-by-one to receive their graduation certificates, which have been signed by each of the chancellors and deans. After all of the graduates have received their certificates, a group picture is taken. Graduates are also provided a sample press release for use by them and/or their firm.

Post-Graduation Mentorship

The Institutes focus on identifying graduates as potential ACTEC candidates and mentoring them accordingly. The goal is for each Institute graduate to have one or more Fellows outside of their firm to be available for general practice questions, as well as ongoing ACTEC eligibility questions.

At least one of the Institutes has assigned an ACTEC Fellow from that region to be an ongoing mentor for each Institute graduate. Another Institute has identified specific graduates who could soon be eligible for ACTEC and has assigned mentors to those graduates. In addition, graduates are invited to attend future Institute cocktail receptions and graduation dinners.

There have been 23 Institute graduates elected to ACTEC as of the end of 2023.

CHAPTER 5: COMMITTEES

Contributors: Peter T. Mott, Cynda C. Ottaway,³⁷ and Bruce Stone³⁸

Background

The work of the committees of ACTEC is known as the life blood of ACTEC. At the time of this update (2024), there are 16 substantive committees, 17 administrative committees, and five task forces. Seventeen of those 38 committees and task forces have been formed since the [1999 History](#). The sizes of the committees range from four to about 150 members. A Fellow may serve on only two substantive committees or task forces, except that the Artificial Intelligence Task Force, Family Law Task Force, FATF Task Force, and Legal Education Committee are not subject to the two-committee limitation.

When the ACTEC office moved to Washington, D.C., in 2010, additional staff members were hired specifically to support the work of substantive committees. This included presenting timelines and deadlines for agendas and materials, assisting in the distribution of materials by posting or making committee information available on the website, and sending materials (or access to materials) to each committee member. Administrative committees also have specific staff representatives assigned to assist the chair in planning agendas and in meeting with other administrative committees to efficiently accomplish the business of ACTEC.

Historically, ACTEC offered significant reimbursements to committee members for the expenses in attending a national meeting. After considerable study and discussion including a survey of committee members, the Board of Regents in 2003 voted 19 to 14 to eliminate those reimbursements. But at the same meeting, by a vote of 24 to 8, the Board approved a motion for reconsideration that maintained committee members' reimbursements, limited to \$250. Then, in 2016, under the leadership of Bruce Stone while serving on the Executive Committee, the Board voted to eliminate altogether the reimbursement of committee members for travel to meetings, except for partial reimbursement for Academic Fellows.

Committees meet at each national meeting, and it is not uncommon for committee members to continue their work between meetings. If a committee has served its purpose, it may be dissolved. To date, the only known committee to have been dissolved was the Environmental Law Committee, whose work was transferred back to the Practice Committee following the passage of federal environmental legislation known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Each year, the president-elect makes committee appointments after taking into account the requests from each Fellow and criteria such as attendance and participation. Committee chairs, appointed by the president elect, generally serve for three years. In 2011–2012, President Louis A. Mezzullo streamlined the committee appointment process to provide generally for each member to retain their respective committee membership, subject to applicable attendance and participation requirements, without submitting a request to continue on the committee. In addition, the practice of naming a vice chair to succeed the chair was instituted on a formal basis, so that each committee will have a vice chair to provide continuity in the transition of leadership.

Task forces normally serve to fulfill a defined purpose and then sunset. Occasionally a task force will remain in place or evolve to become a substantive committee. Some notable task forces are the ACTEC/NCPJ [National College of Probate Judges] Task Force, FATF [Financial Action Task Force] Task Force, Digital Property Task Force (which transitioned to a committee), Artificial Intelligence Task Force, Family Law Task Force, and Fiduciary Administration Task Force (which is converting to a committee for the 2024 ACTEC year). Other task forces that served their purpose and were phased out are the Demographic Task Force

37 President, 2016–2017.

38 President, 2015–2016.

(1994–1997), Strategic Planning Task Force (2004–2007), Circular 230 Task Force (2005–2012), and Estate Planning in the Twenty-First Century Task Force (2009–2012).

Substantive Committees

The **Asset Protection Committee** (with 73 members in 2023) was formed in 2006. It addresses all procedural and substantive aspects of asset protection planning, both before and after a liability event occurs, taking into account such issues as tax law consequences, professional ethical rules, differences in state laws, fraudulent or voidable transfer and conversion statutes and case law, conflict of law issues, relevant provisions of the federal bankruptcy laws, and various planning options available depending upon the timing of an engagement. The committee and its members review and discuss revisions to state and federal laws and case law developments and consider how such changes may warrant revisions to existing documents and may affect future planning for both tax reduction and asset protection objectives. In addition, the committee and its members examine asset protection issues related to the use of various entities, such as trusts, limited liability companies, partnerships, and corporations, including state law changes affecting the use of such entities for asset protection purposes.

The **Business Planning Committee** (with 115 members in 2023) considers planning approaches and techniques under current law with emphasis on income and transfer tax considerations faced by taxpayers whose major assets are interests in operating businesses. Topics of interest include taxation of business entities, valuation, succession planning, liquidity, life insurance, family relationship and governance issues, and fiduciary issues regarding business interests in trust.

The **Charitable Planning and Exempt Organizations Committee** (with 75 members in 2023) considers all aspects of charitable planning and charitable giving, including charitable remainder and lead trusts, charitable gift annuities, donor advised funds, conservation easements, income tax charitable deduction rules, and substantiation of charitable gifts. The committee also reviews and discusses tax and other issues affecting charitable organizations, including private foundations and public charities, endowment matters, and similar issues.

The **Digital Property Committee** (with 46 members in 2023) was formed as a task force in 2013 and converted to a committee in 2017. It considers estate planning approaches and techniques for digital property. The committee also considers and supports state and federal legislative efforts to provide clear powers and authority for fiduciary access to digital property. Digital property includes a person's virtual currency, electronically stored information, online accounts, computing devices, internet domain names, and intellectual property rights in the digital world.

The **Elder Law Committee** (with 60 members in 2023) reviews and discusses a variety of issues Fellows and their clients must address as they age, including the latest developments in planning and paying for long-term care, government benefit programs, senior housing issues, elder abuse, undue influence and lack of capacity, planning for incapacity, guardianship, health care decision making, end-of-life decisions, and associated ethical issues. It also considers special needs planning and veterans' benefits.

The **Employee Benefits Committee** (with 46 members in 2023) focuses on the issues that can arise in estate planning and in post-death administration when IRAs, retirement plans, or other employee benefits (such as deferred compensation, stock options, etc.) are involved. These issues can arise with individual IRA or retirement plan participants, when doing estate planning for corporate executives, or when assisting clients with structuring compensation and benefits in their closely-held entities. The committee monitors current tax, benefits, and state law developments that pertain to these issues. The committee is very active in working with the Washington Affairs Committee in generating comments on regulatory or legislative actions or proposals related to employee/retirement benefits. The committee also serves as a liaison between ACTEC and the American College of Employee Benefits Counsel (ACEBC).³⁹ Many of ACTEC's fiduciary

³⁹ This is discussed in detail in Chapter 10, "Coordination with Peer Organizations," in this History.

counsel Fellows bring a valuable perspective to the committee because of their experience administering trusts and IRAs.

The **Estate and Gift Tax Committee** (with 99 members in 2023) monitors tax developments in the transfer tax area and has been active in responding to Treasury and congressional proposals and the filing of amicus briefs in appropriate cases dealing with significant tax, trust, or estate issues.

The **Fiduciary Income Tax Committee** (with 66 members in 2023) focuses on the latest developments, advanced planning techniques, and basic concepts related to fiduciary income taxes. The committee has seven subcommittees that provide an opportunity for members to be actively involved in developing programming for and making presentations at each meeting: Subchapter J (including recent developments and list service monitoring); Grantor Trusts; S Corporations; Charitable Trusts; State Income Tax; IRD/Employee Benefits; and Foreign Trusts. Through interactive presentations by the committee members and other guest speakers, the committee discusses current developments in the law, educates its members and visitors on fiduciary income tax planning techniques, and provides an open forum for discussion of practice tips and drafting advice.

The **Fiduciary Litigation Committee** (with 143 members in 2023) focuses on will and trust contests; guardianship disputes; fiduciary responsibility issues; attorney and fiduciary compensation; construction, modification, and reformation of wills and trusts; creditor and other third-party litigation; evidentiary issues in estate, trust, and guardianship litigation; choice of law; fiduciary liability, including surcharge and damages remedies; issues related to malpractice and ethics; tax litigation and controversies; and the ever-evolving issues related to electronic discovery.

The **International Estate Planning Committee** (with 86 members in 2023) focuses on developments in planning, administration, and litigation related to individuals who have (or plan to have) multinational/cross-border families, assets, and/or entities. Topics include income, inheritance and transfer taxation, probate and succession, treaties, marital agreements, property regimes, reporting and compliance, preimmigration planning, expatriation, asset protection, the use and administration of trusts and other structures and entities, and litigation and other dispute resolution processes. Members include domestic and international Fellows who share their insights and experience from multiple jurisdictions.

The **Legal Education Committee** (with 72 members in 2023) focuses on the quality and relevance of trust and estate courses offered in law schools, strategies for incorporating skills training into courses, ideas for mentoring new lawyers in estate planning, the role of adjunct professors, and trust and estate-related scholarship, case law, statutory law, and current developments. Given its focus, a majority of the members of this committee are Academic Fellows. The committee also oversees the Mary Moers Wenig Student Writing Competition and organizes an every-other-year academic symposium on a topic related to estate planning.

The **Practice Committee** (with 68 members in 2023) strives to assist Fellows with their law practices and lives, both qualitatively and quantitatively. The committee has six active subcommittees widely ranging in focus: Quality of Life; Wealth Strategist and Fiduciary Counsel; Fiduciary Matters; Legacy and Generational Planning; Special Projects; and Practice Management and Development. Subcommittee projects, which are the focus of the committee, include developing state law surveys used throughout ACTEC, providing retirement planning considerations for Fellows, and creating checklists and guides for lawyers and their fiduciary and estate planning clients. The committee holds group roundtable discussions at each meeting on topics and trends affecting the practices of Fellows. In a world of working from home, the committee's recent focus has been on technology tips and best practices to maintain both law practices and physical and mental health during challenging times.

The **Professional Responsibility Committee** (with 44 members in 2023) encourages timely and collegial discussions and arranges presentations addressing current ethical and professional responsibility issues faced by trust and estate lawyers. Every few years studies conducted by the committee culminate in the com-

position and publication of new editions of *The ACTEC Commentaries on the Model Rules of Professional Conduct* and *ACTEC Engagement Letters: A Guide for Practitioners*. These publications are highly regarded and widely used by law students, private practitioners, and judges across the country.

The **State Laws Committee** (with 38 members in 2023) focuses on estate planning and administration topics governed by state law. Special attention is given to the development and implementation of uniform laws related to trust and estate law. Current areas of study include the development of electronic wills and trusts, spousal and other beneficiary rights, end-of-life law, evolving definitions of family and wealth transmission, fiduciary accounting and investment standards, and state taxes. Committee members regularly share legislative and case law updates from their respective states. The committee also partners with the Communications Committee in creating and maintaining the ACTEC State Surveys.

The **Tax Policy Study Committee** (with 38 members in 2023), known before 2019 as the Transfer Tax Study Committee, asks not what the law *is*, but what it *should be*. The committee studies the tax laws concerning gifts, bequests, and generation-skipping transfers, and income taxation of trusts and estates and identifies problems and issues in the laws that should be addressed by legislation or regulation. Through active subcommittees, it develops proposed solutions to these problems and issues, and prepares reports on changes in the law that would improve the tax system.

The **Technology in the Practice Committee** (with 43 members in 2023) addresses the many ways Fellows can use technology to make their practices more efficient and enjoyable, including reviews and demonstrations of hardware, software, apps, and processes. The committee also explores the challenges that arise as a result of the increased use of technology, including security and client confidentiality issues. Ongoing committee projects include reviews of software and programs useful to Fellows and a recurring presentation on “Technology Tips and Tricks on How I Keep Organized.”

Substantive Task Forces

The **Artificial Intelligence Task Force** (with 28 members in 2023) was formed in 2018. It is examining the impact artificial intelligence is expected to have on the T&E practice and is working to collect helpful resources that will assist Fellows to keep abreast of available tools that will benefit their clients and respective practice areas.

The **Family Law Task Force** (with 67 members in 2023) was formed in 2019. It focuses on the many ways that family law and domestic relations intersect with trust and estate law. In addition, this task force works with its counterpart at the American Academy of Matrimonial Lawyers (AAML) to share best practices and improve both communication and coordination of their related fields.⁴⁰

The **FATF Task Force** (with 35 members in 2023) was formed in 2007 to join forces with the American Bar Association (ABA) and other professional groups in cooperating with the inter-governmental Financial Action Task Force (FATF) that sets international standards to prevent money laundering and terrorist financing. The purpose of the task force is to work toward implementation of the FATF global standards while ensuring the protection of attorney-client privilege and confidentiality rules as they apply in the United States. Members of the task force regularly meet with representatives of the U.S. Department of the Treasury and attend FATF sessions worldwide, presenting input by ACTEC on compliance efforts and initiatives in the United States and how they may impact the attorney-client relationship, particularly with regard to customer due diligence (CDD), transparency, and beneficial ownership.

Members of the task force also educate lawyers, both within and outside of ACTEC, on issues concerning anti-money laundering (AML) and combatting terrorist financing (CTF) and best practices to assist them in complying with varying worldwide and U.S. AML/CTF responsibilities and, more recently, on how best to comply with the Corporate Transparency Act (CTA) and assist clients with CTA beneficial owner reporting.

40 This is also discussed in detail in Chapter 10, “[Coordination with Peer Organizations](#),” in this History.

Task Force members are frequent speakers at local, state, regional, national, and international programs addressing these topics.

In 2013, the task force addressed the FATF effort to impose certain obligations on U.S. nonprofit organizations (NPOs), particularly private foundations, to combat the perceived threat that NPOs are involved in terrorist financing. In 2015, in conjunction with the ABA, the Task Force assisted the Department of the Treasury with its preparations for the FATF Mutual Evaluation of the United States the following year. The Task Force has continued to work with the Department of the Treasury since 2017 in connection with proposed legislation and regulations to require disclosure of beneficial ownership of entities such as corporations and LLCs. This work has included the preparation of comments submitted by ACTEC to FinCEN in 2021 regarding an advance notice of proposed rulemaking on the CTA and again in 2022 regarding a notice of proposed rulemaking on the proposed regulations for the CTA and an advance notice of proposed rulemaking on Bank Secrecy Act provisions for persons involved in non-financed real estate transactions.

At ACTEC meetings, the members of the task force discuss and analyze the implementation of U.S. legislation, such as the CTA, and its impact on T&E practice. International Fellows also provide their experience in the areas of AML, CDD, beneficial owner reporting, and attorney responsibilities.

The **Fiduciary Administration Task Force** was formed in 2023 (with 94 members in 2023). It focuses on the procedures, discretionary decision-making, fiduciary duties, and fiduciary risks associated with the administration of trusts and estates. The task force addresses issues that are relevant to Fellows who serve as trustee or executor, work for corporate fiduciaries, or represent and advise fiduciaries on matters involving trust and estate administration and fiduciary risks. At the meetings, Fellows present on an issue or hot topic relevant to fiduciary administration, or present a case, statute, or legal development, and then lead a discussion so Fellows in attendance can share their knowledge and experience on those issues. The Fiduciary Administration Task Force will become a standing committee of ACTEC at the conclusion of the 2024 Annual Meeting.

Administrative Committees, Task Forces, and Boards

The **Academic Membership Committee** (with 16 members in 2023), which began as the Academic Fellow Nominees Task Force in 2010, is advisory in nature. The president-elect, after consultation with the Academic Fellow who is chair or co-chair of the Legal Education Committee, appoints the members of the Academic Membership Committee, to serve a one-year term; members may be reappointed. The Academic Fellow who is chair or co-chair of the Legal Education Committee serves as chair of the Academic Membership Committee. The Academic Membership Committee promotes the nomination of the best qualified eligible persons for election as Academic Fellows.⁴¹

The **Amicus Review Committee** (with eight members in 2023) was formed in 2015. Its members are appointed by the president-elect to serve a term of one year. The chair of the Fiduciary Litigation Committee serves as a member of the committee. The committee oversees and implements the policies and procedures adopted by ACTEC regarding the submission of amicus curiae briefs. Requests for an amicus brief are directed to the chair of the committee, who reviews the request with the committee and makes a report to the Executive Committee. The Executive Committee decides what action should be taken.⁴²

The **Audit Committee** was formed in 2008. It consists of four Fellows, the vice president and three other members who are not members of the Executive Committee or the Financial Management Committee, who are nominated by the Executive Committee and elected by the Board of Regents at an annual meeting. Elected members serve staggered three-year terms, not to exceed four consecutive terms. The chair is nominated by the Executive Committee and elected by the Board of Regents for a term not extending beyond the chair's term as a member of the Audit Committee. The Audit Committee keeps full records and accounts

⁴¹ ACTEC Bylaws, Article VII, Section 4.

⁴² See *Amicus Curiae Policy and Procedure*. This is discussed in detail in Chapter 8, "ACTEC and the Judicial Process," in this History.

of its proceedings and transactions. The committee (1) recommends to the Board of Regents the selection, retention, and termination of a qualified firm of certified public accountants to perform annual fiscal audits; (2) approves specifications of the annual fiscal audits; (3) reviews the audits and ensures that all observations and recommendations made in the audit are considered; and (4) reviews the implementation of and makes recommendations to improve the financial controls of ACTEC.⁴³

The **Board of Regents** is the governing body of ACTEC and has control of all affairs of ACTEC.⁴⁴ It consists of between 39 and 42 members, called Regents. Six Officer Regents serve as Regent for the term during which each holds office as president, president-elect, vice president, treasurer, or secretary, or is the immediate past president.⁴⁵ Eleven Regents are elected annually, to serve a term of three years or until a successor is elected and qualified. From one to three additional Executive Committee Regents serve as Regents for any period during which each is a member at large of the Executive Committee, but not an elected Regent.⁴⁶ An Elected Regent may serve for no more than two consecutive three-year terms. A Regent who has served two consecutive terms may again be elected after remaining out of office for one year.⁴⁷ The period of service of a Regent who is elected to fill a vacancy on the Board of Regents of less than 14 consecutive months does not constitute a term for this purpose.⁴⁸

Regents are expected to devote a reasonable amount of time annually to accomplish the duties of a Regent to further the work of ACTEC, which includes time spent attending meetings of the Board of Regents. Nominees to the Board of Regents are informed of this requirement before their acceptance of the nomination. Regents are expected to attend every scheduled meeting of the Board of Regents. The Board customarily meets twice a year (at the fall meeting and annual meeting), and the duties imposed on the Regents are of sufficient importance to the welfare of ACTEC to require full attendance.

The **Bylaws and Manuals Committee** (with 11 members in 2023), at the request of the president, Executive Committee, or Board of Regents, or upon its own initiative, reviews the ACTEC Bylaws and prepares or assists in the preparation of any submission to the Executive Committee for changes to the Bylaws. The committee is responsible for ensuring that the Bylaws and Articles of Incorporation are current and consistent with ACTEC's mission, policies, and organizational structure. All proposed alterations or amendments to the Bylaws or the Articles of Incorporation are referred to the committee for appropriate evaluation prior to obtaining the required approvals and submission to the Board of Regents for final approval. Pursuant to Article X, Section 4, of the Bylaws, a manual containing the current policies and procedures of ACTEC is maintained and published. The Bylaws and Manuals Committee regularly reviews the *Policies, Practices and Procedure Manual* and submits to the Executive Committee for approval by the Board of Regents any changes to the Manual required by revisions to the Bylaws, Articles of Incorporation, or practices or policies of ACTEC made by the Board of Regents, Executive Committee, or other ACTEC committee acting within the scope of its authority. The Bylaws and Manuals Committee also reviews manuals of other committees for consistency and compliance with ACTEC's governing documents.

The **Communications Committee** (with 34 members in 2023) was formed in 2009. It is responsible for complementing and enhancing ACTEC's efforts to develop and maintain its standing within the legal profession and the public at large. The committee oversees the ACTEC website and all print and electronic publications of ACTEC. In consultation with the national office, the committee carries out the policies of the Board of Regents and the Executive Committee with respect to the publication, production, management, and operation of ACTEC publications, public relations, media, social media, website, and list services. Fellows on the committee assume specific responsibilities with regard to college publications, media, website, and list services as assigned by the chair. The various functions for which the committee is responsible

43 [ACTEC Bylaws](#), Article VIII, Section 5.

44 *Id.*, Article IV, Section 1.

45 *Id.*, Section 2.

46 The nomination and election of Executive Committee members at large is discussed in the paragraph on the Executive Committee below.

47 [ACTEC Bylaws](#), Article IV, Section 3(b).

48 *Id.*, Section 3(a).

include the ACTEC website, the *ACTEC Law Journal*, state surveys, tax tables, ACTEC Estate Planning Essentials (videos), ACTEC Trust and Estate Talk (podcasts), and social media.⁴⁹

The **Diversity, Equity and Inclusivity (DEI) Committee** (with 31 members in 2023) was formed as a task force in 2012 and converted to a committee in 2013, with the word “Equity” added in 2019. Its mission is to develop strategies, recommendations, and a comprehensive plan to help ACTEC become a more diverse and inclusive College (consistent with ACTEC’s purposes as set forth in Article I of the ACTEC Bylaws). The committee seeks to create a stronger and better College through implementation of such strategies, recommendations, and a strategic plan, with the goal of promoting the full participation of groups historically underrepresented in ACTEC and in the trust and estate legal community. The committee works with ACTEC to encourage women, racial and ethnic minorities, lesbian, gay, bisexual, and transgender persons, and persons with special needs who are candidates for election to ACTEC to qualify for nomination and, if elected, to participate meaningfully in the activities of ACTEC. The committee also works to encourage the elimination of bias in ACTEC and to foster and maintain a welcoming and inclusive environment within ACTEC for all persons. At the request of the Executive Committee, the DEI Committee drafted a Code of Conduct for ACTEC, which was adopted in 2019, describing activities and behavior that support the intended welcoming and inclusive environment.⁵⁰

The **Executive Committee** consists of nine members of the Board of Regents, including the president, president-elect, vice president, treasurer, secretary, immediate past president, and three members at large elected by of the Board of Regents for staggered terms of three years. A member at large is not eligible for immediate reelection unless such reelection would result in an aggregate term of not more than four years.⁵¹ The president-elect shall nominate one member at large for a term of three years. Any vacancy is filled for the unexpired term by election by the Board of Regents after nomination by the person who is or will be the president when the vacancy occurs. The president is the chair of the Executive Committee, and the secretary is the secretary of the Executive Committee. The Executive Committee is the steering committee for the Board of Regents. Between meetings of the Board of Regents, the Executive Committee conducts the affairs of ACTEC, except that it may not (i) amend or repeal the Bylaws or adopt new Bylaws, (ii) fix dues, (iii) fill vacancies on the Board of Regents or the Executive Committee, (iv) create committees having the authority of the Board, (v) elect officers or members or adopt rules or regulations with respect to the election of officers or members, or (vi) approve any action that also requires the approval of the voting Fellows.⁵²

The **Financial Management Committee** was formed in 2008. It consists of the vice president, treasurer, secretary, and three other Fellows nominated by the Executive Committee and elected by the Board of Regents at an annual meeting. Elected members serve staggered three-year terms, not to exceed two consecutive terms. The Executive Committee appoints the chair. The Financial Management Committee monitors and provides reports and recommendations to the Executive Committee and the Board of Regents on all matters pertaining to the management of ACTEC’s financial affairs, including budget, risk management, fiscal policies, and investment policies, and it monitors the performance of ACTEC’s investment manager or managers and makes recommendations to the Board of Regents regarding their selection, retention, and termination.⁵³

The **International Membership Committee** (with 13 members in 2023) is advisory in nature. The president-elect, after consultation with the chair of the International Estate Planning Committee, appoints the members of the International Membership Committee to serve a one-year term; members may be reappointed. The mission of the International Membership Committee is to promote the nomination of the best qualified eligible persons for election as International Fellows.⁵⁴

49 This is discussed in detail in Chapter 9, “[Publications and Communications](#),” in this History.

50 The DEI Committee is discussed in more detail in Chapter 11, “[Diversity, Equity and Inclusivity](#),” in this History.

51 [ACTEC Bylaws](#), Article VIII, Section 1.

52 *Id.*

53 *Id.*, Section 4.

54 *Id.*, Article VII, Section 3(d).

The **Joint ACTEC/NCPJ Task Force** (with 12 members in 2023) was formed in 2014. Its purpose is to explore opportunities for interaction between The American College of Trust and Estate Counsel and the National College of Probate Judges that will advance the goals of both Colleges. While obviously many differences exist between the memberships and the agenda of the two Colleges, there are certain common interests such as the administration of justice in the probate courts, the continuing legal education of members of both for the benefit of the general public, and the protection of minors, the elderly, and other persons with disabilities. The task force is not necessarily limited to those issues, but is encouraged to explore all possible ideas and avenues of mutual interest.

The **Long Range Planning Committee** was formed in 2007. It is intended to consist of approximately 15 members, reflecting both gender and geographic diversity. The chair is appointed by the president-elect for a term of one year and may serve for up to three consecutive terms. The ACTEC president-elect, vice president, and treasurer are members of the committee. Other members include active members of ACTEC, including past presidents and current and former Regents, state chairs, and committee chairs. The categories of membership are (i) three officers of ACTEC; (ii) two past presidents; (iii) at least one new Fellow (with five years or less of membership); (iv) representatives from small firms and mid-size/large firms (a balance from each); (v) at least one fiduciary counsel; (vi) current or former members of the Membership Selection Committee; (vii) current or former state chairs; (viii) at least one Academic Fellow; and (ix) at least one current or former committee chair. A committee member can and probably will fulfill more than one category of membership. Members are appointed by the president-elect for one-year terms, not to exceed four consecutive terms. For continuity, three or four members rotate off each year to be replaced with members who are in the same “category of membership.” The Long Range Planning Committee considers topics essential to the fulfillment of ACTEC’s mission and those deemed necessary to ACTEC’s long-term success, including vision, values, membership, budget and finances, meetings, continuing legal education, committees, publications, technology, and sponsorships. The committee may determine topics for consideration at the request of the Board of Regents or the Executive Committee or upon its own initiative.

The **Membership Selection Committee** consists of nine Fellows, the majority of whom are current or past Regents. To ensure the impartiality of the nomination and selection process and to avoid the appearance of favoritism, state chairs may not serve on the Membership Selection Committee, nor may members of the Executive Committee, except in the capacity of Executive Committee Liaison.

The **New Fellows Steering Committee** (with 15 members in 2023) was formed in 2010. It is responsible for organizing and monitoring the activities of new Fellows. The committee seeks to support the leadership’s vision to develop ACTEC through the active participation and inclusion of new Fellows. The committee fosters programs and initiatives to help integrate newly elected Fellows into ACTEC’s national meetings and professional resources and into ACTEC overall. The committee includes (among others) Fellows who, when appointed, are members of the following Committees or groups: (i) Long Range Planning Committee members; (ii) Program Committee members; (iii) Regents; (iv) current or former state chairs, including one who is on the State Chairs’ Steering Committee; (v) new Fellows with five years or less of membership; and (vi) active Fellows who have been members of ACTEC for six to ten years. The New Fellows Steering Committee maintains a [New Fellows Handbook](#) for the use of new Fellows.

The **Nominating Committee** consists of at least seven members appointed by the president-elect, inclusive of the outgoing immediate past president (in other words, in the second year after that Fellow served as president), who chairs the committee, and the incoming immediate past president. The remaining members are appointed for a one-year term and generally serve for two consecutive terms. For continuity, approximately one-half of the committee rotate off each year. Members of the Nominating Committee are not eligible for election to the Board of Regents or as an officer of ACTEC. While current Regents may serve on the Nominating Committee, they may not be elected to a second three-year term on the Board of Regents while serving on the Nominating Committee. The duty of the Nominating Committee is to nominate Fellows for election as officers of ACTEC and for election to the Board of Regents. The Nominating Committee

conforms to the *Recommended Process for the Selection of College Leadership*, which it reviews and updates annually, customarily during the fall meeting, for the committee's ongoing use.

The **Program Committee** (with 27 members in 2023) is responsible for planning the professional programs held during national meetings, the stand-alone program typically held in connection with the summer meeting, and, beginning in 2023, a virtual program in the fall. The chair is appointed by the president-elect for a term of one year and may serve for up to three consecutive terms. The committee identifies topics, confirms speakers, prepares the titles and descriptions for the meeting brochure, and oversees the development of the presentations in conjunction with the speakers.⁵⁵ The Program Committee customarily meets at each national meeting to plan the professional programs for upcoming meetings. Committee meetings are usually scheduled for the first or second day of the national meeting so that members may have the remaining time at the national meeting to discuss issues with Fellows that have been identified for follow-up. In-person attendance at committee meetings by the members of the Program Committee is vital to the success of the committee.

The **Sponsorship Advisory Committee** (with 11 members in 2023) was formed in 2004. It consists of the president, president-elect, and immediate past president, plus other members appointed by the president-elect. To maintain continuity, approximately one-third of the members rotate off each year. The purpose of the committee is to promote the sponsorship program for ACTEC. Specifically, the committee recruits and assists in the recruitment of sponsors; monitors sponsor activities and suggests revisions to the ACTEC sponsorship policies; assists the executive director, officers, and Regents in maintaining cordial relations with sponsors and addressing specific issues with sponsors as they arise; monitors the activities of sponsor representatives at ACTEC meetings to ensure that they have an enjoyable experience that meets their expectations while strictly observing ACTEC's guidelines; monitors and encourages the sponsorship program at the state and regional level and coordinates the activities for the maximum benefit of ACTEC as a whole; and draws the attention of Fellows in an appropriate manner to the importance of sponsors to the operation of ACTEC and encourages Fellows to welcome sponsor representatives and treat them with a level of courtesy and friendliness that is similar to the way that Fellows regard each other.

The **State Chairs Steering Committee** (with nine members in 2023) was formed in 2000. It is appointed by the president-elect and consists of one representative from each of the ACTEC regions, known as region chairs. Each region chair must be a state chair at the time of appointment. Region chairs are appointed for a term of one year and may serve for up to three consecutive terms, but service on the steering committee is limited to just one year past a region chair's term as state chair. In order to maintain continuity, approximately one-third of the membership rotates off each year. The president-elect appoints the chair of the committee from among the region chairs; customarily the chair serves for two consecutive terms.

The State Chairs Steering Committee oversees the State Chair Organization, facilitates communication between the state chairs and the Board of Regents and the Executive Committee, and assists state chairs in fulfilling their duties by identifying and promoting best practices. The State Chairs Steering Committee is responsible for the upkeep of the *State Chairs Manual* and conducts an orientation for incoming state chairs at each annual meeting.⁵⁶

The **Washington Affairs Committee** (with 11 members in 2023) was formed in 2009. It oversees ACTEC's government submissions regarding legislative, administrative, and related actions, principally at the federal level. Most of the work on those government submissions is done by ACTEC's substantive standing committees. The Washington Affairs Committee is responsible for reviewing proposed submissions, working with the substantive committee chair (or chairs) or other authors to ensure the quality and effectiveness of those submissions, ensuring that submissions comply with ACTEC's *Policies and Procedures for Government Submissions*, and making recommendations to ACTEC's president regarding the approval of submissions.⁵⁷

55 ACTEC programs are discussed in detail in Chapter 2, "National Meetings," in this History.

56 These subjects are discussed in more detail in Chapter 3, "States and Regions," in this History.

57 This is discussed in detail in Chapter 7, "ACTEC and Federal Legislation and Regulations," in this History.

CHAPTER 6: ACTEC'S SUPPORT OF THE UNIFORM LAW COMMISSION

Contributors: Turney P. Berry and Suzanne Brown Walsh (with thanks to Thomas P. Gallanis)

History of ACTEC's Work Regarding Uniform Laws

ACTEC has worked for the reform and improvement of the law regarding trusts and estates for as long as memories and records reflect. This work is channeled primarily through the Joint Editorial Board for Uniform Trust and Estate Acts (the JEB-UTEA). The JEB-UTEA is a tripartite effort with members from the Uniform Law Commission (the ULC, also known as the National Conference of Commissioners on Uniform State Laws, or NCCUSL), the American Bar Association Section of Real Property, Trust and Estate Law (RPTE), and ACTEC. The JEB-UTEA also has liaison members to the Association of American Law Schools and the National College of Probate Judges, and it invites participation from others (particularly prior, emeritus, members) as needed. The purpose of the JEB-UTEA is to monitor and comment on proposed T&E legislation (principally uniform acts), and to suggest potential legislation, new uniform acts, and amendments to existing acts.

The JEB-UTEA was initially created in 1970, as the JEB-UPC, by ACTEC (then known as the American College of Probate Counsel, or ACPC), RPTE (then known as the Section of Real Property, Probate and Trust Law, or RPPTL), and the ULC, as a means of “improving and reforming the law relating to the transfer of property at death,”⁵⁸ which forms the basis of ACTEC Fellows’ practices. The following table, from that discussion in the 1999 History, identifies the JEB-UPC members from 1971 to 1992:

Original and Successor Members of the Joint Editorial Board (Bold type indicates member represented ACTEC on the Board.)			
1971	J. Pennington Straus	1978	Robert A. Lucas
1971	Peter J. Brennan	1979	Robert A. Stein
1971	Harrison J. Durand	1980	Edward C. Halbach, Jr.
1971	William I. Marschall	1983	Harley J. Spittler
1971	Malcolm A. Moore	1984	Richard W. Effland
1971	Charles Horowitz	1985	James R. Wade
1971	Clarke A. Gravel	1986	John H. Langbein
1971	Allan D. Vestal	1987	Jackson M. Bruce, Jr.
1971	Eugene F. Scoles	1988	Lawrence W. Waggoner
1971	Joe W. Worley	1989	Charles A. Collier, Jr.
1972	Richard V. Wellman	1989	Raymond H. Young
1973	J. Thomas Eubank, Jr.	1992	Joe C. Foster, Jr.
1975	Bert McElroy	1992	Mary Louise Fellows

The occasion for the creation of the JEB-UPC was to deal with the Uniform Probate Code, following the model of a group that monitored and “maintained” the Uniform Commercial Code. The JEB-UPC’s primary purpose, according to longtime member and current (in 2023) Executive Director, Professor Thomas P. Gallanis, was assisting Professor Richard V. Wellman in his efforts as Chief Reporter for the original 1969 Uniform Probate Code to see it enacted by the states. The JEB-UPC was the first such JEB (outside of the context of the UCC) and led to the emergence of JEBs for other fields of recurrent ULC activity. Experience

58 J. Pennington Straus, “The Uniform Probate Code,” 1999 History, at 44.

with the JEB-UPC and the JEB for the UCC have shown the value of such continuing oversight bodies for monitoring major fields of ULC activity and for advising ULC leadership about revising existing acts and drafting new ones.

ACTEC's initial involvement with the UPC was described by Richard Wellman as minimal: "The American College of Probate Counsel was interested but provided little leadership or encouragement."⁵⁹ While that characterization is consistent with the table above indicating those who formally represented ACTEC on the JEB from 1971 to 1992, the table also indicates that there were several ACTEC Fellows who participated formally on behalf of other organizations during those years.

There is a description of the origin of the JEB-UPC in Richard Wellman's 1970 article, "A Reaction to the Chicago Commentary."⁶⁰ At that time, the JEB-UPC had 10 members: five from RPPTL and five from the ULC. For example, Harrison F. Durand, in 1973, was not only a former chair of the RPPTL Section, but also the president-elect of the ACPC. By 1975, the ACPC was providing some financial support for the JEB-UPC.⁶¹

In the early 1980s, there was some discussion about whether the JEB-UPC should continue, because more than a decade had elapsed since the promulgation of the UPC. The JEB-UPC concluded that

it should continue in existence because of the numerous new Uniform Acts which will impact on the UPC such as the Uniform Transfers to Minors Act, Uniform Succession Without Administration Act, Uniform Marital Property Act, and the newly adopted California Health Care Durable Power of Attorney Act. The Board of Regents approved the continuation of the Joint Editorial Board and the College's continued participation in its work.⁶²

A shift in JEB-UPC membership, adding "official" ACPC members, occurred by 1982. For the 1982–83 year, there were three appointments to the JEB-UPC from the ACPC: Harrison Durand, J. Pennington "Joe" Straus, and Harley J. Spittler.⁶³ A 1985 report by James R. Wade refers to the JEB as having three constituent organizations: NCCUSL, RPTE, and the ACPC.⁶⁴ Incidentally, JEB liaisons have a long history. An article published in 1980 noted Jim Wade's appointment as a liaison to the National College of Probate Judges, and John Martin's replacing Lawrence Newman as liaison to the Association of American Law Schools.⁶⁵

The JEB-UPC was renamed the Joint Editorial Board for Uniform Trust and Estate Acts (JEB-UTEA) in 1999 after the ULC, ACTEC, and ABA each formally approved the change. In an article published thereafter by Professor Mary Louise Fellows,⁶⁶ she referred to Lawrence W. Waggoner as the "Director of Research of the Joint Editorial Board for Uniform Trust and Estate Acts." Most likely, the name was changed with the Uniform Trust Code in mind. There already was a JEB for Uniform Real Property Acts, so "Uniform Trust and Estate Acts" would have been a natural updated description for the JEB-UPC.

Mal Moore served as chair of the JEB-UPC/UTEA from 1991 until 2018, when Bruce Stone became chair. Professor David M. English served as its executive director from 1998 until 2013, and was succeeded by the current executive director, Professor Tom Gallanis. All of them were ACTEC Fellows. During Mal Moore's tenure as chair, the JEB-UTEA oversaw and shaped an astonishing volume of proposals and uniform acts. Most notable, of course, was the Uniform Trust Code (UTC) (2000), for which David English served as reporter.

59 Richard Wellman, "The New Uniform Probate Code," 56 ABA J. 636 (1970).

60 1970 U. Ill. L. F. 536, 542 (1970).

61 See Richard Wellman, "A Report on the Uniform Probate Code," 3 Prob. Notes 30 (Fall 1976) (describing the ACPC's \$5,000 annual contribution, and annual contributions of \$7,500 from the ULC and RPPTL, which was down from RPPTL's prior contribution of \$10,000).

62 9 Prob. Notes 134 (1983) (reporting on the Board of Regents October 24, 1983, meeting).

63 See 8 Prob. Notes 108 (1982).

64 See James R. Wade, "Uniform State Laws of Interest to Probate Lawyers," 14 Colo. Law 1961 (1985).

65 "Report from the Joint Editorial Board for the Uniform Probate Code," 8 Prob. & Prop. 1 (Winter 1980).

66 7 Va. J. Soc. Policy & Law 455, 458 n. 8 (2000).

Significant discussions about the UTC occurred within ACTEC, including a special program immediately following the 2006 Fall Meeting. Those discussions led ACTEC to appoint its own liaison to the ULC, separate from the JEB-UTEA. Turney P. Berry was the first liaison and was succeeded by Suzanne Brown Walsh. The purpose of the liaison is to ensure that ULC projects receive adequate explanation within ACTEC, with associated opportunities for ACTEC Fellows to provide input to those projects.

After the Uniform Trust Code, many other major acts or revisions were approved, including many conforming updates to the Uniform Probate Code and the promulgation of the Uniform Prudent Investor Act (1994), the Uniform Principal and Income Act (1997), the Uniform Disclaimer of Property Interests Act (1999), the Uniform Anatomical Gifts Act, Uniform Durable Power of Attorney Act, and Uniform Prudent Management of Institutional Funds Act (each in 2006), the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (2007), the Uniform Powers of Appointment Act (2013), the Uniform Trust Decanting Act and Revised Uniform Fiduciary Access to Digital Assets Act (each in 2015), and the Uniform Directed Trust Act and Uniform Guardianship, Conservatorship and Other Protective Arrangements and Parentage Act (each in 2017). Each of those acts had significant ACTEC leadership, through official observers and Fellows who were also Commissioners, and many of the drafting committees were led by Fellows. In some instances, such as special amendments to the Uniform Principal and Income Act in 2008, the effort was spurred on by a Fellow with particular interest and expertise in the area, in that case Steven B. Gorin.

Other ACTEC Fellows who served as either members of the JEB-UTEA or otherwise participated in its work during this era included Mary M. “Molly” Ackerly, Jackson M. Bruce, Jr., Charles A. Collier, Jr., Mary Louise Fellows, Edward C. Halbach, Jr., Susan T. House, Joseph Kartiganer, Judith W. McCue, Kevin D. Milard, Pam H. Schneider, Eugene F. Scoles, Robert A. Stein, Lawrence W. Waggoner, Richard Wellman, and Raymond H. Young.

ACTEC's Most Recent Participation in the JEB-UTEA

Most recently, the JEB-UTEA has overseen the Uniform Fiduciary Income and Principal Act (2018), UPC amendments conforming it to the Uniform Parentage Act (2019), the Uniform Electronic Wills Act (2019), the Uniform Estate Planning Documents Act (2022), the Uniform Cohabitants' Economic Remedies Act (2021), the Uniform Health Care Decisions Act (2023), and the work of the Drafting Committee on Conflict of Laws in Trusts and Estates, which began in 2021.

As of 2023, all three of the JEB-UTEA ULC members are ACTEC Fellows (Turney P. Berry, Susan D. Snyder, and Suzanne Brown Walsh), as are two of its three ABA Members (Carlyn S. McCaffrey and Professor David M. English). The two members formally representing ACTEC are Shirley L. Kovar and Professor Nancy A. McLaughlin, and Fellow Bruce Stone, as chair, is also a member. Other Fellows who are directly involved are Professors John H. Langbein as an emeritus member and Robert H. Sitkoff as a liaison member for the Association of American Law Schools.

The typical structure of the drafting committee of a uniform act is that an academic — a law professor — serves as the reporter who drafts and revises the language of the act with input and direction from the drafting committee, does most of the laboring work on creating the comments to the act, and often does research related to important issues involving the act. ACTEC should take some pride in recognizing that in the last 25 years three Fellows who were not academics — E. James Gamble, Susan T. Bart, and Ronald D. Aucutt — served as reporters for various uniform acts.

CHAPTER 7: ACTEC AND FEDERAL LEGISLATION AND REGULATIONS

Contributors: Ronald D. Aucutt⁶⁷ and Beth Shapiro Kaufman

Policies and Procedures

As noted in the 1999 History,⁶⁸ ACTEC's involvement in federal tax legislation began in earnest in the context of carryover basis and the GST tax that were enacted in 1976. It continued in the contexts of the postponement and repeal of carryover basis in 1978 and 1980, the unlimited marital deduction (with the addition of QTIP) and an increased unified credit and annual gift tax exclusion enacted in 1981, the new GST tax enacted in 1986, and the enactment of section 2036(c) in 1987 and its replacement by chapter 14 in 1990.

In 1995, the Board of Regents authorized President L. Henry Gissel, Jr. to write a letter to the chair of the House Ways and Means Committee (Representative Bill Archer of Texas) regarding a proposed partial exclusion from estate tax of the value of a family-owned and family-operated business, which eventually was added by the Senate to the Taxpayer Relief Act of 1997 as section 2033A, changed to section 2057 in 1998, and then repealed in 2014. The Board of Regents was also interested in administrative guidance from the IRS, and it asked Henry to write to the IRS about Rev. Rul. 95-58, 1995-2 C.B. 191, which addressed the estate tax consequences of a grantor's reserved power to remove and replace a trustee of a trust.

This continuing interest in legislative and administrative actions sparked a debate about ACTEC's role, and a Task Force on Government Relations, chaired by Past President Tom Sweeney, was formed in 1995 to recommend appropriate policies. On October 14, 1996, at the fall meeting, the Board of Regents approved a Statement of Policy on Governmental Relations, which that task force had prepared.

The statement noted that ACTEC possesses a high degree of technical expertise in its areas of professional interest, and that, consistently with its statement of purposes in Article I of its Bylaws, ACTEC should make this expertise available "to improve and reform probate, trust, and tax laws, procedures, and professional responsibility." In contrast, the statement noted that ACTEC's expertise does not extend to the social, economic, or political objectives (collectively, "political objectives") of legislation, regulations and other administrative guidance, or judicial decisions, and that therefore ACTEC should avoid commenting about such objectives. ACTEC may comment about how best to achieve a political objective, but not about whether it approves or disapproves of any political objective. To the extent ACTEC believes that a regulation, ruling, or decision reflects a political objective that does not have a basis in a statute or in the legislative history of a statute, ACTEC may comment on the lack of legislative basis for that political objective.

The statement offered the following five examples, which seem as relevant in 2024 as they were in 1996:

- (1) The College will not address the political question of whether the transfer tax system should favor any particular type of property (for example, family farms or other family businesses) relative to any other type of property. Similarly, the College will not address the political question of whether the transfer tax system should apply without regard to the nature of the property that is transferred.
- (2) If the political objective of a rule of law is to favor a particular type of property (for example, family farms or other family businesses), the College may comment about how best to accomplish the political objective.
- (3) If the political objective of a rule of state law is to permit a surviving spouse to claim a portion of the property of a deceased spouse, the College may comment about how the definition of the pool of property against which the claim can be made (as for example, whether it includes certain assets, such as lifetime gifts and trust estates of revocable trusts) can affect accomplishment of the political objective.

⁶⁷ President, 2003–2004.

⁶⁸ J. Thomas Eubank, "ACTEC and Tax Legislation, Part One," [1999 History](#), at 47; and Frank S. Berall, "ACTEC and Tax Legislation, Part Two," [1999 History](#), at 50.

- (4) The possibility that a taxpayer can transfer property during life at a value (for transfer tax purposes) lower than the value (for transfer tax purposes) at which, if the taxpayer were to die, the taxpayer could transfer that property at death presents both (i) a political question of whether the system should favor lifetime transfers and, assuming that it should, (ii) a technical question of whether the system is designed best to accomplish the political objective. The College may comment about whether a rule of law effectively promotes the political objective.
- (5) Views about treatment of unrealized appreciation at death and about the use of gifts to remove property from the transfer tax base can have technical, as well as political, aspects. The technical aspects are appropriate subjects for College comment.

At the 2007 Annual Meeting, on March 6, 2007, the Board of Regents approved the appointment of a committee of Fellows in Washington, D.C., to follow up the many recommendations ACTEC had made to the IRS and to advise Fellows of developments that might require follow-up by ACTEC. The committee, which was named the Washington Affairs Committee, originally consisted of D.C. Fellows Ronald D. Aucutt (chair), Edward Jay Beckwith, Ellen Harrison, and Beth Shapiro Kaufman (who had experience as an attorney advisor and then as Associate Tax Legislative Counsel in the Treasury Department's Office of Tax Policy). The committee has since been expanded and has included, since 2020, Fellows from locations other than Washington, D.C.

On September 4, 2007, in a conference call of the Executive Committee, it was noted that there had been more submissions to government officials in the past two years than at any other point in ACTEC's history, and that it would be appropriate to appoint a small task force to revisit and, if necessary, update the 1996 Policy on Governmental Relations. At the Board of Regents meeting on November 5, 2007, President Daniel H. Markstein, III announced the appointment of a 12-member Task Force to Review ACTEC Governmental Relations Policy, chaired by Ron Aucutt.

The task force presented its report to the Board of Regents at the annual meeting on March 9, 2009. Its recommendations, which the Board of Regents approved, included affirmation of the 1996 policy and adoption of additional principles and procedures to reinforce and implement that policy. The task force's report also noted that it had reviewed the most recent surge in ACTEC's government submissions and had found that they appeared to comply with the policy.

The additional principles adopted in 2009 include:

- (1) ACTEC's mission appropriately includes contributing to law improvement.
- (2) ACTEC's mission also includes education — of our friends in government service, of our colleagues and counterparts in other organizations and professions, and of the public.
- (3) ACTEC's Fellows are very experienced with comprehensive compliance with rules and therefore are highly qualified to comment on improvement of those rules.
- (4) ACTEC makes the most of the experience and qualifications of its Fellows by developing and enforcing procedures (including procedures used in the selection of Fellows, committee chairs, state chairs, Regents, officers, and other leaders) to ensure that its "official" views are formulated with objectivity, imagination, and practical common sense.
- (5) It is most consistent with the ACTEC's mission and culture to join a public policy debate only when we have something of serious value to say, not every time there is anything to say, and not necessarily when the self-interest of Fellows or clients is most at stake.
- (6) There is little point in expressing a view if no one will consider it or take it seriously, and the intrinsic and obvious punch, candor, thoughtfulness, balance, and credibility of a view can increase its likelihood of being taken seriously.

Under the procedural changes and clarifications made in 2009, the president of ACTEC is authorized to approve communications with the government that comply with the policy. The task force report acknowledged the advantages of multiple counsel and added that "any proposed government submission involving federal issues should be reviewed and approved by one or more members of the Washington Affairs Committee." (The whole committee need not, and normally does not, "vote" on a proposed submission.) But the

report suggested that final authority be vested in the president “for efficiency and to permit ACTEC to speak with a single and clear executive voice.”

Approval of a submission by the Board of Regents (or by the Executive Committee on behalf of the Board of Regents) remained an option, and the task force report noted that such approval could be appropriate if it would cause a government submission to be “viewed by government readers and the rest of the outside world as having greater weight.” Moreover, the report noted that Board of Regents (or Executive Committee) approval is required “if the Washington Affairs Committee or the President believes that a proposed government submission is ‘political’ or otherwise raises questions under the Policy on Governmental Relations.” In other words, the Board of Regents, which adopted the policy, retains the right to approve exceptions to the policy. This option has been particularly appropriate, for example, for some proposals from the Tax Policy Study Committee, which by its nature is often looking at broad structural issues that arguably include policy objectives, rather than just alternative avenues to reach an objective that Congress has already embraced.

The 1996 policy, as elaborated in 2009, remains in effect and is reflected in the [Policies and Procedures for Government Submissions](#) on ACTEC’s website.

Government Submissions

Since the approval of the Statement of Policy on Governmental Relations in 1996, ACTEC has submitted approximately 25 written communications to members of Congress and their staffs and approximately 100 written communications to the Treasury Department and the IRS. There have also been a few other communications, such as comments to the U.S. Office of Government Ethics and the Financial Action Task Force (FATF), and letters during the Covid pandemic to the National Association of Secretaries of State in support of electronic authentication of documents. Most of those communications are available at [Legislative and Regulatory Comments by ACTEC](#) on ACTEC’s website.

In response to the changes and the suspense created by the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA or 2001 Tax Act), Dennis I. Belcher (who was then the chair-elect and the following year the chair of the ABA Section of Real Property, Trust and Estate Law, then called the Section of Real Property, Probate and Trust Law) initiated and appointed a Task Force on Federal Wealth Transfer Taxes to produce a report assessing the changes made by the 2001 Tax Act and options Congress might consider going forward, on the basis of simplicity, ease of compliance, and consistency of enforcement. The task force attracted the collaboration of ACTEC, the ABA Section of Taxation, the American Institute of Certified Public Accountants, the American Bankers Association, and the American College of Tax Counsel. Dennis chaired the task force, and, with grants from sources including the ACTEC Foundation, the task force engaged Professor Mary Louise Fellows of the University of Minnesota Law School as its Reporter. Most of the task force’s 33 members were ACTEC Fellows, including the task force members President Carlyn S. McCaffrey had appointed to specifically represent ACTEC. In 2004, the tax force published its 209-page report under the auspices of the ABA, but robustly reflecting the input of ACTEC Fellows.

One significant ACTEC involvement with legislation related to the portability of a deceased spouse’s unused exclusion amount to the surviving spouse. ACTEC’s recommendation of portability was reinforced by the testimony of Shirley L. Kovar (the chair of the Tax Policy Study Committee, then called the Transfer Tax Study Committee) before the Senate Finance Committee on April 3, 2008. Dennis Belcher testified at the same hearing about the task force report noted in the preceding paragraph (which had also offered portability as an option) and about many issues affecting family businesses. Dennis and Washington Affairs Committee Chair Ron Aucutt joined Shirley in a meeting with congressional staff members following the hearing to discuss portability in more detail. Portability was enacted temporarily in 2010 and made permanent in 2012 (although it is limited to the gift and estate taxes and does not extend to the GST exemption as ACTEC had recommended).

Another memorable ACTEC experience was helping congressional staffs navigate the turbulence of 2010, in which the estate and GST taxes had been repealed for one year and replaced with a modified carryover basis rule by the 2001 Tax Act. During the intervening decade, many people on congressional staffs and at Treasury and the IRS appeared to expect the one-year repeal to be either eliminated or made permanent. Instead, it happened, with no administrative guidance about how to cope with it. In December 2010, Congress retroactively reinstated the estate tax, made carryover basis an elective option, and added section 2001(g) (now 2001(g)(1)) to prevent “clawback.” With the encouragement of Presidents Dennis Belcher and Karen M. Moore, members of the Washington Affairs Committee were in regular contact with congressional staff members throughout 2010. A crucial element of the 2010 legislation shaped in those discussions was to provide an election out of the reinstated estate tax. The normal relief from the potential burden and unfairness of retroactivity would be to provide an election into the retroactively reinstated tax, but in this case requiring an election out allowed the vast majority of 2010 estates affected by the reinstatement to avoid the burdensome carryover basis rule while sheltered from estate tax by the large exclusion, without taking any action. Another recommendation of the Washington Affairs Committee was to change the temporary repeal of the GST tax to the retention of the GST tax but with a rate of zero, to provide the continuity needed to protect exemptions and other GST tax characteristics for the long term. Both suggestions were adopted by Congress and became law.

The following are some of the other significant topics ACTEC’s government submissions have addressed in the last quarter-century:

Helping representatives of the global Financial Action Task Force (FATF) understand how trusts work in the United States, including Duncan E. Osborne’s representation of ACTEC at FATF meetings in Europe, joined in November 2006 by President Bruce S. Ross.

Providing similar assistance to the Treasury Department’s Financial Crimes Enforcement Network (FinCEN).

Regular suggestions for the annual Treasury-IRS Priority Guidance Plans.

Support for federal legislation that would prohibit the patenting of tax planning methods (including testimony on ACTEC’s behalf by Dennis Belcher before the Subcommittee on Select Revenue Measures of the House Ways and Means Committee on July 13, 2006).

Critique of the proposed “consistent basis” regulations under new sections 1014(f) and 6035 (including testimony on ACTEC’s behalf by Gregg M. Simon at the June 27, 2016, IRS hearing).

Critique of the notorious proposed section 2704 regulations in 2016 (including testimony on ACTEC’s behalf by Stephanie Loomis-Price at the December 1, 2016, IRS hearing).

A Report on Proposals to Tax the Deemed Realization of Gain on the Gratuitous Transfer of Appreciated Property (2019) analyzing technical issues with the imposition of tax on the deemed realization of gain.

A Report on Grantor Trusts (2021) offering multiple possible revisions to the grantor trust rules.

Attempts over the last two decades to obtain important guidance regarding retirement plans and IRAs, including guidance for determining the measuring life of a “see-through trust” under the minimum distribution rules, and precedential confirmation of many private letter rulings that allow a spousal rollover when an estate or revocable trust is the named beneficiary.

Similarly, more recently, assistance with the implementation of the SECURE and SECURE 2.0 Acts.

CHAPTER 8: ACTEC AND THE JUDICIAL PROCESS

Contributor: Margaret G. "Meg" Lodise⁶⁹

The Amicus Review Committee

Although ACTEC filed a number of amicus briefs in its first 50 years, it wasn't until 2015 that it regularized the process for filing amicus briefs by creating the Amicus Review Committee. The committee was Bruce Stone's idea and was formally constituted during his presidency in 2015.

Prior to 2015, ACTEC amicus filings were governed by a policy allowing

[t]he Board [of Regents] or the Executive Committee to authorize the preparation of an outline or summary of an amicus curiae brief in [a] particular case after preliminary consideration of the factors [set forth in the policy] ... and after determining that the filing of an amicus curiae brief in such case complies with the College's Statement of Policy on Governmental Relations.⁷⁰

Bruce's inspiration came from his own service as a member at large on the Executive Committee during Daniel H. Markstein, III's presidency in 2007–2008. (Bruce had been appointed to the Executive Committee to complete Mary F. Radford's unexpired term when she was elected as secretary). Bruce was assigned the job of determining under the then existing policy whether ACTEC should file an amicus brief in the case of *Knight v. Commissioner* regarding deductibility of investment expenses under section 67 of the Internal Revenue Code. The Fiduciary Income Tax Committee urged ACTEC to take a position in favor of the taxpayer. After reviewing the case, Bruce concluded that the taxpayer would likely lose and urged the Executive Committee and, ultimately, Danny Markstein to say no. Danny did say no, much to the dismay of some members of the Fiduciary Income Tax Committee. Ultimately, the Supreme Court ruled against the taxpayer 9-0.⁷¹ Bruce came away from this experience convinced that the final decision of whether to file an amicus brief should continue to be made by the Executive Committee, but also aware of the substantial time commitment involved in reviewing requests and making the necessary determinations.

Once Bruce was serving on the Executive Committee as an officer, he raised the issue of creating a dedicated amicus committee — modeled on Florida's Amicus Review Committee — a small group of lawyers with the necessary expertise to make timely decisions on requests for ACTEC to file amicus briefs. Bruce also suggested that Robert W. Goldman, a fiduciary litigator and then a former member of the Executive Committee who was also serving on Florida's amicus committee, would be a good chair. The Executive Committee agreed, and the committee was formed at the conclusion of the 2015 Annual Meeting as Bruce's term as president was beginning.

The initial members of the committee were Bob Goldman, Chair, Dennis I. Belcher, Carlyn S. McCaffrey, and Professor Robert H. Sitkoff. The next year, Bruce Stone was added to the committee and served as the Executive Committee liaison. In 2017, Dennis Belcher rotated off, and Stephen R. Akers served as the Executive Committee liaison. In 2018, having served three years as chair, Bob was replaced by Margaret G. "Meg" Lodise as chair, and the committee was further expanded by including Gregory N. Barrick, creating a six-member committee. In 2019, the committee expanded to seven with the decision to include on the committee the person serving as the current chair of the Fiduciary Litigation Committee. In 2020, the committee was further expanded, adding two members, one of whom served as vice-chair (Jane Gorham Ditelberg, who stepped in as chair in 2021). In 2021, the size of the committee did not change, although the rotation of the Fiduciary Litigation Committee chair changed the membership of the committee. Since its expansion in 2021, the committee has remained at nine members. As of 2023, Turney P. Berry is the chair, and initial members Bob Goldman, Carlyn McCaffrey, and Rob Sitkoff continue to serve.

69 Treasurer, 2023–2024.

70 ACTEC Policy and Procedures Manual, Exhibit 4.2(b)(9) (March 1999).

71 *Knight v. Commissioner*, 552 U.S. 181 (2008).

In 2019, the original policies and procedures governing the Amicus Review Committee were changed to reflect the procedural changes resulting from the formation of the committee. The new policy provided for a request for an amicus brief to be directed to the chair of the Amicus Review Committee. It also confirmed the policy of filing briefs sparingly and only in appropriate cases. As advised by the policy, amicus briefs are limited to cases where (1) the brief would contribute significantly in the determination of the issues involved or a court has requested ACTEC's involvement, (2) the issues are of special significance to the legal profession or the public or to the advancement of ACTEC's purpose of improving and reforming the trust and estate practice, and (3) the position sought to be advanced represents sound policy.

Under the policy set forth both before and after 2015, ACTEC participated in a total of eight amicus curiae filings in the 25 years from 1999 to 2023 (compared to three in the prior 50 years⁷²). Three amicus briefs (the three most recent) were filed in the United States Supreme Court, two were filed in the Fifth Circuit, and one was filed in the Ninth Circuit. An amicus letter in support of a request for depublication of an opinion was filed with the California Supreme Court, and a group designated the Alabama Fellows of ACTEC filed a brief in the Alabama Supreme Court.

As Bruce Stone realized when he suggested the formation of the Amicus Review Committee, ACTEC receives many requests for amicus support that should be declined under ACTEC policies. Since the committee was formed in 2015, it has received an average of at least two requests per year, some more formal than others. As required, at least one member of the committee reviews the request and circulates to the other members information concerning the request and, usually, a recommendation as to whether to take up the request, with each of the committee members then providing their opinion on whether a filing is appropriate. The committee most often finds that the request does not meet the guidelines set forth in ACTEC's policies and procedures, either because it is in an area in which ACTEC does not have special expertise, the case is pending in a lower tribunal and thus the request is premature, or the position ACTEC is requested to take is not one that would advance trust and estate law or be sound public policy. The committee has also considered factors such as whether ACTEC Fellows are involved on either side or both sides of the issue or whether the issue raised is unique to particular state law with little impact on the national trust and estate practice. Applying these standards, the committee in one case even declined the Connecticut Supreme Court's invitation to participate as an amicus. That November 2018 request to comment on the application of Connecticut's stirpital laws to the distribution of a trust was turned down by the committee because the Connecticut statute appeared clear, and the statute and its application in the particular case were also in line with the applicable Restatement. The Amicus Review Committee and the Executive Committee agreed that ACTEC could not add anything to the discussion.

The limited granting of requests for ACTEC to file an amicus brief and the general policy of neutrality in the past 25 years have raised ACTEC's profile as a trusted commentator on trust and estate law and policy, with ACTEC's most recent submissions to the Supreme Court being clearly considered and even specifically referenced in those opinions.

ACTEC Amicus Submissions from 1999 to 2023

In 2002, ACTEC filed an amicus brief with the Court of Appeals for the Ninth Circuit in the case of *Schott v. Commissioner*,⁷³ on the issue of whether a survivor annuity given to the grantor's spouse is a "qualified interest" for purposes of section 2702 of the Code. ACTEC's was the only amicus brief. Carlyn McCaffrey and Ellen K. Harrison filed the brief on behalf of ACTEC. The Ninth Circuit, in a very brief opinion, sided with the taxpayer and with ACTEC in finding that the survivor annuity was a qualified interest as set forth in Reg. §25.2702-2(d)(1).

⁷² 1999 History, at 104–105, 110.

⁷³ *Schott v. Commissioner*, 319 F.3d 1203 (9th Cir. 2003), rev'g and rem'g T.C. Memo. 2001-110.

In 2004, ACTEC participated as an amicus in two significant Fifth Circuit cases, *Kimbell*⁷⁴ and *Strangi*,⁷⁵ both related to estate inclusion under Internal Revenue Code section 2036.

In May 2004, in the *Kimbell* case, Fellows Milford B. Hatcher, Jr., T. Randolph Harris, Jennifer Jordan McCall, Carol A. Harrington, Ronald D. Aucutt, and Edward F. Koren drafted the brief in light of ACTEC's "extreme concerns" for the predictability and stability of the treatment of family limited partnerships. The brief highlighted ACTEC's concerns by noting that amicus filings were rare for ACTEC, this being only the third filed within the previous 10 years. In its brief, ACTEC urged the court to define a retained "right" that would cause section 2036 inclusion with respect to transferred property by reference to constraints, including applicable fiduciary constraints, under applicable state law. The brief further urged the court to adopt its two-part analysis previously set forth in *Wheeler v. United States*⁷⁶ in connection with the definition of a bona fide sale for adequate consideration, arguing that the IRS's and the Tax Court's attempts to apply a subjective rather than an objective standard to these tests would create disturbing and disruptive results for common estate planning tools.

Although the Circuit Court's opinion in favor of the taxpayer in *Kimbell* did not refer to ACTEC's brief, it adopted the *Wheeler* test and rejected the subjective standards adopted by the Tax Court and urged by the Government.

Just a few months later, Mil Hatcher again filed an amicus brief on behalf of ACTEC, this time in connection with the *Strangi* case, which raised similar policy concerns. The brief argued that while the court's decision in *Kimbell* had contributed to the resolution of important section 2036(a) issues, the standards as announced by the Tax Court continued to raise concerns. ACTEC argued, as it had in *Kimbell*, that the determinative issue of whether the decedent retained rights in property should be whether sufficient fiduciary constraints under state law limited the decedent's control or participation.

In July 2004, the Fifth Circuit issued its opinion, basing its determination of Strangi's retained interest in the property transferred on an implicit agreement with the other owners that Strangi's needs would be met from the transferred property. Having made that determination, the court (in footnote 7) specifically declined to make any findings as to whether or not Strangi had retained the "right ... to designate the persons who shall possess or enjoy the property," so as to justify inclusion under section 2036(a)(2). The court reaffirmed its *Kimbell* holding that a transfer of assets for a proportional interest in the partnership constituted adequate and full consideration even if that transfer would result in lack-of-control and lack-of-marketability discounts in the eventual estate return. In connection with the issue of whether there was a bona fide sale, however, the court opined that the objective test should be whether the sale served a "substantial business or non-tax purpose."

Also in 2004, an issue arose in the Supreme Court of Alabama related to whether a manager of an LLC owed duties to the LLC in spite of an apparent waiver of such duties in the operating agreement. A group of Alabama Fellows, including C. Fred Daniels, Harwell E. Coale, Jr., Ralph H. Heilding, and Dale B. Stone, filed the amicus brief on behalf of ACTEC. A second amicus brief was filed on behalf of the National Association of Estate Planners & Councils, and many of those authors were also ACTEC Fellows. The issue was one of first impression in Alabama and, as noted by the Alabama Fellows, would significantly impact both tax and non-tax aspects of estate planning with LLCs in Alabama. In particular, the Alabama ACTEC Fellows pointed to the potentially disastrous effects on tax planning (such as section 2036 inclusion) if an LLC manager did not owe any duties to the LLC. The Alabama Supreme Court agreed with the amici that an LLC agreement was subject to the statutory rules, including duties of care and loyalty, in reversing and remanding the lower court's ruling.

74 *Kimbell v. United States*, 371 F.3d 257 (5th Cir. 2004), vac'g and rem'g 244 F. Supp. 2d 700 (N.D. Texas 2003).

75 *Strangi v. Commissioner*, 417 F.3d 468 (5th Cir. 2005), aff'g T.C. Memo. 2003-145.

76 *Wheeler v. United States*, 116 F.3d 749 (5th Cir. 1997).

ACTEC then went over 10 years without filing an amicus brief, despite the formation of the formal committee and the ongoing receipt of requests. Another string of amicus briefs, however, these in the United States Supreme Court, began in 2018. *Sveen v. Melin*⁷⁷ arose out of a dispute about the appropriate treatment of beneficiary designations when divorced spouses had failed to change the designation to remove or rename the divorced spouse. The applicable (Minnesota) statute applied a “revocation on divorce” approach. The Eighth Circuit Court of Appeals noted that it was bound by a prior case in the Eighth Circuit that had found that such a revocation violated the contracts clause of the U.S. Constitution (Article II, Section 10).⁷⁸ ACTEC filed its amicus brief in support of the petitioners’ position that the revocation on divorce statute did not impair contractual rights, but, instead, created greater consistency in a person’s estate planning and avoided potentially unintended and chaotic consequences. The brief was prepared and filed by the Amicus Review Committee, consisting of Bob Goldman, Carlyn McCaffrey, Rob Sitkoff, Bruce Stone, and Meg Lodise. It focused on the importance of rules of construction to effectuate testamentary intent and the development of such rules in connection not just with wills but also with various non-probate transfers, such as the life insurance policy at issue in the case. The brief highlighted the Uniform Law Commission’s 1990 version of the Uniform Probate Code, Section 2-804, providing for revocation upon divorce, and argued that no breach of contract occurred by applying the revocation on divorce statute to interpret a beneficiary designation created prior to the enactment of the revocation on divorce statute. The Supreme Court ultimately agreed with ACTEC’s position.

In 2018, ACTEC also joined in efforts to depublish the California Court of Appeal’s decision in *Scott v. McDonald*⁷⁹ regarding the interpretation of a special needs trust as not allowing payment for housing or transportation for the beneficiary because it was specifically not a support trust. In light of the potential impact on SNT language throughout the country, ACTEC submitted its letter in support of depublishing in October 2018, and the California Supreme Court issued its order depublishing the opinion in November 2018.

Approximately one year later, the Amicus Review Committee, at the urging of members of the committee and other interested Fellows, agreed that ACTEC should file an amicus brief in *Kaestner*⁸⁰ a case involving North Carolina’s right to tax an out-of-state trust’s income solely on the basis of the beneficiary’s in-state residency. The Fiduciary Income Tax Committee in particular expressed interest in filing a brief. Therefore, the *Kaestner* drafting effort was led by an ad hoc committee consisting primarily of Fellows from that committee, including David A. Berek, Jonathan G. Blattmachr, Jane Ditelberg, Gregory V. Gadarian, Mitchell M. Gans, Carl L. King, Richard W. Nenno, Raj A. Malviya, and Charles A. “Clary” Redd, with assistance from the Amicus Review Committee. In evaluating the *Kaestner* issues, the Amicus Review Committee concluded that ACTEC could best assist the Court by providing both formal and practical information about trust administration at the state and national level. As such, ACTEC took no formal position for either side, but provided background information to the Court concerning the nature of irrevocable trusts and the relationship between the Due Process Clause and state fiduciary income tax laws. The Supreme Court’s opinion in favor of the taxpayer did not specifically refer to ACTEC’s brief, but it referred to information and reasoning contained in ACTEC’s brief.

In June 2022, the Amicus Review Committee, then chaired by Jane Ditelberg, was approached by the International Estate Planning Committee to agree to file a brief in *Bittner v. United States*,⁸¹ concerning Foreign Bank and Financial Accounts (FBAR) reports. As with the *Kaestner* case, once the Amicus Review Committee recommended and obtained approval for the filing of a brief, the brief was drafted by an ad

77 *Sveen v. Melin*, 138 S. Ct. 1815 (2018), rev’g and rem’g *Metropolitan Life Insurance Company v. Melin*, 853 F.3d 410 (8th Cir. 2017).

78 *Whirlpool Corp. v. Ritter*, 929 F.2d 1318 (8th Cir. 1991).

79 *Scott v. McDonald* (review denied and ordered not published, Nov. 28, 2018), previously published at 26 Cal. App. 5th 463.

80 *North Carolina Dept. of Revenue v. Kimberly Rice Kaestner 1992 Family Trust*, 139 S. Ct. 2213 (2019), aff’g 371 N.C. 133, 814 S.E.2d 43 (2018), aff’g 789 S.E.2d 645 (N.C. App. 2016), aff’g 2015 N.C.B.C. 36 (Sup’r Ct. Wake County 2015).

81 *Bittner v. United States*, 143 S. Ct. 713 (2023), rev’g and rem’g 19 F.4th 734 (5th Cir. 2021), aff’g in part, rev’g in part, and vac’g and rem’g in part 469 F. Supp. 3d 709 (E.D. Texas 2020).

hoc committee consisting primarily of Fellows from the International Estate Planning Committee, with editorial assistance from the Amicus Review Committee. The principal drafters were Suzanne L. Shier, Jane Ditelberg, Carlyn McCaffrey, Michelle B. Graham, Meg Lodise, Patrick W. Martin, Ruth Mattson, Kevin E. Packman, David E. Sloan, and Howard M. Zaritsky. The brief focused on educating the Court on the history and evolution of the FBAR statute at issue and the practical effects of its application in common trust and estate situations. Although the members of the ad hoc committee clearly favored the taxpayer's position, in drafting the brief they worked to ensure that it remained neutral as to the parties, providing merely technical advice to the Supreme Court.

The Supreme Court's opinion not only adopted the position advocated by ACTEC that FBAR reporting penalties should be applied on a per form rather than per account basis, but cited specifically to ACTEC's amicus brief in connection with the background and legislative intent regarding FBAR reporting.

CHAPTER 9: PUBLICATIONS AND COMMUNICATIONS

Contributors: Charles D. “Skip” Fox, IV,⁸² W. Bjarne Johnson,⁸³ and Stephanie M. Tuthill

Introduction

As a result of the rapid changes since 1999 in technology and the ways in which people communicate, ACTEC made and continues to make numerous changes in the types and formats of its communications with Fellows and the public. These changes were made for many reasons, including (1) providing better and more varied information to Fellows to help them in their work and to make membership in ACTEC more valuable; (2) taking advantage of the continuing changes in technology and available platforms for communicating information; (3) reducing the costs of paper publications; and (4) raising ACTEC’s public visibility as the preeminent source of expertise in matters of trust and estate law. This was also a period in which the supervision of different aspects of the communications of ACTEC switched from the Website Advisory Group, Editorial Board, and Strategic Communications Committee to a new Communications Committee with responsibility for all communications of ACTEC, no matter what the form. The Communications Committee also worked more closely with other ACTEC entities, such as the ACTEC Foundation in obtaining funding for various projects and the Legal Education Committee in transforming *ACTEC Notes* into a law review type publication to attract both academic and non-academic authors. This chapter will examine the changes in some of the different publications and means of communication.

Structural Changes in the Administration of Communications, the 2006 Strategic Communication Plan, and the 2010 Communications Plan

Starting in 2001, the administration of the communications of ACTEC was divided between the Editorial Board and the Website Advisory Group (often referred to as the “WAG”). The WAG was a small group consisting of Fellows W. Bjarne Johnson, Donald R. Kelley, and Robert M. Kunes, with responsibility for the administration of the ACTEC website in its infancy, including the content placed on the website and all communications among Fellows, such as list services, as well as all communications between ACTEC and Fellows. The Editorial Board was responsible for the written publications of ACTEC, including the *ACTEC Journal*, the Newsletter, State Law Studies, the ACTEC Tax Tables, the *Commentaries on the Model Rules of Professional Conduct*, the Sample Engagement Letters, and all publications placed on either the private or public side of the ACTEC website.

Starting in 1996, there was much discussion in ACTEC about the magnitude of ACTEC’s public activities. Many Fellows believed that, because of its inward focus, ACTEC was a private organization. This prevented ACTEC from enjoying the public reputation that it should. Other Fellows believed that ACTEC’s purpose was to serve the Fellows and that ACTEC should engage in as little public activity as possible. These early discussions on the amount of public activity involved the questions of what information should be available to the public on the ACTEC website. These discussions later expanded to include what ACTEC’s public image should be. In 2005, President Judith W. McCue encouraged the development of recommendations on ACTEC’s public image as part of the development of a public communications plan, including assigning that initiative to a group of Fellows who shortly thereafter were added to the Strategic Planning Task Force.

To accomplish this, the leadership of the Strategic Planning Task Force appointed a Strategic Communications Committee, chaired by W. Bjarne Johnson, to consider how to enhance the credibility of ACTEC

82 President, 2018–2019.

83 President, 2008–2009.

in the eyes of the public at large and particularly in the eyes of affiliated professionals, and to develop and present a three-to-five-year communications plan. Using his contacts within the ABA, Dennis I. Belcher, a member of the committee, arranged a meeting with the ABA's head of public relations. About a half dozen Fellows involved in ACTEC's communications initiatives, including members of the committee, went to Chicago for about two days of intensive instruction from the ABA staff. That resulted in the creation of a detailed Strategic Communications Plan for ACTEC, which the Strategic Communications Committee issued in August 2006. The goals of the Strategic Communications Plan for ACTEC were:

- Increasing awareness of ACTEC and the benefits of being a Fellow.
- Increasing ACTEC's recognition as the preeminent resource for information, objective analysis, insights, and the study of issues in trust and estate law.
- Distinguishing ACTEC as a reliable advocate for integrity and independent judgment in trust and estate law.
- Distinguishing ACTEC as a close-knit organization of professionals who are elected to membership after demonstrating competence and achievement in trust and estate law.

The Strategic Communications Committee recommended specific communications strategies for ACTEC, including:

- Developing and distributing practice tools, educational materials, and other resources to expand knowledge and capabilities of Fellows in trust and estate law.
- Affirmatively speaking out on issues and trends related to trust and estate law.
- Increasing the visibility of ACTEC.
- Reaching out to Fellows to champion them as top practitioners in trust and estate law.

The committee also recommended a set of immediate and future actions. The immediate actions included improvements to the website, making the *ACTEC Commentaries on the Model Rules of Professional Conduct* available to the public, improving outreach to Fellows, and considering changes in meetings such as podcasts of key sessions. Future actions included improving the publications, hiring staff in media relations, communications, branding, and marketing, and improving the ACTEC identity and brand.

In August 2009, the chair of the Strategic Communications Committee, the chair and vice chair of the Editorial Board, and the WAG recommended that the three committees be merged. The advantages of the merger were:

- Coordination of all ACTEC communications to enhance ACTEC's value for Fellows and its credibility with the public.
- The avoidance of the duplication of effort and inherent inefficiencies.
- Making all publications and the content of the website as beneficial as possible to both Fellows and the public.

The Executive Committee and the Board of Regents accepted this proposal, and the Strategic Communications Committee, the Website Advisory Group, and the Editorial Board were merged to create one Communications Committee, with Skip Fox as the chair and Marc Chorney as the vice chair. Since its formation, the Communications Committee has been ably chaired by:

Charles D. "Skip" Fox, IV (2009–2011)

Marc A. Chorney (2011–2014)

Charles A. "Clary" Redd (2014–2017)

Margaret Van Houten (2017–2020)

Stephanie M. Tuthill (2020–2023)

Natalie M. Perry (2023–present)

One of the first actions of the new Communications Committee was to prepare a Communications Plan to describe and implement the responsibilities of the new committee going forward, including the com-

munications strategies, the intended audiences, the addition of content to the website, the development of a social media strategy including Facebook, LinkedIn, and Twitter, making different publications such as the *ACTEC Journal* and the State Studies better and of greater benefit to Fellows and the public, creating a regular series of webinars, increasing the public awareness of ACTEC, hiring staff experienced in communications and marketing, and developing rules for the use of the ACTEC logo. The Board of Regents approved the Communications Plan in October 2010, and the plan continues to serve as a guide for the work of the Communications Committee.

The ACTEC Website

In 1995, ACTEC began to take advantage of the new internet and in 1996 began a new home page and website for ACTEC. As was common in the early days of the internet, the website was viewed primarily as a stand-alone technical resource. A group of webmasters handled the management and control of the site and its content under the guidance of the Technology Committee. The private portion of the website, which was limited to Fellows, contained information from *ACTEC Notes*, the index of recent issues, committee agendas, committee minutes, the roster, and information for Fellows. The public side included basic information about ACTEC.

The website attracted little traffic as Fellows displayed little interest in the limited offerings of the early website. As a result of the limited use of the website and limited usefulness to Fellows, tensions over the management of and payment for the site developed between the major players — the webmasters, ACTEC's internet service provider, and the Executive Committee.

In 2001, to address these tensions, the Executive Committee decided to completely revise the structure and management of the website. The Executive Committee appointed Fellows Don Kelley, Bob Kunes, and W. Bjarne Johnson, to handle the revision. The group designated itself as the Website Advisory Group (WAG). The Executive Committee's charge to the WAG was simple. The Executive Committee wanted the WAG to "do something" without asking for any additional funding. Members of the WAG served three-year terms. Subsequent members of the WAG were Irving S. Schloss, T. Randolph Harris, W. Birch Douglass, III, Glen A. Yale, and Susan S. Westerman. Another group, operating parallel to the WAG, was the College Web (CWEB) Editors, which was disbanded in 2006.

Recognizing that the website needed to provide easily accessible information directly beneficial to Fellows, the WAG decided that the website had to become an integrated asset of ACTEC that would aid in their practices.

To achieve this, the WAG concluded that ACTEC needed a new website that would contain only offerings determined to be useful to the Fellows. One feature of the new website was the Toolbox created by W. Bjarne Johnson. The Toolbox was limited to a curated list of sites specifically tailored to the practice of trust and estate law and was organized generally along the lines of the table of contents of a book. This was one way in which the WAG tried to make the challenges of searching on the website easier. Another feature was the separate list services for the different committees of ACTEC.

The new website was approved by the Board of Regents at the 2002 Annual Meeting. The WAG supervised the new website until the merger of the WAG, the Editorial Board, and the Strategic Communications Committee to form the Communications Committee, which was approved in 2009 and began work in 2010.

At the beginning of 2024, ACTEC launched an entirely new and more useful website, with many new enhancements, including:

- new and improved ways for Fellows to update information about themselves and their practices,
- a more prominent "Find a Fellow" search function on both the Fellows' and public websites, ensuring easy accessibility for those seeking Fellows' trust and estate expertise,

- the introduction of a sophisticated Boolean search engine, akin to those used by major search platforms, further enhancing the website's functionality, and
- a brand-new "Resource Center," equipped with its own search feature to locate all content developed by Fellows for publications, committee meetings, or CLE presentations, including ACTEC videos and podcasts.

Transformation of the ACTEC Notes to the ACTEC Law Journal

One of the most important and valuable publications of ACTEC is the *ACTEC Law Journal*. This publication is the result of numerous changes in focus and format since 1969. The previous titles are *Newsletter* (1969 to 1975); *Probate Notes* (1975 to 1990); *ACTEC Notes* (1990 to 2001); and *ACTEC Journal* (2001 to 2010). In 2010, the *ACTEC Journal* was renamed the *ACTEC Law Journal*, and it continues to use that name. From 2000 to 2010, the Editorial Board supervised the *ACTEC Journal*.

The purposes and scope of the *ACTEC Law Journal* and its predecessors changed over time. In 1992, editor Robert J. Durham, Jr. stated that *ACTEC Notes* was a place for "News, Opinion, Techniques, and Excellence in Scholarship." Beginning in 1998, the editors of *ACTEC Notes* sought input from readers as to what the content should be, how the depth or reach could be expanded, and how ACTEC Notes could interact with electronic publications efforts of ACTEC such as the ACTEC internet home page. One result of this effort was to change the title to *ACTEC Journal* in 2001 to reflect the changes in the publication. Editor Steve A. Brand noted that the title change was:

a recognition of the evolution of the nature of the publication from one which emphasized news of value and interest to the Fellows of the College to a publication focusing on literate and scholarly articles of significance to the practices of the Fellows.⁸⁴

In 2002, when Louis A. Mezzullo was editor, the Editorial Board modified the procedures that would be used to "enhance the quality of articles appearing in the *Journal*" and articulated guidelines for accepting articles that emphasized a preference for articles that contained original analysis, discussion of practical approaches to problems, comparison of state laws in a discrete area of the law, or analysis of a particular subtopic related to estates and trusts.⁸⁵

During the period before 2010, the *ACTEC Journal* had yearly editors, associate editors for part of that time, and assistant editors. The editors from 2000 through 2010 were:

Joseph J. Hanna, Jr. (2000–2001)
 Steve A. Brand (2001–2002)
 Louis A. Mezzullo (2002–2003)
 R. Budin (2003–2004)
 W. Birch Douglass, III (2004–2005)
 Charles D. "Skip" Fox, IV (2005–2006)
 Susan T. Bart (2006–2007)
 M. Read Moore (2007–2008)
 Marc A. Chorney (2008–2009)
 Charles A. "Clary" Redd (2009–2010)

One change made in 2005 was to publish the *ACTEC Journal* electronically with Fellows having the ability to opt back in to receiving a paper copy. New types of submissions were accepted for publication in the *ACTEC Journal*. For example, the Editorial Board readily agreed to publish the winning submission in

⁸⁴ 27 ACTEC J. 4 (Summer 2001).

⁸⁵ 28 ACTEC J. 4 (Summer 2002).

the annual Mary Moers Wenig Student Writing Competition, which the Legal Education Committee⁸⁶ had created and administers to interest law students in the practice of trust and estate law.

A change in 2006 was the introduction of “Capital Letters” by Ronald D. Aucutt to replace the “Washington Reports.” Co-authors John M. Bixler and Ron Aucutt stopped producing “Washington Reports” as a column for the *ACTEC Journal* in 2005 when John Bixler retired from the project. This column, which reported on new developments in tax and related matters, started in 1993 after Lloyd Leva Plaine stopped writing her column “View from the Bridge.” At the suggestion of W. Bjarne Johnson, Ron Aucutt began the new “Capital Letters” column, which initially appeared both in the *ACTEC Journal* and on the website as developments warranted. After the conversion of the *ACTEC Journal* to the *ACTEC Law Journal*, “Capital Letters” were published solely on the website, which permitted more timely distribution of new developments.

Starting in 2008, the Editorial Board began to study different ways to disseminate news and practice-oriented notes and information to Fellows. The Editorial Board determined that the immediate electronic dissemination of such information would benefit Fellows rather than requiring them to wait until the publication of the *ACTEC Journal*. To accomplish this, a separate Newsletter with news and practice information was started, which is currently prepared by staff and distributed electronically as the “Executive Director’s Weekly Update.”

An important change resulted from the desire of both the Editorial Board and the Legal Education Committee to make the *ACTEC Journal* a more attractive venue for the publication of trust and estate scholarship. To accomplish this, the decision was made to make the *ACTEC Journal* more like a law review in terms of the types of articles that would be published and the conversion of the size of the publication from the size of a newsletter to the size of a law review. As part of the conversion, the Editorial Board solicited proposals from law schools to provide a student editorial board to assist with the review and publishing of the *ACTEC Journal*. The new student editorial board was to be comparable to the student editorial board of the American Bar Association’s *Real Property Trust and Estate Law Journal*. Several law schools made proposals and, after careful review, the Editorial Board selected Hofstra Law School in 2009. Hofstra (renamed the Maurice A. Deane School of Law at Hofstra University in 2011) has housed the student editorial board since 2009, with an Academic Editor (ACTEC Fellow Mitchell M. Gans as of 2023), a paid Coordinating Editor (Professor Ashleigh Gough as of 2023), and approximately 30 law students. ACTEC and the ACTEC Foundation have both generously provided funding for the student editorial board since 2009. The partnership has been a success for both ACTEC and Hofstra. Hofstra’s contract with ACTEC to publish the *ACTEC Law Journal* was renewed for a multi-year term in 2017.

In 2010, the Legal Education Committee recommended the change of the name from the *ACTEC Journal* to the *ACTEC Law Journal* to help position the *Journal* as a more scholarly publication. That recommendation was accepted.

As will be seen from the list of editors of the *ACTEC Law Journal* below, since 2010, academics have replaced practitioners as editors and the term for the academic editors who came in after Susan Snyder has been increased from one to two years. This step has also increased the ability of the *ACTEC Law Journal* to attract articles from both academics and practitioners and to function more efficiently:

Stephen R. Akers (2010–2011)

Edward M. Manigault (2011)

Mickey R. Davis (2012)

Susan D. Snyder (2012–2013)

⁸⁶ The Legal Education Committee was formed in 1999 and consists primarily of Fellows who are full-time or adjunct law school faculty members. It was formed to promote the teaching of trust and estate and related subjects in law schools, to assist Fellows and others who teach trust and estate topics, and to encourage law school students to take trust and estate classes and practice in the trust and estate field. See also Chapter 5, “Committees,” in this History.

Kristine S. Knaplund (Pepperdine University School of Law) (2014–2015)

Bridget J. Crawford (Pace University School of Law) (2015–2018)

Jeffrey A. Cooper (Quinnipiac University School of Law) (2019)

Alyssa A. DiRusso (Cumberland School of Law at Samford University) (2019–2021)

Naomi Cahn (University of Virginia School of Law) (2022 to the present)

The ACTEC Law Journal has also issued or dedicated special editions in recent years. One was the Festschrift in memory of the widely respected and influential Past President Dennis Belcher, who died unexpectedly in 2017. A second was the dedication of the special issue in memory of Fellow Marc Chorney, who died in 2020 after a long courageous battle with Parkinson's Disease. Marc was a former editor of the ACTEC Journal and the second chair of the Communications Committee, and he played a major role in the transformation of the ACTEC Journal to the ACTEC Law Journal.

As a result of the transformation to the ACTEC Law Journal over the past 23 years, the ACTEC Law Journal is an influential publication widely respected and read and used by both academics and practitioners.⁸⁷ As of 2023, the ACTEC Law Journal publishes three volumes annually, including a theme volume in the autumn. Since 2019, the ACTEC Law Journal's editorial board routinely has solicited articles through a "call for papers and responses," which has produced a steady supply of submissions and ensured that each issue is timely and robust. The pandemic year of 2020 was particularly fruitful for the ACTEC Law Journal, with more submissions than could be published, perhaps because academics were able to devote more time to scholarly work in that unusual year.

The ACTEC Webinar Programs

In 2007, ACTEC Vice President and Program Committee Chair Dennis Belcher suggested that ACTEC present a webinar⁸⁸ on Ethics for Fellows as a way of increasing the benefit of ACTEC to Fellows and increasing the awareness and recognition of ACTEC. ACTEC contracted with ALI-ABA⁸⁹ to provide logistical support for the webinars such as production staff and equipment, providing audio/video and webinar services, handling registration, archiving the programs for future access, and arranging for CLE credit for the participants. ACTEC was responsible for the topics, the faculty, and the written materials. Net revenues, after out-of-pocket expenses and ALI-ABA's administration fee, were divided equally between ACTEC and ALI-ABA.

The first ethics webinar was held in October 2007 and was limited to ACTEC Fellows. In 2008, a subgroup of the Executive Committee, consisting of Vice President and Program Committee Chair Karen M. Moore, President-Elect Dennis Belcher, Treasurer Mary F. Radford, and Secretary Lou Mezzullo, suggested that ACTEC present an annual ethics webinar in the fall and open the registration to Fellows and non-Fellows. The ethics webinars would help Fellows receive ethics CLE credit and enhance the public image of ACTEC.

Under the guidance of the Program Committee, with Mary Radford and Skip Fox having primary responsibility, the next ethics webinar was presented in October 2008 with both Fellows and non-Fellows attending. Fellows were given a discount from the price charged to non-Fellows. Discounted fees were also available for minority lawyers, public interest lawyers, government lawyers, recently admitted practitioners, and groups. Ethics webinars were presented in subsequent years.

ACTEC increased its relationship and presented more webinars with ALI-ABA because of the success of the first two ethics webinars. In January 2010, ACTEC presented a webinar on the impact of the one-year

⁸⁷ See Bridget J. Crawford, "Change is Constant in Estate Planning: Reflections of an ACTEC Law Journal Editor," 43 ACTEC L.J. 143 (Winter 2018); and "ACTEC Law Journal: Dedicated to Trusts and Estates Topics for Nearly 50 Years," ACTEC Podcast, Episode 195, March 2022, with Natalie Perry, Communications Committee member, and Ashleigh Gould, Coordinating Editor.

⁸⁸ The term "webinar" is used to describe the presentations that were presented simultaneously in both teleconference and webinar formats.

⁸⁹ In 2012, the American Bar Association discontinued its joint efforts with the American Law Institute to provide continuing legal education, to focus on providing its own separate continuing legal education programs. The American Law Institute has continued to provide continuing legal education programs as ALI CLE since 2012.

repeal of the estate and generation-skipping transfer taxes in 2010. The original webinar on January 13, 2010, and the ten replays had 3,165 viewers and produced over \$134,000 in revenue for ACTEC. The panelists for this program were Ron Aucutt, Skip Fox, Mary Radford, and Diana Zeydel. Similarly, in late 2010, ACTEC presented a webinar on planning for the reinstated estate and generation-skipping taxes by the 2010 Tax Act with several replays. This was followed by a live video conference in early January 2011. These presentations were also highly successful with many participants and generated substantial revenues for ACTEC. The panelists for this program were Ron Aucutt, Skip Fox, Beth Shapiro Kaufman, and Bruce Stone.

After the creation of the Communications Committee, through the merger of the Editorial Board, the Website Advisory Group, and the Strategic Communications Committee, and the adoption of the Communications Plan in 2010, the Communications Committee assumed responsibility for the webinars from the Program Committee. The Fellows primarily responsible for administration of the webinars were Skip Fox (2010–2014), Robert K. Kirkland (2014–2018), Kevin McCrindle and Elaine M. Bucher (2018–2019); Lauren Wolven (2019–2022); and John Challis (2022–present). The Communications Committee worked with the ACTEC staff to arrange the schedules and topics for the webinars, administer the program from the ACTEC side, and oversee the co-sponsorship agreement with ALI CLE.

In 2012, in light of the success of the program and the benefits provided to both Fellows and non-Fellows, the Communications Committee decided to increase the number of annual seminars. Several providers of webinars and webinar services were interviewed. After interviewing the different service providers, ACTEC determined that ALI CLE would provide the best services. ACTEC and ALI CLE then signed a new contract under which ACTEC received a greater share of the net profits after expenses and administration fees.

ACTEC presented five webinars in partnership with ALI CLE in 2012. Different substantive committees took responsibility for determining the topics and presenters for the webinars on a regular basis. Special webinars were presented on new developments such as the 2012 Tax Act. After 2012, seven to eight webinars were presented each year, which is a pattern that continues. Since at least 2015, the webinars have generated steadily increasing net revenue for ACTEC. In 2015, net revenue from the webinars was \$26,400, while in 2021, net revenue was approximately \$94,000. In recent years, as in their earlier years, the webinars have been especially popular in times of legislative and political change, and ACTEC, in collaboration with ALI CLE, has nimbly offered webinars on short notice in light of anticipated or enacted tax law changes. In 2021, ACTEC and ALI CLE also decided to present selected previous sessions at some of the Fellows Institutes as webinars.

The ACTEC Family Estate Planning Guide

At its meeting on October 16, 2014, in New Orleans, the Communications Committee discussed the concept of publishing useful and interesting public talks, as videos, to be posted on the website or other public media outlets, such as YouTube. The concept was likened to “Ted Talks,” which had gained widespread popularity. A subcommittee comprised of Fellows Lauren Wolven, Margaret Van Houten, Karen Moore, Mark Christopher, and Bob Kirkland was formed to study the idea and make recommendations. As it turned out, this discussion launched one of the most important and successful outreach projects of the Communications Committee: the ACTEC Family Estate Planning Guide.

The subcommittee presented its recommendations at the June 21, 2015, meeting of the Communications Committee in Quebec City, Quebec, Canada. As originally envisioned, videos of about seven to ten minutes in length would be recorded with ACTEC Fellows speaking on trust and estate topics of interest to the general public. The project formally launched with the filming of its first video at the ACTEC summer meeting in Boston, Massachusetts, using a professional production company, with Fellows Mary Radford and Bernard A. Krooks speaking on elder law issues. At the Communications Committee meeting held on June 19, 2016, at that same Boston meeting, Skip Fox suggested that the video series be named the ACTEC Family Estate Planning Guide, and that name was approved.

The Communications Committee reviewed the launch at its meeting held on October 22, 2016, in Charleston, South Carolina. At that meeting, staff presented a six-week promotional plan for the ACTEC Family Estate Planning Guide through ACTEC and social media channels, including press releases. Staff also presented research revealing that the average view time for similar videos was only 3.48 minutes and, ultimately, the Communications Committee decided to shorten the length of the videos to three to four minutes.

By the 2018 Fall Meeting, five new videos had been filmed and five more were scheduled to be filmed at the 2019 Annual Meeting. There were about 1,800 views of the videos at the time of the 2019 Fall Meeting. At the 2020 Annual Meeting held in Boca Raton, Florida (the last in-person meeting before the Covid pandemic shut down the country), 17 videos had been recorded and disseminated with about 700 hours of watch time. By the Fall 2020 virtual meeting, the success of the ACTEC Family Estate Planning Guide was unquestionable. Thirty videos had been published, twenty of which had been published in 2020 alone. There had been 20,600 views and 1,400 hours of viewing time. A goal was set to post a new video every three weeks.

The project's growth and success since 2020 has been phenomenal. The ACTEC Family Estate Planning Guide is a top driver of users to the ACTEC website. In just the 90 days preceding the 2022 Summer Meeting in Banff, Alberta, Canada, views of the ACTEC Family Estate Planning Guide videos increased by 19 percent and there had been 221,000 views for the videos as of that time. In 2023 the series was rebranded as ACTEC Estate Planning Essentials.

ACTEC Trust and Estate Talk Podcasts

On March 8, 2017, the Communications Committee met in Scottsdale, Arizona, and entertained a proposal by Susan Snyder to produce podcasts on trust and estate topics. Discussion ensued, covering such topics as what equipment would be needed to create the podcasts, funding for the effort, and how the podcasts would be delivered. The podcasts were envisioned as resources primarily for lawyers and other wealth advisors, as opposed to the general public, so their topics would be more technical. The Communications Committee decided to go forward with the project on a modest basis. It authorized the production of four podcasts for initial release, with another twelve scheduled, to ensure a sustainable line-up. Like the ACTEC Family Estate Planning Guide, a great idea and the committee's willingness to give it a spin turned into one of ACTEC's greatest communication successes, attributable not only to Susan's initiative but in large part to her ongoing support and oversight.

ACTEC's first podcasts were recorded at the 2017 Fall Meeting in Nashville, Tennessee, using the services of a professional recording engineer. It was yet to be determined where the podcasts would be published, but iTunes and SoundCloud were considered. On the basis of this experience, certain "tweaks" were made, including training for introducers and speakers and circulation of a sign-up type of recording schedule.

By the 2018 Fall Meeting, ACTEC podcasts had reached 10,000 downloads, with some of the more popular podcasts attracting over 400 downloads each. Momentum was building, and various substantive committees were planning to record a series of podcasts on topics in their areas of substantive focus. Less than a year later, at the 2019 Summer Meeting, downloads of the podcasts had tripled to over 30,000, and by the time of the 2020 Summer Meeting podcast downloads had surpassed 100,000. Podcasts were released weekly on Tuesdays beginning in May 2018.

As of the 2022 Summer Meeting in Banff, more than 220 ACTEC podcasts had been released. As of the 2022 Fall Meeting in San Francisco, there were 332,572 podcast downloads since inception.

Staff to Assist in Communications

Since 2000, in response to the growing communications needs and projects of ACTEC, the ACTEC staff dedicated to assisting with communications and publications has grown from a publications director in 2000 to consist of a communications and outreach director, a meetings marketing and communications coordinator, an on-site support specialist, and a technical support coordinator in 2023.

State Surveys

For many years, one of ACTEC's core publications has been the Surveys of State Law on a particular topic such as the Will Requirements in Various States and Durable Powers of Attorney. These require the participation of Fellows in each state to provide the relevant information from that state on each topic. When the surveys were published in print, they were difficult to update and often quickly became unreliable because of changes in the laws of one or more states shortly after publication.

The Editorial Board, under then Chair W. Bjarne Johnson, and Irv Schloss, the chair of the Studies subcommittee, took the lead in converting the publication of the State Surveys from print to electronic form and placing the surveys on the ACTEC website. In 2003, at a time when ACTEC was running at a deficit, W. Bjarne Johnson noted that the use of the website had liberated ACTEC from the constraints and costs associated with the use of paper, and in 2005 the Editorial Board voted to publish the State Surveys electronically. Publication of the [State Surveys](#) on the web has allowed the surveys to be kept up to date and to be of far more use to the Fellows and to others who can access the surveys on the ACTEC website. The model for this was the [State Death Tax Chart](#), which was created in 2002 to chart the frequent changes in each state's separate estate or inheritance tax because of the phaseout and elimination of the federal state death tax credit under the 2001 Tax Act. Using the website, each change in a state's law could be placed on the State Death Tax Chart almost immediately after the change became known.

As of 2023, the number of State Surveys had risen to 38 from the 25 that were available in 1999, and they are far more current and of far greater use to Fellows. In 2016, the Communications Committee adopted a new structure for the review and publication of State Surveys, by which a member of the Communications Committee and a member of the State Laws Committee would work together so that new State Surveys would be published, and existing State Surveys would be updated, routinely and consistently. This structure has proven fruitful: since the new structure was implemented, State Surveys have been newly published or updated between every national meeting.

Pocket Tax Tables

The Pocket Tax Tables, which ACTEC published annually from 1984 to 2023, included various tables on the federal income, estate, gift, and generation-skipping transfer taxes such as rates, exemptions, and credits. [Tax Tables](#) published in 2010 and from 2013 to 2023 are available on [ACTEC.org](#).

ACTEC Wealth Advisor App

In the mid-2000s, ACTEC dabbled in the world of mobile device applications by launching an app, known as the Wealth Advisor App, which contained various items of benefit to Fellows such as the State Surveys and Tax Tables. The Wealth Advisor App was available only for iPads. In 2017, the Communications Committee formed a task force to study and make recommendations about the Wealth Advisor App, and at its March 8, 2018, meeting, the Communications Committee determined to discontinue the app because of the cost-prohibitive work that would have been necessary to make it available on all types of mobile device-

es. The information that had been on the Wealth Advisor App was converted to a webpage on the website, making the information formerly provided through the app easier to access.

Branding and Marketing

The Communications Committee has implemented and overseen various steps to assist Fellows in branding and marketing themselves and their practices. One was creating the electronic directory and separate membership roster and allowing Fellows to select up to three specific practice areas (such as general trust and estate law, income tax planning, trust and estate administration, charitable planning, international trust and estate, and fiduciary litigation) for their profiles.

ACTEC permits a Fellow to use the ACTEC Fellow logo, created in 2017, in certain places which include:

1. a Fellow's individual website profile;
2. an email footer originating from the Fellow's firm;
3. a Fellow's print or online marketing presentations for limited distribution; and
4. a Fellow's marketing brochures for limited distribution.

ACTEC also provides an electronic badge to help Fellows identify themselves as ACTEC Fellows on their individual profiles. ACTEC also provides Fellows with marketing materials, including a colorful flyer that can be used in conjunction with a QR code and a special landing page on a law firm website.

ACTEC Manuals and Handbooks

ACTEC has over the years published several manuals and handbooks to help in the understanding of the different functions of ACTEC and the administration of ACTEC.

Four of the current important manuals are:

1. *Policies, Practices and Procedures Manual*. The ACTEC Bylaws require the publication and maintenance of a manual containing the current policies and procedures of ACTEC. This manual is supervised by the Bylaws and Manuals Committee and was most recently updated in 2021 when Elizabeth Holland Hutchins was the committee chair.
2. *New Fellows Handbook*. This handbook is an introduction to new Fellows on how to enjoy membership in ACTEC, how to benefit from being an ACTEC Fellow, and how Fellows can contribute to ACTEC through their membership. The handbook is supervised by the New Fellows Steering Committee and was last revised in January 2020.
3. *State Chairs Manual*. This manual provides information and resources to state chairs and suggests ways in which state chairs can more effectively carry out their duties, which are so critical to the success of ACTEC. The manual is supervised by the State Chairs Steering Committee and was last updated in March 2020.
4. *Substantive Committee Chairs Manual*. This manual is intended to serve two purposes. The first is to be a comprehensive source of information and resources to assist substantive committee chairs in running their committees. The second is to be a quick reference guide for specific questions and issues that a substantive committee chair may encounter. The manual was first prepared in 2014 by a committee consisting of Barbara A. Sloan, Michael D. Simon, Shane Kelley, and John C. Moran. It was last updated in 2018.

Other Items Considered Since 1999

The Editorial Board and the successor Communications Committee have considered other issues since 2000. In 2006, for example, ACTEC, at the urging of the Editorial Board, engaged Holland & Knight to review the content of speakers' releases for seminars and other presentations presented by ACTEC, as well

as the copyrights for publications such as *The ACTEC Commentaries on the Model Rules of Professional Conduct* and *ACTEC Engagement Letters: A Guide for Practitioners*.

Items that were addressed and not pursued during this period included soliciting advertising for the *ACTEC Journal*, having a booth at the annual Heckerling Institute on Estate Planning as a way to inform trust and estate professionals about ACTEC and offer ACTEC publications and other resources that were available to the public, and publishing books by ACTEC Fellows.

ACTEC Logo

The ACTEC logo has been updated from time to time to better represent ACTEC and present ACTEC to the public.

Summation

In light of the ever-increasing ways in which ACTEC has communicated with both Fellows and non-Fellows since 2000, the ways in which ACTEC communicates will undoubtedly increase even more in the future.

CHAPTER 10: COORDINATION WITH PEER ORGANIZATIONS

Contributors: Susan T. House,⁹⁰ Mary F. Radford,⁹¹ and Steven E. Tritten

Article I of the ACTEC Bylaws sets forth the purposes of ACTEC. After defining what is meant by trust and estate law, it states that the purposes of ACTEC are “to improve and reform probate, trust, and tax laws, procedures, and professional responsibility.” It goes on to state that its purposes also include “to bring together qualified lawyers whose character and ability will contribute to the achievement of the purposes of the College; and to cooperate with bar associations and other organizations with similar purposes.”

Since its inception, ACTEC has recognized the importance of affiliation with the American Bar Association and with state and local bar associations. In addition, over the years, ACTEC has identified several other organizations whose missions and expertise are complementary to those of ACTEC. In particular, ACTEC has been fortunate to develop a relationship with the American Law Institute Continuing Legal Education program (ALI CLE), the National College of Probate Judges (NCPJ), the American College of Employee Benefits Counsel (ACEBC), and the American Academy of Matrimonial Lawyers (AAML). The evolution of the relationships with these peer organizations occurred over many years, but their formalization accelerated during the first and second decades of the twenty-first century. In 2007, ACTEC began coordinating with ALI-ABA (now ALI CLE) to present a number of webinars on estate planning topics.⁹² After many years of informal interactions, in 2014, the relationship with NCPJ was formalized with the creation of the Joint NCPJ/ACTEC Task Force. In 2017, a liaison committee was created between ACTEC and the ACEBC. In 2019, ACTEC created a Family Law Task Force that works closely with the AAML ACTEC Committee in the creation of multiple joint programs and exchange of speakers at their respective meetings. The following is a discussion of the development of these important relationships between ACTEC and its peer organizations.⁹³

ACTEC and the National College of Probate Judges (NCPJ)

The National College of Probate Judges (NCPJ), the only national organization dedicated exclusively to improving probate and guardianship law and the administration of probate courts, was organized in 1968. Its membership is comprised primarily of probate judges or judges in courts of general jurisdiction whose rotation includes probate jurisdiction. “Professional” NCPJ membership is also available to lawyers, law professors, financial advisors, and trust company or bank officers, and “associate” membership is open to court personnel. NCPJ hosts semi-annual conferences that include continuing legal education sessions and publishes the NCPJ Journal twice a year. NCPJ also presents two national awards every year: the Treat Award for Excellence in Probate Law (the “Treat Award”) and the Judge Isabella Horton Grant Award for Contributions to Guardianship Law (the “Isabella Award”).

The shared interests of NCPJ and ACTEC have led over the years to numerous informal collaborations between the members of these two organizations. ACTEC Fellows are frequently invited to give presentations at NCPJ conferences. Articles written by ACTEC Fellows have appeared in the NCPJ Journal. ACTEC has provided a representative for both the Treat Award and Isabella Award committees of the NCPJ and several ACTEC Fellows have been recipients of these awards. The ACTEC Foundation provided grants to support the NCPJ/National Center for State Courts project to draft the National Probate Court Standards in 1993, the addition to the Standards of a segment to address interstate guardianship issues in 1999, and the revision of the Standards in 2010-2012. ACTEC Fellows served, along with judges and representatives of other affiliated organizations, as members of the committees that drafted and revised the Standards. For

90 President, 2017–2018.

91 President, 2011–2012.

92 This effort is discussed in detail in the preceding Chapter 9, “[Publications and Communications](#),” in this History.

93 See also Chapter 6, “[ACTEC’s Support of the Uniform Law Commission](#),” in this History.

many years, the current president of NCPJ has been invited to the ACTEC Fall Meeting as a guest of ACTEC. Former NCPJ President the Honorable Jean Stewart is an ACTEC Fellow, as was another former NCPJ President the late Honorable James R. Wade. Former NCPJ President the Honorable Nikki DeShazo was elected as an Honorary ACTEC Fellow in 2006.

In 2014, the relationship between ACTEC and NCPJ was formalized. President Duncan E. Osborne, in conjunction with the Honorable Jean Stewart, who was then serving as NCPJ President, announced the formation of the Joint NCPJ/ACTEC Task Force, the purpose of which was “to explore opportunities for interactions between the two Colleges that will advance the goals of both.” The announcement noted further:

While many differences obviously exist between the memberships and the agenda of each, there are certain common interests such as the administration of justice in the probate courts, the continuing legal education of members of both for the benefit of the general public, and the protection of minors, the elderly and other persons with disabilities. The Task Force should not necessarily be limited to exploration of the issues enumerated, but feel free to explore all possible ideas and avenues of mutual interest.

The original task force was composed of four ACTEC Fellows and four NCPJ appointees. The ACTEC Fellows were Robert W. Goldman, Stephanie Loomis-Price, John T. Rogers, Jr., and Kathleen R. Sherby (who served as chair of the task force). The NCPJ appointees were the Honorable Rita Cobb (Oregon), the Honorable Jean Stewart (Colorado), the Honorable James R. Wade (Colorado), and the Honorable Mike Wood (Texas). As of December 2023, John Rogers, Stephanie Loomis-Price, Kathy Sherby, and Jean Stewart continue to serve on the task force. Over the years, the task force has been expanded to include additional ACTEC Fellows: Keith Bradoc “Brad” Gallant, Steven L. Hearn, Shaheen I. Imami, Steven K. Mignogna, Eric W. Penzer, Professor Mary F. Radford, Professor Ronald J. Scalise, and Deborah J. Tedford as chair in 2023. Various presidents and other officers of NCPJ have also rotated onto the task force, including the Honorable Tamara Curry (South Carolina), Anne Meister (Register of Wills, Fairfax County, Virginia), the Honorable Christine Butts (Texas), and the Honorable Brenda Hull Thompson (Texas).

As noted, ACTEC Past President Kathy Sherby chaired the task force from its inception through the March 2019 ACTEC Annual Meeting. ACTEC Past President Mary Radford succeeded Kathy as chair and served through the March 2022 ACTEC Annual Meeting. Debby Tedford succeeded Mary Radford as chair. The chairs of the task force, local task force members, and occasionally ACTEC presidents regularly attend NCPJ meetings. Their attendance is funded by ACTEC pursuant to a decision made by the ACTEC Executive Committee in 2019.

An initial project of the task force, for which grant support was provided by the ACTEC Foundation, was a collaboration with the National Judicial Council (NJC) to construct a lengthy presentation on trust law. The motivation behind this project was to provide expert education for the many judges who serve in probate courts but who are not familiar with trust law concepts. Kathy Sherby and John Rogers devoted many hours of work to this project, with the assistance and input of NCPJ members. Because of a break-down in communication, however, the NJC moved away from collaboration with ACTEC and NCPJ and produced a presentation of its own, which contained some inaccuracies and was inconsistent with the quality of the product that Kathy and John had worked on. With the aid of other task force members, Kathy and John reworked the presentation into a two-part article designed to be published in the NCPJ Journal. It was originally intended that this article be presented to the NCPJ Executive Committee at the 2020 Fall Conference for input from them. Because of the pandemic, this plan did not come to fruition, but Anne Meister of NCPJ and Mary Radford worked remotely to polish up the final project, and both parts of the article were published in the Spring 2020 NCPJ Journal.

The submission of articles by ACTEC Fellows to the NCPJ Journal has been strongly encouraged by NCPJ. An article by task force member Steve Mignogna on Trust Investments and Diversification was published in the Fall 2020 NCPJ Journal. The task force continues to brainstorm with the NCPJ members on

other useful collaborations in which the two Colleges could participate.

At the 2022 NCPJ Fall Conference, Task Force Chair Debby Tedford began conversations with newly-elected NCPJ President the Honorable Dianne Yamin (Connecticut) on ways in which ACTEC could offer support for the conferences. ACTEC Fellows Amy Beller, Hugh McGill, and Mary Radford all gave presentations at that conference, and the task force endorsed future efforts to have ACTEC fund the participation of at least one ACTEC speaker at each conference.

Another current project of the task force is to identify which of the ACTEC Trust and Estate Talk podcasts may be of particular interest to probate judges and prepare a list of those podcasts for publication in the NCPJ Journal.

ACTEC and the American College of Employee Benefits Counsel (ACEBC)

BACKGROUND OF THE ACEBC⁹⁴

The newly formed American College of Employee Benefits Counsel (ACEBC) gathered for the first time in New York City to induct its Charter Fellows at a gala dinner at Windows on the World in the World Trade Center on July 8, 2000. Fourteen months later, one of the ACEBC's newest Fellows was killed when the World Trade Center was destroyed.

The ACEBC was initially a dream of a handful of the leading lights in the benefits community. Months later, the idea started to become reality as the result of the initiative of nine members of the American Bar Association's (ABA's) Joint Committee on Employee Benefits, a committee comprised of representatives from the six ABA sections with a substantive interest in employee benefits issues. These nine individuals were selected to begin organizing the ACEBC in August 1999. Induction of the Charter Fellows during the formal founding of the ACEBC a year later culminated a year-long celebration of the 25th anniversary of the enactment of the Employee Retirement Income Security Act (ERISA).

The ACEBC is a not-for-profit organization dedicated to elevating the standards and advancing the public's understanding of the practice of employee benefits law. There had not previously been any institution devoted to recognizing and encouraging excellence in the field of employee benefits law. In continuous pursuit of its goals, the ACEBC encourages the study and development of employee benefits laws and initiates professional discussions of significant employee benefits issues.

Additionally, the ACEBC will continue to recognize the achievements of distinguished employee benefits practitioners who have been engaged in employee benefits practice for at least 20 years and have demonstrated a sustained commitment to the development and pursuit of public awareness and understanding of the law of employee benefits through such activities as writing, speaking, participating in public policy analysis, public education, or public service.

THE BEGINNING OF A RELATIONSHIP WITH THE ACEBC

Daniel N. Janich, then serving as co-chair of the ACEBC's Education Committee, contacted ACTEC Executive Director Deborah O. McKinnon in early 2017. They had a lengthy conversation about whether there could be mutual or joint programs, or an exchange of speakers between the ACEBC and ACTEC. Deb learned that the ACEBC criteria for membership were similar to those of ACTEC, and that the ACEBC was a smaller organization with about 450 Fellows.

This led to a February 17, 2017, conference call between Dan Janich, John A. Terrill, II (then incoming Program Committee chair), Susan T. House (then incoming ACTEC president), Steven E. Trytten (then in-

⁹⁴ This section is a composite of "history," "who we are," and "mission statement" as found on ACEBC's website as of March 18, 2023: www.acebc.com.

coming chair of the ACTEC Employee Benefits in Estate Planning Committee, later known as the Employee Benefits Committee), and Norman Stein (then a member of the ACEBC Education Committee and a law professor). The discussion on this call confirmed that there were similarities between the two Colleges and that there was mutual interest in exploring how the two Colleges could work together. The areas initially identified as most promising were collaborating on programs for either or both Colleges, and on building a relationship between the ACEBC and the Employee Benefits Committee. It was agreed that the Colleges would establish an informal liaison committee to develop these ideas further. The liaison committee would include Fellows from both Colleges, particularly any who belong to both Colleges, and would be a subcommittee of the ACEBC's Education Committee as well as ACTEC's Employee Benefits Committee.

Shortly after the call, Deb confirmed that the following individuals were Fellows in both Colleges: Paula A. Calimafde, Louis A. Mezzullo, Carol Myers, James M. Parker, Cecil A. Ray, Jr., Harvey B. Wallace, II, and Leonard J. Witman.

Dan Janich and Steve Trytten spoke again on May 12, 2017, to discuss how to advance the formation of a liaison committee, and began exploring some specific ideas related to programs and other objectives. Pursuant to this call, Dan and Steve collaborated on a May 25, 2017, email letter to the above individuals who were then Fellows in both Colleges, informing them of the formation and purpose of the liaison committee and inviting them to join.

PROCESS AND ACCOMPLISHMENTS OF THE RELATIONSHIP WITH THE ACEBC

As of July 11, 2017, the make-up of the liaison committee was determined, consisting of Dan Janich, Steve Trytten, David Pratt (of the ACEBC, not David Pratt of ACTEC), James Parker, and Lenny Witman. Around this time, the Employee Benefits Committee invited the ACEBC and its members to comment on draft comments the Employee Benefits Committee had prepared with respect to the Retirement Enhancement and Savings Act (RESA) then pending in Congress.⁹⁵ Although no formal response was received from any ACEBC member, the exchange strengthened awareness within the ACEBC and the Employee Benefits Committee of this new relationship. ACTEC ultimately finalized and submitted its comments on RESA, which was not enacted.

The liaison committee conducted its first meeting on October 2, 2017, by telephone. All five members were in attendance. The committee brainstormed a wide range of activities that might advance the collaboration between the two Colleges. Some of the ideas, such as forming a joint list service between the Colleges, starting a jointly sponsored writing competition, and exchanging program materials between the Colleges, were ambitious and would require more study. Other ideas that involved collaboration on preparing programs for one College or the other were determined to be the best direction for the committee at that time.

David Pratt (of the ACEBC) expressed interest in attending the October 19, 2017, Employee Benefits Committee meeting in Nashville, and this was ultimately approved by ACTEC. His visit to the October 19, 2017, Employee Benefits Committee meeting was productive and resulted in more dialogue between the committee and the ACEBC.

The Employee Benefits Committee reached out to the ACEBC to explore having someone from the ACEBC give a talk at the March 8, 2018, Employee Benefits Committee meeting in San Antonio. The ACEBC coordinated the availability of one of its members, Erin Turley of McDermott Will & Emery LLP's Dallas office, to participate in a discussion about current developments in employee benefit planning, including a presentation on planning with employee stock ownership plans (ESOPs). This was approved by ACTEC. She gave an excellent presentation that was well received by the Employee Benefits Committee.

In April 2018, the Employee Benefits Committee revised its subcommittee structure to create a new subcommittee on "Executives and Business Owners," with two purposes. First, it would bring ideas and

⁹⁵ The primary concern expressed in the comments was the impracticality of a RESA provision that would have limited post-death RMDs from IRAs and retirement plans to five years, with a \$450,000 exception that could still be subject to existing, more favorable RMD rules.

presentations to the Employee Benefits Committee on issues of interest to estate planners relating to the full spectrum of employee benefits outside qualified plans and IRAs, which often arise with corporate executives and closely held business companies. Second, it would represent the Employee Benefits Committee on the liaison committee with the ACEBC. The original members of this subcommittee were Steve Trytten, Steven B. Gorin, Scott T. Filmore, Richard R. Gans, Keith A. Herman, Robert K. Kirkland, Judy Y. Lee, and Lenny Witman.

The Employee Benefits Committee invited Dan Janich (who practices in Chicago) to make a presentation on Employee Benefits Issues for Closely Held Businesses to the Employee Benefits Committee at its June 2018 meeting in Chicago. This presentation was intended to supplement the ACTEC stand-alone presentation on the “Life Cycle of a Business” scheduled earlier in that meeting. This was approved by ACTEC. He gave an excellent presentation that was well received by the Employee Benefits Committee.

In July 2018, the Employee Benefits Committee reached out to Dan Janich to see if anyone in the ACEBC could weigh in on a question that had arisen about designing a qualifying prototype IRA with flexible investment/custodian provisions. Dan was able to obtain approval from the ACEBC to allow posting of this question to the ACEBC LinkedIn page. Dan also obtained approval for ACTEC Fellows to be allowed to use the ACEBC LinkedIn site, pending time to develop terms of service/use policy for ACTEC Fellows. As it turns out, no one in the ACEBC weighed in on the original question, but progress was made towards furthering professional collaboration between the two Colleges. This was the first of several issues that arose at either ACTEC or the ACEBC and was routed through one or more members of the liaison committee to the other College.

The ACEBC reached out to the Employee Benefits Committee to see about arranging a presentation by a member of the Employee Benefits Committee at the ACEBC’s upcoming annual meeting to be held in Nashville on September 15, 2018. Kent E. Endacott of the Employee Benefits Committee made this presentation, which covered “See-Through Trusts” and certain ERISA issues that arise in estate planning.

Kent’s presentation was so well received that Mark Poerio, the other co-chair of the ACEBC’s Education Committee, proposed putting together a webinar or teleconference that would be co-sponsored by the ACEBC and ACTEC to reprise the presentation with a panel of four, consisting of two Fellows from each College. ACTEC was enthusiastic about this proposal. Given that co-sponsorship with another College was a departure from existing program protocol, some additional thought was required as to how best to structure ACTEC’s role. ACTEC approved presentation of a teleconference as being sponsored by the ACEBC as part of its continuing series of webcasts, and as jointly developed by the ACEBC and ACTEC. The ACEBC would be responsible for costs and logistics, and Fellows of either College could attend at no charge.

The teleconference was titled “Navigating the Intersection between ERISA and Trust & Estates,” and took place on January 23, 2019. The panel consisted of: Steve Trytten and Kent Endacott from ACTEC, and John Adriooff and Mark Poerio of the ACEBC. There were almost 70 participants registered for the teleconference, with just under 80 percent from ACTEC and the balance from the ACEBC. Both Colleges were pleased with the success of this event.

Dan Janich and Steve Trytten exchanged emails in July and August, 2019. Each College was pleased with the programs that had come from this new relationship, and Dan and Steve discussed following up on some of the other, more ambitious ideas discussed in the liaison committee’s October 2, 2017, call. Dan and Steve agreed that it would be productive to reach out to those in charge of each College to see what feedback or direction might be received on these different ideas before scheduling the next liaison committee call. Dan asked Roland Simpson, then president of the ACEBC, to become more involved to help with feedback and direction from the ACEBC.

The liaison committee met again on December 5, 2019. It was pleased with what had been accomplished in the past year involving programs provided to one or both Colleges. There was enthusiasm to press fur-

ther, and a wide-ranging agenda of ideas was discussed in the spirit of exploring as many different ways as possible to support the two Colleges and strengthen the relationship between them. These ideas included:

- Seeking to coordinate another jointly sponsored webinar, possibly involving ALI CLE, on the topic of plan rollovers to fund business startups (also known as “ROBS”). It was hoped that such a webinar could counter a great deal of misinformation and poor planning advice occurring in the greater planning community.
- Revisiting RESA legislation that resurfaced in 2019 and inviting comments from the ACEBC Fellows on ACTEC’s comments. (This would soon become irrelevant with the enactment of the SECURE Act on December 20, 2019.)
- Developing an annual outline of “Top Estate Planning Developments of the Year from an Employee Benefits Perspective.”
- Considering whether and how Fellows from one College might post or have access to the list service of the other College.
- Coordinating Fellows from each College to collaborate on articles on cross-over topics.
- Considering whether to pursue a jointly sponsored writing competition on issues that relate both to estate planning and employee benefits.
- Developing a shared contact list that would provide Fellows of the ACEBC with a list of key contacts within ACTEC, and vice versa.

Many of these ideas presented logistical challenges to one or both Colleges and could go forward only if approved by those in charge of each College. Before there was much time to explore these issues, the SECURE Act was enacted and sent a seismic wave through the practice areas of employee benefits and estate planning.

By January 28, 2020, the ACEBC had proposed, and the liaison committee had endorsed, the concept of a webinar on the SECURE Act that would be developed jointly by the two Colleges. Steve Gorin (then incoming chair of the Employee Benefits Committee) became involved. There was much to consider from ACTEC’s perspective, and this item was on the ACTEC Executive Committee agenda for its meeting at the annual meeting in Boca Raton, Florida, in early March 2020.

Another seismic shift occurred in the form of the Covid pandemic shutdown, coming immediately after the Boca Raton meeting. ACTEC needed more time to determine how best to structure such a joint program. Deb McKinnon suggested using a relatively new (at the time) technology called “Zoom.” Steve Trytten kept the ACEBC informed of ACTEC’s progress in evaluating these issues. The ACEBC remained interested. After a time, the ACEBC shared their observation that there had been quite a few SECURE Act programs that had come out since the start of the year and suggested focusing on other issues of importance on which Fellows were not already receiving guidance from multiple sources.

By April 2020 Steve Gorin had become the chair of the Employee Benefits Committee, and Steve Trytten continued to run point on the liaison committee with oversight and support from Steve Gorin. An ACTEC task force to submit comments on the SECURE Act was being formed, which would include Kathy Sherby and Steve Trytten as co-chairs. (Steve Trytten asked the ACEBC if it had any interest in getting involved in comments on the SECURE Act. The ACEBC declined, because its policy is to avoid taking positions for or against legislative or regulatory proposals.)

The liaison committee met again on November 5, 2020, to discuss a possible program that might include ACEBC and ACTEC presenters as part of ACTEC’s upcoming March 2021 meeting (which was expected to be virtual). The theme of the program would be “ERISA Preemption Issues” of interest to estate planners. The seminars for the annual meeting had already been set by the Program Committee, so it was ultimately decided to provide a separate, stand-alone program. Tami Conetta (then chair of the State Laws Committee) and Anne W. Coventry (then chair of the Family Law Task Force) each expressed interest in seeing such a program become a reality.

A monumental effort to coordinate the presentation logistics followed, with incredible effort from Deb McKinnon and Donna Braman of the ACTEC staff, Dan Janich and Roland Simpson of the ACEBC, Steve Gorin, Steve Trytten, and several other committee chairs, including Tami Conetta (State Laws), Anne Coventry (Family Law Task Force), Raymond K. Okada (Fiduciary Litigation), and Lora L. Brown and David J. Estes (Practice). The outcome was the scheduling of a two-hour stand-alone joint committee meeting on March 5, 2021.

Anne Coventry arranged for a member of the American Academy of Matrimonial Lawyers (AAML) to join the panel, which was a valuable addition.

Because this meeting was to be part of the ACTEC annual meeting, it appeared that it would not be possible to extend an open invitation to members of the ACEBC and the AAML to attend. But Steve Gorin and Deb McKinnon came up with the concept of making the program a “Special Session” that just happened to be scheduled the day after the last annual meeting date, and members of all three Colleges could register at no charge and attend. A recorded copy of the Zoom webinar was also made available to other Fellows of these organizations.

The final title for the program was “The Impact of ERISA Preemption on Estate Planning and Marital Matters.” The panel included Alden Bianchi and Mark Casciari from the ACEBC, Alvin J. Golden, Jonathan Lasley, and Moderator Steve Trytten from ACTEC, and Kimberly R. Willoughby from the AAML. Donna Braman was able to arrange for the logo of each of these three organizations to be included in the written materials.

The program went well and was extremely well received. Comments included:

“Your program today was outstanding. It was such an impressive showing of ACTEC’s role as a thought leader in this area. The coordination with our sister organizations was powerful. Thank you all!” Ann B. Burns, then incoming president of ACTEC.

“The program today really was outstanding. It was really well organized and the discussion in each specific section was clear and concise. Congratulations.” Stephen R. Akers, then president of ACTEC.

“Steve, from the staff side we are all thrilled it was so successful. The collaborative programming is important to continuing to advance the excellent work of ACTEC and engaging additional perspectives to enhance information for the Fellows. A terrific way to end the first week of the virtual annual meeting!” Deb McKinnon, Executive Director of ACTEC.

In April 2021, Steve Gorin began planning for two collaborative programs to occur later that year.

The first was another special session/joint committee presentation by panelists from ACTEC and the AAML titled “Spouses Dividing Retirement Plan Assets during Life” on June 11, 2021. The ACEBC was not involved in this program, but the relationship with the ACEBC and the prior program in March may have helped pave the way for this program. The program was cutting-edge and very well received.

The second was a joint committee presentation by panelists from ACTEC and the ACEBC on “Retirement and Exit Strategies for Law Firms,” coordinated by the Employee Benefits, Business Planning, and Practice Committees. This program was originally planned for ACTEC’s fall meeting in Denver, but the cancellation of the Denver meeting because of continuing Covid issues resulted in this meeting being rescheduled for March 10, 2022, as part of the annual meeting in San Diego. The panel consisted of David Levine (ACEBC) and Steve Gorin (ACTEC). This presentation received great reviews from many Fellows, perhaps because of its relevance at both the client and personal level. ACTEC determined that it was not possible to allow ACEBC Fellows to attend the program. Steve Gorin agreed to participate in a repeat of this program sponsored by the ACEBC for its Fellows on May 25, 2022. That program was well received by the ACEBC’s Fellows.

In approaching the milestone of ACTEC’s 75th anniversary, the sweet spot in ACTEC’s relationship with the ACEBC has been programming and exchange of technical information. These benefits alone are a

valuable resource that should continue to bear fruit in years to come. More ambitious concepts await further study. There also is a template to guide the development of other relationships (such as with the AAML, discussed next) and in arranging joint committee presentations and special sessions. ACTEC's ability to form relationships with similar organizations is another point of light in what looks to be a bright future.

ACTEC and the American Academy of Matrimonial Lawyers (AAML)

OVERVIEW OF THE AAML

The American Academy of Matrimonial Lawyers (AAML) was founded in 1962. The website for the AAML describes its Mission, Vision, and Values as follows:

The American Academy of Matrimonial Lawyers is a national not-for-profit membership association founded in 1962 and composed of the nation's leading family law attorneys from all 50 states and the District of Columbia, with nearly 1500 Fellows.

Mission Statement: Provide leadership that promotes the highest degree of professionalism and excellence in the practice of family law.

Vision: Be the preeminent organization of family law attorneys and the best resource for clients, lawyers, judges, educators, and the public.

Values: To recognize and promote excellence in the practice of family law; practice and uphold ethics, integrity, and professionalism always; serve as the foremost authority and resource on family law; advance civility and collegiality among our fellows; advocate for the advancement of family law and promote charitable giving and service.

Fellows of the Academy specialize in all issues related to marriage, divorce, annulment, prenups, matters affecting unmarried cohabitants, child custody and visitation, business valuation and property distribution, alimony, and support. Each fellow must demonstrate by personal conduct a professional and ethical commitment to his or her clients and to society at large in resolving what are often intensely emotional and complex family problems. By demonstrating the highest standards of matrimonial practice, Fellows of the Academy have set the standard for the matrimonial bar. They have helped improve the quality of family law practice throughout the country for attorneys and litigants alike.

The membership requirements for the AAML are rigorous. An applicant must have been a practicing lawyer for at least 10 years, with a practice during the preceding five years devoted 75 percent or more to the area of matrimonial and family law. Minimum hours of CLE in the area of matrimonial and family law must be met over the previous five years of practice; there must have been adequate participation in speaking, writing, or serving as a mediator or judge pro tem, all in matrimonial or family law matters; and the applicant must have had extensive trial experience as lead counsel, including the trial of matters related to custody, child support, division of property, alimony, or spousal support. If the applicant's state has a matrimonial and family law certification program, the applicant must be certified, and in some cases the applicant may be required to take an exam offered by the national AAML or the applicable chapter of the AAML. Last, but not least, the applicant must have a professional reputation for honesty, integrity, and professionalism.

The AAML is divided into 33 chapters, some of which are defined by portions of a state and some of which encompass an entire state or several states, depending on the number of AAML lawyers in the state. AAML lawyers provide virtual and in-person professional continuing education and networking, and they publish the widely recognized Family Law Journal.

BACKGROUND OF THE OVERLAP OF ESTATE PLANNING AND MATRIMONIAL LAW IN ACTEC

ACTEC Fellows have known for many years that much of what ACTEC Fellows do in their day-to-day practice overlaps much of what the matrimonial and family law lawyers do as well. Historically, evidence of this overlap can be seen by a review of the topics covered in the CLE programs given at ACTEC national and regional meetings by ACTEC Fellows. As time passed and legal practice became increasingly specialized,

it was also recognized that the expertise of lawyers who specialize in matrimonial and family law matters could contribute substantially to the knowledge of ACTEC Fellows.

The history of this overlap began as early as 1997, if not earlier. At the 1997 ACTEC Fall Meeting, five ACTEC Fellows presented “Planning for Marital Relationships.” Jackson M. Bruce, Jr., Dennis I. Belcher, and Robert M. Weylandt spoke on “Marital Agreements: Pre-nuptial and Post-nuptial”; Donna G. Barwick spoke on “Divorce: Right Up There With Death and Taxes — Estate Planning Techniques in the Context of Divorce”; and Joseph N. DuCanto spoke on “Tax Planning for Divorce.” At the 1999 Annual Meeting, Al Golden, Professor Jerry A. Kasner, and David G. Shaftel spoke on “Community Property Law.” At the 2002 Annual Meeting, a presentation titled “Prenuptial Agreements and Post Nuptial Agreements — Getting In, Getting Out” was given by Glen S. Bagby, Eric Manterfield, and Christopher M. Moore. (It is worthy of note that until 2022, Chris Moore, who had been elected in 1979, was the only Fellow of ACTEC who was also a Fellow of the AAML.)

These family law overlap programs continued and became more numerous in the years that followed. The proliferation of these overlap programs was the result, in part, of ACTEC’s conscious decision to increase the number of non-tax programs offered at the national meetings. Changes in federal estate and gift tax law that reduced the number of estates concerned with sophisticated tax planning focused ACTEC’s attention on the fact that many ACTEC Fellows were more interested in the non-tax subjects and were eager to participate in both creating and taking advantage of programs on marital agreements, conservatorship, litigation, asset protection, trust and estate administration, non-tax estate planning provisions to promote the client’s goals, and many other non-tax subjects.

Two programs in the family law arena were presented at the 2004 Annual Meeting: “Estate Planning for Unmarried Couples: What’s the Difference and What’s the Same?” by Jeffrey G. Sherman and Kathleen Ford Bay and a symposium titled “Marital Planning: A New Look at a New Environment” by Elaine M. Bucher, L. Henry Gissel, Jr., and Shirley L. Kovar.

The 2007 Summer Meeting was devoted to “Untying the Knot for the Not-So-Happy Couple — How to Plan for the Unstable Marriage” presented by Charles M. Bennett, Elaine Bucher, Max Gutierrez, Jr., Carlyn S. McCaffrey, and Duncan Osborne. This program had four sessions dealing with premarital planning and the tax ramifications of marital transfers in divorce and post-divorce planning, including ethical issues in the ongoing representation of the former clients.

The 2009 Annual Meeting saw a presentation on “Planning for the New Biology” presented by Henry M. Grix, Joshua S. Rubenstein, Professor Lawrence W. Waggoner, and Susan S. Westerman. For many Fellows, this was their first introduction to a subject that would become increasingly important in the years ahead and that clearly overlapped the field of family law.

The stand-alone program preceding the 2011 Summer Meeting was completely devoted to an overlap subject, namely, a presentation titled “Till Death Do Us Part ... Or Maybe Sooner,” by Marc A. Chorney, John Mayo, Shawn Meador, Barbara C. Sherland, W. Donald Sparks, II, James D. Spratt, and Jack Terrill.

At the 2012 Annual Meeting, the family law interest of Fellows was addressed by “Same As It Ever Was: Integrating Family Law, Property Law and Non-Marital Status in Estate Planning for Committed Couples,” presented by Anne Wynne, Rhonda H. Brink, and Josh Rubenstein.

The 2013 Annual Meeting included a program by Marc Chorney, Kim Kamin, and Barry A. Nelson titled “Selected Divorce Issues for the Estate Planner.”

The theme of the stand-alone program preceding the 2014 Summer Meeting was “Alpha to Omega: Life Cycle of an Estate Plan.” It included a session presented by Dennis Belcher and Rhonda Brink titled “Until Divorce Do Us Part.” Among the materials published for that session was an article that made clear the growing interface of family law and estate planning, namely, “Irrevocable Trusts under Attack: the Domestic Relations Angle.”

DEVELOPMENT OF AFFILIATION WITH THE AAML

By 2014, the importance of estate planning to family law, and vice versa, had been addressed repeatedly by ACTEC's Program Committee, and in October 2014, ACTEC President Kathy Sherby asked the Executive Committee to give thought to whether ACTEC should investigate affiliating with the American Academy of Matrimonial Lawyers (AAML).

Nothing further was mentioned on the subject until August 2016, when it was noted at the monthly Executive Committee meeting that the estate planning lawyers in some of the states had been coordinating activities with AAML lawyers, and it was decided that the Executive Committee should begin looking seriously at an affiliation.

The 2016 Fall Meeting featured a presentation titled "Power, Money, Sex and Drugs — Elder Law in 21st Century America," during which Debby Tedford addressed "Marriage, Divorce and Pre and Post Nuptial Agreements." In December, the Executive Committee discussed the affiliation subject again. Having been a strong advocate of the value of working with the AAML for several years, ACTEC President-Elect Susan House volunteered to meet with a representative of the AAML.

In early 2017, Susan met with Peter Walzer, an active Fellow of the AAML, in Los Angeles, and they explored how the members of each organization could benefit from what came to be known as "cross-pollination." Susan and Peter discussed the obvious mutual benefit to ACTEC and the AAML from the professional insight each could bring to the other through programs and joint projects. Their meeting concluded with a commitment that each would recommend that his or her organization explore with the other organization how to develop the programs and other connections useful to both.

Susan House described her meeting with Peter Walzer at the next Executive Committee meeting, and ACTEC Executive Director Deb McKinnon was asked to contact her counterpart at the AAML to determine the next steps needed to move forward. As a result, the AAML formed the AAML ACTEC Committee headed by AAML Fellow Kim Willoughby.

The Program Committee continued its interest in family law topics of interest to ACTEC Fellows at the 2017 Annual Meeting with a program titled "The Battle Over Trusts in Divorce — Invasion and Surrender" presented by Katarinna McBride, Jim Spratt, and Michael J. Stegman.

At the Executive Committee meeting in April 2017, ACTEC Vice-President Jack Terrill reported that he had spoken with representatives of the AAML about producing co-programs at their national meeting in Chicago on topics related to the intersection of estate planning and family law. He listed a number of possible topics, focusing particularly on the consequences of death during divorce. Jack noted that Carlyn McCaffrey and others had given an ALI CLE program, including tax issues related to settlements. He told the AAML that ACTEC could provide speakers at the AAML conference if they were interested. The following month, Jack reported that he had spoken to a member of the AAML and suggested specifically that ACTEC and the AAML should consider producing co-programs at the AAML Chicago Annual Meeting in November.

The following year, 2018, brought several more overlap programs. At the Mid-Atlantic Regional Meeting in September, Linda Ravdin (AAML) and Morriah Horani (a lawyer in Linda's firm) presented "Attacking and Defending Premarital and Postmarital Agreements after Death." At the ACTEC Fall Meeting, Carlyn McCaffrey presented a paper titled "The Use of Trusts to Structure Divorce Settlements — After the 2017 Tax Act."

Then, in November 2018, as a result of Jack Terrill's efforts to introduce participation by ACTEC Fellows at the AAML Annual Meeting in Chicago, Bruce Stone, Mary Radford, and R. Hugh Magill presented "Our Clients Are Living Longer But Their Marriages Are Not: The Intersection of Estate Planning and the Gray Divorce."

THE FAMILY LAW TASK FORCE

At the same time, ACTEC was considering the benefit of creating a task force to focus on matrimonial and family law matters of interest to ACTEC Fellows.

At the Executive Committee meeting at the 2018 Fall Meeting, President Charles D. “Skip” Fox, IV urged the committee liaisons to ask their respective committees their opinion about the viability of a Domestic Relations Committee. At the same time, then President-Elect Jack Terrill solicited interest from the ACTEC Fellows at large about their interest in the creation of a Domestic Relations Task Force. Finally, in December, as a result of the positive feedback received from the committees and the Fellows at large, Jack informed the Executive Committee that an exploratory meeting to determine whether to recommend the formation of a Domestic Relations Task Force would be held at the 2019 Annual Meeting in La Quinta, California.

That exploratory meeting, chaired by Jack Terrill, was held in La Quinta. Forty-six people attended the meeting. Jack noted that domestic relations aspects had been addressed over the years in multiple committees, for example the Asset Protection Committee, and that there had been several courses already given jointly with the AAML, citing the recent presentation by Hugh Magill, Bruce Stone, and Mary Radford. The people at the meeting included multiple past presidents (Carlyn McCaffrey, Kathy Sherby, and Bruce Stone) and current officers of ACTEC (Jack Terrill and Bob Goldman) as well as active committee members and speakers. All supported the creation of the task force and increasing the number of projects with the AAML. In an open discussion, the participants listed multiple domestic and family relations issues of importance to ACTEC Fellows and their clients: protection of a divorcing child from his or her spouse’s access to inherited or gifted assets; the details of a good prenuptial agreement; the disclosure and description of a spouse’s beneficial interests in a trust; tax implications and unexpected consequences of estate planning in place; the argument that a trust for one spouse is part of the marital assets at the time of divorce; practical drafting in estate planning documents to take into account a beneficiary’s possible future divorce; coordination of trust benefits, child support obligations, and possible special needs benefits; divorce and a closely held entity; death during pendency of a divorce; the importance of (and limits on) addressing each spouse’s estate plan during and after a settlement agreement; educating family lawyers about tax issues like GST exemption allocations, split gifts, and portability; pre- and post-mortem children; and ownership of donated sperm, eggs, and frozen embryos. There was enthusiastic consensus that there should be participation by an AAML Fellow at the task force meeting.

Following that successful exploratory meeting, the necessary steps were begun to establish a Domestic Relations Task Force. In April 2019, President Jack Terrill raised to the Executive Committee his concern that the rule permitting a Fellow to be a member of only two substantive committees would force a Fellow already active on two committees to resign from one in order to become a member of the newly formed Domestic Relations Task Force (as well as the other newly formed Artificial Intelligence Task Force). He pointed out that forcing this decision could seriously deter a Fellow from participating in one of the new task forces and could hinder the development of what were otherwise likely to be important new areas of interest in ACTEC. The Executive Committee voted to waive the general requirement so that Fellows could serve on two substantive committees and still be a member of one of those task forces.

The newly formed Domestic Relations Task Force met for the first time at the 2019 Annual Meeting. Twenty-nine members attended, as well as twenty visitors and two non-Fellow speakers. At that meeting, the members voted to change the name to the “Family Law Task Force,” which the Executive Committee subsequently approved. Anne Coventry, who chaired the task force (and did so for the next two years), was in monthly communication with AAML Fellow Kim Willoughby in her role as AAML ACTEC Committee chair. At the task force meeting, Anne raised the subject of “cross-pollination” with the AAML and listed several projects the AAML considered important for ACTEC and the AAML to address together. It was suggested at that meeting that an AAML Fellow be invited to speak at a task force meeting.

The Family Law Task Force met for the second time at the 2019 Fall Meeting. Two AAML Fellows, Mary T. Vidas and Cheryl L. Young from Pennsylvania, gave a presentation to the task force on “Top Family Law Tips for Estate Lawyers to Avoid Missteps,” and they led a discussion on the intersection of family law and estate practice as it relates to (1) variations in state law regarding the validity and enforcement of premarital agreements, (2) alimony, and (3) genetic material.

In December 2019, as evidence of the growing relationship between ACTEC and the AAML, the Colorado Chapter of the AAML hosted a cocktail hour for ACTEC Fellows.

In the ACTEC 2020 Summer Meeting, AAML Fellow Adam Kibort gave a presentation to the Family Law Task Force on social media and divorce. Also in the summer meeting, AAML Fellow Kim Willoughby gave a presentation to the Family Law Task Force on family law practice in the time of Covid. In the 2020 Fall Meeting, the Family Law Task Force met and heard programs on “Decanting in the Context of Divorce” by Tasha Dickinson, “Income Tax Issues in a Divorce” by Bob Kirkland and Justin T. Miller, and “Planning During Pendency of Divorce” by Wendy S. Goffe and Angela C. Titus McEwan. It was also noted at that meeting that multiple family law issues had been spotted on the ACTEC practice list service.

At the 2020 Annual Meeting of the AAML, there were several presentations by ACTEC Fellows. Wendy Goffe (ACTEC) made a presentation on polyamorous relationships. John Rogers and John F. Bergner (ACTEC), Elizabeth Green Lindsey (AAML), and Boryana Zamanoff (BNY Mellon) spoke on “Divorcing the Highly Planned Couple.” Sharon L. Klein and Shari A. Levitan (ACTEC) and Elena Karabatos and Kim Willoughby (AAML) spoke on “Accessing Trust Funds in Divorce and Beyond: What Estate Planners Need to Know” at the AAML meeting and presented the same program for ACTEC/ALI CLE.

In 2021, the “cross-pollination” between ACTEC and the AAML continued when ACTEC Fellow Justin Miller and AAML Fellow Peter Walzer (by then a past-president of the AAML) presented “Attacking and Defending Trusts” at the February 2021 meeting of the Southern California Chapter of the AAML. In the 2021 ACTEC Annual Meeting, ACTEC, the AAML, and the ACEBC (American College of Employee Benefits Counsel) joined forces to give a Special Presentation titled “The Impact of ERISA Preemption on Estate Planning and Marital Matters” by Alden Bianchi (ACEBC), Mark Casciari (ACEBC), Al Golden (ACTEC), Jon Lasley (ACTEC), Steve Trytten (ACTEC), and Kim Willoughby (AAML).

The success of the March 2021 joint program by ACTEC, the AAML, and the ACEBC resulted in a program presented virtually in the 2021 Summer Meeting titled “Special Presentation: Spouses Dividing Retirement Plan Assets During Life” by Robert Clofine (ACTEC), Steve Gorin (ACTEC), Edwin P. Morrow, III (ACTEC), Nancy H. Welber (ACTEC), and Marshal Willick (AAML). Working with ACTEC staff, the speakers found a way to record and also offer the program virtually to AAML Fellows at no cost.

At the 2022 Annual Meeting, Wendy Goffe became the chair of the Family Law Task Force, and Justin Miller became vice-chair. Two representatives of the AAML presented at that task force meeting, Kim Willoughby on Colorado’s lack of a standardized approach to incapacitated persons and divorce and Peter Walzer on a recent California ethics opinion regarding the ethical obligations of a lawyer for a client with diminished capacity and on a recent California case (*Marriage of Greenway*), which provided guidance on how to determine an impaired party’s ability to terminate a marriage. Wendy, Kim, and Peter also presented a seminar on “Irrevocable Trusts and Marital Agreements.”

In September 2022, the Mid-Atlantic Region once more had a meeting containing a joint ACTEC-AAML program.

Meanwhile, in March 2021 the Board of Regents had elected Kim Willoughby to be a Fellow of ACTEC. Kim, who had served since its inception as the chair of the AAML’s ACTEC Committee, who had conferred monthly with Anne Coventry during the early years of the Family Law Task Force, and who had made multiple presentations to ACTEC Fellows over the past several years, became the second AAML Fellow to become a Fellow of ACTEC. Her election was an excellent example of the growing partnership between the two organizations that had come to pass because of the persistent efforts of ACTEC Fellows Kathy Sherby, Susan House, Skip Fox, Anne Coventry, and especially Jack Terrill.

CHAPTER 11: DIVERSITY, EQUITY AND INCLUSIVITY

Contributors: Terrence M. Franklin, Cynthia G. Lamar-Hart, and Judith W. McCue⁹⁶

Background

The ACTEC Diversity Task Force was created by President Louis A. Mezzullo in March 2012. The first meeting of the task force was held at the 2012 Summer Meeting in Colorado Springs, Colorado. Past President Bruce S. Ross was the first chair of the task force.

In early 2015, the Executive Committee approved making the task force a permanent standing committee to be called the Diversity and Inclusivity Committee. In 2020, the name of the committee was updated to the Diversity, Equity and Inclusivity (DEI) Committee. The mission of the DEI Committee is to “develop strategies, recommendations and a comprehensive plan to help ACTEC become a more diverse and inclusive College.”

In 2015, proposed by the task force and with the continued support of the new committee, Article I of the ACTEC Bylaws was amended to include in ACTEC’s statement of purposes a commitment to “foster and maintain a welcoming and inclusive environment for all persons” and “encourage women, racial and ethnic minorities, lesbian, gay, bisexual and transgender persons and persons with special needs who are prospective candidates for election to the College to qualify for nomination and, if elected, to participate meaningfully in the activities of the College.”

Significant Projects of the DEI Committee

In 2015, the ACTEC Foundation approved a grant proposal from the committee to fund the Young Leaders Program (subsequently renamed the Dennis I. Belcher Young Leaders Program). This program provides financial support for an additional two years for trust and estate graduates of the ABA Real Property, Trust and Estate Law (RPTE) Section’s Fellows Program. ABA RPTE is committed to ensuring that no less than half of the Fellows chosen each year are diverse.

At the 2014 Annual Meeting, the committee sponsored a diversity symposium titled “Serving 21st Century Clients With More Than Just Good Wills and Great Trusts.”

At the 2017 Annual Meeting, the committee featured a special presentation by Fellow Terrence M. Franklin on “The 1846 Will of John Sutton.” All ACTEC Fellows, guests, and sponsors were invited to attend this session, in which Terry shared the fascinating story of his investigation of a will contest that threatened to derail his family’s path to freedom, and the important role that ACTEC played in his journey.

At the request of the Executive Committee, the DEI Committee drafted a Code of Conduct for ACTEC, which was adopted in 2019, describing activities and behavior that support the intended welcoming and inclusive environment.

In the early 2020s, the DEI Committee worked with the Membership Selection Committee regarding identified or perceived issues of bias in the ACTEC selection process, to report back to the Executive Committee and to propose concrete steps to address those issues.

In January 2020, the committee held a reception at the Heckerling Institute on Estate Planning in Orlando, Florida, to encourage interest from, and to extend interest and support to, minority persons who potentially could become ACTEC nominees. This was repeated in January 2024.

In 2021, the committee launched the “*Planning for a Diverse and Equitable Future*” video series, which is geared toward the broader public and features both Fellows and guests in addressing issues of civil rights,

96 President, 2005–2006.

cultural competence, bias, racism, gender inequality, and other forms of discrimination. In 2022, this video series won two Awards of Distinction from The Academy of Interactive and Visual Arts.

In 2022, as envisioned by President Ann B. Burns, the committee launched the “Diversity, Equity and Inclusivity Engagement Across the College” or “Hub and Spokes” Initiative, through which the DEI Committee works with other committee chairs to encourage the inclusion of diversity initiatives appropriate to a committee’s mission, to provide resources to support those initiatives, and to help make connections among similar initiatives across ACTEC. The DEI Committee reports to the Executive Committee on these ACTEC-wide efforts after each national meeting.

In 2023, ACTEC approved an addition to the [Requirements And Procedures For The Election Of Fellows](#) proposed by the committee to expand the criteria for nomination and election to be a Fellow to include “outreach, education and mentoring to diverse communities on topics and issues connected to estate planning, probate and trust” as one of the ways in which a potential nominee can demonstrate a substantial contribution to the field of trust and estate law.

The DEI Committee has successfully made proposals to and worked with the Program Committee to present diversity-related sessions at national meetings, including “Night and Day’: What You Don’t Know Can Hurt You: Unconscious Bias In Law Practice” at the 2016 Annual Meeting and “The Forgotten 40 Acres: Repairing Racial Wealth Disparity Using the Estate Tax and New Charitable Incentives,” a symposium at the 2022 Annual Meeting (which was an adaptation of a presentation that had been shared with the Tax Policy Study Committee and the DEI Committee in the virtual 2021 Summer Meeting).

As of 2023, the DEI Committee has begun compiling a list of museums, tours, and other opportunities that focus on DEI issues, as well as options for dining, shopping, and other activities at minority-owned businesses, to be included in an “On Your Own” guide for Fellows attending ACTEC national meetings. The goal is to encourage Fellows to explore these options while attending the meeting, to educate themselves and engage in meaningful discussions about America’s history, and to personally support DEI goals.

Significant Public Statements

The DEI Committee also has worked with the Executive Committee to issue public statements condemning racism, condemning violence against the Asian American Pacific Islander communities, and marking the passing of Justice Ruth Bader Ginsberg. In these statements, ACTEC reconfirmed its commitment to proactive engagement. For example, from the July 13, 2020, Statement Condemning Racism:

ACTEC is a non-partisan, apolitical organization. However, the College considers the historical, continuing, and devastating impact of institutionalized racism against people of color in our society to be a humanitarian, rather than a political issue. ... We pledge to take additional anti-racist actions, and we encourage all ACTEC Fellows to actively strive to eliminate all forms of racism in their personal and professional lives. ACTEC acknowledges and accepts that, in time, we all will be judged not only by our words, but also by our actions.

And from the April 9, 2021, Statement Condemning Violence Against Asian Americans/Pacific Islanders:

ACTEC is committed to being both actively anti-racist and anti-discriminatory... . The recent assaults against AAPIs are a painful reminder that the elimination of systemic racism and discrimination is everyone's responsibility. ACTEC commends its Fellows to become and remain engaged, both personally and professionally.

CHAPTER 12: THE ACTEC FOUNDATION

Contributors: Kathleen R. Sherby⁹⁷ and Jeffrey C. Thede⁹⁸

The history of the ACTEC Foundation from its beginning in March 1982 through 1999 was well presented by Luther J. Avery and Thomas G. Sweeney in the 1999 History.⁹⁹ Much has happened since 1999.

Development of Strategies to Enhance Contributions

At the 2000 Annual Meeting, the Foundation Board decided to prepare an attractive brochure focused on the programs sponsored by the Foundation, in order to stimulate the Foundation's fundraising. The programs to be highlighted in the new brochure included the PBS *Death and Taxes-Inside the Law* Program (co-owned by the Foundation with distribution rights), the ACTEC *Commentaries and Engagement Letters*, and the *Legacy for Life* Pamphlet. Treasurer Carlyn S. McCaffrey noted that despite the investment policy adopted in 1997 to invest 50 percent in equities and 50 percent in fixed income obligations, the Foundation's assets were at that time invested about 60 percent in equities, and the Board decided that funds needed for grants would be taken first from the equities account to reduce the overallocation to equities. During the summer of 2000, the Foundation published a newsletter that listed the names of Fellows who had contributed to the Foundation during the past year. At the 2000 Summer Meeting, the Foundation gave conditional approval for a grant of \$42,000 for the production of a video and handbook for conservators/guardians that would train conservators and guardians, with state specific information for at least ten jurisdictions after obtaining reasonable assurances that the video would be used in the highlighted jurisdictions. At the 2000 Fall Meeting, the Foundation agreed to create an independent website for the Foundation at an initial cost of \$10,000. In addition, the Foundation agreed to fund a sequel to the PBS *Inside the Law* Program, up to a maximum amount of \$100,000, entitled *Are You Prepared for Death*.

At the 2001 Annual Meeting, it was noted that still only about 10 percent of ACTEC Fellows contributed to the Foundation, and the Board explored various methods of increasing that support level. At the summer meeting, the new Foundation website was rolled out. In addition, the Foundation Board approved several grants, including a grant of \$38,000 to fund a study by Professor Ray D. Madoff on the use of mediation to resolve will and trust disputes, a grant to fund a written symposium on the Uniform Trust Code at the University of Missouri, and a grant of \$100,000 for a third *Inside the Law* program focused on disability and property decision-making.

At the 2002 Annual Meeting, the Foundation agreed to support a minority student's attendance at the Skills Training for Estate Planning Program. As this was Norman J. Benford's last meeting as president of the Foundation, John A. Wallace was elected president to serve for a three-year term. The Foundation sold ACTEC briefcases as a fundraiser at the summer meeting, but it raised only \$1,325. Because only about 10 percent of ACTEC Fellows supported the Foundation, and some of ACTEC's leadership were not contributors, the Board embarked on a letter-writing fundraising campaign. As part of this awareness campaign, the Foundation held a cocktail party at the fall meeting for its donors. As a result of the cocktail party and letter-writing campaign, contributions did increase.

At the 2003 Annual Meeting, the Foundation Bylaws were amended to increase the number of members of the Board from 15 to 20. And the Board approved funding of \$50,000 for a fourth *Inside the Law* program, with the Foundation providing content oversight for the program. In addition, the Mary Moers Wenig Student Writing Competition was started with an annual budget of \$10,500. The Competition has been held every year since.

97 ACTEC President, 2014–2015.

98 ACTEC Foundation President, 2020–2023.

99 Luther J. Avery and Thomas P. Sweeney, "The ACTEC Foundation," 1999 History, at 63.

In 2004, a wine tasting event was held at the 2004 Fall Meeting to benefit the Foundation, raising about \$3,900 and also raising the visibility of the Foundation. Also, because of the importance of the *Commentaries* to the legal community, the Board approved a grant of \$40,000 to print the *Commentaries* in a hardbound format, with the Foundation, which owns the copyright, receiving the sale proceeds.

At the 2005 Annual Meeting, the Foundation approved its first grant to the Social Science Research Network (SSRN), in the amount of \$5,000, to be used to develop the wills and trust area of their website. It also approved a grant of \$25,000 to Tulane University School of Law to repair the damage to the trust and estate area of its law library from Hurricane Katrina. In 2005, the Foundation held its first organized auction, with a printed brochure including many fun vacation opportunities. The excitement generated by the auction successfully raised the visibility of the Foundation and raised \$65,500. Even with this increased visibility, the Foundation still only had about \$600,000 in its coffers. The Board also approved a bylaw amendment further expanding the Foundation's Board of Directors to 30 members, including the ACTEC officers and immediate past president and 24 other Fellows. John J. Lombard, Jr. became president of the Foundation.

Formation of New Committees

In 2006, in addition to the Grants Committee, the Foundation Board formed the Finance Governance and Audit Committee, which consisted of three current or former ACTEC Regents and the current president-elect, vice president, treasurer, and secretary of ACTEC. At the same time, the Foundation Board also created the Fundraising Committee, the Long-Range Planning Committee, and the Marketing and Communications Committee. Each of the 30 board members was then appointed to serve on one of these committees. The Grants Committee indicated that it was reviewing the mission statement, which it thought was too narrow, and recommended that the mission statement be more focused on the interests of ACTEC Fellows to encourage support of the Foundation. The Board approved the recommendation of the Finance Governance and Audit Committee to have the Foundation's financial statements audited annually. Prior to this time, they had been audited only every five years. During 2006, the Foundation began receiving donations by ACTEC committee members to whom ACTEC offered meeting expense reimbursement with the option of directing that reimbursement to the Foundation, which increased overall donations to the Foundation. Another auction was undertaken at the 2006 Summer Meeting, which raised about \$6,000 for the Foundation. On the recommendation of the Marketing and Communications Committee, the Foundation agreed to employ a professional to improve the appearance of the Foundation's website. The Foundation approved funding up to \$25,000 for a Symposium at UCLA on the Laws of Succession in the 21st Century. The Foundation also approved a \$10,000 grant to fund a Uniform Trust Code National Conference held in Providence, Rhode Island, a grant of up to \$5,000 for the fourth edition of the *ACTEC Commentaries on the Model Rules of Professional Conduct*, and a \$110,000 grant to the Legal Services Center of Harvard Law School to fund a two-year Estate Planning Fellowship in Clinical Legal Education that would be a replicable law school model for operating a comprehensive estate planning clinic to improve access to estate planning representation for traditional underserved populations.

Strategic Planning and Conversion to a Public Charity

In 2007, the Foundation prepared and submitted the necessary documentation to the IRS to request recognition as a section 509(a)(1) public charity instead of its then status as a section 509(a)(3) private foundation supporting organization. This led to a consideration of the Foundation mission statement, which emphasized the current status of the Foundation as a supporting organization, and whether this should be broadened when the status was changed. The Strategic Planning Task Force of ACTEC had included questions about the Foundation in its survey of Fellows and asked whether the Foundation should focus on projects that aid Fellows in their practice and/or on projects that support legal education and encour-

age law students to pursue careers in this practice area. The Foundation Long-Range Planning Committee recommended that the Board improve the focus of grants and develop projects in two areas: “1. Enhancing the practice in the trust and estate field including developing practice aids for Fellows; and 2. Improve legal education in the trust and estate field.” The Long-Range Planning Committee recommended updating the mission statement to reflect these two focuses, because the current mission statement did not accurately reflect the work of the Foundation. The Board recommended that the mission statement be revised to state expressly that one of the Foundation’s goals is to support legal education in the trust and estate field, but decided to table the revision of the mission statement pending recognition by the IRS of the Foundation’s reclassification as a public charity.

By 2007, the Foundation Board was electing its own president and vice president from the members of the Board, and it elected Joseph J. Hanna, Jr. to be the new president. The Foundation’s treasurer and secretary continued to be the respective treasurer and secretary of ACTEC. The Foundation approved assigning the Foundation’s existing copyright in *An Introduction to Modern Financial Theory* to Professor Jonathan Macey, its author, in exchange for half of the royalties paid to date and inclusion of an acknowledgment of the Foundation in all future editions. In 2007, the Foundation approved a grant of \$14,000 to support the publication of the *ACTEC Engagement Letters: A Guide for Practitioners*, and a grant of \$5,200 to digitalize Professor Richard V. Wellman’s extensive files as Chief Reporter for the original 1969 Uniform Probate Code.

In 2008, the Foundation was officially notified by the IRS of the change from supporting organizational status to a status as a publicly supported public charity, and the IRS issued a new determination letter under the name of The American College of Trust and Estate Counsel Foundation. At the 2008 Annual Meeting, the Foundation held its third auction, which raised \$51,500. Further fundraising ideas were tried by the Foundation — (1) the publication of a contributions leadership list, listing contributions made to the Foundation in the order of amount and in alphabetical order, and (2) the initiation of the ribbons program, providing ribbons on meeting name badges in recognition for gifts to the Foundation of \$500 or more.

Development of Mission to Drive Grants

An Interim Report on the Mission and Vision of the Foundation was presented to the Board at the 2008 Fall Meeting, without a suggestion as to a new mission statement. There was agreement that the Foundation’s general purpose was to improve Fellows’ practices, profession, and communities, but these were thought to be too broad for a mission statement. Many thought the purpose should be to make “the skills and experience of the Fellows and their colleagues more broadly available to those who may be in need and not have access to quality or affordable legal services.” The Report recommended that the next steps for the Foundation would be to (1) create a timeline for grant commitments, (2) restate the mission of the Foundation and incorporate that new mission statement in the Bylaws, (3) adopt a multi-year spending policy, (4) adopt an investment policy, and (5) adopt a basic gift acceptance policy. Once all of those steps had been taken, the Report recommended that the Foundation publicize these actions to raise support for the Foundation.

At the 2009 Annual Meeting, the Foundation agreed to a new \$9,000 grant for a three-year period to continue support of SSRN that will enable non-academics who are not covered by law school site licenses to continue access to SSRN, conditioned on the addition of the Foundation URL to emails from SSRN and continued free publicity for the biennial symposiums and the Wenig Competition. The Foundation also approved a grant of \$30,000 over a three-year period to Hofstra Law School (which was renamed the Maurice A. Deane School of Law at Hofstra University in 2011) to support the student editorial board for the ACTEC Journal. The Foundation also approved a matching grant of \$25,000 for the University of Tennessee Law School Clinic. The Foundation approved hiring its new auditors. At this meeting, Edward Jay Beckwith was elected president of the Foundation. The Foundation website was redesigned and updated just prior to

the 2009 Summer Meeting, so that donations could be made online. Harvard Law School had completed its manual, *Planning for the Future: Creating and Administering a Law School Estate Planning Clinic*, which was provided to the Board as a guide for other law schools to use in starting a program similar to the one funded by the Foundation.

First Endowed Special Purpose Fund

Early in 2010, Lloyd Leva Plaine died, and an ad hoc group of Fellows formed an advisory committee to raise funds to be managed by the Foundation as a tribute to her. This fund was to be endowed and used to fund the cost of a lecture to be presented at the Heckerling Institute every other year. The Foundation agreed to hold the contributions in Lloyd's memory for this purpose in a fund named the Lloyd Leva Plaine Memorial Fund. The advisory committee that would arrange for these presentations at the Heckerling Institute was then formally approved. A resolution forming this advisory committee was adopted at the 2010 Summer Meeting.

As of the 2010 Annual Meeting, the Foundation balance had increased to \$724,531. The Foundation then had a short-term goal of increasing to 500 the number of Fellows contributing each year and increasing the average gift from \$300 to \$500. The Foundation's fiscal year was also changed to May 1–April 30 to coincide with the fiscal year of ACTEC. A major source of contributions in 2010 continued to be the redirection of committee expense reimbursements.¹⁰⁰ Ways to recognize donors continued to be a discussion item. The first audit report for the Foundation was received and accepted by the Board at the 2010 Summer Meeting. The Wills Clinic at the University of Tennessee was up and running, and the Foundation expressed the desire to have two clinic grants outstanding at all times. Requirements for these grants included having a tenure track professor teaching a trust and estate course at the host law school who would provide professional leadership for the clinic, a history of clinical education at that host law school, and the host law school's administration of the Foundation grant on a matching grant basis. The Foundation Board noted that there are three areas of success for its grants: the clinics, the symposiums, and the writing competition. A suggestion was made that, in making a grant to support a clinic, the Foundation should seek support from Fellows in the area in which the clinic is located and from alumni of the clinic. Following the move of ACTEC's office from California to Washington, D.C., ACTEC's Membership & Foundation Director Amy Michaud had been hired and was introduced to the Board at the 2010 Summer Meeting as the new staff person to work with the Foundation.

Changes in Jurisdiction, Governance, and Outreach

At the 2011 Annual Meeting, Cynda C. Ottaway was elected president of the Foundation. As a result of the ACTEC office's move from California, the Board adopted a resolution approving the merger of the California Foundation with a new Delaware Foundation. Fundraising for the separate Lloyd Leva Plaine Memorial Fund had been concluded, raising approximately \$274,000. The Foundation had more than \$1 million in funds. The Foundation maintained its first booth at the 2011 Annual Meeting at which a brochure was distributed and a video from the Wills Clinic was displayed. The Foundation approved a grant of \$25,000 for another Wills Clinic at the University of Wyoming and approved the use of funds received in memory of Bjarne Johnson for support of the Fall 2011 symposium at the University of Michigan. The financial reports had been reformulated to match the newly revised format of ACTEC's financial statements. Because of a decline in the market, the Foundation funds were down in value to approximately \$925,000, and contributions were down. The audit report for the first time showed an in-kind contribution for the services provided to the Foundation by ACTEC and showed the same amount as a Foundation expense.

¹⁰⁰ As described in Chapter 5, "Committees," of this History, committee expense reimbursements were discontinued in 2016.

At the 2012 Annual Meeting, ACTEC was removed as the sole member of the Foundation, replaced as members by the members of the Board of Directors of the Foundation serving from time to time. New Foundation Bylaws were approved to bring the Bylaws into conformity with the Foundation's Delaware Articles of Incorporation. The Foundation funds once again exceeded \$1 million. The Foundation approved a new affiliation agreement with ACTEC. At the 2012 Annual Meeting, Turney P. Berry was elected president of the Foundation. Martin Hall began working on a five-year plan for the Foundation on behalf of the Foundation's Long-Range Planning Committee. The Foundation, like ACTEC, moved its investment account to Chevy Chase Trust. The Foundation received a \$20,000 contribution from ACTEC. The Foundation approved an amendment to the Bylaws that would permit the term of a Foundation member serving as either president or vice president to be extended to allow the officer to complete the term before going off the Foundation Board. The Foundation held a wine tasting event at the 2012 Summer Meeting in Colorado Springs that raised over \$3,500. A Foundation advertisement was placed on the back cover of ACTEC's *Membership Roster*.

The Foundation adopted an investment policy at the 2013 Annual Meeting, which followed the same plan as that adopted by ACTEC. A silent auction held at this meeting was very successful, raising over \$30,000. The Long-Range Planning Committee identified two focus areas for the Foundation, aid to the public at large and help for the profession, and this led to renewed effort to revise the mission statement. The Foundation adopted a new conflict of interest policy at the 2013 Summer Meeting. The Foundation approved a grant of \$25,000 to the National Guardianship Network to support attendance at the Third World Guardianship Conference to be held in 2014. The ability of donors to make Foundation donations online was being "beta tested." Permission was granted for the ACTEC Arbitration Task Force Report, the copyright to which is owned by the Foundation, to be used for a chapter on alternate dispute resolution in an ABA publication. As of the 2013 Fall Meeting, the Foundation had grown its funds to almost \$1.25 million. Work began on a Foundation Policies, Practices and Procedures Manual.

By the 2014 Annual Meeting in Tucson, the Foundation coffers had grown to a little over \$1.3 million. The fundraiser bike ride from San Diego to Tucson raised \$30,552. The Foundation had been contacted by Elon University School of Law in Greensboro, North Carolina, about support for their wills clinic. After discussion, however, the Foundation Board decided that there was no interest in funding more wills clinics, and that the Foundation wanted to provide seed money for new ideas instead. Martin Hall was elected president of the Foundation at the 2014 Annual Meeting. The Foundation Board continued to hear that its funding of the Social Science Research Network that provides access to this research source for all Fellows is relatively unknown to the Fellows, and it was suggested that the Foundation needed to publicize this resource, including making it a talking point for ACTEC officers at regional meetings. The Long-Range Planning Committee was again focused on the mission and governance of the Foundation. In this context, it was noted that the stated purpose for the creation of the Foundation was "to have a vehicle to which donations would be tax-deductible to carry out the educational purposes of the College."

The Foundation arranged to have a booth to promote the Foundation to ACTEC Fellows at the March 2015 Annual Meeting in Marco Island. At that meeting the Foundation held another silent auction that succeeded in raising \$46,741. At that meeting, the Foundation updated its investment policy and its grant application. The Foundation approved a grant of \$18,000 to the National Judicial College to assist in providing a web-based learning program for probate judges. The Board discussed grant requests from the Ave Maria School of Law and the University of Florida School of Law regarding funding for proposed wills clinics, which the Board again declined to fund unless there was a novel, innovative approach to the wills clinic. There was also further discussion concerning the mission of the Foundation and whether the Board should be reduced in size. The new Policies, Practices and Procedures Manual was approved at this annual meeting. After the 2015 Annual Meeting, the back cover of the roster was changed to reflect the winners of the Mary Moers Wenig Student Writing Competition. An amended and restated resolution changed the operation of

the Lloyd Leva Plaine Memorial Fund to conform the operation with the way the Fund was being reflected on the financial statements. The Board approved a two-year grant request brought to the Foundation by ACTEC's Diversity Committee, which grant would be administered by the ABA RPTE Section for the RPTE Fellows Program to provide funding for additional years for that program. This program became known as the ACTEC Young Leaders Program. During this period, the Foundation conducted a survey among the Fellows asking for suggestions regarding the mission of the Foundation, and, after considering the results of this survey, the Board agreed that it would fund projects developed by ACTEC committees, and that the Board would reach out to the committees for suggested projects. The Foundation's website was also under development to ensure that the Foundation's unique materials are properly presented and accessible to users.

At the 2016 Annual Meeting in Las Vegas, the Board adopted a new spending policy for the Lloyd Leva Plaine Memorial Fund. Plans were under way for another silent auction, although it was noted that the logistics for such an auction may be difficult given the shortened meeting scheduled for annual meetings going forward.¹⁰¹ It was then agreed that the Foundation should change from having the treasurer and secretary of ACTEC serve as the treasurer and secretary of the Foundation. Bylaw changes would be drafted to implement this change. Just before the 2016 summer meeting, the Foundation approved the first grant of \$18,100 to fund the production of two "ACTEC Talks" to be posted on the Foundation website as part of the ACTEC Family Estate Planning Guide. These two videos were then recorded at that meeting. The Bylaws were amended at the summer meeting to provide that the treasurer and secretary of the Foundation would be selected by the Foundation Nominating Committee, but would still be elected by the governing body of ACTEC. The net assets of the Foundation had reached \$1,467,269. At the 2016 Fall Meeting, the Foundation approved an additional \$50,000 grant to fund a three-year plan to produce additional videos to post on the Foundation website. These videos had proven to be highly successful in driving traffic to the Foundation website.

Another successful silent auction was held at the 2017 Annual Meeting in Scottsdale, raising \$40,000 in gross receipts for the Foundation but, after expenses of \$24,793 for the auction, the net income to the Foundation from the auction was only \$15,207. Also at this meeting, the ownership of the Quicken template was assigned by ACTEC to the Foundation, the income from which would be used to the extent practicable to fund technology opportunities. In reviewing a request made by the University of Denver to fund a Tribal Wills Project, the Foundation reaffirmed that the Foundation's funding has more impact when supporting a new approach to a program to which the Foundation provides seed money, with the recipient developing its own base of support going forward and providing a model for similar programs at other institutions. The Foundation's practice of having a liaison to each ACTEC committee was initiated at this 2017 Annual Meeting, so that the liaison to each committee could look for outreach projects for the Foundation to support that could be created by that committee. L. Henry Gissel, Jr. was elected to serve as the new president of the Foundation for a three-year term. At the 2017 Summer Meeting in Seattle, Henry announced that the Executive Committee of the Foundation had begun to meet via conference call for the first time in its existence. A gift acceptance policy was adopted at this meeting. The Foundation continued to solicit worthy projects from the committees for grant proposals. The Natchez Trace Bike Ride from Asheville, North Carolina, to Nashville, Tennessee, was held prior to the 2017 Fall Meeting, and it raised more than \$39,000 for the Foundation. Tina Portuondo, the Director of the Heckerling Institute, advised the Board that the Dean of the University of Miami School of Law will begin annually offering to the first place winner of the Mary Moers Wenig Student Writing Competition a full-tuition scholarship to attend the Heckerling Graduate Program as a full time student. At the 2017 Fall Meeting, the Board approved a \$16,500 grant request to fund an Estate Planning Fellow to work with Susan Gary to administer Oregon's Wills for the Underserved Program. Also at this meeting, the ACTEC Executive Committee requested the Foundation Board to amend its Bylaws to (a) eliminate the ACTEC officers and immediate past president as members of the Foundation Board, and (b) authorize the Foundation's Nominating Committee to nominate and elect its own Board.

¹⁰¹ The shortened schedule for annual meetings is discussed in more detail in the "Further Shortening of the Annual Meeting" section of Chapter 2, "[National Meetings](#)," of this History.

After the death of Past President Dennis I. Belcher and the inpouring of gifts in his memory (over \$85,000), the Foundation Board voted at the 2018 Annual Meeting to rename the ACTEC Young Leaders Program after Dennis.¹⁰² The Board approved a grant of \$40,000 to the University of New Mexico to be paid over a two-year period to fund research into how better to serve underserved communities, contingent on the University's raising matching funds. The Marketing & Communications Committee announced that web traffic to the Foundation's website was up by 163 percent.

Election of Officers by the Foundation Instead of by the ACTEC Fellows

The Foundation Bylaws were amended by the Board at the 2018 Fall Meeting to provide for nomination of Board members and officers by the Foundation Nominating Committee and to reduce the number of Board members by one, to include the four officers of the Foundation, the immediate past president for one year if he or she chooses, and 24 other ACTEC Fellows to be elected by the Foundation Board at its annual meeting. After this Bylaw amendment, the ACTEC Board of Regents no longer played a direct role in the leadership of the Foundation, but amendments to the Foundation Bylaws continued to require approval by two-thirds of the Board of Regents. Recognition was given to the \$12,550 in donations to the Foundation in memory of Nancy Fax, who had recently died. A grant proposal from the ACTEC Communications Committee for \$60,000 to support additional podcasts and videos was approved.

At the 2019 Annual Meeting, President Henry Gissel provided the first nomination report for officers and directors of the Foundation under the new Foundation Bylaws. The Board approved a revised logo for the Foundation. By the 2019 Annual Meeting, the Foundation coffers had grown to slightly over \$2 million in assets. The Foundation generated some additional contributions when Vice President Jeffrey C. Thede sent letters to those who had given the previous year but not the current year, at a cost of only \$45 in postage, a relatively successful campaign. Another successful bike ride was held prior to the 2019 Fall Meeting that raised \$21,675. The donor blue ribbon campaign was initiated at the 2019 Fall Meeting as well and was having some impact. Donations could also be made at the meeting itself through the meetings app. The podcasts funded by the Foundation were resulting in increased traffic to the Foundation website.

Establishment of the ACTEC Foundation Distinguished Service Award

At the 2020 Annual Meeting, the Board elected Jeff Thede to serve a three-year term as the Foundation president, succeeding Henry Gissel. The Board also approved the establishment of the ACTEC Foundation's Distinguished Service Award to recognize individuals who have made worthwhile contributions to the profession and have provided extraordinary support to the Foundation. The first ACTEC Foundation Distinguished Service award was presented to Judith W. McCue and Howard M. "Scott" McCue, III. Henry Gissel was to be honored at the 2020 Fall Meeting in view of his retirement as president at the 2020 Annual Meeting, but Henry passed away prior to the 2020 Fall Meeting, and the ACTEC Foundation Distinguished Service award was awarded to him posthumously. Meanwhile, the Covid pandemic shut down the in-person meetings for more than a year. The 2020 Summer Meeting was a virtual meeting at which the Foundation Bylaws were again amended to clarify that the immediate past president served on the Executive Committee. In the spring of 2020 the ACTEC Foundation held its first Spring Derby fundraiser, which raised over \$20,000. As of the 2020 Summer Meeting, there were over 100 podcasts on the Foundation website, resulting in over 100,000 downloads. The Foundation's Policies, Practices and Procedures Manual was updated at the

¹⁰² The Dennis I. Belcher Young Leaders Program is discussed in more detail in Chapter 1, "[Membership](#)," in this History.

2020 Summer Meeting. At the 2020 Fall Meeting, the Board approved a grant proposal from The Commons Law Center, a Certified Pro Bono Agency of the Oregon State Bar, to support a project to provide estate planning services to underserved individuals in Portland, Oregon, which would help their families keep the family home after the death of the property owner. The Board approved a grant for \$7,000 to fund 12 podcasts concerning diversity and racism to be created by ACTEC's Diversity, Equity & Inclusivity Committee.

Creation of the L. Henry Gissel, Jr. Spirit of ACTEC Lecture

In order to honor Henry Gissel at the 2021 Annual Meeting, the Board agreed to name the Distinguished Service Award after him, stating that it would be awarded to anyone (not just Fellows) who had contributed to the profession from a substantive point of view. This would be an initiative of ACTEC. A task force of ACTEC was created to develop this initiative. At the recommendation of this task force, the Board also created the L. Henry Gissel, Jr. Distinguished Spirit of ACTEC Lecture to be presented every other year by a highly qualified lecturer who would speak about ethical and collegial aspects of the practice of law, focusing on trust and estate law practice. This will be an initiative of the Foundation in conjunction with the ACTEC Program Committee to make sure that a lecturer is designated to present the lecture every other year. The Board approved a proposal by the Disaster Preparedness Task Force to provide a central educational handbook for ACTEC Fellows and members of the broader legal community who may be asked to assist in the aftermath of a disaster. This will be a direct project of the Foundation. The Board held an L. Henry Gissel, Jr. Derby in the spring of 2021 as a fundraiser, which raised over \$36,000. During the virtual 2021 Fall Meeting, in which Mickey Davis and Melissa Willms participated from a lakeside location, the members of the ACTEC Estate and Gift Tax Committee raised \$1,100 as a challenge donation to the Foundation conditioned upon Mickey's jumping in the lake, which he did, to the amusement of all.

The Foundation Board was finally able to meet in person again at the 2022 Annual Meeting after the long Covid pandemic hiatus. At this meeting President Jeff Thede initiated a discussion of Foundation 3.0, to consider what the Foundation's future should be. The Foundation had unrestricted funds of \$2.5 million and had made \$1.3 million in grants during the ten-year period from 2012 to 2022. A suggestion was made, but not followed up on, to ask the Fellows if they would continue to support the Foundation if it shifted from scholarship and research to community outreach. Judy McCue was designated as the lecturer who would present the inaugural L. Henry Gissel, Jr. Distinguished Spirit of ACTEC Lecture at the 2023 Annual Meeting. The Board agreed to create the Rudy Ogburn Memorial Fund for the Southeast Fellows Institute in memory of Rudy, who had done so much to get the Institute started. The fund would be used to provide scholarships awarded by the Institute for tuition assistance to Institute class members, and it would be treated as an endowed fund if it reached \$100,000. So long as it is under that amount, it will be fully expendable in the discretion of the Foundation. Contributions to this Fund were about \$68,000. The 2022 ACTEC Foundation Derby: Race of the Regions raised nearly \$33,000.

At the 2023 Annual Meeting, John T. Rogers, Jr. was elected president for a three-year term. Consideration of the Foundation 3.0 initiative led to proposals to establish grantmaking guidelines, to move the bulk of the Foundation's funds (in excess of \$2.5 million in unrestricted funds) into a quasi-endowment called the ACTEC Foundation Legacy Fund, and to adopt a proposed endowment fund investment and spending policy (similar to the spending policy adopted for the Lloyd Leva Plaine Memorial Fund). The Board agreed to move \$1.8 million to the Legacy Fund and adopted the proposed endowment fund investment and spending policy. The affiliation agreement with ACTEC was updated to reflect that the Foundation is independent from ACTEC. The Fundraising Committee announced that the Spring fundraiser would have a golf theme tied to the Masters, dubbed the Longest Drive Challenge, which raised nearly \$34,000. The Grant Committee approved a grant request for \$20,156 from Duquesne University to support a clinic to serve the underserved similar to that undertaken by The Commons Law Center in Oregon. The Blue Ribbon

Campaign, a donor recognition fundraiser, was redefined to provide that blue ribbons would be affixed to the badges of Fellows who have donated from the end of the last meeting to a date shortly before the current meeting, or who donate at the current meeting. There was discussion of the need for the Foundation to support the initiative of the ACTEC Legal Education Committee to promote law school education in trust and estate law and that this should be reflected in the mission of the Foundation. The mission statement may need updating once the mission of the Foundation is determined. Is it to help ACTEC, help underserved communities, and address the status of T&E in law schools? As of 2023, only 20 percent of ACTEC Fellows contributed to the Foundation. The challenges remained as to what the Foundation's mission should be, and what would best generate an increase in the proportion of Fellows who contribute to the Foundation.

Grant History

The ACTEC Foundation has consistently issued grants for worthy causes over the years. Many of these grants supported the outreach work of ACTEC, such as the Student Editorial Board of the *ACTEC Law Journal*, the Mary Moers Wenig Student Writing Competition, ACTEC Commentaries, the Dennis I. Belcher Young Leaders Program (from which twelve graduates have been elected as ACTEC Fellows through 2023), ACTEC Family Estate Planning Guide Videos, ACTEC Communications Committee Podcasts and Videos, and ACTEC Diversity, Equity and Inclusivity Committee Videos. Other grants supported trust and estate symposiums, law school wills clinics, and Trusts and Estates Journal on Social Science Research Network. A complete list of all Foundation grants from 2008 through 2022 can be found on the Foundation [website](#).

CHAPTER 13: FINANCIAL AFFAIRS

Contributors: James M. Maddox and James D. Spratt

The financial affairs of ACTEC over the past 25 years have evolved in significant ways. As the activities of ACTEC have grown steadily, there has been commensurate growth in its revenues. The annual revenue of ACTEC grew from \$2,230,771 for the fiscal year ending December 31, 1999, to \$7,604,308 for the fiscal year ending April 30, 2023.

The relative importance of the sources of revenue changed during this period, with sponsorship fees becoming as important as dues and registration fees. For the fiscal year ending December 31, 1999, \$1,172,990 (53 percent of revenue) came from dues, and \$1,057,781 (47 percent of revenue) came from registration fees. ACTEC first reported revenue from sponsorship fees in 2003. They totaled \$133,500, which was 6 percent of revenue for 2003.

For the fiscal year ending April 30, 2023, \$2,417,290 (32 percent of revenue) came from dues, \$2,539,185 (33 percent of revenue) came from registration fees, and \$2,173,193 (29 percent of revenue) came from sponsorships (including sponsorships of Fellows Institutes). These primary revenue sources are referred to as the “three legs of the stool” for the revenue model of ACTEC. Small amounts of revenue come from draws from reserve funds and product sales.

In addition to the organic growth of ACTEC’s revenues from traditional sources, in recent years revenue has increased on account of tuition from the Fellows Institutes and registration fees for state and regional meetings. Starting in 2011, ACTEC assumed financial responsibility for state and regional meetings, which prior to then had been assumed by state chairs. In connection with this transition, state chairs transferred to ACTEC the funds residing in separate state and regional accounts maintained by state chairs. These funds thus began to be reflected on the balance sheet of ACTEC.¹⁰³

As the nature and sophistication of the activities of ACTEC have grown, there has been a corresponding increase in expenses. For the fiscal year ending December 31, 1999, total expenses were \$2,271,034. Of these expenses, 44 percent were for meetings, 32 percent were for administration, and 24 percent were for membership. The membership category included expenses for committee meetings, dinners, publications, rosters, studies and tax tables, seminar outlines and recordings, and other expenses related to member services independent of national meeting expenses. For the fiscal year ending April 30, 2023, total expenses were \$7,933,651. Of these expenses, 63 percent were for meetings, 17 percent were for administration, 12 percent were for membership, and 8 percent were for the Institutes.

As ACTEC’s affairs have become more complex over the past 25 years, its budgeting, financial reporting, and assurance processes have matured. The budgeting process begins with collaboration between the executive director and director-level team members in the areas of committees and education, meetings, membership, communications and outreach, marketing and digital communications, and sponsor development. Budget information is compiled by budget managers, reviewed by the controller and the chief financial officer, and stored in budget software that integrates with the general ledger. The accounting team has developed a scenario-based planning tool to inform leadership decisions. This tool allows the team to see the potential financial impact of different financial assumptions.

The Financial Management Committee (FMC) was established in 2008. It consists of the vice president, treasurer, secretary, and three other Fellows nominated by the Executive Committee and elected by the Board of Regents to serve three-year terms. The original elected members of the FMC were Howard M. “Scott” McCue, III, Daniel H. Markstein, III, and Edward Jay Beckwith.

¹⁰³ This is discussed in more detail in the “National Office Involvement and Improved State and Regional Experiences” section of Chapter 3, “[States and Regions](#),” of this History.

The FMC is closely involved in the budget process. The Executive Committee plays an important role as well, especially with policy issues such as increases in dues and registration fees. Once the budget is approved by the FMC and the Executive Committee, it is submitted to the Board of Regents for final approval.

The FMC meets monthly with the executive director, chief financial officer, and controller to review the year-to-date financial performance of ACTEC and to provide advice and feedback. Similarly, the Executive Committee meets monthly with the executive director. The treasurer of ACTEC, who is a member of the Executive Committee, presents the monthly financial reports.

These processes provide assurance that the financial affairs of ACTEC are reviewed monthly by multiple individuals in different leadership roles. Further assurance is provided by the Audit Committee, which was also established in 2008. The Audit Committee consists of the vice president and three Fellows who are not serving on the FMC or the Executive Committee but are nominated by the Executive Committee and elected by the Board of Regents to serve three-year terms. The original elected members of the Audit Committee were Richard B. Gregory, Theodore B. Atlass, and Michel G. Kaplan. The Audit Committee works with the executive director, chief financial officer, controller, and outside certified public accountants to oversee the annual audit of the financial statements of ACTEC.

The FMC and the Audit Committee were established in response to recommendations of the Strategic Planning Task Force in the 2005–2015 Strategic Plan it had presented to the Board of Regents on October 16, 2006, at the fall meeting in Providence, Rhode Island.¹⁰⁴ The co-chairs of the task force were John L. McDonnell, Jr., and Kathleen R. Sherby, and its other members were Stephen R. Akers, Dennis I. Belcher, P. Daniel Donohue, L. Henry Gissel, Jr., Martin A. Heckscher, Gary M. Johnson, Mike Kaplan, James M. Maddox, Daniel H. Markstein, III, Judith W. McCue, Karen M. Moore, M. Read Moore, Cynda C. Ottaway, Mary F. Radford, Hanson S. Reynolds, Bruce S. Ross, Bruce Stone, Thomas P. Sweeney, and Deborah J. Tedford.

Deborah O. McKinnon was hired as the executive director of ACTEC in 2009. She and her team have implemented many of the financial controls and processes that enable the FMC, Executive Committee, and Audit Committee to perform their duties under the ACTEC Bylaws.

104 Bruce S. Ross, President's Message, 32 ACTEC J. 190, 191–192 (Winter 2006).

CHAPTER 14: OFFICE AND STAFF DEVELOPMENTS

Contributors: Ronald D. Aucutt¹⁰⁵ and Deborah O. McKinnon¹⁰⁶

Moving the Office to Washington

BACKGROUND

As described in the 1999 History, the founders of the Probate Attorneys Association, ACTEC's predecessor, were from the Los Angeles area.¹⁰⁷ One of those was Gail B. McKay, who had first begun the task of organizing a national group of probate lawyers and who, with two of his office associates, became the original incorporators of the Association as a California nonprofit corporation on April 19, 1949. Another was John G. Clock, from Long Beach, California, who served as the Association's first president, from 1949 to 1953.

The first office of the Probate Attorneys Association was in the Los Angeles office that Gail McKay occupied as an agent for a real estate broker.¹⁰⁸ In 1986, the American College of Probate Counsel (ACPC) moved its office to Santa Monica, California,¹⁰⁹ and in 1991 ACTEC moved into a larger and more modern space in West Los Angeles.¹¹⁰ The new office in West Los Angeles was near Santa Monica, and it frequently was still referred to as "the Santa Monica office."

DISCUSSIONS OF TRANSITION

In about 2004, Gerhild A. "Gerry" Vogt, who had started with the ACPC as a staff accountant in 1983 and had become its Executive Director in 1986, began to discuss with the Executive Committee her plans to eventually retire, but probably not before 2009. In 2006, President Bruce S. Ross appointed a Transition Committee with Dennis I. Belcher as chair and Karen M. Moore as vice-chair, to work with Gerry in planning her retirement and any potential role for her after retirement, to begin developing a plan for identifying Gerry's successor, and also to consider suggestions to move the office (which had come up in discussions of the Strategic Planning Task Force that had been appointed by President Robert J. Rosepink in 2004 to address other issues). In mid-2007, the Transition Committee decided not to recommend moving the office "at any time in the near future."

By the end of 2007, it was anticipated that Gerry would retire at the end of the 2010 Annual Meeting. This gave greater relevance to a possible office move, because of the possibility that a new executive director could then be recruited from the city to which the office would move or had moved. Moreover, the current lease of the West Los Angeles office space was scheduled to expire in 2010. Additionally, Fellows increasingly expressed a desire to raise ACTEC's public profile, and relocation to a new city like Chicago or Washington, D.C., could provide opportunities to raise ACTEC's profile. Dennis, who became president of ACTEC in 2009, and Karen, who followed him as president in 2010, saw both the need and the potential, and they provided leadership.

MAKING THE DECISION

Dennis appointed an Office Relocation Task Force and charged it with presenting to the Regents the pros and cons of retaining the ACTEC office in Los Angeles or relocating the office to the Washington area, Chicago, or any other location. The members of the task force were Karen Moore (Chair), Ronald D.

105 President, 2003–2004.

106 Executive Director, 2009–present.

107 J. Stanley Mullin, "In the Beginning," 1999 History, at 1.

108 *Id.* at 2.

109 Gerry A. Vogt, "The National Office—Then And Now," *id.*, at 77.

110 Rodney N. Houghton, "In Their Own Words: Memoirs of ACTEC's Past Presidents," 1999 History, at 103.

Aucutt, Monica Dell’Osso, Nancy G. Fax, Robert W. Goldman, Michel G. Kaplan, Daniel H. Markstein, III, Judith W. McCue, Duncan E. Osborne, and Bruce S. Ross. Dennis did not ask the task force to make a recommendation regarding a move. He said that the decision should be reserved to the Regents. The report of the task force was presented to the Executive Committee, whose members were President Dennis Belcher, Immediate Past President W. Bjarne Johnson, President-Elect Karen Moore, Vice President Mary F. Radford, Treasurer Louis A. Mezzullo, Secretary Duncan Osborne, and members at large David F. Edwards, Bob Goldman, and Milford B. Hatcher, Jr. After reviewing and discussing the Report, the Executive Committee unanimously voted in favor of moving the office from Los Angeles.

The Board of Regents, which normally meets only at the fall and annual (spring) meetings, held a two-hour-and-forty-minute special meeting at the ACTEC Summer Meeting in San Francisco on June 27, 2009. At the Regents meeting Karen Moore first reviewed the report of the task force, which included a detailed financial analysis. Task force member Mike Kaplan reviewed the financial analysis, which the Financial Management Committee had reviewed and found reasonable. Dennis then asked each member of the task force and each Regent (including the past presidents, as Regents emeriti, who were present) to speak to the issues. Benefits that were cited in support of a move to Washington included raising ACTEC’s public profile, providing valuable networking opportunities, strengthening ACTEC’s ability to constructively influence federal legislation and regulations, and offering access to a deep talent pool for staff members. Concerns that were acknowledged and weighed included the cost of a move and the risk of looking more like a trade association or a lobbying group than the collegial group of professionals ACTEC sought to be. In addition, Chicago was suggested as more centrally located than Los Angeles or Washington and as the site of other associations.

Dennis then called for a vote regarding whether the office should move from Los Angeles to either Chicago or the Washington metropolitan area, and the Regents voted 29-to-4 in favor. Then Dennis called for a vote on whether the office should move to Chicago or to the Washington metropolitan area, and the Regents voted 30-to-1 in favor of Washington.

FACILITATING THE MOVE

Dennis appointed a small temporary team called the Office Move Advisory Group to assist with finding suitable office space and moving into it. The members of the Office Move Advisory Group were Ron Aucutt (Chair), Edward J. Beckwith, Nancy Fax, Mike Kaplan, Lou Mezzullo, and Howard M. (Scott) McCue, III. Dennis arranged for real estate lawyers at his and Ron’s firm, McGuireWoods LLP, to assist with lease negotiations, and he also arranged for ACTEC’s new Executive Director, Deborah O. “Deb” McKinnon, to have a temporary workplace in the McGuireWoods D.C. office.

After looking at potential locations in downtown Washington and nearby Arlington, Virginia, Deb and the Office Move Advisory Group recommended to the Executive Committee, and the Executive Committee approved, the space ACTEC currently occupies at 901 15th Street, N.W., Suite 525, Washington, D.C. 20005. Fronting on McPherson Square, the building is one block from the Orange and Blue Lines of the D.C. Metro System, which go to Capitol Hill and suburban Maryland and Virginia. The Blue Line also stops at Ronald Reagan National Airport.

The building is just a few blocks from the U.S. Department of the Treasury and the Washington offices of the American Bar Association (ABA) and the American Institute of Certified Public Accountants (AICPA). As it says on the ACTEC [website](#), “The DC location has enabled the College to have a more interactive relationship with associations, governmental agencies and trust and estate professionals.”

All ACTEC Fellows were invited to attend an open house at ACTEC’s new office on Thursday, September 16, 2010. There was a ribbon-cutting ceremony, and there were opportunities to meet the members of the staff. Staff members have noted that more Fellows visit the office in Washington than visited the office in California.

For a few months in 2010, ACTEC maintained two offices, with staff members in each — an office in Los Angeles and an office in Washington, D.C. By June 2010, the Los Angeles staff members who were not invited to relocate to Washington had been phased out. Dennis and the Executive Committee were sensitive to the challenges that could result when the Los Angeles staff members learned that the office was relocating and their years of service to ACTEC would be ending. ACTEC hired Gayle Northrup, a consultant, to assist in minimizing the disruption to each staff member. Generous severance packages were offered to the staff members who were not being invited to relocate to Washington. After the Regents voted to move the office to Washington, Gayle also provided assistance by reviewing resumes of applicants for the Executive Director position.

Once the decision had been made to move the office to Washington, ACTEC focused on the issue of its governing law. ACTEC originally was organized under the laws of California. A Task Force to Consider Governing Law was appointed and was charged with considering whether ACTEC should continue to be governed by California law or, alternatively, be governed by the law of another jurisdiction. The task force members were Mil Hatcher (Chair), Theodore B. Atlass, Ed Beckwith, Monica Dell’Osso, Peter S. Gordon, T. Randolph Harris, and Michelle A.W. McKinnon. The task force recommended that ACTEC be organized as a Delaware not-for-profit organization and presented a plan of merger to effectuate the change. During the fall meeting in Baltimore the Regents unanimously approved the recommendation. A new Delaware entity was incorporated and adopted organizational documents under Delaware law. The plan of merger thereafter was presented to the Fellows at the 2011 Annual Meeting in Phoenix and was approved by the Fellows at that meeting.¹¹¹

The ACTEC Staff

THE STAFF IN CALIFORNIA

During the first decade of the twenty-first century (which would turn out to be its last decade in California), ACTEC, with Executive Director Gerry Vogt, maintained a staff of nine or ten persons, assigned generally to the areas of membership, meetings, publications, and technology, as well as general office administration.

The Membership Administrator throughout this time was Debbie Jacobovitz.

Meeting Planner Chris Zeller was succeeded early in the decade by Samantha Kassel, who in turn was succeeded in 2007 by Dylah Hughes (now ACTEC’s Senior Meetings Director Dylah Wallenius). Dylah brought to that role the perspective she had gained from working for many years with convention hotels, including the Grand Wailea Resort in Maui, where many ACTEC Fellows had met her during the 2006 Annual Meeting. Virna Tavaréz, who relocated from the New York City area to California, leaving a career in television news production and having recently received a professional certificate in meeting planning, was added in 2008 as Meetings Coordinator. Robin Neal and Robin Baker helped for most of the decade with committee support, CLE credit, and registration.

Publications were managed at the beginning by Barbara Ravetti and then by Gabrielle Balara, with support from Connie Gabel.

Systems Administrator Jose Baldonado left to accept an offer of employment with Los Angeles County in 2000, and the opening he left was filled by Bill Crawford, who had been working at an insurance company and whose title was soon changed to Webmaster and Systems Administrator. Ironically, Bill, the Webmaster, may have been the first employee ACTEC found by posting a job opening on the web.

¹¹¹ Documents related to the incorporation of ACTEC as a Delaware corporation, including the agreement and plan of merger, the 2010 certificate of incorporation, a 2012 certificate of amendment deleting “Inc.” from the end of ACTEC’s name, and the IRS confirmation of ACTEC’s continued tax-exempt status under section 501(c)(6), are available at ACTEC.org.

Others on the staff at times during that decade were Office Manager Emmy Cresciman, Administrative Assistant Wendy Avalos, Executive Assistants Valerie Coleman, Jessica Silva, Rachel Watson, and Karen Fox, Business Manager Steve Albers, Controller Elfrida Geiger, and Staff Accountant Adriana Torres.

BEGINNING ANEW IN WASHINGTON

President Dennis Belcher took the lead in the process of identifying and interviewing candidates for Executive Director. Initially, ACTEC interviewed candidates to work in Los Angeles, but it became increasingly clear that candidates in Washington and Chicago were more likely to have the experience with non-profit associations that ACTEC was looking for. After the Board of Regents voted to move to Washington, Dennis initiated a second search for candidates. Three were invited to interview with the Executive Committee, past presidents, panels of Fellows comprised of state chairs and committee chairs, and a panel of the then current staff, at the 2009 Fall Meeting in Williamsburg, Virginia. Deb McKinnon was one of the three — and was hired as Executive Director on November 1, 2009. Deb's professional career following law school had been in Washington, D.C., serving as Director of Legal Services for Comprehensive Marketing Systems, followed by executive management positions at Fannie Mae and the Mortgage Bankers Association.

With the office lease signed at the end of March 2010, staffing and operations of the new office began. As the new Executive Director, Deb began the work of hiring staff. Summit Business Technologies became the IT service provider to ACTEC for internet and communications at the Washington office. Donna Braman and Amy Michaud were hired in April 2010 and continue with ACTEC to the present, that is, through 2023. Donna was hired as the Director of Committees and CLE, with a change of title to Committees and Education Director in 2018. Amy was hired as the Director of Membership and Foundation Management, with a change of title to Membership and Foundation Director in 2015. Starting with the staffing model for the California office, Deb made some modifications and enhancements to job descriptions to better position ACTEC for new opportunities that accompanied the move. Donna assumed a more prominent role of staff representative in support of the substantive committees, including the committee appointment process, assisting with agenda planning, timelines, and meeting materials, as well as addressing the CLE process for Fellows. Donna also supports the Nominating and Program Committees. Amy's combined role offered the ACTEC Foundation a full-time staff person. Additionally, Amy manages the annual dues process (one-third of ACTEC's revenue) and serves as the staff representative to the New Fellows Steering and DEI Committees.

Jocelyn Jones also joined ACTEC at the beginning of April 2010 as Meetings Registrar and was succeeded in that position by Toni Villaceran (now Toni Jenkins) in February 2011. Abigail Issacs was hired in April 2010 as the Office Manager and Executive Assistant and was followed by Tina Luciano in December 2010. Several others have held that position over the years, including Laura Contestable in 2017, who continues part-time assisting all staff with administrative responsibilities. Maureen Vincent serves ACTEC as Executive Office Manager in 2023.

The specialty of publications was broadened to communications in general, and ACTEC's first Communications Director, Leah Weatherspoon, hired in June 2010, focused not only on publications created by ACTEC, but also on promoting ACTEC and its publications in other print and electronic media, connecting ACTEC Fellows directly with persons in those media for interviews and other thought leadership, and supporting ACTEC's government submissions and other government relations matters. Leah oversaw the refresh of the ACTEC logo in 2011 and an update of the ACTEC website in 2015. Leah remained in that role until 2016.

When the office was moved to Washington, D.C., Dylah Hughes, Virna Tavarez, and Bill Crawford moved from California to the Washington area and remained on the staff — Dylah and Virna to the present and Bill until 2014.

Gerry Vogt took on an emerita role in 2010, working with Deb as a consultant to ACTEC about sponsorship relationships, which continued until June 2011.

GROWTH AND DEVELOPMENT OF THE WASHINGTON STAFF

The national, state, and regional meetings have grown in scope and, in the case of the state and regional meetings, in number, since the move to Washington, D.C. With a dedicated meetings staff assigned to support the state and regional chairs in planning meetings, from budget preparation to menu planning, more states and regions have taken advantage of the opportunity to frequently convene their Fellows.¹¹² This increased role of the national office in state and regional meetings had Virna Tavarez assuming the title of State and Regional Meetings Director in 2014, then Associate Meetings Director in 2019, and then Meetings Director in 2022. Since 2022, Dylah Wallenius is the Senior Meetings Director, taking on more management and oversight of the growing meeting responsibilities and staff needed to address the additional meeting requirements.

The Meetings Registrar position has become a Meetings Coordinator position, dealing not only with meeting registration for the national meetings, but also with state and regional meetings and assistance with meeting planning details. Some of Toni Jenkins' responsibilities regarding meetings passed to Claire Novak as Registrar from 2016 to 2018, and then to Joanna West as Meetings Coordinator in 2018. Joanna became Meetings Manager in 2022. And Tyre Hawkins joined ACTEC as Meetings Coordinator in August 2023. Toni became the primary representative to meeting sponsors in 2016, responsible for marketing and finalizing sponsor commitments. Working with Deb on sponsor relationships, Toni is responsible for sponsorship revenue, which is also one-third of ACTEC's revenue. Toni became Sponsorship Development Director in 2021, cultivating ACTEC's relations with its national, regional, and state meeting sponsors, which had increased significantly in both numbers and involvement since 2003. In 2022, Brodie Guinan became Meetings Marketing and Communications Coordinator, preparing notices and weekly meeting announcements to Fellows on all meeting information, including the opening of registration, "Know Before You Go" information for the website, and all meetings apps.

The growth of meetings, the source of the other one-third of ACTEC's revenue, necessitated enhanced accounting and operations. ACTEC moved from the outsourced accounting operations of 2010–2012 to in-house management with Finance Director Brendan McGinn (2013–2017) and then to Acting Chief Financial Officer David Diedrich (2017 to the present), Controller Debbie Oberst (2020 to the present), and Staff Accountant Marsha Williams (2017 to the present). In addition, ACTEC acquired enhanced technology and software to streamline reporting and provide real-time accounting information. With the advent of Fellows Institutes,¹¹³ enhanced technology and reporting had many benefits.

Technology and communication have driven the most recent advancements of ACTEC and the growth of the staff. Chris Richards is the On-Site Support Specialist with Summit Business Technologies, the IT provider to ACTEC. He works in-house with ACTEC staff. He is responsible for website and database management. Chris joined ACTEC in 2014. He worked in 2015 with Leah Weatherspoon on the development and implementation of the revised website and then with outside consultant Barb Kilzer, the Project Manager, for the newest revision of the public and private sides of the ACTEC website launched in January 2024. Nathan Zapf joined ACTEC in 2019 as Executive Assistant/Governance Coordinator, and he transitioned to Technical Support Coordinator in 2022, working with Chris to support the previous and new websites as well as the revised member database. The revised member database was implemented in 2022, providing a simpler meeting registration process for Fellows and their guests and allowing Fellows to update their passwords without staff assistance and to update their profiles with current photos and biographical information. Nathan continues to be the first point of contact for phone calls to the office inquiring about finding an ACTEC lawyer.

Rebecca Vandall joined ACTEC in 2022 as Communications and Outreach Director, responsible for the additional outreach through social media begun by Suzy Shaw, who had succeeded Leah from 2016 until

112 This is discussed in more detail in Chapter 3, "States and Regions," of this History.

113 Discussed in Chapter 4, "Fellows Institutes," of this History.

2022. In 2022, Suzy shifted from a staff member to a part-time consultant continuing two responsibilities she had as a staff member, the staff producer of the ACTEC Trust and Estate Talk (the podcast series) and the ACTEC video series originally called the “ACTEC Family and Estate Planning Guide” when it premiered in 2017 and now titled the “ACTEC Estate Planning Essentials,” including the award winning DEI videos “Planning for a Diverse and Equitable Future” series. Production of these important series has been possible through funding by the ACTEC Foundation. Rebecca has responsibility for outreach and promoting ACTEC in social media, press releases, the *Weekly Update* (e-newsletter), news updates on the website, and relationship management with organizations such as ALI CLE, including the popular ACTEC/ALI CLE webinar series.

Education remains a cornerstone of ACTEC’s mission. From Los Angeles to Washington, D.C., staff continued to support Fellows’ ongoing education. In 2017, Beth Rivard joined Donna Braman in the management of CLE, becoming the CLE coordinator to process applications for CLE credit, as well as CLE certificates for Fellows, for all ACTEC meetings. In 2022, the in-house coordinator role was replaced with the professional provider, ConferenceAduit. Benefits included e-reporting at sessions and dependable, timely responses to Fellows seeking certificates. Donna continues oversight and management of this third-party provider. Having a third-party provider with integrated technology that aligns with ACTEC’s database became more relevant as ACTEC assumed the added responsibility of reporting CLE for the ACTEC Fellows Institutes.

Collectively, staff supported the virtual meetings of ACTEC during and immediately following the Covid pandemic: the 2020 summer and fall meetings, the 2021 annual, summer, and fall meetings, and a hybrid 2022 annual meeting featuring both in-person and virtual attendance. ACTEC staff and Fellows became comfortable with the use of Zoom, evolving from those first days of the pandemic into a regular communication medium in all occasions for convening Fellows.

From 2018 to 2023, there have been significant investments in systems upgrades approved by the Board of Regents: new accounting systems (2018–2020), a new database and reporting system (2022), and a new website (2024).

The dedicated and professional ACTEC staff continues to support the goals of ACTEC in education and in communicating to the public the significance of ACTEC and ACTEC Fellows as leaders in the trust and estate field.

PHOTOS

MEMBERSHIP AND MEETINGS

New Fellows and First Time National Meeting Attendees



Michael (Mike) Oglie with wife Andrea, first-time National Meeting attendee, John Furniss, M. Patricia (Patty) Culler and husband Tom Williams, at the 2014 Fall Meeting in New Orleans, LA.



Joshua (Josh) Husbands with Charles D. Fox, IV (Skip) as Skip welcomes New Fellows at the First Time Attendees reception during the 2019 Annual Meeting in La Quinta, CA.



New Fellow J. Grier Pressly, III and wife Kristy attend the New Fellows, International Fellows, and First-time Attendees Meet and Greet Reception during the 2023 Summer Meeting in Washington, D.C.



Susan Snyder welcomes New Fellow Stephanie McGehee-Shacklette to the 2023 Fall Meeting in Louisville, KY.

2010 Summer Meeting, Ritz-Carlton St. Louis • St. Louis, MO



Danny Markstein, Cynthia Lamar-Hart, Larry Katzenstein and wife Cheryl, and Daniel Lindley



Dancing in St. Louis!

2010 Fall Meeting, Renaissance Harborplace Hotel • Baltimore, MD



Hanson Reynolds and wife Sharon Gray



Mary Jane Connell, W. Bjarne Johnson, and Raymond (Ray) Okada



Catherine (Cathy) Hughes, Ronald (Ron) Aucutt, and Beth Shapiro Kaufman share their expertise during a professional seminar.



Linda Retz, Steven (Steve) Trytten, Sarah Richardson Larson, Peter Stern, and Tom Overbey



Edward (Ed) Manigault, Benjamin (Ben) Pruett, and Mary Radford with Sponsor Judith Pearson

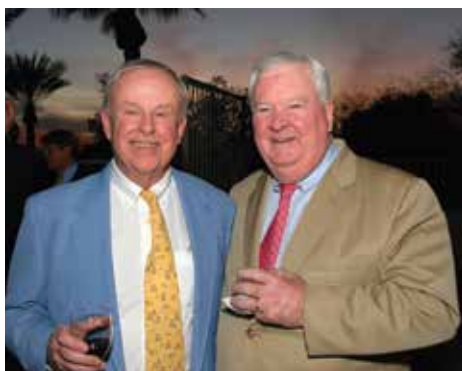


Paul and Jane Heintz and Mark and Gilda Haranzo attend the Welcome Dinner.

2011 Annual Meeting, Arizona Biltmore Resort & Spa • Phoenix, AZ



James (Jim) and Sue Maddox with Dennis Belcher during the Committee Members Dinner.



Malcolm (Mal) Moore and John Wallace



Janet and Peter Gordon, and John (Jack) Meck and Karen Lally

2012 Annual Meeting, Loews Miami • Beach, Miami, FL



Daniel (Danny) Markstein, T. Randolph (Randy) Harris, Trent Kiziah, Anne O'Brien, Barbara Sloan, and Mary Ann Mancini



Laird Lile, ACTEC staff Virna Tavarez, and Terrence (Terry) Franklin



Nancy Fax and Jack Terrill



John and Laura Wallace



Jane Holding (wife of Graham Holding) with Neill and Peggy McBryde



David and Catherine Edwards

2012 Summer Meeting, The Broadmoor • Colorado Springs, CA



Susan Snyder and Lynne Green



Bruce Ross and Duncan Osborne



Kevin and Beth McCrindle, and Bradley (Brad) Grossenburg

2013 Annual Meeting, Grand Wailea Resort • Wailea, HI



Cheryl and Kurt Sommer, Judi Mezzullo (wife of Lou Mezzullo), Paula Kohut, and Elizabeth (Betty) Osborne (wife of Duncan Osborne) attend a reception.

2014 Fall Meeting, The Roosevelt • New Orleans, LA



NOLA musicians begin to jam!



Martin Heckscher, Mary Jane Barrett, Andrea Hyde, and Ruta and William (Bill) Finestone



Kathleen (Kathy) Sherby and L. Henry Gissel, Jr. cut a rug!

2014 Fall Meeting, The Roosevelt • New Orleans, LA *continued*



Akane Suzuki, Margaret (Meg) Lodise, and Reynolds Cafferata



Patty and W. Steven (Steve) Johnson, Rudy Ogburn, and Deborah (Debbie) Hildebran-Bachofen



Sponsor Janet Hill with James (Jim) Spratt and W. Bjarne Johnson



Stephen (Steve) Akers, Julie Ann and T. Randall (Randy) Grove

2017 Summer Meeting, The Fairmont Olympic Hotel • Seattle, WA



Mickey Davis and Ann Burns



Jo and James (Jim) Lamm



Stacy Singer, Kim Kamin and Jason Ornduff

2022 Annual Meeting, Manchester Grand Hyatt • San Diego, CA



Symposium: Interview with IRS Commissioner Charles P. Rettig



Ann Burns passes the Gavel to Robert (Bob) Goldman during the Annual Business Meeting.

Joseph Trachtman Memorial Lectures



U.S. Supreme Court Justice and Honorary ACTEC Fellow Sandra Day O'Connor presented the 2005 Annual Trachtman Lecture. (Photo courtesy of WikiMedia)



John (Jack) Terrill, Betty and Duncan Osborne and son Mike, following Duncan's 2020 Annual Trachtman Lecture, "Truth, Transparency and the Right of Privacy."



Ronald (Ron) Aucutt delivers the 2022 Annual Trachtman Lecture "The Calling of the Counselor, Part 2."

2022 Summer Meeting, Fairmont Banff Springs • Banff, AB, Canada



Professor Gerry Beyer meets the Royal Canadian Mounted Police.



Evening Event: Hootenanny at Mount View Barbecue!

2023 Summer Meeting, Omni Shoreham Hotel • Washington, D.C.



The Honorable Cary Douglas Pugh of the United States Tax Court, and ACTEC Sponsor Carsten Hoffmann of Stout joined Stephanie Loomis-Price for the Summer Seminar: "The Tax Court Is Here to Help: Valuation and Appraisers as Expert Witnesses."



Fellows enjoying breakfast on the patio at the Omni Shoreham.



Steven Mignogna, Kurt Sommer, The Honorable Nathan Braverman, and Lynn Sassin attend the Sponsor Recognition Reception.



Mickey Davis, Lora Davis, and Melissa Willms



Fellows and guests attend a Washington Nationals baseball game.

2023 Fall Meeting, Omni Louisville Hotel • Louisville, KY



Tara Anne Pleat, Professor Mary Radford and Gerard Brew present "Spitting the Bit" during the Professional Program.



Stacy Singer, Cynthia Larmar-Hart, and Sponsor Scott Nammacher attend the Sponsor Recognition Reception.



"Father Knows Best or Parent Trapped? An Affluent Young Adult With Diminished Capacity Faces Guardianship" Professional Program with mock trial. Cast Members: Steven Mignogna, (Moderator), Melissa Osorio Dibble (Petitioner's Expert), Robert Kirkland (Petitioner "The Father"), Robert Knee, (Petitioner's Attorney), The Honorable Jessica A. Uzategui (The Judge), Shannon Barks (Respondent's Attorney), Julian Zebot (Respondent's Expert), and J. Grier Pressly, III (Respondent "The Son").

STATES AND REGIONS



Past South Carolina State Chairs attend the 2023 Southeast Regional Meeting in White Sulphur Springs, WV. J. Tod Hyche, Robert Kunes, Rita Bragg Caughman, John Jolley, Steven Johnson, and James Hardin.



West Virginia State Chair Marcia Allen Broughton presents at the 2023 Southeast Regional Meeting in White Sulphur Springs, WV.



Sponsor Bonnie Brennan, Fellow Steve Johnson, and Sponsor Tash Perrin attend the 2014 Southeast Regional Meeting in Hilton Head Island, SC.

ACTEC FELLOWS INSTITUTES



The "Rudy Ogburn Memorial Fund for the Southeast Fellows Institute" was established through The ACTEC Foundation for the purpose of making grants to provide tuition assistance to students attending the Institute. The grant-making opportunity recognizes the many contributions made by Rudy, who passed away on March 30, 2022. Rudy was one of the three original Deans of the Southeast Fellows Institute and was dedicated to the legal profession, ACTEC, and the Southeast Fellows.



Robert (Bob) Kirkland during the Heart of American Fellows Institute in 2018



Founding Chancellor Laird Lile visits with Class members Melissa Rodriguez and William Tucker at the ACTEC Florida Fellows Institute in 2023.



Florida Fellows Institute Class II Graduates, 2017



Southeast Fellows Institute Chancellor Charles D. Fox, IV (Skip) opens Class II, including dedicating the class to Daniel (Danny) H. Markstein, III.



The Southeast Fellows Institute Class II was dedicated to the loving memory of Daniel (Danny) H. Markstein, III (ACTEC President 2007-2008).



Mid-Atlantic Fellows Institute graduate Elsa Smith with Fellows Kelly Preteroti and Anne Coventry.

ACTEC SUBSTANTIVE AND ADMINISTRATIVE COMMITTEES

2023 Summer Meeting



The Communications Committee meets to discuss the 2024 ACTEC.org website upgrade. (Chair Natalie Perry)



Sponsorship Advisory Committee Chair Lora Davis runs the Committee Meeting with Susan Snyder, James (Jim) Walker, Jack Challis, and Executive Director Deborah (Deb) McKinnon.

2023 Fall Meeting



Amanda Gyeszly, Chair of the New Fellows Steering Committee, welcomes attendees to the New Fellows, First-time, and International Attendees Reception.



Membership Selection Committee members: Marjorie Rogers, Raymond (Ray) Odom, Elaine Bucher, Keith (Brad) Gallant, Susan Shields, Barbara Sloan, Bridget Logstrom Koci, and Chair John Hartog

Diversity, Equity and Inclusivity (DEI) Committee



"The Forgotten 40 Acres: Repairing Racial Wealth Disparity Using the Estate Tax and New Charitable Incentives," presented by Sarah Moore Johnson, Professor Phyllis Taite, and Raymond (Ray) Odom during the 2022 Annual Meeting in San Diego, CA

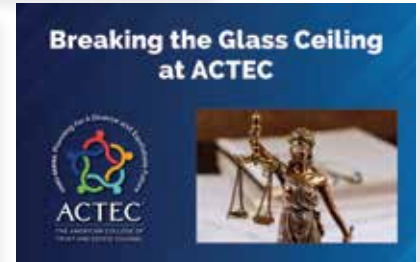
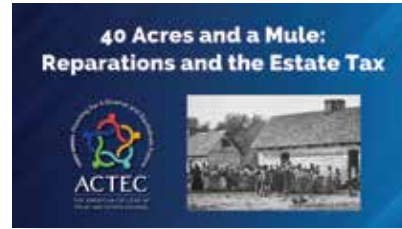


DEI Committee Chair Cynthia Lamar-Hart, Chair, leads the Committee Meeting during the 2023 Fall Meeting at the Omni Hotel in Louisville, KY.



The DEI Committee and ACTEC sponsor company CAF America co-sponsor a reception at the 2024 Heckerling Institute on Estate Planning.

Planning for a Diverse and Equitable Future Video Series



ACTEC FRIENDS



ACTEC "Bargers," a group of Fellows and spouses that traveled through Europe on barges: 1987 on the Canal du Midi, 1993 on the Seine and Yon rivers, 2000 on the waterways of The Netherlands and Belgium, 2002 in Alsace, and 2004 on the rivers of Bordeaux.



Nancy Fax, Stephanie Perry, Anne Coventry, guest Pat Schoshinski, and Alex Tanouye enjoy friendship.



Kathleen (Kathy) Sherby, the Honorable Dianne E. Yamin, Probate Court of Danbury, Connecticut, President of the National Council of Probate Judges, and Professor Mary Radford during the 2023 Fall Meeting in Louisville, KY.

ACTEC AND THE LEGISLATIVE PROCESS



Turney Berry chairs a meeting regarding the Uniform Fiduciary Income and Principal Act.



Suzanne (Suzy) Walsh, Turney Berry, and Reporter Susan Gary present at a meeting of the Uniform Law Commission regarding the Electronic Wills Act.



John Rogers and Professor John H. Langbein during the Uniform Law Commission's 2019 annual meeting in Anchorage, AK

THE ACTEC FOUNDATION



The 2012 ACTEC Foundation Board of Directors. **Back row:** Martin Hall, Karen Moore, William (Bill) Finestone, L. Henry Gissel, Jr., Mike Kaplan, Glen Yale, Anne-Marie Rhodes **Front Row:** Bruce Stone, Duncan Osborne, Mary Radford, Cynda Ottaway, Turney Berry, Lou Mezzullo, and Kathy Sherby

THE AMERICAN COLLEGE OF
TRUST AND ESTATE COUNSEL

ACTEC®

FOUNDATION

The ACTEC Foundation, the philanthropic arm of the College, offers education to families and professionals and supports students interested in the trust and estate area of the law.

L. Henry Gissel, Jr. Spirit of ACTEC Lecture and The ACTEC Foundation Distinguished Service Award



L. Henry Gissel, Jr. served as The ACTEC Foundation President from 2017 to 2020. The L. Henry Gissel, Jr. Spirit of ACTEC Lecture was established in 2023 to recognize and honor Henry's significant impact on the College and the Foundation. Judith (Judy) McCue presented the inaugural lecture during the 2023 Annual Meeting.



James (Jim) Maddox, Treasurer of The ACTEC Foundation, presents the first Distinguished Service Award to Judith (Judy) and Howard (Scott) McCue during the 2020 Annual Meeting in Boca Raton Resort and Club, Boca Raton, FL.



ACTEC Foundation Fundraisers



The 2022 Race of the Regions raised over \$32,000 for The Foundation. Southeast Region Jockey Farhad Aghdami was the first to meet the fundraising goal and cross the finish line!



ACTEC Foundation Fundraisers *continued*



2017 ACTEC Foundation Bike Ride Fundraiser with Foundation President, L. Henry Gissell, Jr. and supportive ACTEC Fellows



Laura and Robert (Bob) Temmerman and Jack Terrill celebrate at the 2019 ACTEC Foundation Bike Ride Fundraiser.

ACTEC Foundation Grants

The ACTEC Foundation is Proud to Announce **THE 2023-2025 DENNIS I. BELCHER YOUNG LEADERS**



JEFFREY D. HOPKINS
Columbia, SC



RACHEL M. LEE
Los Angeles, CA

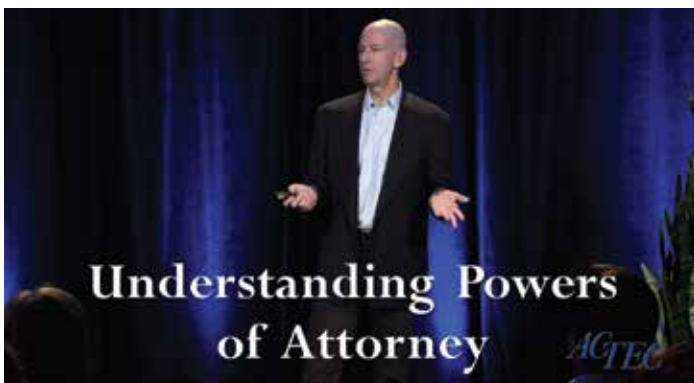


IMAAAN MOUGHAL
New York, NY



LISA GOODRICH PAGE
Greenwich, CT

Ninth Class of. Dennis I. Belcher Young Leaders



The ACTEC Family Estate Planning Guide launched in August 2016 with Bernie Krooks' video "Understanding Powers of Attorney." As of March 2023 this video has been viewed nearly 5800 times. The series was renamed ACTEC Estate Planning Essentials in 2023.

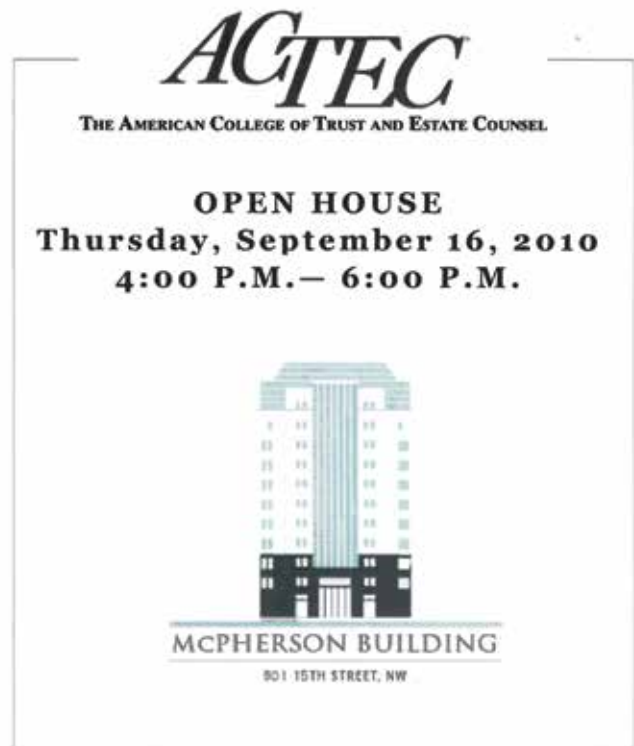


Natalie Perry and Nancy Hughes record an Estate Planning Essentials video during the 2019 Annual Meeting in La Quinta, CA. Production shifted to web recording beginning during the pandemic.

ACTEC OFFICE AND STAFF



Gail B. McKay, Executive Secretary and Founder of ACTEC, began organizing the organization in 1947.



ACTEC headquarters moved from Los Angeles, CA, to the McPherson Building, Washington, D.C., during the spring and summer of 2010. An Open House held on September 16, 2010, included a program with a ribbon-cutting ceremony.



Ribbon cutting ceremony at ACTEC's D.C. headquarters with Professor Mary Radford, Edward (Ed) Beckwith, Ronald (Ron) Aucutt, Kathy Sherby, Mil Hatcher, ACTEC President Karen Moore, Executive Director Deborah (Deb) McKinnon, Mike Kaplan, Duncan Osborne, and Bob Goldman.



The ACTEC Headquarters Conference Room was dedicated in honor of Dennis I. Belcher, ACTEC President (2009–2010), when the Regents voted to move from CA to DC. His wife Vickie was on hand for the dedication.



The decision to move took place under the direction of ACTEC Presidents Dennis Belcher (2009–2010), Karen Moore (2010–2011), and Executive Director Deborah (Deb) McKinnon.



ACTEC staff Dylah Wallenius, Beth Fox (wife of Skip Fox), and ACTEC staff Virna Tavarez



ACTEC staff during the 2019 Annual Meeting in La Quinta, CA



ACTEC Staff Holiday Party, 2022

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