Roy Black Issues ‘Call to Arms’ to UM Law Grads

by Catherine Wilson

Fifty years since graduating, famed litigator Roy Black offered a “call to arms” in a commencement address at the University of Miami School of Law.

Black, senior partner at Black, Srebnick, Kornspan & Stumpf in Miami, challenged new graduates at his alma mater to “detach from self-interest and serve others.”

Without naming President Donald Trump, Black took a few swipes at him and his administration.

“Lawsyers ‘stand up against the inhuman treatment of this dark era. We stand up against the cruelty, the oppression and racism,’ Black said Saturday. ‘Will you be responsible to the truth even when our government cannot distinguish it from the lies? When it shamelessly insists that ‘truth isn’t truth’ or tries to distract us by the lies? When it shamelessly insists and become the advocate for it.”

He urged all the new lawyers to defend the unlikable and stand up to bigotry. He asked the graduates “to take on a personal commitment, to take on some deep problem, some complex issue, some radical injustice of our age — and become the advocate for it.”

Black noted he was speaking at the final commencement ceremony for outgoing law dean Patricia White, who is leaving after 10 years. He commended her.

Akerman Expands in Atlanta, Opens Office in North Carolina

by Dylan Jackson

Akerman has opened an office in Winston-Salem, North Carolina, and has expanded its Atlanta location with two corporate partners as the firm looks to set up a full-service location in Georgia.

Former Dentons partners Bill Ide and Amanda Leech have joined Akerman’s corporate M&A practice in Atlanta, and former Kilpatrick Townsend partner Paul Foley will lead the firm’s new Winston-Salem office.

Before joining Dentons, Ide was general counsel of agricultural giant Monsanto and served as president of the American Bar Association in 1993. Leech, who focuses her practice on general corporate counseling of both privately held and public companies, was promoted to partner.

Ex-NFL Player’s $300M Defamation Suit Against Miami Herald Moved to Southern District of Florida

by Zach Schlein

A former football player with the Miami Dolphins has accused the Miami Herald Media Co. as well as the McClatchy Co. of intentionally inflicting emotional distress as well as printing false information pertaining to his prior emotional distress as well as printing false information pertaining to his prior emotional distress.

Filing as a pro se litigant, Dimitri Patterson entered a complaint against the newspaper and its owner in the Middle District of Florida on May 3. The case, which was transferred to the Southern District of Florida on Wednesday, contends the Miami Herald attempted “to assassinate” Patterson’s character in three articles published about the plaintiff between August 2017 and May 2018.

“The articles are false and defamatory in their overall portrayal of DP as a violent, impulsive, unstable, heartless, cruel person who is abusive to women and children, and fugitive evading felony charges,” the complaint said.

The stories reported Lawson attempted to run from the Lawson E. Thomas Courthouse Center after he was ordered to be placed in custody by Miami-Dade Circuit Judge William Atfield in August 2017. Former Miami Dolphins nose tackle Billy Turner will face an additional hearing on April 10 to determine whether he should be held in police custody.

A Q&A With State House Judiciary Chair Paul Renner

by Catherine Wilson

State Rep. Paul Renner is one of Florida’s leaders in the justice system as chair of the House Judiciary Committee, and he will take on greater responsibilities as House speaker-designate for 2022.

A member of the House since 2015, the Palm Coast Republican also is a member of the House rules and appropriations committees and the justice appropriations subcommittee.

He is a shareholder and commercial litigator at Milam Howard Nicandri and former state prosecutor, served with the Navy in Operation Desert Storm, served in Afghanistan for a year as a commander in the U.S. Navy Reserves and graduated from law school at the University of Florida.

Renner responded to questions after adjournment about the latest legislative session.

What can judges, court administrators, clerks, state attorneys and public defenders expect from the new budget? 

See Renner Q&A, Page A2

$2.00
2017. A police report said Patterson in Orange County law enforcement officers.

PATTERSON

How will the assignment of benefits law affect insurers and consumers?

We have seen increasing abuse by a handful of lawyers and contractors, who pressure homeowners into entering an assignment of benefits, or AOB, agreement, then overcharge insurance companies and file suit when the insurance company objects to payment. Homeowners should not be caught in the middle. Our legislation allows homeowners to continue assigning their policies to facilitate repairs but also includes important restrictions that protect homeowners from predatory contractors and unscrupulous attorneys, and result in fewer lawsuits.

Preemption bills addressed everything from short-term housing rentals to plastic straws. How do you balance local control and state priorities?

As legislators, we are elected to not only represent our local communities but the state as a whole. Under our state Constitution, home rule allows local governments to address unique issues, unless otherwise preempted by law. The state has mainly exercised that preemption to provide uniformity in commerce, so there are not hundreds of different and inconsistent rules and regulations from one city or county to the next, which only hinders economic growth.

That still leaves countless local decisions to local governments.

How will the change in the petition-gathering process for constitutional amendments affect future state ballots?

Florida’s Constitution has become the epicenter for out-of-state billionaires and special interests to pursue their own agendas through what is supposed to be a citizen-driven constitutional amendment process. In fact, most, if not all, of the petition collectors you see on the street are hired groups that live out-of-state. This important reform will allow voters to know about the out-of-state influence behind a particular proposal, and it also provides voters with additional information on the potential costs of the proposal, including any estimated effects on the economy. In the Legislature, we receive a published staff analysis of every bill that gets a committee hearing before we ever take a vote. This allows us to assess not only the intended consequences of that bill, but also the costs and potential negatively unintended consequences if we support it. In the same way, voters deserve to be fully informed before deciding to add provisions to our Constitution. This new law will ensure that we are not duped by out-of-state special interests from the left or right who descend on our state every two years in an attempt to get their special-interest agenda into our state Constitution.

What other legislation was approved this session that most affects the practice of law in Florida?

The biggest change for civil attorneys will be the increase in the jurisdictional amount for county court, which will move to $30,000 next January and move up again to $60,000 two years later. This will mean more civil cases will land in county court, not circuit court. On the criminal side, we just passed the biggest criminal justice reform legislation in a generation. Currently, we enjoy a nearly 50-year low in our crime rate. Part of that is attributable to a tough approach toward high-risk, violent offenders. However, over the years the push to get tougher and tougher has also sent many low-risk, nonviolent offenders to prison and reduced our flexibility for those who show promise for rehabilitation. This session, we passed a criminal justice reform package based on three principles, each of which is necessary for a fair and effective criminal justice system: preserve public safety, ensure proportionality and strengthen the rule of law. Once this bill becomes law, Floridians can know that our communities will remain safe, our correctional facilities will be less crowded with nonviolent offenders, inmates will have a path to employability that reduces the cycle of recidivism and victims will enjoy additional help to address their needs.

Catherine Wilson is managing editor of the Daily Business Review. Contact her at cwilson@alm.com. On Twitter at @cwilsonmls.

This is not the first time Patterson has represented himself in a lawsuit against the Miami Herald or other high-profile defendants. In December 2018, U.S. District Judge Roy Dalton Jr. dismissed the plaintiff’s suit against the Miami Herald Media Co. without prejudice after Patterson failed to file a timely response. Dalton found the case “is due to be dismissed without prejudice for failure to prosecute.” Former Florida Gov. Rick Scott was among the parties also sued by the former Dolphins cornerstone for failing “to take care that the laws are faithfully executed” and depriving Patterson of his constitutional rights.

Dalton dismissed the suit against Scott in September 2018 and held the “claims against Governor Scott cannot proceed, nor can [Patterson’s] claim for a preliminary injunction because he has no likelihood of success on the merits.”

Patterson did not return requests for comment by press time.

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschlein@alm.com.

A member of the House since 2015, Paul Renner also is a member of the House rules and appropriations committees and the Justice appropriations subcommittee.

He was detained under an active felony warrant for battery and culpable negligence issued against him in Miami-Dade County.

The suit repeatedly categorizes assertions made in the articles as false. “DP never injured any police officers while running out of a courtroom at the Lawson E. Thomas Courthouse in downtown Miami, nor did a Judge order him to be taken into custody,” the complaint states. “There are cameras outside and inside the courtroom, which supports this and there are no official judicial proceedings or documents that exists of a judge holding DP in contempt of court.”

The complaint adds, “DP was never legally acquitted of battery and culpable negligence by a jury in July, because he never was legally charged with those two crimes. You cannot acquit a person of a crime that they were never charged with pursuant to Florida law.”

Patterson’s legal action seeks a $300 million judgment against the defendants and requests that the offending articles be removed from www.miamiherald.com and all online search engines worldwide forever.

Rick Hirsch, the Miami Herald’s managing editor, stood by the paper’s reporting.

“This is a lawsuit without any merit whatsoever,” he said in a statement to the Daily Business Review. “Our stories accurately reflect Mr. Patterson’s arrests.”

McClarty’s PR director Jeannie Segal said the company had no comment on the suit.
Ronald Rubin, recently hired as the state’s top financial regulator by Gov. Ron DeSantis and the Florida Cabinet, has been placed on administrative leave amid an investigation into alleged inappropriate behavior toward an employee.

State Chief Financial Officer Jimmy Patronis, a member of the Cabinet, announced the move late Friday and released a sexual-harassment complaint. Rubin, the commissioner of the Office of Financial Regulation, was selected in late February for the $166,000-a-year job.

Attorney General Ashley Moody on Monday suggested an emergency Cabinet meeting may be needed.

Patronis called the allegations against Rubin “troubling.”

“Every person deserves to feel safe and respected in their work environment,” Patronis said in a prepared statement.

“That standard is non-negotiable.”

Abigail Vail, chief of staff to Rubin, is leading the day-to-day business of the office in his absence.

Jamie Mongiovi, a spokeswoman for the Office of Financial Regulation, said the office isn’t commenting at this time. Rubin didn’t reply to requests for comment. He declined to comment to American Banker magazine for an article posted online Saturday.

Peter Penrod, general counsel of the Florida Department of Financial Services, recommended the suspension of all work-related activities for Rubin “until such time that the Cabinet has an opportunity to formally review this matter and take such action deemed necessary and appropriate.”

Patronis, who runs the Department of Financial Services, said he directed his inspector general to begin a preliminary investigation and said he intends to get an additional input from the other members of the Cabinet, which includes Moody and Agriculture Commissioner Nikki Fried.

Moody, who is waiting for the inspector general’s findings, also described the allegations as “deeply troubling.”

“If they are true, the Cabinet should strongly consider the termination of Commissioner Rubin,” Moody said in a statement on Monday. “This should be addressed at the next Cabinet meeting in full compliance with Florida’s Sunshine Laws.”

The copy of the sexual-harassment complaint released late Friday by Patronis’ office includes significant redactions and does not give the name, job title or even gender of the employee. But it indicates the alleged incident involved a relatively new hire.

According to the complaint, Rubin and the employee were walking to lunch at Harry’s Seafood Grille in Klemann Plaza near the Capitol. On the way Rubin suggested they first visit his condo to see recent renovations.

Inside, Rubin told the employee to remove shoes so as not to track dust inside. Rubin also removed his shoes before they viewed the condo. The employee described this as an “uncomfortable situation” in the complaint.

During lunch, Rubin inquired about the employee’s parents and Rubin talked about his own siblings, including a sister who recently got married and had a son.

“The commissioner also told me that they had supposedly only had sex twice while they were married,” the employee recounted, according to the complaint. “He then told me he was talking to his parents at one point and his dad made the comment that him and his mother were very fertile.”

The employee declined attending employee-appreciation events during one week to avoid Rubin, the complaint said.

“During a visit to see my new floor to grab tacos and a donut on both of those days, but I politely declined as I knew the commissioner would be attending and I did not want to recreate any uncomfortable situations,” the employee said in the complaint.

On the day of the ice cream social, the commissioner went around to each office to hand out ice cream treats on my floor. I stayed in my office with the door closed until he had passed in another effort to avoid him.”

Before heading back to the office, they returned to Rubin’s condo so he could talk to some painters.

The next day, Rubin invited the employee to a conference in Washington, which was declined. Rubin then offered the keys to his apartment in Washington “if you ever get the chance to go up there,” the complaint said.

The employee started to avoid Rubin and was moved to a different job after inquiring if there were other positions available, as the situation was “awkward” and “uncomfortable.”

The employee noted that the employee was “assigned other special projects to work on.” But the employee indicated continuing discomfort.

“Having the direction and space by being in a different physical office helps,” the employee said in the complaint. “However, I feel like my opportunities to get to know my coworkers and people in this agency have been hindered by inappropriate and uncomfortable situations.”

The commissioner also told me that they had supposedly only had sex twice while they were married,” the employee recounted, according to the complaint. “He then told me he was talking to his parents at one point and his dad made the comment that him and his mother were very fertile.”

If a county holds an election before next March’s primary election, elections supervisors must provide sample ballots in Spanish, according to the order.

The order also requires election supervisors to provide information in Spanish on their websites, recruit bilingual poll workers and have a bilingual hotline to assist Spanish-speaking voters during early voting.

The judge’s order was in response to a lawsuit filed last year by a coalition of Latino civic groups as well as Puerto Ricans who had moved to Florida after Hurricane Maria in 2017 and said they didn’t understand English well.

“I will not be able to vote effectively without access to Spanish-language election materials,” said one of the plaintiffs, Marta Valentina Rivera Madera, in a declaration filed in the case.

Florida Gov. Ron DeSantis last month directed the Florida Department of State to start rule-making that would expand the availability of ballots and election materials in Spanish through the state for the 2020 election cycle and beyond.

More than 4 million of Florida’s 20 million residents speak Spanish at home, according to U.S. Census figures from the 2017 American Community Survey.

“Florida has a significant Spanish-speaking population and our state is home to many Puerto Ricans who moved here after the devastation of Hurricane Maria,” the Republican governor said last month. “These fellow citizens should be able to fully participate in our democracy.”

Judge Mike Schneider

More Florida counties must provide election materials and ballots in Spanish, a federal judge has ruled.

An order Friday from U.S. District Judge Mark Walker expanded the use of Spanish-language ballots and materials in the state’s 67 counties.

Walker’s latest order, election supervisors in 32 more counties must provide ballots in Spanish by March 2020, when the presidential primary election is held. Fifteen counties already do so, and Walker’s order would raise the total to almost four dozen of Florida’s 67 counties.

“This case is about the fundamental right to cast a ballot,” the judge wrote.

The Office of Financial Regulation, which oversees state-chartered financial institutions, securities firms, finance companies, money-service businesses and debt collectors, has an operating budget of about $41 million a year and nearly 360 employees.

Rubin, a former special counsel in the Division of Enforcement at the U.S. Securities and Exchange Commission, was selected for the commissioner’s position over Linda Charity, a former director of the state Division of Financial Institutions who twice served as interim commissioner of the Office of Financial Regulation.

Rubin was working as a freelance writer after serving in 2015 as senior counsel and chief adviser for regulatory policy for the majority staff of the U.S. House Committee on Financial Services.

Rubin, who was with the Securities and Exchange Commission from 1996 to 2003, has also been a senior special counsel for the Financial Industry Regulatory Authority and a managing director of the legal and compliance department at Bear Stearns.

Rubin and Charity were the only candidates invited to interview for the job from nearly 30 applicants.

The commissioner’s job opened last year when former Commissioner Drew Breakspear resigned under pressure from Patronis, who pointed out “lack of cooperation, responsiveness, and communication” from Breakspear’s office. Breakspear disputed the claims.

DeSantis and the Cabinet are expected to meet during a trip to Israel the week of May 27.

The next scheduled meeting in Florida is June 4.

Jim Turner reports for News Service of Florida.

The judge praised the state’s efforts to update rules expanding access to Spanish-language election materials, but said there was no way of knowing when they would be finished. An order was necessary to ensure compliance with the federal Voting Rights Act.

“Is what is clear is that the rules are currently not in place and elections will be held between now and then,” the judge wrote.

Mike Schneider reports for the Associated Press.
Split Supreme Court Greenlights Antitrust Lawsuit Over Apple’s App Store Prices

by Nate Robson

Apple must face an antitrust lawsuit brought by consumers who claim the Silicon Valley tech giant has a monopoly over its app store that allows it to overcharge customers.

Monday’s majority decision from the U.S. Supreme Court, written by Justice Brett Kavanaugh, said the plaintiffs are direct purchasers under the court’s Illinois Brick Co. v. Illinois decision, despite claims to the contrary by Apple. Monday’s majority decision upholds a ruling from the U.S. Court of Appeals for the Ninth Circuit, which had overturned a January 2018 dismissal of the case.

Illinois Brick held that only the first buyer from an unlawful monopoly can claim treble damages under federal antitrust laws, even if an overcharge has been passed through to indirect or subsequent buyers.

The underlying consumer class action, contends on behalf of consumers, violates antitrust laws, even if an overcharge has been passed through to indirect or subsequent buyers.

The plaintiffs, which include Firestar Group, Synergies Corp., AVD Trading and related companies, maintain a monopoly on the retail chain and at the retail chain.

“The parties have come to a mutual settlement and the terms of the settlement are confidential,” Taaffe said in a written statement.

The plaintiffs, including Firestar Diamond International and its owner, jewelry designer Nirav Modi, initially filed a complaint Feb. 13 in U.S. District Court for the Western District of Texas. Before Morrison & Foerster filed a response, the plaintiffs voluntarily dismissed that complaint. They refiled it on Feb. 26 in state district court in Travis County.

In the Travis County petition, the plaintiffs alleged they hired the firm to assist them in winding down company, but instead of doing the work efficiently and promptly and keeping them informed, the firm concentrated on liquidating assets and transferring money to the firm’s client trust account.

“We decline to green-light monopolistic retailers to exploit their market position in that way. We refuse to rubber-stamp such a blatant evasion of statutory text and judicial precedent,” said Kavanaugh. The majority decision, written by Justice Brett Kavanaugh, said the plaintiffs are direct purchasers who can sue Apple over the prices paid in its app store.

MoFo then expended an exorbitant and excessive amount of time, primarily on matters that had little to do with winding down the entities. In the course of two months, MoFo had 34 different timekeepers bill 669 hours at a cost of $485,321, the plaintiffs alleged in the petition.

They further alleged that they paid the firm $30,000 in retainers, and the lawyers collected $625,319 that was deposed in the firm’s trust account, for a total of $655,319. However, the plaintiffs alleged, the firm “unilaterally decided to pay itself from these funds” leaving only $170,995 in the trust, and it ultimately only returned $17,305 to them.

The plaintiffs, which include Firestar and related companies, maintain a principal place of business in Austin, according to the petition. They also include Synergies Corp., AVD Trading and Firestar Group.

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Mobile app developer Plaintiffs Modi is facing allegations by India’s Punjab National Bank of engaging in a bank fraud scheme, reportedly involving at least $1.8 billion, according to news reports.

The plaintiffs brought breach of fiduciary duty, negligence, fraud, breach of contract and theft causes of action against Morrison & Foerster.

Morrison & Foerster has settled a lawsuit in Texas state court filed by a group of former clients who alleged the firm engaged in “egregious overbilling.” Houston lawyer Peter Taaffe, who represents the plaintiffs, confirmed Monday that his clients, who sought more than $1.5 million in damages, came to an agreement with Morrison & Foerster in mediation. Terms of the settlement in Synergies v. Morrison & Foerster were undisclosed.

The parties have come to a mutual settlement and the terms of the settlement are confidential. The plaintiff partners also add that Morrison & Foerster provided plaintiffs with valuable legal work, and plaintiffs appreciate its counsel,” Taaffe, of counsel at The Buzzbee Law Firm, said in a written statement.

On May 9, the plaintiffs filed a notice of nonsuit with prejudice as to all of the plaintiffs’ claims against Morrison & Foerster.

Tom O’Brien, a partner at Baker Botts in Dallas who represents Morrison & Foerster, did not immediately respond to a request for comment. Neither did a spokesman for the firm, which has 17 offices in the U.S., Asia and Europe.

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Morrison & Foerster has not filed an answer but filed a motion to dismiss on forum non conveniens grounds, arguing that the litigation should be resolved in New York because lawyers in the firm’s New York office did the work for the plaintiffs.

Jenna Greene is editor of The Litigation Daily and author of the “Daily Dicta” column. She is based in the San Francisco Bay Area and can be reached at jgreen@alm.com.
Breyer Denounces Ruling That Strikes Precedent, Questions Which Cases Are Next

by Tony Mauro

U.S. Supreme Court Justice Stephen Breyer on Monday warned that his colleagues may be poised to overturn court precedents in upcoming cases in ways that will sow “increased uncertainty” about the court’s consistency.

Joined by liberal colleagues Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan, Breyer dissented in Franchise Tax Board of California v. Hyatt, a state sovereignty case in which the 5-4 majority explicitly overruled a 40-year-old precedent, Nevada v. Hall.

The California case is one of at least four in which the court is being asked to overturn precedents this term.

“The court overrules a case, the court produces increased uncertainty,” Breyer wrote. “To overrule a sound decision like Hall is to encourage litigants to seek to overrule other cases; it is to make it more difficult for lawyers to refrain from challenging settled law; and it is to cause the public to become increasingly uncertain about which cases the court will overrule and which cases are here to stay.”

Breyer added, “Today’s decision can only cause one to wonder which cases the court will overrule next.” Other pending cases that challenge precedents include Gamble v. United States, a double jeopardy dispute; Knick v. Township of Scott, a takings case; and Kisor v. Wilkie, a regulatory deference case.

Justice Clarence Thomas, who has displayed more willingness to overturn precedent than any other member of the court, wrote the majority opinion, joined by Chief Justice John Roberts Jr. and Justices Samuel Alito Jr., Neil Gorsuch and Brett Kavanaugh.

In a two-page defense of overturning precedents in his majority opinion, Thomas asserted that stare decisis, the doctrine that favors preserving precedents, is “not an inexorable command.”

The Hall case, Thomas wrote, “stands as an outlier in our sovereign immunity jurisprudence, particularly when compared to more recent decisions.” He added, “Nevada v. Hall is inconceivable with our constitutional structure.”

At issue in the case, which has been before the court three times, is whether states are immune from being sued in the courts of another state. By a 5-4 vote, the 1979 Nevada precedent ruled that the Constitution does not prohibit suits brought by an individual against a state in the courts of another state.

The attorney who’s facing charges is known as Nguyen Le Thien Trang. Other pending cases that challenge precedents include Gamble v. United States, a double jeopardy dispute; Knick v. Township of Scott, a takings case; and Kisor v. Wilkie, a regulatory deference case.

Justice Stephen Breyer accuses his colleagues of encouraging lawyers to challenge settled law. His dissent came in a case striking down 40-year-old precedent.

Kate Shaw, professor at Yeshiva University Benjamin N. Cardozo School of Law, said of the decision Monday, “Justice Thomas has very little use for stare decisis; more surprising is that none of the other members of the majority—in particular the Chief Justice—wrote separately on this point. In light of that, I think the ominous tone Justice Breyer strikes at the end of his dissent is quite justified.”

At a Heritage Foundation and Bradley Foundation panel discussion last week, Kirkland & Ellis partner Paul Clement, a former U.S. solicitor general, said of the pending challenges targeting precedents, “I think which one they decide to overrule and why that one and not the others and what the various justices say about that I think will be profoundly important in terms of measuring the trajectory of the court going forward.”

Tony Mauro, based in Washington, covers the U.S. Supreme Court. A lead writer for ALM’s Supreme Court Brief, Tony focuses on the court’s history and traditions, appellate advocacy and the SCOTUS cases that matter most to business litigators. Contact him at tmauro@alm.com. On Twitter: @TonyMauro

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Houston Immigration Lawyer Charged in Massive Marriage Fraud Sting

by Angela Morris

A Houston-area immigration attorney was nabbed in a massive marriage fraud case involving nearly 100 defendants who are facing a total of 206 charges, U.S. Attorney Ryan Patrick announced Monday.

Trang Le Nguyen, managing partner in Pham & Nguyen Law Group in Houston, is facing charges of obstructing and impeding the due administration of justice, and tampering with a witness, which both could bring maximum sentences of 10 years in prison.

She also faces charges of mail fraud and conspiracy to commit mail fraud, which could bring possible 20-year mum sentences of 10 years in prison.

The scheme involved recruiting U.S. citizens to marry immigrants, who then became eligible for lawful permanent resident status. The immigrants paid between $50,000 and $70,000 for the conspirators to allegedly pair up the couples, create sham marriages—including fake wedding albums—and file false forms with U.S. immigration agencies.

The U.S. Attorney’s Office has charged 96 people in the scheme, and has already taken 50 of the defendants into custody.

For the same alleged behavior, Nguyen also faces a charge of tampering with a witness.

Nguyen earned her law degree from South Texas College of Law Houston in December 2010, and became licensed in Texas in 2011, according to her State Bar profile, which noted she doesn’t have any public disciplinary history.

She’s charged with conspiracy to commit mail fraud for allegedly using the post office to send mail as part of the marriage fraud scheme. She also faces a charge of mail fraud for allegedly submitting documents that had forged signatures, false statements under penalty of perjury, and fake addresses, cohabitants and employment verification records.

Nguyen faces a charge of obstructing and impeding the due administration of justice for allegedly obstructing or impeding the federal grand jury on March 26 by telling a party of one of the fraudulent marriages, who was also an informant for law enforcement, to go into hiding, avoid air travel and stop giving information to law enforcement.

For the same alleged behavior, Nguyen also faces a charge of tampering with a witness.

Nguyen is fluent in Vietnamese and English, has been active in charitable work to help Vietnamese children obtain education and health care, her profile said. She’s also a host of a legal advice program on a Vietnamese American Networking Television channel.

Angela Morris reports for Texas Lawyer.
Indiana Law Prof Ian Samuel Resigns After Misconduct Probe
by Tony Mauro

Ian Samuel, an Indiana University Maurer School of Law associate professor whose career was halted by a Title IX misconduct investigation last December, announced Friday he has resigned from his position.

Samuel, a former law clerk to the late Supreme Court Justice Antonin Scalia, was co-host of First Mondays, a now-defunct popular podcast about the high court. He also led a successful effort to disuade law firms from forcing arbitration clauses on too large companies. Before teaching at Indiana, he was an associate at Jones Day and a lecturer at Harvard Law School.

“I’m choosing to forgo procedural rights that might (though I doubt it) preserve my job if I fought to the Pyrrhic end, because the academic year is over and I shouldn’t allow my job if I fought to the Pyrrhic end,” Samuel said in a letter to the university’s provost that Samuel posted on Twitter.

Neither the university nor Samuel offered details of the allegations last December, but Title IX investigations typically result from allegations of sexual harassment or misconduct. He was placed on leave while the investigation was underway.

In his letter to university provost and executive vice president Lauren Robel, Samuel said the investigation was over. He wrote, “I don’t think I’m broaching any confidences by saying that the allegations in this case describe me drinking too much at any public event, or that I shouldn’t have been, in company I shouldn’t have kept, and treating the people present in ways they didn’t deserve.”

Robel on Friday did not immediately respond to a request for comment about Samuel or the investigation.

Samuel said in his intensely personal letter that some of his valued friends told him that the investigation should lead him to “take a hard look at my life.”

He added, “They were right. Once I was ready to be honest with myself, I had to admit that the night in question was the clearest sign yet of a problem that had been growing for some time. The truth is that the university’s investigation, in addition to doing justice, probably had the side effect of saving my life. I was becoming an ugly man, and I needed nothing so much as a clean mirror and someone brave enough to make me look at it.”

Samuel did not spell out his next steps in life but concluded, “What I do know is that halfway through the journey of life, I lost—through my own grievous fault—the straightforward path, my sense of right and wrong. It behooves me now to take another road.”

Dozens of replies followed Samuel’s tweet, including one that said, “Regardless of what you did, it takes a man with guts to post what you posted. But not all comments were positive. One commenter wrote, “This is a complete non-apology. This letter is all about him. Nowhere does he apologize to his victims.”

Tony Mauro, based in Washington, covers the U.S. Supreme Court. A lead writer for ALM’s Supreme Court Brief, Tony focuses on the court’s history and traditions, appellate advocacy and the SCOTUS cases that matter most to business litigators. Contact him at tmauro@alm.com. On Twitter: @TonyMauro

The Atlanta office is being built in the mold of similar expansions in Chicago and Texas, Meyers explained. Akerman hopes to expand the office — which opened with three health care partners in September 2018 — into a full-service outpost. The firm first opened its Chicago office in 2014 with eight attorneys. The head count there has since grown to 50.

“Atlanta has a lot in common with cities like Chicago, Houston and Los Angeles,” Meyers said. “It is an international city where legal services have to be both international and local.”

The firm has more modest plans for Winston-Salem’s smaller market. Although Meyers would not disclose specific clients, Foley will work with Akerman’s middle-market funds clients. Plans for the office do not involve the kind of growth expected in Atlanta, but Meyers said expansion isn’t out of the question.

“If we see additional opportunities in the city, there’s no reason we wouldn’t take advantage of that,” he said.

The expansions in Atlanta and Winston-Salem fit within the framework of Akerman’s overall plans in moving past its historical Florida-only reputation, Meyers said. In recent years, the firm has established offices in Austin, Atlanta, Chicago, Houston, New Orleans and San Antonio. The Winston-Salem office marks the firm’s 25th location overall.

The firm’s second-largest office is in New York, where it employs about 120 attorneys. Akerman also boasts 60 attorneys across four offices in Texas. And the Los Angeles location has tripled over the past four years to 40.

“Growth continues to be on the front of the mind,” Meyers said.

Dylan Jackson writes about national law firms with a pinch of politics and Latin America. He can be reached at djackson@alm.com or 303-347-6677. On Twitter @DylanJackson

FROM PAGE A1

BLACK

her for the school’s Law Without Walls program, and added, “I am proud to have a dean who believes in knocking down walls — instead of building them.”

Black’s clients have included Rush Limbaugh, Kelsey Grammer, Peter Max, Indy race car driver Helio Castroneves and William Kennedy Smith.

Catherine Wilson is managing editor of the Daily Business Review. Contact her at cwilson@alm.com. On Twitter: @CatherineWilson

FROM PAGE A1

AKERMAN

ner at Dentons last year. The duo has regionwide responsibilities, making presentations and boards of directors in merger and acquisitions, general corporate governance and compliance, and board risk management reviews.

Foley, who opens Akerman’s Atlanta office with two associates, was hired as chair of Akerman’s investment management group. He focuses on advising funds on investments, compliance and securities law.

Kilpatrick said of Foley’s departure that they “wish Paul well.” Dentons did not immediately respond to a request for comment on the departures of Iode and Leech.

Akerman managing partner Scott Meyers said the hires were driven primarily by client demand and laid out two distinct plans for each office.

Andrew Smulian, the firm’s chairman and CEO, said in a statement that Atlanta is home to a broad range of sectors that will benefit from Akerman’s extensive capabilities across the United States and Latin America. “We expect the office to grow quickly in the years ahead, both in size and service offerings,” he said.

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“Growth continues to be on the front of the mind,” Meyers said.
Burgeoning numbers of Cubans are trying to enter the U.S. by way of the Mexican border, creating a big backlog of people waiting on the Mexican side for months for their chance to apply for asylum.

The surge over the past several months has been propelled in part by loosened travel restrictions in Central America and deteriorating living conditions in Cuba. As a result, about 4,500 asylum seekers, the vast majority of them Cuban, have descended on Ciudad Juarez, the border city of Tapachula for legal permission to stay in Mexico.

In January 2017, though the U.S. ended its “wet-foot, dry-foot” policy of almost automatically admitting any Cuban who managed to reach American soil. For many Cubans, their best option is going to the U.S.-Mexican border and claiming asylum. For many years, Cubans entering through the southern border generally flew to South America and tried to come into the U.S. at Laredo, Texas. But now many are using a relatively new and shorter route: They fly to Panama or Nicaragua and engage smugglers to help them reach the U.S. border, and seek to come across at El Paso.

In the seven-month period from October through April, 4,737 Cubans without legal status entered the U.S. at crossings in Customs and Border Protection’s El Paso field office, compared with 394 in the previous 12 months. Along the entire U.S.-Mexico border, 10,910 Cubans came through official crossings between October and April, versus 7,079 in the previous 12 months. Migrants applying for asylum are often released into the U.S. while their cases make their way through immigration courts, which can take years. But for Cubans, it’s easier to settle in the United States by applying for asylum.

Burgeoning Numbers of Cubans Trying to Enter US via Mexico
by Cedar Attanasio, Elliot Spagat and Michael Weissenstein

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Are There New Opportunities for South Florida Investors in Treasury’s New Rules?

Commentary by Rosamaria Bravo and Erick R. Wendelken

Qualified Opportunity Zones were created as a provision of the Tax Cuts and Jobs Act of 2017 (the act). They were designed to encourage investment and real estate development in distressed communities, by offering significant income tax savings and deferrals for investment in such areas.

The IRS defines a Qualified Opportunity Zone as “an economically distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the state and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation authority to the Internal Revenue Service.”

As designed, the program offers a number of federal income tax benefits to investors including:

• The ability to defer paying taxes on capital gains until 2026;
• The ability to exclude up to 15% of the capital gain from taxation in 2026; and
• If the investment in the zone is held for at least 10 years, all appreciation is capital gain from taxation in 2026; and capital gains until 2026;
• The ability to defer paying taxes on new investments, under certain conditions, may be eligible for preferential tax treatment.

With many investors considering Qualified Opportunity Funds, these regulations will provide important updates on the requirements of QOF investments.

The proposed new rules are set forth in a document over 150 pages long, and still have a layer of complexity that may require some deeper analysis. Here are a few key takeaways from our initial thoughts on the second round of proposed regulations:

Fifty percent of gross income has to come from an active business inside the zone—the new proposed regulations clarify how this requirement is met.

Hours safe harbor—if at least 50% of services performed (based on hours) of employees and independent contractors are performed within the QOZ;

• Compensation safe harbor—if at least 50% of services performed (based on amounts paid) of employees and independent contractors are performed within the QOZ.

• Property and management safe harbor—if tangible property and management or operational functions needed to produce 50% of the revenue are in the QOZ.

• Facts and circumstances—business can otherwise show that 50% of revenue is generated in the opportunity zone.

This clarification is especially important for operating businesses and confirms that location of customer is not a determining factor.

Questions regarding the original use requirement have also been clarified:

• A building that has been vacant or unused for five years will meet the original use requirement;

• The purchase of newly constructed property (not previously placed in service) from a seller will also qualify; and

• Leased property—The proposed regulations also provide that leased property can qualify as qualified opportunity zone business property (QOZBP) while not subject to the original use or substantial improvement requirement, as long as the lease was entered into after Dec. 31, 2017, and calls for arm’s length terms. Related party leases are also allowed but subject to a few more requirements.

There were however, two points of clarification in the new guidance that we feel were not so taxpayer friendly:

• If investor is deferring Section 1231 gain, the investment cannot be made until year end once all 1231 gains and losses are netted to determine if investor has an overall eligible gain; and

• QOF benefits will not apply to a carried interest since in general this is granted in exchange for services and not from the contribution of eligible gain.

WHAT DOES THIS ALL MEAN FOR SOUTH FLORIDA INVESTORS?

Since the law was passed in December 2017, one of the complaints leveled against the administration is that it focused too much on real estate projects. The proposed rules lessens that concern by providing pathways that make it easier for investors who hope to fund new coffee shops, grocery stores, or other business operations.

President Donald Trump has welcomed the regulations. “As you know,” he said at the White House, “this vital provision gives businesses a massive incentive to invest and create jobs in our nation’s most underserved communities.”

The recently released regulations are not the final rules governing the Qualified Opportunity Zone program. They were released to provide a guidance so that investors can strategize how to take part in the program with more confidence.

Rosamaria D. Bravo, CPA, is a principal in the tax and accounting department at MBAF in Miami.

Erick R. Wendelken, CPA, is a principal in the tax and accounting department at the firm. He has been in the public accounting profession since 1999 and joined MBAF in 2001.
Monsanto Hit With $2B in Punitives in Oakland Roundup Trial

by Ross Todd and Amanda Bronstad

OAKLAND—Judges in California have hit Monsanto Co. with a $1 billion punitive damages verdict for each plaintiff in the third trial claiming that the blockbuster herbicide Roundup causes cancer in humans.

The jury of seven men and five women also awarded the plaintiffs Alva and Alberta Pilliod millions, about $55 million in past and future economic and noneconomic damages.

The trial is the third to allege that Roundup caused someone to get non-Hodgkin lymphoma but is by far-and-away the largest. On Aug. 10, jurors in San Francisco Superior Court awarded $289 million to Dewayne “Lee” Johnson, a school groundskeeper whose case moved up for trial due to his poor health. San Francisco County Superior Court Judge Suzanne Bolanos reduced the award to $78.5 million, which Monsanto has appealed.

J&J had also sought expeditious action for the second time, to federal court in Delaware, which is where Imerys made its bankruptcy filing.

As part of its removal efforts, J&J, said plaintiffs in every removed case are set to fight to have their suits continued to federal court, said plaintiffs in every removed case are set to fight to have their suits continued to federal court.

The courtroom remained silent after jurors were dismissed and left the jury room. Jurors in federal court in San Francisco handed down an $80 million award March 27 for Edwin Hardeman, who alleged he got non-Hodgkin lymphoma two decades of using Roundup to kill weeds on his 56-acre property in Sonoma County.

That case was filed by plaintiff Lori Hardeman, which Monsanto has appealed. Jurors in federal court in San Francisco handed down an $80 million award March 27 for Edwin Hardeman, who alleged he got non-Hodgkin lymphoma two decades of using Roundup to kill weeds on his 56-acre property in Sonoma County.

The filing earlier this year for bankruptcy protection of Imerys, the talc supplier, was by Ross Todd and Amanda Bronstad.

One of the cases Winkler is handling is the trial due to his poor health. San Francisco County Superior Court Judge Suzanne Bolanos reduced the award to $78.5 million, which Monsanto has appealed.

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Talc Plaintiffs Begin Fighting Mass Removal in Wake of Imerys Bankruptcy

by Max Mitchell

Lawyers for plaintiffs who have linked talcum powder to ovarian cancer are beginning to push back against the mass removal of their cases from state to federal court in the wake of the bankruptcy filing of a major talc supplier.

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Is Sea Rise Wrecking Coastal Home Values? The Answer: Maybe

by Philip Marcelo

For sale: waterfront property with sweeping views of the Atlantic Ocean. Waves erode beach regularly. Flooding gets worse every year. Saltwater damage to lawn.

Asking price: anyone’s guess. Some research suggests rising sea levels and flooding brought by global warming are harming coastal property values. But other climate scientists note shortcomings in the studies, and real estate experts say they simply haven’t seen any ebb in demand for coastal homes.

How much homeowners and communities should worry — and how much they should invest in remedies — remains an open question.

Nancy Meehan, 71, is considering putting her coastal condo in Salisbury up for sale this year, but she worries buyers will be turned off by the winter storms that churn the seas beside the summer resort town. Her home has been largely spared in the nearly 20 years she’s lived there, she said, but the flooding appears to be worsening along roads and lower properties.

“All my life savings is in my home,” Meehan said of the four-bedroom, two-bathroom condo, which she bought for $135,000. “I can’t lose that equity.”

Nearby, Denis Champagne can’t be sure that rising seas are hurting his waterfront home’s value. The three-story, four-bedroom home has views of a scenic marsh, has been renovated and is blocks from the ocean — yet was assessed at only around $420,000.

“Do I feel that it should be worth more than that?” Champagne said recently in his sun-soaked living room. “I mean, I’m biased, but where can you find this for that price — anywhere?”

A drop in home values could shatter a community like Salisbury, which relies almost exclusively on beachfront real estate taxes to fund schools, police and other basic services, researchers warn. And, they say, families could face financial ruin if they’ve been banking on their home’s value to help foot the bill for pricey college tuitions or even retirement.

“People are looking at losing tens of thousands of dollars of relative value on their homes,” said Jeremy Porter, a data scientist for the First Street Foundation, an advocacy group that seeks to raise awareness about sea level rise. “Not everyone can sustain that.”

Still, home prices in coastal cities have been rising faster than those of their landlocked counterparts since 2010, according to data provided by the National Association of Realtors.

And waterfront homes are still generally more expensive than their peers just one block inland, said Lawrence Yun, the association’s chief economist.

“The price differential is still there,” he said. “Consumers are clearly mindful that these climate change impacts could be within the window of a 30-year mortgage, but their current behavior still implies that to have a view of the ocean is more desirable.”

A nationwide study by the First Street Foundation suggests climate change concerns have caused nearly $16 billion in lost appreciation of property values along the Eastern Seaboard and Gulf Coast since 2005.

The study singles out Salisbury as the hardest-hit community in Massachusetts. Coastal homes there would be worth $200,000 to $300,000 more if not for frequent tidal flooding and powerful coastal storms, the study suggests. Champagne’s property, for example, would be worth about $123,000 more, according to FloodIQ, a property database the group has developed.

In another recent study, researchers at the University of Colorado Boulder’s School of Business found coastal properties most exposed to sea level rise sold, on average, for 7 percent less than equivalent properties the same distance from shore but not as threatened by the sea.

And in Florida’s Miami-Dade County, higher-elevation properties are appreciating faster than lower ones as companies and deep-pocketed buyers increasingly consider climate change risks, a study in the publication Environmental Research Letters found last year.

The three studies are laudable because they attempt to quantify what the insurance industry and federal government had long suspected: that climate change is having tangible harm on home values, said S. Jeffress Williams, a scientist emeritus with the U.S. Geological Survey in Woods Hole, Massachusetts, who wasn’t involved with any of the research.

But Williams and other researchers note the First Street Foundation study uses sea-level rise predictions from the Army Corps of Engineers that are more dire than figures from the National Oceanic and Atmospheric Administration, which usually provides the go-to numbers for such studies.

The other two studies largely rely on data from Florida, which is so low and highly developed that in many ways it is an outlier, unaffiliated researchers point out. They also focus only on single-family homes, leaving out huge numbers of condos, high-rises and other multi-family properties.

In Salisbury, real estate broker Thomas Saab insists something is happening with home prices but is not sure whether climate change is behind it.

“Two clients in the otherwise strong real estate market, he said, were recently forced to lower their asking prices by tens of thousands of dollars when prospective buyers voiced concerns about storm damage and risks.

“Do I worry prices are coming down? Sure,” Saab said. “Fewer buyers are willing to take the risk. People don’t want to live through nor’easter after nor’easter with no protection.”

He argues there’s a simple solution: Invest in sturdy seawalls as Hampton Beach, the lively resort town just over the border in New Hampshire, did generations ago.

“We can overcome any kind of rising seas if you just let us protect our properties,” Saab said. “Who cares about the climate change? You build a seawall and this whole discussion goes away.”

Philip Marcelo reports for the Associated Press.
Wall Street Loses $25 Billion to One Firm as Advisers Flee
by Sophie Alexander

Another day, another team of wealth advisers leaving a Wall Street bank.

Four UBS Group AG private bankers overseeing $530 million in client assets last week decided to strike out on their own, creating a Portland, Maine-based firm called Great Diamond Partners, according to a statement Monday. Last week, five Bank of America Corp. advisers in Atlanta overseeing $430 million in client assets departed, while a $6 billion wealth team left from Morgan Stanley in April.

Breakaways are occurring more frequently as advisers hoping to exert greater control and keep a larger share of the revenue bolt big banks to create boutique firms. Smoothing the way are technology ventures such as Dynasty Financial Partners, created by former Citigroup Inc. executives, which provide record-keeping, trading platforms and product offerings once available only at the largest firms.

“Like complex teams require large complex solutions,” said Tim Oden, senior managing director of adviser services at Charles Schwab Corp. “Businesses that existed they had no choice, but now they have a choice.”

SIPHONING TALENT
Other wealth-advisory firms including Rockefeller Capital Management have also been siphoning talent. The company, run by former Morgan Stanley executive Greg Fleming, has lured teams from Bank of America and UBS in recent months as part of an expansion strategy.

A 10-year bull market and an increasing number of wealthy families across the U.S. have helped fuel the movement. Most of the recent breakaway teams have yet to be tested by a slowing economy or serious market correction, but Great Diamond founding partner Steven Tenney said some of the risks have been mitigated by improvements in technology.

“The technological advances are independent of the economy and market cycles,” said Tenney, who spent 26 years at UBS. “The best way to capitalize on that technology is by being an independent firm.”

UBS spokesman Peter Stack declined to comment.

‘WELL-TRAVELED’ ROAD
Great Diamond, as well as the advisers departing Bank of America and Morgan Stanley over the past few weeks, partnered with Dynasty to set up independent companies.

Breakaway teams managing a total of about $25 billion now use Dynasty’s platform, the New York-based firm said.

“Somebody who has a business of that size isn’t going to take a significant risk and hope it works out,” Dynasty Chief Executive Officer Shirl Penney said in an interview. “A lot of these teams wanted the road to independence to be a little more well-traveled.”

For a company the size of Bank of America, which has seen three teams overseeing a total of about $3.9 billion depart for Dynasty in the past 10 months, the losses are relatively small. The Charlotte, North Carolina-based bank’s wealth-management businesses have $2.8 trillion in client assets.

“Attrition rates among experienced advisers remain near historic lows, at approximately 3% per year,” Bank of America spokesman Matt Card said in a statement, adding the firm “offers an unrivaled platform and the full range of capabilities advisers need today to serve” clients.

RETENTION RATE
Still, the migration from big banks is expected to continue as improvements in technology and the growth of turnkey companies like Dynasty, Chicago-based HighTower Advisors and Focus Financial Partners make it easier for teams to set up their own businesses. Independent and hybrid investment advisers will likely make up 28% of the market by 2020, compared with 25% in 2015, according to analytics firm Cerulli Associates.

How the breakaway teams fare financially is based largely on whether or not their clients follow. “The last test is the key man or managing director of compensation consultant Johnson Associates. Advisers who left big firms to start boutiques retained about 87% of their client assets on average, a Schwab survey found.

“If you think you can keep all of your clients, the last test of course you’re going to make more money,” Johnson said. “The real question is how many clients are you going to lose?”

Banks have become more aggressive in trying to retain wealth advisers, making hard-to-refuse offers to top producers, Johnson said.

“It goes on all the time,” he said, but added, “You have hundreds of these people and you can’t cut deals for everybody.”

‘HOT SUMMER’
Jeff Erdmann, who leads a Portland, Maine-based Merrill Lynch wealth-management business, said that he’s never considered going independent.

“If you’re completely on your own, you’re trying to re-invent an incredible machine,” said Erdmann, who is based in New York. “Having the association with a large global bank gives security to families.”

Penney said independent advisers on Dynasty’s platform typically see 25% to 40% more in average cash flow than at big banks. “They own all the equity in the business, so they own all the upside as well,” he said.

Penney declined to say how many other teams are poised to jump.

“We’re going to remain busy,” he said. “We’re going to have a hot summer.”

Sophie Alexander reports for Bloomberg News.

Morgan Stanley Says Rest of 2019 Might Flummox U.S. Markets
by Joanna Ossinger

The beginning of 2019 has been good for U.S. assets. But the back half might not be as favorable, according to Morgan Stanley.

Markets are currently priced for a “Goldilocks” scenario of solid but non-inflationary growth, and America has outperformed the rest of the world for much of the year. The gap set to reverse, strategists including Andrew Sheets wrote in a May 12 note. Their optimism has been challenged in 2019, the strategists still maintain that there will be a reversal of America’s out-performance.

“The growth reversal story has been delayed, not derailed,” the strategists said.

In December, when expectations of U.S. versus RoW growth appeared to be reversing, the dollar weakened, stocks outside America outperformed and duration in the U.S. beat Europe, they wrote. “Over the next 12 months, we expect all those performance trends to apply.”

In addition to the challenge from the idea that the rest of the world would outperform, Morgan Stanley has seen its dollar view struggle as well. Late last year, the firm believed the greenback was 10%-15% overvalued. But even with the Fed’s dovish pivot and some softening in America, strategists in economies outside the U.S. and the continued dovishness from the likes of the ECB, “They own all the equity in the business, so they own all the upside as well,” he said.

Penney declined to say how many other teams are poised to jump.

“The real question is how many clients are you going to lose?” the strategists said. “We think the latter.”

Joanna Ossinger reports for Bloomberg News.
Bank Secrecy Rules Get a Rethink After Danske Laundering Shock

by Frances Schwartzkopff

Danske Bank A/S is turning into a case study for European regulators, legislators and bankers to rethink fundamental assumptions about how the finance industry should operate.

First up is the principle that bank clients should be protected by secrecy laws. The sheer scale of the Danske money-laundering scandal means those rules may now get a review. The financial regulator in Denmark, the bank's home, has started lobbying counterparts elsewhere for a broader discussion.

Jesper Berg, director general of the Financial Supervisory Authority in Copenhagen, says it's clear there are "huge privacy issues." But "we need to figure out how to resolve this."

Danske Bank faces billions of dollars in fines as it awaits the outcome of criminal investigations across Europe and in the U.S. The bank admitted last year that it was at the center of an unprecedented laundering scandal after failing to screen thousands of clients in Estonia. Much of the $230 billion of mainly Russian money that flowed through those accounts was suspicious, Danske acknowledged.

The case revealed potential loopholes in European legislation. While rules governing data protection and client confidentiality protect privacy, they also mean that nothing prevents a customer blacklisted by one bank from moving to another.

CROSSING THE STREET

"The fact that the thousands of customers that left Danske could just cross the street and go somewhere else, to another country — that was no sharing of information there — that was really unfortunate and it should be avoided," Berg said. He says letting banks share data would be a more effective tool than creating a single European entity to target money launderers.

His approach resonates in Finland, which will take over the rotating presidency of the European Union in July. The idea is extremely good and supportable," said Samu Kiirri, head of the financial analysis and operational risks department at the Finnish FSA. "But as always, the devil is in the detail and it would take very careful preparation to draw up."

"It also represent a fundamental change to traditional tight banking secrecy on a philosophical level," he said.

PARLIAMENT SUPPORT

In the European Parliament, too, the idea of allowing banks to share client information is finding some support. Jeppe Kofod, spokesman for the parliament's special committee on financial crime, tax evasion and tax avoidance, says the balance needs to be tipped toward prevention.

"I don't want to sacrifice privacy," he said. But banks "should be able to share some of the data in a protected way," he said. "Today, it is too easy for criminals to operate in a number of banks."

At least two other Nordic banks have been caught up in the widening Estonian laundering scandal. Swedbank AB allegedly handled more than $100 billion in potentially suspicious funds, while Nordea Bank

SHUTTERSTOCK

Danske Bank faces billions of dollars in fines as it awaits the outcome of criminal investigations across Europe and in the U.S.

notes due in 2023. Talen Energy sold $7.50 billion of notes due 2027, and plans to use the money raised to buy back notes maturing through 2024. On Tuesday alone, companies sold $5.4 billion of bonds.

"I can't remember when $5 billion worth of deals came in one day," said Matt Eagan, a portfolio manager at Loomis Sayles & Co.

Demand has been strong enough for junk bonds that companies have been borrowing in that market instead of leveraging loans. With the Fed on hold, demand for floating-rate debt like bonds has been bouncing. Investors have been pulling money from loan funds for 25 weeks, but have added to their junk bond funds for much of the year, according to Morningstar.

"Banks are telling companies to take note. The market is generally wide open for deals," said Jenny Lee, co-head of leveraged-finance syndicate at Invesco Ltd. Refinancing is a better use of debt than buying back shares, she added. "I've seen frothiness before and this is not it."

 Corporations have ample incentive to deal with future debt maturities: on average they can reduce interest costs by issuing securities at current yields, the Barclays strategists said. Those relatively low borrowing costs are in part because of the Fed, which has paused its rate hikes, spurring money managers to pile into junk bonds in search of yield. Even with recent declines in high-yield securities, the debt has gained 8.3% this year through Thursday, according to Bloomberg Barclays index data.

Investment bankers say companies are taking notice of the opportunities to issue, and not just for refinancing. Corporations sold around $12 billion of U.S. junk bonds last week, the highest level in around 20 months, according to data compiled by Bloomberg; Sales in 2019 have risen by about 20% from the same time last year.

"We had half a dozen companies that were planning to go as early as nine or 10 months ago, then the market started weakening and we never got to the point where we could do those deals," said John Gregory, head of leveraged-finance syndicate at Wells Fargo & Co., referring to when junk bond prices fell late last year.

"Now we're finally getting to that point."

THREE REASONS

There are at least three factors that can support refinancing activity now, according to the strategists at Barclays. First is the big wall of maturing bonds that companies face: about 29% of the index comes due in the next four years, well above the post-2000 average of 20%.

Second is that the current index yield is a little more than 6%, while in seven of the next eight years the weighted average coupon of maturing bonds is higher. The exception is 2020, a year in which only 3% of the index matures. And the third is refinancing activity tends to pick up in periods of lower yields, especially when the gap between short- and longer-term yields is relatively narrow, known as a flat yield curve.

Last week, high-yield companies weren't deterred from issuing by trade war talk and the resulting slumping equities. On Thursday for example, Rausch Health Cos. sold $1.5 billion of notes maturing in 2028 and 2029, planning to use proceeds to buy back

Adb may have enabled almost $800 million in questionable transactions. Both are accused of ties to the Danske affair.

Currently, banks must report suspicious behavior to their national financial intelligence unit, or FIU. Those units work with local law-enforcement authorities to investigate, but the information can't be shared with other banks. Putting together a potential criminal case takes time — and meanwhile, possible launderers are free to launder.

Berg says it's worth considering whether banks should be allowed to share reports of suspicious customers before the police confirm illegal activity. Financial institutions already collect information to meet know-your-customer requirements, and in the Nordic region are working on a unified system to avoid customers being bombarded with multiple requests.

Such a common infrastructure, Berg said, could include "customers that have been blacklisted or could be by one bank from moving to another."

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**Facebook to Raise Pay for Thousands of Contract Workers**

by Kurt Wagner

Facebook Inc. said it will give raises to most of its U.S. contract workers, a group of people who have critical roles but aren’t paid or treated as full-time company employees.

“Today’s largest social-media company said Monday that the current $15-an-hour minimum wage it requires for U.S. workers is no longer enough for those who live in expensive cities like the San Francisco Bay Area, where Facebook’s headquarters is located. It has tens of thousands of contractors globally, from bus drivers to content moderators who review disturbing and violent photos and videos that show up on the company’s services.

“Raise wages so directly affect people’s lives, we obviously have a deep responsibility to look after all the people who work for Facebook — with us as a partner or with us directly,” Janelle Gale, Facebook’s vice president of human resources, said in an interview. “$15 an hour in some of the areas where we operate no longer meets the cost of living.”

Facebook is raising its minimum wage for contract workers to $20 an hour in the Bay Area, New York City and Washington, and $18 an hour in Seattle. Content moderators will get more. Those in San Francisco, New York and D.C. will now make at least $22 per hour.

Facebook hires contractors through outside providers, including Accenture Plc and Cognizant Technology Solutions Corp., and sets minimum wage standards through contracts with those companies. As a result, Facebook said it doesn’t know exactly how much each of its contractors is paid, and it’s possible that some already make more than Facebook’s new threshold. But Gale said the wage increases should help the majority of Facebook’s U.S. contractors.

Gale said she hopes to implement the changes by the summer of 2020. Facebook is also looking at cost-of-living increases for U.S. workers in other “metro areas” where content moderators live, like Phoenix, the minimum will be $18 an hour; the company said.

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Silicon Valley has developed a poor reputation for its treatment of contractors, who do necessary and important work but often for much less pay and far fewer perks than company staff. Google has tens of thousands of contract workers who handle everything from staffing the cafeteria to testing self-driving cars. At Apple, contractors work on customer support issues and even Apple News. The rise of this shadow workforce has underlined the tech industry’s reputation as an attractive employer.

Facebook has attempted to improve the atmosphere for contract workers in the past, allowing them to attend classes offered to full-time employees, and even posting signs around its campus that say, “Contractors Are People Too.”

Gale and contractors have begun pressuring the company to beef up its stable of contractors, she added.

Some of the toughest contractor jobs recently have been created by the need for content-moderation employees at digital services like Facebook and Google’s YouTube. After Russia used Facebook to influence the 2016 U.S. presidential election, the company beefed up its stable of security and safety employees to 30,000 people, many of them content moderators.

In February, The Verge reported that some moderators who spend their days scrubbing these sites have suffered from depression. Some turned to drugs and alcohol to cope.

Facebook said its decision to increase wages is part of its broader efforts to improve its image. The company has ramped up its content moderation efforts as its influence has grown, and plans biannual audits of its content review operations to ensure partners are adhering to the new guidelines.

Facebook will now “ensure counseling support is available on site, during all hours of operations, not only during the day shift,” Gale said. The company plans to expand its programs to cover all hours of operations, not during only the day shift.

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Florida’s First Palisociety Hotel to Open at Miami Beach’s Greenbrier Hotel

by Lidia Dinkova

Florida’s first Palisociety hotel, an operator of unique and boutique hotels usually in redeveloped historic buildings, will open in a renovated Art Deco building in Miami Beach.

The Palihouse Miami Beach is opening this summer at the former home of the Greenbrier Hotel at 3101 Indian Creek Drive with help from a $9.6 million Centennial Bank loan.

A partnership between developer Scott Robins, whose endeavors include the redevelopment of the Sunset Harbour neighborhood, and Rory Greenberg, founder and head of Miami Beach development and advisory company BB Green Cos., bought the property and embarked on its revival.

The Greenbrier opened as a 71-room hotel in 1940 and became part of the Collins Waterfront Historic District. In the 1990s, it was converted to a condominium building with 41 units ranging from studios to two bedrooms.

Greenbrier Partners LLC, the Robins-Greenberg partnership, bought 39 units for $14.5 million in November 2017 and acquired the remaining two units in 2018.

In between the two purchases, Greenbrier Partners secured the $9.6 million renovation and redevelopment loan.

Centennial Bank senior vice president Peyton LaCaria and Broward County market president Heather Zatik, both based in Fort Lauderdale, issued the loan.

The deal was slightly complicated for the lender because the borrower still hadn’t acquired full ownership, LaCaria said.

“From a lender or banker’s standpoint, that was kind of somewhat of a hurdle. It was the, ‘What if they are unable to obtain these last two units?’” LaCaria said. “How do you renovate during that timeframe? That was a very unique and different situation. It was something that I had not seen before but again got comfortable with it through a lot of discussion, a lot of reviews with attorneys.”

The loan, which did not cover unit acquisitions, covered 40% of the project cost, acquisitions included, LaCaria said.

California-based Palisociety, which is accepting reservations starting Aug. 15, has a collection of hotels that tend to be in renovated buildings, revamped with an eye toward preserving the unique character and feel of the properties.

The former Greenbrier Hotel fit in perfectly with the rest of Palisociety’s portfolio.

“In essence, they took it back to what it was originally with some modifications,” said LaCaria, who made a recent visit. “It’s a very different kind of cool, chic look that they have gone with.”

The condo unit purchases weren’t difficult because many were held by absentee owners as investments and vacation rentals, LaCaria said.

While this is the first Palisociety hotel locally, it won’t be the last.

The hotel operator plans another opening at 35-83 NW 27th St. in Miami’s Wynwood neighborhood with hotel rooms and furnished micro units, according to LaCaria.

This venture also would be in partnership with Robins and as well as former Miami Beach Mayor Philip Levine.

Robins and Levine, who served two terms from 2013 to 2017, previously partnered in acquiring properties in the bayfront Sunset Harbour neighborhood. They started assembling their portfolio in 2007 when the area was rundown and sold the seven renovated properties for $69 million last year.

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Booming Multifamily Market Aids $46M Loan for Davie Apartments

by Lidia Dinkova

The Florida apartment market has been booming with a healthy appetite from renters driven by population and economic growth, which meant developer Park Partners Residential LLC had an easy time securing a $45.8 million loan for a recently finished Davie community.

“What we found is that the debt markets are really cooperating with multifamily developers, and Freddie Mac is aggressively financing well-located multifamily projects,” said Rick Giles of Park Partners in Boca Raton. “The interest rates and the terms that are available today from the debt market are extremely favorable for developers like us.”

The 10-year, fixed-rate Freddie Mac refinancing was secured April 30.

Most of the money went to pay off the $41 million construction loan for the Parc3400 development, and the remainder went to project investors, Giles said.

Parc3400, finished in 2017, sits on just over 8 acres at 3400 Davie Road. Its 260 units with one to three bedrooms are in four five-story buildings. Parc3400, pegged as a luxury community based on amenities and unit finishes, is 94% occupied.

“The demand for luxury multifamily is at an all-time high with demand being high and the economy being strong and population growing, especially in areas like Davie that are in high demand because of their proximity to employment centers,” Giles said.

Boca Raton-based Park Partners was formed in 2015 to capitalize on the multifamily market boom. The company picked the Parc3400 location because of its proximity to Davie’s university complex, Interstate 595 and Florida’s Turnpike.

It’s about a three-minute drive to Nova Southeastern University, Florida Atlantic University’s Davie campus and the University of Florida Fort Lauderdale Research and Education Center. Also, Plantation General Hospital is relocating to a new four-story hospital and a four-story medical office building next to the Nova campus.

“What we liked was the proximity to affluent renters who are looking for high quality in a great location,” Giles said. “There are thousands and thousands of professors and faculty and administrators associated with all those schools.”

At Parc3400, the rent for one bedrooms starts at $1,700 a month, and three bedrooms rent for $2,500.

The location of the property — with easy access to I-595, I-95, the turnpike and the Sawgrass Expressway — would really allow customers that live at the property to be anywhere north, south, east and west in a matter of 15 minutes,” Giles said.

The formation of Park Partners is one of the many signs of the thriving apartment market.

It’s a joint venture between real estate investor Rosemurgy Properties LLC and Giles Capital Group LLC. Giles, who also is president of Giles Capital and Alexander Rosemurgy, CEO of Rosemurgy Properties, lead Park Partners as co-managing partners.

Park Partners develops and manages multifamily properties and also buys value-add assets in Florida.

“Some of its other projects are the 180-unit Parc3800 in Coconut Creek, with construction finishing this year, and the 598-unit University Park student housing in Boca Raton, which was finished in 2015 and sold a year later, according to the Park Partners website.

Park Partners also is developing the mixed-use Uptown Boca, under construction in Boca Raton. It will have 456 units in seven mid-rise buildings and more than 17,000 square feet of retail in eight buildings south of Glades Road.

Parc3400 amenities include are a 3,500-square-foot gym, dog washing stations, dog parks, pool, bicycle parking spaces and electric car charging stations.

The units have granite countertops, stainless steel appliances, washers and dryers, impact-resistant windows and walk-in closets.

HFP secured the loan on behalf of Park Partners and will service the loan. The debt placement team on the transaction included managing director Elliott Throne and director Jesse Wright, both based in Miami.

Lidia Dinkova covers South Florida real estate for the Daily Business Review. Contact her at LDinkova@alm.com or 305-537-6665. On Twitter @LidiaDinkova.