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REMEMBERING GEORGE MICHAELY

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**A.B., Pennsylvania State University; LL.B. Yale Law School. Judge Sporkin served as Director of the SEC’s Division of Enforcement; General Counsel of the CIA; and United States District Court Judge for the District of Columbia.

*** B.B.A (cum laude) University of Pittsburgh; J.D., Georgetown University. Mr. Dudley served for ten years at the SEC, first in the Office of General Counsel and as Associate Director of the SEC’s Mutual Fund Division.

Abstract

This short essay is a memorial tribute about George P. Michaely, Jr. (1926 to 2014). After graduating from both the University of Notre Dame and its law school, he began his legal career, serving for approximately seven years as attorney in the Office of General Counsel. He was then appointed Chief Counsel of the Commission’s Division of Corporation Finance, where he served for approximately the next four years and was responsible for advising the Commission and the public concerning the interpretation of the statutory provisions and rules relating to the registration provisions of the Securities Act of 1933 and the reporting requirements of the Securities Exchange Act of 1934.

George Michaely was a born educator. For five years he was a member of the adjunct faculty of The George Washington University. As a Professorial Lecturer on Law at the National Law Center, he taught a class on the federal securities laws. For ten years he was a member of the adjunct faculty of the Georgetown Law Center, where he taught (with Mickey Beach and Mauri Osheroff) a course focusing on the disclosure requirements of the federal securities laws relating to public and private offerings of securities, solicitations of proxies and tender offers. Again, as an educator, George served as a mentor and inspiration to many young securities attorneys. These are some reflections of him by a few of his many friends. He was a man of remarkable talent, keen intellect, good humor and his love for all people kept him in good stead with all he met.
REMEMBERING GEORGE MICHAELY

THE EARLY YEARS

George Peter Michaely, Jr. entered life on November 15, 1926, as one of four children born to George Peter Michaely, Sr. and Mary Krewer Michaely. George’s childhood home was in Gary, Indiana. He attended the University of Notre Dame where he received his BS degree in mathematics and then a law degree (JD) in 1956. George told the story about not having enough money to attend law school – whereupon the Dean arranged for George to teach trigonometry so he could afford a law school education.

GEORGE AND THE SEC

George Michaely was a great securities attorney. Following graduation from the University of Notre Dame law school in 1956, he began his legal career in 1957, serving for approximately seven years as an attorney in the Office of the General Counsel of the Securities and Exchange Commission (SEC), working primarily on conducting appellate court litigation, supervising litigation at the trial court level, and analyzing and drafting legislation and testimony for congressional hearings. In 1964 he was appointed Chief Counsel of the Commission’s Division of Corporation Finance, where he was responsible for advising the Commission and the public concerning the interpretation of the statutory provisions and rules relating to the registration provisions of the Securities Act of 1933 and the reporting requirements of the Securities Exchange Act of 1934. In this position he supervised the activities of some forty attorneys, and was the SEC staff member primarily responsible for interpreting the statutory provisions and SEC rules regarding
the registration of securities for public sale, private placements and resales of securities, proxy solicitations and the preparation and filing of annual, periodic and other reports.

For more than twenty years from 1968 until retirement, he was engaged in private practice in Washington, D.C., first at the law firm of Sullivan & Worcester, next at Shaw Pitmann (now Pillsbury Winthrop Shaw Pittman LLP), and at Wood, Lucksinger & Epstein. His primary activities were: representing clients making public and private offerings of securities or engaged in proxy fights or take-over transactions; conducting litigation in the federal District and Appellate Courts concerning securities and commodity transactions and in administrative proceedings before the Commission; advising clients concerning their reporting obligations under the federal securities laws and the Commission’s rules; and in representing clients with respect to investigations conducted by the Commission’s staff. George was admitted to practice in the District of Columbia and Indiana, and was a member of the bar of the United States Supreme Court and various United States Courts of Appeals.

THE LAWYER’S LAWYER

Judge Stanley Sporkin worked at the Securities and Exchange Commission from 1961 until 1981; he was director of the Division of Enforcement from 1974 to 1981. From 1981 until 1986, he served as general counsel to the Central Intelligence Agency. He was nominated by President Ronald Reagan to serve as judge of the United States District Court for the District of Columbia, where he served from December 1985 until retirement on January 15, 2000. Stanley Sporkin remembers that “George was a brilliant lawyer. But beyond that, he was a warm and wonderful friend. I always enjoyed working with George and Jack Dudley. They were two of the great SEC people from the
1960s and 70s.” This was a particularly great period for the Securities and Exchange Commission—often said to be the best independent agency in government during this time period. It was due to the Commission’s talented and dedicated staff—great attorneys like George Michaely who made a great effort to study various aspects of the securities markets and help craft a regulatory framework that allowed the American economy to thrive.

Jack Dudley, SEC colleague and law partner, knew George for many years and remembers that

George [Michaely] and I were fortunate to join the staff of the Securities and Exchange Commission in the general counsel’s office and serve under two of the best lawyers I have experienced: Joe Levin, George’s mentor, and David Ferber, my boss and lifetime friend. George was promoted to Chief Counsel of the Corporation Finance Division. George soon became known and respected throughout the nationwide securities bar for his sound legal results based on commonsense interpreting of highly technical securities regulations. He was competent and fair; his reputation grew. With this background and after ten years of service at the SEC, I was pleased to join with George in becoming partners in the Boston law firm of Sullivan and Worcester. We opened the firm’s Washington, D.C. office.

Based on his SEC experience, George quickly began to advise lawyers at nationwide firms and George became a ‘lawyer’s lawyer’. I benefited greatly from his sound counseling on a daily basis. He was a natural teacher and helped develop many of the firm’s young associates. He later used this talent to become a law professor. It is sad to learn of George’s passing . . .

Larry Trautman was eight years old when George went to work at the SEC. About fifteen years later, Trautman believes his first encounter with George was at one of those Practising Law Institute “SEC Speaks” programs during the early 1970s. “At the time (before going to law school myself), I might have been one of two or three non-attorneys in a room of 500 or so — and it gave me a great vantage point to determine who
the securities bar considered to be among the best of their peers,” Trautman remembers. George was held in the highest esteem by his securities bar colleagues. He was iconoclastic in appearance, often showing-up for a high-stakes “big deal” meeting wearing a green plaid shirt (what others called a “farmer shirt”) with a tie that definitely didn’t “match” as they might say in the fashion world. Everyone loved George; he was all substance and gave little attention to things like a tie (if he was wearing one at all). He was very much in real life like the Peter Falk character in the Colombo television series. George’s relaxed demeanor usually resulted in everyone feeling at ease, even during highly-intense situations.

A couple years later, the serendipity of life resulted in Trautman meeting Tom Armstrong at one of those Washington, DC social events. George was Tom’s mentor at the SEC and they had left the Commission with Jack Dudley to practice law. Before long, Tom had introduced Trautman to George. During the late 1970s, Trautman needed securities counsel for a start-up and an Initial Public Offering. This would be the first of many securities matters over more than twenty-five years where George and he would have an opportunity to work together. Trautman found corporate and securities law to be chock-full of unique challenges. It was his good fortune to be exposed over many years to George’s great intellect and unique problem solving experience and insight. “We worked together on perhaps a dozen corporate start-ups, follow-on securities disclosure matters, numerous merger and acquisition transactions, and many years of board meetings and corporate governance challenges,” recalls Trautman.

Capital formation is the very lifeblood of the American economic system. For our securities markets to function and thrive, investors must have confidence in the integrity
of the information provided to them by issuers. During the more than three decades of working together, Trautman found George to be completely ethical and scrupulously honest. George’s wonderful ethical character traits benefited millions of people in this country who never met George – but enjoyed a better life because of George’s commitment to justice and the pursuit of honesty in securities disclosure. At a gathering at the Front Royal, Virginia family farmhouse following his memorial service, George’s adult children recalled stories of how George would spend an hour driving and several dollars worth of gas returning twenty-five cents to a store clerk who had given George too much change. This is just one example of many similar stories.

Because George was such an inspiration, Larry Trautman later returned to law school to study securities and corporate law and to earn a JD. “It seems fascinating how our lives become intertwined,” Trautman reflects – “I’m sure that Tom Armstrong would give George’s mentoring substantial credit for Tom’s successfully becoming Assistant General Counsel at Schlumberger in New York and then General Counsel at Advance Micro Devices in Cupertino, California.”

Trautman recalls that during October 2013, George accompanied him to a panel discussion on the topic of *The Role of Corporate Directors in Dealing With Corporate Crises.*¹ Held at the George Washington University law library, the panel was moderated by Cynthia A. Glassman (SEC Commissioner from 2002 to 2006 and Acting Chairman during the summer of 2005) – and included panelists: Allan Beller (former Director of the SEC’s Division of Corporation Finance and Senior Counselor to the Commission from

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January 2002 until February 2006); John Olsen (founding partner at Gibson, Dunn & Crutcher and former chairman (2000-2005) of the ABA’s Business Law Section’s Committee on Corporate Governance); Larry Trautman (who spoke from the perspective of entrepreneur and professional corporate director); and Laura Unger (a former SEC Commissioner and Acting Chairman). Having taught securities law at the George Washington University Law School about forty-years earlier, George was impressed at how the law library had changed (for the better) and enjoyed meeting with and discussing Commission developments with the panelists. At age eighty-six, his mind remained as vibrant as ever – following the topic with keen interest, and engaging the panelists in discussion during the Q&A section of the program.

Attorney John McCabe was a young general counsel to a start-up when he first met George. As John’s early-stage enterprise was drafting registration documents for an Initial Public Offering, George served as securities counsel. Many years later, after John had become general counsel to McLean-based BDM Corporation, John would still solicit George’s advice regarding occasional matters. McCabe recalls that “he was a great friend and swell fellow. He not only knew the law, he knew Washington.”

Terry Thompson had a career as a CPA at one of the major national auditing firms and later enjoyed a career as a Chief Financial Officer at several of the largest financial services enterprises in the country. He remembers meeting George early in his career as Terry was working to assemble financial disclosure information necessary for a securities offering. “I remember that George was an absolute pleasure to work with. He had an encyclopedic-like mind that enabled him to sort through complex legal regulations to

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2 E-mail from John McCabe, Attorney, to Lawrence J. Trautman (Feb. 25, 2014, 9:49CST) (on file with author).
craft disclosures that seemed effortless. He was a virtuoso securities attorney,”
Thompson recalls.³

EDUCATOR

George was a born educator. For five years he was a member of the adjunct
faculty of The George Washington University. As a Professorial Lecturer on Law at the
National Law Center, he taught a class on the federal securities laws from 1972 until
1977. For ten years he was a member of the adjunct faculty of the Georgetown Law
Center, where he taught (with Mickey Beach and Mauri Osheroff) a course focusing on
the disclosure requirements of the federal securities laws relating to public and private
offerings of securities, solicitations of proxies and tender offers. Again, as an educator,
George served as a mentor and inspiration to many young securities attorneys. He is the
author of a chapter on Post-Effective matters in Securities Law Techniques, a
comprehensive work published by Matthew Bender. In addition he was co-author of
several law journal articles with Larry Trautman.⁴ During 1988 and 1989, he served as
Chairman of the Section on Corporate Governance of the Metropolitan Washington /
Baltimore Chapter of the National Association of Corporate Directors. Over the years,
George also participated in many professional panel discussions (for the Practising Law
Institute and others) on the topic of securities regulation and corporate governance.

Mauri Osheroff, an Associate Director in the Division of Corporation Finance at
the SEC, remembers her teaching semester with George fondly. George and Mickey had

³ E-mail from Terry P. Thompson to Lawrence J. Trautman (April 3, 2014, 18:43CST) (on file
with author).
⁴ See Lawrence J. Trautman & George P. Michaely, The SEC & The Internet: Regulating the Web
of Deceit, 68 THE CONSUMER FINANCE LAW QUARTERLY REPORT (forthcoming), available at
taught the disclosure course at Georgetown, as noted above, for almost a decade. Mickey decided she was finished with teaching, but wanted to get someone to replace her. George also was ready to retire from teaching this course, but graciously agreed to teach the course one more time, in 1989, with a new person so there would be a smooth transition. Mickey got Mauri to be the new adjunct professor. Mauri remembers

I had a very good introduction to the world of law teaching by having the opportunity to co-teach a course with George. George showed me the ropes and shared the syllabus with me. He was very open to new ideas for modifying the syllabus, and treated my thoughts with respect. I went on to teach the course with a different co-professor, Alan Dye, for five more years, but always felt that I had a good start by being able to take over Mickey’s and George’s course and having the benefit of George’s example. Teaching was a great professional experience, and I owe it to George’s willingness to teach the course with me before retiring.5

LOVING HUSBAND AND FATHER

George’s family was always very important to him. He was a devoted husband to Terry, his wife of 58 years until her death in 2007 and loving father to eight: daughter Janet Noel of Front Royal, Virginia – and Michaely sons, Daniel (Herndon, VA); David (Davidsonville, MD); Gregory (Herndon, VA); James A. (Front Royal, VA); John M. (Centreville, VA); Larry (Haymarket, VA); and Thomas, of Woodbridge, VA. George and Terry were also blessed with 15 grandchildren and three great grandchildren. His children recall that “along with his wife, he inspired in his children the art of civility and compassion, critical thinking as well as a love of good food, good drink, and good family conversations. These traditions continue today.”6

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5 E-mail from Mauri Osheroff, Associate Director, Division of Corporation Finance, SEC, to Lawrence J. Trautman (April 2, 2014, 17:21CST) (on file with author).
6 Memorial note, Services held in Memory of George P. Michaely, Jr., St. John the Baptist Roman Catholic Church, Front Royal, Virginia, March 21, 2014.
Following retirement, and upon the death of his beloved wife, he relocated to his family farm near Front Royal, Virginia. While George’s chosen profession was the law, his children remember that tinkering with his hands was his passion during later years: performing automotive maintenance on the family’s fleet of automobiles; as well as tending the large family vegetable garden. George’s keen intellect resulted in a love for crossword puzzle and reading. His good humor and love of all people kept him in good stead with all he met.

CONCLUSION

For his many contributions to the securities and corporate governance bars, all of us, whether we had the privilege of knowing him or not, owe him our sincere gratitude. George P. Michaely, Jr. died at his home in Front Royal Virginia from cancer at the age of 87 on Thursday February 20, 2014. Our world is smaller as a result; he will be missed.