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## Foreword: Entrepreneurism in a Flat, Green, Cash-Strapped World

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SYMPOSIUM:  
ENTREPRENEURSHIP IN A  
GLOBAL ECONOMY

FOREWORD: ENTREPRENEURISM IN A  
FLAT, GREEN, CASH-STRAPPED WORLD

ERIC J. GOUVIN\*

On October 17, 2008, the Western New England College School of Law and School of Business jointly hosted the third annual Conference on Entrepreneurship and Community Economic Development (Conference).<sup>1</sup> The Conference was sponsored by the Western New England College Law and Business Center for Advancing Entrepreneurship (Law and Business Center or Center) as one of its many educational outreach efforts and service projects. This issue of the *Western New England Law Review* provides a record of the Articles that were presented at the Conference.

The Law and Business Center offers students an outstanding opportunity to apply, expand, and refine their knowledge and skills in entrepreneurship and business development. Our goal is to educate legal and business professionals who are prepared both to as-

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1. Western New England College School of Law is the only Massachusetts law school located outside the Greater Boston area that is fully accredited by the American Bar Association and the Association of American Law Schools. The School of Business at Western New England College is one of three business schools outside the Boston area that is accredited by the Association to Advance Collegiate Schools of Business.

sist entrepreneurs and to become entrepreneurs themselves. The two main objectives of the Law and Business Center are: (1) to provide legal and business technical assistance for entrepreneurs; and (2) to sponsor educational and informational events focused on entrepreneurship and economic development. The flagship program of the Center is the Small Business Clinic (Clinic), which has been in operation for more than five years. During that time, the Clinic has served over one hundred businesses on projects dealing with both business and legal matters.

While the Clinic is the primary vehicle for delivering technical assistance to businesses, the education and outreach component of the Law and Business Center's mission is addressed in several ways. Throughout the academic year, the Center produces events at Western New England College and at the Scibelli Enterprise Center at Springfield Technical Community College that are focused on entrepreneurship. The Center offers a series of informational workshops on topics of interest to entrepreneurs that are designed to help answer common questions. The Center also sponsors a speaker series at which nationally recognized guest lecturers with expertise in entrepreneurship, small business, or economic development present issues of interest for students, faculty, and the community at large.<sup>2</sup>

Finally, the Center also sponsors an annual academic conference. On October 17, 2008, approximately eighty-five people participated in the Conference on the campus of the Western New England College School of Law. The Conference panels were organized around four themes: (1) Entrepreneurship and Environmentalism; (2) Entrepreneurship and Globalization; (3) Entrepreneurship and Finance; and (4) Entrepreneurship and Public Policy. Under each of these relatively broad topics, panelists presented a wide range of articles. This year, the panel topics were inspired by issues that have arisen in the Clinic.

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2. During the 2008-2009 academic year the speaker series featured Laurie Hauber, Assistant Professor of the Practice of Law at Vanderbilt University Law School, speaking on "Promoting Economic Justice Through Community-Centered Lawyering." Additionally, Robert Fairlie, Professor and Director of the Masters Program in Applied Economics and Finance at the University of California-Santa Cruz, discussing his new book, *RACE AND ENTREPRENEURIAL SUCCESS: BLACK-, ASIAN-, AND WHITE-OWNED BUSINESSES IN THE UNITED STATES* (2008); Dorothy Bridges, President of the American Bankers Association and President and Chief Executive Officer of City First Bank of Washington. See Law and Business Center for Advancing Entrepreneurship, <http://www1.law.wnec.edu/lawandbusiness/> (last visited May 15, 2009).

From the very beginning of the Clinic, our clients have been involved in international issues, whether importing herbal remedies from Russia, selling used bicycles in the Caribbean, or arranging for fabrication of parts in China. The businesses in the Clinic have proven that it *is* a small world after all. It seemed fitting to schedule a panel for this year's Conference that focused on globalization issues. Similarly, some of our clients are trying to find environmentally friendly ways to deliver products and services. Of course, small businesses are always looking for capital, and the spillover of the subprime mortgage crisis has affected small businesses, making a panel on that topic seem appropriate this year. Finally, everyone was captivated during 2008 with the ongoing saga of the presidential campaign. Thus, a panel examining the impact of the election on small business and entrepreneurship was in order.

The conferences are designed to be interdisciplinary. We assemble experts from many different fields—legal and business scholars, policy makers, and businesspeople—and put them in a setting where they will talk to (and learn from) each other about current issues facing entrepreneurs and community economic development leaders. One of the main goals of the conference is to bring together people who might not ordinarily cross paths. In addition to the panels, the conference featured a lunchtime keynote speaker: Dean Cycon, CEO of Dean's Beans, a purveyor of fair-trade, organic, kosher coffee.<sup>3</sup> Mr. Cycon was the perfect speaker to capture the spirit of the day as his career has been devoted to developing sustainable entrepreneurship on a global scale.

The first panel of the day addressed entrepreneurship and environmentalism. For the past several years, there has been a growing interrelationship between environmental concerns and entrepreneurship. The increasing attention to environmental justice—a social justice movement directed at correcting the inequities resulting from the fact that environmental degradation and the negative externalities of economic activity are not equally shared by all members of society—has generated a substantial body of scholarship.<sup>4</sup> In addition, the realization that entrepreneurship and sus-

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3. Dean's Beans, <http://www.deansbeans.com/> (last visited May 15, 2009).

4. See, e.g., LUKE W. COLE & SHEILA R. FOSTER, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT 13-15 (2001); Vicki Been, *What's Fairness Got to Do with It? Environmental Justice and the Siting of Locally Undesirable Land Uses*, 78 CORNELL L. REV. 1001 (1993); Sheila Foster, *Justice from the Ground Up: Distributive Inequities, Grassroots Resistance, and the Transformative Politics of the Environmental Justice Movement*, 86 CAL. L. REV. 775

tainable, environmentally friendly economic growth can work hand-in-hand if they are permitted to do so has gained ground in recent years.<sup>5</sup>

Our speakers for that panel were Brian Glick, Clinical Associate Professor of Law at Fordham University School of Law;<sup>6</sup> Luke W. Cole, Executive Director of the Center on Race, Poverty & the Environment;<sup>7</sup> and Lisa M. Lesage, Associate Dean and Director of the Business Law Programs at Lewis & Clark Law School.<sup>8</sup> The

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(1998); Rachel Godsfil, *Environmental Justice and the Integration Ideal*, 49 N.Y.L. SCH. L. REV. 1109 (2004).

5. Witness the publication of articles in the popular press such as Larry Kanter, *The Eco-Advantage*, INC., Nov. 2006, at 78 (listing the “Green 50,” entrepreneurial companies that are both environmentally friendly and profitable).

6. Brian Glick is a lawyer, teacher, writer, and activist, who founded Fordham University School of Law’s Community Economic Development Clinic in 2000 and has directed it since then. For fifteen years before that, he worked as a legal services lawyer representing community groups in low-income, predominantly African American and Latino sections of Brooklyn, New York. He has also served as associate director of the Welfare Law Center (now National Center for Law & Economic Justice), a partner in the Chicago-based People’s Law Office, administrator of the Prisoners’ Health Project in San Francisco, and counsel to the San Francisco Unemployed and Welfare Council. He has taught at Yale; City University of New York; University of California, Berkeley; University of Massachusetts, Amherst; and Columbia; and has written and presented extensively on issues affecting low-income and marginalized communities.

7. Luke W. Cole directs the Center on Race, Poverty & the Environment. He represents low-income communities and workers throughout California who are fighting environmental hazards—stressing the need for community-based, community-led organizing, and litigating. Through the center, he also provides legal and technical assistance to attorneys and community groups involved in environmental justice struggles nationwide. He was appointed by Environmental Protection Agency (EPA) Administrator Carol Browner to the U.S. Environmental Protection Agency’s National Environmental Justice Advisory Council (NEJAC), which he served on from 1996 through 2000 (including chairing NEJAC’s Enforcement Subcommittee from 1998 through 2000). He also served as a member of the EPA’s Title VI Implementation Committee. Cole is the cofounder and editor emeritus of the journal *Race, Poverty & the Environment*. He recently published, with Sheila Foster, *FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT*. See COLE & FOSTER, *supra* note 4. His legal publications include *Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law in Ecology Law Quarterly*, 19 *ECOLOGY L.Q.* 619 (1992), as well as pieces in *Stanford Environmental Law Journal*, *Journal of Environmental Law and Litigation*, *Fordham Urban Law Journal*, and *Michigan Law Review*, among others. He has taught as a visiting professor at the University of California, Hastings College of the Law, and has also taught seminars on environmental justice at Stanford Law School, University of California, Berkeley’s Boalt Hall School of Law, and Hastings College of the Law. He graduated *cum laude* from Harvard Law School and with honors from Stanford University.

8. Lisa M. Lesage directs Lewis & Clark’s innovative business law programs. Before joining academia she tried several high-profile cases including a civil racketeering and a peonage case under the 13th Amendment, and has worked extensively on legislative and policy issues related to labor and employment. Prior to entering private practice, she was a staff attorney with Oregon Legal Services Farm Worker Office. Part

panel was moderated by Bruce Clemens, a professor at the Western New England College School of Business.<sup>9</sup>

Professor Glick's Article, *The Greening of Community Economic Development: Dispatches from New York City*, reports on the activities of the community economic development clinic at Fordham Law School. The clinic has provided transactional legal services to organizations based in low-income communities, assisting them to develop effective organizations and build institutions that empower their participants while at the same time providing needed services and opportunities, such as health care, childcare, and worker-owned enterprises.

The Fordham clinic is also involved in matters where environmental and community development concerns came together in ways that strengthened both movements and moved their agendas forward together. By working on these matters, the clinic advances a growing movement known as "just sustainability." By melding environmental justice and community economic development, the clinic builds on the two movements' common foundation: (1) to enhance the health, safety, and wellbeing of the residents of working-class communities and communities of color; (2) to empower those residents to gain greater control of the use of the land and resources in their neighborhoods; and (3) to enable them to get a fair share of hundreds of new jobs and contracts needed for cleaning up waste dumps and pollution sources disproportionately concentrated in their own neighborhoods.

Reporting on specific cases from Fordham's clinic, Professor Glick notes that the fusion of community economic development and environmental justice has taken three primary forms: (1) new groups are creating new green enterprises to employ local residents

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of her past public service includes an appointment to the State of Oregon Wage and Hour Commission and the Oregon Labor Commissioner's Advisory Committee on Agricultural Labor where she coauthored a white paper on migrant health. Dean Lesage is a member of the Oregon Judicial Department's Access to Justice Committee, and was chair of the Oregon Access to Justice Conference 2002.

9. Bruce W. Clemens is an Assistant Professor of Management at the Western New England College School of Business. He has taught courses in energy policy, business strategy, international environmental policy, strategic management, and sustainability. His areas of research include relationships among environmental policies, business strategies, technologies, environmental performance and financial performance. His work has been published in *Business Strategy and the Environment*, *Academy of Accounting and Financial Studies Journal*, *Journal of Business Research*, and *Journal of Environmental Management*. He earned his BS in Environmental Engineering from Cornell, his MPA from Harvard and his PhD from the University of Tennessee. He is a certified professional engineer.

and generate wealth that remains in the community; (2) established nonprofits are addressing environmental issues and introducing green elements into their projects; and (3) leading environmental justice groups are becoming increasingly involved in community development projects and struggles. Professor Glick reports on these forms of convergence and the issues they raise, along with observations about ways that lawyers and other professionals can provide useful assistance and support.

Luke Cole's Article, *Environmental Justice and Entrepreneurship: Pitfalls for the Unwary*, discusses the role of environmental justice in the development of former industrial sites, and the importance of ensuring that business lawyers understand the role of structural racism in causing or perpetuating environmental discrimination. In his view, awareness of the connection between structural racism and the continuing problem of environmental injustice will help prevent businesses from becoming complicit in this cycle. Awareness of the connection, in Cole's opinion, promotes social justice and is a good business strategy.

Cole provides an overview of the environmental justice movement—socially conscious lawyering that challenges the disparate impact of the siting of environmentally hazardous activities on the basis of race and income. Under the umbrella of environmental justice, activists seek both distributive justice—namely, making sure all sectors of society bear a proportionate share of environmental dangers—and procedural justice—ensuring that all relevant communities affected by the siting of environmentally hazardous activities are heard in the process. He describes how structural economic factors influence decisions to site environmentally hazardous facilities, and then went on to describe the efforts of his organization, the Center on Race, Poverty & the Environment, to address community development.

Cole's paper advocates an environmental justice approach to entrepreneurial development, saying it should be community-based, community-led, and result in community building. He notes that it makes sense to reuse the land in urban America by developing brownfields. It would, however, be unfortunate to repeat the mistakes of the past by using a previously devastated site in new environmentally detrimental ways. Economic issues and the pressures created by structural racism present a big challenge to socially responsible brownfields development, but Cole presents examples showing that responsible development is both possible and rewarding.

Dean Lesage addresses another aspect of environmentalism and entrepreneurship: the occasional clash between regulatory schemes designed to deal with twentieth century industrial practices and the operating needs of new businesses. While promoting the growth of sustainable small businesses is vital to the economic stability of every community, some of those businesses are profoundly impacted by costs associated with regulatory compliance, including environmental regulation designed to address issues that arose in other times and in other contexts.

Her Article, *Sticky Thickets: Local Regulatory Challenges for Small and Emerging Sustainable Businesses*, explores the growth of sustainable small business, identifies barriers to sustainable business practices found in state and local government regulations, and provides a range of examples of specific thorny regulatory issues facing small, sustainable businesses. She then offers suggestions for reexamining states' approaches to local regulatory enforcement. She suggests eliminating the old-school approach to regulation and moving toward a community-based, collaborative approach; designing regulations focused on desired outcomes rather than methodology; centralizing the permitting process at the state level through a single authority for most types of permits; and eliminating draconian licensing requirements. By taking appropriate steps in this direction, state and local governments can promote the development of sustainable businesses while simultaneously protecting the environment.

The second panel dealt with the theme of entrepreneurship and globalization. Within the past couple of years, Americans have come to realize—in the words of Thomas Friedman—that the world is “flat.”<sup>10</sup> In the modern world, where advances in technology, communications, transportation, logistics, and political structures have allowed India, China, and other countries to become integral players in the worldwide value-creation chain, the whole planet is every entrepreneur's business. The implications of the new global dynamic for small businesses are significant and not yet completely understood. The panelists brought perspectives about the interplay between immigration and entrepreneurship and the prospects for developing overseas markets. The speakers included Rangamohan

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10. THOMAS L. FRIEDMAN, *THE WORLD IS FLAT: A BRIEF HISTORY OF THE TWENTY-FIRST CENTURY* (2005).



V. Eunni,<sup>11</sup> Professor of Management at Youngstown State University; Paul Watanabe,<sup>12</sup> Director of the Institute for Asian American Studies at the University of Massachusetts, Boston; and Steven Camarota,<sup>13</sup> Director of Research at the Center for Immigration Studies. The panel was moderated by Lynn Bakstran,<sup>14</sup> Assistant Professor of Management at the Western New England College School of Business.

Professor Eunni notes in his Article, *Competing in Emerging Markets: The Search for a New Paradigm*, that although small- to medium-sized enterprises (SMEs) are the backbone of our economy, they account for only twenty-nine percent of the total value of goods exported from the United States. There appears to be room for American SMEs to expand internationally, but the question is how they should proceed. While emerging markets account for

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11. Rangamohan V. Eunni earned his PhD from Boston University and joined the management department at Youngstown State University in 2003. Previously, he earned a Master of Science from the University of Bath in the United Kingdom and a Master of Philosophy from the Jawaharlal Nehru University in India. Currently, he teaches Strategic Management and Leadership and Strategic Issues Facing Multinational Enterprises. His research interests are strategic adaptation in high velocity environments, strategic decision making in the public sector and Latin America, and other emerging economies.

12. Paul Watanabe is the Director of the Institute for Asian American Studies and Associate Professor of Political Science at the University of Massachusetts, Boston. He is a member of the Board of Directors of Political Research Associates, the Board of Directors of the Nisei Student Relocation Commemorative Fund, and the National Academic Board of the Asian American Policy Review. His principal research and teaching interests are in the areas of American foreign policy, American political behavior, ethnic group politics, and Asian Americans. He is the author of *Ethnic Groups, Congress, and American Foreign Policy* and principal author of *A Dream Deferred: Changing Demographics, New Opportunities, and Challenges for Boston*. His articles have appeared in *Asian American Policy Review*, *Business in the Contemporary World*, *New England Journal of Public Policy*, *Political Psychology*, *PS: Political Science and Politics*, *Public Perspective*, and *World Today*. He regularly contributes analysis and commentary to national and local television, radio, newspapers, and newsmagazines. He received his PhD from Harvard University.

13. Steven Camarota holds a PhD from the University of Virginia in public policy analysis, and a master's degree in political science from the University of Pennsylvania. He has testified before Congress numerous times on matters relating to the economic and fiscal impact of immigration. He is frequently featured on television and radio news as an expert in the area of immigration policy and has written extensively on the topic.

14. Lynn Bakstran is an Assistant Professor of Management at the Western New England College School of Business. She teaches courses in Business Strategy and Principles of Management. Her main research interests concern the intersection of strategy and environmental performance as well as the evolution of capabilities and firm survival during a severe shakeout period in the U.S. brewing industry. She has a DBA in strategic management from Boston University, an MBA from the University of California, Los Angeles, and a BS in engineering from the University of Vermont.

over two-thirds of the world's population, they only account for ten percent of the world gross domestic product, a figure that is expected to double in the coming years. The conventional thinking about how to exploit this opportunity is for the U.S. companies to export products to the emerging markets. The standard approach of export promotion agencies such as the Small Business Administration is to search for foreign markets in which to sell the goods currently produced by SMEs. This approach faces the seemingly obvious problem that it presupposes western lifestyles and consumption patterns in those emerging markets. That presumption is demonstrably false.

As an alternative, Professor Eunni proposes the adoption of a two-step approach: first, understanding the dynamics of competition in the "indigenous lifestyle" sectors in emerging markets; and, second, proactively discovering expansion strategies for SMEs to successfully compete in these markets. To do so successfully, American SMEs must adopt a market-specific approach to finding the ingredients of competitiveness and avoid the "one-size-fits-all" mentality.

It is also important that SMEs understand what they are trying to get out of the process. Traditionally, export growth was the only measure of success, but there may be other output measures that will make the globalization exercise worthwhile. While trading might be the most common form of cross-border activity for small internationalizing firms, many firms also establish production and research links as an integral part of the international expansion process. By focusing on outputs other than exports, SMEs might realize gains by integrating their activities with the value chains of midsize producers in emerging markets to create value through collaborative endeavors.

Professor Watanabe presented his Article, *The Rebirth of Fields Corner: Vietnamese Immigrant Entrepreneurs and the Revitalization of a Boston Neighborhood*, which gives the results of a study of entrepreneurship among various immigrant groups in Boston. His study took a close look at immigrant entrepreneurs and their connection to that area's community and economic development. The perception that immigrants are naturally entrepreneurial has been part of American folk wisdom for quite some time. There is a good deal of empirical accuracy in such a perception since self-employment is a very important route for the economic incorporation of immigrants. Immigrants, by a significant margin in every na-

tional census since 1880, have been more likely to be self-employed than the native-born population.

Professor Watanabe concludes that immigrant entrepreneurs have a positive impact on the neighborhood by providing needed goods and services to existing residents, attracting new customers to the neighborhood, enhancing the physical appearance of the neighborhood, and making the neighborhood safer. While many of the immigrant-owned businesses are small, they do provide some jobs. The entrepreneurs generally do not sit still—they search for opportunities to expand and diversify. As the businesses grow, those opportunities increase. In the end, the immigrant businesses have proven to be engines of economic growth that contribute to the stability of the neighborhood.

Steven Camarota presented research that provides a counterpoint to Dr. Watanabe's findings. In positions taken by the Center for Immigration Studies before Congress and elsewhere, Camarota has pointed out the costs of immigration—especially illegal immigration. At the Conference, drawing on data from the National Research Council, he noted that immigrants tend to create a net fiscal burden on the government, though the data shows the more education an immigrant has, the lower the burden becomes until, with educational attainment at the high school level and beyond, immigrants actually produce a net benefit. Well-educated immigrants pay more in taxes than they consume in government services, while those who are less educated tend to pay less in taxes while using more government services. In general, therefore, large-scale immigration of less-educated immigrants (whether legal or illegal) can create significant funding issues for social programs. The fiscal problems created by immigration exist even though the vast majority of immigrants, including illegal immigrants, work. Camarota argued that the United States should adopt an immigration policy that reflects the economic reality of the day. Allowing less-educated immigrants—whether legal or illegal—into the country is a policy choice that is within Congress's discretion, but such a choice must be made with the understanding that it will create large and unavoidable costs for taxpayers.<sup>15</sup>

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15. Steven Camarota has not contributed an article for this symposium, but his remarks are based on other papers he has written, including testimony before the House Ways and Means Committee. See STEVEN A. CAMAROTA, IMMIGRATION'S IMPACT ON PUBLIC COFFERS: TESTIMONY PREPARED FOR THE HOUSE WAYS AND MEANS COMMITTEE, <http://www.cis.org/articles/2006/sactestimony072606.html>.

The midday luncheon at the Conference provided a forum for Dean Cycon,<sup>16</sup> the keynote speaker, to share his thoughts about the day's important themes. Cycon delivered an inspirational talk about his career and his work, accompanied by a slide show drawn from his many travels. He has lived the life of an entrepreneur with global operations and a sense for environmental justice. When he was in his early twenties, Cycon worked in India and Iran designing and building bio-gas energy plants that turned cow manure into methane gas. After law school, he focused his practice on environmental issues in indigenous communities, the fight against mineral extraction on American Indian reservations, and the writing of the first draft of the United Nations Declaration on the Rights of Indigenous Peoples.

Cycon worked as a Wall Street lawyer for two years. As he tells it, after focusing too much time on his pro-bono indigenous rights work, failing to bring in enough money from corporate clients, and breaking up a law firm softball game by chasing one of the firm's partners around the field on his Harley, Cycon was fired from his corporate job. With the support of his wife, he treated the departure from Wall Street as an invitation to go out and "change the world." Cycon turned his attention to promoting social and environmental justice through business, and quickly developed an expertise in integrating indigenous perspectives and practices into modern management systems.

In 1993, with a small coffee roaster and eight bags of coffee, Cycon founded Dean's Beans to prove that business can promote positive economic, social, and environmental change and be profitable at the same time. Living in rural New Salem, Massachusetts, Cycon roasted coffee in his garage. Dean's Beans grew quickly,

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16. Dean Cycon is a leader of the American fair trade coffee movement and the owner of Dean's Beans Organic Coffee, a certified one-hundred percent organic, fair trade, kosher, three-million-dollar coffee-roasting operation in Orange, Massachusetts. With over thirty years of experience as an activist and legal advocate for indigenous peoples, he has dedicated his life to developing and proving a new business model—one based on respect, ethics, and justice. Originally from Brooklyn, New York, he has a BA from Williams College, a JD from New York Law School, and an advanced law degree from Yale University with a focus on International Indigenous Rights and Environmental Justice. He has been a Fellow at Woods Hole Oceanographic Institution, a Senior Fulbright Scholar in New Zealand, and an Ella Baker Fellow and Visiting Scholar at the Yale Law School. He has taught Environmental Law, Natural Resource Policy, and International Resource Management at the University of Massachusetts, Amherst, and the University of Rhode Island. He is the author of *Javatrekker: Dispatches from the World of Fair Trade Coffee*, which received the Gold Medal Award for the best travel book of 2008 from the Independent Book Publishers Association

moving from the garage to a large beanery, proving that he could make a living while adhering to ethical business practices.

Dean's Beans is known in the coffee industry for designing and funding people-centered development projects in the coffee lands in partnership with the growers, and returning a percentage of profits to the growers as a social equity premium. The company funds projects that increase family income, promote women's economic and social empowerment, improve access to education, promote health and nutrition, safeguard human rights, and protect the environment.

After lunch, we had a panel on the topic of entrepreneurship and finance, moderated by Robert Statchen,<sup>17</sup> a professor on the faculties of both the Western New England College School of Business and School of Law. The speakers were Tatiana S. Manolova,<sup>18</sup> Assistant Professor of Management at Bentley College; Ellen Harnick,<sup>19</sup> Senior Policy Counsel at the Center for Responsible Lending; and David Reiss,<sup>20</sup> Associate Professor of Law at Brooklyn Law School.

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17. Robert Statchen teaches and advises JD and MBA students in the Small Business Clinic of the Law and Business Center for Advancing Entrepreneurship. Before teaching, he practiced corporate and transactional law both for nonprofit and for-profit entities with the law firm of Tobin, Carberry, O'Malley, Riley & Selinger, PC, in New London, Connecticut. He began his legal career in the United States Air Force Judge Advocate General Corps and continues to serve in the Connecticut Air National Guard. During his military career, he served in Operation Southern Watch in Saudi Arabia and Operation Joint Forge in Bosnia and Herzegovina. He was elected to the House of Delegates of the Connecticut Bar Association from 2002 to 2005.

18. Tatiana S. Manolova's research and teaching interests include strategic management (particularly competitive strategies for new and small companies), international entrepreneurship, and management in transitional economies. She is currently affiliated with the Panel Study of Entrepreneurial Dynamics, which investigates the new firm creation process; and with Diana International, a collaborative project that investigates the growth and financial strategies of women-led businesses worldwide. She has recently had articles accepted for publication in the *Journal of Business Venturing* and the *Journal of Small Business Management*. She received her DBA from Boston University and MBA from the University of Tampa.

19. Ellen Harnick is Senior Policy Counsel at the Center for Responsible Lending (CRL), a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is affiliated with Self-Help, one of the nation's largest community development financial institutions. She graduated from Brandeis University in 1985 and Georgetown University Law Center in 1990.

20. David Reiss concentrates his study and practice in real estate issues and community development. He was most recently a Visiting Clinical Associate Professor at the Seton Hall Law School Center for Social Justice. Previously, he was an associate in the New York office of Paul, Weiss, Rifkind, Wharton & Garrison in its real estate department and an associate at Morrison & Foerster in San Francisco in its Land Use

In her paper *Touched by an Angel?: Entrepreneurs Seeking and Obtaining Private Equity Financing*, Professor Manolova, along with her coauthors, explores the characteristics of angel investing, focusing on two key inquiries: (1) what are the characteristics of ventures seeking angel financing; and (2) what are the characteristics of ventures that obtain angel financing? She reported on a project in which the researchers examined the investment proposals submitted to an angel financing network during a two-year sample period. Using that data sample they attempted to identify the characteristics of the entrepreneur and the ventures that were associated with increased likelihood of receiving angel investment equity. In a nutshell, the study found that the median investment sought was approximately \$1.5 million, although the angel investors sometimes funded new ventures with lower amounts when revenue and profit projections were sufficiently attractive. Further, the study found that entrepreneurs who receive angel financing tend to be well-educated males, and their businesses tended to focus on business-to-business models, using various competitive advantages.

The study provides important insights both to entrepreneurs seeking financing and to policymakers seeking to promote angel financing. For entrepreneurs, the research suggests that a more structured approach to the preparation of investment proposals is needed, specifically, clear identification of the sources of competitive advantage, the benchmarks for business growth, and a credible demonstration of management expertise and commitment to the venture. For policymakers, the research provides insights that may inform efforts to train entrepreneurs and develop small business. Specifically, by encouraging women to seek angel investors, more businesses will be given the opportunity to achieve high growth.

David Reiss's Article, *Landlords of Last Resort: Should the Government Subsidize the Owners of Small Multifamily Buildings?*, focuses on entrepreneurial apartment-building owners and their dependence on financing. For much of the last century the lack of stable financing created difficulties for owners of multifamily apartment buildings. As the twenty-first century dawned, Congress gave Fannie Mae and Freddie Mac the right to operate in the multifamily residential mortgage market. The entry of these government-sponsored enterprises into that market led to a dramatic increase in the availability of credit to entrepreneurial apartment-building owners.

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and Environmental Law Group. He also served as a law clerk to Judge Timothy Lewis of the United States Court of Appeals for the Third Circuit.

While in the popular mind the term “apartment-building owner” is synonymous with “slumlord,” Professor Reiss submits that these businesspeople are more appropriately thought of as “urban pioneers.”

Professor Reiss begins by describing the economic realities of the multifamily market. The multifamily apartment sector of the real estate industry has offered entrepreneurs great rewards but also poses great risks. These entrepreneurs are often individuals with a modest financial safety net in the event of a downturn, and, even when times are good, they have limited resources to maintain, manage, and improve their properties. In this sector, many of the apartments are, in fact, unprofitable.

Professor Reiss then describes how Fannie Mae and Freddie Mac first revolutionized the owner-occupied mortgage market and how they successfully petitioned Congress for the ability to do the same in the multifamily context. The availability of financing facilitated by these entities, however, has good points and bad points. Professor Reiss explains how their entry into the scene changed the nature of financing for that market, along with the pros and cons of those changes.

Ellen Harnick’s paper, *The Crisis in Housing and Housing Finance: What Caused It? What Didn’t? What’s Next?*, takes on the difficult task of trying to place in context the financial crisis unfolding around us. Despite the difficulty of providing perspective on an event while it is actually happening, Harnick was able to present a compelling explanation about what actually contributed to the economic crisis that has befallen the United States.

From her position on the front lines of the fight against predatory lending, the problem came about not simply because people borrowed more than they could repay, but rather because loans were structured in an inherently unstable way. When examined closely, the obvious problem with the subprime market is that it assumed the availability of a refinancing option. That option was available, however, only as long as home prices kept rising.

Although the problems started in the subprime sector, the crisis has spilled over to affect other homeowners. Foreclosures of homes financed with subprime mortgages have depressed house prices and, consequently, declining house prices have produced more foreclosures. Now homeowners who received reasonably structured prime mortgages face an increased risk of foreclosure because tighter credit standards and moribund housing markets

have made it extremely difficult to sell, refinance, or obtain home equity credit.

Harnick also notes that some quick and easy explanations about what caused the crisis do not hold up under close scrutiny. She rejects allegations that the problem was caused by loose lending under the Community Reinvestment Act, the involvement of Fannie Mae and Freddie Mac, or the greediness of new homeowners. Instead, she places the blame at the feet of the mortgage lending industry that increasingly originated exploitive products that they knew were not sustainable. Now that those lousy mortgages have in fact gone bad, the crisis is upon us.

The major bottleneck in this workout process is the inability of any specific player involved to rewrite the terms of the mortgages in a way that makes repayment a viable option. Therefore, in Harnick's view, any response to the crisis must include a mechanism for implementing modifications to the terms of distressed but recoverable loans in situations where loan servicers cannot or will not make those modifications themselves. In addition, allowing bankruptcy courts in Chapter 13 proceedings to modify mortgages on the debtor's primary residence seems like an important part of the response to this crisis.

The final panel of the day dealt with entrepreneurship and public policy, the idea being to invite the panelists to speculate about what the 2008 election might mean for entrepreneurship policy in the United States. I moderated that panel, which consisted of Jeffrey M. Lipshaw,<sup>21</sup> Professor of Law, Suffolk University School of Law; Chad Moutray,<sup>22</sup> Chief Economist, U.S. Small Business

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21. Jeffrey M. Lipshaw received his undergraduate education at the University of Michigan and is a graduate of Stanford Law School. Following law school, he practiced with Dykema Gossett, PLLC, in Michigan. He has also served as a Vice President and General Counsel for two corporations. In 2005, he moved from the corporate world to teach as a visiting professor at Wake Forest University School of Law and later at Tulane University Law School. He has written extensively in the areas of contracts and business law. At Suffolk University Law School, he will teach Agency, Partnership & the LLC, and Securities Regulation.

22. Dr. Chad Moutray is Chief Economist for the Office of Advocacy of the U.S. Small Business Administration. Before this appointment, he was Dean of the Business School at Robert Morris College in Chicago. The Office of Advocacy is the government's source for research on small business issues. The Chief Economist's role is to direct that research toward areas that best help policymakers in their decision-making process and to publicize the results within the broader academic community. The Chief Economist is also responsible for the academic integrity and quality of Advocacy's research efforts. Dr. Moutray's academic specialization is in the area of economic analysis of education reforms. A native of Mattoon, Illinois, he earned a BA in Economics from Eastern Illinois University where he graduated *summa cum laude*, an MS in Eco-



Administration; and Anthony J. Luppino,<sup>23</sup> Associate Professor of Law and Director of the Graduate Tax Law Program, University of Missouri-Kansas City School of Law.

This panel asked the panelists to look into their crystal balls and divine what the future holds for entrepreneurship policy and perhaps whether that policy really even matters. At the time the Conference was held the nation was in the last weeks of the presidential election. Both candidates agreed that small businesses are the engine that drives the economy and articulated a variety of plans for promoting entrepreneurship and small businesses.<sup>24</sup> Of course, shortly after the Conference, the American people made a decision about who would lead the country. Nevertheless, the participants in this last panel made observations that transcend the immediate political landscape and apply to small business policy more generally.

The first speaker was Chad Moutray. He was careful to remind the audience that as a federal employee, the Hatch Act prevents him from taking a position in support of either candidate.<sup>25</sup> That said, he had some thoughts to share about public policy affecting entrepreneurs and small businesses regardless of who is living in

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nomics from Eastern Illinois University, and a PhD in Economics from Southern Illinois University.

23. Anthony J. Luppino received his BA from Dartmouth College in 1979. In 1982, he received his JD from Stanford Law School, where he served as an associate editor of the *Stanford Law Review*. While in private practice with the Boston law firm of Herrick & Smith, he earned his LLM degree in taxation from Boston University, and in 1986 was the lead articles editor of the *Boston University Journal of Tax Law*. After several years of practice in Boston, he moved to Kansas City and practiced law with the firm of Lewis, Rice & Fingersh. His practice included a wide variety of planning and transactional work involving multiple disciplines, such as business organizations, securities, taxation, trusts and estates, real estate, and intellectual property. In 2001, he joined the faculty at the University of Missouri-Kansas City (UMKC) School of Law. Professor Luppino teaches business and tax subjects, including Business Organizations, Business Planning, Partnership Taxation, and Securities Regulation, and serves as Faculty Co-Director of the UMKC Entrepreneurial Legal Services Clinic.

24. Although it may only be of historical interest at this time, Barack Obama's campaign website set out his position on these issues. Barack Obama—Economy, <http://www.barackobama.com/issues/economy/index.php> (last visited May 15, 2009). John McCain's campaign website was taken down after the election and replaced with a notice thanking his supporters. An extremely concise overview of the two candidates' positions on small business may be found on the BusinessWeek website. Amy Barrett, *McCain and Obama on Small Business Issues*, BUSINESSWEEK, Aug. 22, 2008, available at [http://www.businessweek.com/magazine/content/08\\_68/s0808021468792.htm?campaign\\_id=rss\\_smlbz](http://www.businessweek.com/magazine/content/08_68/s0808021468792.htm?campaign_id=rss_smlbz). A more complete discussion of the candidates' views on business and the economy generally can be found in a Special Report published in *The Economist* on October 2, 2008.

25. Hatch Act of 1939, ch. 410, 53 Stat. 1147.

the White House. His Article, *Looking Ahead: Opportunities and Challenges for Entrepreneurship and Small Business Owners*, identifies five major challenges and five opportunities facing entrepreneurs in the coming years. The challenges include: (1) the need to strengthen the economy generally; (2) tax policy and regulatory reform; (3) health care costs; (4) workforce training and retention; and (5) competitive pressures from the global economy. Regardless of the outcome of the election in November, these issues would be on the agenda, as everyone recognizes them as challenges that must be addressed.

While the economy is in a difficult situation at the present time, opportunities also await entrepreneurs in the next decade. Dr. Moutray explains that it seems likely that public policy will favor small business in at least the following ways: (1) increased investment by both the public and private sectors in technology and innovation; (2) policies aimed at developing the next generation of high-growth entrepreneurs; (3) the development of global markets; (4) special opportunities for entrepreneurship among women, minorities, veterans, and immigrants; and (5) new possibilities made available through education and training. The government has a role in addressing the challenges and facilitating the opportunities, but the challenge is for government to give a hand to new businesspeople without crushing them in its grip.

Professor Luppino provided an Article entitled *A Little of This, A Little of That: Potential Effects on Entrepreneurship of the McCain and Obama Tax Proposals*, in which he describes some of the various tax law changes being proposed by the presidential candidates that might affect at least some aspects of entrepreneurship and small business. These proposals run the gamut, but include the generally applicable tax rates, the alternative minimum tax, the estate tax, initiatives to broaden the tax base by eliminating loopholes, tax-based research and development incentives, provisions designed to create incentives for investment in small businesses, and subsidies for health insurance.

He analyzes the likelihood of those proposals to be good, bad, or neutral for different types of entrepreneurs. He also offers suggestions on how the next administration and Congress might improve some areas of the Internal Revenue Code that have an impact on entrepreneurs, such as abolishing the Subchapter S approach to small-entity taxation. He concludes that some of these proposals might, together with elements of the non-tax economic proposals, create significant incentives for entrepreneurs to

innovate and create wealth. In the end, the project of reading the tealeaves is too much for one presentation or even one paper. Professor Luppino concludes that it is virtually impossible to determine which of the two tax plans would offer the largest "net" stimulus to United States entrepreneurship.

Finally, Professor Lipshaw presented his Article, *Why the Law of Entrepreneurship Barely Matters*. Although legal academics would like to develop a body of knowledge about law and entrepreneurship, Professor Lipshaw provocatively argues that the goal is going to be difficult to achieve because in truth the law does not matter all that much to entrepreneurs. The law of entrepreneurship does not have much traction with actual entrepreneurs, even though it might mean something to lawyers (and legal academics).

There are several reasons why law and entrepreneurship are like ships passing in the night. The first is that lawyers and entrepreneurs understand and interact with the world in very different ways. Second, lawyers struggle with the kind of judgment that entrepreneurs embrace. An entrepreneur's lawyer has to understand the business deal and its importance to the company well enough to balance the lawyerly angel-devil game that goes on in every deal-lawyer's head. (Namely, *should I insert a provision to cover us just in case even though it may be overkill and, at worst, might kill the deal? Versus this specific provision is important enough to stop the deal in its tracks.*) Finally, the cognitive nature of the lawyerly practice fails to embrace the non-cognitive aspects of entrepreneurship. All of this is not to say that the law is irrelevant to entrepreneurs. Clearly there are some laws that are no good for business people and some that are relatively better for them. It's just that the law doesn't matter all that much to entrepreneurs.

Our goal for the Conference was to bring together academics and professionals from a wide range of disciplines and for them to exchange ideas, make professional acquaintances, and bring important issues into focus. Those goals were met and exceeded.

The Conference would not have been possible without the generous support of a local private foundation that desires to remain anonymous, and contributions from the MassMutual Financial Group, the Lloyd G. Balfour Foundation, United Bank, and the Springfield Chamber of Commerce—all of whom have helped to fund the vision of the Law and Business Center for Advancing Entrepreneurship. In addition, the President of Western New England College, Dr. Anthony Caprio, and the Provost, Dr. Jerry Hirsch,

have been consistently supportive of the efforts to realize the vision of the Law and Business Center, as have the Deans of the Schools of Law and Business, Arthur Gaudio and Julie Siciliano, respectively. The logistics of the event were expertly handled by Aimee Griffin Munnings, the Director of the Law and Business Center, and her assistant, Maegan Brooks. The planning committee that identified the topic for the panels and the panelists included: Aimee Griffin Munnings, Dr. Marilyn Pelosi, and myself.

Special thanks also to the staff of the Western New England Law Review, who have worked tirelessly (and patiently) to bring this issue to press. Finally, extra thanks to Dean Arthur Gaudio for providing the institutional support that permitted the Law Review to publish a project of this length and to ensure its wide distribution. I hope you find these articles as stimulating and informative as I did.