

THE NEWSLETTER OF THE GEORGIA ASSOCIATION OF BUSINESS BROKERS

GABB Previews Changes on Jan. 25



By ERIC GAGNON
GABB President 2011

Happy New Year's wishes to everyone! We all know that last year was another challenging one. I hope you will join me in looking forward with optimism to 2011. All the signs are in place for improved business conditions. The BizBuySell quarterly survey recently reported an 11% increase in transactions closed in the fourth quarter of 2010 versus 2009, showing some momentum late in the year. That's versus overall growth in transactions of only 3% for the year. As conditions improve, we are positioned to take advantage of businesses being listed from buyers hesitant to sell amidst dropping prices and a weak economy. The many laid-off corporate workers who have given up on finding a job are ready to consider buying a business as an alternate strategy. We can all appreciate a turn for the better, I'm sure.

Just as 2011 ushers in changes in the industry, GABB is doing the same. Be sure to attend our first meeting of the year as we preview what will be new and improved for the organization. Some of our changes will be minor, but we also have some major

We hope these ideas will make your membership more valuable

announcements to share with you. By the time you read this newsletter, your board will have completed our annual planning sessions (there were a total of three this year). You have elected a fantastic group of individuals to the GABB board who are dedicating their time, talent and energy

continued on next page

GABB January Meeting

Join the new GABB Board on Jan. 25 for a panel discussion about the future of the organization. The meeting starts at 10:30, preceded by 9:45 a.m. networking breakfast.

David Cross, Presenting Sponsor

Read more about David on Pages 4-5.

In 2011: Get Active in GABB

continued from previous page.

to the group. Many ideas were shared, challenged and revised before we landed on our strategy.

Your board is dedicated to improving the overall experience of been a GABB member. We listened to your feedback from the 2010 membership survey. We are focused on the overall goals of professionalism, education and co-brokerage. We hope these ideas will make your membership more valuable and also provide you with more current features and benefits.

The success of any plan is based on the participation of our members.

We urge you to make the effort this year to get involved in what GABB has to offer. We want you to become part of our industry's path to prosperity and not another statistic of an uncertain economy.

There are many positive effects from involvement in the GABB. You may find your business increasing by networking and learning from others in the industry. Consider becoming a board member in the future. Being involved on this board for many years has made a difference in my business. I have learned from and met many wonderful brokers through this organization.

New ways of doing things can be uncomfortable.

I would like to ask each and every one of you to give these new ideas and programs strong support. There is no downside to trying new techniques and

ways of doing business. In the last decade, our industry has changed dramatically. Methods of marketing are different, buyers have become more sophisticated and competition has increased. Every broker needs more tools to meet these challenges.

Every change we are proposing is designed to help all our members generate more business.

We are all aware that brokers, agents and affiliates have not driven as much business as they would like from our organization. Let's try some different things in 2011 so we can all reap some extra benefits from GABB. Remember that the success of the organization relies on ALL OF US together. We must all embrace what's ahead if we want to see significant results.

I look forward to seeing each and every one of you on January 25th at our first meeting of the year.

2011 is a great year to get involved. There are so many ways to help the association:

- * Serve on a Committee**
- * Write for the newsletter**
- * Sponsor an event**
- * Be a Meeting Sponsor**

If you want to get involved but aren't sure what you want to do, call me. I can direct you in the right direction.

“Fool for a Lawyer”

By: Whalen J. Kuller, Managing Member, Kuller Law Group, LLC



Did you know that corporations and limited liability companies (LLCs) are prohibited from representing themselves in most Georgia courts? If a corporation or LLC ends up in court, except in limited situations described below, an

owner or officer of the company cannot represent the company in court.

Under the law, corporations and LLCs are considered “persons” distinct and separate from their owners. While the Georgia Constitution affords persons the right to represent themselves “pro se,” this right doesn’t extend to corporations or LLCs. Because these entities are “artificial” rather than natural persons, they can only act through agents, so naturally cannot appear in court in person, but must be represented by another. Georgia has long held that (*with some exceptions*) a person representing another in court must be a licensed attorney. In 1997, the Georgia Supreme Court clarified that this requirement extended to corporations.

Concluding that allowing non-lawyers to serve as unlicensed attorneys for corporations in courts of record would be contrary to the public interest, the Georgia Supreme Court ruled that in Georgia “only a licensed attorney is authorized to represent a corporation in a proceeding in a court of record . . .” *Eckles v. Atlanta Technology Group*, 267 Ga. 801, 805 (1997). Because of the similarities that exist between corporations and LLCs, in 2006 the Court of Appeals of Georgia extended the rationale and holding of *Eckles* to

LLCs. *Winzer v. EHCA Dunwoody, LLC*, 277 Ga. App 710, 713 (2006).

Any corporation or LLC that doesn’t engage a licensed attorney risks having its court filings thrown out, which could result in a default judgment. Also, the person standing in for the corporation or LLC could be charged with the unauthorized practice of law (a misdemeanor. OCGA § 15-19-56).

There is a limited exception, however. This prohibition described above only applies with respect to “courts of record,” not to magistrate courts, administrative tribunals, or most city and municipal courts. The Georgia Supreme Court reasoned in *Eckles* that problems likely to arise when a non-lawyer serves as the legal representative for a corporation in court of record are greatly minimized in the more informal setting of a proceeding in a court which is not of record.

What does this mean for the business owner who operates his or her business through a corporation or an LLC?

If the company ends up in court, as either plaintiff or defendant, a company owner cannot appear in court on behalf of the company but will need to hire competent legal counsel, licensed in the State of Georgia, to represent the corporation or LLC.

Whalen J. Kuller, (770) 837-2619
whalen@kuller-law.com
www.kuller-law.com

Affiliate of the Month

David A. Cross

Nickname: "Dave"

Vice President Wealth Management Advisor

Bank of America / Merrill Lynch

Phone Direct 678-474-1817

Email: David_Cross@ml.com

Type of GABB Member: Affiliate

GABB Member since 2003.

What role do you play within your company?

I've been with Merrill Lynch for 4 ½ years, but I've been an advisor for 20 years. My primary role is as a financial planning advisor and portfolio management advisor to clients.

How does your company differentiate itself?

My practice, The Cross Group, is under the umbrella of Bank of America/Merrill Lynch. I focus on working with successful entrepreneurs, business owners and key executives in the areas of financial planning, investment management and private banking. Our key difference is in our service delivery model where we maintain open lines of communication with our clients, provide monthly or quarterly performance monitoring, and then we relate that back to the client's financial goals. In addition, I am one of a small percentage of advisors at Merrill Lynch who has the ability to act in a fiduciary capacity and exercise discretion with portfolio management in the firm's Personal Investment Advisor accounts.

What are your company's target markets?

Successful entrepreneurs, business owners, and key executives.

The most important thing I've learned in business is

that getting caught up in the herd is a sure way to mediocre or worse results. Sometimes, it is wisest to do the opposite of everyone else.



My most unexpected source of business referrals is from people who have met me or know me, but have not yet doing business with me.

What will you do in your new position on the GABB Board as a Affiliate advisor?

I will do my best to represent the views of the affiliate members and help foster quality relationships between affiliates and brokers.

The worst piece of advice I've ever gotten:

In my position, I get to work with really successful people, and I have an opportunity to see what has worked across several kinds of businesses, so I've rarely gotten any bad advice. As a rainmaker, the worst advice I received was someone telling me to have five target markets or more. That led to terrible business growth, high expenditure of energy, and low market penetration. It all reversed when I cut it to three or fewer.

Every day, I read Merrill Lynch Research Investment Committee (RIC) Reports and the Gartman Letter.

What led you to this line of work? My obsession with understanding stocks and the capital markets and the notion that ideas, fueled with money, can create enormous wealth.

Affiliations/honors: Eagle Scout; Gwinnett Chamber of Commerce, Board of Directors; Georgia Council on Economic Education, Board of Trustees; Community Foundation for Northeast Georgia, Financials Advisors Board; Gwinnett Medical Center Foundation, Cornerstone Society; The Hudgens Center for the Arts; Merrill Lynch 2009 Highest Client Retention

All about Dave: I am a native Atlantan, born in 1969. I have a limited interest in sports because when I was growing up in the 70's, the Braves were terrible, the Falcons were terrible, and the Hawks were terrible. My interest and appreciation for music is all over the board, so you can't figure me out from looking at my iPod. All of my dress shoes are black; my suits are all blue or black; and I have a particular affinity for purple and pink. I am currently making my way through the Warren Buffet tome, "The Snowball." I like golf, but I really like fishing more, and I have recently taken up competitive Airsoft with my kids. My loves are my wife, my kids, my clients, my country and my job. I can't stand to be around negative people or the passionately misinformed.



Many people would be surprised to know that I'm: the guy who buys breakfast, lunch or dinner for a soldier and his family when I see them in uniform, wherever I am.

Tips/Advice for GABB Members: The formula for wealth creation is simple but very difficult to execute. It is simply: *Wealth Creation = Leverage + Concentration + Working Smart + Luck*

FORMS: Fun ... with GABB Forms?

By Larry Courtney/*Better Homes and Gardens Real Estate Metro Brokers*

Naw, I was only kidding and trying to induce you to read this article. At least it got you this far. I guess that the only time forms are really fun is when they keep us out of trouble and, even then, we normally don't know it. Sales and closings just go smoothly. But, wait a minute, what if there were some other neat thing we could do with them? No, not paper airplanes. What would happen if we used them, for ... say ...oh, I know ... for *training*? I mean, *really*, you do have some time now that the closing on that million-dollar fee has been delayed for 30 minutes?

And if you think about it, the forms follow a very logical sequence. Forms are fairly detailed in their presentation of the segment of the Business Brokerage Process they represent, and they are written in layman's terms, for the most part. Yes, by golly, I think they can be used for training of new staff or newcomers to Business Brokerage. But wait, don't order yet, there is a bonus.

Our forms have been blessed by one or more of our attorney members. (*We sincerely thank every attorney member who has donated time to review, rewrite forms and advise the forms committee*). Some of the forms have been tested in court – one time is too many times, some might say - proving their integrity.

Actually, the forms used in BBMS really are set up to be a logical progression that guides a Business Broker through the entire Business Brokerage process (See? There *is* a method to Nick Nicholson's madness).

Ah, now how wonderful is that?

GABB
Member
OF THE
Month

Matt Slappey

**Owner, Murphy Business &
Financial Corporation of Decatur**
404-486-0350

m.slappey@murphybusiness.com

Broker Member since 2008



What role do you play within your company?

I bought the Decatur office of Murphy in 2007. As the owner of the business, I enjoy having the responsibility to set the direction for future growth of my firm.

What is the focus of your company, and how does it differentiate itself?

The focus of my firm is to provide a level of service to my client that is not provided by any other brokerage firm. I heard too many stories about no returned phone calls, offering packages that are only a few pages long, listing fees that never resulted in any real product, etc... I commit to working just as hard on a \$700,000 offering as I do on a \$10,000,000 engagement. When a client trusts me with their business (and many times their ability to retire), I take this as a serious responsibility and always strive to ensure that they are surrounded by qualified trusted advisors through the process.

What are your company's target markets?

I do not specialize in any specific type of business. I believe that an array of business transactions in varying industries strengthens a broker's overall knowledge base, which helps me bring additional value and lessons learned across all industries. I am an industry expert in a few fields such as pawn shops (I have been involved in several pawn transactions), medical related (after 12 years in a Fortune 50 healthcare company),

aviation (experience from in the industry), and e-commerce companies.

What led you to business brokering? The desire to create and impact my own destiny more than many other business opportunities. I get to use my accounting background and, at the same time, utilize sales and marketing experience in finding buyers or sellers for my clients. It is a fun business, and every day is different.

The most important thing I've learned in business is: Always treat people in the way that you want to be treated. It is a small world, and a bad reputation can and will follow you around if you earn it. I ensure that I do not engage in any business practice that is not in my client's best interest. This means walking away from potential commissions when it's best for the client.

My most unexpected source of business referrals is: Two business owners who I worked with and was unsuccessful in selling their businesses a few years ago. They realized that not selling their businesses was more a factor of their price expectations and the overall market. They have both continued to send me referrals. This validates to me that business owners need to be told the truth on the value of their business (even

when it is much lower than they want) because anyone can “list” a business, but “closing” the business is an entirely different event, and providing candor to my clients consistently seems to generate a positive outcome.

Also, through my membership with the IBBA, I have received multiple calls from other brokers who wanted to refer a client to a broker in Georgia who was an IBBA member and a CBI. They said that this helped them feel comfortable that they were referring to a credible broker. One of these calls was from Hong Kong!

The biggest mistake I’ve made that I’ll never make again: I took a few engagements without any up-front fees. Business owners who will show their commitment by paying you something for your services in the beginning are motivated, will provide better documentation in a timely manner, and are the best sellers to have as clients. When a potential client wants my time, experience, and resources at no charge, it tells me that either I have not done a good enough job of explaining the value that I will bring to them, or it sends a red flag regarding their commitment to the process of selling.

Every day, I read: the Atlanta Business Chronicle and the Wall Street Journal.

Where have you lived besides Atlanta? As a pilot in the U.S. Army for almost seven years, I was stationed in many places and traveled to 23 countries. U.S. residences have been Orlando, Alexandria, Va., and Sierra Vista, Ariz.

Professional Affiliations/honors: Board of Directors for the GABB; Top Producing Broker in GABB in 2009; Member of the IBBA; Member of M & A Source.

Personal Affiliations/honors: Member of Oak Grove United Methodist Church in Decatur, GA where I have served on multiple committees as Chairman. Currently the chair of the Legacy Committee and a member of our 9:35 Alive

Contemporary Band. I am a lifetime member of the National Rifle Association (NRA) and a member of the Aircraft Owners and Pilots Association (AOPA).

All about Matt: I am happily married to Sheri (also an Atlanta native). My wife was a Delta Air Lines flight attendant until she decided to take up the more challenging role of domestic CEO. We are blessed with three young and active daughters ages 10, 9, and 6. We enjoy summers at Lake Seed (in the North Georgia Mountains). We all enjoy pop, country, and Christian music, water skiing and snow skiing. Our favorite moments are with our kids and friends. We try to recognize each day as an opportunity and a gift.

Many people would be surprised to know that I’m an avid guitar and banjo player. I’m also somewhat of a thrill seeker; I like to shark fish (without a boat) and bow hunt for bears. I am a licensed airline pilot and also have a commercial helicopter pilot’s rating as well.

Accomplishments:

2009 - Ranked #1 Business Broker in the Georgia Association of Business Brokers; 2009 & 2008 - Ranked #1 Murphy Broker in Georgia

2009 - Earned the Certified Business Intermediary designation from the International Business Brokers Association (IBBA); Earned the Board Certified Intermediary designation through Murphy (only 5 Murphy brokers out of 200 earned this designation)

2008 - Ranked #2 out of 140 in the Georgia Association of Business Brokers; 2007 - Top Sales National Sales Award Recipient for Fortune 100 Healthcare Company ; 2005 - #1 Manager in the Nation for the Cardiovascular Division of the Healthcare Company

Captain in the U.S. Army from 1989 through 1995. Career was highlighted as a detachment commander for a group of U.S. military personnel conducting secret counter-narcotics operations and top-secret worldwide intelligence missions.

I have three Bachelor’s Degrees from Presbyterian College in Accounting, Economics and Business Administration.

Strategic Sales Management-University of Chicago Graduate School of Business

Tips/Advice for GABB Members: Do one thing every day that may progress your business with new clients or opportunities and perseverance will pay off.



GABB

*Georgia Association
of Business Brokers*

2011 MEMBERSHIP DUES INVOICE

Due No later than March 15, 2011

**Current Members: Make check payable to GABB and mail to: GABB Treasurer
Matt Slappey, 1664 Colebrook Circle, Ste 100, Decatur, GA 30033**

COMPANY OR INDIVIDUAL ACTIVE MEMBERSHIP (BROKERAGE):	\$ 145.00
ASSOCIATE MEMBER/AGENT OF ACTIVE MEMBER:	\$ 125.00
AFFILIATE (NON-BROKERAGE SUPPORT PROFESSIONAL) MEMBERSHIP:	\$ 125.00
AGENT OF AFFILIATE MEMBER:	\$ 125.00
DONATION TO THE IBBA MATCHING REGULATORY FUND*	\$ _____

*IBBA will match your donation for legal negotiations with the SAC and NASAA (North American Securities Administrators Association), for Business Brokers to be exempt from certain requirements when involved in a stock transaction. For more details, contact David Still.

I understand the Membership Chairman may contact me for any additional information requires to process my Membership Re-Application.

Check # _____ & amount \$ _____ remitted.

NAME

COMPANY

FIRM LICENSE # **R/E LICENSE #**

COMPANY Address

Home Address

Office Tel..... **Cell**:.....

FAX..... **Spouse's Name**.....

Email:..... **Web Address**

Product/Service (Affiliate Members):.....

.....

I am up-to-date in GABB payments to BizMLS, a requirement of Active Brokerage Membership.

Signed:.....

Please enclose a copy of your Georgia Real Estate License along with your check.

2011 GABB BOARD CONTACTS

PRESIDENT:

Eric Gagnon
eric@wesellrestaurants.com
404.593.4193

VICE PRESIDENT

C. David Chambless
dchambless@abraxas.biz
404.627.4454

TREASURER:

Matt Slappey
m.slappey@murphybusiness.com
404.486.0350

SECRETARY:

Tom Burdick
tom.burdick@metrobrokers.com
678.807.9189

DIRECTORS:

Paul Cushman
pcushman@cushmanassociates.com
770.752.4240

Melinda Hubbard
mh@hatterasgroup.com
678.581.5662

John Jugovic
jpj@thebusinesshouseinc.com
404.822.8242

Kathryne Pusch
kap@consultkap.com
770.918.9390

PAST PRESIDENT/ STANDARDS/ETHICS:

Art Lennig
A.Lennig@MurphyBusiness.com
678.852.6228

COMMITTEES/ ORIENTATION:

Tom Burdick
tom.burdick@metrobrokers.com
678.807.9189

Kathryne Pusch
kap@consultkap.com
770.918.9390

PROFESSIONAL DESIGNATIONS:

Hank Tanner
nationalbusiness@mindspring.com
770.534.5868

BBMS/PUBLIC RELATIONS:

C. David Chambless
dchambless@abraxas.biz
404.627.4454

FORMS:

John Jugovic
jpj@thebusinesshouseinc.com
404.822.8242

Nick Nicholson
nick@sellyourbiz.net
404.874.6262

EDUCATION:

Kathryne Pusch
kap@consultkap.com
770.918.9390

MEETINGS/ AFFILIATE CORNER:

Melinda Hubbard
mh@hatterasgroup.com
678.581.5662

MILLION DOLLAR CLUB/AWARDS

Matt Slappey
m.slappey@murphybusiness.com
404.486.0350

MEMBERSHIP:

Paul Cushman
pcushman@cushmanassociates.com
770.752.4240

Tom Burdick
tom.burdick@metrobrokers.com
678.807.9189

GABB.ORG:

Eric Gagnon
eric@wesellrestaurants.com
404.593.4193

AFFILIATE ADVISORY

David Cross
david_cross@ml.com
678.474.1817

BBMS Business Listing Management

Ken Stebbins
ken@bizmls.com
954.418.0064

Ariel Gonzales
ariel@bizmls.com
954.648.5307

NEWSLETTER EDITOR:

Diane Loupe
dloupe@mindspring.com
404.374.3990

To contact a GABB member or affiliate, go to www.gabb.org To suggest an article for the newsletter, contact the editor at dloupe@mindspring.com

★ ★ UPCOMING EVENTS ★ ★

GABB meetings are held on the last Tuesday of every month, except December.

In 2011, GABB meetings will be held on
Jan. 25, Feb. 22, March 29, April 26, May 31,
June 28, July 26, Aug. 30, Sept. 27,
Oct. 25 and Nov. 29.

8:30 AM -GABB Board Meeting

9:45 AM -Networking/Breakfast

10:30 AM -Membership Meeting

12:15 PM-Committee Meetings



Join GABB in 2011

If you are interested in discussing membership in GABB, please go to www.gabb.org and send the completed Membership Interest Form to initiate contact with our Membership Committee, or contact the GABB Membership Chairs Paul Cushman pcushman@cushmanassociates.com 770.752.4240 or Tom Burdick tom.burdick@metrobrokers.com 678.807.9189.

Code Corner

By Art Lennig, GABB Past President

When I took my Post License course for my Georgia Real Estate Sales License, I took the 25 hour ethics course. I give a lot of credit to the instructor just for his ability to make the course interesting. I have always believed that those who need an ethics course never attend the course. I still agree with that premise, but the course offered so many “fine line / borderline” scenarios that I now feel that all of us can have some real dilemmas when it comes to some of the situations we face every day. It is our responsibility to our clients to conduct ourselves in a professional, moral, and ethical manner.

Article Seventeen: The Business Broker should seek no unfair advantage over fellow Brokers and should willingly share with them the lessons gained from experience and study.

Article Eighteen: The Business Broker should conduct business to avoid controversies with fellow Brokers, cooperate with the Association and its officers in all matters, including investigation, censure, discipline, or dismissal of members who, by their conduct prejudice their professional status or the reputation of the Association.