

AMERICAN COLLEGE OF CONSUMER FINANCIAL SERVICES LAWYERS

Senator William Proxmire Lifetime Achievement Award

Presented on March 24, 2012 to

Barkley Clark

The American College of Consumer Financial Services Lawyers is pleased to present its William Proxmire Lifetime Achievement Award for 2012 to Barkley Clark.

Barkley's legal career spans nearly 47 years and reflects exemplary leadership and achievement in teaching, writing, advocacy, government service, counseling, and the overall practice of law, with particular focus on financial services. Barkley has developed a keen understanding of consumer protection and consumer credit issues, and has applied them effectively in his teaching and practice. For all his achievements, which are many, Barkley remains a tireless mentor, a zealous advocate for good, and a remarkably humble person.

The Early Years and the UCC.

Barkley was born and raised in Denver. He never really ventured outside of Colorado until he went to Amherst College, graduating in 1962, followed by Harvard Law School, graduating in 1965. While at Harvard, Barkley was fortunate to take commercial law classes from Professor Vern Countryman at a time when the Uniform Commercial Code was in the process of being enacted throughout the nation and, ultimately, in all states. Barkley believes that "getting in on the ground floor" of this important new law laid the foundation for his entire career.

Barkley returned to Colorado after law school for his first legal job with the Denver law firm of Holme Roberts & Owen. While practicing in Denver, he was appointed by the Mayor of Denver to serve on the Denver Urban Renewal Authority. His work with this agency helped transform downtown Denver from "a rabbit warren of paved parking lots, dilapidated warehouses, and saloons" into the popular "LoDo" district, including Coors Field, which has become a real magnet for downtown activity. ACCFSL had the opportunity to benefit from Barkley's handiwork at our 2010 meeting in Denver.

Always the Professor.

Barkley is an honored professor of law. He started his teaching career in 1968 at the University of Colorado while still in private practice. Since then he has taught law at the University of Kansas (where he was a chaired professor), University of Michigan, University of Oregon, Georgetown Law Center, George Washington University, and, most recently, at the University of Virginia. His course instruction includes commercial law, secured transactions, payment systems, consumer protection, federal regulation of banking, consumer financial services, creditors' rights and bankruptcy, sales and warranty liability, legislation, and local government. He has won numerous "best teacher" and "best lecturer" awards. And, it is not only law students that have the opportunity to learn from Barkley; he also is a frequent speaker at legal seminars throughout the country sponsored by ALI/ABA, the UCC Institute, PLI, Virginia CLE, the Banking Law Institute, National Association of Bankruptcy Trustees, International Factoring Association, and other organizations, on a broad range of subjects, including banking law, consumer protection regulations, check collection, secured transactions, factoring, product warranties, wire transfers, letters of credit, UCC, and bankruptcy. Barkley is quick to point out that participants in these programs have included a number of other members of the College: Rick Fischer, Roland Brandel, Fred Miller, Tom Hudson, Robert Cook, Ollie Ireland, Ralph Rohner, Tom Buteweig, Peter Cubita, and Jim Huizinga. Always the teacher, Barkley also has been asked to conduct in-house seminars on consumer and commercial law and other banking topics for private law firms. Barkley can engage not only the novice law student, but also the experienced lawyer.

Barkley's own observations on teaching are inspiring. He said: "Almost every time I teach a law school class, I feel that some student has taught me something. When I moved from full-time teaching into law practice at a somewhat advanced age, some people told me that they would have preferred to move in the other direction. I've always enjoyed both teaching and practice, and I think one reinforces the other."

Government Service.

Barkley has a strong interest in the legislative process, public policy, and local government. His experience on the Denver Urban Renewal Authority whetted his interest and his appetite. When he moved from Denver to Kansas to teach, he ran for and was elected Mayor of the City of Lawrence, Kansas. In fact, he served two terms as Mayor. He also served for 10 years as a member of the Lawrence City Commission and as a member of the Board of Directors of the League of Kansas Municipalities. Barkley relied on these "hands on" experiences when teaching the law of local government at the Kansas Law School, arguing before the Kansas Supreme Court on local government law issues, and assisting the Kansas legislature on various aspects of local government law, including governmental immunity.

Writing and Publications.

An Internet search of Barkley immediately returns "Barkley Clark Products." This is almost "enough said" on how prolific an author Barkley has been. His list of publications is 4½ pages single spaced. However, Barkley is more than just a productive author (and co-author with his wife Barbara Clark). There is probably no lawyer in this room today – perhaps no lawyer who practices law anywhere in the United States – that has not read and relied on a Barkley Clark publication. These publications include: *The Law of Bank Deposits, Collections and Credit Cards*; *The Law of Secured Transactions*; a treatise on warranty law; and two newsletters on Payments and Secured Transactions. Barkley also has co-authored a casebook with Fred Miller (the ACCFSL Lifetime Achievement Award winner in 2006) on Consumer Protection.

Private Practice of Law.

Following 20 years of full-time teaching (along with his various administrative positions), Barkley returned to private practice (with teaching as a "second job"). As is to be expected, his law practice has concentrated on various aspects of banking, commercial law, and consumer financial services. Among other subjects, and most relevant to ACCFSL, Barkley's practice includes a focus on: consumer credit; payment systems; product warranties under Article 2 of the UCC and the Magnuson-Moss Warranty Act; bank deposits, collections, and payments under Articles 3 and 4 of the UCC and FRB Regulations CC and J; wire transfers under Article 4A of the UCC and Regulation J; consumer credit legislation; bank regulatory issues; commercial and consumer compliance issues for financial institutions; and deceptive trade practices. For 35 years Barkley has qualified and been engaged as an expert witness in commercial and banking law litigation in federal and state court proceedings and before arbitration panels. He has made numerous federal appellate arguments and worked on a variety of appellate briefs involving commercial and banking law issues.

Professional Activities.

Barkley has always been interested in law reform and modernization. Back in the late 1960s, Barkley and Fred Miller worked with NCCUSL and ALI on developing the Uniform Consumer Credit Code. In the early 1990s, Barkley served on the original Study Committee of NCCUSL and ALI for the Revision of Article 9 of the UCC. Barkley served as a special consultant to the Federal Reserve Board on matters relating to the Equal Credit Opportunity Act and the Truth-in-Lending Act. In addition to many other professional activities, Barkley can list: American Bar Association, Co-Chair of Committee on Article 9 of the UCC; Reporter, The Business Lawyer, in its Annual Review of Secured Transactions; Board of Editors, The Banking Law Journal; Board of Editors, The UCC Law Journal; Board of Editors, Journal of Payment Systems Law; Fellow, American College of Consumer Financial Services Lawyers and Fellow, American College of Commercial Finance Lawyers.

On a Personal Note.

Barkley and his wife, Barbara, now live on a small farm in the shadow of the Blue Ridge mountains west of Charlottesville, Virginia. They have two sons; the younger son will be graduating from Amherst in May 2012, which will coincide with Barkley's 50th college reunion. In Barkley's words: "Although a large number of decades have rolled by since graduation from law school, I have no plans to retire anytime soon. It's too much fun!"

Barkley's accomplishments to date are awe inspiring, and we look forward to the fun continuing. The College is very pleased to present its Senator William Proxmire Lifetime Achievement Award to Barkley Clark.