I. General Update
   Fr. Wildes
   D &O Insurance
   Conflict of Interest Policy & Form

II. Legal Update
   Gita Bolt

III. May Board Meeting
   Fr. Wildes
   Approval of 2010-11 Budget
   Approval to "Contribute 5% of a disabled employee’s disability benefit payment to their TIAA-CREF Plan"

IV. Resolution to Transfer Waveland Property
   Fr. Wildes

IV. Executive Session
   Suzanne Mestayer
   Presidential Salary Review
Fr. Wildes called the meeting to order at 10:03 a.m., Central Standard Time.

**General Update.** Fr. Wildes reported that the search for the vice president of Institutional Advancement has been completed. Mr. Bill Bishop who is currently at Georgetown will join Loyola as the new vice president for Institutional Advancement. He further reported that the search for a new law dean is moving along. He hopes to conclude this search in early summer with a possible start date of January 2011.

In the area of enrollment, Fr. Wildes reported that the university is on target to meet its goal of enrolling 800 freshmen. He said he is delighted with the work of the admissions office. The pool of prospective students continues to grow. He said that the admissions office is also focusing on marketing graduate programs as this is an area poised for growth and in which the university can generate revenue. Marketing efforts in this area included an ad in the May issue of *U.S. News and World Report* highlighting all of Loyola’s graduate programs. The ad will run in select markets. (*ad included in minutes*)

Fr. Wildes reported that the AACSB International – The Association to Advance Collegiate Schools of Business re-affirmed the Business School’s accreditation. He noted that this association has one the most meticulous accreditation processes. He also recognized the good work of the Dean of the College of Business, Bill Locander, and the business school faculty.
Related to the College of Business, Fr. Wildes announced that a joint team consisting of MBA students from Loyola, Tulane, and University of New Orleans tied for first place with Cornell’s MBA team during the student competition at Idea Village Entrepreneur Week. He said this is especially impressive since competing students were from some of the country’s top-notch universities including Stanford, Berkeley, University of Chicago, and Northwestern. Mrs. Mestayer mentioned it was a Loyola MBA student who spearheaded the team of New Orleans area university students. Fr. Wildes and Mrs. Mestayer suggested that the Loyola faculty advisor and Loyola student be invited to give a presentation that will showcase the work of the students in this endeavor at the May Trustee luncheon.

Fr. Wildes reported that Loyola is participating in the Post 9/11 Yellow Ribbon GI program for veterans. He explained that it is basically a modern day version of the GI Bill.

Fr. Wildes updated the committee on the Student Loan Legislation. He explained that the Student Loan Legislation eliminate the Federal Family Education Loans program in which the majority of student loans were issued and serviced by private banks. Under this legislation all student loans will be issued by the Department of Education under the Direct Loan Program. Each institution must switch to this program by July 1, 2010. Fr. Wildes reported that Loyola has already made the switch. Fr. Wildes explained this is good news as the estimated savings generated by switching over will be mostly applied to increase the maximum Pell Grant award.

**May Board Meeting.** The upcoming May Board meeting will include updates on implementation of the strategic plan one year after approval from each of the vice presidents. Additionally, action items will include approval of the 2010-11 Budget and approval to contribute 5% of a disabled employee’s disability benefit payment to their TIAA-CREF Plan.

Fr. Wildes discussed the transfer of the Waveland Property from the university to the Jesuit community.

**D&O Insurance.** Ms. Bolt discussed Loyola’s current Directors and Officers (D&O) Liability Insurance. *(Included in these minutes is the memorandum prepared by Ms. Bolt explaining Loyola’s coverage.)* Fr. Wildes said he would address this at the May Board meeting.

**Conflict of Interest.** Ms. Bolt reported that in a recent audit of Loyola’s Research Commercialization and Educational Enhancement Program projects (which are funded by HUD), the Louisiana Board of Regents found that Loyola’s Financial Interest Disclosure Policy for Sponsored Programs does not fully comply with the more stringent federal regulations issued by HUD. The following three recommendations were made: establish a nominal value and require disclosure if
this nominal value is exceeded; change existing policy and procedures to require all research employees, officers, and agents complete financial interest disclosure forms; and lastly, the current policy only applies to employees of Loyola and it is recommended that the policy also require disclosure of conflicts of financial interest for officers and agents.

Fr. Wildes reported that Loyola’s current procedures and policies are being revised in order for Loyola to be in full compliance. He said that Vice President Jay Calamia has issued a response letter on behalf of the university to the Board of Regents.

Legal Update. Ms. Bolt gave an update on pending litigation.

Presidential Salary Review. The committee went into Executive Session at 11 a.m.

The meeting adjourned at 11:40 a.m.
MEMORANDUM

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

TO: Board of Trustees

FROM: Gita P. Bolt
General Counsel

DATE: March 2, 2010

RE: D&O Insurance Arrangements

Trustees and officers can face liability in their individual capacities as result of their positions with the University. To address that issue, the University maintains Directors and Officers (“D&O”) Liability Insurance. At its most basic, D&O insurance protects directors and officers from liability arising from actions connected to their corporate positions. This memorandum seeks to provide a brief summary of the University’s D&O coverage as applicable to the Board of Trustees.

The Bylaws
The Bylaws provide that the University shall indemnify and hold harmless any person who was or is a party or is threatened to make a party to any action, suit or proceeding,... by reason of the fact that he is or was a trustee... against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonable incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation... and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful... .Bylaws Article XIV

Breadth of Existing Coverage
Consistent with the Bylaws, the University has D&O insurance with United Educators Insurance, a Reciprocal Risk Retention Group (“UE”). The policy defines “individual insureds” as “past, present and future trustees, directors or officers” “while acting within the scope of their duties or obligations.” In addition, “the spouses or domestic partners of directors or trustees (but only to the extent they are involved in Claims solely because of their status as spouses or domestic partners of directors or trustees)” and “their estates, heirs, legal representatives or assigns” are considered “insureds.”

Some examples of UE insurance policy coverage are the following:
- Complaints filed with the Equal Employment Opportunity Commission or state civil rights agencies
- Emotional distress arising out of wrongful employment practices
- Mental injury or emotional distress coverage for non-insured third parties arising out of sexual harassment or unlawful discrimination
- Attorneys’ fees awarded pursuant to state statute
- Prejudgment and post-judgment interest
Under the University’s policy with UE, covered claims are subject to a $10 million limit per claim and $10 million annual aggregate. For claims of wrongful employment practices, the University has a $100,000 self-insured retention.

**Notice**

UE requires that as a condition precedent, the University provide it with written notice of any claim as soon as reasonably practicable and promptly and with such information as it may require.

**Exclusions**

Coverage is not provided for prior and/or pending litigation; cases where there was intent to harm or injure; bodily injury or death of any person; mental injury or emotional distress; assault or battery; pollution; insured versus insured; failure to perform professional services; breach of contract; outside directorship liability; and claims under the Fair Labor Standards Act.

**Liability of Board Members**

There is a Fifth Circuit case that confirms a finding of no liability by board members. However, there are specific circumstances where a board member of a non-profit could be liable and the Louisiana Supreme Court established a cause of action under the statute in RS 12:226 and RS 12:219.

In 1988, the Fifth Circuit established the standard of care expected by corporate officers and directors, which expressly states that directors/board members are not liable for mere errors of judgment on their part where they act in good faith. They are only required to exercise reasonable care and diligence and act in good faith. They are liable for willful neglect of duty, gross negligence or their fraudulent breach of trust. *Louisiana World Exposition v. Federal Ins. Co.*, 858 F.2d 233, 237-38 (1988).

The Louisiana Supreme Court further examines the issue and creates a cause of action in *Mary v. Lapin Foundation*, 609 So.2d 184, 190 La., 1992. It establishes that RS 12:219 imposes a liability for breach of duty. However, board members may only be held directly liable for receipt of unlawful distributions when the distributions resulted from formal corporate action by the members. *Id.* In order to impose liability, these five elements of RS 12:226 must be established: (1) an “unlawful distribution, payment or return;” (2) of “assets;” (3) to the “members;” (4) resulting from a “vote” in favor thereof by the directors; (5) which vote was done “without the exercise of reasonable care and inquiry.” *Id.* at 189.

In 2006, a magistrate judge in the W.D.La. approved a 12(b)(6) dismissal motion of a non-profit corporation in *Hammond v. St. Francis Medical Ctr.*, making this statement: “The statutes and jurisprudence are clear that shareholders or members in either profit or non-profit corporations are not responsible for the debts of the corporation." This was not reported in F.Supp.2d, 2006 WL 1675407 but is a 12(b)(6) dismissal motion and made public by *Financial Acquisition Partners, L.P. v. Blackwell*, 440 F.3d 278, 286 (5th Cir.2006). This decision was positively cited in 2007 and 2009 decisions.