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## Book Review

Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations — A Legal Guide* (Chicago, IL, American Bar Association, 642 pp., Jan. 2010, softcover, \$89.95)

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Many organizational ombuds are wary of attorneys, litigators in particular, and it is easy to understand why. Attorneys may be the antithesis of ombuds – they are zealous advocates who seem most comfortable working in a formal conflict system. Ombuds' mistrust of attorneys deepened when the American Bar Association (ABA) published its white paper on "Standards for the Establishment and Operation of Ombuds Offices," which seemed to tell ombuds how to do their jobs.

For their part, many attorneys – especially corporate counsel – view ombuds with equal skepticism. Ombuds work is poorly defined in the law and yet can have significant impact on an organization's liabilities. Moreover, attorneys are often hard pressed to fit ombuds into the complex legal framework applying to a large organization.

For these reasons, ombuds might be tempted to give Chuck Howard's new book a chilly reception. Howard is a litigating attorney who has never worked as an ombuds and his book is published by the ABA. Yet ombuds and attorneys would be well-advised to swallow their preconceptions because this book is an important resource for both professions.

Howard inadvertently became an advocate for ombuds nearly twenty years ago and eventually built a national practice advising and representing ombuds. His clients included some of the leaders of the profession. He has seen the evolution of the field first hand and how courts can be confused by the variation in ombuds practice. These insights give Howard considerable affinity and appreciation for the work of ombuds.

The primary purpose of the book, Howard explains, is to demonstrate why a properly constituted ombuds program should be entitled to confidentiality recognized in law. In Chapter 1, Howard starts at the very beginning, tracing the development of the organizational ombuds model from its Swedish origins two centuries ago. He thoroughly details the history

of ombuds associations and how the professional standards matured into their current form. Attached in the appendix are nearly 200 pages of materials reflecting the evolution of the ombuds standards of practice. Many of these documents from the ABA, The Ombudsman Association (TOA), University and College Ombuds Association (UCOA), and International Ombudsman Association (IOA) are difficult to locate in their entirety elsewhere.

In the second chapter of his book, Howard explains why organizations should create ombuds programs. His audience is not ombuds, but other professionals: general counsel, human resources, and executives. Howard summarizes the many risks faced by organizations with diverse and global constituents in an increasingly complex regulatory environment. He concludes that ombuds are the appropriate resource to help people resolve conflict and report misconduct with these organizations.

In Chapter 3, Howard turns his attention to practicing ombuds. Using case law and statute, he explains how ombuds can protect their most fundamental attribute – confidentiality. Howard offers specific advice on how ombuds can avoid serving as an agent of notice. He also explores some of the other legal bases for protecting confidentiality, including the common law and statutes. The advice here is very specific and originates in Howard's own practice representing ombuds. He tells ombuds how their offices should be defined to prevent litigation and then how to respond when litigation occurs.

Howard provides many "actual ombuds examples" to illustrate how ombuds can better protect the confidentiality they offer in their work. Non-ombuds are likely to find these case summaries especially insightful, especially because there are virtually no other publications that describe ombuds' work.

Chapter 4 is a collection of other information relevant to ombuds' practice. Each section is intended as a stand-alone summary, although the first section – an

overview of litigation processes – is directly related to the prior chapter. This section covers a lot of ground and includes exceptions to confidentiality and several statutes that impact ombuds practice, including the Federal Sentencing Guidelines, the Cleary Act and open records acts.

As the first true reference work on the field, *The Organizational Ombudsman* is destined to become a teaching resource. Indeed, it is already being used as a textbook for at least one graduate course. As a textbook, it is well-priced, thorough and readable. Students, however, will want an electronic version and professors will need ancillary materials, neither of which is currently offered. Like other legal guides and textbooks, it will also need an update or supplement in a few years.

Finally, as complete as it is, Howard's book needs a companion. *The Organizational Ombudsman* does not tell how to do the work of an ombuds. It offers no guidance for interviewing and coaching visitors, conducting inquiries, facilitating and mediating conflicts, or giving upward feedback. Someday, there will be a book as good as Howard's that speaks to these skills also. In the meanwhile, Howard has done the ombuds profession a great service by writing this indispensable guide.