

**MINUTES OF MAY 6, 2003 MEETING OF THE
DSBA ESTATES & TRUSTS SECTION**

In accordance with notice duly given, a meeting of the Estates and Trusts Section of the Delaware State Bar Association was held at the offices of Potter Anderson and Corroon, 6th Floor, Hercules Plaza, 1313 North Market Street, Wilmington, Delaware, 19801, on Tuesday, May 6, 2003, commencing at 3:30 p.m.

In attendance were: Francis S. Babiarz; Joseph E. Bell, Jr.; John A. Ciccarone; Kathleen DeLacy; Michael A. Friedberg; David J. Garrett; Thomas D. Henderer; Mary B. Hickok; Neal J. Howard; William H. Lunger; Edward R. McNamara (via teleconference); Jane Monahan; Richard W. Nenno; Richard J. A. Popper; Harry H. Rhodes; Dorothy K. Scarlett; Holly June Stiefel; Anthony J. Testa, Jr.; Janice R. Tigani; Mark D. Olson; Miguel Pena; Leonard S. Togman; Joanne Walter; Gregory J. Weinig; Beverly J. Wik; and Jeff Wolken.

John A. Ciccarone, Chair, called the meeting to order.

1. MINUTES: The Minutes of the April 1, 2003, meeting were unanimously approved.
2. LEGISLATION AND RULE COMMITTEES:
 - a. Uniform Principal and Income Act – Report of Committee - No report.
 - b. Section 529 Plans – Report of Committee - Mark Olson reported that the committee has met and that they are putting together a report for the next Section meeting.
 - c. Real Property Sales by Estates – Report of Committee – No report.
 - d. LLC/LP Statutes – Report of Committee - No report.
 - e. Chancery Court Rules 117 and 132 – Report of Committee - No report.
 - f. Trust Act 2003 – Report of Committee - John Ciccarone reported that the proposed Trust Act 2003 legislation was on the agenda for the April 19th Executive Committee meeting which was cancelled. It is now on the agenda for the next Executive Committee meeting, which Will Lunger and Tom Pulsifer will attend on behalf of the Section.
 - g. Trust and Estates Task Force (H.R. No. 91) – Report of Members – No report.
 - h. Delaware Elective Share Statute – Report of the Committee – No report.
 - i. Proposed Changes to the Delaware Estate Tax Statute – House Bill 94 - Hank Rhodes from the Delaware Division of Revenue joined the meeting by invitation and briefly discussed HB 94 (a copy of which was distributed prior to the meeting) and its amendment (a copy of which was distributed at the meeting). Section members noted that the changes to §1503(b) result in an additional “of” and suggested that the phrase “and whose estate is required to file a federal estate tax return” in §7 of the amendment be moved to the end of the inserted sentence. Richard Popper noted that, since the Bill applies to all descendants dying after December 31, 2002, the Division would quickly need to create new forms and volunteered to review any drafts.

3. OLD BUSINESS: None.

4. NEW BUSINESS:

Recent Developments:

- a. Total Return Unitrust Act: Jeb Bell noted that the Total Return Unitrust Act required trusts to be “administered” in Delaware to take advantage of the act and questioned whether the act should have such a restriction. Dick Nenno offered to add the issue to the list of items considered by the next Trust Act committee.
- b. John Ciccarone reported that the Section has a surplus of approximately \$1,800. It was agreed that the lunch would be served at the June meeting, which will be held in the early afternoon rather than at 3:30 p.m. Recognizing that any unused funds will be forfeited to the DSBA, the Section unanimously agreed to donate any remaining funds to The Combined Campaign for Justice.
- c. Utah’s Asset Protection Statute: Dick Nenno reported that Utah has enacted an asset protection trust statute.
- d. Tom Henderer reported that Wilmington Trust had been asked to comment on legislation to be proposed by Federated Investors and circulated a copy of the proposed Senate Bill. The proposed Bill would amend Title 12 by adding a new subsection (h) to §3302 allowing fiduciaries who are limited by a document to invest only in specific types of securities to invest in investment funds that consist substantially of the specific securities permitted by the governing document. The Section noted that such an action would not be permitted under §3302(b) as that section specifies that it would not apply if the document provided otherwise.
- e. Report of the Nominating Committee: John Ciccarone, on behalf of the Nominating Committee, nominated the following Section members as Section Officers for 2003-2004: William H. Lunger as Chair, Holly June Stiefel as Vice Chair and Todd Alan Flubacher as Secretary. The Section unanimously approved the nominations.

There being no further business, the meeting was adjourned at 4:20 p.m.

Respectfully submitted,

Holly June Stiefel
Secretary