

MINUTES
DSBA ESTATES AND TRUSTS SECTION
April 4, 2006

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 Morris, Nichols, Arsht & Tunnell, 17th Floor, 1201 North Market Street, Wilmington, Delaware, 19801, on Tuesday, April 4, 2006 commencing at 3:30 p.m.

In attendance were: F. Peter Conaty, Jr., Anne L. Stallman, David Garrett, Todd A. Flubacher, Richard J.A. Popper, Beverly Wik, Michael Stein, Thomas Sweeney, Colleen E. Pulkrabek (by invitation), Norris Wright, Richard Kiger, Mary Hickok, Richard Nenno, Jeff Wolken, Denise Nordheimer, Peter S. Gordon, Diane Clarke Streett, George W. Kern, Kimberly Gill Hankins, G. Michael Richwine (by invitation), Miguel D. Pena, Gregory J. Weinig, Amy C. Hudson, Mary M. Culley, Dorothy K. Scarlett, Francis Babiarz and Sheriden Black.

F. Peter Conaty, Jr., Chair, called the meeting to order.

1. Minutes. The minutes of the March 23, 2006 special meeting were unanimously approved.
2. Legislation and Rule Committees.
 - a. Uniform Principal and Income Act – Report of Committee. Norris Wright reported that the Committee has met and they are making progress.
 - b. Section 529 Plans – Report of Committee. No report.
 - c. Chancery Court Rules 117 and 132 – Report of Committee. No report.
 - d. Delaware Elective Share Statute – Report of Committee. Gregory Weinig reported that draft legislation was circulated among the Committee members.
 - e. Estate Administration Committee – Report of Committee No report.
 - f. DSBA Technology Committee – Report of Committee. No report.
 - g. By-Laws – Report of Committee. No report.
 - h. Last Remains Statute – Report of Committee. No report.
 - i. Uniform Disclaimer of Property Interests Act Committee – Report of Committee. Beverly Wik reported that at the special Section meeting on March 23, 2006, the Section reviewed and discussed the draft legislation (proposed 12 *Del. C.* §§ 601 – 617). The changes discussed at the special meeting were made and a blacklined version was distributed prior to the April 4, 2006 meeting for discussion during the meeting. A discussion ensued

concerning the Act. The Committee requested specific input concerning proposed § 614(c) and whether this section should be included as it may be inconsistent with asset protection legislation. It was decided that the language of this subsection should be changed so that it is consistent with the language of the Uniform Act. A motion was made, which was duly seconded and unanimously approved, to approve the legislation and forward it to the Executive Committee of the Bar Association for approval.

j. Trust Act 2006 – Report of Committee. The Committee distributed the same draft legislation that was distributed at the March 7, 2006 meeting. There were no comments or changes since the last meeting. A motion was made, which was duly seconded and unanimously approved, to approve the legislation and forward it to the Executive Committee of the Bar Association for approval.

k. Unauthorized Practice of Law – Report of Committee. No report.

l. Lapsed Distribution – Report of Committee. Peter Conaty reported that at the special Section meeting on March 23, the Section reviewed and approved the draft legislation which was previously circulated. A discussion ensued concerning the numbering of the section and it was decided that the proposed legislation would be numbered 12 *Del. C.* § 2313A. A motion was made, which was duly seconded and unanimously approved, to approve the legislation and forward it to the Executive Committee of the Bar Association for approval.

3. Old Business. None

4. New Business.

a. Recent Developments. Peter Gordon reported that he had attended a Family Law Section meeting and discussed an issue that affects both family and estates and trusts law. The issue is that under current Delaware law, if a person is married and a petition for divorce is filed, such person is prohibited from revising his or her will and/or trust or beneficiary designations during the pendency of the proceedings. Members of the Family Law Section volunteered to work with members of the Estates and Trusts Section to review this law. A motion was made, which was duly seconded and unanimously approved to form a committee to review the issues. Mr. Gordon, Peter Conaty and Miguel Pena volunteered to work on this joint committee.

b. Other New Business. Peter Conaty reported that the Bench and Bar Conference would be on June 7, 2006 at the Chase Center on the Riverfront. CLE classes will begin at 12:00 p.m., a meeting of the bench and bar at 4 p.m. and cocktails and dinner afterwards. The entertainment will be the “Capitol Steps”. The cost is \$90 per person. All members are urged to attend the meeting.

There being no further business, the meeting was adjourned at 4:05 p.m.

Respectfully submitted,

Anne L. Stallman, Secretary