

MINUTES
DSBA ESTATES AND TRUSTS SECTION
December 4, 2007

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 Connolly, Bove, Lodge & Hutz, LLP, 1007 N. Orange Street, Nemours Building, 9th Floor, Wilmington, Delaware, on Tuesday, December 4, 2007, commencing at 3:30 p.m.

In attendance were: John M. Amalfitano, Francis S. Babiarz, Charles J. Durante, Mary B. Hickok, Richard W. Nenno, Miguel D. Pena, Richard J.A. Popper, Michael R. Stein, Thomas P. Sweeney, Leonard S. Togman, Gregory J. Weinig and Jeffrey C. Wolken.

In the absence of Anne L. Stallman, Chair, Michael R. Stein, Vice-Chair, called the meeting to order.

1. Approval of Minutes. Mr. Nenno requested clarification in the minutes of the November 6, 2007 meeting of his comments during that meeting regarding 5 Del.C. § 924, relating to bank deposits in trust form. Specifically, Mr. Nenno requested that the minutes be revised to clarify that under 5 Del.C. § 924 as currently written, the beneficiary of a Totten Trust account must be a natural person and cannot be a trust. Mr. Nenno also brought to the Secretary's attention a typographical error in the November 6, 2007 minutes. Upon motion duly made and seconded, the minutes of the November 6, 2007 meeting, subject to the above changes requested by Mr. Nenno, were unanimously approved.

2. Committee Reports

a. Uniform Principal and Income Act – Report of Committee. Mr. Stein reported that the members of the committee had met earlier this morning, are scheduled to meet later in the week and would have a further report in January, 2008.

b. Chancery Court Rules 117 and 132 – Report of Committee. No report.

c. Estate Administration Committee – Report of Committee. No report.

d. DSBA Technology Committee – Report of Committee. No report.

e. Last Remains Statute – Report of Committee. No report.

f. Trust Act 2008 – Report of Committee. Mr. Nenno reported that the Committee met last week, is scheduled to meet again next week and twice in January, 2008, with the goal of finalizing legislation for presentation to the Section in February, 2008 and, pending the Section's approval, submission of said legislation to the Executive Committee of the Delaware State Bar Association in March, 2008.

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

- h. Family Law/Estates and Trust Joint Committee – Report of Committee. No report.
- i. Power of Attorney/Health Care Directive Committee – Report of Committee. No report.
- j. Uniform Estate Tax Apportionment Committee – Report of Committee. Mr. Durante reported that the Committee is scheduled to meet in early 2008.

3. Old Business.

a. Fundamentals Program. Mr. Stein reported that the 2007 David J. Garrett Fundamentals Program has been set for December 10, 2007 and that all speakers for the program have been confirmed and are ready to speak.

4. New Business.

a. Recent Developments. Mr. Weinig directed the Section's attention to a recent notice circulated by Lexis-Nexis clarifying the process for "e-filing" consent petitions, petitions for instructions and other matters with the Chancery Court. Mr. Weinig indicated that he would forward the notice to the Section's "listserve" for circulation among the members.

b. Other New Business.

(1) Banker's Trust Conference. Mr. Nenno reported that he had attended the recent Delaware Banker's Association ("DBA") 2007 Trust Conference (the "conference") and found the information presented at the conference to be helpful and informative. Mr. Nenno suggested that the Section and its members continue to support the DBA in light of the assistance the DBA provides to the Section's legislative efforts. Mr. Nenno noted that next year's conference is scheduled for December 3 – 5, 2008 and encouraged attendance by members of the Section.

Mr. Durante echoed Mr. Nenno's comments, stating that the information presented at the conference was very high quality.

Mr. Weinig reiterated Mr. Nenno's comments regarding the assistance the DBA provides to the Section with respect to the Section's legislative efforts.

(2) Powers of Attorney. Mr. Nenno directed the Section's attention to a recent article in the Wall Street Journal relating to the abuse of powers of attorney. Mrs. Hickok commented on a recent case in Pennsylvania in which a spouse had exceeded and abused her authority under her husband's power of attorney, and urged caution in situations involving blended families. Mr. Sweeney reminded the members to consider any applicable "decanting" statutes when drafting powers of attorney.

5. Adjournment. There being no further business, the meeting adjourned at approximately 3:49 p.m.

Respectfully submitted,

Miguel D. Pena, Secretary