

**MINUTES**  
**DSBA ESTATES AND TRUSTS SECTION**  
**FEBRUARY 1, 2005**

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, 17<sup>th</sup> Floor, 1201 North Market Street, Wilmington, Delaware, 19801, on Tuesday, February 1, 2005 commencing at 3:35 p.m.

In attendance were: Todd A. Flubacher, Gregory J. Weinig, Michael A. Friedberg, F. Peter Conaty, Jr., William H. Lunger, Michael M. Gordon, Neal J. Howard, John M. Stull, Miguel D. Pena, Trisha W. Hall, Bruce W. Tigani, Peter S. Gordon, Mary M. Culley, Mary B. Hickok, Beverly J. Wik, Francis S. Babiarz, Richard J.A. Popper, and Edward R. McNamara (by telephone).

Todd A. Flubacher, Chair, called the meeting to order.

1. Minutes. The minutes of the January 4, 2005 meeting were unanimously approved.

Legislation and Rule Committees.

Uniform Principal and Income Act – Report of Committee. No report.

Section 529 Plans – Report of Committee. No report.

LLC/LP Statutes – Report of Committee. Peter Gordon reported that due to the efforts of Donald Sparks with the Alternative Entities Subcommittee of the Corporation Law Section, draft legislation, clarifying that a charging order is the exclusive remedy for a creditor of a holder of interest in a limited liability company or limited partnership, has been approved by that Subcommittee.

Richard Popper stated that the legislation will be voted upon at the next Tax Section meeting on February 28. The draft legislation will also be distributed before the next meeting of this Section for a vote at that meeting.

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

Trust Act 2005 – Report of Committee. Peter Gordon reported that the Committee will next meet on February 15. Vice Chancellor Strine, on behalf of the

Court of Chancery, has agreed to meet with the Committee to discuss the concerns the Court expressed last year regarding the proposed legislation affecting the power to adjust. It is hoped the latter meeting will occur in March. If either of those meetings results in changes to the draft legislation approved by the Section last year, the revised draft legislation will be submitted to the Section, and if approved, then to the Executive Committee.

Total Return Trust Statute – Report of Committee. Neal Howard reiterated Richard Nenko's report of last month, that legislation will be proposed by the Trust Act 2005 Committee to correct the error that arose when the bill that was enacted last year was transcribed from the Section's proposed legislation.

Delaware Elective Share Statute – Report of Committee. Todd Flubacher reported on behalf of David Ferry that the Committee will next meet on March 17, and that Master Glasscock is expected to attend to identify other issues that the Court of Chancery would like to see addressed. Gregory Weinig summarized the issues that the Committee has targeted so far.

Estate Administration Committee – Report of Committee. No report.

DSBA Technology Committee – Report of Committee. No report.

Advanced Health Care Directive Statute – Report of Committee. Peter Conaty and Mary Culley reported that draft legislation, intended to conform the discrepancies of the statutorily-prescribed form to the other provisions of the statute, will be circulated at the next Section meeting.

By-Laws – Report of Committee. No report.

Last Remains Statute – Report of Committee. Todd Flubacher reported that this committee will be scheduling a meeting shortly.

Old Business. None reported.

New Business.

Recent Developments. Peter Gordon reported that among the many proposals being floated through the United States Congress to address Federal wealth transfer taxes, there is a proposal whereby trust funds would be taxed at every two generations, regardless of the trust's provisions.

Other New Business. None reported.

There being no further business, the meeting was adjourned at 4:10 p.m.

Respectfully submitted,

Gregory J. Weinig, Secretary

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