

**MINUTES**  
**DSBA ESTATES AND TRUSTS SECTION**  
**JANUARY 3, 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, 17<sup>th</sup> Floor, 1201 North Market Street, Wilmington, Delaware, 19801, on Tuesday, January 3, 2006 commencing at 3:30 p.m.

In attendance were: F. Peter Conaty, Jr., Gregory J. Weinig, Hon. Diane Clarke Streett, Mary B. Hickok, Richard W. Nenno, Dorothy K. Scarlett, Miguel D. Pena, Anthony J. Testa, Jr., G. Michael Richwine (by invitation), Richard J.A. Popper, David J. Garrett, David N. Williams, Neal J. Howard, Thomas P. Sweeney, W. Donald Sparks II, Michael R. Stein, Denise D. Nordheimer, Michael A. Friedberg, Bruce W. Tigani, Janice R. Tigani, Sheriden Black, Hon. Richard C. Kiger, and Hunt Worth (by invitation).

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

1. Minutes. The minutes of the December 6, 2005 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. No report.

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

d. Delaware Elective Share Statute – Report of Committee. No report.

e. Estate Administration Committee – Report of Committee.

Richard Kiger reported that a meeting among the Registers of Wills for each county will take place later this month, at which a number of operational matters will be discussed. Diane Clarke Streett reported that one of the topics addressed at that meeting will be what, if any, filings will be required now that the “Affidavit to the Register of Wills that No Delaware Estate Tax Return is Required” is no longer necessary. Ms. Streett also advised that currently no filing is required in New Castle County.

Mr. Kiger further reported that the procedure for approval by the office of the Register in Chancery of accounts related to estates has been streamlined and expedited.

f. DSBA Technology Committee – Report of Committee. Anthony Testa reported that there are many options available for the Section’s website and for DSBA participation in general. As examples, pages with access by Section members only and simulcast seminars are available.

g. By-Laws – Report of Committee. Peter Conaty reported that he and William Lunger will be reviewing the DSBA’s bylaws against the current Section bylaws to determine whether changes are necessary. A question was raised regarding whether any revisions to the Section bylaws will include a statement that the Section may provide only technical advice, and may not take policy positions, on proposed legislation. Apparently the Taxation Section bylaws included such a provision, but as it proved to be problematic, it has now been removed. Anthony Testa advised that the Taxation Section bylaws are available on its website for comparison. It is unclear whether the statement that was removed from the Taxation Section bylaws will be sought to be added to our Section’s bylaws or whether DSBA has taken a position on this subject, but that will be investigated as part of the comparison and revision process.

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

i. Uniform Disclaimers of Property Interests Act Committee – Report of Committee. Peter Conaty reported that the Committee expects to circulate a report for discussion at the February Section meeting, with a possible vote on its recommendations at the March Section meeting.

j. Trust Act 2006 – Report of Committee. Richard Nenno reported that the Committee will next meet on January 18, 2006.

k. Unauthorized Practice of Law – Report of Committee. There was a brief discussion of other activities of the accountant whose actions spurred the formation of this Committee, including the fact that the accountant’s stationary/letterhead may cause people to believe that he is admitted to practice as an attorney in Delaware. It was advised that the Delaware Department of Justice may be looking into the matter and that if so, they are attempting to determine whether the accountant has held himself out as an attorney admitted to practice in Delaware. It was further advised that at least one person who has been appointed as a personal representative by the New Castle County Register of Wills is adamant that the accountant did in fact so hold himself out to this person, and that such person has contacted the Department of Justice.

l. Lapsed Distribution Committee – Report of Committee. No report.

3. Old Business.

a. Estates and Trusts Fundamentals Seminar. Peter Conaty reported that the seminar was very well-attended, and that he had received many positive comments about it, including that it was “excellent” and “one of the best that [the person had] attended.”

b. Commissioner v. Estate of Bosch. Richard Nenno advised that he and Thomas Sweeney are continuing to investigate the feasibility in Delaware of a procedure permitting cases of tax controversy to be heard directly by a state’s highest court, as now exists in Massachusetts.

4. New Business.

a. Recent Developments. None reported.

b. Other New Business.

(1) List of Potential Estate Settlement Attorneys at Office of Register of Wills. Diane Clarke Streett advised that those wishing to be added to the list of potential estate settlement attorneys maintained at the New Castle County Register of Wills’ Office, which is given to personal representatives who request referrals, should e-mail her at [dcstreett@nccde.org](mailto:dcstreett@nccde.org).

(2) State Bar Night. Peter Conaty advised that State Bar Night will be held on January 24, 2006 in Dover.

There being no further business, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,

Gregory J. Weinig, Vice Chair/Acting Secretary