

MINUTES
DSBA ESTATES AND TRUSTS SECTION
May 2, 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, May 2, 2006 commencing at 3:30 p.m.

In attendance were: F. Peter Conaty, Jr., Anne L. Stallman, Todd A. Flubacher, Richard J.A. Popper, Michael Stein, Colleen E. Pulkrabek (by invitation), Richard Kiger, Mary Hickok, Peter S. Gordon, Diane Clarke Streett, Kimberly Gill Hankins, Miguel D. Pena, Gregory J. Weinig, Dorothy K. Scarlett, Francis Babiarz, David N. Williams, Trisha Hall, John Amalfitano and Edward McNamara (by telephone).

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

1. Minutes. The minutes of the April 4, 2006 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. Gregory Weinig distributed draft legislation that will be discussed at the June Section meeting. The draft legislation also was presented to Master Glasscock and the court had no comments.
 - 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 Disclaimers of Property Interests Act Committee, Trust Act 2006 Committee, Lapsed Distribution Committee – Joint Reports. Peter Conaty reported that the draft legislation from each Committee was presented to the Executive Committee of the Bar Association at the April 20, 2006 meeting and passed with no objections. The approval was contingent upon receiving any comments from the Court of Chancery by May 2, 2006. None

were received as of the Section meeting and the legislation will be forwarded to the Delaware State Bar Association lobbyist tomorrow.

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

k. Family Law/Estates and Trusts Joint Committee – Report of Committee. Peter Gordon reported that he, Miguel Pena and Peter Conaty of the Estates and Trusts Section met with Gretchen Knight and Fred Tourant of the Family Law Section to discuss amending 13 *Del. C.* § 1509 et al. The Joint Committee will discuss the issues that affect both Family Law and Estates and Trusts Law and potentially draft legislation satisfactory to both.

3. Old Business.

None

4. New Business.

a. Recent Developments. (1) Peter Gordon reported that an IRS Chief Counsel Advice was issued recently (C.C.A. 200614006), which provides that a federal tax lien is superior to the spendthrift clause in a trust. The government would be able to attach any mandatory right to a distribution or any type of periodic payment. (2) Richard Popper reported that the Supreme Court had decided the Marshall v. Marshall case (547 U.S. ____ (2006)). He commented that this decision may make it more difficult to settle estates due to increased litigation between estate beneficiaries.

b. Other New Business. (1) Peter Conaty reported that June 6, 2006 Section meeting would be held at 12:00 p.m. and lunch would be served. Funds are available in the Section budget to allow for payment of lunch. It was suggested that the balance remaining after the lunch be donated to the Combined Campaign for Justice. A motion was made, which was duly seconded and unanimously approved, to approve payment of the lunch and donating the balance of the Estates and Trusts Section budget to the Combined Campaign for Justice. (2) Peter Conaty also reported that the candidates for Chair, Vice Chair and Secretary of the Section for the 2006-2007 year will be circulated prior to the June 6 meeting.

There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted,

Anne L. Stallman, Secretary