

**MINUTES**  
**DSBA ESTATES AND TRUSTS SECTION**  
**NOVEMBER 7, 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 Connolly, Bove, Lodge & Hutz, LLP, 1007 N. Orange Street, Nemours Building, 9<sup>th</sup> Floor, Wilmington, Delaware, on Tuesday, November 7, 2006, commencing at 3:30 p.m.

In attendance were: Gregory J. Weinig, Anne L. Stallman, Michael R. Stein, John M. Amalfitano, Richard G. Bacon, Charles J. Durante, William W. Erhart, David J. Ferry, Jr., Todd A. Flubacher, Michael A. Friedberg, Trisha W. Hall, Mary B. Hickok, Richard C. Kiger, George W. Kern, Richard W. Nenno, Denise D. Nordheimer, Joanna Reiver, Miguel D. Pena, Richard J. A. Popper, Dorothy K. Scarlett, John M. Stull, Leonard S. Togman, Beverly J. Wik, David N. Williams, T. Hunting Worth and Norris P. Wright.

Gregory J. Weinig, Chair, called the meeting to order.

1. Minutes. Subject to the revision of a typographical error, the minutes of the October 3, 2006, meeting were unanimously approved.
2. Legislation and Rule Committees.
  - a. Uniform Principal and Income Act - Report of Committee. Mr. Wright reported that the Committee is moving forward with its preparation of proposed legislation.
  - 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. Mr. Weinig reported that revised draft legislation which addresses the comments raised by several Section members is being circulated among the members of the Committee.
  - e. Estate Administration Committee - Report of Committee. No report.
  - f. Technology Committee - Report of Committee. No report.
  - g. By-Laws - Report of Committee. No report.
  - h. Last Remains Statute - Report of Committee. Mr. Bacon reported that the Committee will endeavor to get new legislation prepared by the end of June.
  - i. Trust Act 2007 - Report of Committee. Mr. Nenno reported that the Committee would be meeting on November 10, 2006 and was moving forward to consider the preparation of new legislation.

j. Unauthorized Practice of Law - Report of Committee. Mr. Kiger reported that the matter against Ralph Estep was progressing, but not too quickly. It was discussed that many of Mr. Estep's clients still may not be aware of any problems with his representation.

k. Family Law/Estates and Trusts Joint Committee - Report of Committee.  
No report.

3. Old Business.

a. Fundamentals Seminar. Mr. Weinig thanked all Section members who have agreed to participate in the Seminar which will be held on Wednesday, December 13, 2006.

b. Welcoming Reception for New Dean. Mr. Weinig reported that the Welcome Reception for Linda L. Ammons, the new Dean of Widener Law School, was well attended and that the Section was thanked publicly for its participation.

c. Delaware Bankers Association First Annual Trust Conference. Mr. Weinig reiterated that the Delaware Bankers Association will be holding its first annual Trust Conference on November 29<sup>th</sup> through December 1<sup>st</sup> at the Hotel du Pont. Mr. Weinig encouraged all Section members to attend.

4. New Business.

a. Recent Developments. Mr. Nenno briefly discussed *Estate of Gerson v. Comm'r*, 127 T.C. 11 (2006), which addresses the imposition of GST upon assets subject to a general power of appointment and held in a trust which is grandfathered for GST purposes. Mr. Nenno noted that the Tax Court held that the assets subject to the general power of appointment were subject to GST, which is contrary to decisions decided by the U.S. Courts of Appeals for the 8<sup>th</sup> and 9<sup>th</sup> Circuits. The *Gerson* decision is appealable to the 6<sup>th</sup> Circuit. Mr. Nenno raised the question of whether it might be more beneficial for taxpayers concerned about this issue to avoid the Tax Court by paying the tax and proceeding in the Court of Claims and U.S. District Court. No one was able to recall any Delaware District Court cases in which this was done.

b. Other New Business.

1. Several Section members raised concerns about the length of time it was taking for the Register in Chancery to approve accounts that had been filed. Thereafter, a there was a lengthy discussion regarding the problems associated with these concerns and the efforts that could be made to resolve them. Mr. Kiger offered to speak to the Chancellor to confirm how matters of this nature should be brought to his attention.

2. Upon recommendation, a moment of silence was held in memory of David J. Garrett, Esquire, a long-time active member of the Section. Thereafter, several Section members shared some kind thoughts about Mr. Garrett. It was decided that the Section would consider ways to formally honor Mr. Garrett in gratitude for his many contributions to the Section. Mr. Weinig requested that Section members contact him with any suggestions they may have.

There being no further business, the meeting was adjourned at approximately 4:30 p.m.

Respectfully submitted,

Michael R. Stein,  
Secretary