

**MINUTES**  
**DSBA ESTATES AND TRUSTS SECTION**  
**November 6, 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, 9<sup>th</sup> Floor, Wilmington, Delaware, on Tuesday, November 6, 2007, commencing at 3:30 p.m.

In attendance were: John M. Amalfitano, Francis S. Babiarz, Noel C. Burnham, F. Peter Conaty, Jr., Mary M. Culley, Charles J. Durante, Todd A. Flubacher, Michael A. Friedberg, Scott D. Goodwin, Richard W. Nenno, Miguel D. Pena, Anne L. Stallman, Michael R. Stein, Diane Clarke Streett, Vincent C. Thomas, Gregory J. Weinig, Kalimah Z. White, Jeffrey C. Wolken and Norris P. Wright.

Anne L. Stallman, Chair, called the meeting to order.

1. Approval of Minutes. Upon motion duly made and seconded, the minutes of the October 2, 2007 meeting were unanimously approved.

2. Committee Reports

a. Uniform Principal and Income Act – Report of Committee. Mr. Wright reported that the Committee met recently and undertook to canvas the States that have adopted similar uniform acts to compare and contrast the provisions of the Delaware statute.

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 has scheduled regular meetings for the final Tuesday of each month. Mr. Nenno reminded the Section members to submit all legislation as early as possible this year because 2008 is an election year.

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. No report.

3. Old Business.

a. Fundamentals Program. Ms. Stallman reported that the date for the 2007 Fundamentals Program has been set for December 10, 2007 and that all speakers for the program have been confirmed. Ms. Stallman additionally reported that the program has been re-named as the “David J. Garrett Memorial Fundamentals Program” in honor of our late colleague and fellow Section member.

4. New Business.

a. Recent Developments. Mr. Nenno directed the Section’s attention to 5 Del.C. § 924, relating to bank deposits in trust form. Mr. Nenno commented 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, and queried whether the statute should be amended to permit a trust to be the beneficiary of Totten Trust accounts. The Section members discussed whether a proposed amendment to Title 5 would properly originate in the Section. Ms. Stallman stated that she would contact the Delaware Bankers Association in this regard.

b. Other New Business. Mr. Weinig directed the Section’s attention to a recent notice issued by the Chancery Court indicating that all guardianship petitions must be electronically filed (or “e-filed,”) effective December 3, 2007. Mr. Weinig queried whether such electronically filed petitions would continue to be confidential, as is the current Chancery Court practice.

Mr. Flubacher indicated that it was his understanding that the new procedure for “e-filing” extends to consented petitions for trust reformation and petitions for instructions. Mr. Flubacher further indicated that he had spoken with a clerk of the Chancery Court regarding confidentiality issues for the new “e-filed” documents, and that the clerk he spoke with indicated that confidentiality procedures had been discussed internally, but no official action had yet been taken.

Mr. Durante expressed concern that the “e-filing” procedure was a significant departure from current procedure and that the change may alter the relationship between the public and the Court.

Mr. Weinig indicated that he would follow-up with the Chancery Court regarding confidentiality concerns.

Mr. Conaty indicated that in addition to the above, certain petitions that were formerly filed with the Register of Wills are to also be “e-filed” with the Chancery Court under the new procedures.

5. Adjournment. There being no further business, the meeting adjourned at approximately 3:54 p.m.

Respectfully submitted,

Miguel D. Pena, Secretary