

MINUTES
DSBA ESTATES AND TRUSTS SECTION
October 4, 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, 17th Floor, 1201 North Market Street, Wilmington, Delaware, 19801, on Tuesday, October 4, 2005 commencing at 3:30 p.m.

In attendance were: F. Peter Conaty, Jr., Anne L. Stallman, Thomas P. Sweeney, Donald Sparks, Bruce W. Tigani, Janice R. Tigani, G. Michael Richwine (by invitation), Denise D. Nordheimer, Mary B. Hickok, Richard W. Nenno, Neal Howard, George W. Kern, V, Sheridan Black, David Garrett, Francis Babiarz, Todd A. Flubacher, Joanna Reiver, Richard Kiger, Kalimah Z. White, Jeff Getty, Patricia Elaine Hall, Edward McNamara (by telephone).

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

1. Minutes. The minutes of the September 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 new forms have been prepared and that once they are reviewed and finalized by the Committee they will be discussed with the Register of Wills. The Committee also is considering placing the forms on the internet.

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 – Report of Committee. Peter Conaty reported that Thomas Sweeney had circulated an extensive report on certain portions of the Uniform Act and that the other members of the Committee would be circulating reports among each other the week of October 10 and that a meeting would be held the week of October 18. The Committee plans to have items to discuss at the next Section meeting.

j. Trust Act 2006 – Report of Committee. Richard Nenno reported that the Committee was scheduled to meet on October 25, 2006. Mr. Nenno requested that any suggestions for this legislation be forwarded to him or any Committee member.

k. Unauthorized Practice of Law – Report of Committee. Peter Conaty reported that he had conversations with Barbara Gadbois, chief deputy of the Consumer Protection Office of the Attorney General's Office and she requested that any Section member contact her with any experiences they or their clients have had with unauthorized persons practicing law. Her telephone number is 302-577-8600.

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

3. Old Business.

a. Estates and Trusts Fundamentals Seminar. Peter Conaty reported that the Delaware State Bar Association has proposed December 8 as the date for the Fundamentals Seminar. An email will be sent to last year's speakers confirming that they are interested in speaking again this year. Anyone interested in speaking should contact Peter Conaty.

4. New Business.

a. Recent Developments. Richard Nenno commented on a published opinion in the Federal District Court of Maryland that involved a Delaware asset protection trust (Pukke).

b. Other New Business.

1. Retirement. Patricia Elaine Hall announced her retirement from J.P. Morgan Trust Company of Delaware. Her new email address is phallnewark@aol.com.

2. Intestacy Statute. Peter Conaty indicated that he had received a letter from an attorney concerning Delaware's intestacy statute. The attorney represented children of a decedent who died intestate. The decedent's surviving spouse had a life estate in the decedent's real property and the children had a remainder interest

under Title 12, Section 502. The spouse had remarried and continued to occupy the real property. The attorney questioned whether it was appropriate that the intestacy statute does not terminate a life estate upon the subsequent remarriage of a surviving spouse or in the event the surviving spouse leased the property. The question was posed whether the statute should be reviewed to determine whether limitations should be imposed upon a surviving spouse's life estate. Tom Sweeney commented that a survey of other states intestacy statutes could be done to see if this situation is provided for, however, it may be difficult to change the statute. After a brief discussion, it was decided not to pursue such revisions at this time.

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

Respectfully submitted,

Anne L. Stallman, Secretary