**Minutes of the January 24, 2013 Meeting**

**ABI Commission to Study Chapter 11 Reform**

**Advisory Committee on Executory Contracts and Leases**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Participants: Kevin Huennekens, Chair

Lisa Hill Fenning, Reporter

Berry Spears, Reporter

Larry Ahern

Ingrid Bagby

David Epstein

David Kuney

Jay Westbrook

Absent: Susan Freeman

Mark Stingley

Charles Tabb

Consultant: David Pollack

Commissioners: Richard Levin

Deborah Williamson

ABI: None

I. Minutes/logistics

A. January 18, 2013 minutes were approved without comment and will be posted.

B. In response to an inquiry from a committee Consultant, the Commission has confirmed that consultants and experts may list their participation on their resumes and websites

II. Discussion of Topic #1 -- Definition of Contracts Eligible for Assumption or Rejection

A. Revised draft report was distributed to Committee on January 23

B. VOTES BY COMMITTEE:

1. Draft report’s main recommendation -- elimination of the concept of “executoriness” -- APPROVED in principle.

2. Draft report is APPROVED for submission to Commission.

C. Report will remain subject to further modification as other topics are developed.

III. Topic #2 Standards Governing Assumption and Assignment will be the subject of the next telephonic meeting on **February 15, 2013** (2 p.m. EST/11 a.m. PST). The draft preliminary report will be distributed in advance of that meeting.

IV. Schedule for other topics:

A. Draft reports on all other topics to be submitted to Committee by **March 1, 2013**

B. Discussion schedule for other topics to be established at next meeting

C. Commission has requested submission of final report (if possible) by September 30, 2013

D. Commission requests that we provide draft topic reports and draft final report to other committees with overlapping topics

1. The various committees do not need to reach consensus on recommendations

2. The purpose is to identify problem areas and share perspectives

VI. Reminder: hearing on 365 before the Commission -- **June 4, 2013** NYC

A. Tentative possible topics (subject to feedback from Commission) -- probably 2 of 3 will be selected:

1. Topic A: Executoriness

2. Topic B: Commercial lease issues

2. Topic C: IP and licensing issues

B. Committee attendees will include: Huennekens, Fenning, Spears, Stingley

C. Witnesses are supposed to be non-members of the Committee

1. For Topic A, the Committee may request waiver of that requirement to allow Jay Westbrook to testify

2. For Topic B, David Pollock would likely be a representative of landlord concerns and perspectives

3. For Topic C, we may want to bring in one or more IP experts

Meeting schedule: **February 15, 2013** (2 p.m. EST/11 a.m. PST) (telephonic)

[every two weeks thereafter, TBD]

April [19], 2013 -- in person at ABI Annual Meeting in DC

Minutes prepared by Lisa Fenning