

ABI COMMISSION TO STUDY THE REFORM OF CHAPTER 11

Plan Procedure Advisory Committee

Meeting
August 2, 2012
Telephonic Conference Call

MINUTES/SUMMARY

The Plan Procedure and Structure Advisory Committee (the "Committee") of the ABI Commission held its organizational meeting on Thursday, August 2, 2012, via teleconference. *The following individuals participated in the meeting:* Honorable Elizabeth E. Brown, Ephraim Diamond, Sam Gerdano, Jay M. Goffman, Michelle Harner, Robert Keach, George Kuney, David A. Lander, Richard Levin, Richard E. Mikels, James Millstein and Honorable Elizabeth Perris. *Committee members not in attendance:* Kenneth Buckfire, Laura Davis Jones and Thomas J. Salerno.

Mr. Gerdano commenced the meeting at approximately 11:05 a.m., E.T. The meeting adjourned at approximately 11:50 a.m., E.T. The following matters were discussed during the course of the meeting:

Opening Remarks: Mr. Gerdano welcomed the Committee members and provided a brief overview of the advisory committee structure. Mr. Keach also welcomed the Committee members and expressed the Commission's gratitude for their service. He explained the Commission's origins, mission and progress to date, summarizing the Commission's task as developing "a new Bankruptcy Code for a new time." Mr. Levin emphasized the Commission's objective to rethink, and not simply tweak, the current Bankruptcy Code. Mr. Keach also noted the Committee's fundamental role in the Commission's efforts to reconceptualize business reorganizations.

Advisory Committee Guidelines: Prof. Harner also welcomed the Committee members and noted that the Advisory Committee Guidelines and other helpful information and resources are available at the Commission's website: www.commission.abi.org. She then reviewed the Advisory Committee Guidelines. Prof. Harner explained the internal structure of the Committee, including the roles of Chair or Co-Chairs and Reporter or Co-Reporters. She noted that the Reporter role was open to any Committee member and was not reserved for an academic member. She also identified the various resources available to the Committee, including research assistants, a research fellow and certain research databases. Prof. Harner encouraged Committee members to involve other support resources at their firms or institutions; she asked only that Committee members inform the Commission representatives of the individuals so involved to ensure appropriate communications and confidentiality. Prof. Harner also discussed the need for advisory committees to submit reports on a rolling basis so that the Commission can consider various pieces of the overall project at various points throughout the process.

Prof. Harner next discussed the Confidentiality provision of the Guidelines. She explained the balance reached by the Commission in the Confidentiality provision, and its intended scope.

Prof. Harner invited Committee members to contact her with any additional questions or concerns.

Preliminary Assessment: Mr. Levin and Mr. Millstein introduced the Preliminary Assessment of the study topic. Mr. Levin explained generally how the Commission developed the Preliminary Assessment and noted that it represented the Commission's initial consideration of the issues and questions raised by the study topic. Mr. Keach commented briefly on the Commission's process for identifying and selecting advisory committee members and developing the Preliminary Assessments for each advisory committee. A discussion then ensued regarding the scope of this undertaking, the parameters of the Committee's work and the utility of the Preliminary Assessment. Mr. Goffman asked about the Commission's expectations for advisory committee reports, and Prof. Harner and Mr. Keach explained the potential format and content of the reports.

Mr. Keach explained certain aspects of the Committee's internal governance, reviewing the roles of Chair and Reporter and the flexibility afforded the Committee in allocating duties and responsibilities throughout the project. He asked Committee members interested in serving as Chair(s) or Reporter(s) to email the Commission representatives on or before Tuesday, August 7, 2012. Mr. Levin indicated that the Commission representatives would select a Chair(s) and Reporter(s) so that the Committee could start its substantive work. Mr. Keach also noted that a contact list would be forthcoming.

Mr. Keach and Mr. Gerdano closed the meeting by thanking all Committee members for their participation.