

## ABI COMMISSION TO STUDY THE REFORM OF CHAPTER 11

### Executory Contracts and Leases Advisory Committee

Meeting  
July 11, 2012  
Telephonic Conference Call

#### MINUTES/SUMMARY

The Executory Contracts and Leases Advisory Committee (the "Committee") of the ABI Commission held its organizational meeting on Wednesday, July 11, 2012, via teleconference. *The following individuals participated in the meeting:* Lawrence Ahern, Susan Freeman, Sam Gerdano, Honorable Kevin Huennkens, Richard Levin, Michelle Harner, Berry Spears, Charles Tabb, Jay Westbook and Deborah Williamson. *Not in attendance:* David Epstein and Lisa Hill Fenning.

Mr. Levin commenced the meeting at approximately 12:05 p.m., E.T. The meeting adjourned at approximately 12:40 p.m., E.T. The following matters were discussed during the course of the meeting:

*Opening Remarks:* Mr. Levin opened the meeting with a review of the Commission's mission and objectives. He explained the Commission's origins, structure and progress to date. Mr. Levin also emphasized that the Commission was not seeking merely to tweak chapter 11 of the Bankruptcy Code. Rather, the Commission desires to thoroughly analyze and conceptualize how business reorganizations should work in the current economic and business environments. He further noted that the Committee would play a fundamental role in that process and that the Commission looked forward to working with the Committee throughout the process.

*Advisory Committee Guidelines:* Prof. Harner reviewed the Advisory Committee Guidelines. She explained the internal structures of the Committee, including the roles of Chair or Co-Chairs and Reporter or Co-Reporters. Mr. Levin indicated that, based on the size of the Committee, the Commission representatives believed that one Chair was sufficient for this advisory committee. Prof. Harner further explained that the Reporter role was open to any Committee member and was not reserved for an academic member. Prof. Harner then identified the various resources available to the Committee, including research assistants, a research fellow and certain research databases. Ms. Williamson and Mr. Gerdano noted that data support also might be available through Sheila Smith, one of the Commission members. Prof. Harner and Ms. Williamson encouraged Committee members to involve other support resources at their firms or institutions; they asked only that Committee members inform them of the individuals so involved to ensure appropriate communications and confidentiality.

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. Mr. Levin further explained the scope as "confidentiality of communications not ideas." Prof. Harner invited Committee members to contact her with any questions or concerns.

Mr. Gerdano noted that the Guidelines and other helpful information and resources were available at the Commission's website: [www.commission.abi.org](http://www.commission.abi.org).

*Preliminary Assessment:* Ms. Williamson reviewed the Preliminary Assessment of the study topic. She emphasized that the Preliminary Assessment represented the Commission's initial thoughts regarding the potential issues and questions ripe for discussion in the particular topic area. She encouraged the Committee to use the assessment as a starting point and not to feel constrained by its substance. Prof. Westbrook asked about potential overlap among issues in this study topic and those being considered by other advisory committees. Ms. Williamson suggested that regular communication with the Commission representatives for the committee and interim or periodic reports would help the Commission to identify and effectively address areas of overlap.

Ms. Williamson also discussed the roles of Chair and Reporter, and Mr. Levin indicated that they hoped the Committee would determine its own operational process once a Chair was selected. To that end, Ms. Williamson asked Committee members to email the Commission representatives by Friday, July 13, 2012, if they were interested in serving as Chair or Reporter, or if they absolutely did not want to serve in that capacity. She stated that she would work with Mr. Levin to select a Chair and Reporter(s) so that the Committee could start its substantive work. Ms. Williamson and Mr. Levin then opened the floor to questions. The Committee discussed, among other things, workload, outside assistance and potential interests in specific issues and subtopics.

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