

ABI COMMISSION TO STUDY THE REFORM OF CHAPTER 11

Financing Advisory Committee

Meeting
August 27, 2012
Telephonic Conference Call

MINUTES/SUMMARY

The Financing Chapter 11 Advisory Committee (the "Committee") of the ABI Commission held its organizational meeting on Monday, August 27, 2012, via teleconference. *The following individuals participated in the meeting:* Marc Abrams, Jo Ann J. Brighton, Norma Corio, William Fox, Elliot Ganz, Samuel J. Gerdano, Robert J. Keach, Harold S. Novikoff, Rebecca A. Roof, Paul S. Singerman, James P. Seery, Jr., David A. Skeel, Honorable Gregg W. Zive, and Leah E. Barteld. *Committee members not in attendance:* Honorable Robert D. Drain and Marshall S. Huebner.

Mr. Gerdano commenced the meeting at approximately 3:05 p.m., E.T. The meeting adjourned at approximately 4:00 p.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 then explained the Commission's origins, mission and progress to date. 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. He also emphasized the advisory committees' fundamental role in the Commission's efforts to reconceptualize business reorganizations. Mr. Gerdano noted the role of field hearings and the opportunity for Committees to use that time to meet

Advisory Committee Guidelines: Mr. Keach provided an overview of administrative guidelines for the Committee, including responsibilities, funding, timing of the project and the form/content of work product. He explained the Commission's expectations for a series of shorter reports from each advisory committee, following a suggested template. Mr. Keach reviewed the Advisory Committee Guidelines, explaining the internal structure of the Committee, including the roles of Chair or Co-Chairs and Reporter or Co-Reporters. He noted that the Reporter role was open to any Committee member and was not reserved for an academic member. He also identified the various resources available to the Committee, including research assistants, a research fellow and certain research databases. Mr. Keach encouraged Committee members to involve other support resources at their firms or institutions; he asked only that Committee members inform the Commission representatives of the individuals so involved to ensure appropriate communications, confidentiality, and recognition of those individual's contributions to the Committee.

Mr. Keach next discussed the Confidentiality provision of the Guidelines. He explained the balance reached by the Commission in the Confidentiality provision, and its intended scope.

Preliminary Assessment: Mr. Seery introduced the Preliminary Assessment of the study topic. He 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. He stressed to the Committee that the Commission hoped the questions would lead to a comprehensive study with a variety of suggestions and recommendations for how the Commission might deal with the topic. Mr. Seery provided a broad overview of each general topic in the Preliminary Assessment.

Mr. Novikoff emphasized that although the Commission identified the topics to be reviewed, they did not discuss any topic intensively nor come to any conclusions on the topics. The Committee was designed to include participants expressing a wide range of views. The ideal conclusion is that the Committee comes to a consensus on how to best address these issues that would result in a better code and better results, including any competing considerations and consequences to any recommendations. The Commission also encourages the Committee to look at other topics, if they are deemed relevant.

Mr. Seery, Mr. Novikoff, Mr. Keach and Mr. Gerdano addressed a number of questions from Committee members concerning the scope of the topics presented in the Preliminary Assessment. Mr. Gerdano offered to send all Committee members a link to the article and empirical database.

Mr. Seery closed the call by reviewing the Committee's internal governance and the need for volunteers for the roles of Chair and Reporter. He asked that volunteers express their interest by Friday, August 31, 2012 so that the Committee could start its substantive work.

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