

ABI COMMISSION TO STUDY THE REFORM OF CHAPTER 11

Distributional Issues Under Plans Advisory Committee

Meeting
July 19, 2012
Telephonic Conference Call

MINUTES/SUMMARY

The Distributional Issues Under Plans Advisory Committee (the "Committee") of the ABI Commission held its organizational meeting on Thursday, July 19, 2012, via teleconference. *The following individuals participated in the meeting:* Robert J. Keach, Honorable Shelley C. Chapman, Babette Ceccotti, Sam Gerdano, Michelle Harner, Honorable Laurel Myerson Isicoff, Daniel Kamensky, Peter S. Kaufman, Alan W. Kornberg, Marc A. Levinson, Harold Novikoff and Alan Resnick. *Committee members not in attendance:* Marcia L. Goldstein and Peter V. Pantaleo.

Mr. Gerdano commenced the meeting at approximately 3:05 p.m., E.T. The meeting adjourned at approximately 3:55 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. He emphasized that the Commission desires to thoroughly analyze and conceptualize how business reorganizations should work in the current economic and business environments and noted the Committee's fundamental role in that process. Mr. Gerdano noted that the Advisory Committee Guidelines and other helpful information and resources were available at the Commission's website: www.commission.abi.org.

Advisory Committee Guidelines: Prof. Harner reviewed the Advisory Committee Guidelines. She explained the internal structure of the Committee, including the roles of Chair or Co-Chairs and Reporter or Co-Reporters. Prof. Harner further explained that the Reporter role was open to any Committee member and was not reserved for an academic member. She then identified the various resources available to the Committee, including research assistants, a research fellow and certain research databases. Mr. Levinson asked about access to the databases, and Prof. Harner discussed the content of the databases. Mr. Keach also noted the resources available from the 2009 ABI symposium titled, "Chapter 11 at a Crossroads: Does Reorganization Need Reform?" Prof. Harner and the Commission representatives encouraged Committee members to involve other support resources at their firms or institutions; they asked only that Committee members inform the Commission representatives of the individuals so involved to ensure appropriate communications and confidentiality. Prof. Harner and Mr. Keach 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. Mr. Keach emphasized the Commission's desire to foster open dialogue about the reform project and asked Committee members to reach out to him or Co-Chair, Al Togut, with any questions or concerns regarding the Confidentiality provision. Prof. Harner invited Committee members to contact her with any additional questions or concerns.

Preliminary Assessment: Mr. Novikoff reviewed the Preliminary Assessment of the study topic. He explained generally how the Commission developed the Preliminary Assessment and noted that it represented the Committee's initial consideration of the issues and questions raised by the study topic. Mr. Novikoff walked through each of the sub-topics in the Preliminary Assessment with the Committee members. Ms. Ceccotti then discussed 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, and the procedure for the selection of the Chair and Reporter positions for the Advisory Committees, noting that, depending on how this Committee decides to conduct its work, an Advisory Committee might select co-chairs and/or multiple reporters. She explained that Committee members would be asked to indicate their interest in serving as chair or reporter by email. It was decided that those interested in serving as Chair or Reporter should email the Commission representatives on or before the close of business on Wednesday, July 25, 2012 to allow time for the distribution of minutes and contact with those Committee members unable to attend the organization meeting. Mr. Novikoff indicated that the Commission representatives would select a Chair and Reporter(s) so that the Committee could start its substantive work.

The Commission representatives then opened the floor to questions. Mr. Kamensky asked how future meetings of the Committee would be conducted and proposed holding at least one in-person meeting at the outset to help the Committee organize. A discussion of potential meeting structures and venues then ensued. Mr. Keach encouraged the Committee to consider scheduling in-person meetings in conjunction with conferences and other industry events, and Mr. Gerdano explained the resources available through the ABI to facilitate meetings. Mr. Keach also noted that a contact list would be forthcoming.

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