

ABI COMMISSION TO STUDY THE REFORM OF CHAPTER 11

Governance and Supervision of Chapter 11 Cases and Companies Advisory Committee

Meeting
July 12, 2012
Telephonic Conference Call

MINUTES/SUMMARY

The Governance and Supervision of Chapter 11 Cases and Companies Advisory Committee (the "Committee") of the ABI Commission held its organizational meeting on Thursday, July 12, 2012, via teleconference. *The following individuals participated in the meeting:* Douglas Baird, Michael St. Patrick Baxter, Donald Bernstein, Jack Butler, Sam Gerdano, Michelle Harner, William Henrich, Honorable Barbara Houser, Robert J. Keach, Mark Kronfeld, Fred Reiss, John C. Weitnauer, Clifford White and Bettina Whyte. *Not in attendance:* Honorable Michael Hogan, David Heiman and Nancy Rapoport.

Mr. Bernstein commenced the meeting at approximately 9:05 a.m., E.T. The meeting adjourned at approximately 9:45 a.m., E.T. The following matters were discussed during the course of the meeting:

Opening Remarks: Mr. Gerdano welcomed the Committee members, and Prof. Harner identified participants on the Committee. Mr. Bernstein provided a brief explanation of the Commission's origins, structure and progress to date. Mr. Bernstein also 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. Keach further commented on the Commission's mission and commitment to the project. He welcomed and thanked the Committee members for their service.

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. 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. Reiss asked about access to the databases, and Prof. Harner and Mr. Bernstein 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 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. Reiss asked about the timing of the project. Prof. Harner explained the two-year target end date for the entire project and the rolling launch of the advisory committees. Mr. Keach further explained 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 invited Committee members to contact her with any additional 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.

Preliminary Assessment: Mr. Butler 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. Butler and Ms. Whyte encouraged the Committee to use the assessment as a starting point and not to feel constrained by its substance. Ms. Whyte then discussed the Commission's expectations concerning Committee member participation and commitment to the process. Judge Houser asked how future meetings of the Committee would be conducted. The Commission representatives explained that it would be a combination of in-person and telephonic meetings. Mr. Bernstein suggested that the Committee might want to try to organize a meeting at the NCBJ Annual Meeting in October. The Commission representatives also asked any Committee member who was interested in serving as Chair or Reporter to email them in the next few days. Mr. Bernstein 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. Reiss asked for a Committee contact list, and Mr. Keach indicated that it would be forthcoming.

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