

**STATE BAR OF MICHIGAN
BUSINESS LAW SECTION
COUNCIL MINUTES**

March 22, 2007

This meeting of the Council of the Business Law Section of the State Bar of Michigan was held at the State Bar of Michigan's headquarters in Lansing, Michigan, on March 22, 2007, pursuant to notice duly given. Council members present: Diane Akers, Judy Calton, Dee Dee Fuller, Agnes Hagerty, Mark High, Michael Kennedy, Michael Khoury, Edwin Lukas, Paul Marcela, Paul Rentenbach, Cynthia Umphrey, and Robert Wilson. Committee members present: Jeffrey Ammon, Ann Baker, Hugh Makens, Ashish Joshi, Justin Klimko, Eric Lark, Cyril Moscow, Mark Peters, Jerome Schwartz, and Chris Maeso. Others present: Goldie Adele of Cooley Law School, Joseph Baumann, James Carey (reporter to the Unincorporated Entities Committee), Mary Hiniker (ICLE), Karl Hochkammer, Elizabeth Lyons (State Bar), Andrew Metcalf (State Bureau of Commercial Services), Terri Shoop (via telephone), and Greg Ulrich (State Bar Assembly liaison to the Section).

1. Call to Order and Determination of Quorum. Section Chairperson, Mark R. High, called the meeting to order at approximately 4:10 p.m. and determined with the other officers present that a quorum existed.

2. Approval of Minutes of December 2, 2006 Council Meeting. Mr. High called for a motion to approve the Minutes of the Meeting of the Council from December 2, 2006. Pursuant to motion duly made and seconded, the Minutes were unanimously approved.

3. Treasurer's Report. Ms. Fuller discussed the financial situation of the Section. A written Treasurer's Report is attached to these minutes. Ms. Fuller indicated that presently the Section has strong cash flow and good resources, but that it has not yet entered its big spending season. Currently revenues are \$1,000 below projections. Ms. Fuller will identify problems later in the year, if necessary.

4. Chairperson's Report.

(a) Update on Initiatives. Mr. High stated that he is continuing to work on his three initiatives: (i) outreach, (ii) raising the visibility of the Section, and (iii) energizing the Section's committees.

(i) Outreach. The Section continues to make good progress in having more people involved throughout the State. The Small Business Forum ("SBF") is doing a great job in getting new people involved in Section activities.

(ii) Raising the Visibility of the Section.

The Schulman Award is helping to raise the visibility of the Section. Mr. High is excited by some of the initiatives that the Development Committee is exploring for the rest of the year.

(iii) Committees. The Section's Committees are active and well. Mr. High reported he has attended several committee meetings and is impressed at the activity and vitality which the committees exhibit. The Regulation of Securities Committee is back up and running.

(b) Solo and Small Firm Institute/SBM Annual Meeting. The Executive Committee took action last month and decided to renew the Section's sponsorship of the Solo & Small Firm Institute in the amount of \$2,500. The Solo & Small Firm Institute is a great opportunity to get in front of a new target audience. The event will be held in conjunction with the Annual Meeting in September and the Section will be provided with exhibition space. Mr. High reported that this sponsorship will only be effective if the Section is able to generate some publicity regarding its participation and put together some materials to distribute regarding the benefits that Section membership provides. The Executive Committee believes that the PR initiative will be critical in these respects.

(c) Access to Justice Award. Historically, the Section has given \$5,000 to Access to Justice on an annual basis. The Council was invited to review the award which the Access to Justice organization had given the Section. It is on display at the SBM headquarters. After discussion, it was agreed that the Section will continue to support Access to Justice. Pursuant to motion duly made and seconded, the Section will give \$5,000 to Access to Justice in 2007.

(d) Position Statement on a Tax on Legal Services. Elizabeth Lyons reported that the SBM has adopted a position statement against the broad based tax on services. The Senate is expected to vote on this topic soon and it is expected to be voted down overwhelmingly. The SBM has asked its Sections to provide information on how this tax would impact clients. Ms. Lyons indicated that the immediate threat may have passed, but the issue will not go away long term. Ms. Lyons also discussed the proposed increase on income tax. The SBM has done extensive research across the country on the tax on legal services issue. The SBM would like the Section to consider adopting its position on a tax on legal services. A motion to support the SBM's position on a tax on legal services was made, seconded, and passed unanimously.

(e) Others. Greg Ulrich gave an update on the SBM's Executive Director search. The SBM will be interviewing finalists in the near future. All of the candidates will be in Lansing to meet with the Board. The Search Committee is comprised of 20 people. One of the concerns with the search was attracting someone to Michigan and to Lansing. There were candidates who did not have an interest in coming to Lansing. The Committee is looking for a Michigan attorney or someone who can be admitted in Michigan and is seeking someone with experience in business, the ability to work with Supreme Court, and someone who would keep the institution of the Bar intact with integrity.

Mr. High reported that Charlie McCallum has an article in the last *ABA Business Law Today* journal entitled *Professionalism – It's No Joke*. Mr. McCallum is a former Chair of the Section and the incoming chair of the American Bar Association Business Law Section. The article discusses the important aspects of being a lawyer.

7. Committee/Directorship Reports.

A. Standing Committees.

(i) Agricultural Committee. No report.

(ii) Commercial Litigation Committee. No written report. The Committee is working on scheduling its next meeting. It is focused on the activities of the Task Force on Attorney Client Privilege. The Committee's goal is to raise its profile. It considers itself different from the Litigation Section and plans to meet to discuss ideas on how to raise its visibility and to be of more assistance to business lawyers in the Section. It is expected that this meeting will take place within the next few weeks.

(iii) Corporate Laws Committee. A written report of the Corporate Laws Committee is attached to these Minutes. The next meeting of the Corporate Laws Committee is scheduled for March 27, 2007 at 4:00 p.m. at Honigman Miller's Detroit office.

(iv) Debtor/Creditor Rights Committee. A written report of the Debtor/Creditor Rights Committee is attached to these Minutes. The next meeting of the Committee is scheduled for May 9 at Honigman Miller's Oakland County office.

(v) Financial Institutions Committee. A written report of the Financial Institutions Committee is attached to these Minutes.

(vi) In-House Counsel Committee. No written report.

(vii) Nonprofit Corporations Committee. A written report of the Nonprofit Corporations Committee is attached to these Minutes. The legislation updating and amending the Nonprofit Corporation Act needs additional work but is almost complete.

(viii) Regulation of Securities Committee. A written report of the Regulation of Securities Committee is attached to these Minutes. The Committee has gone from 0 to 60 members. Jim Carey and Ed Lukas will write articles for the upcoming *Journal*. The Uniform Securities Act is ready to be introduced. The Committee will be scheduling a meeting in April.

(ix) Uniform Commercial Code Committee. A written report of the Uniform Commercial Code Committee is attached to these Minutes. With respect to letters of credit, please remember that 7/1/07 is the effective date for the revised informed customs and practices UCC 600 revision.

(x) Unincorporated Enterprises Committee. A written report of the Unincorporated Enterprises Committee is attached to these Minutes. The LLC Act Subcommittee has met several times. Jim Carey is working on language for the Act.

B. Ad Hoc Committees.

(i) Uniform Securities Act (2002). No separate report.

(ii) Task Force on Attorney-Client Privilege/Business Court. No written report. A proposal has been circulated regarding ending the Task Force's work. Another dozen meetings with local and special interest bar associations have taken place or are planned. The Task Force is also planning one or more large meetings to present to the Bar the Task Force's final report, which will be presented to the Representative Assembly in September. The report will outline what the Task Force has learned and what it recommends. The process is moving rapidly because there is so much publicity surrounding the issue.

(iii) Business Court Ad Hoc Committee. Rep. Brian Palmer, who previously proposed a business court statute, has contacted the Committee and would like to form a bipartisan group to sponsor a business court statute. He would like the Committee's assistance. With businesses leaving the State, this would be a good time to have a business court to persuade businesses that Michigan has a favorable climate for businesses. However, it is important to have a vehicle that does not cost a lot of money. The program could start as a pilot.

(iv) Schulman Award. A written report of the Schulman Award Committee is attached to these Minutes. The Ad Hoc Committee recommends one recipient from each side of the State for 2007. The proposed recipients are Verne Hampton and Charlie McCallum. A formal letter will be sent to the honorees after they are verbally informed. After discussion, a motion was made to accept the Ad Hoc Committee's recommendation and name Verne Hampton and Charles McCallum as recipients of the Schulman Award for 2007. The motion was seconded and passed unanimously.

(v) Lobbyist Issues. The Lobbyist Ad Hoc Committee consists of Michael Khoury, James Cambridge, Eric Lark, Ann Baker, Cy Moscow, and Mark High. The Committee believes the Section needs a lobbyist since 6-8 legislative initiatives are pending and changes in the legislature that are driven by the term limit process make it very difficult for the Section to effectively pursue these initiatives. The Committee is in the process of review potential lobbying firms that the Section could work with. Cy Moscow and Mark High had lunch with the head of Karoub Associates. The meeting went well. Karoub seems to be willing to work on a project-by-project basis. Jim Cambridge is also going to talk to a lobbyist group to provide a basis for comparison. Since this initiative could be expensive, the Section needs to think about how to fund this effort. Items will need to be prioritized. The goal is to have a proposal for Council at the June meeting.

(v) PR Developments. The PR Ad Hoc Committee has reviewed the marketing plan. The Committee has no recommendation today, but the goal is to have a recommendation for the June Council meeting.

C. Directorship Reports.

(i) Legislative Review Directorship. A written report of the Legislative Review Director is attached to these Minutes.

(ii) Nominating Directorship. A written report of the Nominating Director is attached to these Minutes. The Council is at full strength. If anyone has an interest in seeking a Council position or in becoming an officer of the Section, please let Jeff Ammon, Mark High or one of the other officers know.

(iii) Programs Directorship. A written report of the Programs Director is attached to these Minutes. One speaker for the Business Law Institute has dropped out. If anyone has thoughts on a replacement speaker, please contact the Programs Directors. Mark Peters and Dee Dee Fuller have done well getting sponsors for the Institute. The Section has a sponsor for the family lunch which will take place on Saturday, June 2. The lunch requires a \$5 registration fee which will be returned when the guests arrive.

A. Small Business Forum. A written report of the Small Business Forum is attached to these Minutes. The first west side event took place in Lansing on March 7, attended by 20 people. The next west side event will take place in Grand Rapids. The next east side event will take place on May 23 in Birmingham.

(iv) Publications Directorship. A written report of the Publications Director is attached to these Minutes. ICLE used survey software to send a survey to all 2,800 members of the Section for which we have email addresses. 180 responses have been received to date. The purpose of the survey was to test the waters regarding receiving the Journal in electronic form. The survey also asked about features readers didn't like and for suggestions on columns and articles. Interesting ideas for articles have been received. The responses to the survey have been positive with good suggestions. The survey will be sent out again. ICLE and the Section are coming to the close of a six year partnership on the *Journal*. The contract is up for renewal. Now is the time to make changes if there are things in the contract that are not working. The Debtor/Creditors Rights Committee will take the November 2007 issue.

(v) Section Development. A written report of the Section Development Director is attached to these Minutes. A discussion ensued regarding potential western, northern, and Detroit events.

(vi) Technology. A written report of the Technology Director is attached to these Minutes.

8. Liaison Reports.

(i) Law Schools. A written report of the Law Schools Liaison is attached to these Minutes. Goldie Adele was introduced and thanked. Goldie has

helped the Section with the administrative aspect of the Scholarship Award. The Section has done presentations at law schools: Justin Peruski at WSU, Michael Kennedy at U of D and Ava Maria, and Ed Lukas at Cooley and Michigan State.

9. Other Business and Announcements.

Ann Baker reported that filings of annual reports for domestic and nonprofit corporations can be done online. Ms. Baker also spoke about Senator Levin's proposed legislation to address off shore accounts, money laundering and company formation, which could involve having to register and qualify a corporation's shareholders and resident agents. She will continue to monitor these developments

The Annual Meeting will most likely be held in the Novi area during the week of September 17. It is important to not overlap with the State Bar's meeting, which will be held during the following week in Grand Rapids.

10. Announcement of June 1, 2007 Meeting. Although Mr. High announced that the next Council meeting would be on Saturday morning as part of the Business Law Institute, the meeting day and time has since been changed. The next meeting of the Business Law Section Council will now be held on Friday, June 1, 2007 at 10:00 a.m. at Boyne Mountain.

11. Meeting Adjournment. There being no further business to come before the Council of the Business Law Section, upon motion duly made, seconded, and unanimously approved, the meeting was adjourned at approximately 6:00 p.m.

Respectfully submitted,

By: _____
Diane L. Akers, Secretary