

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

June 3, 2006

This meeting of the Council of the Business Law Section of the State Bar of Michigan was held at the Soaring Eagle Casino & Resort in Mt. Pleasant, Michigan on Saturday, June 3, 2006 at 7:30 a.m., pursuant to notice duly given. Council members present: Diane Akers, John Dresser, Dee Dee Fuller, Mark High, Michael Khoury, Eric Lark, Edwin Lukas, Paul Marcela (via telephone), Paul Rentenbach, Richard Sundquist, and Stephen Waterbury. Committee members present: Jeffrey Ammon, Judy Calton (via telephone), Timothy Damschroder, Agnes Hagerty, Justin Klimko, Roger Mali, Judy Miller, Daniel Minkus, and Mark Peters. Others present: G. Ann Baker, Richard Bruder, James Carey, David Eberhard, Karl Hochkammer, Justin Peruski, and Terri Shoop, Section Administrator.

1. Call to Order and Determination of Quorum. Section Chairperson, Eric I. Lark, called the meeting to order at approximately 7:40 a.m. and determined with the other officers present that a quorum existed.

2. Approval of Minutes of March 9, 2006 Council Meeting. Mr. Lark called for a motion to approve the Minutes of the Meeting of the Council from March 9, 2006. Pursuant to motion duly made and seconded, the Minutes were unanimously approved.

3. Treasurer's Report. A written Treasurer's Report is attached to these Minutes. Mr. Lark made a motion to approve the Treasurer's Report. The motion was seconded and unanimously approved.

4. Chairperson's Report.

a. Update on Three Initiatives.

(i) Stephen H. Schulman Outstanding Business Lawyer Award. Mr. Lark reported that James Bruno, Hugh Makens, Cy Moscow, and Martin Oetting have been chosen as the recipients of the Stephen H. Schulman Outstanding Business Lawyer Award for 2006 and that they will be honored at the Section's Annual Meeting in September. He stated that four recipients were chosen in the Award's first year, but that one recipient will be chosen annually thereafter. The State Bar will allow the Section to hang a plaque in recognition of the Award at the Bar's headquarters in Lansing. Mr. Lark reported that he has sent notification letters to the recipients. The Section hopes to receive much press regarding the Award, press releases will be prepared and announcements will be made in the *Business Law Journal* and other publications. Wayne State University and the Schulman family may also be notified regarding the Award.

(ii) Strategic Plan. Mr. Lark reported that the Section continues to work toward meeting the goals outlined in the Strategic Plan. He did not go

through the goals one by one as that was done previously and time at the current meeting is limited.

(iii) Section Development. Mr. Lark reported that on January 26 “The Business of Being a Business Lawyer” was held at the Skyline Club. This event will be followed by outstate versions which Mark High, Ed Lukas, Tim Damschroder, Roger Mali, and Justin Peruski will be planning.

Mr. Lark reported that Ed Lukas has met with all of the Michigan law schools in an effort to improve participation in the Annual Scholarship Award. Uwe Dauss is this year’s winner of the Award and he was honored at the Section dinner on June 2. A discussion ensued regarding continuing the award as there were only 9 submissions in 2006. Changing the timing of the award and how to approach the law schools was discussed. Tim Damschroder and Ed Lukas will meet before the Annual Meeting to set up a time schedule with respect to the Award.

The Small Business Forum, which is chaired by Cynthia Umphrey, hosted a kickoff event at the Birmingham Community House on June 15 from 5:30 – 7:30 p.m. A survey was submitted at the event to determine the direction of the Forum and further surveys will be distributed at upcoming events. The networking component makes the Forum unique.

Business Boot Camp II currently has 213 registrants. This session is the fourth version and it starts in September. The southeast Michigan sessions will be held at St. John’s in Plymouth.

- b. Annual Meeting 2006. Mr. Lark reported that this year’s Annual Meeting will be a social event and will not contain an educational component. Highlights of the meeting will be the Schulman Award presentation and possibly Uwe Dauss being further recognized as the recipient of the Annual Scholarship Award. Terri Shoop and the Programs Directors will assist in planning the meeting and will email Section members with a date and time.
- c. Business Law Institute - 2007 and 2008. Dee Dee Fuller reported that the Business Law Institute will take place on June 1 and 2, 2007. After extensive research including surveys, it was determined that there is no consistency in what members want from the Business Law Institute. Next year’s event will be held at Boyne Resorts. The Section was able to negotiate a rate of \$114 per night and Boyne has agreed to waive the two night minimum. Boyne will also offer discounted rates at the water park. The Dearborn Inn and Greenfield Village were discussed as options for the 2008 Business Law Institute. Different program and social event options were discussed. The Programs Directors asked Council for the authority to book the 2007 and 2008 dates. A motion was made to have the 2007 Business Law Institute on June 1

and 2, 2007 at Boyne Resorts, and the 2008 Business Law Institute at the Dearborn Inn. The motion was seconded and unanimously approved.

Mark High reported that he recently attended a conference for Section leaders. At the conference he learned that approximately three percent of a section's membership normally attend Section events such as the Business Law Institute. The Section is on target, but would still like to increase attendance and participation.

d. Other Business.

- (i) Tax Tribunal- 1/20/06 letter from Jack Van Coevering. . In furtherance of the January 20, 2006 letter to Eric Lark from Jack Van Coevering, Chair of the Tax Tribunal, Jeff Ammon reported that he wrote a letter to Jack Van Coevering and has had several conversations with him regarding the Section's sponsorship of the Tribunal's tax disputes study. Mr. Ammon reported that the Tax Tribunal is no longer seeking sponsorship from the Section. The Tribunal will be addressing issues the judges see as problematic. Mr. Ammon will follow up and give further updates as necessary.
- (ii) Judge Roberts letter. In furtherance of the March 3, 2006 letter Mr. Lark received from the Hon. Victoria Roberts, Ms. Akers reported that five Section members volunteered to help at the May Law Day Program. Judge Roberts thanked the Section for its support.
- (iii) Disaster Planning. Mr. Lark reported that Mike Holhauser has inquired of the Section's disaster recovery plan. The Section does not currently have a plan and has no plans to create one. The Legal Administrators Association is working on a plan.
- (iv) Bar Briefs/State of the Law Summaries. Bar Briefs are currently published by the State Bar of Michigan. The State Bar is thinking of bringing the State of the Law Summaries back in connection with the Annual Meeting. Mr. Lark asked for volunteers to work on the Business Law State of the Law Summaries with the State Bar to meet a July 15 deadline. Mr. Ammon stated that we have given the Bar legislative and case law updates in the past. Justin Peruski indicated that Jack Marquis has a case report. He will pull the information together and contact either Eric Lark or Terri Shoop to get the information submitted.
- (v) State Bar of Michigan Annual Meeting. The State Bar of Michigan Annual Meeting will be held September 13-15, 2006 at Eagle Crest in Ypsilanti. The Section will announce its annual meeting date and time soon.

- (vi) New House Bill 600. Rick Sundquist is currently reviewing House Bill 600 regarding frivolous lawsuit sanctions. Mr. Sundquist will continue to monitor the Bill and report back as appropriate.
- (vii) Annual Report. Mr. Lark has filed the Section's Annual Report with the State Bar. The Report will be posted on our website.
- (viii) Economic Law Doctrine Program. Mr. Lark reported that Vincent Wellman contacted the Section with respect to sponsoring the Economic Law Doctrine Program. There is a law firm co-sponsor of the program. The Executive Committee will review the opportunity to co-sponsor the event and will make a recommendation to Council.

Mr. Lark made a motion to approve the Chairperson's report. Pursuant to motion duly made and seconded, the report of the Chairperson was unanimously approved.

5. Committee/Directorship Reports.

A. Standing Committees.

(i) Agricultural Committee. No report. Mr. Dresser is considering compiling a Committee to look at succession planning for agricultural producers. He suggested the Agricultural Committee working together with the Small Business Forum on this matter. Mr. Dresser will follow-up with the Small Business Forum.

(ii) Commercial Litigation Committee. A written report of the Commercial Litigation Committee is attached to these Minutes.

(iii) Corporate Laws Committee. A written report of the Corporate Laws Committee is attached to these Minutes. Ms. Baker reported that her department is watching HB 5679. She hopes that the Bill goes nowhere, however, if something does happen, the Section will need to take a position.

(iv) Debtor/Creditor Rights Committee. A written report of the Debtor/Creditor Rights Committee is attached to these Minutes. Discussions ensued regarding three requests of the Committee:

- (1) The Committee seeks Council approval to seek Michigan Legislative approval of amendments to ensure that Michigan's recently amended exemptions are enforceable in light of recent court rulings they are unconstitutional and to correct court rulings that the amendments pre-empted other existing exemption statutes.

After discussion on the above matter, a motion was made to approve the request of the Committee. Pursuant to motion duly made and seconded, the motion was unanimously approved. Mark High will report to the State Bar on this matter.

(2) The Committee guarantying up to \$5,000 to the Sheraton Novi for the expenses of an October 9, 2006 seminar being jointly sponsored by the Consumer Bar Association and the Bankruptcy Committee of the Eastern District of Michigan Federal Bar Association. The other sponsors will each backstop up to \$5,000 of the estimated costs. The seminar is being modeled on a similar 2005 seminar which was financially successful sponsored by the American Bankruptcy Institute. Because all of the Bankruptcy Judges in Michigan will participate there should be near capacity attendance and we should not have to pay anything on the backstop.

After discussion on the above matter, a motion was made to approve the request of the Committee. Pursuant to motion duly made and seconded, the motion was unanimously approved.

(3) The Committee requests approval of expenses estimated at \$500 to set up the ability of the Committee newsletter to link to websites, in particular websites of various courts to access court opinions.

After discussion, it was determined that monies for this request are already in the budget and no approval is needed.

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

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

(vii) Nonprofit Corporations Committee. A written report of the Nonprofit Corporations Committee is attached to these Minutes.

Ann Baker reported on HB 6014 to amend the General Corporation Act. The Bill proposes to exempt bible colleges from state regulations. The Bill is moving fast and getting a lot of attention. The Department of Labor & Economic Growth opposes the bill. Ms. Baker will report back if necessary and let Council know if it needs to take action.

(viii) Regulation of Securities Committee. No report.

(ix) Uniform Commercial Code Committee. A written report of the Uniform Commercial Code Committee is attached to these Minutes.

(x) Unincorporated Enterprises Committee. A written report of the Unincorporated Enterprises Committee is attached to these Minutes.

Mr. Lark made a motion to approve the reports of the Committees of the Section. The motion was seconded and unanimously approved.

B. Ad Hoc Committees.

(i) Uniform Securities Act (2002). A written report of the Ad Hoc Committee on the Uniform Securities Act (2002) is attached to these Minutes.

(ii) Task Force on Attorney-Client Privilege. A written report of the Task Force regarding Attorney-Client Waiver Issues is attached to these Minutes. Ms. Akers reported that the Committee had a program on May 10 and that there may be further working meetings. Ms. Akers requested a \$1,500 budget to fund meetings of the Committee. The motion was seconded and unanimously approved.

(iii) Business Court. A written report of the Business Court Ad Hoc Committee is attached to these Minutes. Ms. Akers asked for the formal endorsement of the Business Law Section of the proposed business court statute referred to in her report. A motion was made to endorse the proposed business court statute. The motion was seconded and unanimously approved. Mr. High will perform the necessary administrative tasks associated with this endorsement.

Mr. Lark made a motion to approve the reports of the Ad Hoc Committees of the Section. The motion was seconded and unanimously approved.

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. Mr. Ammon made a motion to elect Ed Lukas as a member of Council to fill the current vacancy which expires in 2008. The motion was seconded and unanimously approved.

(iii) Programs Directorship. A written report of the Programs Director is attached to these Minutes.

A. Small Business Forum. No report.

(iv) Publications Directorship. A written report of the Publications Director is attached to these Minutes.

(v) Section Development. A written report of the Section Development Director is attached to these Minutes. Justin Peruski will be helping to plan outstate programs.

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

A motion was brought to approve the reports of the Directorships of the Section. The motion was seconded and unanimously approved.

6. Liaison Reports.

(i) Law Schools. A written report of the Liaison to Law Schools is attached to these Minutes.

A motion was brought to approve the Liaison Reports of the Section. The motion was seconded and unanimously approved.

7. Other Business and Announcements.

(a) John Dresser advised to pay close attention to the ongoing GAAP problem. An article on the subject appears in the Real Property Journal.

(b) ICLE would like to have a representative attend Section Council meetings. This issue will be addressed at the next Council meeting.

8. Announcement of September, 2006 Meeting. An announcement regarding the date and time of the Annual Meeting will be forthcoming.

9. 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 9:10 a.m.

Respectfully submitted,

Mark R. High, Secretary