

STATE BAR OF MICHIGAN  
BUSINESS LAW SECTION  
COUNCIL MEETING MINUTES

March 1, 2001

This meeting of the Council of the Business Law Section of the State Bar of Michigan was held at the offices of the State Bar of Michigan, 306 Townsend Street, Lansing, Michigan, on March 1, 2001 at 4:00 p.m., pursuant to notice duly given.

Present: Daniel H. Minkus, Tracy T. Larsen, Vicki Martin-Anderson, David Foltyn, Patrick Daugherty, Arthur Dudley II, David D. Joswick, Eric I. Lark, Michael S. Khoury, Judith Greenstone Miller, Patrick E. Mears, Jeffrey S. Ammon, James H. Breay, Justin G. Klimko, Mark R. Lezotte, Jane Forbes, Hugh H. Makens, and Laura Jones.

1. Remarks - John Berry, Executive Director of the State Bar of Michigan. Discussed improving dialogue with the courts; multi-disciplinary and multi-jurisdictional practices - vital that we react to activities and developments going on around us; communication and need for unified bar; making the SBM helpful and useful to its members.
2. Remarks - Ron Jones, Chief Deputy Commissioner for Securities at the Office of Insurance and Financial Services (OIFS) and Acting Chief Deputy Commissioner for Financial Institutions. In addition to his responsibilities in the Division of Securities, he will be responsible for the management of the Bank and Trust, Credit Union and Policy Divisions of OIFS. Discussed reorganization for functional regulation as there is a lot of overlap and cross-over among the divisions. Creating a new division called Risk Assessment.
3. Call to Order and Determination of Quorum. Section Chairperson, Daniel H. Minkus, called the meeting to order at 4:15 p.m., and determined with the other officers present that a quorum existed.
4. Approval of Minutes of Meeting of December 2, 2000. Mr. Minkus called for a motion to approve the Minutes of the Council Meeting held on December 2, 2000. Judith Greenstone Miller raised an issue regarding paragraph 4(g) of the Minutes (discussion relating to the State Bar of Michigan Bylaw Article IX - Public Statements). Ms. Miller will revisit this matter in her committee report. Pursuant to motion duly made and seconded, the Minutes were approved as presented.
5. Chairperson's Report.
  - a. February 10, 2001 Meeting of the State Bar of Michigan Representative Assembly. An item at the meeting was the consideration of the Report and Recommendation Regarding Multidisciplinary Practices by the MDP Committee. On behalf of the Business Law Section, Mr. Minkus supported the Committee's work and conclusions, noting that further study of issues relating to the maintenance of the attorney-client privilege is needed. At the Representative Assembly meeting, a motion to table the recommendation was made. The Business Law Section will continue to support the recommendation when it comes up again.

b. Access to Justice Campaign. Mr. Minkus called for a motion to allow the Section to make a \$5,000 contribution to ATJ Campaign for this fiscal year. Pursuant to a motion duly made and seconded, the motion was approved.

c. Business Law Journal. The Section has informally approached ICLE to consider taking over publication of the Business Law Journal. ICLE would tentatively publish the Journal three times a year for \$36,000 and would require a \$5,000 start-up fee. The Section would maintain the Publications Directorship to monitor the publication process. Mr. Khoury discussed reserving the right to republish the content in any way we choose, i.e. on our webpage, etc.

d. Mileage Reimbursement Policy. There is a perception that the Section discourages out-state participation in quarterly Council meetings and otherwise. Mr. Minkus suggested reimbursing Council members, committee chairs, directors, and past Council chairs for mileage for attending the quarterly Council meetings. A discussion ensued. Mr. Minkus asked for a motion to adopt a policy to reimburse Council members, committee chairs, directors, and past Council chairs for mileage at the IRS rate for attending quarterly Council meetings. Pursuant to a motion duly made and seconded, the motion was approved.

e. The Section has been asked to send a delegate to a 2-day conference on May 24 & 25, 2001 to develop relationships between judges and practitioners. Mr. Minkus nominated Diane L. Akers of the Commercial Litigation Committee. A motion was duly made to send Diane L. Akers as the Section delegate to the May 24 & 25, 2001 conference and to pay her expenses (mileage, lodging and meals) incurred in representing the Section at the conference. Pursuant to the motion duly made and seconded, the motion was approved.

f. Stephen H. Schulman Memorial. The Section previously authorized a \$10,000 contribution to the Stephen H. Schulman Memorial by way of an appropriate vehicle to be determined by the Section officers. The contribution has not yet been given. The Section is waiting for a recommendation from Wayne State University as to the appropriate vehicle for this contribution.

g. Consideration of Proposed Revised Bylaws. A Committee consisting of Daniel Minkus, Tracy Larsen, Timothy Damschroder and G. Ann Baker has reviewed and submitted proposed revisions to the Bylaws of the Section. The substantive changes include: Art. II, Sec. 4 (Limitations on members to speak on behalf of the Section); Art. III, Sec. 1 (number of Council members); Art. VI, Sect. 3 (Executive Committee); Art. VI, Sec. 8 (telephonic participation in Council meetings); and Art. VII (Directorships). A discussion of the proposed revisions ensued. Mr. Minkus will prepare a final version of the Revised Bylaws for publication prior to the Annual Meeting of the Section in September, 2001. A motion was made to adopt the Proposed Revised Bylaws. Pursuant to the motion duly made and seconded, the motion was approved.

h. Consideration of Additional Committees of the Section. *Liquor Control Committee.* A group of approximately 25 attorneys is interested in committee status. Mr. Minkus requested a letter from the group. To date, Mr. Minkus has received no such letter. *E-Commerce Committee.* General comments: originally

brought through Patrick Mears; would be part of the UCC Committee; worthwhile and believe it deserves committee status. Mr. Khoury suggested that there would be nice overlap with the Computer Law Section. Mr. Makens reported that at the ABA level, the establishment of the E-Commerce Committee has enhanced membership and E-Commerce programs consistently draw high attendance. Motion was made that E-Commerce be established as part of the UCC Committee. Pursuant to the motion duly made and seconded, the motion was approved.

i. Consideration of Comments to ICLE Questionnaire. A brief discussion of the proposed ICLE survey occurred. Mr. Khoury requested that any comments/revisions be submitted to either him or the Section Administrator by March 27, 2001. A revised survey will be re-circulated.

6. Committee/Directorship Reports.

a. Agricultural Committee - A written report of this Committee is attached to these Minutes.

b. Commercial Litigation - A written report of this Committee is attached to these Minutes. Vicki Martin-Anderson (In-House Counsel) reported that the Commercial Litigation and In-House Counsel Committees' program on "Attorney-Client Privilege and the Corporate Client" is scheduled for March 20, 2001.

c. Corporate Laws - A written report of this Committee is attached to these Minutes. Justin Klimko reported that amendments to the Michigan Business Corporation Act that were developed by the Committee were introduced by Senator Bill Bullard as Senate Bill 206. Senator Bullard also introduced Senate Bill 216 (proposed amendments to the Michigan Professional Service Corporations Act).

d. Debtor/Creditor Rights - A written report of this Committee is attached to these Minutes (Minutes of the Committee's January 17, 2001 Meeting). Ms. Miller reported that Ms. Calton testified in Washington, D.C. before the Committee on Rules of Practice and Procedure on January 26, 2001. Ms. Miller reported that she and Ms. Calton proceeded in good faith and followed what they believed to be the procedure regarding public comments that was established at the December 2, 2000 Council meeting. Ms. Calton submitted an invoice for her expenses (\$1,046.09) for which she was denied reimbursement. Ms. Miller requested that the Section reimburse Ms. Calton for her out-of-pocket expenses. At the request of Mr. Minkus, Ms. Miller requested and obtained the Commercial Law League's agreement to share in a portion of Ms. Calton's reimbursement in the amount of \$300.00. A discussion occurred. A motion was made that the Section reimburse Ms. Calton for her out-of-pocket expenses in the amount of \$746.09 (Commercial Law League will reimburse Ms. Calton in the amount of \$300.00). Pursuant to the motion duly made and seconded, the motion was approved (Foltyn abstaining). Mr. Minkus reiterated the Section's policy that no committee chair is authorized to speak on behalf of the Section or the Council without the advance approval of the Council.

e. Financial Institutions - James H. Breay reported that the Committee is drafting the articles for the next issue of the Business Law Journal which will deal primarily with the extensive changes in the banking code.

f. In-House Counsel - A written report of this Committee is attached to these Minutes. See report of Vicki Martin-Anderson (Commercial Litigation report) above.

g. Nonprofit Corporations - A written report of this Committee is attached to these Minutes. Jane Forbes reported that the Committee approached Mae Kuykendall about assisting with incorporating the last several amendments to the Michigan Business Corporation Act into the Michigan Nonprofit Corporation Act (revisions of the Nonprofit Act were completed in 1995 and marked up by the Legislative Service Bureau, but were never enacted). Ms. Kuykendall submitted a proposal of an hourly fee of \$150 and a cap on hours of 150 hours. A discussion occurred including inquiry regarding whether or not the Section will receive a complete project at the end of 150 hours. A motion was made delegating to the officers the authority to approve the expenditure. Pursuant to the motion duly made and seconded, the motion was approved.

h. Regulation of Securities - Arthur Dudley reported that this Committee is responsible for the next issue of the Business Law Journal (after Financial Institutions).

i. Uniform Commercial Code - Patrick Mears reported that this Committee needs members. It was encouraged that the Section leadership recruit members from their own firms and solicit members at the Mid-Year meeting.

j. Unincorporated Enterprises - A written report of this Committee is attached to these Minutes.

k. Legislative Review - A written report is attached to these Minutes. Ann Baker reported that the State Bar of Michigan has advised that the Public Policy Committee of the Board of Commissioners will consider SB 1425 (amendments to the Business Corporation Act) on March 9, 2001. The Section has been asked for a position on the bill. A brief discussion occurred. A motion was made to endorse the amendments. Pursuant to motion duly made and seconded, the motion was approved.

l. Program - A written report is attached to these Minutes. The Mid-Year program has been finalized and brochures have been sent out. Initial returns look good. The Program Directorship will begin work shortly on the Annual Meeting Program in September.

m. Publications - No report.

n. Section Development - No report.

o. Technology - Michael Khoury reported that the section webpage has been redesigned. The section listserv will be up within the next week. The

section listserv will require an administrator because the list cannot be universally updated.

7. Treasurer's Report. Ms. Baker reported that the Section continues to be financially sound and has a balance of \$253,893.94. A report is attached. Officers have discussed and recommend the allocation of \$2,500 to purchase recognitions for Council members, committee chairs, directors, and past Council chairs.

A motion was made to approve the Section budget (copy attached). Pursuant to motion duly made and seconded, the motion was approved.

8. Other Business and Announcements. Justin Klimko reported on behalf of the Ad Hoc Committee formed to review and update the 1997 Strategic Plan of the Section. The Committee will distribute an Updated Strategic Plan for consideration by the Council at the May meeting.

9. Announcement of May Meeting. The May Council meeting will be held on Saturday, May 19, 2001, at 7:00 a.m., at the Grand Traverse Resort.

10. Meeting Adjournment. There being no further business to come before this meeting of the Council of the Business Law Section of the State Bar of Michigan, upon a motion duly made and seconded, and unanimously approved, the meeting was adjourned.

Respectfully submitted,

By: \_\_\_\_\_  
Laura Jones  
Secretary of the Meeting