

MINUTES OF THE RECEIVERSHIP TASK FORCE MEETING

DATE: May 30, 2013 at 8:30 a.m.

LOCATION: Cairncross & Hempelmann

Members Present: Stuart Kastner, Chris Brain, Dan Bugbee, Heidi Anderson, John Rizzardi, Kevin Hanchett

Guests: Mary Reiten, Marti McCaleb (Young Lawyer Liaison)

Absent Member: John Ruhl (approves recommendations)

1. Items that were discussed:

a. John Rizzardi provided an update on the overall process of recommending statute changes to the Executive Committee, followed by a short summary of the legislative process. Also, he provided a summary of the input received to date from section members, the court and all out-reach efforts.

b. Statute items: The following items are suggested by the Task Force for further review and statutory wording change:

i. Make the automatic stay under RCW 7.60.110 permanent and shift the onus to a creditor to move for relief.

ii. Create an additional power under RCW 7.60.15 that would authorize a custodial receiver to have a power of sale, if authorized by the court, [and create related notice procedures].

iii. Review and identify all noticing procedures, master mailing list issues and time lines – revising all applicable statutes.

iv. As to noticing, provide for the ability to allow publication notice to management who may have abandoned the assets in lieu of actual notice, if authorized by the court.

iv. Add a series of recommended standard forms to RCW 7.60: Notices, Proofs of Claim, Monthly Financials and Receiver's Reports, Final Report.

v. Look at -260(3) with regards to what is an allowed claim and the interplay with credit bids. This statute might need some general work or secured creditors may need early notification of the need to have their claim allowed in order to credit bid. Consider requiring something in the first noticing of creditors that if they intend to credit bid they must secure allowance of their claim. This requirement is being bypassed in cases.

vi. Also, in 7.60.260, examine, and if needed, clarify who can object to a sale.

vii. Resolve the issue in RCW 7.60.250 as to how interest is paid after a secured creditor's principal is paid. The statute is not clear as to whether secured creditors are paid their interest, in full, before general creditors are paid. Reconcile this with 7.60.230.

viii. Provide for appropriate civil rule references in RCW 7.60 when there is a need to approve a settlement so that procedure will be followed.

xi. Consider an additional form for RCW 7.08 (ABC) providing that the Assignor shall list all transfers for previous four years.

x. Address the right of the receiver to remove a tenant after a lease rejection under RCW 7.60.130. For example, receivers need the power to avoid unusual occupancy agreements that may have been made prior to the receivership.

2. These Minutes will be provided to the Executive Committee for their consideration at either/both of the meetings at Sun Mountain in late June and the Annual meeting in September, 2013. The Task Force asks that the Executive Committee indicate no later than the conclusion of the Annual meeting that it would want to review suggested statutory language changes so that such changes can be considered in the winter of 2013/early spring of 2014 in advance of the 2014-2015 legislative process.