DRAFTING COMMITTEE
AMENDMENTS TO THE UNIFORM FRAUDULENT TRANSFER ACT

Agenda

February 1-2, 2013
Tucson, Arizona

Edwin E. Smith, Chair
Kenneth C. Kettering, Reporter

Materials distributed before this meeting:
A. Draft amendments to UFTA (“Draft”)
B. Memorandum dated January 13, 2013 from Ken Kettering to Drafting Committee, Advisors and Observers, Compilation of Substantive Nonuniform State Comments to the UFTA (“Nonuniform State Comments Memo”)

Materials previously distributed referred to herein:
F. Memorandum dated November 7, 2012 from Matthew J. Cursio to Edwin Smith, Proposed Updates to the Uniform Fraudulent Transfer Act – Burdens of Proof and Reasonably Equivalent Value under Section 8(a) (“Cursio memorandum”)
G. Uniform Asset Freezing Orders Act, with Prefatory Note and Comments (Oct. 10, 2012) (“UAFOA”)

1. Introductory remarks from the Chair (Smith).

2. Choice of law (Draft § 10; related definitions at §§ 1(9), 1(10))
Materials: Study Committee First Report; Study Committee Second Report, pp. 1-2, 16-17; Kettering Article

3. Burdens of proof and presumptions (Draft §§ 4(c), 5(c), 8(g))
Materials: Study Committee First Report, p. 4; Kettering Article, pp. 325-27; Cursio memorandum, pp. 1-11

   A. Partnership insolvency (Draft §2(c))
   B. Series LLCs.
   C. Other?
5. Clarification of UFTA § 8(a) (Draft § 8 Comment 1).
   Materials: Study Committee Second Report, pp. 7-12; Cursio memorandum pp. 11-14

6. Possible need for conforming changes re: UAFOA. (See UFTA § 7)
   Materials: UAFOA

7. Desirability of other amendments to UFTA
   A. Revising Section 8(e)(2) to eliminate the immunization of strict foreclosure from constructive fraud attack
      Materials: Reporter’s Note to Draft § 8
   B. Attorney fees
      Materials: Study Committee Second Report, pp. 6-7

8. Revision of UFTA comments
   A. Avoidance of fraudulent obligation
      Materials: Study Committee Second Report, pp. 12-13
   B. Other revisions
      Materials: Nonuniform State Comments Memo.

9. Other issues.

10. Agenda for next meeting.

11. Adjournment (by 5:00 pm (Mountain time), Saturday February 2, 2013)