

## **MINUTES OF THE REGULATORY SUB-COMMITTEE**

### **ASSOCIATION FOR BUSINESS ADMINISTRATORS AND RESCUE PROFESSIONALS (ABARP)**

**Dates 05 July 2004, continued on 08 July 2004**

**Time: 17h00**

**Venue: Boardroom, Daly Inc**

**Chairperson: Patrick Daly**

**Secretary: Lawrence Ngobeni**

#### **1. Present**

Patrick Daly  
Martin Leigh  
Jan van der Walt  
Lawrence Ngobeni  
Jill Oliphant

#### **2. Welcome**

The chairperson opened the meeting and welcomed everyone. The object of the meeting was to establish a regulatory framework for the establishment of ABARP, mainly its object and purpose, and the qualification criteria for membership. This was done by reference to the draft memorandum of association and the draft articles of association.

#### **3. MEMORANDUM OF ASSOCIATION OF ABARP**

##### **3.1 Name**

The name of the association is the Association of Business Administrators and Rescue Professionals (ABARP).

##### **3.2 Purpose**

The purpose of the association is to promote and regulate the common interests of its members carrying on the profession of business administrators and rescue within the Republic of South Africa.

Until the association obtains statutory recognition as desired, the association will act as a self regulatory body. After recognition is granted, the association will continue to be self regulatory body within the framework of the legislation.

### **3.3 Main object**

- 3.3.1 To promote and regulate the activities of its members.
- 3.3.2 To put in place such regulatory processes and procedures necessary and which may become necessary to ensure that all its members carry out their duties in a professional and ethical manner and with a view to achieving the objectives of the Association.
- 3.3.3 To facilitate and promote the practice of business administration and rescue.
- 3.3.4 To enhance and uplift all its members from previously disadvantaged groups, particularly such individuals specifically defined as designated people in the Employment Equity Act, Act 55 of 1998.
- 3.3.5 To provide such training and courses necessary to facilitate skills transfer amongst all its members, particularly in the practice of business assessment and recovery.
- 3.3.6 To ensure equal representation of members of the Association in respect of gender and race.
- 3.3.7 To work together with and in furtherance of such objectives and aims of all the Masters of the High Court, State Attorneys and professional bodies in respect of such Legislation and proposed Legislation relating to business administration and rescue, and any and all Legislation aimed at curtailing and/or preventing unemployment within the country.
- 3.3.8 To maintain and enhance the prestige, status and dignity of its members.
- 3.3.9 To encourage and promote efficiency and responsibility of the professionals in relation to the practice of business assessment and recovery.
- 3.3.10 To uphold the integrity of the professionals.
- 3.3.11 To uphold and improve the standards of professional conduct and qualifications of professionals.
- 3.3.12 To provide for the effective control of the conduct of the professionals.
- 3.3.13 To promote uniform practice and discipline among the professionals.
- 3.3.14 To encourage the study of law relating to business administration, business rescue and any other similar Statutes and laws concerning the administration, the assets, liabilities and financial affairs of any individual, Close Corporation company or any other legal entity.

3.3.15 To advance the theory and practice of business administration and business rescue in all its aspects.

3.3.16 To represent generally the views of the professionals insofar as same may relate to business assessment and business recovery.

3.3.17 To co-operate with the Minister of Justice and all Masters with the view to enacting such necessary Legislation to promote, extend and consolidate the objects, powers and scope of the Association.

#### **3.4 Balance of provisions of memorandum of association**

The remaining provisions of the draft memorandum of ABARP were adopted without modification.

### **4. ARTICLES OF ASSOCIATION**

The draft articles are to be kept simple and short. A constitution will be drafted to regulate matters in more detail. Jill and Patrick will work on the separation of headings between the two documents. The constitution can be amended from time to time without amending the articles.

### **5. MEMBERSHIP CATEGORIES AND QUALIFICATION CRITERIA**

#### **5.1 Honorary membership**

No change to draft articles.

#### **5.2 Corporate membership**

There will be practicing members and non practicing corporate members. Non practicing corporate members shall be those corporate bodies whose members (i.e director or partner) are registered as non practicing under the individual qualifying criteria, while the practicing corporate members will be those corporate bodies whose members are registered as practicing members under the individual criteria.

Corporate members must have at least one partner or director who qualifies as and is a member of the association in order to qualify as practicing or non practicing.

## **5.3 Individual membership**

### **5.3.1 During window period**

There will be a window period ending 24 months from the coming into effect of the new business rescue legislation. During this period the criteria membership of ABARP will be as follows:

#### **Attorneys:**

Admitted with 3 years post admission experience. Practicing and in good standing with the Law Society.

#### **CA's**

Admitted with 3 years post admission experience. Practicing and in good standing with SAICA.

#### **Liquidators**

On Master's panel for 8 years.

#### **Others**

Bachelor degree in law, commerce or management + 8 years experience, or Honours degree in law, commerce or management + 5 years experience, or Masters degree in law, commerce or management + 3 years experience.

### **5.3.2 Post window period**

#### **All practitioners:**

The above criteria will fall out, and the following criteria will apply:

- Bachelor degree in law, commerce or management, plus
- Period of articles (2 years), plus
- Completion of official examination.

Practitioners who came in during the window period and have not written and passed the qualifying examination will lose their membership on the cut off date, i.e on expiry of the window period. They will be treated as new members should they wish to apply for membership.

## **5.4 Non practicing members**

Individual members who meet the above criteria but are not actively practicing.

## **5.5. Balance of articles of association**

The balance of the draft articles was not considered pending a discussion of the contents of the proposed ABARP constitution.

There being no further business the meeting was closed.