

National Association of Forensic Economics

Minutes of the Board of Directors Electronic Meeting March 29, 2004

Participating: Stephen Horner, Jim Rodgers, Frank Tinari, Tyler Bowles, Rick Gaskins, Beth Gunderson, Jerry Martin, Gary Skoog, Kurt Krueger, Michael Piette, Jack Ward, Steve Shapiro, George Schieren

1. President Horner verified that all participants were on line and receiving the communications.
2. It was moved and seconded that the following be appointed to the Nominating Committee for 2004: Rick Gaskins (outgoing Eastern Vice-President), Jim Ciecka, Stephanie Rizzardi-Pearson, Robert Taylor. The motion passed: 7 – yes, 0 – no, 0 – abstain.
3. George Schieren was recused from the communications. It was moved and seconded that George Schieren be appointed Executive Director for a three-year term beginning in January 2005. The motion passed: 7 – yes, 0 – no, 0 – abstain.
4. George Schieren rejoined the communications. The following was moved and seconded: “The NAFE Board authorizes the Midwest VP (Gary Skoog) to organize one or more sessions at the Missouri Valley Economics Association meetings October 14-16, 2004.” The motion passed: 7 – yes, 0 – no, 0 – abstain.
5. After discussion about the high cost of advertising in the WEAI annual meeting directory (\$450), it was moved and seconded that “NAFE will not purchase advertising in the WEAI meeting directory in 2004.” The motion passed: 7 – yes, 0 – no, 0 – abstain.
6. The Board discussed at length the idea of selling the NAFE membership mailing to commercial ventures. It is currently done once or twice a year for a fee of \$100. Instead of never selling the list or selling it to all requestors, it was moved and seconded that “The Board directs the President to make case by case determinations of whether to allow, for a fee, one-time non-NAFE usages of the NAFE mailing lists.” The motion passed: 7 – yes, 0 – no, 0 – abstain.
7. For discussion about the proposed Statement of Ethical Principles and Tenants of Practice (SEPTP), Bob Male was added to the discussion since he was a member of the ethics committee. The proposed, revised SEPTP was circulated to all Board members and other discussants. After extensive discussion about the precise wording, it was moved and seconded that the following Statement of Ethical Principles and Principles of Professional Practice be recommended to the NAFE membership for adoption:

Statement of Ethical Principles and Principles of Professional Practice
National Association of Forensic Economics (NAFE)

When providing expert opinion for use as evidence by the trier of fact, NAFE members pledge, as a condition of membership, adherence to the following:

1. Employment

Practitioners of forensic economics should decline involvement in any litigation when they are asked to assume invalid representations of fact or alter their methodologies without foundation or compelling analytical reason.

2. Compensation

Practitioners of forensic economics should not accept contingency fee arrangements, or fee amounts associated with the size of a court award or out-of-court settlement.

3. Diligence, Objectivity and Accuracy

Practitioners of forensic economics should strive to ensure that proffered opinions are based upon theoretically sound methodologies and unbiased, valid and reliable economic information. They should also strive to be accurate, objective and thorough in their analyses and refrain from submitting to any party in the litigation any information, through commission or omission, that they know to be misleading, biased or inaccurate.

4. Disclosure

Practitioners of forensic economics should stand ready to provide sufficient detail to allow replication of all numerical calculations, with reasonable effort, by other competent forensic economics experts, and be prepared to provide sufficient disclosure of sources of information and assumptions underpinning their opinions to make them understandable to others.

5. Consistency

While it is recognized that practitioners of forensic economics may be given a different assignment when working for the plaintiff than when working for the defense, for any given assignment, the basic assumptions, sources, and methods should not change regardless of the party who employs the expert to perform the assignment. There should be no change in methodology for purposes of favoring any party's claim. This requirement of consistency is not meant to preclude methodological changes as new knowledge evolves, nor is it meant to preclude performing requested calculations based upon a hypothetical--as long as its hypothetical nature is clearly disclosed in the expert's report and testimony.

6. Knowledge

Practitioners of forensic economics should strive to maintain a current knowledge base of their discipline.

7. Discourse

Open, uninhibited discussion is a desired educational feature of academic and professional forensic economic conferences. Therefore, to preserve and protect the educational environment, practitioners of forensic economics will refrain from the citation of oral remarks made by same, without permission.

8. Responsibility

Practitioners of forensic economics are encouraged to make known the existence of, and their adherence to, these principles to those retaining them to perform economic analyses and to other participants in litigation. In addition, it is appropriate for practitioners of forensic economics to offer criticisms of breaches of these principles.

The motion passed: 7 – yes, 0 – no, 0 – abstain.

8. There was extended discussion and consultation with legal counsel about exactly how to present the proposed Statement of Ethical Principles and Principles of Professional Practice to the membership. There was a discussion of sending “pro” and “con” statements with the ballots, but no support was expressed and no motions were made. It was determined that the proposal was not an amendment to the bylaws, but was changing the conditions for membership, which the by laws authorize the Board to enact. Thus, any vote by the membership on the change in membership requirements must be an advisory vote for the Board’s decision, the following motion was moved and seconded:

- 1) The NAFE Board of Directors will send a yes/no number-controlled form to each NAFE member's primary NAFE mailing address.
- 2) The form asks the member to indicate their preference (yes/no) on whether or not they want the NAFE Board to adopt the attached SEP as a condition of NAFE membership. The form includes a commentary area.
- 3) Accompanying the form is a cover letter from the Board stating that
 - 3a) Article Two, Section 1 of the NAFE bylaws directs the NAFE Board to establish conditions of membership.
 - 3b) The ethics committee has recommended that (1) the Board adopt the attached SEP as a condition of NAFE membership and (2) that NAFE shall not implement a SEP enforcement mechanism.
 - 3c) The NAFE Board, in a preliminary vote, has unanimously agreed with the recommendations of the ethics committee.
 - 3d) The NAFE Board wants to know the members' preference on whether they should vote to adopt the SEP as a condition of membership as the Board wants to follow the clear preferences of the membership on this issue.

The motion passed: 7 – yes, 0 – no, 0 – abstain.

9. There being no further business, the meeting was adjourned on May 14, 2004

Respectfully submitted by

George A. Schieren
Executive Director
May 14, 2004