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1. Whether Acme's outside directors possess the authority to reject Brown's and Chase's recommendation to pay a dividend from cash in the treasury.

## DUTY OF BOARD OF DIRECTORS

### Duty to Manage



The board of directors have a duty to manage the corporation in the best interest of the corporation and its shareholders.

### Hold A Meeting

The board of directors have a duty to call a meeting with the shareholders when an important decision must be made regarding the corporation. The board must give the shareholders timely notice of when and where the meeting would take place and the subject of the meeting.

Here, the board had three major decisions that they did not inform the shareholders. The payment of dividend to the shareholders, the favorable aspects of the Acme's expansion into a new line of business, and the \$100,000 cash contribution to the private university that Brown is a graduate of and is a member of its board of trustees. Failure of the board to hold a meeting with the shareholders to present and discuss the major plans is a violation of the duties of the board of directors.

## SHAREHOLDERS DUTIES

Shareholders have a duty to vote at a meeting when major changes and decisions regarding the corporation are considered by the board. Here, there was no opportunity for the shareholders to vote on any of the recommendations or the board including the recommendation to pay dividend to its shareholders. The shareholders have a right to hear the recommendations and are the only ones who can vote to reject or accept this recommendation. Thus, outside directors do not have the authority to reject the recommendation.

2. Whether Davis has the right to inspect Acme's records.

#### SHAREHOLDER'S RIGHT TO INSPECT THE RECORDS OF THE CORPORATION

Shareholders have a right to inspect the records of a corporation. Davis is a shareholder of Acme and therefore has a right to inspect the records. Denial of Davis' right to inspect the records is a violation of his right.



3. Whether Evan can prevail in his suit for an order that the corporation pay a dividend.



The board of directors manage the corporation and decide whether payment of dividends would be in the best interest of the corporation.

Dividends will not be paid to shareholders if the board decide that the best interest of the corporation is to not pay the dividend but instead invest in future revenue making enterprise as decided here by the board. If the court finds that it is in the best interest of the corporation, Evan will not prevail in his suit.

4. Can Evan prevail in his suit to enjoin Acme from paying the university.

#### Derivative Suit

A shareholder can file a derivative suit to enjoin the corporation from doing something that is harmful to the corporation. Here, Evan can file a suit because Brown used corporate funds for personal gain.



#### Piercing the Corporate Veil

The court will pierce the corporate veil and not avail the board of directors and any member of the corporation any protection if a fraud and harmful act has been perpetuated



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against the corporation and the guilty members will be personally liable for the damages.



Brown used corporate funds not for corporate advantage but for personal use-to donate to a private university that he is a board of trustee member. Brown deprived the corporation \$100,000 and has harmed the corporation. The court may pierce the corporate veil and hold Brown personally liable for the \$100,000. Therefore, Evan will prevail in his suit.

Question #2 Final Word Count = 591

**END OF EXAM**