

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA
IN THE HIGH COURT OF JUSTICE

CLAIM NO. ANUHCV2017/0538
Consolidated with
CLAIM NO. ANUHCV2022/0464

BETWEEN:

[1] SIR EUSTACE FRANCIS
[2] DAHLIA LOUISE FRANCIS
[3] BERNARD WILLIAMS FRANCIS
As Personal Representatives of the Estate of Rita,
Lady Francis, deceased
Claimants

And

[1] INGRID O. ABBOTT
First Defendant
[2] RIOA LIMITED
Second Defendant

Appearances:

Mr. Justin L. Simon KC for the Claimants
Ms. Jacqueline Walwyn for the Defendants

2025: February 10; 11
June 23.

JUDGMENT

- [1] **BYER, J.:** The Claimants are the personal representatives of the estate of Lady Rita Francis, deceased. By way of Claim Form filed on 2nd November 2017 (the first claim) and Fixed Date Claim Form filed on 10th January 2022, (the second claim), the Claimants instituted two separate actions against the Defendants, which were subsequently consolidated by order of the Court dated 18 April 2023. The Claimants

seek the following combined reliefs in respect of the first defendant and the second defendant, the company, RIOA Limited:

Under the first claim

1. An order declaring the shareholders' meeting of the Defendant Company held on the 25th or the 26th of April 2016, null and void and of no effect;
2. An order declaring that the appointment of Messrs. McAllister Abbott and McAllister B. Abbott, as directors of the Defendant Company, was not done in accordance with its Articles of Continuance, and is accordingly null and void and of no effect;
3. An order declaring that any and all directives purported to be issued or given by McAllister Abbott as a Director of the Defendant Company were made without due authority and accordingly quashed;
4. An order directing the Defendant Company to have its Annual Returns for the year ending December 31, 2016, filed forthwith and recording thereon the 50% shareholding held by Sir Eustace Francis;

Under the Second claim

5. An order pursuant to section 241 of the Companies Act 1995 that the business or affairs of the second named defendant has been carried on or conducted in a manner that is oppressive to and unfairly disregards the interest of the claimant as a shareholder
6. An order that the first-named defendant as the director of the second-named defendant do call an annual general meeting of the shareholders of the second named defendant within a specified time as directed by the court

7. An order that the First Defendant produce comparative audited financial statements for the financial years 2015 to 2021;
8. An order restraining the Defendants from disposing of any real estate assets of the Company without unanimous shareholder approval;
9. Any other Order that the Court deems fit and equitable in the circumstances; and
10. Costs against the First Named Defendant.

Background

- [2] The first claimant, Sir Eustace Francis (Sir Eustace), is the widower of Lady Rita Francis (Lady Rita), now deceased. The first defendant is married to Mr McAllister Abbott (Mr. Abbott). Together, they share a son, Mr. McAllister B. Abbott. Mr McAllister Abbott is the surviving brother of Lady Rita and, by extension, the brother-in-law of Sir Eustace. The parties have known each other for over 30 years. It appears to this court that during that time, they had engaged in several business ventures and investments. Most relevant to these proceedings is the business venture concerning the second defendant, RIOA Limited.
- [3] RIOA Limited was incorporated on 30th October 1984 by two subscribers, Lady Rita and the first defendant, who also served as the company's first and only directors and shareholders, each holding one share. The company was established for the purpose of constructing and managing a three-story commercial building located on High Street, St. John's, Antigua, a property which remains the company's sole asset. Francis Trading Agency Ltd., a company in which the first claimant holds an interest, was a tenant of the second defendant, who occupied the second and third floors of the building. Of relevance here, too, Sir Eustace was also made a signatory to the second defendant's bank account at the Eastern Caribbean Amalgamated Bank (ECAB).

- [4] No additional shares were ever issued, and the company's structure remained unchanged for several years until the passing of Lady Rita. Lady Rita died on 8th March 2016. At that time, the company's directorship and shareholding were split equally between Lady Rita's estate and the first defendant. However, following her passing, the first defendant became the sole director of the second defendant.
- [5] On 25th April 2016, the first defendant issued a notice of a shareholders' meeting, addressed to the estate of Lady Rita. The notice, signed by the first defendant in her capacity as sole director and shareholder, purported to waive the statutory notice period and scheduled the meeting for 9:00 a.m. the following day, 26th April 2016.
- [6] The agenda included, among other matters, the appointment of directors, the presentation of audited financial statements, and a review of the minutes of the last shareholders' meeting. According to the Defendants, the purpose of the meeting was to remedy the governance deficit left by Lady Rita's death. They contend that the first defendant, being the sole remaining director, acted under Article 86 of the company's by-laws to appoint additional directors to restore the board to its proper constitution, as required by Article 71, and Article 90, which mandates a minimum of three directors. The Defendants maintain that the appointments were both necessary and valid to ensure the continuity of the company's operations.
- [7] Later that day, counsel for the claimants wrote to the first defendant objecting to the holding of the meeting and advising that the claimants were in the process of obtaining Letters of Administration for the estate. They requested that the estate's interests be recognised in accordance with Article 33 of the company's by-laws. Despite this objection, on 26th April 2016, Sir Eustace received an email from Mr. Abbott informing him that both he and his son, McAllister B. Abbott, had been appointed directors of the second defendant effective 25th April 2016. A Notice of Directors was filed with the Companies Registry on 20th May 2016 confirming these appointments.
- [8] At the meeting convened on 26th April 2016, it was accepted that the second defendant owed outstanding sums to both Mr McAllister Abbott and Sir Eustace. A

decision was taken between the first defendant and her husband Mr Abbott to convert Mr Abbott's portion of that debt into equity. As a result, 353 shares were issued and held jointly between the first defendant and their son, Mr McAllister B. Abbott, thereby increasing their combined shareholding to 354 shares. While it was said in evidence by Mr Abbott that Sir Eustace had the same opportunity to convert his portion of the debt into shares, it is accepted by the defendants that no such option was ever communicated to him.

- [9] This share issuance resulted in only two distinct shareholder groupings: Sir Eustace holding one share individually, and the first defendant and her son holding the newly issued shares jointly. Accordingly, this structural arrangement prevented the formation of a valid quorum for general meetings, as Article 50 requires that three (3) members be present in person to transact business.
- [10] The claimants received the Letters of Administration ("LOA") on 10th June 2016. All corporate actions taken by the first defendant prior to that date were therefore conducted without formal representation of Lady Rita's estate.
- [11] On 13th July 2016, Sir Eustace was removed as a signatory to RIOA's bank account at the Eastern Caribbean Amalgamated Bank (ECAB), without his prior knowledge.
- [12] By letter dated 26th September 2016, Sir Eustace wrote to the first defendant requesting that a share certificate be issued to him in substitution for the one formerly held by Lady Rita. On 16th January 2017, Mr. Abbott, then acting as Director and Secretary, wrote to Sir Eustace requesting the return of the original share certificate, which Sir Eustace indicated could not be located.
- [13] On 8th March 2017, Mr Abbott issued a further request that Sir Eustace turn over all company records, some of which were in the possession of the second claimant. A new share certificate dated 17th March 2017 was ultimately issued and received by Sir Eustace some eleven months later, on 5th February 2018.

- [14] Sir Eustace contended that he has not received a notice of any shareholders' meeting since 2016, despite Article 45, which provides that the company must hold a general meeting each year designated as the Annual General Meeting (AGM). While he passed the company's records in his possession to external auditor Mr Gonsalves in 2016, no audited financial statements have ever been presented to him. He further alleges that directors began paying themselves remuneration, a practice which did not exist during Lady Rita's lifetime, without shareholder approval, contrary to Article 72, which requires that remuneration be approved by the company in a general meeting.
- [15] Sir Eustace asserted that these actions have been prejudicial to his interests as a 50% shareholder. He also denies that Francis Trading Agency Ltd. owes any rent to the second defendant. While a notice to quit dated 1st July 2016 was issued on the grounds of non-payment of rent, no further steps were taken thereafter, and to be clear does not form part of any claim before this court.
- [16] The claimants also allege that efforts were made by the defendants to sell the company's sole asset without their knowledge or consent, and outside the framework of any properly convened shareholders' meeting. It is against this background that the claimants now seek relief from the court.
- [17] The defendants by their defence filed on 12 December 2017, in the first claim, contended that the April 2016 shareholders' meeting was properly convened in accordance with the company's articles of incorporation and the laws of Antigua and Barbuda, and that the appointments of Mr. Abbott and McAllister B. Abbott as directors were validly made pursuant to Clause 86 of the Articles. The defendants further asserted that any failure to issue a share certificate to Sir Eustace arose from the inability to confirm whether a share certificate had previously been issued in the name of the deceased as two share certificates for the same interest could not be issued under the governing Articles.

- [18] The defendants further aver that since the death of Lady Rita, its directors have attempted to regularize the company's financial and administrative affairs. It claims, however, that these efforts were frustrated by the claimants' failure to cooperate, particularly in relation to requests for outstanding rent payments said to be owed by Francis Trading Agency Limited, and for access to corporate records needed to finalize financials.
- [19] The defendants also allege that no AGM has been convened since 2016 due to the company having only two distinct shareholders, which, in their view, rendered it impossible to meet the quorum requirement of three members under Article 50 of the company's by-laws.
- [20] The defendants further contended that all steps taken in relation to the proposed sale of the company's sole asset were in the best interest of the company, and that the claimant halted the proposed sale by refusing to give his consent when the draft sale and purchase agreement and valuation were sent to him.
- [21] In reply, the claimants continue to dispute the validity of the purported Shareholders' Meeting and the appointments arising therefrom, asserting that the meeting lacked proper notice and authority. The claimants also deny that Francis Trading Agency Limited is indebted to the defendant company and reject the assertion that they have obstructed any financial reconciliation.
- [22] At this juncture, the court considers it necessary to identify the relevant provisions of the Articles of Association of the second-named defendant which arise for consideration in light of the evidence and submissions. The Articles in issue are Articles 45, 50, 51, 71, 86, 90, and 91, which may be summarized as follows (with my additional emphases)

Article 45 – The Company shall, in each year, hold a General Meeting as its Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in notices calling it. The Annual General Meeting shall be held at such time and place as the Directors shall appoint. All General Meetings other than the Annual General Meetings shall be called Extraordinary General Meetings.

Article 50 – *No business shall be transacted at any General Meetings unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, three (3) members present in person shall be a quorum.*

Article 51 – If within an hour from the time appointed for a meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved, in any other case it shall stand adjourned to the same day in the next week, and the same time and place or to such other day at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall stand dissolved.

Article 71 – *The number of Directors shall be three.*

Article 85 – The Company may, from time to time, by ordinary resolution, increase or reduce the number of Directors, and may also determine whether the Directors shall be rooted and, if so, in what rotation.

Article 86 – *The directors shall have powers at any time, and from time to time, to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors shall not at any time exceed the number of Directors fixed in accordance with these present. Any Director so appointed shall hold office only until the next following Annual General Meeting, and shall then be eligible for re-election but shall not be taken into account in determining the Directors, if any, who are to retire by rotation at such meeting.*

Article 90 – *The quorum necessary for the transaction of the business of the Directors shall be three.* For the purpose of this Article, an alternate appointed

by a Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.

Article 91 – The continuing Directors or *sole continuing Director* may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, *the continuing Directors or Director may act for the purpose of increasing the number of Director to that number, or of summoning a General Meeting of the Company, but for no other purpose.*

- [23] In light of the above, it is evident that the relationship between the parties, once founded on shared family and business ties, has since deteriorated into deep mistrust and contested control over the defendant Company. Central to this dispute is the question of whether the actions taken by the defendants in the aftermath of Lady Rita's death including the appointment of directors, the issuance of shares, the failure to convene general meetings, and steps taken toward the sale of the company's sole asset were effected in accordance with the company's by-laws and the Companies Act, or whether they operated to the exclusion and prejudice of the claimants. It is against this backdrop that the parties now seek the intervention of the court.

Issues for determination

- [24] Having regard to the pleadings, the evidence, and the applicable legal framework, the following issues arise for the Court's determination:
- (1) Whether the conduct of the directors in the management of the company has been oppressive or unfairly prejudicial to the interests of the shareholders in breach of the Companies Act;
 - (2) Whether the directors named in the resolution of 26th April 2016 were duly appointed in accordance with the company's by-laws, or whether, in the absence of such compliance, their appointments and any actions taken on behalf of the company are null and void; and
 - (3) Whether the directors acted in breach of their fiduciary and statutory duty in the management and operation of the company.

Law and Analysis

Whether the conduct of the directors in the management of the company has been oppressive or unfairly prejudicial to the interests of the shareholders in breach of the Companies Act.

- [25] In addressing the first issue, the Court begins by examining the statutory framework governing oppressive and unfairly prejudicial conduct under the Companies Act of Antigua and Barbuda (“the Act”). Section 241 of the Act is central to the determination of this matter and is accordingly set out in its entirety:

“Restraining Oppression

Section 241 – Application to Court for Oppression Remedy

- (1) A complainant may apply to the court for an order under this section.
- (2) If, upon an application under subsection (1), the court is satisfied that in respect of a company or any of its affiliates:
 - (a) any act or omission of the company or any of its affiliates effects a result,
 - (b) the business or affairs of the company or any of its affiliates are or have been carried on or conducted in a manner, or
 - (c) the powers of the directors of the company or any of its affiliates are or have been exercised in a manner,

that is oppressive or unfairly prejudicial to, or that unfairly disregards the interests of, any shareholder or debenture holder, creditor, director, or officer of the company, the court may make an order to rectify the matters complained of.

- [26] Section 241(3) of the Act further empowers the Court to make such order as it thinks fit to remedy or rectify the matters complained of. While the provision contains additional subsections outlining specific types of relief, those were not expressly invoked by the claimants in this matter.
- [27] Given the breadth of language in the section, this court is required to examine the meaning and reach of the expressions “oppressive,” “unfairly prejudicial,” and “unfairly disregards.” These are not defined in the Act itself and must be interpreted in accordance with established judicial authority.
- [28] In this regard, the court is grateful to the defendants for directing it to the decision of ***Joan Devaux v Deboulay Holdings Limited et al***¹, where Hariprashad-Charles J, relying on *Butterworths Shareholders Remedies in Canada*, articulated the nature and scope of the oppression remedy. In that case the learned judge noted that the oppression remedy was described as both equitable and statutory in character, broad and flexible in its reach, but also subject to jurisdictional limits. The court there emphasized that a balance must be struck between protecting stakeholders and allowing directors reasonable latitude in managing the company’s affairs.
- [29] The judgment further drew on Canadian and English authority to describe “oppression” as conduct that is “burdensome, harsh and wrongful” or, as Lord Cooper stated in *Elder v Elder and Watson Ltd*², a “visible departure from the standards of fair dealing” and a “violation of the conditions of fair play” to which shareholders are entitled. Such conduct may arise from “illegal acts, misappropriation of corporate assets, breaches of fiduciary duty, mismanagement, or the exercise of dominant power to the detriment of a minority interest”. However, the authority warns that the

¹ SLUHCv2003/0424

² Para 13 of the judgment.

court must also be cautious not to unduly interfere with bona fide business decisions or to supplant the authority of a properly constituted board.

[30] Our Court of Appeal in dealing with the **Joan Devaux** case when it made its way to that court³, found at paragraph 8 per Saunders CJ (as he then was) that “the oppression remedy is a most flexible device given by Parliament to the court in order to protect the interests of minority shareholders. Since this remedy is a peculiar creature of statute, the court must before resorting to it ensure that certain essential elements are present. The court must also engage in a fine balancing act. On the one hand it must protect the legitimate concerns of minority shareholder. But at the same time it must take care not to usurp the function of the board of directors. While the minority must not be treated unfairly, the court should respect the justifiable exercise of control by the majority”

[31] Further helpful guidance is found in the decision of Forrester J (Ag.) in **Angela Barkhouse and Toni Shukla v Emergent Fidelity Technologies Ltd and anor** ⁴, which adopted the reasoning in *Marcus Wide and Hugh Dickson (Liquidators of Stanford International Bank Ltd) v Amicus Curiae and anor*⁵. There, the expressions “oppressive,” “unfairly prejudicial,” and “unfairly disregards” were held to overlap in meaning and to reflect a broader concern with visible departures from standards of fair dealing, viewed in the context of the company’s history, structure, and the reasonable expectations of its stakeholders.

[32] Importantly, Forrester J accepted that:

(1) **Oppression** is to be judged by a more rigorous standard and may require an element of coercion or a lack of probity in relation to the stakeholder’s proprietary rights.

³ Civil Appeal No 32 of 2003

⁴ ANUHCv2022/0480

⁵ [2015] ECSCJ No. 2522

- (2) **Unfair prejudice** is less egregious but nonetheless results in consequences that are unjust.
- (3) **Unfair disregard** implies ignoring or giving no weight to a shareholder's legitimate interests or expectations, without justification.

[33] This court therefore, must recognize, that in order for a complaint to be lodged and to be accepted, that complained of behaviour rises to the level of being considered oppressive ,prejudicial or in disregard of the minority interests, that such action must be an inquiry that is contextual in nature. Thus the court must consider whether the conduct in question departs from standards of commercial fairness and violates the shareholder's reasonable expectations regarding the company's structure and history. The focus is not merely on illegality or breach of strict rights, but also on broader notions of equity, fairness, and stakeholder inclusion. Indeed the test that is to be considered can be stated thusly, whether “a reasonable bystander observing the consequences of [the majority’s] conduct would regard it as having unfairly prejudiced the petitioner’s interests.”⁶ That being said an assessment of the evidence led before the court as to the complained of acts and the submissions on behalf of the parties on this issue will now be examined.

[34] The defendants submitted that the claimant has failed to establish any conduct that meets the statutory threshold of oppression, unfair prejudice, or unfair disregard under section 241 of the Act. Their case is structured around three principal complaints raised by the claimant: (1) the failure to convene AGMS; (2) the non-disclosure of audited financial records; and (3) the proposed sale of the company’s sole asset without shareholder approval.

⁶ **Brant Investments Ltd v Keep Rite Inc** [1991] 45 O.A.C. 320 CA at paragraph 27 per McKinlay JA

Failure to convene AGM

- [35] The court must consider the complaint concerning the failure to convene annual general meetings (AGMs) since the death of Lady Rita in 2016. The defendants argue that pursuant to Articles 50 and 51 of the company's by-laws, a quorum of three members is required to validly hold a general meeting. They submit that the second defendant has only ever had two shareholders initially being Lady Rita and the first defendant. Since Lady Rita's death this shareholding structure has not changed as the first defendant continues to be one shareholder (holding 353 shares jointly with her son) and Sir Eustace holding one share(that of his late wife Lady Rita). The defendants therefore contended that, in the absence of a third member, it was legally impossible to hold an AGM, and that this cannot amount to oppressive conduct.
- [36] The claimants, in response, characterizes this argument as both contrived and self-serving. They contended that the Articles should not be interpreted in a manner that enables the indefinite suspension of shareholder participation. Relying on section 97(6) of the Act, which mandates that directors are to comply with the Act even where the company's articles may suggest otherwise, and therefore he maintains that the defendants could have resolved the quorum issue by allotting shares individually to McAllister B. Abbott rather than jointly with the first defendant, particularly given the context of the share conversion. The claimants further point to **section 107** of the Act and Article 45 of the company's by-laws, both of which mandate the holding of AGMs. They submitted that the continued failure to comply by the second defendant was therefore indicative of a broader pattern of exclusion and a breakdown of governance accountability.
- [37] The court notes that both Mr. Abbott and the first defendant admitted in evidence that no AGM has been held since 2016. Mr. Abbott candidly accepted that his and his son's appointments as directors were to last only until the next AGM as per the terms if Article 86 and acknowledged that the Articles imposed an obligation to convene one. He nonetheless offered no persuasive explanation for the seven-year delay.

- [38] What is however clear to the court is that the obligation to convene an AGM and to notify shareholders of such a meeting arises by operation of law. The assertion by the defendants therefore that notices would have been pointless due to the quorum requirement under Article 50 does not excuse the failure to convene one. In this court's mind, the quorum deficiency was not an immutable barrier but a foreseeable consequence of the defendants' own decisions. The court therefore rejects these explanations as insufficient to justify the prolonged failure to comply with the statutory and company's own constitutional requirement to hold AGMs.
- [39] The court notes with concern the inconsistency in the defendants' position. The claimant's evidence, which the court accepts, as being uncontroverted upon cross examination was that AGMs had previously been held between the two initial shareholders to approve financial statements. It is only after the death of Lady Rita, the restructuring of shareholding and the effective shift of control that the defendants began to assert that no meeting could be validly held. This inconsistency must fundamentally undermine the credibility of the defendant's position and supports the unequivocal inference that the failure to convene the AGMs is a matter of design, on the part of the defendants.
- [40] The court therefore accepts the claimant's submission that the quorum issue could have been resolved through individual share allotment to McAllister B. Abbott, particularly following the debt-to-equity conversion in 2016. The choice to issue the shares jointly to the first defendant and her son ensured that no new individual member was in fact created for quorum purposes. It is clear to this court that it was a deliberate decision by the first defendant and her husband as the sole directors to perpetuate the inability of Sir Eustace from participating as a shareholder. Indeed, the quorum issue could have been resolved by proper allotment of shares, had the directors chosen to structure the company's affairs with transparency and fairness. The decision to issue shares jointly to the first defendant and her son ensured the quorum deficiency remained unresolved. This was a self-created barrier and cannot be invoked to justify ongoing non-

compliance. The court views this decision as a decision calculated to maintain exclusive control and avoid the convening of general meetings.

[41] The failure to hold AGMs has therefore effectively excluded Sir Eustace from exercising his shareholder rights, including receiving financial statements, voting on company decisions, and reappointing directors. This contravenes both his legal entitlements and legitimate expectations as a shareholder. In *Elder v Elder & Watson*⁷ Lord Cooper opined that the complainant should show that there has been conduct which “ at the lowest involves a visible departure from the standards of fair dealing and a violation of conditions of fair play on which every shareholderis entitled to rely.” In fact Lord Cooper went on to say “the circumstances have always been, I think, been such to warrant the inference that there has been, at least, an unfair abuse of powers and an impairment of confidence in the probity with which the company’s affairs are being conducted, as distinguished from mere resentment on the part of the minority at being outvoted on some domestic policy.”⁸

[42] In considering the actions of the first defendant and her husband as directors (whose appointment is also a source of contention) making a conscious decision to refuse to comprehensively and fairly deal with the inherent problem of the lack of quorum to ensure that there is effective input in the second defendant by the shareholders , this court can come to no other decision than to find that these actions on the part of the defendants to not convene an AGM since 2016 constitutes conduct that is oppressive and unfairly prejudicial to the claimant within the meaning of **section 241** of the Act.

Increase in shares

[43] The Sir Eustace alleges that his shareholding was unfairly diluted through the undisclosed issuance of shares to the defendants. The court is therefore required to consider whether this alteration in the company’s share structure amounted to oppressive or unfairly prejudicial conduct under **section 241**.

⁷ [1952] S.C 49 at page 55

⁸ Ibid

- [44] The Sir Eustace submitted that the allotment of 353 shares to the first defendant and McAllister B. Abbott was carried out unilaterally and without his prior knowledge or meaningful involvement, resulting in the reduction of his shareholding to a single-share minority. Although Sir Eustace was given what purported to be notice of the meeting at which the decision was made, this was done with less than a day's notice and without any prior consultation or disclosure of the intended allotment. Indeed not only was Sir Eustace not the appointed administrator of the Estate of Lady Rita whose interest he would have been concerned with but also both Mr. Abbott and Sir Eustace were creditors of the company. However it was not disputed that the directors resolved to convert Mr. Abbott's debt into equity, hence the increased share issuance, while excluding the Sir Eustace from that process.
- [45] In fact, contrary to the original case of the defendants that Sir Eustace had been given the same option to convert his debt to shares, at the trial of the matter and under cross examination Mr. Abbott admitted that the terms of that option had never in fact been presented to Sir Eustace. The claimants argued that this was a calculated move to wrest control of the company, done in breach of fiduciary duties and in a manner that was oppressive and unfairly prejudicial to the claimants' interests. The court observes that the defendants did not address the issue of the increase in shares in their written submissions. Nevertheless, the court will now turn to the evidence of both parties.
- [46] The court observes that the 2017 Annual Return⁹, prepared after Mr. Abbott was appointed company secretary, records three shareholders, but upon closer inspection, only two distinct shareholdings exist: one held jointly by the first defendant and McAllister B. Abbott, and the other individually by Sir Eustace. Although the records reflected three shareholders, the shareholding remained effectively split between only two members.

⁹ Trial Bundle "TB" 2, pgs. 77, 78.

[47] The court finds it particularly interesting that Mr. Abbott, who has intimate knowledge of the second defendant's company's Articles, including Article 50, which requires three members for a quorum, opted to preserve this structure. His explanation that it was standard practice to issue shares jointly and that his wife wanted their son included, and further that she is more comfortable holding the shares jointly, fails to justify the consequential and foreseeable effect of preserving a share structure that continued to prevent the formation of a valid quorum while effectively creating a clear imbalance as to the equity held in the second defendant.

[48] It was therefore with great interest that the court heard from Mr. Abbott that there had in fact been an intention to issue shares to himself to address the quorum issue, which would have created a third shareholder and allowed the company to convene a valid AGM. That proposal was ultimately abandoned, and instead, the shares were issued to his wife and son jointly. He however could not recall the exact value of the debt that was converted, nor could he provide any credible explanation for why Sir Eustace who also had a debt reflected in the accounts, had not been offered a similar opportunity prior to its conversion.

[49] In fact it was clear to the court from the evidence of Mr Abbott that quite contrary to the same option being offered to Sir Eustace, in fact the directors took a decision (bearing in mind that the first defendant in her own evidence always deferred to her husband and left him to handle all the business of the second defendant) to exclude Sir Eustace from the share issuance process due to his assertion that that Francis Trading Ltd. had been in arrears for rent since 2012 in the amount of \$88,000.00, as recorded in the audited financial statements. While the witness alleged that this debt remained unpaid, the court notes that no counterclaim was filed, nor does it appear that any formal recovery steps had been initiated. Mr. Abbott further stated that it was intended, at that time, that the estate of Lady Rita might later be offered the option to convert its remaining debt into shares, but he told this court that this was only going to be contemplated after deducting the amount allegedly owed by Francis Trading. However, as previously stated, this

rationale was never communicated to Sir Eustace. Once again a clear conscious decision to obfuscate this share reallocation to the detriment of Sir Eustace.

[50] The court finds the omission to consult or inform Sir Eustace about the share increase was both deliberate and prejudicial. The stated justifications lack any merit and this court regards this as a calculated structuring of control, designed to give the appearance of compliance while insulating the directors from shareholder oversight.

[51] In light of the foregoing, the Court finds that the decision to issue shares to the first defendant and her son, to the exclusion of the claimant, was not a neutral business decision but a deliberate effort to marginalize a minority shareholder. It was carried out without proper notice, without transparency, and without consultation, despite the known implications for the balance of shareholder power and the company's governance structure. The court is satisfied that this conduct constitutes unfairly prejudicial conduct within the meaning of **section 241**. It represents a clear departure from the standard of fair dealing expected in the operation of a closely held company, and the remedies under section 241 are therefore engaged.

Financial Disclosure

[52] Sir Eustace alleged that from 2016 onward, he was systematically denied access to key financial information concerning the affairs of the second defendant. He contended that no audited financial statements were disclosed, no shareholders' meetings were held to consider the company's financial performance, and that he was removed from the company's bank account without prior notice. The court considers these allegations under the following sub-issues:

(a) Withholding of Audited Financial Statements

[53] Sir Eustace asserted that although he had provided the company's financial records in his possession up to 2016 to the external auditor, no audited accounts were ever circulated to him, and he remained uninformed of the company's financial standing. This, he claims, denied him the ability to exercise his rights as a shareholder. The defendants

responded that the delay in finalizing audited accounts was due in part to the claimants themselves, who had allegedly withheld key documents. They asserted that some records were eventually turned over in stages between 2016 and 2017 and that the external auditors continued efforts to complete the process. They state that a meeting was held between Mr. Abbott and counsel for the claimants to discuss finalizing the audited accounts, and that the second defendant remains willing to make those records available, even in the absence of a court order. It was therefore argued on their behalf that those circumstances do not reveal any oppressive intent or conduct on the part of the directors.

- [54] The court however must take note that although it is accepted that meetings occurred between McAllister Abbott and the claimant's counsel in both 2019 and 2020 to address the preparation of financials, as of the filing of the second claim, Sir Eustace had yet to receive a single copy of the second defendant's audited accounts. At trial, Mr Abbott confirmed to the court that the company's books were current up to 2023, that audited financials were prepared and presented to the directors, and that these records were also filed with the Inland Revenue. However, he also admitted that Sir Eustace was never provided with a copy of those statements, and that no shareholders' meeting was convened to approve or discuss them.

While the court acknowledges that some delay may have arisen from incomplete record handovers, especially during the period immediately after the death of Lady Rita, the evidence ultimately shows that the audited financial statements were, in fact, finalized but withheld from Sir Eustace. The court finds that this exclusion, once the documents were available, was unjustified. However, standing alone, the failure to furnish audited statements, without more, does not necessarily amount to oppressive conduct, though it does lend support to the broader claim of exclusion and lack of transparency.

(b) Removal from the Company Bank Account

- [55] Sir Eustace also alleged that on 13 July 2016, he was removed as a signatory to the second defendant's ECAB account without prior notice, learning of this only four months later from the bank itself. The defendants responded by stating that his original

designation as signatory was for convenience only, as he worked alongside Lady Rita at the time. However, they also maintain that after her death and even prior, he held no formal role in the company and as such his removal from the accounts of the second defendant were not in any way prejudicial to him.

- [56] The court accepts that the removal, while not procedurally communicated, was not in itself improper, given that signatory status does not create an enforceable shareholder right. The removal occurred during a period of internal transition, and no evidence has been led to show that this action directly prejudiced the claimant's proprietary interests or ability to act as a shareholder. Accordingly, while the lack of notice was discourteous, it does not rise to the level of oppressive conduct for the purposes of **section 241**.

(c) Director Remuneration without Shareholder Approval

- [57] A further allegation of Sir Eustace is that the directors began paying themselves remuneration without shareholder approval, contrary to Article 72 of the second defendant's Articles, which require that director compensation be determined by the company in a general meeting.

- [58] The defendants did not directly dispute this claim, and no evidence has been produced to establish that such approval was obtained. Nonetheless, the evidence does not indicate the nature, amount, or regularity of any such payments. In the absence of financial records showing that director remuneration was substantial, sustained, or concealed in a manner affecting shareholder rights, the court is not in a position to determine that the payment of such remuneration, while potentially irregular, was in itself oppressive.

(d) Exclusion from Participation in Shareholder Meetings

- [59] Sir Eustace complaint also extended to the exclusion of himself from shareholder meetings, particularly the one held on 26 April 2016. Having received a notice dated the day prior, signed by the first defendant as sole director/shareholder, it purported to waive the usual notice period and included on the agenda the appointment of directors and auditors, as well as the presentation of 2013 financial statements. However Sir

Eustace's attorneys raised an objection to the holding of the meeting and indicated that a grant of Letters of Administration had not yet been granted for Lady Rita's estate.

- [60] In fact, Mr. Abbott confirmed in evidence that from 2016 to 2022, no further information was shared with the claimant about the second defendant's business affairs. Further although the defendants claim that shareholder engagement was hampered by the lack of a third shareholder and the unresolved estate issues, the evidence shows that Sir Eustace, who remained a registered shareholder, was never afforded any real opportunity to participate or review corporate decisions after 2016. The continued refusal to provide updates, despite his legal standing, supports the claim of exclusion.

(e) General Marginalization

- [61] Sir Eustace claimed that the conduct of the board, particularly after the 2016 meeting, was prejudicial to his interest as a 50% shareholder. Taken together, the failure to circulate financial statements, the lack of meetings, the withholding of company information, and his removal from involvement in operational decisions have created a pattern of marginalization. Mr. Abbott himself acknowledged that Sir Eustace had not been kept informed of the second defendant's business since 2016 and conceded that he was more "comfortable" operating the company without having to convene AGMs.
- [62] While each omission in isolation may not meet the threshold for oppression, the cumulative effect of these actions is significant. The sustained failure to include the claimant in the financial and managerial life of the company, particularly given his position as a shareholder and former participant in the second defendant's affairs, constitutes conduct that unfairly disregarded the interest of Sir Eustace. The court is therefore satisfied that this pattern of exclusion, centered on the withholding of financial disclosure, falls within the ambit of unfair prejudice and disregard under **section 241** of the Companies Act.

Sale of the Company's sole asset

- [63] In relation to this subheading, **section 136** of the Act is instructive. So far as is relevant, the section provides the following:

- (1) “A sale, lease or exchange of all, or substantially all, the property of a company *other than in the ordinary course of business of the company* requires the approval of the shareholders in accordance with this section.
- (2) A notice of a meeting of shareholders complying with section 111 shall be sent in accordance with that section to each shareholder and shall—
 - (a) include or be accompanied by a copy or summary of the agreement of sale, lease or exchange; and
 - (b) state that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 226.” (my emphasis added)

[64] Section 136 therefore imposes clear procedural obligations where a company intends to dispose of all or substantially all of its assets outside the ordinary course of business. Chief among these is the requirement to seek formal shareholder approval at a properly convened meeting, preceded by adequate notice and disclosure of the transaction’s terms. It is against this statutory backdrop that the court considers the parties’ submissions.

[65] Sir Eustace alleged that the proposed sale of the second defendant’s sole real estate asset was undertaken in breach of **section 136**. The court accepts that the sale contemplated here, being of the company’s only substantial asset, clearly falls within the ambit of that provision.

[66] It is not in dispute that no shareholders’ meeting was convened, no notice was issued in accordance with *section 136*, and no copy or summary of the agreement was circulated to shareholders as required by *section 136(2)*. Instead, a letter was sent by the defendants’ counsel to Sir Eustace’s counsel seeking his “favorable consideration” of a proposed sale, accompanied by a draft sale agreement.

[67] The draft sale and purchase agreement proposed a sale of the second defendant’s sole real estate asset at a price of \$3,900,000.00, based on a valuation dated May 2016,

despite the agreement being prepared in June 2022. The terms provided for the transfer of title upon payment of a \$100,000.00 deposit, followed by 20 monthly instalments of \$29,646.34. Mr. Abbott candidly admitted that he alone negotiated the sale and did so without any board meeting or shareholder approval. He stated that he believed, as a director managing the company's day-to-day affairs, he was empowered to act "for the company's benefit." However, he also confirmed that he had been instructed not to communicate directly with Sir Eustace, not by Sir Eustace himself, but by his own counsel, and that he expected a formal response before convening a meeting, which he never received.

[68] More troubling, Mr. Abbott acknowledged that the second defendant having been a guarantor on a loan owed by Abbotts Jeweler Ltd., a company connected to his family, and which loan was now in arrears, that the intention upon sale was that part of the proposed sale proceeds were to be applied to satisfy that unrelated debt. Although the debt predated his appointment as director, Mr. Abbott admitted that he agreed to have the second defendant repay it as part of the sale, again without any board resolution or shareholder approval. His justification for structuring the transaction in this way, involving a low deposit, delayed payments, outdated valuation, and applying corporate proceeds to resolve a family-linked liability, raises serious concerns about conflict of interest and potential breach of any duty he had towards the second defendant.

[69] The defendants argue that Sir Eustace was fully aware of the transaction, having been sent the draft agreement and a valuation report, and that his failure to engage meaningfully was due to personal animosity. While it is apparent that the relationship between the parties was strained, the court rejects the notion that a shareholder's reluctance to engage in informal discussions can substitute for compliance with statutory obligations. The requirements under **section 136** are clear and mandatory. Shareholders must be given notice of a meeting, together with the proposed agreement, and informed of their right to dissent and claim the fair value of their shares.

- [70] Mr. Abbott's further assertion that no meeting was necessary to discuss the lease agreement, despite its inclusion of an option to purchase, is equally misplaced. The court finds that entering into a lease with a purchase option over the company's only income-generating asset, without shareholder oversight, amounts to a significant decision falling squarely within the scope of **section 136**.
- [71] The defendants also attempted to justify the urgency of the sale on the basis of alleged rent arrears owed by Francis Trading Ltd., which Mr. Abbott claimed amounted to \$120,000.00, and the deteriorating state of the building. However, no legal action was taken to recover this alleged debt, and there is no evidence that any such amount was ever quantified or demanded through proper channels. The court also views this justification as insufficient to override statutory process.
- [72] Having said that this court also recognizes that under section 241 the "...court ought not to usurp the function of the board of directors in managing the company nor should it supplant the legitimate exercise of control by the majority ...business decisions honestly made should not be subjected to microscopic examination."¹⁰ (my emphasis added) Thus when this court addresses its mind to the circumstances of this proposed sale., there is nothing to suggest to the court that this management decision to sell , as it was touted to have been by Mr Abbott, met the threshold of a decision that could not be legitimately questioned. The court finds that the failure to convene a shareholders' meeting, coupled with the absence of proper notice, meaningful consultation, and disclosure of the transaction's terms, amounts to a procedural defect in clear violation of *section 136*. Indeed Mr. Abbott himself accepted that shareholder approval was legally required but chose to proceed without it. The failure to provide an opportunity for shareholder deliberation on a transaction of such material importance is inconsistent with the principles of fair dealing and corporate governance.
- [73] In the round therefore, having considered the totality of the evidence and the parties' submissions, the court finds that the conduct of the defendants, viewed cumulatively,

¹⁰ Brant Investments Ltd v Keeprite Inc et al 1987 60 O.R. (2d) 737 at pp 759 -760 (first instance judgment)

amounted to unfair and prejudicial treatment of the claimant within the meaning of *section 241 of the Act*. The sustained failure to adhere to proper and clear governance of the second defendant to the exclusion of Sir Eustace, including what this court can only call the machinations of the director Mr Abbott under the guise of management decisions, this court is therefore satisfied that Sir Eustace's interests as a shareholder were unfairly disregarded, and that statutory relief is warranted.

Whether the directors were duly appointed in accordance with the company's by-laws, or whether, in the absence of such compliance, their appointments and any actions taken on behalf of the company are null and void.

[74] The court now turns to the issue of whether the appointments of Mr. Abbott and Mr. McAllister B. Abbott as directors of the second defendant in April 2016, were effected in accordance with the company's Articles of Association, and whether, in the absence of such compliance, those appointments and any actions taken by them thereafter are valid.

[75] It is common ground that, following the death of Lady Rita, the first defendant was the sole surviving director of the second defendant. The claimants contend that the subsequent appointment of Mr. Abbott and Mr. Mc Allister B. Abbott as directors was procedurally flawed. They argue that no general meeting of the shareholders was convened to approve the appointments, and that the minutes of the board meeting at which the appointments were allegedly made have never been produced. They further contend, that, as the company's Articles fix the number of directors at three under Article 71, and that a quorum of three directors is required to transact board business under Article 90, the appointments could not have been lawfully made at a meeting where only one director was present. While they acknowledge that Article 91 permits a sole director to act in limited circumstances, they argue that such power is strictly confined to restoring a quorum or summoning a general meeting and cannot be used to effect substantive governance changes. The claimants also point to the fact that no grant of

letters of administration had yet been obtained for Lady Rita's estate at the material time, raising further concerns about the propriety of any corporate actions during that period.

[76] The defendants maintain that the appointments were validly made pursuant to Article 86, which empowers directors to appoint additional directors either to fill a casual vacancy or as an addition to the existing board, provided that the total number does not exceed the fixed number. They argue that the first defendant, as the sole continuing director at the time, was authorized under Article 91 to act for the purpose of restoring a quorum by appointing the two directors. They further submit that there is no requirement in Article 86 for shareholder approval of such appointments, and that the absence of a general meeting is immaterial in the circumstances.

[77] The court accepts that Articles 86 and 91, when read together, create a narrow but lawful mechanism by which a sole continuing director may appoint others for the limited purpose of restoring the board to its required number. Article 91 expressly authorizes the remaining director(s) to act notwithstanding a vacancy, but **only** to the extent necessary to increase the number of directors to quorum or to summon a general meeting, nothing more. Article 86 does provide the general power of appointment, but it must be exercised by a properly constituted board meeting. Where quorum is lacking, that power can only be accessed through Article 91's exception. Accordingly, the first defendant could validly appoint Mr. Abbott and Mr. McAllister B. Abbott for the sole purpose of restoring the board to quorum. Any suggestion that the appointments were made in the ordinary course of board business, or as part of a routine directors' meeting, is inconsistent with the Articles if such a quorum was not present.

[78] The evidence shows that on 25 April 2016, a board resolution was signed by the first defendant appointing her husband and son as directors. There is no evidence that a general meeting of shareholders was convened beforehand, and no quorum existed at the time of the resolution, as Article 90 requires the presence of three directors. While the defendants rely on Article 86 to justify the appointments, they also describe the decision as having been made at a board meeting, which would presuppose quorum, a

position incompatible with the factual context. The court finds this inconsistency material. If the appointments were made under Article 91 for the purpose of restoring a quorum, that is permissible; but if they were purportedly made under Article 86 in the ordinary course of board business, the lack of quorum renders the action ultra vires.

[79] Further compounding the issue is the absence of an AGM thereafter to ratify or regularize the appointments. Article 86 requires that any director appointed in this way holds office only until the next AGM, at which point they may be re-elected. The evidence before the court shows that no AGM was held following the appointments, in breach of Article 45 and section 107¹¹ of the Companies Act. As such, even if the initial appointments were valid for the limited purpose of restoring quorum, their continued occupation of office beyond the next AGM, without that meeting having taken place, was not in accordance with the Articles. The court emphasizes that where a sole director invokes Article 91 to appoint others, such appointments remain provisional, pending confirmation at the next AGM. In the absence of such confirmation, the legitimacy of their continued service on the board cannot be sustained.

[80] In the court's view, the failure to convene an AGM lies squarely at the feet of the directors themselves. The court finds that, although the initial appointments may have been lawfully made under the narrow terms of Article 91, the defendants failed to take the necessary subsequent steps to regularize those appointments in accordance with Article 86 and the company's constitutional framework. The appointments therefore lack ongoing legitimacy beyond the initial emergency context in which they were made.

[81] That being said it is therefore clear that lacking the necessary mandate to continue as directors of the second defendant, this court must consider whether subsequent board decisions were in fact valid.

¹¹ "The directors of a company shall call an annual meeting of shareholders not later than 18 months after the company comes into existence, and subsequently not later than 15 months after holding the last preceding annual meeting ..."

[82] In this court's mind, the answer to this question must regrettably be no. A board whose legitimacy is limited and who then fails to take the steps to ensure legitimacy by its own machinations, cannot benefit from those actions and then be heard to say that they cannot fulfil the necessary steps. The limited way in which subsequent directors were to be appointed did not include a power to carry on management decisions ad infinitum. It would indeed be a strange thing for a court to condone such action which would at the end of the day be in every sense allowing persons to profit from their very own self-serving decisions as opposed to decisions for the benefit of the company as a whole.

[83] That being said, this court must therefore consider a more in- depth analysis of those decisions that were made which ran not only contrary to the by- laws of the second defendant but also of the provisions of the Act which must be incorporated into operations of the second defendant, In that vein this court must consider the third and final issue identified.

Whether the directors acted in breach of their duty to the shareholders in the management and operation of the company.

[84] The court's finding that the board of the second defendant although initially properly constituted in accordance with the company's by-laws which then lost its legitimacy for failing to adhere to the same by-laws must necessarily raise questions as to the authority and legitimacy of management and operational decisions made on behalf of the second defendant. Therefore the question must now be asked whether those decisions were exercised in accordance with the statutory duties imposed upon directors under **section 97** of the Act. Considering the declaratory and injunctive relief sought by the claimants, and the central role the directors played in the company's governance since 2016, the court considers it necessary to examine whether their actions complied with the legal standards of honesty, good faith, and reasonable care.

[85] **Section 97** of the Act imposes minimum standards of conduct on directors and officers of companies incorporated under the Act. The section provides as follows:

“97. Duty of Directors and Officers

(1) Every director and officer of a company, in exercising his powers and discharging his duties, shall—

- a) act honestly and in good faith with a view to the best interests of the company; and
- b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) In determining what the best interests of a company are, a director shall have regard to the interests of the company's employees in general as well as to the interests of its shareholders.

(3) The duty imposed by subsection (2) on the directors of a company is owed by them to the company alone; and the duty is enforceable in the same way as any other fiduciary duty owed to a company by its directors.”

[86] *Section 97* therefore imposes dual obligations on directors: to act honestly and in good faith with a view to the best interests of the company (s.97 (1) (a)), and to exercise the care, diligence, and skill of a reasonably prudent person in similar circumstances (s.97 (1) (b)). In determining the best interests of the company, the director must also have regard to the interests of its shareholders (s.97 (2)).

[87] The court's earlier findings established that the board of the second defendant although properly constituted following the death of Lady Rita, the fact that no AGM was convened thereafter to regularize the appointments or to provide shareholder oversight meant that the board then lost its mandate to act. This failure to adhere to the company's constitutional structure created a legal vacuum in which directors exercised authority unchecked.

[88] A recurring theme in the evidence is that Mr. Abbott, having been appointed director, assumed operational control of the company and made consequential decisions without

consulting Sir Eustace, without board approval, and shareholder input. This includes the negotiation of the proposed sale of the company's sole real estate asset. Mr. Abbott admitted that the sale terms, including a low \$100,000 deposit, extended instalment payments, and reliance on a six-year-old valuation, were determined by him alone. He further admitted that the title was negotiated to pass before full payment and that no updated security arrangements were in place. The court considers this decision commercially imprudent and a clear failure to exercise the standard of care required under section 97(1) (b).

- [89] Mr. Abbott also confirmed that he had made the apparently unilateral decision that part of the proposed sale proceeds would have been used to repay the unrelated debt of Abbotts Jewelry. This arrangement was undertaken without formal board discussion, without shareholder approval, and in the absence of any attempt to obtain independent advice. The court finds that this created a serious conflict of interest and would have required the mental gymnastics of the court to find that this transaction, which ultimately failed, was in any form for the benefit of the second defendant.
- [90] The lack of transparency extended beyond the sale. Mr. Abbott acknowledged that no AGM had been convened since 2016, despite holding dual roles as both director and corporate secretary. He conceded that the obligation to convene an AGM lay with the board or secretary, but offered no reasonable explanation for the seven-year delay save the reliance on the provisions of the Articles which through his own artifice the company could not create a quorum.
- [91] The cumulative weight of the evidence shows a pattern of conduct in which the directors, particularly Mr. Abbott, who in the words of the first defendant have dealt with the management of the second defendant since the passing of Lady Rita, acted without proper authority, failed to disclose material information, and prioritized private interests over corporate duty. The failure to consult shareholders on the sale, the concealment of financial records, and the irregular share issuance all reflect a sustained departure from the standards required under section 97 of the Act.

[92] While the court accepts that the directors may have believed they were acting for the company's benefit, the absence of procedural integrity, the disregard for established governance, and the evident conflicts of interest undermine any such claim. The duty to act honestly and in good faith must be grounded in transparency, accountability, and fairness, none of which were consistently demonstrated in this case.

[93] The court therefore concludes that the directors of the second defendant breached their statutory duties in the management and operation of the company. These breaches, viewed in totality, justify the claimant's request for declaratory and injunctive relief and support the broader findings of conduct which are oppressive, unfairly prejudicial to, or unfairly disregard the interests of the claimant as shareholder, already made under *section 241*.

Disposition

[94] In light of the foregoing findings, including the exclusion of the claimants and in particular Sir Eustace from the affairs of the company, the failure to convene shareholder meetings, the lack of transparency in material decisions, and the overall mismanagement of the company's governance structure, the court finds that the claimants' rights and legitimate expectations were consistently undermined. The court further finds that certain actions undertaken by the purported directors were effected without lawful authority and in contravention of the company's Articles of Association and statutory requirements. Accordingly, the Court grants the following reliefs:

1. The order seeking the shareholders meeting of the second defendant on the 25th or 26th April 2016 null and void is refused
2. It is declared that the appointment of Mr. McAllister Abbott and Mr. McAllister B. Abbott as directors of the second named Defendant although initially valid has not continued in accordance with the Articles of Association of the second defendant and are now rendered null and void and of no effect as of the date of the annual return dated the 31st December 2016.

3. It is declared that any and all directives purportedly issued by Mr. McAllister Abbott in his capacity as director of the second named Defendant after 31st December 2016 were made without lawful authority and are hereby quashed.
4. Pursuant to section 241 of the Companies Act the court finds that the business affairs of the second named defendant have been carried out in or conducted in a manner that is oppressive to and unfairly disregards the interest of the claimant as shareholder and further orders that the second named defendant is directed to take all necessary steps to establish the requisite quorum required to convene a general meeting of shareholders within ninety (90) days of the date of this judgment for the purpose of regularizing its board of directors in accordance with its Articles of Association and the provisions of the Companies Act by the appropriate division of the block of shares held jointly by the first defendant and McAllister B Abbott.
5. Thereafter within 60 days of that transfer the second defendant shall convene an AGM of the shareholders.
6. It is ordered that the First Defendant shall produce to the Claimant comparative audited financial statements for the financial years 2015 through 2021, such production to be completed within ninety (90) days of the date of this judgment.
7. It is ordered that the Defendants are hereby restrained from disposing of any real estate assets of the Defendant Company without the approval of all registered shareholders present and voting at a duly convened general meeting of shareholders.
8. The First Defendant shall pay the Claimant's costs of these proceedings, such costs to be assessed if not agreed within 21 days of today's date

P. Nicola Byer
High Court Judge

By the Court

Registrar

