

ANSWER TO QUESTION 8

Under MCL 450.1487(2), "falnv shareholder of record, in person or by attorney or other agent, shall have the right" to inspect "for any proper purpose the corporation's stock ledger, a list of its shareholders, and its other books and records."

Under the statute, a shareholder is required to give the corporation a written demand, "describing with reasonable particularity" the shareholder's purpose, the records sought, and that "the records sought are directly connected with the purpose." A "proper purpose" under the statute is defined as a purpose reasonably related to the person's interest as a shareholder.

The statute also requires that the written demand be delivered to the corporation "at its registered office in this state or at its principal place of business." The statute also specifically contemplates that a demand is permissible through "an attorney or other agent" so long as the demand is accompanied by documentation which authorizes the "agent to act on behalf of the shareholder."

If the corporation does not permit an inspection within 5 business days after a proper demand has been received, or if the corporation imposes unreasonable conditions upon the inspection, the shareholder may apply to the county circuit court in which the principal place of business or registered office of the corporation is located to seek a court order to compel the inspection. MCL 450.1487(3).

The burden of proof depends upon the type of document sought. If the shareholder seeks to inspect the stock ledger or list of shareholders (and has otherwise complied with the written demand requirements), the burden of proof is on the corporation to show that the demand was made for an improper purpose or that the records sought are not directly connected with the shareholder's stated purpose.

If the shareholder seeks records other than the stock ledger or list of shareholders (and has otherwise complied with the written demand requirements, the burden is on the shareholder to establish that the inspection is for a proper purpose and that the documents are directly connected with the stated purpose.

The court has the discretion to permit the shareholder to inspect corporate books and records "on conditions and with

limitations as the court may prescribe and may award other or further relief as the court may consider just and proper." Additionally, if the court orders shareholder inspection of corporate records, then the court "shall also order the corporation to pay the shareholder's . . . costs, including reasonable attorney fees, incurred to obtain the order unless the corporation proves that it failed to permit the inspection in good faith because it had a reasonable basis to doubt the right of the shareholder . . . to inspect the records demanded."

Because WECS refused to comply with Dennis and Ed's written demands within 5 days after the demands were received, both Dennis and Ed can file actions in Bedbug County Circuit Court.

Because the statute allows "any shareholder of record" the right to inspect corporate records, the fact that Ed only owns one share of stock is irrelevant. The statute contains no minimum requirement. Additionally, the fact that he made his demand through an attorney is irrelevant, as the statute specifically contemplates making a demand through an attorney. Ed has demanded a list of shareholders, and has complied with the statute concerning the form and manner of the demand. The burden is on the corporation to show that the demand was made for an improper purpose. Seeking a shareholder list to get elected to the board of directors is a proper purpose pursuant to *George v International Breweries, Inc*, 1 Mich App 129 (1965).

Dennis has demanded a list of WECS's major accounts. Because the document sought is neither a stock ledger nor a list of shareholders, the burden is on Dennis to establish that the inspection is for a proper purpose and that the documents are directly connected with the stated purpose. Assuming that ensuring maximum profitability is a proper shareholder purpose, his claim should fail because a list of the major accounts is not "directly connected" with maximizing profitability. This is particularly true considering that Dennis is employed by WECS's competitor, and the information could be used by Acme to the detriment of WECS. If the demand is not sought in good faith for the protection of the interests of the corporation or the stockholders, a stockholder is not entitled to an order compelling the inspection of corporate documents. See *Slay v Polonia Pub Co*, 249 Mich 609, 616 (1930).

Assuming that Ed's claim prevails, he is entitled to "costs, including reasonable attorney fees." Even if Dennis prevails on his claim, he would not be entitled to attorney's fees if WECS can show that it had a good faith reasonable basis to doubt Dennis's right to inspect the list of major accounts. MCL 450.1487(5).