ANSWER TO QUESTION NO. 2

Voting weight: Pursuant to MCL 450.1301, a corporation may issue the number of shares authorized in its articles of incorporation. Here, DDD's articles of incorporation permit only 100 shares. Furthermore, MCL 450.1301 specifically indicates that "[t]he shares may be all of 1 class or may be divided into 2 or more classes." Thus, having only one class of shares is explicitly permissible under Michigan law. Additionally, in the absence of any limitation or designation applicable to separate series contained within a class of shares, "each share shall be equal to every other share of the same class." Thus, despite Dan's claim that his creative genius should be afforded some additional quantum of voting weight, nothing in DDD's articles of incorporation or Michigan law supports this claim.

Amendment of the Articles of Incorporation: A corporation may amend its articles of incorporation if "the amendment contains only provisions that might lawfully be contained in the original articles of incorporation filed at the time of making the amendment." MCL 450.1601. Specifically, a corporation may amend its articles of incorporation in order to "[e]nlarge, limit, or otherwise change its corporate purposes or powers." MCL 450.1602(b). Thus, DDD's articles of incorporation may be permissibly amended to include dealing in vintage automobiles, so long as that purpose would have been proper originally. See also *Detroit & Canada Tunnel Corp v Martin,* 353 Mich 219 (1958). Although unrelated to its confectionary business, dealing in vintage automobiles is a legal enterprise and could have been included in the original articles of incorporation.

As far as the procedure regarding shareholder amendment of the articles of incorporation is concerned, MCL 450.1611(4) requires that notice be given to each shareholder entitled to vote "within the time and in the manner" provided in the Corporation Act for giving notice of shareholder meetings. MCL 450.1404(1) permits notice "not less than 10 nor more than 60 days" before the date of the shareholder meeting, and allows notice to be given "personally, by mail, or by electronic transmission." Thus, the 30-day personal notice provided by DDD to Dan and the other voting shareholders is sufficient.

The articles of incorporation are amended "upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote on the proposed amendment and, in addition, if any class or

series of shares is entitled to vote on the proposed amendment as a class, the affirmative vote of a majority of the outstanding shares of that class or series." MCL 450.1611(5). It is noteworthy that the voting requirements for amending the articles of incorporation "are subject to any higher voting requirements" provided in the Corporation Act for specific amendments or in DDD's articles of incorporation. Once the amendment is approved by a majority of the shares entitled to vote, a certificate of amendment must be filed with the state. MCL 450.1611(7); MCL 450.1631.

A shareholder who does not vote for (or consent in writing to) a proposed amendment of a corporation's articles may dissent and is entitled to receive payment for his shares, if amending the articles of incorporation either: (a) "[m]aterially alters or abolishes a preferential right of the shares having preferences;" or (b) "[c]reates, alters, or abolishes a material provision or right in respect of the redemption of the shares or a sinking fund for the redemption or purchase of the shares." MCL 450.1621(1). Nothing in the fact pattern indicates that amending DDD's articles of incorporation to include dealing in vintage cars has any impact on Dan's shares or affects Dan's redemption of his shares. Thus, he is not entitled to receive payment for his shares pursuant to MCL 450.1621 and 450.1762.

Shareholder agreement restricting share transfer: Pursuant to MCL 450.1472(1) a restriction on the transfer of corporate shares may be imposed by "the articles of incorporation, the bylaws, or an agreement among any number of holders or among the holders and the corporation." A transfer restriction is not binding with respect to shares issued before the restriction was adopted "unless the holders are parties to an agreement or voted in favor of the restriction." Thus, while the shares issued in 1985 would not ordinarily be bound by the 1999 shareholder agreement, Dan's shares are affected by the agreement because he was party to the unanimous agreement.

MCL 450.1473(a) explicitly permits restrictions on the transfer of shares of a corporation if the restriction"[o]bligates the holders of the restricted instruments to offer to the corporation or to any other holders of bonds or shares of the corporation or to any other person or to any combination thereof, a prior opportunity to acquire the restricted instruments." Thus, Dan may properly be precluded from transferring his 30% interest in DDD to his friend Faye, and may be required to sell his shares to the other shareholders of DDD.