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CANADA BUSINESS CORPORATIONS MANUAL

Jack J. Quinn
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The Manual provides corporate law practitioners with a comprehensive and up-to-date toolkit, including: a narrative roadmap through the relevant statutes and regulations; authoritative commentary on case law developments; clear guidance on the technical aspects of federal corporate organization, maintenance, and transactions; and a comprehensive collection of precedents, forms, and checklists.

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This release features updates to Appendix 11A — Remedies Table for Breach of Fiduciary Duty by Directors and Officers in Chapter 11 — Directors — Officers. This release also includes updates to the case law annotations to the Business Names Act in Chapter 28. Extra-Provincial Corporations in Ontario. This release also includes an update to Appendix TC:2 Table of Concordance (STAs, CBCA, An act respecting the transfer of securities and the establishment of security entitlements).

Highlights

- **Remedies Table — Breach of Fiduciary Duty by the Directors and Officers — Damages/Equitable Compensation** — In light of Justice Mainella’s decision on the appropriateness of summary judgment and the concessions made at the hearing of the appeal, there was no basis to interfere with the motion judge’s award of punitive damages. Justice Mainella did, however, consider it necessary to comment on the quantum of punitive damages ordered by the motion judge. Despite the thoroughness of the motion judge’s reasons generally, how he arrived at the figure of \$100,000 in punitive damages as being “reasonable in the circumstances” was not readily apparent given that he appropriately concluded that Sheegl’s outrageous conduct included not only taking over \$300,000 in bribes as a fiduciary, but also repeatedly attempting “to cover up his wrongdoing”. The bribery scheme impacted not just one or even many victims, but public confidence in municipal government generally. Justice Mainella observed that it should not be forgotten that Sheegl was the most senior civil servant in the administration of the City heading up a construction project with the objective of providing the infrastructure for public safety. In Justice Mainella’s view, satisfying the needs of denunciation and deterrence in the award for punitive damages was significant to send the correct message to other ethically bankrupt officials or business people and the public generally that the civil law will administer punishment fairly and firmly when necessary. Justice Mainella explained that the conduct of Sheegl was so serious and so reprehensible that the bounds of rationality could have justified a much higher award of punitive damages than \$100,000 to satisfy the need for retribution, deterrence and denunciation in light of the total award and the conduct in issue because the integrity of public finances must be protected by the courts from large-scale bribery and the systemic ignorance of fiduciary duties, particularly those involving the most senior public officials. Accordingly, the quantum of the motion judge’s award of punitive damages should be understood in the future to be a precedent within the bounds of rationality. It was not an award that gave rise to any concern of disproportionality, nor could it be said to be an award that tested the limits of the bounds of rationality given all of the relevant circumstances: *Winnipeg (City) v. Sheegl et. al.*, 2023 CarswellMan 249, 2023 MBCA 63 (Man. C.A.).
- **Business Names Act — Section 7(3) — Contracts Valid** — In the Associate Justice’s view, this was a case of misnomer. Vranich had also given evidence that “Urban Life Residential” was a business name for Urban Inc. Although Vranich was incorrect at the time of his discovery about it being a registered business name, that may be ameliorated by section 7(3) of the Business Names Act that provides that no contract is void or voidable by reason only that it was entered into by a person who

was in contravention of the Act or its regulations at the time the contract was made. If “Urban Life Residential” was an unregistered business name for Urban Inc., then the failure to register it was not necessarily fatal to enforceability of the APS: *Urban Life Residential, In Trust v. 615858 Ontario Limited*, 2023 CarswellOnt 1500, 2023 ONSC 690 (Ont. S.C.J.).

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