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CANADA BUSINESS CORPORATIONS MANUAL Jack J. Quinn Release No. 9, November 2025

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.

This release features updates to Appendix 4PS—Procedural Summary for the resolution of disputes under the CIRA Domain Name Dispute Resolution Policy in Chapter 4—Name—Office. This release also includes updates to Appendix 13C—Case Summaries—The Oppression Remedy in Chapter 13—Shareholder Remedies.

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Highlights

- **Summary of Procedure for the Resolution of Disputes under the CIRA Domain Name Dispute Resolution Policy—Case Law—The Response**—Although the Panel would allow the Registrant’s late Response, the Proceeding would continue to be heard by a single Panel pursuant to Rule 6.5. The Rules do not specifically speak to circumstances where a single Panelist is appointed as a result of a Respondent’s default but then the Panelist proceeds to allow the Response. Normally where a Response is filed in a timely manner, a three-person Panel is appointed pursuant to Rule 6.4. However, where there is no Response, a Complainant may elect to proceed with a single-member Panel, as it had done here pursuant to Rule 6.4. The Panel noted that there is perhaps a gap in the Rules because a single-Member Panel can be elected to hear the case in the event of a failure to file a Response, but that single-member Panel can also, as was done here, decide to admit a late Response. Accordingly, once the single-member Panel decides to admit a late Response, the Panel can also then require that the proceeding continue with a three-member Panel as a result of a late Response being admitted. The Panel can however, alternatively, determine how best to proceed in the circumstances, having regard to Rules 9.1(a), (b), and (c) and that can mean that the Proceeding continue with the single-member Panel. The Panel weighed the circumstances to determine what was fair and appropriate in the circumstances. By requiring the matter proceed with a three-person Panel as a result of the admission of a late Response *Nunc pro tunc*, the Complainant would in a way be prejudiced since the Complainant would have to pay for a three-person Panel instead of a single-member Panel, which represents a significant increase in costs. On the other hand, a Registrant is normally entitled to a three-member Panel at the Complainant’s cost if the Registrant files a Response. Although it was a close call, in the circumstances the Panel decided to permit the matter to proceed with a single-Member Panel. The reasons for that were as follows; a) The Registrant failed to address the hard-copy delivery of the Complaint thereby increasing the indulgence required; b) Had the Registrant satisfactorily addressed the hard-copy delivery issue, the Registrant would have likely been given the opportunity to request a three-member Panel, as it is normally entitled to it; c) on balance it seemed fair that because the Registrant was being permitted to file late even with an incomplete explanation, and to the prejudice of the Complainant whose Complaint was now responded to when it otherwise would not have been that the Complainant’s financial burden of having to pay for a three-member Panel be alleviated in exchange for permitting the Registrant the indulgence; and d) If the Panel were to direct that the matter proceed as a three-person Panel, it would create a difficult situation in that the procedure for appointing a three-person Panel does not necessarily involve the present Panelist and if that were to be the case, the Complainant would as a result have to pay for not just the present Panelist fee, but also possibly for an additional set of three-Panelists, something that is not contemplated in the Rules and would be an unforeseeable additional expense. The Panel recognized that this solution was not entirely satisfactory but noted that the Rules appear to have a gap that should be addressed in their next iteration, but until then, the Panel was charged with find-

ing the fairest route for both parties in the circumstances. The Panel believed that this solution gives each of the parties a benefit; the Registrant got to file its Response and the Complainant avoided having to pay additional fee: *Automotive Finance Corp. and Paolo Fasciani, Re*, 2025 CarswellNat 1686 (C.I.R.A.).

- **Shareholder Remedies—Case Summaries—The Oppression Remedy—Failure to Comply with Corporate Governance Requirements**—The removal of Evashkow as director and CEO was one of many orders made by the Application Judge in deciding the competing oppression claims made by the two warring shareholder groups: the Saccucci Parties and the Smith Parties. The Smith Parties were the Respondents to this appeal. Evashkow was not a shareholder in blueRover and was not one of the Saccucci Parties. However, he was nominated to the Board by Korona, one of the Saccucci Parties, and was therefore aligned with their interests. The Appellant submitted that his removal as officer and director was an extraordinary remedy that the Application Judge granted without sufficient factual and legal basis for doing so. The choice of an appropriate remedy is a discretionary decision that attracts a high degree of deference. Having said that, removal of a director is an extraordinary remedy that should be imposed sparingly. However, an order for removal of a director “could be suitable where the continuing presence of the incumbent directors is harmful to both the company and the interests of the corporate stakeholders, and where the appointment of a new director would remedy the oppressive conduct”: Where an oppression remedy is found to be warranted to correct an oppressive situation, “the surgery should be done with a scalpel, not a battle axe”. An important consideration is that the court must, in granting a remedy, “even up the balance not tip it in favour of the hurt party”. Evashkow was not elected by a vote of the shareholders. He was appointed by one of the shareholders, the Korona Group. To the extent that Evashkow’s removal interfered with the authority of the shareholder who nominated him, that shareholder took no part in this appeal. Korona Group also retained its authority to appoint a new CEO following Evashkow’s removal. The Divisional Court concluded that the Application Judge considered and applied the relevant principles to the record before him. The remedy of Evashkow’s removal was responsive and proportionate to the business realities. Further, his order for removal does not disturb the Board’s balance of power, as the party that nominated Evashkow was able to nominate his replacement. The Divisional Court concluded that the Application Judge made orders within his discretion that were supported by findings on the evidence before him. The Appellant failed to establish that he erred in doing so. The Application Judge’s orders were informed by appropriate considerations of business realities and the remedies appealed including removal of Evashkow as director were ordered only after the Application Judge was satisfied, following court-monitored interim operation of blueRover, that such orders were necessary: *Evashkow v. Melia*, 2025 CarswellOnt 7143, 2025 ONSC 2181, 2025 A.C.W.S. 2302, 60 B.L.R. (6th) 215 (Ont. S.C.J.) (Divisional Court).