

Essay Question No. 5

Answer this question in booklet #5.

Art, Bob and Cindy decided to form Alaska Automotive, Inc. ("AAI") Art was a car mechanic but did not have the money to get a new car repair shop off the ground. Bob and Cindy knew little about fixing cars but had good jobs and money to invest. Each party believed that by pooling their talents and resources they could create a successful auto repair shop business. Art, Bob and Cindy filed articles of incorporation with the State of Alaska which provided that the purpose of the corporation was to engage in the business of repairing cars. The State issued a certificate of incorporation.

At the organizational meeting of the corporation, Art and Bob were elected to be the two directors of the corporation. Art was elected president and treasurer and Bob was elected secretary. The board of directors then decided that Art would run the repair shop on a day-to-day basis and would receive a salary for his services. Bob and Cindy both had full-time jobs so they did not want to be involved in the day-to-day management of the business.

After the first year in business, Bob and Cindy started to wonder why they had not received any dividend checks. They each called Art to ask him what was going on and to ask to inspect the corporation's financial statements and all other documents relating in any way to the business of the corporation. Art asked why they wanted such information. Bob and Cindy responded that they were owners of the corporation and, thus, that Art needed to let them review the documents. While Art promised to drop the information in the mail, he did not. Bob and Cindy then decided to go to the business after business hours to talk to Art directly and to inspect the business premises. When they arrived, Art demanded that they leave.

Several days later, Cindy ran into an employee who worked for AAI. The employee told Cindy that AAI's car repair business was strong and the shop was making money. He also explained that Art had recently hired several computer technicians in order to repair and service computers using space at the corporation's shop. The employee said that Art was investing all of the AAI's profits from the car repair business into starting up the new computer repair business. In addition, the employee said, Art had recently signed a contract with Bristol Construction, Inc. ("BCI"), a large Anchorage firm, under which AAI agreed to service all of BCI's computers for a period of five years. Cindy called BCI. BCI confirmed that it had such a contract and that when signing the contract Art had given BCI a copy of AAI's articles of

incorporation and a copy of the meeting minutes showing that Art was the president of AAI. Cindy was angry because she does not want to be in the computer business and simply wants her share of AAI's profits. She does not believe that AAI can make money performing work under the BCI contract.

1. (a) Does Bob have a right to inspect the financial statements and other information requested from Art and to inspect AAI's business premises? Discuss.

(b) Does Cindy have a right to inspect the financial statements and other information requested from Art and to inspect AAI's business premises? Discuss.

2. Discuss whether Cindy, as a shareholder of the corporation, can avoid enforcement of the BCI contract against the corporation.