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# Shareholder expectations: Ignore at your peril

By **STEPHEN ANTLE**

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You're a conscientious corporate executive. You're familiar with your company's articles and shareholders' agreement. You know the *Business Corporations Act*. Before making management decisions, you consider those requirements and you have a corporate lawyer to consult if necessary.

Should you consider anything else? Absolutely. You also need to consider how those decisions will affect the expectations of other stakeholders about how the company will be run. Why? Because you put the company (and yourself) at risk if you don't.

If a stakeholder persuades a court they had an objectively reasonable expectation about how the company would be run (in light of their relationships with other stakeholders and the company's conduct) and the company has instead been run in a way that is "burdensome, harsh or wrongful," prejudices them unfairly or treats their interests as unimportant, the court will correct the situation.

What sorts of expectations should you consider? Expectations of required meetings and financial statements; stakeholders' involvement in management; appointment of directors and officers; distribution of profits; management fees and dividends and insider transactions.

If a stakeholder persuades the court the company was not run according to their expectations, the court has the power to do anything it deems appropriate to fix the situation. Typically, that can include: Ordering the company or another shareholder to buy the stakeholder's shares at their fair value; replacing, adding or removing directors; amending corporate documents; changing or setting aside transactions.

The court can even liquidate the company or make orders against directors and officers personally if they have personally benefitted. These orders are available to any shareholder - registered or beneficial, minority or majority, whether the company is private or public. They are also available to any other "appropriate" person. This can include anticipated

and former shareholders, shareholders of corporate shareholders, beneficiaries of trust shareholders and directors. It can even include creditors.

Obviously, those consequences can be serious. You should always consider what expectations the company's statements and actions could create and your decisions should be consistent with those expectations. If there's any doubt, consult that corporate lawyer. If they don't have the expertise, consult a litigation lawyer who does.

If you are a shareholder (or an appropriate person), consider your expectations about how the company will be run. When decisions are made, be aware of your options and seek appropriate advice. Among other things, it is important that you act "in a timely manner" if you have any concerns - while the situation can still be fixed.

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