

July 2, 1945

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ARIZONA ATTORNEY GENERAL

Mr. Charles Stough, Secretary
Arizona Corporation Commission
Phoenix, Arizona

Dear Mr. Stough:

In response to your request of recent date in reference to the request made by Mr. Hugh Egan, you are advised that section 53-306 provides for the voluntary dissolution of a corporation. This section reads as follows:

"Voluntary dissolution.--(a) Any corporation having discharged its obligations may be dissolved at either an annual or special stockholders' meeting by a two-thirds vote of the outstanding shares of stock, or by the unanimous written consent of all stockholders.

"(b) Notice of proposed dissolution shall be given by publication in a newspaper published in the county where the principal office of the corporation is located, once each week for four (4) successive weeks immediately prior to the meeting at which the proposed action is to be taken, and by mail to the last known address of each stockholder as shown by the books of the corporation, at least thirty (30) days before such meeting. The notice shall state: 1. the time and place of the meeting; 2. that the corporation has discharged its obligations; 3. a description of the general character of its assets, if any, and, 4. whether it is proposed to divide the assets among the shareholders, sell them and divide the proceeds, or transfer them to another corporation in exchange for its shares, and said notice shall be accompanied by a sworn report of the financial condition of the corporation at the date of the notice.

"(c) The resolution to dissolve shall be submitted to the stockholders, who may vote

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in person or by proxy for the adoption or rejection thereof. If all outstanding shares in the corporation are of the one class and of equal par value each share shall be entitled to one (1) vote; if the shares are of different classes or of different par values, relative voting rights shall be upon such basis as the charter or by-laws of the corporation may provide, or in the absence of any express provisions, then in the ratios of respective par values, treating each no par share, if any, as of a par value equal to the par value of the outstanding shares of the corporation of highest par value. If two-thirds of the stock, valued as provided by this subsection, is voted in favor of dissolution, the resolution shall be declared adopted, and upon the filing of a copy of the same, certified by the president and secretary of the corporation, in the office of the corporation commission, the corporation shall cease to exist except as to any creditors, whose rights shall remain in them.

"(d) If the resolution to dissolve shall provide that the assets of the dissolved corporation, or any of them, are to be exchanged for stock in another corporation, any stockholder voting to reject the resolution, who does not consent to the exchange of assets for stock, shall be paid in cash the fair value of his stock, based on its pro rata share of the fair value of the net assets of the corporation as of the time of said dissolution meeting. In the event of disagreement, said value shall be fixed by the court, at the suit of either the dissenting stockholder or the corporation, the corporation's existence being continued for such purpose. Every stockholder shall be deemed to have consented to such exchange unless he shall give written notice of dissent to the president, secretary, or statutory agent of the corporation not later than two (2) days after the dissolution meeting, and unless he shall

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commence suit in the superior court of the county where the principal place of business of the corporation is located, to fix the value of his shares, within thirty (30) days after such meeting. Upon hearing the court shall determine the value of the dissenting stock, and the corporation shall pay the owner the sum so fixed within thirty (30) days after final judgment, whereupon said stock shall be transferred to the corporation.

"(e) If assets are exchanged for stock in another corporation, each assenting shareholder in the dissolved corporation shall be entitled to his pro rata share divided among the shareholders of the dissolved corporation. In the event the dissolved corporation has par and no par stock of different values, the amount of stock delivered shall be based upon the value of the stock held by him in the dissolved corporation."

In reference to the second question propounded by Mr. Dugan, you are advised that a stockholder may sell all or any part of his stock in a corporation and in the event the officers of the corporation will not accept the transfer of the stock, then the transferee's rights will be a mandamus suit against the corporate officers to require them to recognize the transfer of the stock.

Yours very truly,

JOHN L. SULLIVAN
Attorney General

EARL ANDERSON
Assistant Attorney General

FA:jw