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Companies Act 2006: Access to the company's register

Under the Companies Act 2006, companies must keep a register of members which must be available for inspection by any shareholder or member of the public (for a fee). Anyone making a request to access the register of members must set out the purpose for which the information is to be used. Once the request has been received, a company then has 5 working days to allow inspection. If it believes the request is not for a proper purpose, it can refer the request to the court who will determine whether or not access should be granted under s.117 of the Act based on whether the request has been made for a proper purpose or not.

In *Burry & Knight Limited & Another v Knight*, the Court of Appeal considered the refusal of a shareholder's request for access to a company's register. Mr Knight, a minority shareholder, made a request to access the register of members. Mr Knight had an ongoing disagreement with his family members regarding the family run companies. The purposes for his request were:

- To study the current shareholders of both companies.
- To write to the shareholders detailing his concerns about past conduct of the directors.
- To raise concerns over the proposed method of valuation of the shares in the companies, as set out in the companies' articles, and to advise shareholders to join a group to obtain expert advice on this matter.

The companies applied to the Registrar of the Companies Court for a "no-access order" under section 117. The Registrar granted the "no-access order", finding that the request was made for a mixture of proper and improper purposes.

Mr Knight appealed to the Court of Appeal. His appeal to access the register was dismissed. It was held that the first two of Mr Knight's purposes were not proper purposes. Mr Knight's intention to write to shareholders about directors' past conduct could not benefit the other shareholders but was an attempt to pursue matters that were irrelevant or to harass fellow shareholders. The third purpose could be considered a proper purpose; however under section 117 the courts could make a no-access order if any one of the purposes is deemed improper.

The Court took Mr Knight's past conduct into account; it found that the Registrar was entitled to conclude that Mr Knight's proper purpose was one of mischief and to pursue a personal vendetta, the resolution of which would not be of value or concern to the shareholders, making it an improper purpose.

The Act does not define what is meant by "proper purpose" and in giving its judgment the Court of Appeal has given some useful guidance:

- There is a strong presumption in favour of shareholders for transparency so the company must satisfy the court that a request is for an improper purpose.
- For a shareholder, 'proper purpose' relates to the shareholder's interest in that capacity and to the exercise of shareholder rights.
- The court can grant conditional access.

To discuss your company's obligations under the Companies Act 2006 or to deal with any requests to view your company's register, contact 3HR who will be able to assist you.

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