

Short Form Order

NEW YORK STATE SUPREME COURT - QUEENS COUNTY

Present: Honorable JAMES J. GOLIA  
Justice

IAS TERM, PART 33

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IN THE MATTER OF THE APPLICATION OF  
EDWARD A. RADBURN, HOLDER OF SHARES  
REPRESENTING TWENTY PERCENT OR MORE  
OF ALL OUTSTANDING SHARES ENTITLED  
TO VOTE IN AN ELECTION OF DIRECTORS,

Index No: 24784/09

Motion Date: 01/21/10

Cal. No: 24

Petitioner(s),

Sequence No. 4

FOR THE DISSOLUTION OF  
MSN AIR SERVICES, INC.  
A DOMESTIC CORPORATION

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By this petition, petitioner seeks judicial dissolution of the respondent corporation pursuant to BCL §1104-a on the grounds that the directors in control of the corporation have taken illegal, fraudulent or oppressive actions toward the complaining shareholder, and that the assets of the corporation are being looted, wasted or diverted for non-corporate purposes.

Roopnarine Singh, the majority shareholder of the respondent corporation responded to the petition by answering and then by electing to purchase the petitioner's shares pursuant to BCL §1118(a). Singh also requests that the court appoint a special referee to determine the fair market value of the petitioner's shares of stock.

Whatever the true facts regarding petitioner's complaint of wrongdoing, the corporation and the remaining shareholders have the unconditioned, right within 90 days of the petition to avoid the potential drain and risk of dissolution proceedings by simply offering to buy out the minority interest; the minority is protected by a court-approved determination of fair value and other terms and conditions of the purchase. (See *In re Pace Photographers, Ltd.*, 71 N.Y. 2d 737 [1988].) Roopnarine Singh made a timely election and therefore the issue is the fair value of the petitioner's share.

Accordingly, pursuant to BCL §1118 petitioner's motion for judicial dissolution is stayed until the fair value of petitioner's shares has been determined. The attorney's for both sides are

directed to appear and be prepared for a conference to determine how and by whom the shares will be valued. The conference shall be held on Friday, August 27, 2010 at 10:00 a.m. in Part 33 of the Long Island City Supreme Court Building located at 25-10 Court Square, Long Island City, New York. The parties shall be notified by fax and first class mail.

This constitutes the Order of the Court.

Dated: July 23, 2010

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James J. Golia, JSC