

Law of the Commonwealth of Pennsylvania as amended, and that the said incorporation is winding up its affairs in the manner prescribed by said law, so that its corporate existence shall be ended upon the issuance of a Certificate of Dissolution by the Department of State of the Commonwealth of Pennsylvania.

John McD. Sharpe, Jr.
Sharpe, Wenger & Townsend
257 Lincoln Way East
Chambersburg, PA 17201

9-20-85

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, Act No. 1982-295, of the filing with the Department of State of the Commonwealth of Pennsylvania on September 5, 1985, an application for a certificate for the conducting of a business under the assumed or fictitious name of Legal Support Services, with its principal place of business at Chambersburg Trust Building, 14 North Main Street, Chambersburg, Pennsylvania 17201. The name and address of the person owning or interested in said business is George A. Keller, 32 Kensington Drive, Chambersburg, Pennsylvania 17201.

Denis M. DiLoreto
DLORETO AND CONSENTINO
326 Trust Company Building
Chambersburg, PA 17201

9-20-85

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, Act No. 1982-295, of the filing, with the Department of State of the Commonwealth of Pennsylvania, on August 30, 1985, an application for a certificate for the conducting of a business under the assumed or fictitious name of Mattress Outlet, with its principal place of business at 1502 Lincoln Way East, Chambersburg, PA 17201. The name and address of the person owning or interested in said business is Carl A. Patterson, 57 Midland Drive, Chambersburg, PA 17201.

SHARPE, WENGER & TOWNSEND
257 Lincoln Way East
Chambersburg, PA 17201

9-20-85

the estopped party. *Nesbitt v. Erie Coach Co.*, 416 Pa. 89, 96, 204 A.2d 473, 477 (1964). So we deny Witmer's motion for summary judgment on Count II, the assumpsit claim.

ORDER OF COURT

December 18, 1984, the motions for summary judgment are denied.

LONE STAR CORPORATION V. TRINDEL, C.P., Franklin County Branch, A.D. 1983 - 225

Corporation - Sole Shareholder - Ratification of Acts of Officers

1. A corporation through its shareholders may ratify the unauthorized acts performed by its officers.
2. Shareholders may not ratify acts of its officers which are fraudulent, illegal, offensive to the charter governing statutes or rules of common law.
3. A sole shareholder may not ratify his own misconduct and thereby destroy the corporation's cause of action.

George E. Wenger, Jr., Esq. Counsel for Plaintiff

Patrick J. Redding, Esq., Counsel for Defendants

John R. Purcell, Jr., Esq., Counsel for Defendants

OPINION AND ORDER

EPPINGER, P.J., December 28, 1984:

Plaintiff, Lone Star Corporation, filed a thirteen-count complaint in trespass against John and Barbara Trindel.

From February 1 to December 23, 1982, John Trindel was the sole shareholder of the Lone Star Corporation, was himself the board of directors, and held all of the offices of the corporation. Sometime in May, 1982, the Trindels secured a personal loan from the Commonwealth National Bank for \$875,000 and another loan for the corporation for \$150,000.

There is a new owner of Lone Star Corporation, and the corporation alleges that the Trindels converted \$94,104.93 of the corporation loan to their own personal use. The matter is before us on the demurrer of the Trindels which argues that since John Trindel was the sole shareholder, the corporation ratified and approved the various acts by which it is alleged corporate funds were converted to Trindels' own purposes, and the corporation is estopped from asserting its cause of action. We overrule the demurrer.

A demurrer accepts every well-pleaded fact and all reasonable inferences. It should only be sustained where the complaint indicates on its face there can be no recovery under any cause of action. *Modesto v. Southeastern Pennsylvania Transportation Authority*, 300 Pa. Super. 6, 7, 445 A.2d 1271, 1272 (1982); *Packler v. State Employee Retirement Board*, 470 Pa. 368, 371, 368 A.2d 673, 675 (1977); *Gekas v. Shapp*, 469 Pa. 1, 5, 364 A.2d 691, 693 (1976). Under this standard we cannot say as a matter of law that there can be no recovery.

A corporation through its shareholders may ratify the unauthorized acts performed by its officers. *Chambers v. Beaver-Advance Corp.*, 392 Pa. 481, 486, 140 A.2d 808, 811 (1958); *Collins v. Parkton Compound Boiler Co.*, 195 Pa. Super. 364, 369, 171 A.2d 576, 579 (1961); *Fitzpatrick v. Shay*, Pa. Super. , 461 A.2d 243, 247 (1983). However, shareholders may not ratify acts of its officers which are fraudulent, illegal, offensive to the charter, governing statutes or rules of common law. See *Chambers v. Beaver-Advance Corp.*, supra, at 486, 811; *Russell v. Henry C. Patterson Co.*, 232 Pa. 133, 120-1, 81 A. 136, 139 (1911). Neither may a sole shareholder or officer ratify his own misconduct and thereby destroy the corporation's cause of action. *Barnes & Tucker Co. v. Bird Coal Co.*, 32 D. & C. 535, 542 (Phila., 1938) affd. 334 Pa. 324, 5 A.2d 146 (1939).

Whether fraud or wrongdoing was actually involved is appropriately left for trial. *Hill v. Hill*, 279 Pa. Super. 154, 161-3, 420 A.2d 1078, 1081-2 (1980). Here the plaintiff corporation has alleged that the defendants fraudulently converted corporate funds to their personal use to the detriment of the corporation and whether that is so or not is a matter for the jury.



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LEGAL NOTICES, cont.

ROBERT KIRK

—VS—

**CHARLES J. McCLEARY,
BETTY B. McCLEARY,
and ROBERT C. McCLEARY**
ATTY: John F. Nelson

ALL that certain following real estate lying and being situate in Guilford Township, Franklin County, Pennsylvania, bounded and limited as follows:

BEGINNING at a post on the north side of the former Lincoln Highway, now Legislative Route 28087, in the Village of Fayetteville at corner of lands of Shirley E. Kendle; thence along lands of Shirley E. Kendle, North 17 degrees East, 13.8 perches to a post at lands now or formerly of Frank Heintzelman; thence along lands now or formerly of Frank Heintzelman, North 71½ degrees West, 43 feet to a post at lands of Donald H. Sharrah and Sharon A. Sharrah, his wife; thence along lands of Donald H. Sharrah and Sharon A. Sharrah, his wife, South 16¼ degrees West, 13.9 perches to a post; thence along Legislative Route 28087, 41½ feet to the place of beginning. CONTAINING thirty-five (35) perches, neat measure.

BEING THE SAME REAL ESTATE which Richard R. Reasner, Jr. and Phyllis J. Reasner, his wife, by deed dated the 2nd day of March, 1979, and recorded among the Deed Records of Franklin County, Pennsylvania, in Deed Book Volume 784, Page 15, conveyed to Robert Kirk. Being the same real estate conveyed by Robert Kirk to Charles J. McCleary and Betty B. McCleary, his wife, and Robert C. McCleary, by deed dated May 22, 1979, and recorded in Franklin County Deed Book Volume 789, Page 194.

BEING sold as the property of Charles J. McCleary, Betty B. McCleary, and Robert C. McCleary, Writ No. AD 1984-205.

TERMS

As soon as the property is knocked down to a purchaser, 10% of the purchase price plus 2% Transfer Tax or 10% of all costs, whichever may be the higher, shall be delivered to the Sheriff. If the 10% payment is not made as requested, the Sheriff will direct the auctioneer to resell the property.

The balance due shall be paid to the Sheriff by NOT LATER THAN Monday, October 21, 1985, at 4:00 P.M. Otherwise all money previously paid will be forfeited and the property will be resold on Friday, October 25, 1985, at 1:00 P.M. in the Franklin County

LEGAL NOTICES, cont.

Courthouse, 3rd Floor, Jury Assembly Room, Chambersburg, Franklin County, Pennsylvania, at which time the full purchase price or all costs, whichever may be higher, shall be paid in full.

Raymond Z. Hussack,
Sheriff
Franklin County,
Chambersburg, PA.

9-13, 9-20, 9-27

**IN THE COURT OF COMMON PLEAS
OF THE 39TH JUDICIAL DISTRICT
OF FRANKLIN COUNTY,
PENNSYLVANIA —
ORPHANS' COURT DIVISION**

The following list of Executors, Administrators and Guardian Accounts, Proposed Schedules of Distribution and Notice to Creditors and Reasons Why Distribution cannot be Proposed will be presented to the Court of Common Pleas of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: October 3, 1985.

KENNEDY, III First and final account, statement of proposed distribution and notice to the creditors of George F. Kennedy, Jr., administrator of the estate of George F. Kennedy, III, late of Antrim Township, Franklin County, Pennsylvania, deceased.

Glenn E. Shadle
Clerk of Orphans' Court
of Franklin County, PA

9-6, 9-13, 9-20, 9-27

NOTICE

Notice is hereby given that on September 3, 1985, the petition of Amanda Michelle Hovermale, a minor, by Lydia V. Wittman, her guardian, was filed in the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin County Branch, praying for a decree to change the name of said minor to Amanda Michelle Hovermale Wittman.

The Court has fixed October 10, 1985, at 9:30 A.M., in Courtroom No. 1, as the time and place for the hearing of said petition, when and where all persons interested may appear and show cause, if any, they have, why the prayer of said petition should not be granted.

GRAHAM AND GRAHAM
314 Chambersburg Trust Co.
Chambersburg, PA 17201

9-13, 9-20, 9-27, 10-4

ORDER OF COURT

December 28, 1984, the defendants' demurrer is overruled. The defendants are given twenty (20) days from this date to file an answer to the complaint.

SANDERS V. SANDERS, C.P. Franklin County Branch, No.F.R. 1983 - 634-D

Divorce - Local Rule 39-1801

1. Where defendant does not agree to a §201(c) divorce, and plaintiff intends to file under §201(d) when that cause of action comes into being, the Court will grant an extension under Local Rule 39-1801.

2. Local Rule 39-1801 is for the convenience of the court and does not necessarily confer any right on the other party and this is especially true where the other party cannot show any damage by an extension.

William H. Kaye, Esq., Counsel for Plaintiff

David S. Keller, Esq., Counsel for Defendant

OPINION

EPPINGER, P.J., January 8, 1985:

On January 4, 1985, Carol Ann Sanders, plaintiff, filed a motion to extend the time in which to file a certificate of readiness to try the case under 39th Jud. Dist. R. Jud. Adm. 39-1801 et seq. In a divorce action a certificate of readiness has been interpreted to mean the presentation of an issue to a master or to the court for action.

In the motion, plaintiff's attorney states that under the Divorce Code, 23 P.S. 101 et seq., a section 201(d) cause of action can be filed after June 11, 1985. Defendant will not agree to a §201(c) divorce. Plaintiff argues that if the case is dismissed, a new action will be filed in June, 1985, with the attendant additional costs.

The defendant, Robert Walter Sanders opposes the extension, saying that the present complaint does not state a §201(d) cause of action, so the period of separation is not relevant.