

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

AMANDA BREMNER AND JAY STEVENS

Plaintiff,

vs.

YAK-TAT KWAAN INC., DONALD
BREMNER, TERI ANN BOGREN and
SHARI JENSEN

Defendants.

Case No. 3AN-23-06096CI

**ORDER GRANTING ACCESS TO BOOKS AND RECORDS; ORDER
GRANTING REQUEST FOR SEPTEMBER 23, 2023 SHAREHOLDER
MEETING**

Plaintiffs are shareholders of Yak-Tat Kwaan Inc. (YTK). They motion this Court for access to YTK's shareholder list and demand YTK hold its annual shareholder meeting that Plaintiffs argue is long overdue. For the following reasons, the Court GRANTS Plaintiffs' records request and GRANTS Plaintiffs motion for a September 23, 2023 meeting.

I. Introduction

Defendants are holdover directors of YTK, an Alaskan native village corporation.¹ Plaintiffs are shareholders of the corporation and seek YTK's shareholder list so they can perfect notice of a shareholder's meeting they hope to hold on September 23, 2023.² Plaintiffs' allegations against the holdover directors include fraud and the breach of

¹ All nine seats on the board of directors are held by individuals with expired terms.

² Memorandum in Support of Motion for Orders Re: September 23, 2023, Shareholder Meeting at 1. ORDER GRANTING ACCESS TO BOOKS AND RECORDS; ORDER GRANTING REQUEST FOR SEPTEMBER 23, 2023 SHAREHOLDER MEETING BREMNER v. YAK-TAT KWAAN INC., 3AN-23-06096CI.

fiduciary duties, but the only issues here decided are whether YTK must provide access to the records, and whether a shareholders meeting must be held on September 23, 2023. Defendants are currently the subject of an audit by the Department of Commerce, Community, and Economic Development, and they also own a subsidiary undergoing bankruptcy proceedings in Washington State.

I. YTK must provide shareholders access to the corporations' records, including its list of shareholders.

Alaska law states:

(b) A corporation organized under this chapter shall make its books and records of account, or certified copies of them, reasonably available for inspection . . . by a shareholder of the corporation . . . [And] (c) [a]n officer or agent who, or a corporation that, refuses to allow a shareholder, or the agent or attorney of the shareholder, to examine and make copies from its books and records of account, minutes, and record of shareholders, for a proper purpose, is liable to the shareholder for a penalty in the amount of 10 percent of the value of the shares owned by the shareholder or \$5,000, whichever is greater.³

Defendants have not given a reason for their failure to comply with the above statute.

Defendants have not filed an answer to Plaintiffs' complaint and avoided responding to Plaintiffs' records request in their opposition.

"Typically, a court should be able to determine from the face of the inspection request whether a stated purpose is a legally proper basis for inspection."⁴ "The legislative history of the shareholder inspection statute explains that a request seeking 'proof of mismanagement or other wrongdoing' sits at the apex of the shareholder's inspection

³ AS 10.06.430(b)&(c).

⁴ *Pederson v. Arctic Slope Reg'l Corp.*, 517 P.3d 606, 611 (Alaska 2022).

right.”⁵

Similarly, Defendants are currently subject to an investigation and audit for alleged wrongdoing—part of which pertains to their failure to produce records—and Plaintiffs request a list of shareholders so they may issue requisite notices to hold an overdue shareholder’s meeting where they hope to oust the holdover directors.

The Court finds this is a proper purpose under AS 10.06.430(b) and orders Defendants to produce the requested information by 12:00 Noon on August 29, 2023 so Plaintiffs have adequate time to send meeting notices.⁶

II. YTK must hold its annual shareholder on September 23, 2023.

“An annual meeting of the shareholders shall be held at the time as provided in the bylaws. If the annual meeting is not held within any 13-month period, the superior court may on the application of a shareholder summarily order a meeting to be held.”⁷ YTK’s bylaws mandate the “annual meeting of shareholders shall be held within (9) months after the end of the fiscal year on a date and at a time to be selected by the Board of Directors.”⁸

A shareholder meeting has not taken place since January 2020. Plaintiffs motion this Court to order a shareholder meeting be held on September 23, 2023. Defendants argue a November 11, 2023 “meeting allows time for the corporation to notice the meeting, for shareholders to express interest in running for the board and to included in YTK’s proxy

⁵ *Id.*

⁶ AS 10.06.410(a): “Written or printed notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose for which the meeting is called shall be delivered not less than 20 . . . days before the date of the meeting.”

⁷ AS 10.06.405(b).

⁸ Opposition at Attachment B, P. 1.

materials, for proxy solicitation, and for early voting and proxies return in advance of the meeting.”⁹ Defendants ask this Court to issue a meeting date 7-weeks after the date requested by Plaintiffs. However, because there has been no meeting in the last 13-months, this Court “may *on the application of a shareholder* summarily order a meeting to be held.”¹⁰

Plaintiffs have asked for a September 23, 2023 meeting. The relevant statute requires 20-days’ notice be provided to shareholders prior to the annual shareholders meeting.¹¹ A September 23, 2023 leaves sufficient time for parties to meet these notice requirements. The additional time requested by Defendants is unnecessary.

Additionally, Defendants argue that since the Department of Commerce, Community, and Economic Development (The “Division”) administers Title 45 Chapter 55 of the Alaska Statutes (the Alaska Securities Act), and because the Division, through the Office of Administrative Hearings, told the parties that a 2022 annual shareholders meeting was not to be held until YTK’s audit was complete,¹² that a shareholder meeting cannot currently be held. This is a misstatement of law and an exaggeration of the Division’s authority. While the Division does have say over certain aspects of native

⁹ Opposition at 2.

¹⁰ AS 10.06.405(b).

¹¹ AS 10.06.410(a).

¹² *I.T.M.O. YAK-TAT KIWAAN, INC.*, OAH No. 22-0862-SEC, at 1-2. (Additionally, this audit is complicated by and being delayed because of the bankruptcy proceeding of one of YTK’s subsidiaries.) (Further, the Division only purports to deny a 2022 annual meeting, but says nothing as to the annual meeting for 2023—which is the meeting at question in this lawsuit).

corporation governance,¹³ the Division *does not* have say over shareholder meetings held under AS 10.06.405. Resolution of complaints made under AS 10.06 seq. is a power retained by this Court.

The result of an audit, while likely of interest to shareholders, is not a sufficient reason for the Court to push back the shareholder meeting date requested by Plaintiffs. YTK is a corporation. Corporations, particularly those accused of fraud¹⁴ and found guilty of civil violations¹⁵ are prone to all sorts of audits. Under Defendant's reasoning, the Court might find reason to delay the annual shareholders' meeting. But this audit is not a situation contemplated by YTK's bylaws, or relevant statutes, because the audit is *irrelevant* as to whether the annual shareholder meeting is held.

The bylaws require an annual shareholder meeting. Alaska Statute 10.06.405(b) provides that an annual shareholder meeting may be held at the request of a shareholder if a meeting is overdue. In this case, an annual shareholder meeting has not taken place since January 2020—meaning it is nearly three years overdue.

III. Conclusion

The Court finds proper purpose for Plaintiff's record request under AS 10.06.430(b) and **GRANTS** their motion for access to the records. Defendants are hereby ordered to give Plaintiffs immediate access to the shareholder list including names, addresses, and

¹³ Namely, that if a corporation is big enough, it must send copies of all annual reports to the administrator of the Division, so the Division can ensure the corporation is in legal and regulatory compliance. *See* AS 45.55.139. (Which, according to the Division, YTK *is not*).

¹⁴ *See* First Amended Complaint at 1.

¹⁵ *See* Amended Temporary Order to Cease and Desist, Assessing Civil Penalties, with Notice of Hearing Rights and Notice of Final Cease and Desist Order, OAH Order No. 22-15-2-S, at 1-5.


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number of shares of all shareholders for the purpose of communicating to shareholders the notice of the September 23, 2023 meeting and soliciting proxies. Defendants must produce the requested information by Noon on August 29, 2023 so Plaintiffs have adequate time to send meeting-notices to shareholders.

Additionally, the Court **GRANTS** Plaintiffs' demand to hold a shareholder meeting. The next shareholder meeting will be held September 23, 2023 at the location set by Plaintiffs in their notice to shareholders.

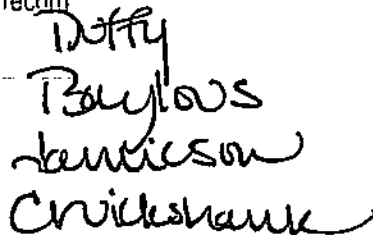
All relief granted is contained in this Order. To the extent Plaintiffs have made requests for relief in their proposed order which were not referenced or argued within their motion, those requests are **DENIED**.

DATED at Anchorage, Alaska this 28TH day of August, 2023.


LAURA HARTZ
Superior Court Judge

I certify that on 8-23-23, a copy of the following was mailed/mailed to each of the following at their addresses of record


Administrative Assistant


Dotty Baylous
Kuntison
Crickshaw