

## **SNAPPY FAMILIES**

### **General Information**

#### **Background**

Steve (Stephen or Stephanie) and Harry (Harry or Harriet) are siblings and equal shareholders (49% each) in SH Disposal, a scrap and waste business. Harry's spouse Alex (Alexander or Alexandria) is company secretary and owns the 2% balance (at the time of forming the company Alex was an employee and married Harry several years later).

In recent years with the decline in scrap metal value, the most profitable side of the business has been rubbish skip hire and reclamation of old materials for resale (bricks, tiles, timbers, sleepers etc.). In the trading year before this one there was a huge windfall for the business with a serious outbreak of foot and mouth disease resulting in the wholesale burning of animal carcasses in their area. Not only did SHD provide the fuel for the pyres but they also hired heavy plant for the movement and disposal of carcasses from the point of delivery. Their contract was with the responsible Government Department and rewards in the early months were high. Once the initial panic had passed, the Department introduced a cost-reimbursement process on agreed rates (for internal supplies, plant and services) and/or percentage on net cost (for supplies, plant and services bought in).

A few months into the foot and mouth crisis Alex drew Harry's attention to the fact that SHD were putting all their plant hire orders with a firm named SHP. At first this did not seem to be an issue because SHD were charging on SHP invoices plus the percentage agreed with the Department. However, both the name and the volume of business caused Alex to investigate further and Alex discovered that SHP was owned by Steve. It was apparent that Steve was hiring in plant from other hire firms, putting on a significant mark-up and then charging SHD at the enhanced rate. Alex calculated that Steve had already made around £1 million profit out of the deal.

Harry was furious and six months ago called a Directors meeting to discuss the matter but unfortunately Steve was in London negotiating with the Department over revaluation of SHD invoices. The remaining Directors (who made a quorum) considered that Harry had deceived them by making secret profits in breach of fiduciary duties as Director of SHD and so they decided that Steve should be made to resign.

Since taking this action, and preventing Steve from entering the office premises, the Directors have done a more thorough investigation of Steve's use of the business facilities. Although both Steve and Harry have used the company resources to improve their homes, Harry and Alex had not been entirely aware of the fact that Steve had built a rather grand house at the company expense. Under the circumstances this was seen

as an abuse of a Directors position and one that deprived the other two of legitimate company profits.

### **The dispute**

Harry is claiming:

- Lost profits arising from SHP activities, being 51% of the £1 million calculated by Alex
- 51% share of the estimated £500,000 cost of the house built by Steve at SHD expense
- Steve must resign from being a Director

Steve is claiming:

- Reinstatement as a Director together with six months salary since 'dismissal' (around £60,000)
- 49% share of work done to Harry and Alex's house (total say £100,000)

In addition Steve is sure that SHD could achieve another £4 million from the Department to conclude the foot and mouth contract but it will take a bit of effort and skill. This is Steve's territory but Harry is not prepared to allow Steve to act on SHD's behalf. The company therefore puts no value on this claim.

Both sides claim costs which are at least £50,000 each to date and probably another £150,000 each through trial.

### **Attending the mediation**

Harry

Alex

Y External lawyer to SHD

Steve

A External lawyer for Steve

X, Y and A use own names