

**Minutes of the Meeting of the ALSA Board of
Directors
May 29, 2001 by Teleconference**

ALSA Board Meeting 5-29-01

ALSA BOARD MEETING - Tuesday, May 29, 2001

An emergency meeting of the ALSA Board of Directors was called to order at 8:00 PM EDT on Tuesday, May 29, 2001. All board members were present except Polly Schofield and Dick Sheehan. All board members received notification of the meeting.

Dwayne moved, Carol seconded that in the best interest of ALSA because of the conflict of interest due to Polly Schofield's accepting a paid position with AOBA and that Terry Price states in his letter to Ray Howard of May 19 that it's a director's fiduciary duty neither to compete directly against nor to usurp the business opportunities of the corporation and that a corporate officer or director is under a fiduciary obligation not to divert a corporate business opportunity for his own personal gain, that Polly Schofield be expelled from the ALSA Board unless her resignation is received by June 1, 2001 by 9:00 PM Eastern Standard Time.

A lengthy discussion followed with board members stating their interpretation of the letter from Terry Price. Dwayne said he considered Terry Price's letter an opinion in that Mrs. Schofield's attorney provided an opinion that there is no conflict of interest and that Mr. Price said he did not believe the opinion letter of Mrs. Schofield's lawyer.

Jeff stated that in his opinion the letter from Terry Price was not an opinion letter.

Ray mentioned he had checked with the parliamentarian who stated the board has legal authority according to Roberts Rules of Order and that Section 8, Article 4 of

ALSA'S amended bylaws allows for a board member to be expelled for inappropriate behavior.

Dwayne and Carol voted Yes. Paige and Jeff voted No. Ray broke the tie with a Yes vote.

Motion carried.

Respectfully submitted

Carol Hicks, Secretary

[View the letter from the attorney for Mr. Howard.](#)

May 19, 2001

VIA FAX to 412/761-0212

Ray Howard
President,
ALSA, Inc.
607 California Ave.
Pittsburgh, PA 15202

Re: Your Request for a Legal Opinion

Dear Mr. Howard;

I received your undated letter re: "Conflict of Interest" on May 17, requesting legal guidance by May 23.

I have reviewed the limited material (highlighted portions from the "AOBA Show Handbook" that accompanied your letter.

Ms. Schofield contacted me on May 18 and requested my fax number so she could forward items to me as well. I have reviewed the 10 pages of materials she sent consisting of a "Show Administrator Agreement" an opinion letter from her lawyers and other correspondence.

From the review of these materials, I feel that I am seeing the mere tip of the iceberg. The materials raise many questions, however, I do not feel that I possess sufficient knowledge of the facts to offer helpful guidance at this point in time.

To competently advise ALSA, I feel that I must be brought into the loop, permitted a significant opportunity to discussion with persons with first-hand knowledge of the facts, and participate with the ALSA board in a discussion of the organization's legal objectives in light of the facts, once they are established.

From review of the limited materials; however, I do appreciate your concerns. I do not believe the opinion letter of Ms. Schofield's lawyer, which suggest Ms. Schofield is legally free to accept employment as the Show Administrator for AOBA, was based upon rigorous review of the facts nor the broad range of fiduciary duties that directors owe to the corporations they have been selected to run. I am concerned that those lawyers failed to appreciate the significant nor application to these facts of a director's fiduciary duty neither to compete directly against, nor usurp the business opportunities of the corporation.

To explain this doctrine, I provide two quotations from a legal encyclopedia. The first quote explains the general rule; the second discusses how the rule has been applied to specific cases: "A corporate officer or director is under a fiduciary obligation not to divert a corporate business opportunity for his own personal gain. The rule is that if there is presented to a corporate officer or director a business opportunity which the corporation is financially able to undertake, which is from its nature in the line of the corporations business and is of practical advantage to it, and which is one in which the corporation has an interest or a reasonable expectancy, and if, by embracing the opportunity, the self interest of the officer or director will be brought into conflict with that of this corporation, the law will not permit him to seize the opportunity for himself. If he does, the corporation may claim the benefit of the transaction. This doctrine of corporate opportunity is a species of the duty of a fiduciary to act with undivided loyalty; it is one of the manifestations of the general rule that demands of an officer or director the utmost good faith in his relation to the corporation which he represents."

18B Am. Jur.2d "Corporations" S1770 "Appropriate of Corporate Opportunities, Generally" "Since the question whether a director or officer has appropriated for himself something that in fairness should belong to his corporation is a factual one to be decided by reasonable inference from objective facts, the result in any particular case has hinged on the surrounding circumstances and particular actions that allegedly constituted a breach of the corporate opportunity doctrine. Thus most cases involving the taking of a corporation's customers by an officer or director have resulted in the officer or director involved being held liable for a breach of the doctrine. Similar results have been reached in cases involving interference by officers or directors with their corporations' interest or expectancy in the lease of business premises, sale of stock in competition with their corporations, and the purchase by officers or directors of outstanding financial obligations of their corporations. Cases involving opportunities to take advantage of interests in oil, gas or mineral properties appear to turn largely on whether the opportunity presented is speculative and in the line of the corporation's business. When the opportunity is in the line of the corporation's business, a violation of the doctrine is likely to be held supportable, while opportunities that are highly speculative or of a different type than that ordinarily pursued by the corporation are likely to result in a

contrary determination. Similarly, actions involving the providing of goods and services, the purchase of property or manufacturing machinery, or the purchase of shares in other corporations, appear to have results that depend on whether the corporations involved had taken an active interest in the opportunities presented."

I also share your concerns that the wholesale plagiarism of ALSA materials (assuming they were published with copyright notices; and further complicated by uncertainty about the origin and authorship of the materials in question), and their republication by AOBA under claim of copyright, violates ALSA'S rights protected by the federal copyright laws.

I offer a few statements of the rules which may have been violated by AOBA'S usurpation of ALSA'S handbook. "The Copyright Act of 1976 lists five fundamental exclusive rights which the statute gives to copyright owners; the rights of reproduction, adaption, distribution, performance, and display. These exclusive rights, which comprise the so-called 'bundle of rights', are cumulative and may overlap in some cases. The copyright owner has the sole right to exercise any of the exclusive rights of copyright and conversely, to exclude others from exercising any such rights, but these broad rights are qualified by various limitations enumerated in the statute. The protection accorded a copyright owner by the statute has never accorded the copyright owner complete control over all possible uses of his work; rather, the Copyright Act grants the copyright holder 'exclusive' rights to use and to authorize the use of his works in only five qualified ways. Hence, an unlicensed use of a copyright is not an infringement unless it conflicts with one of the specific exclusive rights conferred by the copyright statute. Each of the five enumerated rights may be subdivided indefinitely and each subdivision may be owned and enforced separately."

18 Am.Jur.2d. "Copyright and Literary Property" S70, "Statutory Rights Generally"

Unfortunately, I will be out of my office from May 21 to May 28, and cannot participate in your board meeting scheduled for May 23. I would be willing to undertake an assignment to pursue the legal questions raised by your correspondence and this reply, if retained by the ALSA board. In June and July, I would be able to devote a significant block of time to the assignment.

Very truly yours,
Terry Price
Thornton W. Price III

[View the letter from the attorney for Ms. Schofield.](#)
Law Offices of Robinson & Robinson

February 21, 2001

Ms. Polly Schofield
Hagerstown, MD

Dear Ms. Schofield:

At your request, I am providing you with a letter of opinion regarding whether or not your acceptance of an employed paid position with the Alpaca Owners and Breeders Association (AOBA) as a show administrator in any way presents a conflict of interest with your volunteer service to ALSA (Alpaca and Llama Show Association) as a member of the Board of Directors of ALSA.

First, I have reviewed the By-Laws of ALSA and note that there are no prohibitions of any volunteer member such as yourself taking on any employment positions with any other similar related non-profit organizations.

Because you are not an employee of ALSA, you are not bound by any "covenant not-to-compete" and in fact your taking a position with AOBA in no way means that you are competing in any way, shape or form with ALSA.

Of course, at the time that you became a volunteer member of the Board of Directors with ALSA, ALSA in no way communicated to you any need to refrain from taking part in any other volunteer organizations as an employee or volunteer.

There are no significant trade secrets owned by ALSA that could in any way be disclosed to AOBA.

If anything, your involvement with AOBA will make you a more valuable member of the Board of Directors of ALSA in that you will have a greater understanding of the llama and alpacas as a result of your expanded dealings with AOBA.

In sum, there is no conflict of interest for you to serve on the Board of Directors at ALSA and at the same time work as an employee with AOBA. So long as your contract with AOBA does not forbid you to serve as a volunteer on any other related organizations, you are legally free to serve as a volunteer on the ALSA Board of Directors without qualification.

Very truly yours,

Russ
Robinson, III