

CIRCUIT COURT FOR BALTIMORE CITY**ALLEN R. HARTMAN, et al.**

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Plaintiffs

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v.

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Case No.: 24-C-23-003722**SILVER STAR PROPERTIES REIT,
INC., et al.**

*

Defendants

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MEMORANDUM OPINION ON COUNT IV

As set forth in the Order dated January 21, 2025, Count IV of the Plaintiffs' Fourth Amended Complaint has been held *sub curia*. As explained below, the Court is now in a position to render final judgment on that count. In doing so, the Court incorporates Section I (The Parties), Section II (Relevant Facts), and Section III (Nature of the Claims and Defenses) of the Memorandum Opinion dated January 21, 2025 as if set forth fully herein.

IV. ANALYSIS**D. Count IV – Amended Bylaw****1. Plaintiff's claims.**

Plaintiff seeks (1) a declaration that the Amended Bylaw is void and unenforceable and (2) an order permanently enjoining "Silver Star from seeking consents for the election of directors pursuant to the Amended Bylaw." (Fourth Amended Complaint, at 20.) Plaintiff claims that the Amended Bylaw is void and unenforceable because, alternatively, (1) it violates Maryland law and (2) it was adopted in bad faith as a response to Plaintiff's demand for an annual meeting and in an effort to entrench the Defendant directors.

2. The preliminary injunction and Defendants' appeal.

By order dated January 29, 2024, the Court issued a preliminary injunction prohibiting Silver Star from tallying the consents that it had received. The basis of the preliminary injunction was the Court's conclusion that Defendants had not complied with the Maryland General Corporation Law ("MGCL") in passing the Amended Bylaw. On February 9, 2024, Defendants filed a notice of appeal of the preliminary injunction. On April 9, 2025, the Appellate Court of Maryland issued an unreported decision in which it concluded that the Amended Bylaw was permissible under the MGCL "because the plain language of [MGCL § 2-505(b)(2)] does not require 'express' authorization within a corporation's charter to allow non-unanimous action." Accordingly, the Appellate Court reversed this Court's decision and remanded the matter for this Court to "dissolve" the preliminary injunction. On May 12, 2025, the Mandate from the Appellate Court of Maryland was docketed in this Court and, on May 13, 2025, the Court entered an Order "dissolving" the preliminary injunction. Now that the appeal of this issue has fully concluded, the Court can render its findings as to Count IV.

3. Analysis.

As noted above, the Appellate Court has ruled that the Amended Bylaw was permissible under the MGCL. Accordingly, the Court turns to the second part of Plaintiff's claim: that the enactment of the Amended Bylaw was in bad faith¹ in an effort to entrench the Defendant directors. (Fourth Amended Complaint, at ¶ 65.) Defendants counter by asserting that they needed the ability to act quickly to the rapidly evolving situation, especially in light of Silver

¹ Arguably, it was the initiation of the consent solicitation – not the enactment of the Amended Bylaw – that allegedly harmed to Plaintiff. Out of an abundance of caution, the Court will assume that Plaintiff is complaining that the Defendants acted in bad faith in both enacting the Amended Bylaw and in initiating the consent solicitation.

Star's historic inability to obtain an annual meeting quorum. In addition, Defendants voiced concerns over incurring the expense of an annual meeting only to provide Plaintiff with a forum to spread misinformation to the stockholders.

Prior to the enactment of the Amended Bylaw, Silver Star was in a state of turmoil. The company was facing serious financial pressures and a possible self-termination deadline. The Executive Committee determined that the best path forward was the Pivot Plan, which Plaintiff opposed. Unable to resolve the dispute to his satisfaction, Plaintiff embarked on a campaign to either take back control of the company or extract valuable financial consideration in exchange for his departure. On March 20, 2023, Plaintiff and Hartman XXI initiated the Texas Lawsuit without informing the Defendants. At the meeting on June 22, 2023, Plaintiff told the Defendants that he wanted an annual meeting so that he could speak directly to the stockholders about, among other things, taking over the Board with a new slate of directors. On July 19, 2023, the same day he made a formal request for an annual meeting, Plaintiff caused *lis pendens* to be issued against properties owned by Silver Star's subsidiary. Soon afterwards, Plaintiff caused the transmission of the August 28, 2023 email in which he tried to strong-arm Defendants into signing over five valuable properties to avoid a proxy fight.

Subsequent to the passage of the Amended Bylaw but before the initiation of the consent solicitation, Plaintiff (1) admitted that he had lied in the August 28, 2023 email, (2) filed a complaint seeking the dissolution of Silver Star, and (3) admitted, through Hartman XXI, that the *lis pendens* had been improperly filed.

In light of these facts, the Court finds that Defendants reasonably believed that Silver Star was facing existential threats which needed to be addressed quickly and decisively. The Court also finds that the Defendants reasonably believed that they could not trust Plaintiff to act

honestly and appropriately at the annual meeting in light of the fact that he had admitted to bending the truth and improperly using the judicial process to seek leverage over the Defendants.

Maryland law presumes that directors act in good faith and in the best interests of the corporation. MGCL § 2-405.1(i)(2). To rebut this presumption, a party must provide clear evidence of bad faith. *Mona v. Mona Elec. Group, Inc.*, 176 Md. App. 672, 696 (2007).

Applying this standard, the Court finds that Plaintiff has failed to show Defendants acted in bad faith in enacting the Amended Bylaw or in initiating the consent solicitation and Plaintiff's requests for relief in regard to the Amended Bylaw are **DENIED**.

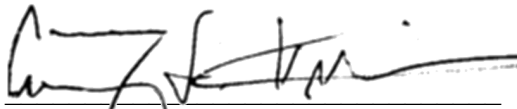
V. REMEDY

The equitable relief set forth in the Court's Memorandum Opinion and accompanying Order dated January 21, 2025 are not affected by the Court's ruling on Count IV, above.


Accordingly, the relief set forth in the Memorandum Opinion and accompanying Order remains unchanged.

A separate Order shall be entered.

May 20, 2025



Anthony F. Vittoria, Associate Judge
Circuit Court for Baltimore City



Entered: Clerk, Circuit Court for
Baltimore City, MD
May 20, 2025