

## BA Problem for Spring Break 2018

Caroline Bradley

Koru Inc. is a corporation incorporated in Arcadia which is in the business of developing new applications for big data. The three founders of Koru, Andre, Brianna and Chloe met at college when Andre and Brianna were studying computer programming and Chloe was majoring in Business Administration. They each own 1/3 of the common stock in Koru, and agreed that they would all be directors and officers of the corporation and that they would receive remuneration from Koru as salary for their work rather than as dividends. They agreed informally that they would try to make all business decisions by consensus and would carry on doing so and support each other even if they later introduced outside investors into Koru.

As the business developed they began to look for outside investors, and started discussions with Dion who runs an investment firm. Dion expressed an interest in investing in preferred stock in Koru. Dion wanted to protect his investment by acquiring shares which would give him the right to appoint two directors to the Board. In addition, for the purposes of voting in shareholders' meetings the preferred stock would carry two fifths (40%) of the total votes that could be cast. Some defined matters, including the appointment and removal of directors, would require the approval of 75% of the total number of votes which could be cast at a shareholders' meeting.

Andre, Brianna and Chloe all approved the creation of the preferred shares, and their issuance to Dion on the agreed terms. But shortly after Dion appointed himself and Ed, his colleague at the investment firm, to be directors of Koru, Dion and Andre started to disagree about how the business of Koru should be developed. Dion felt that Andre was not as focused on the marketability of the products he was developing as he should be and thought that he was too idealistic and did not live in the real world. Dion persuaded Brianna and Chloe that a new plan for the business was necessary to attract further outside investment. He introduced Brianna and Chloe to Felicia, a friend of his, who also worked at an investment firm and was looking for new investments in technology companies.

Brianna and Chloe were enthusiastic about Koru's future after the meeting with Felicia and began to think of Andre as an obstacle to Koru's success in the market. They agreed with Dion to remove Andre as a director and officer of Koru, and they called a shareholders' meeting at a time when they knew Andre would be at a programming conference which he attended every year. At the meeting they voted to remove Andre as a director and as an officer.

When Andre returned from his conference he was stunned to hear the news. Suddenly he was excluded from his own business that he had spent so much time developing. He felt let down by his friends, Brianna and Chloe, and was worried that he would not be able to pay his bills without an income from Koru. Koru had not yet developed to the point that it could pay very generous salaries, but it was developing increasing numbers of clients (many of whom were attracted to Koru products by Andre's reputation). As mere shareholder he hoped to share in Koru's future profitability but he knew that it would take a while to find income from other sources to pay his bills. After a while he approached Brianna and Chloe and asked if Koru might buy his shares from him. They told him that they might be able to do so, but only at book value. Andre knew by that time that they were on the point of selling preference shares to Felicia for a price that reflected a valuation much higher than book value and he was upset.

Based on the materials you have read, consider what remedies may be available to Andre.