

CITATION: Islamic Society of Toronto v. Abowat, 2012 ONSC 2401
COURT FILE NO.: CV-12-9645-00CL
DATE: 20120419

SUPERIOR COURT OF JUSTICE – ONTARIO

COMMERCIAL LIST

RE: Islamic Society of Toronto, Applicant

AND:

Ismail Aslam Abowat, Shamim Abowat, Bilal Diwan, Abdul Rahim Jogiat, Ilyas Mullabhai, and M. Wasim Vania, Respondents

BEFORE: D. M. Brown J.

COUNSEL: J. Fogarty and R. Treleaven, for the Applicants

M. Klaiman, for the Respondents

HEARD: April 19, 2012.

REASONS FOR DECISION

Settlement of a dispute amongst members of a non-share corporation

[1] The Islamic Society of Toronto is a non-share corporation incorporated by letters patent under Part II of the *Canada Corporations Act*, R.S.O. 1970, c. C-32, as amended. The Society operates a mosque, community centre and educational facility at 4 Thorncliffe Park Drive, Toronto (the “Premises”). Last year an unfortunate internal governance dispute erupted amongst the members of the Society. This litigation ensued.

[2] Both sides to the dispute filed affidavit evidence. The Monitor, Mr. Pearl of BDO Canada Limited, today filed a most helpful First Report. At the start of the hearing I made lengthy remarks to the large number of Society members present in court. I told them that, based on my review of the evidence, both sides in this dispute had made mistakes under Canadian corporate law, and I described those mistakes in detail. I then offered both sides an opportunity to settle their internal dispute without placing their corporate fate in the hands of a judge. To the credit of both sides, they have taken advantage of that opportunity and have entered into Minutes of Settlement. The settlement will see the appointment of an interim executive committee, with full elections for a new Executive Committee to be held on July 8, 2012.

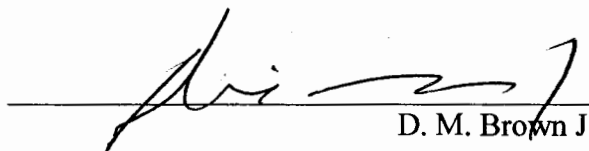
[3] I wish to thank both sides for the very constructive approach they have taken which has resulted in this settlement. The Society’s letters patent identify, as one of its objects, the strengthening of fraternal bonds and brotherly relations amongst Muslims. I am satisfied that the

settlement reached by the parties will foster that objective of the Society, and I approve the settlement.

[4] So that all members of the Society may understand what took place in court today, I order that on or before 12 noon, Monday, April 23, 2012, the parties must post these Reasons for Decision in their entirety, together with today's consent order, on the Society's website, www.islamicocietytoronto.com, as well as on the public posting board at Society's Premises where public notices are generally posted.

[5] The Monitor, Mr. Ken Pearl, of BDO Canada Limited, submitted a First Report dated April 16, 2012. The report was most helpful. I approve the First Report and the activities of the Monitor described therein. I also approve, as reasonable, the fees and disbursements of the Monitor.

[6] Finally, I wish to encourage all members of the Society to build on their constructive work of today and to work co-operatively to put in place a governance team which will manage the future affairs of the Society in a harmonious fashion. To that end, I would ask the members of the Society to put to one side their personal differences and, as they continue over the weeks ahead to work towards the new elections, to treat each other with dignity, and to address each other using polite and respectful language.


D. M. Brown J.

Date: April 19, 2012