

Law Sample Solution

Short Answer Questions – Australian Corporation Law

**i. Do directors have duties to individual shareholders?**

The fiduciary and statutory duties of directors will generally be owed to the company as a whole. Only rarely will directors have such duties towards shareholders. In the 1902 case of Percival vs. Wright, the court held in a case where the directors acquired shares from the shareholders without disclosing to them that they intended to sell it for a higher sum. The same directors were under no obligation to disclose the same to the shareholders

The directors have a duty to act in the bonafide interest of the company as a whole however; these interests vary from time to time depending upon circumstances. There's also been increasing pressure to broaden the range of legal and social obligations which a corporation has

to its stakeholders. This is again reiterated in the case of Walker vs. Wimborne where the court decided that it was the duty of directors to consult the interest of the country alone.

Corporations law in Australia by Roman Tomasic, Stephen Bottomly and Rob McQueen 2nd edition the federation press 2002.

In relation to large companies the directors' duties to the shareholder may arise in the advent of a takeover but it is minimal in the sense that it may be restricted merely to a duty to not mislead the shareholders.

Authors believe that in present times, since companies operate in social environments, there is a greater expectation placed upon them today; companies must adhere to environmental law, health and safety regulations etc, as well as the socio economic environment in which they operate. . ASX guidelines published in 2003 are one such device which tries to ensure that companies keep with principles of good corporate governance. And though the primary duty of a director is towards the company as a whole, the mere fact that the shareholders are the primary force ensuring that the business is a going concern and that they are responsible for electing the very directors themselves ensures some part of care on the part of the same.