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California Supreme Court Holds Corporation Liable for Delivery of Unclaimed Stock

Corporations, including publicly-traded companies may wish to review their procedures for addressing unclaimed stock in light of a recent California Supreme Court decision. In *Azure Limited v. I-Flow Corp* (Dkt. No. S164884, July 16, 2009), the Court held that a corporation holding unclaimed stock, which failed to send a shareholder notice of potential escheat prior to issuing a duplicate stock certificate to the state controller in accordance with the Unclaimed Property Law (Cal. Civ. Proc. Cd. §§1500-1582) (the "UPL"), was liable for damages equal to the difference between the amount for which the controller sold the stock and the stock's value at the time of the shareholder's claim for return.

Under the UPL, a corporation is required to transfer stock to the state controller if a shareholder has not communicated with the corporation for more than three years and the corporation does not know the location of the shareholder at the end of that time period. Section 1532 of the UPL generally grants immunity to a corporation for any damages resulting from the delivery of the stock to the controller. However, the Court in *Azure* held that immunity only applies where the corporation has complied with all of the other requirements of the UPL, including the requirement that the corporation make reasonable efforts to notify the shareholder that the stock may escheat. In doing so, the Court in *Azure* disagreed and specifically disapproved of the decision in *Harris v. Verizon Communications* (141 Cal. App. 4th 573), a 2006 decision where the California Court of Appeals held that the UPL barred owners of abandoned stock from claiming damages from an unauthorized delivery of stock to the controller based on a failure by the corporation to give notice as required by the UPL.

The decision in *Azure* highlights the importance of maintaining strict compliance with the requirements of the UPL when addressing unclaimed stock. The required notice generally must be mailed to the shareholder's last known address not less than 6 months nor more than 12 months before the stock becomes reportable to the state controller, and must clearly state that the stock will escheat to the state if a timely response to the notification is not received.

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