

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

PETER DAVID MARTIN

Applicant

EVELYN JOYCE BLAKEBURN (MARTIN)

Respondent

) Gerald B. MacDonald
) for the Applicant

) Elizabeth Cusack Walsh
) for the Respondent

) Application Heard:
) September 21, 1993

) Decision Delivered:
) September 21, 1993
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BEFORE THE HONOURABLE JUSTICE DOANE HALLETT IN CHAMBERS

HALLETT, J.A.

This is an application to extend the time for filing a notice of appeal from a June 30th, 1993 order of Justice Edwards. The brief submitted by the solicitor for the applicant, Mr. Martin, states:

" **GROUND OF APPEAL**

It is respectfully submitted that the Honourable Trial Judge erred in law by ordering that the Respondent, Peter Martin, shall not receive real estate commission in keeping with the terms of the Corollary Relief Judgment and decision on the hearing of the divorce.

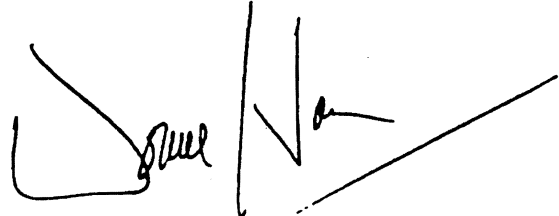
The House of Lords decision in Solomon v. Solomon & Company Limited [1987] A.C. 22 (H.L.) firmly established the doctrine that "a corporation is an independent legal identity not to be identified with its incorporators". This basic doctrine has not been seriously questioned in Canada save those relatively rare cases where the Courts have disregarded the corporate entity. It is submitted that Justice Edwards erred in law, by considering Peter Martin, Respondent, to be the equivalent of P. Martin Realty Limited."

The June 30th, 1993 order provided:

- " 1. The Respondent Peter Martin shall not receive real estate commission in keeping with the terms of the Corollary Relief Judgment and decision on the hearing of the divorce;"

It appears that Mr. Martin is asserting that a commission is owed to P. Martin Realty Limited. If that Company wishes to commence an action for a commission that it feels is owing to it there is nothing in the order of June 30th, 1993 to prevent the company from so doing. The applicant does not assert he is entitled to a commission. Therefore, there is nothing to appeal from the June 30th, 1993 order. As there is no arguable issue the

application to extend time for filing the notice of appeal is dismissed. The respondent shall have her costs of resisting this application in the amount of \$200.00 plus disbursements.



Doane Hallett