

Boardman v Phipps [1967] 2 AC 46

<https://lawcasesummaries.com/knowledge-base/boardman-v-hipps-1967-2-ac-46/>

Facts

- Tom Boardman was a solicitor for a family trust.
- The trust assets include a 27% holding in a textile company called Lexter & Harris.
- Boardman had concerns about the state of Lexter & Harris' accounts and thought that, in order to protect the trust, a majority shareholding was required.
- Boardman and Tom Phipps, a beneficiary of the trust, attended a general meeting of the company.
- They suggested to Mr Fox, a trustee, that it would be desirable to acquire a majority shareholding, but Fox disagreed.
- With the full knowledge of the trustees, Boardman and Phipps purchased a majority stake of the shares themselves.
- Boardman and Phipps did not obtain the fully informed consent of all the beneficiaries.
- The company made a distribution of capital without reducing the values of the shares.
- The trust benefited by this distribution £47,000, while Boardman and Phipps made £75,000.
- John Phipps and another beneficiary, sued for their profits, alleging a conflict of interest by Boardman and Phipps.

Issues

- Did Boardman and Tom Phipps breach their duty to avoid a conflict of interest, despite the fact that the company made a profit and they had obtained (some) consent from the beneficiaries?

Held

- Boardman and Tom Phipps had breached their duties to avoid a conflict of interest.
- Lords Cohen, Guest and Hodson held that there was a possibility of a conflict of interest because the beneficiaries might have come to Boardman for advice as to the purchases of the shares. They owed fiduciary duties (to avoid any possibility of a conflict of interest) because they were negotiating over use of the trust's shares.
- Boardman was speculating with trust property and should be liable.
- The majority unanimously agreed that liability to account for the profits due to a fiduciary relationship is strict; it does not depend on fraud or an absence of bona fides.
- Boardman and Phipps would have to account for their profits, despite the fact they had best intentions and made the Lexter & Harris a profit.

Full Text

The full text is available here: <http://www.bailii.org/uk/cases/UKHL/1966/2.html>

Law case summary from www.lawcasesummaries.com