

## Appendix A

# Statement of Corporate Governance Practices

The Board, through its Corporate Governance Committee, is focused on adhering to the regulatory standards as well as best practices that go beyond the requirements mandated by regulation.

The Company has adapted its governance practices in response to the changes in regulations and best practices and will continue to respond to future corporate governance developments as appropriate. The Company's corporate governance practices are substantially in alignment with NP 58-201. In addition, this appendix discloses the Company's current corporate governance practices in accordance with the requirements of NI 58-101.

### 1. Board of Directors

*Disclose the identity of directors who are independent.*

The Board has determined that all of the present directors of the Company with the exception of Bill McEwan, David F. Sobey, Donald R. Sobey, Frank C. Sobey, Karl R. Sobey, Paul D. Sobey, and Rob G.C. Sobey are independent.

*Disclose the identity of directors who are not independent and describe the basis for that determination.*

See the "Director Independence and Other Relationships" section of this Circular.

*Disclose whether or not a majority of directors are independent.*

Currently, 10 out of 17 directors are considered to be independent. Of the directors proposed for election at the 2011 Annual General Meeting, 9 of 16 are considered to be independent.

*If a director is presently a director of any other issuer that is a reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the director and the other issuer.*

All of the directorships of the present directors with other public entities are disclosed on pages 5 through 13 of this Circular in the "Nominees for Election to the Board of Directors" section.

*Disclose whether or not the independent directors hold regularly scheduled meetings at which non-independent directors and members of management are not in attendance. If the independent directors hold such meetings, disclose the number of meetings held since the beginning of the issuer's most recently completed financial year. If the independent directors do not hold such meetings, describe what the Board does to facilitate open and candid discussion among its independent directors.*

The independent directors meet in the absence of non-independent directors and members of management at every meeting of the Board. Private sessions during committee meetings are regularly held by the Audit and Human Resources Committees and when circumstances warrant by the other committees. During fiscal 2011, the Board and Committees held the following meetings of solely independent directors:

Board 8  
Audit 4  
Human Resources 7

*Disclose whether or not the chair of the Board is an independent director. If the Board has a chair or lead director who is an independent director, disclose the identity of the independent chair or lead director, and describe his or her role and responsibilities.*

Mr. Dexter, the Chair of the Board, is an independent director. He is the Chair and CEO of Maritime Travel Inc. He has served as Board Chair since 2005.

Amongst other things, the Chair is expected to:

- Provide leadership to ensure effective functioning of the Board;
- Lead in the assessment of Board and Committee performance;
- Assist the Human Resources Committee in monitoring and evaluating the performance of the Chief Executive Officer and Senior Officers of the Company;

- Lead the Board and Committees in ensuring succession plans are in place at the senior management level; and
- Act as an effective liaison among the Board and management.

*Disclose the attendance record of each director for all Board meetings held since the beginning of the issuer's most recently completed financial year.*

The attendance record of each director for Board and Committee meetings during fiscal 2011 is disclosed in the table in the Committee Membership and Record of Attendance section of this Circular.

## **2. Board Mandate**

*Disclose the text of the Board's written mandate. The mandate should explicitly acknowledge responsibility for the stewardship of the issuer.*

The Board's written Mandate, which confirms the Board's explicit responsibility for the stewardship of the issuer, is set out in Appendix B of this Circular.

## **3. Position Descriptions**

*Disclose whether or not the Board has developed written position descriptions for the Chair and the Chair of each Board committee. If the Board has not developed written position descriptions for the chair and/or the chair of each Board committee, briefly describe how the Board delineates the role and responsibilities of each such position.*

The Board has developed a written position description for the Chair of the Board and for the committee chairs.

*Disclose whether or not the Board and CEO have developed a written position description for the CEO. The Board should also approve the corporate goals and objectives that the CEO is responsible for meeting. If the Board and CEO have not developed such a position description, briefly describe how the Board delineates the role and responsibilities of the CEO.*

The Board has developed a written position description for the CEO. The description is reviewed regularly against both best practices and the requirements of the Company. Approving the corporate goals and objectives is a part of the mandate of the Board.

Amongst other items, the CEO is expected to:

- Develop and recommend to the Board a long-term strategy and vision for the Company that leads to creation of Shareholder value;
- Develop and recommend to the Board annual business plans and budgets that support the Company's long-term strategy; and
- Consistently strive to achieve the Company's financial and operating goals and objectives.

## **4. Orientation and Continuing Education**

*Briefly describe what measures the Board takes to orient new directors regarding:*

*i) the role of the Board, its companies and its directors, and*

*ii) the nature and operation of the issuer's business.*

The Company provides a detailed orientation to new directors. More information on Director Orientation is described in the section "Director Orientation" on page 22 of this circular.

*The Board should provide continuing education opportunities for all Directors.*

The Company is committed to the ongoing education of directors to assist them in fulfilling their responsibility to knowledgeable about the Company's business and about the duties and responsibilities of directors. More information on director education is described in the section "Director Education" on page 22 of this circular.

## 5. Ethical Business Conduct

*Disclose whether or not the Board has adopted a written code of business conduct and ethics for the directors, officers and employees. If the Board has adopted a written code:*

The Board has adopted a written Code of Business Conduct and Ethics covering all employees and directors of Empire Company, which covers all of the elements recommended by NP 58-201.

*Disclose how a person or Company may obtain a copy of the Code;*

The Code is available on the Company's website, [www.empireco.ca](http://www.empireco.ca).

*Describe how the Board monitors compliance with its code or, if the Board does not monitor compliance, explain whether and how the Board satisfies itself regarding compliance with its code; and*

The Board, through the Audit Committee, receives reports of unethical behaviour received through the Ethics Hotline and otherwise.

*Provide a cross reference to any material change report filed since the beginning of the issuer's most recently completed financial year that pertains to any conduct of a director or executive officer that constitutes a departure from the code.*

The Board has not granted any waiver of the Code in favour of a director or executive officer since the beginning of fiscal 2011 (or, indeed, ever). Accordingly, no material change report has been required to be filed.

*Describe any steps the Board takes to ensure directors exercise independent judgement in considering transactions and agreements in respect of which a director or executive officer has a material interest.*

The Board does not nominate for election any candidate who has a material interest in any business conducted with the Company, or its subsidiaries, and requires directors to disclose any potential conflict of interest which may develop. Directors do not undertake any consulting activities for, or receive any remuneration from, the Company other than compensation for serving as a director and, in the case of Edward C. Harsant, as Chair of the Advisory Board of Lawton's Drug Stores Limited. (Directors who are also employees of the Company or one of its subsidiaries receive employment income as disclosed in this Circular but do not receive directors' fees.)

*Describe any other steps the Board takes to encourage and promote a culture of ethical business conduct.*

The Board encourages a culture of ethical conduct by appointing officers of high integrity and monitoring their performance so as to set an example for all employees. More information on director orientation is described in the section Director Orientation on page 22 of this circular.

## 6. Nomination of Directors

*Describe the process by which the Board identifies new candidates for Board nomination.*

The Nominating Committee is responsible for identifying new candidates for the Board. It annually identifies director skill and experience needs, having regard to projected retirements, and oversees a director recruitment search and nomination process leading to recommendations to the Board for consideration and recommendation for election by the shareholders.

*Disclose whether or not the Board has a nominating committee composed entirely of independent directors.*

The Nominating Committee is composed entirely of independent directors.

*The Nominating Committee should have a written charter that clearly establishes its purpose, responsibilities, member qualifications, member appointment and removal, structure and operations, manner of reporting to the Board, etc. In addition, the Nominating Committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to carry out its duties.*

The Nominating Committee mandate encompasses these responsibilities and provides for the effective functioning of the Committee. The mandate of the Committee is available on the Empire website: [www.empireco.ca](http://www.empireco.ca).

*Prior to nominating or appointing individuals as directors, the Board should adopt a process involving the following steps: competency/skill assessment of what is required, what exists, gaps, etc. The Board should also consider the appropriate size of the Board.*

The Nominating Committee monitors the composition of the Board and identifies the needs and any gaps that may exist. The Committee also considers the appropriate size of the Board.

*The Nominating Committee should be responsible for identifying individuals qualified to become new Board members and recommending to the Board the new director nominees for the annual meeting of shareholders.*

The Nominating Committee undertakes, on an ongoing basis, the responsibility of identifying prospective Board members. It recommends new nominees to the Board.

*In making its recommendations, the Nominating Committee should consider: competencies and skills necessary, current assessment of competencies and skills and those of director nominees.*

In fulfilling its responsibilities, the Nominating Committee seeks to ensure there is an appropriate mix of competencies and skills on the Board.

## **7. Compensation**

*Describe the process by which the Board determines the compensation for the issuer's directors and officers.*

The Corporate Governance Committee annually reviews the compensation of directors in other companies comparable to Empire in either size or activities through published surveys and private polls, and recommends adjustments thereto for adoption by the Board. The Human Resources Committee annually makes recommendations to the Board in respect of compensation of officers. When it is deemed necessary and appropriate, the HR Committee has retained Towers Watson to provide their expertise and access to their compensation information. The targets are approved and set by the Board in advance of the fiscal year.

*Disclose whether or not the Board has a compensation committee composed entirely of independent directors. If the Board does not have a compensation committee composed entirely of independent directors, describe what steps the Board takes to ensure an objective process for determining such compensation.*

The Human Resources Committee acts as a compensation committee in respect of executive compensation. The Human Resources Committee is comprised of a minimum of three independent directors, one of whom chairs the Committee.

*If the Board has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.*

The Human Resources Committee is responsible for monitoring the compensation practices and policies of the Company and making recommendations to the Board with respect thereto.

Included in the Committee's responsibilities are:

- Reviewing and approving corporate goals and objectives regarding CEO compensation;
- Evaluating the performance of the CEOs of Empire and Sobeys;
- Recommending CEO compensation;
- Recommending the design of incentive compensation and equity-based plans; and
- Reviewing executive compensation disclosure before the issuer publicly discloses this information.

The mandate of the Committee is available on the Empire website: [www.empireco.ca](http://www.empireco.ca).

*If a compensation consultant or advisor has been retained to assist in determining compensation for any of the issuer's directors and officers, disclose the identity of the consultant or advisor and briefly summarize the mandate for which they have been retained. If the consultant or advisor has been retained to perform any other work for the issuer, state that fact and briefly describe the nature of the work.*

No specific consultant or advisor has been retained to assist in determining compensation for directors. As mentioned in section 7, when deemed necessary, the Human Resources Committee has retained Towers Watson to provide reviews on executive compensation matters.

#### **8. Other Board Committees**

*If the Board has standing committees other than the audit, compensation and nominating committees, identify the committees and describe their function.*

The five standing Committees of the Board are: Audit, Corporate Governance, Human Resources, Nominating and Oversight.

The mandates of each Committee are available on the Empire website: [www.empireco.ca](http://www.empireco.ca).

#### **9. Assessments**

*Disclose whether or not the Board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments. If assessments are not regularly conducted, describe how the Board satisfies itself that the Board, its committees and its individual directors are performing effectively.*

The Corporate Governance Committee is responsible for regular assessment of the effectiveness and contribution of the Board, its Committees and individual directors. It carries out this responsibility through confidential surveys of each director regarding his or her views on the effectiveness of the Board and its Committees. Aggregate results of the survey are summarized and compared to the previous survey and reviewed in detail with the Corporate Governance Committee and the Board. An action plan is developed and implemented to address any issues raised by directors. Individual director performance is reviewed through discussion between each director and the Chair of the Board.