

2. WAS THE RESULT OF ACTIVE AND DELIBERATE DISHONESTY; OR

(II) THE DIRECTOR ACTUALLY RECEIVED AN IMPROPER PERSONAL BENEFIT IN MONEY, PROPERTY, OR SERVICES; OR

(iii) In the case of any criminal proceeding, THE DIRECTOR had [no] reasonable cause to believe that the [conduct] ACT OR OMISSION was unlawful.

(2) (i) Indemnification may be against judgments, penalties, fines, settlements, and reasonable expenses actually incurred by the director in connection with the proceeding.

(ii) However, if the proceeding was one by or in the right of the corporation, indemnification [may be made only against reasonable expenses and] may not be made in respect of any proceeding in which the director shall have been adjudged to be liable to the corporation.

(3) (I) The termination of any proceeding by judgment, order, OR settlement[, conviction, or upon a plea of nolo contendere or its equivalent creates a rebuttable] DOES NOT CREATE A presumption that the director did not meet the requisite standard of conduct set forth in this subsection.

(II) THE TERMINATION OF ANY PROCEEDING BY CONVICTION, OR A PLEA OF NOLO CONTENDERE OR ITS EQUIVALENT, OR AN ENTRY OF AN ORDER OF PROBATION PRIOR TO JUDGMENT, CREATES A REBUTTABLE PRESUMPTION THAT THE DIRECTOR DID NOT MEET THAT STANDARD OF CONDUCT.

(e) (1) Indemnification under subsection (b) of this section may not be made by the corporation unless authorized [in the specific case] FOR A SPECIFIC PROCEEDING after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in subsection (b) of this section.

(f) (1) Reasonable expenses incurred by a director who is a party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of the proceeding[, after a determination that the facts then known to those making the determination would not preclude indemnification under this section,] upon receipt by the corporation of:

(i) A written affirmation by the director of the director's good faith belief that the standard of conduct necessary for indemnification by the corporation as authorized in this section has been met; and