

Piercing the corporate veil

[Business](#), [Company](#)



A corporation called Techno-Corp issued 200, 000 shares of stock. Mallory who is the President and Chairman of the Board bought 60, 000 shares of Techno-Corp stock. Him and six other shareholders who owned 10, 000 shares each made up the board of directors. The remaining 80, 000 shares belonged to 40 other investors who each owned 2, 000 shares of Techno-Corp stock. These shareholders were never invited to the annual shareholders meetings.

While serving as both President and Chairman of the Board, Mallory ordered the corporate treasurer to cover his mortgage payments of \$20, 000 per month using Techno-Corp funds. Subsequently, when Techno-Corp began to have financial trouble Mallory borrowed a \$1 million unsecured loan in the corporation's name from Milhouse, a wealthy investor. Mallory was given express authority to borrow money for Techno-Corp; unfortunately, he has defaulted on this loan.

Is Techno-Corp or Mallory liable to Milhouse for the \$1 million corporate loan?

The general rule is that shareholders, board of directors, and corporate officers are not liable for the debt of corporation. An exception is allowed, however, when such is to prevent abuse of the privilege of corporate status during which courts sometime pierce the corporate veil to expose shareholders and directors/officers to liability. The factors considered by the courts to determine whether to pierce the corporate veil include; commingling of funds and other assets, unauthorized diversion of corporate funds to use other than the benefit of the corporation and contracting with another with intent to avoid performance by use of a corporate entity as a shield against personal liability.

In this case, Mallory knew that he was insolvent at the time he commingled corporate funds to cover his mortgage payments of \$20, 000 a month. Due to the fact, that Mallory was commingling corporate funds he then precariously borrowed a \$1 million loan in the corporation's name.

Therefore, it can be considered that he had the intent to avoid performance by using Techno-Corp as a shield against personal liability. The presence of these facts justify the act of the court in piercing the corporate veil, thereby making Mallory personally liable for the \$1 million loan that he borrowed from Milhouse.