Corporate Organization & Operation

How a Corporation Is Run

A Corporation has 3 competing factions: The Board of Directors, The Shareholders, and The Corporate Officers

- The Board of Directors- meets a few times a year, does not make the daily decisions of the corporation but makes policy decisions, appoints the corporate officers.
- The Shareholders- those who purchase shares in the corporation, usually have 1 vote per share, elect the members of the Board of Directors.
- The Corporate officers- the managers of the day to day operations of the corporation, hire the people to assist in daily operation, usually attend Board meetings to provide internal information but they have no voice at these meetings…

The Board of Directors of a Corporation

Members of the Board are elected by the shareholders

- Meets at least once a year at an “annual meeting” which is announced ahead of time and all shareholders may attend.
- At this meeting the new Board is elected by ballot.
- Corporate officers give the shareholders a report on the economic status of the company.
- In larger corporations, most board members are the largest stock holders and than some “outsiders”.
- “Outsiders”- people with special expertise who can lend special knowledge to decision making.

Rights of the Board of Directors

Each State has corporate laws dictating what rights and duties the members of the Board have.

- To inspect all of the financial books of the corporation.
- Be informed of an upcoming meeting of the Board.
- Indemnification- if a board member is sued for a corporate decision, the corporation will pay legal fees and reimbursement for losses.
- To be informed in detail of upcoming decisions
- Most Boards meet four times a year but have only One Annual meeting.
- Members of large boards like Intel are sometimes paid substantial sums to attend meetings, but this is not a right.

Duties of the Board of Directors

- The Business Judgment Rule- Board Members must make informed votes. This means: attend meetings of the directors, ask questions and ask for reports from the officers at meetings, read the materials provided by the corporation, go on in record in the minutes, raise concerns, and take an active role.
- Board members are held liable for corporate officers running amok.
- Duty of Loyalty- must disclose any monetary gain from an arrangement

The Shareholders of A Corporation

Shareholders are the people who own the corporation by acquiring shares of stock.

- The more stocks owned, the more votes. The more votes, the more control in the corporation.
- For example, a shareholder with enough votes could elect themselves to the Board of Directors.
- Shareholders MUST vote on decisions involving:

1. Amending the Articles of Incorporation
2. Amending the Corporate Charter
3. Amending the Bylaws
4. Approve mergers, consolidations, dissolutions
5. Sale of a majority of corporate assets
6. Election of the members of the Board of Directors

Rights of Shareholders

- To attend the annual meting.
- To vote on the aforementioned issues as well as election of the members of the board.
- To vote by proxy in a written ballot if not at the meting.
- To inspect and copy the corporate books (must give prior notice)
- To transfer shares of stock
- Record date- the date on which you must own shares of stock to be eligible to attend the meeting.
- Owners of record, shareholders, must receive notice of the meeting as well as information about who is running for the Board and proposals to be voted on at the meeting.
- There will be a default vote for a member who does not attend or vote by proxy. For example, the ballot will say something like “If you do not return this proxy in 30 days and do not attend the meeting, your vote will be cast for Frank Dudly for a three year term on the Board.”

Corporation Dissolution

- Shareholders may go to court and request the court to dissolve or end a corporation for one of the following reasons:
  1. Illegal or fraudulent acts by the Board of Directors
  2. Misapplication of Corporate Assets
  3. Deadlocked Board
- If the corporation has money left after dissolution the shareholders will get a pro rata share.

Shareholder Law Suits

There are two kinds of share holder lawsuits: individual and derivative

- Private Law Suit-A shareholder may sue for any rights created by statue or the right to inspect the books.
- Derivative Law Suit- A shareholder may sue on behalf of the corporation, when the corporation will not.
- For example, if a shareholder believes the corporation has the opportunity not to pollute but continues to do so, the shareholder may go to court (usually with other shareholders) in what is called a derivative suit.
- Before a Derivative Suit shareholders must go through a formal process where they ask the Board to bring the suit first
- Any recovery belongs to the corporation.

Corporate Officers of the Corporation

Corporate Officers are appointed by the Board. Terms and Duties are set out in Bylaws, they are employees and agents.

- Many rights and duties are the same as those of the board members in Duty of Care
- Duty of Care- liable if they fall below the standard of care or are negligent.
- Same Duties as Agents: Disclosure, obedience and reasonable care.