**Corporations Short Outline**

1. **AGENCY**
	1. **Agent?** (1) Agreement. (2) Act on Behalf. (3) Subject to control.
	2. **Types of Agent:** (1) Independent Contract Agent. (2) Servant.
	3. **Types of Authority**
		1. Actual Express
		2. Actual Implied (*Mill Street*)
		3. Apparent Authority (*370 Leasing*) or Apparent Partnership (*Young*)
		4. Inherent Agency Power (*Watteau*)
		5. Ratification (*Botticello*)
		6. Estoppel (*Hoddeson*)
	4. **Bind in Tort:** Servant? Scope of Employment?
	5. **Exception for Non-Agent:** (i) Inherently Dangerous. (ii) Negligent in Choosing/IC Incompetent.
	6. **Fiduciary Duties:** Duty of Loyalty (not steal). Duty of Care (not sleep on job).
2. **PARTNERSHIP**
	1. **Partnership?** Sharing (1) profits and (2) control. Need co-ownership. *See* *Fenwick Factors*.
	2. **Apparent Partnership:** Represents, or allows another to represent. Need reliance. (*Young v. Jones*)
	3. **Fiduciary Duties:** Owe utmost good faith and loyalty. (*Meehan*) Stronger version in *Meinhard*.
	4. **Authority:** can bind in any manner legitimate to business. Need majority to change default.
3. **PRELIMINARY CORPORATE ISSUES**
	1. **Piercing the Corporate Veil:** Major scumbag doctrine (fraud/injustice). Basically a shell. *See SeaLand Factors.*
	2. **Derivative Suit:** Cannot force board unless violated BJR 🡪 defer absent fraud, illegality, or conflict of interest.
		1. **Direct Suit:** shareholder needs to individually suffer direct/primary harm. NOT about corporate loss.
	3. **Charitable Giving:** Needs to be relative to corporation AND no conflict of interest. (*A.P. Smith*)
4. **FIDUCIARY DUTIES**
	1. **Duty of Loyalty:** director/officer cannot engage in undisclosed business transactions if conflict of interest.
		1. If CoI, D/O needs to show (1) fair and reasonable OR (2) **ratified** by Board/shareholders (SoR: waste).
	2. **Duty of Care:** spend time/care as ordinary prudent person with his assets. ***Gross negligence***. (*Francis*)
		1. **BJR:** Court won’t bother absent fraud, CoI, illegality, gross negligence or waste.
		2. **Creditors:** D/O owe duty of care when company is insolvent.
	3. **Dominating Shareholder:** owe FD to minority. (*Sinclair*)
	4. **Corporate Opportunity:** (1) Line of Business. (2) Learned through Work. (3) Necessity. (4) Expectancy.
		1. If board rejects 🡪 can take.
	5. **Classes of Stock:** Corp has FD to maximize returns to junior-most security. (*Zahn*)
	6. **Caremark Claim (Oversight):** For liability, need to (1) no system OR (2) if have system, consciously not monitor.
	7. **Independence of Board** (*China Agritech*)
5. **DISCLOSURE/INSIDER TRADING – ’34 Act**
	1. **Rule 10b-5**: abstain or disclose (*TGS*)
	2. **10b**-**5(2) “Misappropriation Theory”:** (1) Agree to Maintain Info. (2) Pattern of sharing. (3) Spouse/Child/Sibling.
	3. **FN 14 “Temporary Insider”:** legitimately gains MNI for corporate purposes (law/accounting firm) 🡪 *Dirks*.
	4. **Tippee Liability:** assumes FD when insider breached FD (personal gain) AND tippee knows/should know. (*Dirks*)
	5. **Rule 14e-**3**:** no trading on MNI if in connection to TO.
	6. **16b Short Swing Profits**
6. **PROXY FIGHTS**
	1. **Reimbursements**
	2. **Shareholder Proposals** (*Lovenheim*)
	3. **Shareholder Inspection Rights** (*Honeywell; Crane*)
7. **CONTROL ISSUES**
	1. **General Rule:** can bind as shareholders, but NOT as directors. (*McQuade*)
		1. Exceptions if no damage (*Clark*) or no one complains (*Galler*)
	2. **Abuse of Control:** In closely held corporations, owe same FD as partners. (*Wilkes*). Business matters (*Smith*).
	3. **Transfer of Control:** Control premiums OK if not looting (*Zetlin*), and no implied clauses (*Frandsen*).
8. **MERGERS & ACQUISITIONS**
	1. **Cash/Freeze Out Merger:** If R of disinterested board AND majority of minority shareholders 🡪 BJR. (*Kahn*)
		1. In Mass, need legitimate business purpose AND fair to minority. (*Coggins*)
	2. **Equal Dignity:** Delaware law allows for different choices, and you get to choose. No re-characterization. (*Rauch*)
9. **TAKOVERS**
	1. **Greenmail:** buy potential acquirer’s stock at premium. Different standards for inside/outside directors. (*Cheff*)
	2. **Takeover Defenses:** Must be reasonable response to threat posed (*Unocal*) and at some, *Revlon* duties kick in.