

Professor Virginia Maurer
BUL XXXX The Law and Ethics of Corporate Governance (3 credits)
Working Professionals MBA program
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Course Syllabus

1. The Instructor. Virginia Maurer is Hurst Professor of Business Law and Legal Studies and Director of the Poe Financial Group Business Ethics Program ; Northwestern University (B.A.); Stanford University (M.A., J.D.); former head of the Department of Management and Legal Studies; former editor in chief of the *American Business Law Journal*; Immediate Past President of the Academy of Legal Studies in Business; visiting professor at SDA Bocconi University in Milan, the Helsinki School of Economics in Finland; visiting member of the law faculty at the University of Cambridge (Wolfson College); lectures frequently in foreign business schools (The University of Catania and the Dublin Institute of Technology recently); involved with many college, university, professional, and civic boards and committees; likes to read and write and travel.

2. How to reach me. E-mail is the best way to contact me quickly. If I do not answer the office phone, call my home at 352-376-2867; if you do not reach me at home, leave a message on the answering machine (don't count on my family getting messages to me). I will get back to you.

3. Course Materials. You should have the following course materials:

- R.A.G. Monks and N. Minow, *Corporate Governance* (3rd edition) (Blackwell Publishing 2004)
- K. Ferber, *Corporation Law* (Prentice-Hall 2002)
- S. Watkins and M. Swartz, *Power Failure: The Inside Story of the Collapse of Enron*
- Harvard Business School case #9-802-125 Note on the Tax and Accounting Treatment of Restricted Stock Awards, Nonqualified Stock Options, and Incentive Stock Options and the Securities Laws Applicable Thereto
- HBS case #9-801-202 Richard Spellman (A) and (B)
- HBS case #9-803-200 M & A Legal Context: Basic Framework for Corporate Governance

Other materials will be distributed in class or identified on the internet.

4. Formal Course Description. The law and ethics underlying and governing the structure and operation of the business corporation in the United States and other industrial countries. Prerequisite: BUL 5810 or BUL 5811.

5. Scope of the Course. Subject matter includes the legal evolution of the corporation as an economic and moral “person”; the structure of ownership and its role in governance and capital formation; the role of the board as fiduciary and performance monitor; legal and ethical responsibilities of managers; comparative law of corporations; changes in corporate form; state and federal regulation of corporate structure, the securities markets, and corporate information.

6. What to Expect. The course will involve readings, class lectures, class discussion, and projects. There will be a quiz during the Saturday sessions of the second, third, and fourth weekends. In addition, there will be group and individual projects.

The final grade will be based on the following:

- a. **Monthly Quizzes** (30%). There will be a quiz (40-45 minutes) on _____, _____, _____. The quizzes will cover the assigned reading for the weekend (as explained below) and also a few questions from the previous weekend by way of review. The purpose of the quizzes is to assure that everyone comes prepared for the weekend and to provide immediate assessment of learning. I.
- b. **Group debates** (10%). On _____, _____, and _____, two teams will hold a debate on an issue that the instructor will select. Each team will have exactly 15 minutes to present its case and 5 minutes to rebut the other side. One team will be the affirmative and one the negative, so the structure is: affirmative, 15 minutes; negative, 15 minutes; negative, 5 minutes; affirmative, 5 minutes. Experience shows that this reduces order-based bias. Teams will draw lots for their slots, topics, and positions. The time keeper will adhere to the time limits, so organization is of the essence.
- c. **Two Individual Development Papers** (30%). Each of you will write two four to five page papers (presuming double-space, courier 10 or 12 size type – but of course you can use any type face you prefer) reacting to an issue of your choice generated out of the reading, the class session, or the topic of the session. Your reaction should incorporate additional research or reading on the topic drawn from secondary legal literature, and it may include personal opinion, detached reflection on the topic, or business experience. One paper

must be submitted by the beginning of class on _____ and the other by the beginning of class on _____ (these are Sundays). Late papers will be docked a half-letter grade, but both papers must be submitted eventually for you to receive a grade in the course. Write in standard English, typed or printed, with no misspelled words and no major grammatical errors. Each paper is to be an original work prepared for this assignment. A reworking of a paper prepared for another course is not acceptable. If you are using the same or a similar topic on which you have written in another class, please discuss this with me well in advance of the due date.

I like to have papers submitted in print. If you cannot be present at the beginning of class on the days the papers are due, please submit your paper as a Word document attachment to an email to me at virginia.maurer@cba.ufl.edu and then follow with hard copy.

- d. **Final Exam (30%).** The final exam will be a group analysis of a case to be distributed in class session #7 and presented in class session #8. The written analysis must be submitted at the beginning of class session #8.
- e. **Outstanding Class Contribution.** In a law class, every person's contribution to the class is an important part of every person's experience. I will reward outstanding classroom contribution that advances the learning goals of the class through generosity in close cases between final grades. I want to encourage you to attend fully to the classroom experience and to speak up and practice the communication skills that are critical to effective management. An outstanding contributor is always prepared, builds on others' comments, and makes insightful, relevant contributions.
- f. **Use of Laptops.** Experience has taught me (and lots of other professors) that students who use their laptops during class to multitask, e-mail, day trade, work on projects and so forth get less out of the course, are more dissatisfied with it, and perform less well than students who devote their full attention to the classroom experience. Moreover, the note-taking process itself, whether on a laptop or on paper, is of mixed value – it can document information and reinforce learning, but it can also become a self-absorbing exercise.

Please do not use your laptops or other internet or electronic devices during class, unless I specifically ask you to do so (which I will). I will provide you with hard copy of lecture notes and slides for use in class to take notes. In addition, I will post slides after the weekend. You may take notes in class and then condense and

organize them with the electronic versions of the notes if you wish to use this device to reinforce learning.

7. Reading Assignments and Due Dates

FIRST WEEKEND: INTRODUCTION AND GETTING STARTED

Topics for Class #1:

- overview of the course subject matter
- review of principles of agency and fiduciary duty
- review of principles of partnership
- other non-corporate business organizations
- comparative modes of ethical analysis in business ethics

SECOND WEEKEND:

Topics for class #2

- the corporation as a legal and moral “person”
- historical evolution of the corporate structure
- legal attributes of the corporate person
- the corporation and the criminal law
- corporations and government
- the role of non-economic considerations in corporate management
- deciding whether to incorporate and the mechanics of how to incorporate

Reading Assignment:

Ferber, chapters 1-3, pp. 1-35
Monks/Minow chapter 1 pp. 1-97

Topics for Class #3 Shareholders rights

- The special case of the close corporation
- Evolution of concepts of rights and ownership of shareholders
- The separation of ownership and control: the role of fiduciary duties
- Rights of shareholders under the Revised Model Business Corporation Act, and variants in New York and California
- Institutional investors as shareholders
- Institutional investors and corporate governance
- The SEC and proxies

- Models and paradigms of shareholder activism and passivism

Reading Assignment

Ferber chapter 4, 5, 8, and 10; pp 36-49; 104-122; 140-155
Monks/Minow, chapter 2, pp. 98-194
Watkins/Swartz – first 1/3rd

THIRD WEEKEND

Deliverable: 1) First Individual Development Paper; 2) Prepare team debate

Topics for Class #4: The Board of Directors

- The role of the board under the Revised Model Business Corporation Act
- Legal structure of the board
- The market for corporate control
- The Sarbanes-Oxley Act of 2002
- Fiduciary standards; greenmail and poison pills
- Duties of officers and directors
- Loyalty and Due Care
- Conflicts of interest
- Controlling shareholders
- Sale of managerial control
- The continued viability of the business judgment rule
- Liabilities of officers and directors under corporate law

Reading Assignment

Ferber, chapter 6
Monk/Minow, chapter 3, pp. 195-253

Topics for Class #5: Officers and Controlling Shareholders

- Legal problems in management compensation and stock options
- Legal and ethical issues in employment contracts
- Discussion of General Motors case
- Legal and ethical problems in aligning interests of the parties
- Employee stock option plans
- Raising capital: corporate power to issue debt securities
- Raising capital: corporate power to issue equity securities

- Discussion of HBS case #9-802-125
- Team debate

Reading Assignment

Monks/Minow: chapter 4, pp. 254-342
 Monks/Minow: Case study: General Motors, pp. 344-82
 Ferber, chapter 7
 HBS case #9-802-125
 2nd 2/3 of Watkins book

FOURTH WEEKEND

Deliverables: 1) Second Individual Development Paper; 2) Prepare team debate

Topics for Class #6: Issuance of Securities and International Corporate Governance

- Capital distribution; dividends; share acquisitions
- Legal and ethical issues in mergers and acquisitions
- SEC and state fraud rules on inside trading
- Legal and ethical issues in tender offers
- Discussion of Waste Management
- Corporate governance gone global
- Governance in emerging markets
- The European Community (Germany, France) and Japan
- OECD Best Practices in corporate governance

Reading Assignment

Monks/Minow: chapter 5
 Ferber, chapter 9, 11, and 12
 Monks/Minow: Waste Management Corp. case, pp. 448-466

Topics for Class #7: Distribution of Securities

- Securities Act of 1933
- Sales, offers, registration
- Blue Sky laws
- Discussion of Mirror Group case
- Discussion of Andersen case
- Discussion of Tyco case

Reading Assignment

Ferber, chapter 13, pp. 185-199

Monks/Minow, Mirror Group/Trinity Mirror case, pp 480-489

Monks/Minow, Arthur Andersen case, pp. 494-499

Monks.Minow, Tyco case, pp. 501-506

FIFTH WEEKEND

Deliverables: 1) Final Case Analysis and Wrap Up; 2) Prepare team debate

Topics for Class #8

- Discussion of final case analysis
- Discussion of Watkins/Swartz
- Team debates

Reading Assignment

Last 1/3rd of Watkins/Swartz