

# Washington University Law Quarterly

---

VOLUME 60

NUMBER 2

SUMMER, 1982

---

© 1982 by Washington University

## CONTENTS

### TOPICS IN CORPORATION LAW

#### ARTICLES

INTRODUCTION ..... *F. Hodge O'Neal* 305

THE BUSINESS JUDGMENT RULE  
AND SHAREHOLDER DERIVATIVE  
SUITS: A VIEW FROM THE  
INSIDE ..... *Richard W. Duesenberg* 311

#### COMMENTARY

*Robert W. Hamilton* 345

THE ANTITRUST CHALLENGE TO NON-  
PROFIT CERTIFICATION ORGANIZATIONS:  
CONFLICTS OF INTEREST AND A  
PRACTICAL RULE OF REASON APPROACH  
TO CERTIFICATION PROGRAMS AS  
INDUSTRY-WIDE BUILDERS OF  
COMPETITION AND  
EFFICIENCY ..... *Jonathan T. Howe* 357  
*and Leland J. Badger*

CORPORATE CRIMINAL ACCOUNTABILITY:  
A BRIEF HISTORY AND AN  
OBSERVATION ..... *Kathleen F. Brickey* 393

**NOTES**

COMMERCE CLAUSE RESTRAINTS ON STATE TAXATION OF ENERGY RESOURCES: A SUGGESTED FRAMEWORK FOR ANALYSIS..... 425

ELECTRIC AND GAS UTILITY ADVERTISING: THE FIRST AMENDMENT LEGACY OF *CENTRAL HUDSON* ..... 459

THE SEC AND COURT-APPOINTED DIRECTORS: TIME TO TAILOR THE DIRECTOR TO FIT THE SUIT ..... 507

ENTRENCHMENT CHALLENGES TO CONGLOMERATE MERGERS..... 537

MEASURING LIVES UNDER WAIT-AND-SEE VERSIONS OF THE RULE AGAINST PERPETUITIES..... 577

H.R. 7040: CRIMINAL LIABILITY FOR CORPORATE NONDISCLOSURE..... 603

**CASE COMMENTS**

*KAISER ALUMINUM & CHEMICAL CORP. v. FTC*, 652 F.2d 1324 (7th Cir. 1981) ..... 631

*HUNT v. ROTH*, 648 F.2d 1148 (8th Cir. 1981), *vacated*, 50 U.S.L.W. 4264 (U.S. Mar. 2, 1982) (No. 80-2165)..... 645

*AVIGLIANO v. SUMITOMO SHOJI AMERICA, INC.*, 638 F.2d 552 (2d Cir.), *cert. granted*, 102 S. Ct. 501 (1981) ..... 663

*CURRAN v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.*, 622 F.2d 216 (6th Cir. 1980), *cert. granted*, 101 S. Ct. 1971 (1981) ..... 675

*EEOC v. WYOMING*, 514 F. Supp. 595 (D. Wyo. 1981), *cert. granted*, 50 U.S.L.W. 3527 (U.S. Jan. 12, 1982) (No. 81-554) ..... 687

**RECENT DEVELOPMENTS**

*CROW TRIBE OF INDIANS v. MONTANA*, 650 F.2d 1104 (9th Cir. 1981)..... 705

*IN RE MID-ATLANTIC TOYOTA ANTITRUST LITIGATION*, 516 F. Supp. 1287 (D. Md. 1981) ..... 716

<i>UNITED STATES V. \$38,394 U.S. CURRENCY</i> , 498 F. Supp. 1325 (N.D. Ill. 1980).....	724
---	-----

**BOOK REVIEW**

SHAREHOLDER LITIGATION .....	<i>Roderick M. Hills</i> <i>and Michael Chertoff</i>	735
------------------------------	---	-----

The WASHINGTON UNIVERSITY LAW QUARTERLY is published four times a year by students of the Washington University School of Law. Address: LAW QUARTERLY, School of Law, Washington University, St. Louis, Missouri 63130. Unsolicited manuscripts will be considered for publication, and should be sent to the Articles Editors at this address. We regret that such manuscripts cannot be returned except upon receipt of postage and handling fees of \$1.00 or \$3.50 for first-class mail.

Subscription rates: United States and possessions, \$16.00 per year; single issue, \$5.00. All other countries, \$19.00 per year; single issue, \$6.00. A subscriber who wishes to discontinue his subscription at its expiration should send notice to that effect to the LAW QUARTERLY offices; otherwise, the subscription will be renewed. Requests for missing issues of the LAW QUARTERLY received six months after publication will not be honored. For all back issues not from the current volume, inquire of Fred Dennis & Co., 251 Main Street, Buffalo, New York 14203. Address all other business communications to the LAW QUARTERLY offices.

Except where the author has reserved the copyright, the LAW QUARTERLY grants permission for reproduction of articles and student works for classroom use in nonprofit educational institutions, provided that (1) copies are distributed at or below cost, (2) author and journal are identified, (3) proper notice of copyright is affixed to each copy, and (4) notice of use is sent to the LAW QUARTERLY.

Text and footnotes conform to W. Strunk, Jr. & E.B. White, *The Elements of Style* (3d ed. 1979); *Texas Law Review Manual on Style* (4th ed. 1979); *U.S. Government Printing Office Style Manual* (rev. ed. 1973); and *A Uniform System of Citation* (12th ed. 1976).

Second-class postage paid at St. Louis, Missouri, and additional mailing offices. Printed in the United States of America. ISSN 0043-0862.

---