Essay on corporate law

Business, Company

Question 3

Maximizing profits for the benefit of the shareholder is the fundamental philosophy to all profit driven businesses. However, most of the return strategies appear to contrast with the actual corporate behavior. This is so the case especially in corporations where the directors tend to seek personal achievements first. The executives, in a bid to satisfy their personal goals overlook, of forget the main goal, profit maximization for the shareholders. One thing to note is that profit maximization and wealth maximization are two different things. Profit maximization is about making more profits by increasing the price of the stock[CITATION Fra07 l 1033]. Wealth maximization is not only increasing the price of the stock, but increasing the number of stocks. With this definition, a shareholder’s wealth is calculated by multiplying the number of shares by the value of each. Some of the strategies laid out in a bid to maximize returns, many a times, work against what is expected. High risks are involved. In the chances that risk management is not well executed, heavy losses may be accumulated, to a point that the corporations may collapse. More to that, the motive behind the strategies may be far from benefiting the shareholders, but targeted towards personal gains of the directors. As if that is not enough, the managers may at some point get totally distracted from the primary goal of wealth maximization[CITATION Fra07 l 1033]. It is very unfortunate that many shareholders only get wind of how wrong things are when the damage is irreversible. The main elements of the philosophy that are susceptible to regulatory measures to ensure compliance are revenue, the operating margin, and the cash tax rate[CITATION Tal07 l 1033]. Others include the

cost of capital and the competitive advantage period. As for the element of revenue, it is important for the manager to understand that profit is what is left after costs have been deducted from the revenue income[CITATION Jae09 l 1033]. Profits will be at their maximum at the point where the output is highest. This is when the demand is high, and it is the best time to make sales. The other crucial element is the operating margin. If the marginal revenue equals the marginal cost, then the marginal profit is zero and vice versa. Hence, to have a high marginal profit, then the marginal revenue should be way higher than the marginal cost[CITATION Jae09 l 1033].
An example of a case where executives have not acted to the best interest of the shareholders is when the executives falsely raise the price of the stocks so as to cash in stocks. Another instance is when the executives pay themselves with stocks, rather than cash. This happened in the United States and is now popularly referred to as the Financial Crisis of 2007-2009.

Question 4

The directors of corporations in Australia are subjected to very high standards of ethical performance. They are regulated by corporate regulatory frameworks as well as the common law. The regulations and enforcemenst of corporate law in Australia are historically borrowed from English company laws[CITATION Aus09 l 1033]. However, in 2001, the Australian corporations Act 2001, was implemented. This act is a national statute and is administered by the Australian securities and Investments Commission. The commission is a national regulatory authority[CITATION Aus09 l 1033]. The strict corporate laws are dated back to history, in 1788, when the white colonists from the United Kingdom controlled the Australian corporations. The standards that were observed then are still followed to date, even after the colonial days. With the independence, Australia gained powers in relation to corporations[CITATION Rom02 l 1033]. There are labor standards, environmental, and ethical standards that all corporate directors should meet[CITATION Jae09 l 1033]. One of the standards to be met is the environmental standards. There are federal, state, and local government laws that are set to help protect the environment[CITATION Rom02 l 1033]. However, these regulations and laws may become difficult to follow to the latter. Again, the regulation bodies may refuse to approve an enterprise if the damage on the environment outweighs the monetary benefits. Other considerations to be made are related to labor, and social aspects. The social aspects include ethical issues. Corporations should be sensitive to affairs affecting the local community. All these affairs fall under the umbrella of social responsibility. The rules and laws that are laid down are executed and implemented, as they are constituted in the corporate laws. If not followed, there are certain bodies that are responsible for the displinary actions taken on executives who do not follow the rules as they are stated. These bodies usually are courts and tribunals, an example being the Centre for Corporate Law and Securities and Regulation and the Faculty of Law: Corporate Law Judgments[CITATION Ali11 l 1033]. The regulations and laws can be very difficult to carry out, since they can limit the flexibility of decisions made and strategies. It can also be expensive especially when it comes to social responsibilities.

The ASIC and ACCC have in the recent past years prosecuted company directors who have been accused of leading to the collapse of their firms with their misconduct and breaching of the set rules and laws. A good example is when the ASIC sued former executive directors of One. Tel telecommunications company, Jodee Rich and Mark Silberman. The two were sued for having led to the collapse of the company. The case took almost nine years, and was dismissed by the NSW Supreme Court since the regulator failed to give proper evidence supporting the suit. Another case is one that the ACCC launched complaints against the MSY Technology for allegedly engaging in false warranty representations, hence breaching some laws in the corporation Act. This has not yet been proven and so the company is still in operation, and its final hearing is yet to be. The fact that the above cases have proven unsuccessful for the legislators does not mean that the legislators are unwise in their operations. Government legislators can also launch cases in court against well financed business people, and emerge victorious.

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