

---

---

---

20

[ 中图分类号 ] D922.291.91 [ 文献标识码 ] A [ 文章编号 ] 2096-6180 ( 2022 ) 04-0039-16

---

1

2018

---

1

2017 1 1 2022 5 9

20

1 051

39

2

3

2021 12

4

1957

5

6

1975

7

2

10

2010

436

3

2020

1

95-104

2017

5

46-58

2020

4

93-105

4

20

191

5 Helms v. Duckworth, 249 F. 2d 482, 486-487 (D.C. Cir. 1957).

6 Sankin v. 5410 Connecticut Ave. Corp., 281 F. Supp. 524, 545 (D.D.C. 1968); Hartung v. Architects Hartung/Odle/Burke, Inc., 157 Ind. App. 546, 552 (1973).

7 Donahue v. Rodd Electrotype Co. of New England, 367 Mass. 578, 598-599 (1975).

---

8

1976  
legitimate business purpose

9

1984

private

10

freeze-out

intrinsically fair

1984

11

---

8 Frank H. Easterbrook & Daniel R. Rischel, *The Economic Structure of Corporate Law*, Harvard University Press, 1996, p. 247.

9 *Wilkes v. Springside Nursing Home, Inc.*, 353 N.E. 2d 657, 663 (1976).

10 *Orchard v. Covelli*, 590 F. Supp. 1548, 1548–1561 (W.D. Pa. 1984).

11 *Matter of Kemp & Beatley, Inc.*, 64 N.Y. 2d 63, 72–73 (1984).

12

1992  
1:2

13

14

15

- 
- 12 Litle v. Waters, No. CIV. A. 12155, 1992 WL 25758, 1–9 (Del. Ch. Feb. 11, 1992).
- 13 Nixon v. Blackwell, 626 A. 2d 1366, 1366–1381 (1993).
- 14 F. Hodge O’Neal, *Oppression of Minority Shareholders: Protecting Minority Rights*, 35 Cleveland State Law Review 121, 124 (1987).
- 15 Robert A. Ragazzo, *Toward a Delaware Common Law of Closely Held Corporations*, 77 Washington University Law Quarterly 1099, 1131 (1999).

50

17

18

---

16 . 6 2020 479  
17 Brent Nicholson, *The Fiduciary Duty of Close Corporation Shareholders: A Call for Legislation*, 30 American Business Law Journal 513, 515 (1992).  
18 . 6 2020 479

19

74

182

— 20

1

20

21

---

19 Donahue v. Rodd Electrotpe Co. of New England, 367 Mass.578, 578–604 (1975); Wilkes v. Springside Nursing Home, Inc., 353 N.E. 2d 657, 657–665 (1976).

20

2019 3 157–158

21

2017 5 57–58



---

32

19

John Collyer

<sup>25</sup>

19

20

1890

Partnership Act

1914

Uniform Partnership Act

26

20

---

25 John Collyer, *A Practical Treatise on the Law of Partnership*, Little Brown and Company, 1834, p.180.

26 Revised Uniform Partnership Act §404 (b) (1)–(3).



---

---

28

---

28

2004 4

112-113

2009

2

153

- 
- 29 *Lichtenberger v. Long Island Mach. Sales Corp.*, 71 A.D. 2d 941, 941–948 (1979).  
30 *Obermaier v. Obermaier*, 128 Ill. App. 3d 602, 602–610 (1984).  
31 *Simms v. Exeter Architectural Prod., Inc.*, 868 F. Supp. 677, 677–686 (1994).

32

to be treated equally

to be treated fairly <sup>33</sup>

legitimate business purpose

less harmful alternative

34

---

32 Robert C. Art, *Shareholder Rights and Remedies in Close Corporations: Oppression, Fiduciary Duties, and Reasonable Expectations*, 28 *Journal of Corporation Law* 371, 386 (2003).

33 *Nixon v. Blackwell*, 626 A. 2d 1366, 1379 (1993).

34 *Wilkes v. Springside Nursing Home, Inc.*, 353 N.E. 2d 657, 663 (1976).

---

35 Duggan v. Orthopaedic Inst. of Ohio, Inc., 365 F. Supp. 2d 853, 853–866 (2005).

36 Zidell v. Zidell, Inc., 560 P. 2d 1086, 1087–1090 (1977).



40

---

41

---

40

41

2020

4

127

2022

1

213

## **Application of Fiduciary Duty of the Controlling Shareholders of Limited Company**

ZHENG Jianing WANG Lingjie

Due to the particularity of corporate governance, the interests of minority shareholders of limited company are facing direct threat from controlling shareholders. However, it is difficult to provide appropriate remedies to minority shareholders in China's existing corporate regulations. For similar problems, since the middle of the last century, the company law of the United States has developed a solution of imposing fiduciary duty on the controlling shareholder of closed corporations to other shareholders. The experience is worth profiting from. China could establish fiduciary duty of the controlling shareholder of limited company by legislation, or achieve the same effects by applying the analogy measure in judicial practice. To be specific, the main content of the fiduciary duty of the controlling shareholders of a limited company is to prohibit them from crowding out minority shareholders. Whether the controlling shareholder's behavior violates fiduciary duty should be judged by the standard of legitimate business purpose. If the same business purpose can be achieved through other way which does less harm to other shareholders, the behavior of the controlling shareholder will violate the fiduciary duty.

Controlling Shareholder; Fiduciary Duty; Squeeze-out; Legitimate Business Purpose; Analogy