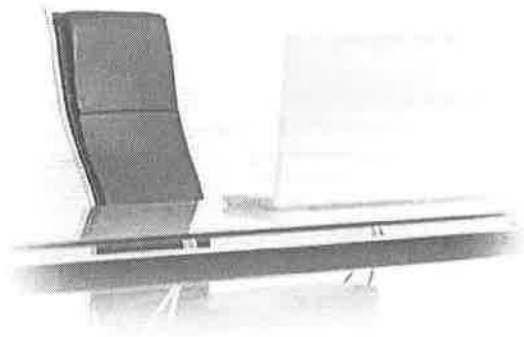


Why Business Matters to God

(And What Still Needs to Be Fixed)



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WHAT ABOUT SHAREHOLDERS?

Assume that I give you \$50 to buy some books for me. You take my money and agree to make the purchase. Once I have given you my money, however, you decide that it would be better to spend the money on school supplies for underprivileged children. You buy pencils, paper and backpacks, but no books for me. Do I have a right to complain?

Of course I do. In philosophical (and legal) terms you have violated your duty as my agent. It doesn't matter that you didn't use the money to enrich yourself or that you did a good thing with the money. It was my money, and you didn't use it as I directed and as you agreed you would.

The question about shareholders raises important agency concerns. In one form or another the person raising this question is usually asserting that shareholders have given management their money with the understanding that management will deploy the invested funds so as to maximize the returns for shareholders. If this is a true statement of the relationship, wouldn't using the funds to serve customers and employees be a breach of a manager's duties as an agent?

This is indeed a difficult question and I want to propose a number of possible responses.

Easy cases. First, there are many easy cases. If the shareholder/owner is also the one running the business, as is the case with many small and medium size businesses, there is no tension. In effect, the principal and agent are collapsed into one.

Alternatively, if the charter of the company (or statements of management) makes clear *before funds are invested* that any contributed capital will not be used in the first instance to try to maximize ROI, the shareholders who invest thereafter should be understood as doing so with a clear understanding of the arrangement. They have no standing to complain that management is not respecting any contrary desires that they might have for their investments. For example, when Google first went public, its SEC filing contained a letter from its founders that stated: "Eric, Sergey and I intend to operate Google differently, applying the values it has developed as a private company to its future as a

public company.”³ Google’s website continues to state expressly that it will subordinate potential increases in shareholder value to a commitment to ensure the best possible service to its users.⁴ Anyone investing in Google has no basis to complain—no agency argument—about Google’s failure always to seek to maximize ROI.⁵

Another easy case occurs when management legitimately believes that there is no conflict between pursuing service—and specifically the service to customers and employees I have advocated for here—and maximizing the return to investors. In such a case of happy coincidence there is no conflict and no basis for shareholder complaints.

But these are the easy cases. And even though they probably represent the vast majority of situations, we still need to look at the hard cases.

Hard cases. What about a situation where a shareholder is investing in a company that he is not managing and that has not expressed an intent to be governed by an alternative approach? In that context, can the management pursue any strategy other than maximizing ROI without running afoul of its duties as an agent for the shareholders? What can we say in this situation?

There are three possible ways of responding—all of which are helpful, but none of which is wholly satisfying. First, we could reasonably ask whether most shareholders are really “principals” entitled to assert a principal-agent relationship. Second, we could raise questions about the content of the charge to the agent. And finally, we might ask

³“Letter from the Founders” as set forth in amendment no. 9 to form S-1 Registration Statement, filed by Google, Inc., with the Securities and Exchange Commission on August 18, 2004.

⁴“Our Philosophy—Ten Things We Know to Be True,” *Google*, September 2009 <www.google.com/intl/en/corporate/tenthings.html>.

⁵Another example of a “disclaimer” statement of management philosophy can be found in the initial public offering statements for AES, a global energy company. In his book *Joy at Work*, Dennis Bakke includes the text of a paragraph from the draft of the initial public-offering memo sent to the SEC: “An important element of AES is its commitment to four major ‘shared’ values. . . . AES believes that earning a fair profit is an important result of providing a quality product to its customers. However, if the company perceives a conflict between these values and profits, the company will try to adhere to its values—even though doing so might result in diminished profits or forgone opportunities. Moreover, the company seeks to adhere to these values not as a means to achieve economic success, but because adherence is a worthwhile goal in and of itself” (Dennis Bakke, *Joy at Work* [Seattle: Pearson Venture Group, 2005], pp. 38–39).

whether higher values, in effect, trump the duty of management to be faithful agents.

First response. No one would argue that investors who offer uncovered puts and calls on stocks are principals entitled to complain about management actions. They are pure speculators—not investors. None of their money ever goes to the company. They might as well be betting on who will win the Oscar for Best Picture. If, contrary to their bets, the management of a particular company takes action that reduces the company's share price, the speculators may lose, but they can't legally (or philosophically or morally) bring a claim against management. Management simply owed them no duty.

Now most investors today, particularly investors in public corporations, bear much resemblance to these speculators. They are almost never giving any money to the company. Only in the case of new stock offerings, which are fairly rare, are shareholders actually investing new money into the company. Rather, most persons buying shares of company stock are giving their money to another shareholder—not investing with management at all. Moreover, like those speculators who offer puts and calls, most investors are buying stock only in the hope that it will appreciate in value so that they can sell it at a profit. They are betting, in effect, that the company's financial prospects will improve. Often they have little or no interest in what the company actually does—just in whether its share price is going up. In short, we might argue that these types of investors are entitled to no more deference than are speculators in the options market.

Second response. But assume for the moment that this argument does not satisfy you. After all, shareholders, unlike pure speculators, are at least stepping into the shoes of someone who did invest money in the company, albeit often many times removed. The next line of inquiry then would focus on the nature of the charge the shareholder-principal ostensibly gives to the management-agent when he or she invests funds.⁶ Of

⁶We could argue that the only charge worth considering is the charge given by the shareholder who originally purchased at the IPO. All the subsequent shareholders take derivatively and arguably can only assert, at best, the charge of the original investor. This would tend to further

course, no one really sends in their money with a letter directing that the funds be used to maximize returns. In fact, there are no explicit instructions that accompany a stock purchase. Whatever charge is being given to the agent is implied either in law or in custom, and it turns out that both are murky and migrating.

Under the "Model Business Corporation Act," which informs the legislation governing businesses in most states, management is charged with acting in a manner that it "reasonably believes to be in the best interests of the corporation." The content of this phrase has received clarification in the courts, and most famously it has been interpreted as meaning "in the best interests of the shareholders."⁷ But this case precedent is old and has been challenged and ignored on many occasions.⁸ Moreover there are recent examples to the contrary. In addition, a large majority of state codes now contain so-called other-constituency provisions that explicitly authorize management (at least in certain circumstances) to consider the interests not just of shareholders but of other stakeholders as well.⁹ As law tends to do, it is changing with underlying societal expectations, and there can be no doubt that much of society is moving away from a strict expectation that all management decisions be made to maximize returns for shareholders.¹⁰

mitigate the agency concerns since the expectation that management will always seek to maximize ROI is a relatively recent phenomenon (see Allan A. Kennedy, *The End of Shareholder Value: Corporations at the Crossroad* [Cambridge, Mass.: Perseus, 2000], pp. 1-2, 33-45).

⁷*Dodge v. Ford Motor Company*, 204 Mich. 459, 170 N.W. 668. (Mich. 1919).

⁸Richard Maren and Andrew Wicks argue persuasively that *Dodge* does not require shareholder maximizing behavior on the part of management. Indeed after surveying the law, they conclude that in "the corporate setting, fiduciary duties do not impose a requirement that a business be run in a certain manner. No court equates this duty with 'maximizing shareholder value' even assuming such an indeterminate concept could be estimated" (Richard Maren and Andrew Wicks, "Getting Real: Stakeholder Theory, Managerial Practice, and the General Irrelevance of Fiduciary Duties Owed to Shareholders," *Business Ethics Quarterly* 9 [1999]: 277).

⁹For a discussion of these provisions see Marjorie Kelly, *The Divine Right of Capital: Dethroning the Corporate Aristocracy* (San Francisco: Berrett-Koehler, 2001), pp. 137-41.

¹⁰I don't mean to underemphasize the potential legal difficulties. There are some who continue to believe that the law precludes management from operating a company for any purpose other than maximizing shareholder wealth. See for example, Joel Bakan, *The Corporation* (New York: Free Press, 2004), p. 37. This has led others to work for revisions to laws to create "a new legal structure for companies eager to embrace broad social commitments without fear of recourse from disgruntled shareholders" (G. Jeffrey MacDonald, "When 'B' Means Better: 'B Corporation' Status Reveals Commitment to Benefiting Others," *Christian Science Monitor*, July 22, 2009, p. 14).

In a recent global survey of senior level corporate executives, McKinsey & Company found the following:

Unquestionably, the global business community has embraced the idea that it plays a wider role in society. More than four out of five respondents agree that generating high returns for investors should be accompanied by broader contributions to the public good—for example, providing good jobs, making philanthropic donations, and going beyond legal requirements to minimize pollution and other negative effects of business. Only one in six agrees with the thesis, famously advanced by Nobel laureate Milton Friedman, that high returns should be a corporation's sole focus.¹¹

Of course this is not the same thing as the service model advocated here, but it does undercut the claims of shareholders that profit maximization is a well-understood and implied charge to management that accompanies every stock purchase. Arguably the charge to the agent from the investor principal is sufficiently general as to allow for the adoption of the approach advocated here without violating any duties management owes to its shareholders.

Third response. Finally, one further argument might be asserted. In law there is a concept referred to as *ultra vires*, which literally means “beyond powers” and is invoked from time to time when someone claims that a corporation is attempting to take an action beyond the specific powers granted to it in its charter.

Perhaps we could make a parallel argument with respect to a shareholder's investment in a company. If we start with the assumption that all assets are owned, in effect, in trust for God, then we could conclude that an investor does not have unfettered power to dispose of assets however she sees fit. The investor must use them in conformity with the will of the creator of the trust (i.e., God) because she merely holds them in trust and does not own them outright. If so, were an investor to give instructions that the assets should be used in

¹¹“The McKinsey Global Survey of Business Executives: Business and Society,” *McKinsey Quarterly*, January 2006 <www.mckinseyquarterly.com/The_McKinsey_Global_Survey_of_Business_Executives__Business_and_Society_1741#>.

a manner inconsistent with the trust arrangement (i.e., contrary to God's will), then the investor arguably would be acting beyond her powers. Put differently, we might argue that the investor lacks the power to direct management to use the assets in a manner inconsistent with God's intent. If God wants the assets of business deployed to serve customers and employees, a manager might argue that he is free to ignore contrary instructions from the shareholder on the grounds that the contrary instructions are beyond the authority of the shareholder in her capacity as trustee.

Of course, there are some obvious problems with this line of reasoning as well. If carried to an extreme, it would do away with the notion of agency altogether. Agents could always substitute their understanding of God's will for that of their principals. But perhaps in this more limited setting of remote shareholders and murky investor expectations, the *ultra vires* argument should be given some weight.

In any event, while there are some arguments that could be made, none of them conclusively addresses the agency concerns in the hard case. But there is a way out, actually a very simple solution. Previously, I have suggested that if the company's charter explains that the company will not pursue a profit maximization model, shareholders who choose to invest in such a corporation would have no basis for complaining when the company did what it said it would.

Nearly the same result can be achieved even if investors have already invested in a business. A business manager who wants to run the business in accordance with the service-model advocated here should clearly and publicly announce his intent to do so. Since the shareholders always retain the right to remove a manager, their acquiescence in the face of such an announcement would amount to an acceptance of the manager's construction of their agency relationship. The manager would be declaring, in effect, that if he is given the opportunity to do so, he will treat the agency relationship as one that allows him to direct the company in pursuit of service to customers and employees. It is then up to the shareholders to decide if this is the kind of relationship that they want to govern their investments.

CAN THIS APPROACH TO BUSINESS REALLY WORK?

Underneath this question is usually the concern that the market may not tolerate a business that operates in the manner I am advocating. If a business pursues the first-order goals of providing quality goods and services and meaningful and creative jobs, if it limits itself by principles of sustainability (even where it is not legally required to do so), and if it seeks to support the work of other institutions rather than capitalizing on their weaknesses, will it be competitive? What will happen to its cost structure? What about its cost of capital? Isn't this just a recipe for business failure?¹²

I always want to be careful about how I answer this question. I do not want to suggest that this model of business should be adopted because "it works." It is not being proposed as a tactic. Rather, business should be pursued as I have outlined here because it would be right to do so. Doing so aligns the business with God's values and plans. As I have noted before, I also do not want to suggest that good ethics is always good business. Faithful discipleship in business will not invariably redound to a stronger bottom line. "The practical point to be drawn from these reflections is not that honesty always pays off; it does not. It often has costs. For moral reasons alone, these costs are worth paying."¹³

Having said this, however, I do believe that adopting the approach outlined here is likely to prove *highly competitive* in today's marketplace for a number of reasons. First, societies around the world are already expecting more of business than just maximizing returns or increasing share value.¹⁴ A business that aligns its performance with society's ex-

¹²This is essentially the argument advanced by Robert Reich in his book *Supercapitalism*. Reich argues that in the hyper-competitive global market in which businesses must compete in the twenty-first century, there is little to no room for corporations to act socially responsible unless the so-called socially responsible behavior is really the best strategic option for minimizing costs and maximizing margins. "Companies under supercapitalism no longer have the discretion to be virtuous. Competition is so intense that most corporations can not accomplish social ends without imposing a cost on to consumers or investors—who would then seek and find better deals elsewhere" (Robert Reich, *Supercapitalism: The Transformation of Business, Democracy and Everyday Life* [New York: Alfred A. Knopf, 2007], p. 173).

¹³Michael Novak, *Business as a Calling* (New York: Free Press, 1996), p. 168.

¹⁴There are a number of reasons to anticipate an increasingly hospitable reception in the general

pectations should expect to see higher sales, lower transaction costs and lower costs of capital.

And we can find hints of this in many contexts. The willingness of some consumers to pay more for “shade-grown, free trade” coffee beans—which taste exactly like all other coffee beans from the same region—hints at the value consumers may be willing to place on so-

business community to the model that I am advocating here. As noted in chap. 8, n. 11, the McKinsey survey of senior executives underscores the broadening international expectations for business. This may be in part because international expectations of business have always had more of a communitarian flavor than has been the case in the highly individualistic practice of business in the United States. As U.S. businesses become more global, they are finding that it is increasingly necessary to consider societal values that go beyond the company's financial bottom line. But it no doubt has also been fueled by the series of recent scandals. The dominant shareholder maximization model, while perhaps not the direct cause of many of these failures, has nonetheless proven to be very dry fodder that easily bursts into flames in the face of unethical sparks. There seems to be a growing recognition that market forces, in and of themselves, are insufficient to produce right behavior.

Other factors that may make the adoption of the model I have proposed less controversial include the growing corporate social responsibility (CSR) movement, the adoption of the United Nations' Global Compact and its related work on business and human rights, and the growing interest in social ventures and social entrepreneurship. While none of these developments maps directly onto the model I am promoting here, the trend in society's expectations of business that these developments reflect suggests that in general those seeking to implement a stewardship model may find an increasingly hospitable climate in which to do so.

Marc Gunther, an editor for *Fortune* magazine, identifies a number of companies who are approaching business differently. “More than that, though, they want to rethink the very purpose of business. The purpose of business, they argue, is not to generate profit. The purpose of a business is to better the lives of the people it touches—and to serve the common good. . . . These changes are not disconnected. Taken together, they add up to nothing less than a quiet revolution that has begun to transform corporate America. Big companies are gradually remaking themselves so they can do more to serve the common good. . . . To be sure, only a Pollyanna would say that all companies are changing this way. . . . But I have come to believe that most companies, like the ones in this book, are moving toward a more humane vision of what business should be” (Marc Gunther, *Faith and Fortune: The Quiet Revolution to Reform American Business* [New York: Crown Business, 2004], pp. 10–11, 28). William Greider says, “My premise—that American capitalism is ripe for reinvention—is not based on a fanciful supposition. The most compelling reason for expecting deep reform is the new circumstance described [earlier]—the paradox of secure abundance accompanied by the stressed social reality” (William Greider, *Soul of Capitalism: Opening Paths to a Moral Economy* [New York: Simon & Schuster, 2004], p. 25). Bo Burlingham adds, “The shareholders who own the businesses in this book have other, non-financial priorities in addition to their financial objectives. Not that they don't want to earn a good return on their investment, but it's not their only goal, or even necessarily the paramount goal” (Bo Burlingham, *Small Giants: Companies That Choose to Be Great Instead of Big* [New York: Portfolio, 2005], p. xvii). And Daniel Yankelovich says, “I suspect that companies will gradually shift away from giving shareholders top priority” (Daniel Yankelovich, *Profit with Honor* [New Haven, Conn.: Yale University Press, 2006], p. 130).

cially responsible practices. The growth in socially responsible mutual funds highlights the value some investors are willing to assign to good corporate behavior. The fact that a number of major corporations have begun to pay attention to issues of climate change—not just as public relations initiatives but as components of their core business strategies—likewise suggests that businesses are finding themselves needing to respond to and align with a broader range of expectations.

Similarly, one ought to expect that companies that are passionate about serving their customers will develop significant brand loyalty and see an increase in sales. Customers can tell when they are being cared for and when they are being marketed to. In the first case they are the ultimate object of the company's efforts. In the second they are merely a means to an end.

Perhaps the best argument for the competitiveness of the service approach, however, is linked to employee motivation. In this twenty-first-century knowledge-based economy, many of the most important assets of a business often cannot be found on its balance sheet. Rather, in many cases the wealth of the company, that is, its capacity to generate high returns, will be embedded in the creativity, knowledge, talent and relationships of its employees.¹⁵

Talent is the scarce resource because it is the ultimate generator of the intangibles that drive the creation of wealth in the digital age. Winning companies are those that can increase their profit per employee by mobilizing labor, capital and mind power into profitable institutional skills, intellectual property, networks and brands.¹⁶

How then can employee energy and creativity best be released? Imagine trying to motivate employees by reminding them that this is all about

¹⁵This may be particularly true given the changing nature of the U.S. workforce. Daniel Yankelovich notes that the long-term trend for the United States shows a steady increase in the number of jobs requiring high levels of discretion and extra initiative. According to his figures, "high-discretion" jobs made up only 18 percent of the jobs prior to World War II. By 2000 that number had risen to 62 percent. "Our competitive success in the global economy does not depend solely on capital and technology; it depends critically on employee morale and commitment" (Yankelovich, *Profit with Honor*, p. 112).

¹⁶Lowell L. Bryan and Claudia I. Joyce, "Better Strategy Through Organizational Design," *McKinsey Quarterly*, no. 2 (2007): 24.

maximizing the return for shareholders. Explain to them that they should give every last ounce of their energy and creativity to the company so that the company and its owners can make more money. Alternatively, imagine helping them understand how their work connects to solving a problem in their community, or brings opportunities to segments of society who have previously been underserved, or makes advances in human health possible, or brings beauty to places of ugliness, or allows for access to new information, or, more generally, how their work is producing goods and services that will enable their community to flourish. Which seems most likely to unleash their best efforts?

In a 2004 interview with *Fortune* magazine, Jeff Immelt, CEO of General Electric said this:

To be a great company today . . . you also have to be a good company. The reason people come to work for GE . . . is that they want to be about something that is bigger than themselves. They . . . want to work for a company that makes a difference, a company that's doing great things in the world.¹⁷

Bill Pollard, the retired CEO of ServiceMaster, tells the story of Shirley, who was a ServiceMaster employee working as a housekeeper in a 250-bed community hospital. After fifteen years on the job she still seemed excited about her work, and Pollard wondered why. Day after day she mopped and wiped and cleaned the same floors, the same rooms, the same toilets. "The dirt has not changed nor have the unexpected spills of the patients or the arrogance of some physicians."¹⁸ The answer, Pollard discovered, was that Shirley had come to see her work in terms of the mission of the hospital. "She has a cause."¹⁹ She was not just cleaning floors. She was an integral part of the team that was bringing healing to the sick. She was about something bigger than herself, something bigger than the economic well-being of ServiceMaster.

¹⁷Marc Gunther, "Money and Morals at GE," *Fortune* 150 (2004): 176.

¹⁸C. William Pollard, *The Soul of the Firm* (New York: HarperBusiness, 1996), p. 46.

¹⁹"Every firm should be able to articulate a mission that reaches beyond the task and provides a hope that the efforts and activities of its people are adding up to something significant—so significant, in fact, that even more can be accomplished than is expected" (*ibid.*).

Indeed, she was about the work of the kingdom.

In short, it seems logical to suppose that the service model advocated here has a better chance than the profit-maximization model of connecting with employees in ways that will inspire and motivate them to bring their best to the workplace.

This observation has found some empirical support in the work of Jim Collins and Jerry Porras. In their book *Built to Last*, Collins and Porras identify eighteen pairs of companies, each in a different industry. One company in each pair was labeled “visionary” and the other “good,” in each case based on long-term financial performance. According to the authors the visionary companies were like the gold-medal winners and the good comparison companies were the silver-medal runner-ups. The authors then asked if there were any common factors that tended to distinguish visionary companies from their industry counterparts.

It turns out that one factor related to the organization’s understanding of its purpose. Indeed this factor was found to apply in seventeen of the eighteen pairs, and was one of the clearest differences that the authors identified.

Contrary to the business school doctrine, we did not find “maximizing shareholder wealth” or “profit maximization” as the dominant driving force or primary objective through the history of most of the visionary companies. . . . Through the history of the most visionary companies we saw a core ideology that transcended purely economic considerations.²⁰

Put simply, the most financially successful companies were the ones that did not view the purpose of business as simply maximizing shareholder ROI.

To illustrate this point, Collins and Porras quote Henry Ford, founder of the Ford Motor Company:

I don’t believe we should make such an awful profit on our cars. A reasonable profit is right, but not too much. I hold that it is better to sell a large number of cars at a reasonably small profit. . . . I hold this because

²⁰James C. Collins and Jerry I. Porras, *Built to Last* (New York: HarperBusiness Essentials, 2002), p. 55.

it enables a larger number of people to buy and enjoy the use of a car and because it gives a larger number of men employment at good wages. Those are the two aims I have in life.²¹

David Packard, cofounder of Hewlett Packard, says:

Why are we here? . . . You look around [in the general business world] and still see people who are interested in money and nothing else, but the underlying drives come largely from a desire to do something else—to make a product—to give a service. . . . The real reason for our existence is that we provide something which is unique [that makes a contribution]. . . .

Profit is not the proper end and aim of management—it is what makes all of the proper ends and aims possible.²²

I am not suggesting that any of these companies currently operate under or were even founded on precisely the service model that I am advocating. I would suggest, however, that these are just a few examples of many companies who have been very financially successful even while pursuing a business purpose that subordinates profit maximization to some broader goal. In short, to answer the question at hand, there is ample reason to believe that this model can and will work in the marketplace.

WHAT SHOULD I DO WHEN I CAN'T HAVE IT ALL?

Managing a business is all about making decisions. Of course, not all decisions raise ethical issues. Some are merely tactical. A supplier wants to sell me socks at \$.50 a pair with net 15 payment terms. I offer to buy the socks at \$.40 a pair with payment terms of net 30. We settle on a sale price of \$.50 a pair and payment terms of net 30. Both parties to this transaction had to compromise to make the deal, but this was not a compromise that touched ethical concerns.

Other decisions do raise ethical issues. In many cases, however,

²¹Henry Ford, quoted in *ibid.*, p. 53.

²²David Packard, quoted in *ibid.*, p. 56. Collins and Porras find similar sentiments expressed by George Merck II (Merck), Masaru Ibuka (Sony), Robert Johnson (Johnson & Johnson) and a number of others (*ibid.*, pp. 46-79).