

Comic History of US Corporate Law

# THE CASE THAT SHOCKED CORPORATE AMERICA

\$3

DIRECTORS' DUTIES, LIABILITY, AND COURTS vs. LEGISLATURES



Jay A. Pritzker

\$55

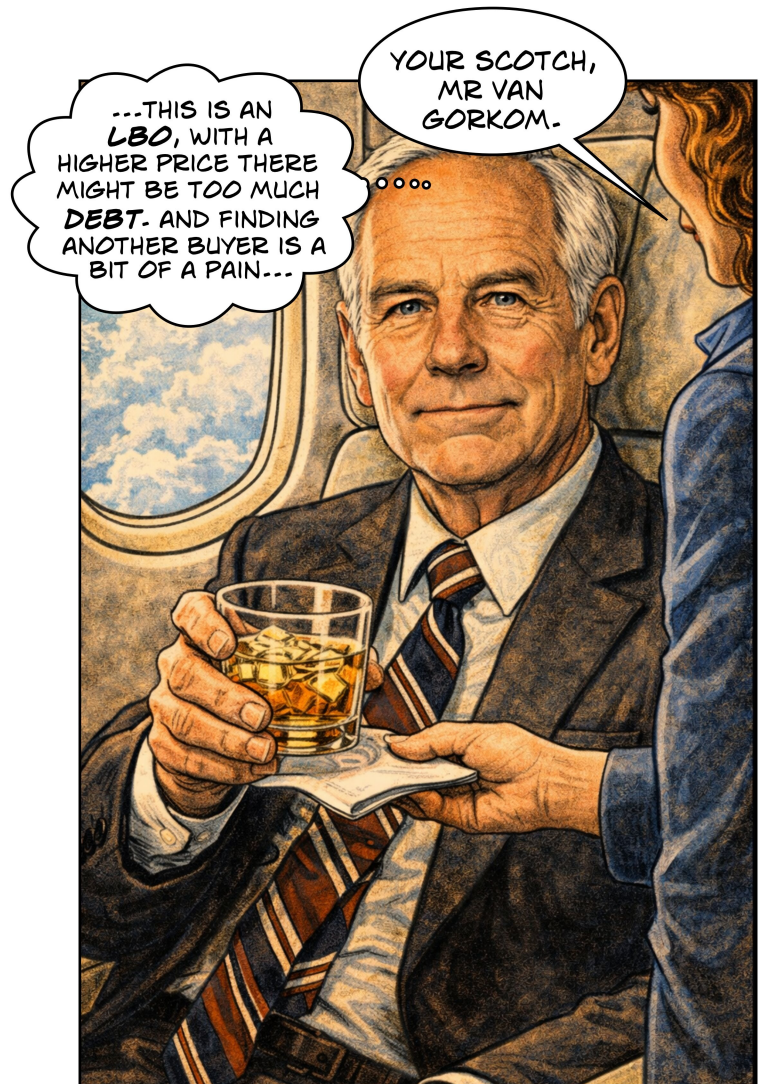
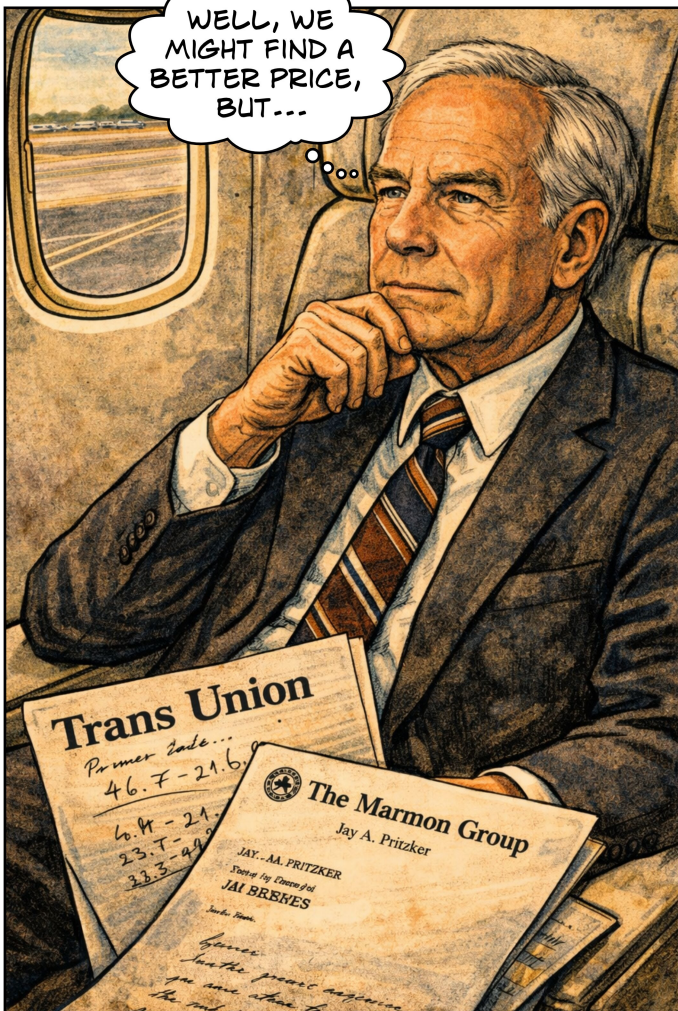
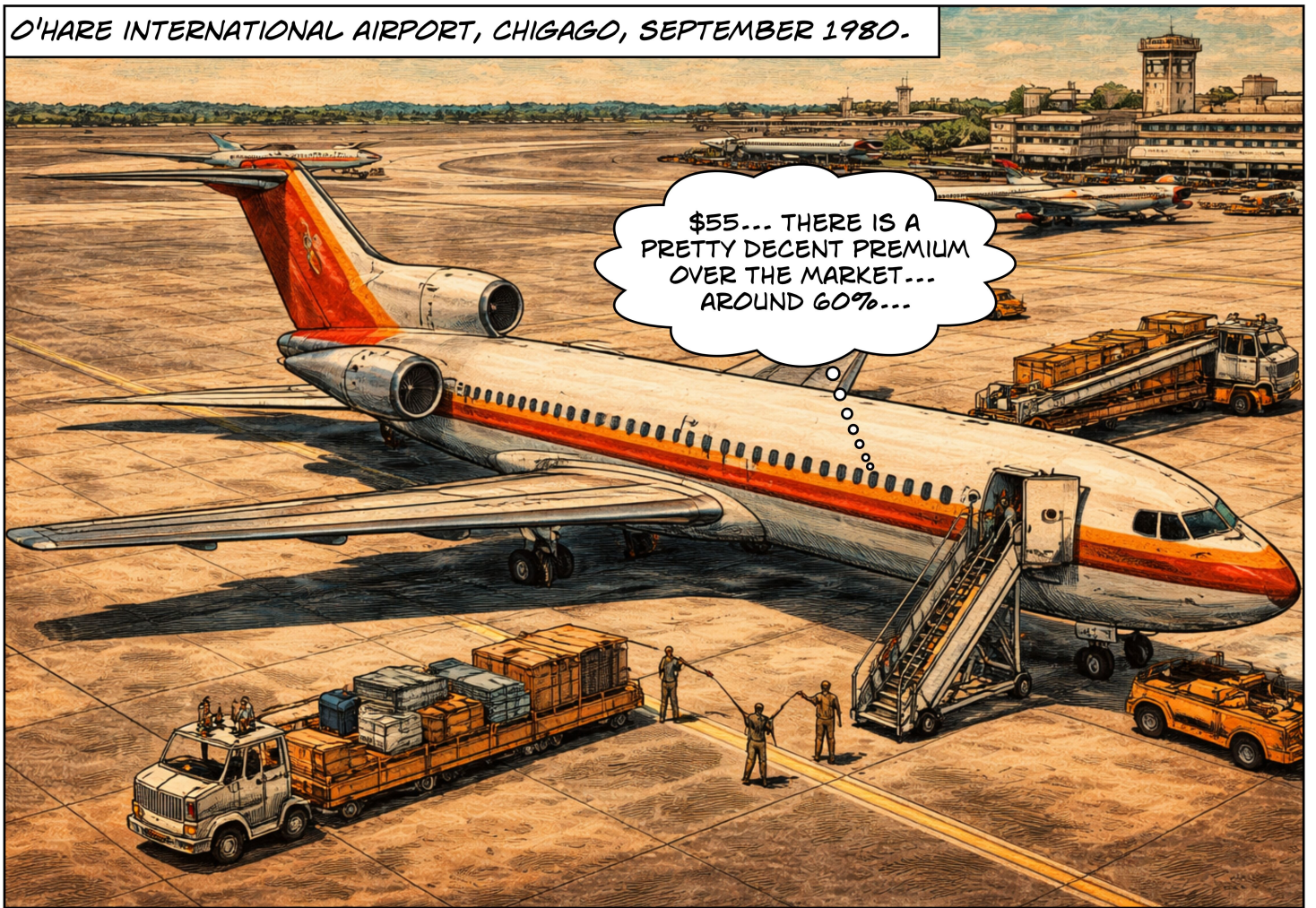
§ 102(b)(7)

Story: Marco Ventoruzzo

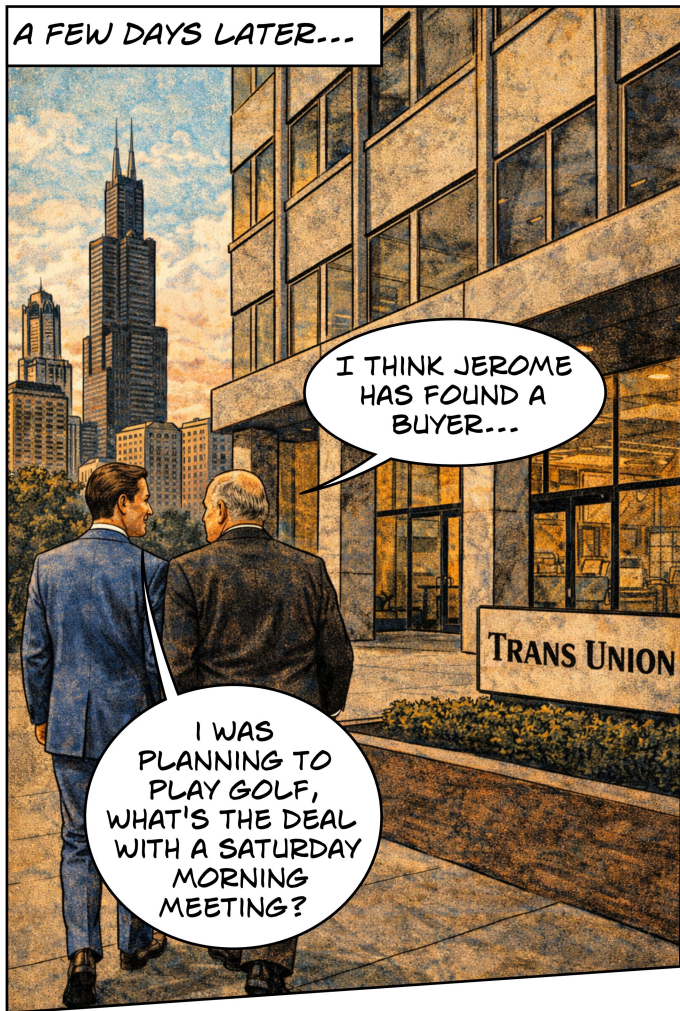
Drawings: ChatGPT

Lettering & format: MV with ComicLife

O'HARE INTERNATIONAL AIRPORT, CHICAGO, SEPTEMBER 1980.



A FEW DAYS LATER...



I THINK JEROME HAS FOUND A BUYER...

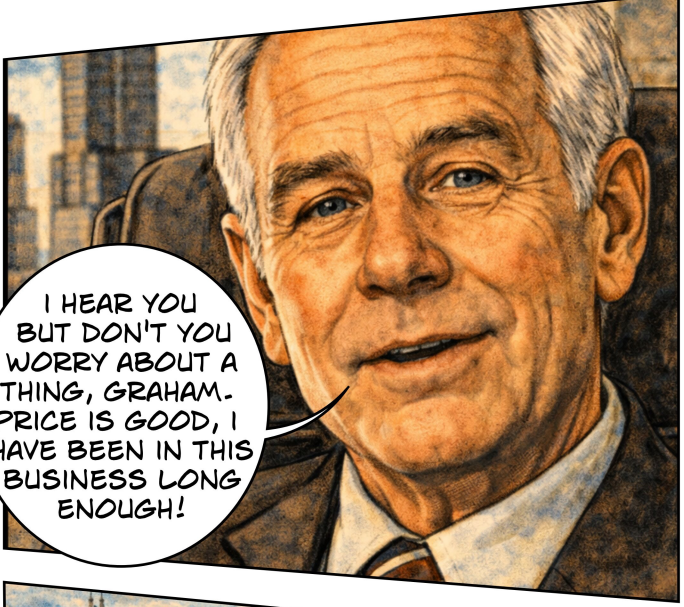
I WAS PLANNING TO PLAY GOLF, WHAT'S THE DEAL WITH A SATURDAY MORNING MEETING?



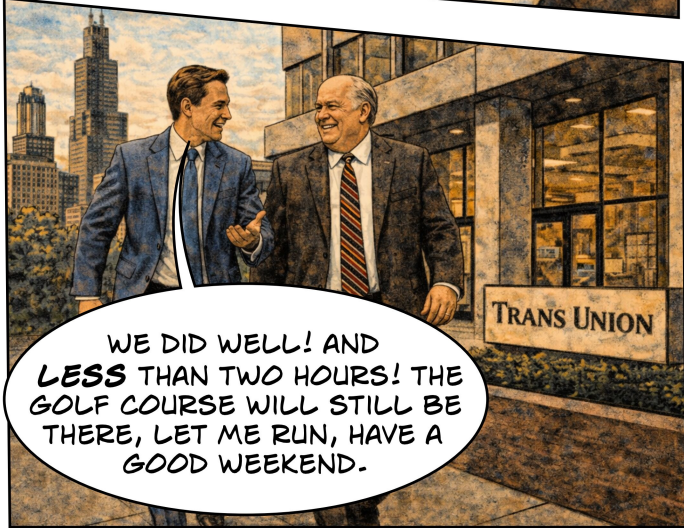
YOU SEE, AT \$55 PER SHARE THIS IS DOABLE BECAUSE OUR CASH FLOWS ALLOW TO REPAY THE DEBT THAT PRITZKER NEEDS. IF WE ASK FOR MORE, HE WILL WALK AWAY. AND THERE IS A SUBSTANTIAL PREMIUM ON THE MARKET!



SURE JEROME, THAT MAKES SENSE, BUT... DO YOU HAVE LIKE AN INDEPENDENT EVALUATION? IS THAT THE FAIR VALUE OF TRANS UNION?



I HEAR YOU BUT DON'T YOU WORRY ABOUT A THING, GRAHAM. PRICE IS GOOD, I HAVE BEEN IN THIS BUSINESS LONG ENOUGH!

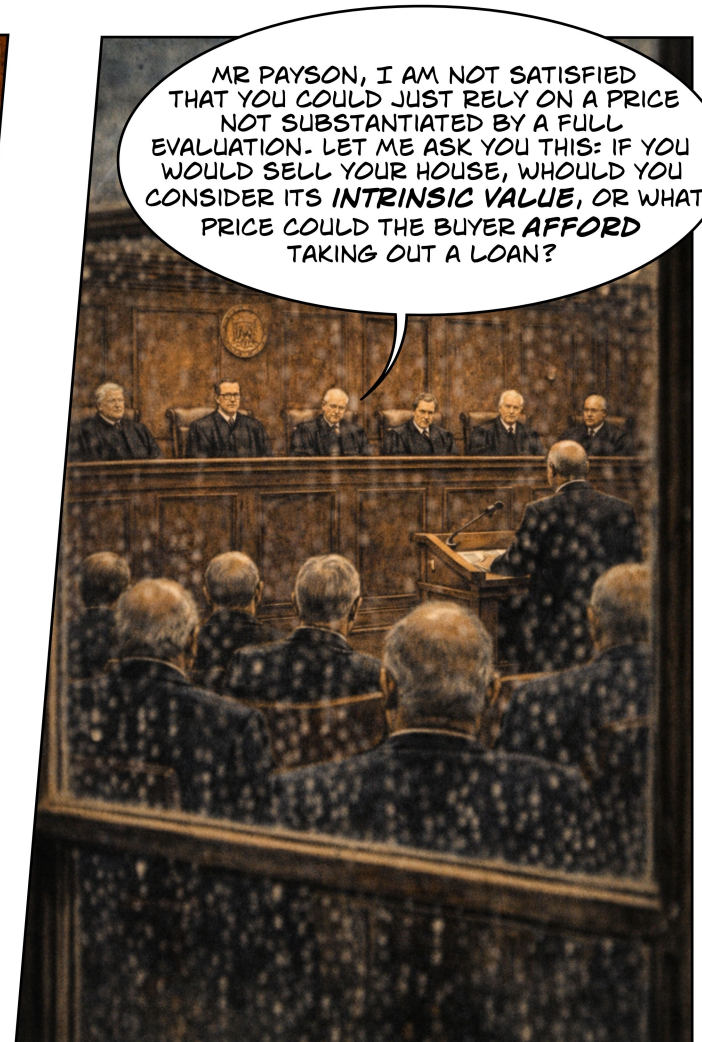


WE DID WELL! AND LESS THAN TWO HOURS! THE GOLF COURSE WILL STILL BE THERE, LET ME RUN, HAVE A GOOD WEEKEND.

DOVER, DELAWARE, 1985. CHAMBERS OF THE SUPREME COURT OF DELAWARE



YOU GOT THIS ALL WRONG, HENRY! THIS IS A **COMEDY OF ERRORS**, LOOK AT THE ETIRE RECORD! YOU ARE MAKING A MESS OF THE BUSINESS JUDGMENT RULE, I WILL **DISSSENT!**



MR PAYSON, I AM NOT SATISFIED THAT YOU COULD JUST RELY ON A PRICE NOT SUBSTANTIATED BY A FULL EVALUATION. LET ME ASK YOU THIS: IF YOU WOULD SELL YOUR HOUSE, WHOULD YOU CONSIDER ITS **INTRINSIC VALUE**, OR WHAT PRICE COULD THE BUYER **AFFORD** TAKING OUT A LOAN?



THIS IS **UNPRECEDENTED** JEROME! WE WERE **OUTSIDE** DIRECTORS AND RELIED ON WHAT YOU TOLD US!

LOOK AT OUR **LAWYERS' MEMO!** I AM **APPALLED!**

To: Trans Union  
From: Sidley Austin LLP

According to the Court, directors – including outside directors – did not reach an informed business judgment because they did not adequately inform themselves as to the intrinsic value of the Company and were grossly negligent approving the “sale” of the Company upon two hours’ consideration; therefore, the business judgment rule provides no protection.

The lack of an expert fairness opinion and adequate materials, the fact that the meeting lasted only two hours even if this was a vital decision, that alternatives or prior market transactions were not considered, are all elements that convinced the court that the duty of care was breached.

RIGHT AFTER THE DECISION, IN BUSINESS CIRCLES AROUND THE COUNTRY...

I'M TELLING YOU, THIS SMITH V. VAN GORKOM PRECEDENT IS DANGEROUS. ALSO OUTSIDE DIRECTORS, YOU UNDERSTAND? WITH ALL THE POSITIONS WE HAVE... MAN, WE'RE THINKING TO REINCORPORATE ELSEWHERE. AFTER ALL, DELAWARE TOOK THE LEAD FROM NEW JERSEY, MAYBE IT'S TIME FOR A CHANGE...



THE PROPOSAL OF THE BAR IS TOTALLY REASONABLE! WE ARE NOT ELIMINATING LIABILITY, WE ARE SIMPLY PROVIDING A POSSIBLE LIMITATION TO MONETARY DAMAGES FOR DUTY OF CARE ISSUES, AND ONLY FOR NON-EXECUTIVES. THIS WILL NOT PROTECT AGAINST DISLOYAL OR BAD FAITH CONDUCTS, AND WILL NOT APPLY TO DISTRIBUTIONS. AND NOTE THE CHARTER, MEANING THE SHAREHOLDERS, MUST ACCEPT IT! SHOULD I REMEMBER TO THIS ROOM THAT ONE THIRD OF THE STATE'S REVENUES COME FROM THE FRANCHISE TAX?

HE'S RIGHT...

