Assignment 2

It is problematic for corporations to be regarded as separate legal persons. Corporations need to maintain moral responsibility just like any other person. By their nature, corporations have a very large amount of influence and financial resources compared to the average person, which makes mass influence easily accessible to managers and higher-ups. “[Laws] burdening corporate political speech are subject to strict scrutiny” [1] since corporate political position is usually reflective of the views of just a few people at the top of the ladder. It is unfair to say this reflects the entire corporation since “the views of a corporation can be different from those of the natural persons it represents” [1]. This personification raises questions surrounding what a corporation is, who it represents, and who should be counted in decision making [1]. This vagueness opens the door for abuse of power in corporate decisions and disregard for minor stakeholders like employees and clients. It is unclear who within a corporation should be taken into consideration by its own actions since “[the] court has so far provided no guidance of who should count and why when identifying whose rights are at stake in any claim of rights for a corporation” [1]. In the case of Trados, the company was sold to protect the major shareholders, while the “duties [that] are owed to common shareholders” were neglected. The personification of the corporation changes how we think about the process through which this decision was made: real people chose to disregard other real people for their own personal gain. Regarding the corporation as a separate “person” allows these people to make destructive decisions from behind a legal shield. Corporate “personhood” removes social responsibilities of the corporation from the shoulders of those operating it and puts it onto the corporation itself, since liability is removed directly from company leaders.

I generally agree with Donaldson’s vision of corporations as “moral persons”. Corporations should have an obligation to employ “moral decision making” [1] strategies when taking actions. In the case of Hobby Lobby, shareholders held the belief that providing birth control coverage “violated their religious free exercise rights” [1]. However, this action can possibly impede the religious freedoms of the employees who would be receiving this benefit. The shareholders are not what entirely makes up a corporation, so why is the religious view of the corporation reflective only of “those who ‘own and control’” a corporation but not those who “work for” it [1]? Though it is agreed upon that for-profit corporations should make decisions to maximize profits [1], should the morals and values of the people comprising the corporation surpass this obligation? In the case of Craigslist, the majority owners resisted a takeover to protect their core values of maintaining the Craigslist community. The court determined “Promoting, protecting, or pursuing non-stockholder considerations must lead at some point to value for stockholders” [1] and actions which “openly eschews stockholder wealth maximization” [1] like conserving corporate culture is insufficient to justify a decision which will not lead to profit. However, with Hobby Lobby’s case, they also pursued a non-stockholder (religious) consideration which did not “point to value for stockholders” [1] and were granted the right to make such a decision. Corporations should be considered “moral persons” and must act in a morally-sound manner, but the morals of a corporation are a gray area: it must be defined who in the corporation should be considered when discussing a corporation’s moral values. The subjective nature of morality and lack of universally agreed upon moral code presents a massive hurdle to general corporate morality.

References:

[1] M. M. Blair, “Of Corporations, Courts, Personhood, and Morality,” *Business Ethics Quarterly*, vol. 25, no. 4, pp. 415–431, 2015.