

Shareholder Fiduciary Duties

	Typical Shareholder Mix	Type of transactions	Level of Scrutiny	Remedies
Sinclair	<ul style="list-style-type: none"> • 50%+ ownership (board control presumed) <u>or</u> • 25%+ ownership & actual control of board <p>Examples:</p> <ul style="list-style-type: none"> • Usually parent-subsidiary (Sinclair) • Martha Stewart (90%+ voting control) • Maybe Google founder Larry Page as 25%+ owner, if control of board decisions 	<ul style="list-style-type: none"> • Self-dealing <u>and</u> • Preferential (unequal) <p>Examples:</p> <ul style="list-style-type: none"> • Failure to enforce contracts, to parent's benefit • <u>But not:</u> Dividend policy that suited parent's capital needs (b/c minority SHs got too) 	<ul style="list-style-type: none"> • If preferential self-dealing, • Then controlling SH must show transaction fair to minority SH 	<ul style="list-style-type: none"> • Rescission (corp gets out of the contract) • Other measures if rescission if inadequate (e.g., damages for breach of the Sinclair-subsidiary contract)
Wilkes, etc.	<p>Donahue close corp:</p> <ul style="list-style-type: none"> • 2-30 shareholders • Defendant SHs directly involved in management • Illiquid stock <p>Examples:</p> <ul style="list-style-type: none"> • Wilkes, Ingle, Brodie, Smith, Alaska Plastics • "Partnership in corp clothing" (Palmeter in E&E) 	<p>Frustration of minority's reasonable expectations (<u>Brodie</u> at pg 627)</p> <p>Examples</p> <ul style="list-style-type: none"> • Refusal of dividends; draining corp through exorbitant salary; high-rent leases with defendants, denying plaintiff employment (see <u>Brodie</u> at pg 626) 	<ul style="list-style-type: none"> • Majority must show legitimate corporate business purpose for actions • Plaintiff still wins if it shows less harmful means 	<ul style="list-style-type: none"> • Normally based on restoring reasonably expected benefits • Sometimes a forced buy out based on interpreting "oppression" in dissolution statute