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DENNY CENTER CONVERSATIONS
A Q&A with Shane Goodwin, SMU Cox School of Business

Dr. Shane Goodwin is the Associate Dean for Executive Education and Graduate Programs and serves as Professor of Practice in the Department of Finance at the Cox School of Business at Southern Methodist University. He is a Board Leadership Fellow at the National Association of Corporate Directors. Additionally, Dr. Goodwin leads the Applied Corporate Governance Institute at the Center for Global Enterprise, a nonprofit, nonpartisan research institution dedicated to the study and application of responsible corporate governance principles through the use of proprietary predictive analytics. His research is focused on mergers and acquisitions, corporate governance, and shareholder activism.

Most recently, Dr. Goodwin was a Senior Fellow and Director at the Richard Paul Richman Center for Business, Law and Public Policy at Columbia University, a research institute established by Columbia Business School and Columbia Law School, served as a Senior Fellow at the Harvard Law School Program on Corporate Governance and Financial Regulation, and as a Postdoctoral Fellow of Business Economics at Harvard Business School.

Prior to his current role, Dr. Goodwin spent 25 years in strategic advisory, M&A, and corporate finance at Goldman Sachs & Co., Citigroup, Wells Fargo Securities, and Donaldson, Lufkin & Jenrette.

This interview has been edited for length and clarity.

Denny Center: Before we dive into our discussion of corporate governance, corporate purpose, and shareholder activism, would you walk us through your path to your current role as Associate Dean at SMU's Cox Business School? I think you'd agree, it's not a traditional journey.

Shane Goodwin: You're absolutely correct. I did not take a very typical path to where I am today. I spent nearly 25 years in the corporate world – in investment banking and, more specifically, in mergers and acquisitions for banks including Goldman Sachs and Citigroup. Later in my career I focused on advising companies and boards on shareholder takeovers, shareholder activism, and the broader engagement between shareholders and the company. This ultimately led me to pursue a PhD around these topics. I still spend a lot of time connected to the corporate world and serving on some boards and investing significant time doing what we're going to talk about today.

Denny Center: When you shifted gears from the corporate world to start your PhD work, did you know from the outset what subjects you wanted to tackle?

Shane Goodwin: Unlike many PhD candidates, I was fortunate that I had a very narrow focus on the scope of work that I wanted to do. I believed that there was a lot of uncharted territory where I could bring data, analytical rigor, and econometrics to shareholder activism --which has been, a subject area that's typically discussed anecdotally.

Denny Center: Before discussing your findings on shareholder activism, how do you define the key duties and responsibilities of a corporate board? And for our purposes, let's focus on the board of a US public company.

Shane Goodwin: The primary role of the board is advisory oversight and monitoring. Effective directors are really diligent monitors of the business, but they're not managers of business operations and that should be a clear distinction. So first and foremost, the board's duty is to select a CEO, and then monitor, evaluate and compensate that CEO (who, in turn, hires a management team). Often the biggest challenge after picking the CEO is deciding how best to compensate the CEO and their senior team; that's a discussion for another time, but to start, boards must ask themselves, how do we design executive compensation to motivate our team to pursue what's best for the long-term value of the business? Next boards should validate the strategic plan for the business; you'll notice I didn't say to create the strategic plan, but to validate and approve it. Finally, boards should set the tone when it comes to legal compliance, ethical behavior, and risk mitigation. Boards don't set up or manage compliance programs or risk management processes, but they are responsible for monitoring them on a regular basis.

Most US-based public companies incorporate in Delaware, and so when it comes to legal requirements, the corporation and its directors follow the Delaware code in establishing the company charter and bylaws, and are not required to be more specific about corporate purpose than to state that the company intends to engage in any lawful act or activity for which corporations may be organized.

Denny Center: On that same line of thinking, what's your take on whether US corporate law requires companies to maximize share price or shareholder wealth? Do boards and management teams have the green light to factor in other stakeholders?

Shane Goodwin: Well here we are on the 50th anniversary of [Milton Friedman's New York Times Magazine piece](), and I remember reading that article and also his book *Capitalism and Freedom.* My recommendation for anyone really interested in this question is to read both. Most people I talk to haven't even read the whole article and claim to know Friedman's argument just because the title makes it so clear that "the social responsibility of business is to increase its profits." People often use Friedman's title to assert that he was defending (or ignoring) poor behavior that might crop up in capitalistic pursuits, but you don't have to read more than the first few paragraphs to see that wasn't his position. He makes it clear that a business should focus on profits but only while, at the same time, conforming to the basic rules of society, those embodied in law and ethical customs. So there was a lot of substance behind Friedman's thesis that often gets ignored. And I don't think Friedman would have taken exception to last year's Business Roundtable restatement of purpose; he would agree that all five stakeholders must factor into a company's success. For example, hiring and training new employees is extremely costly, so treating employees well is not only the right thing to do but it also decreases employee turnover, reducing costs and contributing to long-term value creation.

Denny Center: You bring up the Business Roundtable. It's interesting to be at a point where we're 50 years after Milton Friedman and also one year after the BRT restatement of purpose. What's your view of the restatement? Is it mainly for show, as some allege, or do the CEOs plan to take action to back it up?

Shane Goodwin: The first thing that comes to mind is that we are now in a very different world than we were in when the restatement was published. We were almost 11 years after the Great Recession and 10+ years into the longest bull market on record. So even if the 180 or so CEOs had plans to invest more in social responsibility-type initiatives, let's see how those plans hold up in the face of this real economic crisis driven by the virus shutdowns. It's tougher to balance stakeholder tradeoffs and think longer-term when the short-term pressures are so high. I'm trying not to be a cynic on this one, but I do think it's hard to please multiple bosses, if that's what they meant by the restated purpose.

Denny Center: Let's shift and talk about your work around shareholder activism. It's a topic that gets a lot of negative press, but you've spent a lot of time studying it both as a practitioner, advising companies on M&A activity, and as an academic. To start, what key question(s) were you setting out to answer in your PhD work?

Shane Goodwin: Shareholder activism is not new; it's been around for a long time, with one of the more notable early examples being the Dodge brothers versus the Ford Motor Company. In 1919, the Dodge brothers sued Ford because Ford wanted to stop paying special dividends from its cash surplus and invest in new plants to produce even more cars at lower prices instead.

I've also witnessed various instances of activism in my banking career, and it's not unusual for boards and management teams to push back and allege that the activist is too short-term in focus and that their recommendations are not in the best long-term interest of the company. Despite the negative headlines, when representing companies, I found myself many times thinking that the activists made a good case. So that's the context for the question I wanted to answer: "Is there evidence that hedge fund activism is bad for the long-term interests of companies and their long-term shareholders?"

Denny Center: And what did you find out?

Shane Goodwin: Before giving the answer, one thing I was fortunate to do is have time to build a statistically significant data set. In many instances, writers who were pressed for time would pull together a small sample, like 10 or even 25 data points, but I wanted to build as exhaustive a database as possible. Our data set covered over 5,000 activist interventions going back to the 1980s. After crunching all the numbers, we could not find any evidence that hedge fund activists hurt the long-term value of the companies they targeted. In fact, from 1998-2013, we found the firms that granted at least one board seat at the request of an activist outperformed the S&P 500 Index by a significant degree. Of course, there are one-off examples of where an activist's recommendations did not create value. Being in Dallas, it's easy to point to Bill Ackman and JCPenney, but the preponderance of data says that on average, activists add long-term value.

Denny Center: That's interesting; so what you found actually contradicts the conventional wisdom. Do reporters just choose to focus on the one-offs?

Shane Goodwin: The interventions covered by major news outlets are mainly the very large deals, and remember, these are just the tip of the spear. Activism is happening almost every day, but the actions don't make the front page of the Wall Street Journal because most of the time they are happening in the mid-cap space. The deals are just too small to grab media attention or headlines.

Denny Center: Now let's translate these findings for today's boards or CEOs. Since it seems reasonable for boards and their CEOs to be anxious about potential activism, what advice would you give them?

Shane Goodwin: Boards and management teams should keep in mind that most activist interventions won't be a public surprise with little or no notice. There are counter examples for sure, but it's not typical for an Icahn or an Ackman to call you to say that they are releasing their 13D filing in half an hour along with public demands on the company. The first thing I'd say is that you should have time to react to most activist recommendations.

The second thing to mention, however, is that even before you get a call, companies can do their own vulnerability screening. As a board or CEO, if you get a call out of the blue from an activist, more likely than not you are not doing your homework.

Finally, have a plan in place on how to respond to an activist call whether you've anticipated it or not. The first steps in that plan include listening well and saying little – and evaluating the activist's likely next steps based on prior behavior. And one size may not fit all in terms of who represents the company in activist discussions; being strategic about the point of contact in each instance can really make a difference.

Denny Center: Before we wrap up, you're not only an associate dean, you also teach several MBA classes at SMU, and that leads me to ask: what you are hearing from students more generally on the interaction between business and society?

Shane Goodwin: I find that our MBAs and graduate business students are asking questions like: "is capitalism working for everyone?", "if not, what can we do to make it better?", and "what does the future of capitalism hold?". I've also lectured at SMU's Dedman School of Law, and I find law students asking some of the same questions from a slightly different angle; for example, "what is the purpose of business, and what are boards and management teams legally required to do when operating a publicly traded company?" Both the business and law students I talk to recognize that free market capitalism has created great wealth and helped so many people prosper in different ways, but that there are also some areas where we need to improve the system. One thing I especially enjoy is how much I'm learning from the students about what's really important to them. And even if some tensions among shareholders and other stakeholders are really hard or impossible to resolve, the students are starting out ahead just having the stakeholder framework as part of their vocabulary.

Denny Center: Thanks for taking time to participate in our Denny Center Conversation series, Shane. I hope we can find a reason to compare notes again soon.

Shane Goodwin: I look forward to it as well, and truly appreciate the chance to visit today.

In addition to his Associate Dean role at SMU, Shane Goodwin teaches several graduate courses including Mergers & Acquisitions and Ethical Leadership & Corporate Social Responsibility. To learn more about Dr. Goodwin and his work, visit his SMU faculty page and a link to his paper, "The Long-Term Efficacy of Activist Directors", at SSRN.