

# Dear Chairman: Boardroom Battles and the Rise of Shareholder Activism, by Jeff Gramm

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## Dear Chairman: Boardroom Battles and the Rise of Shareholder Activism, by Jeff Gramm

### **Abstract**

Dear Chairman: Boardroom Battles and the Rise of Shareholder Activism is an intriguing look at decades of shareholder disputes, proxy battles, and boardroom battles that have shaped US corporate law. Jeff Gramm, an adjunct professor at Columbia Business School who has also spent a notable part of his career serving as a director for public companies and as a portfolio manager at a hedge fund, offers a refreshing take on shareholder activism and the tensions that underlie US corporate law. Written in an accessible fashion that is free from legalese or overly complex descriptions of business transactions, Gramm provides a unique opportunity for readers to take a glimpse ‘behind the curtain’ and feel as if they have a seat at the table in some of America’s most dramatic boardroom moments. Gramm’s work results in an engaging historical exploration of the evolution of shareholder activism that subtly suggests that this rich history is responsible for “today’s hostilities” in the boardroom.

## Book Review

***Dear Chairman: Boardroom Battles and the Rise of Shareholder Activism*, by Jeff Gramm<sup>1</sup>**TANNER STANLEY<sup>2</sup>

*DEAR CHAIRMAN: Boardroom Battles and the Rise of Shareholder Activism* is an intriguing look at decades of shareholder disputes, proxy battles, and boardroom battles that have shaped US corporate law. Jeff Gramm, an adjunct professor at Columbia Business School who has also spent a notable part of his career serving as a director for public companies and as a portfolio manager at a hedge fund, offers a refreshing take on shareholder activism and the tensions that underlie US corporate law. Written in an accessible fashion that is free from legalese or overly complex descriptions of business transactions, Gramm provides a unique opportunity for readers to take a glimpse ‘behind the curtain’ and feel as if they have a seat at the table in some of America’s most dramatic boardroom moments. Gramm’s work results in an engaging historical exploration of the evolution of shareholder activism that subtly suggests that this rich history is responsible for “today’s hostilities” in the boardroom.<sup>3</sup>

Gramm uses eight case studies to advance a few overarching arguments. He labels them as “eight important interventions from history,”<sup>4</sup> representing significant moments in the boardroom that have shaped shareholder activism in the United States. These eight case studies, organized into eight chapters, include: “Benjamin Graham versus Northern Pipeline: The Birth of Modern Shareholder

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1. (New York: HarperCollins, 2016).

2. JD (2018), Osgoode Hall Law School, Toronto, Canada.

3. Gramm, *supra* note 1 at xiii.

4. *Ibid* at xi.

Activism,” “Carl Icahn versus Phillips Petroleum: The Rise and Fall of the Corporate Raiders,” “Ross Perot versus General Motors: The Unmaking of the Modern Corporation,” and “Daniel Loeb and Hedge Fund Activism: The Shame Game.”<sup>5</sup> Gramm uses these case studies to suggest that the “last hundred years in America have been the most turbulent period for corporate oversight, marked by power struggles between management teams and shareholders.”<sup>6</sup> He establishes this assertion quite easily in *Dear Chairman*.

For example, in the book’s second chapter (“Robert Young versus New York Central: The Proxyteers Storm the Vanderbilt Line”), Gramm details a dramatic proxy battle over New York Central between rising broker and financier star Robert Young and then CEO of New York Central, William White. Gramm tells an engaging tale of the “David-versus-Goliath battle”<sup>7</sup> that developed between White, who employed New York public relations executives and a range of white shoe law firms, and Young, who developed a much more populist campaign. Young’s dramatic and headline-stealing campaign and victory introduced notions of shareholder rights and activist tactics into the US corporate world, which had the effect of encouraging further aggressive boardroom behavior, according to Gramm.<sup>8</sup> As such, this historical account certainly helps Gramm accomplish his first objective by suggesting that power struggles between shareholders and management in corporate America have become increasingly tense, sharp, and turbulent. Owing to his clear and engaging writing style, Gramm, in part, uses stories such as the battle between Young and White to animate the history of shareholder activism. However, at times, Gramm’s reluctance to incorporate substantive legal analysis and make more explicit arguments about the direction of shareholder activism frustrates his other goals.

Gramm’s second fundamental objective in *Dear Chairman* is to suggest that this increased struggle between management and shareholders has resulted in a corporate America in which shareholders have unprecedented power. To advance this goal, Gramm poses several specific questions to help address the rise in shareholder activism. He asks for example, “How did this happen? Why did shareholders triumph in the struggle for corporate control?”<sup>9</sup> Gramm suggests that the letters and stories that occupy the eight case study-based chapters of *Dear Chairman* answer these questions. While these letters and stories may in fact offer some clues or indications as to what the answers are to these questions, Gramm,

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5. *Ibid* at Contents.
  6. *Ibid* at x.
  7. *Ibid* at 29.
  8. *Ibid* at 42.
  9. *Ibid* at x.

at times, fails to offer a sufficiently specific analysis to draw targeted learnings from these stories and contextualize them within his larger argument about the rise of shareholder power in America's corporate structure. For example, near the conclusion of the Young versus White chapter, Gramm offers a paragraph of analysis on the significance of the proxy battle:

But we can't ignore the lasting and profound impact the Proxyteers had on markets and public companies. The notions of shareholder rights and shareholder value, which had been forgotten by everyone but a few outsiders ... were brought back into the debate about the role of public companies. ... And while most of the Proxyteers faded into obscurity, their tactics would be sharpened and used by later generations of conglomerators, corporate raiders, and hedge fund activists.<sup>10</sup>

While this analysis is somewhat helpful for readers, it offers a very broad articulation of how such proxy battles have shaped shareholder activism and contributed to its rise. This analysis could benefit from a more elaborate and express argument. Furthermore, a lack of any substantive mention or incorporation of key legal structures feels disingenuous and that would influence this shift in the centre of corporate power feels disingenuous and leaves his work sounding disingenuous and feeling somewhat incomplete. For example, how did the introduction of securities regulation in the 1930s and 1940s change shareholder activist tactics? How did courts react to the increase in hostile or sharp shareholder activism? Did shareholder activists change their techniques or strategies because of statutory changes and subsequent judicial interpretation? While this criticism is subject to the argument that Gramm never promises to engage with a legal framework when offering an argument about the rise of shareholder activism, this does not make his work or ideas immune from the statutory changes, case law, and legal theories that could enrich his thesis.

While *Dear Chairman* could benefit from more rigorous development of its thesis and the introduction of fundamental legal arguments, Gramm is still successful in offering an illuminating look at some of history's most dramatic boardroom battles. While other authors who occupy this field of authorship often draw on their own personal experiences in the boardroom, Gramm's project offers a historical perspective, which has the ability to offer a larger narrative about the changes in tactics and techniques that are used by shareholders to increase their power. Most importantly, Gramm offers an engaging piece of writing that will be accessible for readers of varying pedigrees; all such readers should finish Gramm's piece understanding significantly more about shareholder activism than when they started.

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10. *Ibid* at 42.