

capital transaction ⁴

⁵ business judgment ⁶

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business judgment rule BJR

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¹² BJR

good faith

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duty of care DOC

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See

Stephen M. Bainbridge

Foundation Press 2002 p. 285.

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See Stephen M. Bainbridge

Foundation

Press 2002 p. 269.

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Stephen M. Bainbridge

Foundation Press 2002 p. 242.

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duty of care

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 17 Judith Freeman & Michael Power
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 54 The Modern Law Review 769 770 1991 .
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Maldonado

Zapata Corp. v.
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BJR vs. DOC

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decision making efficiency ³¹

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Francis v. United Jersey Bank ³²

BJR

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³⁰ Zapata Corp. v. Maldonado, De. Supr., 430 A.2d 779.

³¹ Stephen M. Bainbridge, *Business Judgment Rule*, Foundation Press 2002, p. 242.

³² Francis v. United Jersey Bank, 87 N.J. 15, 432 A.2d 814 (1981).

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authority and accountability ³⁷

poorly developed

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negligence

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34 Aronson . Lewis 473 A. 2d 805 Del. 1984 .
 35 2018 6 82
 36 2018 6 82
 37 Stephen M. Bainbridge Foundation Press 2002 p. 242.
 38 Stephen M. Bainbridge Foundation Press 2002 p. 286.
 39 Joseph W. Bishop Jr. Yale Law Journal 1078 1099 1968 .

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⁷⁹ BJR

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reasonable person

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79 Stephen M. Bainbridge Foundation Press 2002 p. 286.
80 2015 1 106
81 Cede & Co. v. Technicolor Inc. 634 A.2d 345 361 Del. 1993 .
82 Stephen M. Bainbridge Foundation Press 2002 p. 242.
83 2 2009 1

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LU Huaqiang

The business judgment rule exempt directors from compensation in shareholder litigation while duty of care rule provides the directors' general responsibility. Both rules aim to regulate directors' behaviors. In China, there is no tradition culture of fiduciary duty and common law, the introduction and application of business judgment rule may cause judicial corruption in reality. Alternatively, during the due process of corporate resolution, combining the accountant constrain and legal constrain may take the effect of shareholder rights protection. In Huarui's case, the directors decide that the ability to continue as a going concern is not affected by the proposed share redemption, the irony rationality of board decision on share redemption demonstrate the different implication of the expression of ability to continue as a going concern in law and accountancy. In essence, the disciplinary difference causes the constrain from law and accountancy both being invalid. Facing future, keep the legal and accountant constrain together during corporate resolution process, the director will be trained to be observing the duty of care.

Business Judgment Rule; Accountant Constrain; Share Redemption; Ability to Continue as a Going Concern