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Introduction

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The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry has reinvigorated debate regarding shareholder primacy in Australia. However, this debate has not always been informed by a shared understanding of what this theoretical approach entails. We compare recent Australian papers on this topic with key papers by seven prominent shareholder primacy scholars, dating from the 1930s to the 2010s. Some contributors to the Australian debate appear unaware that prominent shareholder primacy theorists require directors to focus exclusively on shareholders' interests; emphasise shareholders' long-term financial interests; and would not object to the 'enlightened shareholder value' approach. Further, whereas some assume that 'shareholder primacy' is a singular position, we argue it is more accurate to distinguish four categories of shareholder primacy: 'wealth maximisation (shareholder protection)'; 'wealth maximisation (shareholder autonomy)'; 'bounded wealth maximisation (shareholder protection)' and 'bounded wealth maximisation (shareholder autonomy)'. Finally, several aspects of shareholder primary require further clarification in light of challenges associated with climate change.

In *Meridian Global Funds Management Asia Ltd v Securities Commission*, Lord Hoffmann plausibly instructed us to apply rules of attribution, through the interpretation of relevant texts, to determine corporate criminal liability. However, his rejection of the relevance of metaphysics to an understanding of the corporation, and his denial of such a thing as the company — no 'ding an sich' — was a remarkable example of intellectual bait-and-switch. Akin to using the underpinning concepts and language of the scriptures to argue for atheism, to deny the relevance of philosophy in explaining the nature of the corporation, Hoffmann invoked and relied on the language of Kantian metaphysics. Hoffmann's jurisprudential equivalent of a police officer's 'nothing to see here' was sure to pique interest. And, once such an oblique invitation to consider the nature of the corporation is made, various ontological possibilities are suggested; these include the Kantian noumenon and the platonic abstract object. This article presents a humanist, pragmatic approach to the immaterial existence of the corporation. The article asserts the relevance of philosophical inquiry into the nature of the company. Lord Hoffmann's hermeneutic approach is persuasive in attributing liability in a corporate setting, but it is implausible to characterise the corporation as no more than an aggregation of

interpretable texts. Intuition and, indeed, Companies legislation, tell us that the company is something — but what is it? This article does not presume to answer that question conclusively but pragmatically draws on investigations into the ontology of artworks to make suggestions about the nature of the company. Much academic writing on philosophy is impenetrable for readers who are not professionally immersed in that discipline; this article aims to engage with philosophical questions in an inclusive way.

as directly linked to the misconduct considered. Furthermore, he laid responsibility for that misconduct squarely at the feet of the entities concerned, and their boards and management. Regulators also came under fire. In the case of the conduct regulator, the Australian Securities and Investments Commission, it 'rarely' went to court to enforce misconduct. This article critically examines whether the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry is the 'game-changer' many had hoped it would be, including the efficacy of the Australian Securities and Investments Commission's response of committing to a new enforcement strategy, summed up in that much debated phrase 'Why not litigate?' to address misconduct in the financial services sector.