

DUKE UNIVERSITY
THE FUQUA SCHOOL OF BUSINESS AND DUKE LAW SCHOOL

Finance 455 and Law 324: Corporate Restructuring
Term 4, 2005

Professors John Graham and Ray Groth

COURSE DESCRIPTION AND SYLLABUS

This interdisciplinary course examines the finance, economics, law and business strategies that underlie major corporate restructuring transactions. These transactions include: mergers, acquisitions, tender offers, bankruptcy, leveraged buyouts, leveraged cash-outs, sell-offs, spin-offs, equity carve-outs, share repurchases, liquidations, reorganizations, recapitalizations, and the creation of tracking stock.

The course begins with a brief review of techniques that are used to evaluate the financial implications of restructuring transactions and an introduction to key legal principals. The course then turns to the structure of the large-scale, public corporation. We discuss the market forces and legal rules that are designed to facilitate restructurings, as well as resolve potential conflicts of interest between corporate managers and stockholders. The course then discusses the theoretical rationale for each of these transactions and examines their effects on the welfare of managers, stockholders and other corporate stakeholders. The role of hostile takeovers is examined, as well as the uses and abuses of defensive tactics such as share repurchases, poison pills, golden parachutes, etc. The course reviews the empirical evidence regarding the effects of such defensive tactics on stockholder wealth.

One common theme that runs throughout the course is identifying the legal precedents that affect restructurings. The state and federal laws and judicial decisions that govern restructuring transactions are examined, as well as how this set of regulations affects the various corporate stakeholder groups. The course examines leveraged transactions and determine what role they play in the restructuring process. The course finishes with an examination of current bankruptcy laws and their efficiency in allocating the resources of financially distressed firms through the liquidation / reorganization decision.

After covering the relevant concepts, institutional and regulatory settings, and empirical evidence of each transaction type, students will be required to analyze, in detail, real-world cases that are designed to highlight the important aspects of various transaction types. Students are expected to do fundamental analysis of the relatively complicated corporate transactions involving aspects of financial economics, financial accounting, corporate strategy, and corporate law. The legal / institutional environment at the time of the case should be a part of this analysis.

Instructors:

This course is team taught. John Graham is Professor of Finance at the Fuqua School of Business, Duke University. Ray Groth is an Adjunct Professor of Business Administration at The Fuqua School of Business and a Visiting Scholar at Duke's Global Capital Markets Center. Ray is a lawyer and investment banker who has been actively associated with the M&A process in the United States for thirty years, and in fact was involved in many of the cases covered in the class. He is a graduate of the Yale Law School. More detailed descriptions of the instructors are listed at the end.

Contact information:

John Graham: john.graham@duke.edu , 417W, 660-7857

Office assistant: Tara Bowens (660-7775)

Ray Groth email: raygroth@carolina.rr.com , 320W, 660-7756

Teaching Assistants:

There are five TAs associated with the course, with each TA being responsible for two cases. Prior to each case, the TAs will conduct “office hours” in order to be available to help you on each of two days preceding the case due date. See the class calendar (separate handout) for details. The TAs will place a sign-up sheet on the bulletin board in between Seminar Rooms C and D (2nd floor, East building). Students should sign up, indicating where they can be found. The TAs will walk around and help students in the order they have signed up on the sheet.

Yonghan “Julia” Wu (Head TA): yonghan.wu@duke.edu

Adrian Campello: adrian.campello@duke.edu

Hai Huang: hai.huang@duke.edu

Brian O’Dwyer: brian.odwyer@duke.edu

Jimmy Page: jimmy.page@duke.edu

Structure of the Course:

Classes begin on March 21 and end on April 28. **Law Students: If you have a conflict with attending any of these scheduled classes (e.g., law school final), please make alternative arrangements with your law professor.** There are three sections (401-403). All sections will be taught jointly by Professors Graham and Groth. The sections will meet at the following times, all in Classroom B in the Fuqua East building:

	Monday	Tuesday	Wednesday	Thursday	Friday
10:30 –12:45	Sec. 401			401	
1:15 – 3:30	402			402	
3:45 – 6:00	403			403	

The course is structured around nine case studies. Each has been selected to illustrate a particular type of restructuring transaction. Classes will consist of lectures and student presentations of cases. There will be four guest speakers [March 24, March 28, April 25, and April 26 (optional)]. Note also, that Ray's experience in the industry effectively makes him a full-time guest speaker.

Students should work in groups of five or six (minimum is five, six is preferred). To insure diversity, **it is highly desirable that no group consist exclusively of 1st-year MBAs, 2nd-year MBAs or Law Students.** All 1st-year students enrolled in the course should have practical experience in valuing companies. It is desirable for every team to have a Law School student, if there are enough law students to go around.

Each *student* will write a one-page summary of the first case (Xerox). For the Xerox write-up, you can talk to your group members as you work through the analysis, and even use the same spreadsheet, but each person must prepare the one-page write-up on his/her own.

Each *group* is required to write up five cases (reports) during the term. For Xerox and case reports, please turn in a disk with spreadsheet work. Please put both the case text and disk in an envelope, to keep them together.

In addition, each *group* is required to write two one-page memos on cases that they do not write reports on. (Note, Xerox plus five case write-ups plus two one-page memos equals eight items to turn in over the term; this means that you there will be one case for which you are not required to turn in anything.) Finally, each *group* will be required to make a classroom presentation of one of their case reports. The cases and due dates are listed on the next page.

To ensure that every case is prepared by half the class, we will divide the class into odd and even groups. We will try to assign you to odd or even based on the case you are asked to present. The assignments for the cases are indicated on the next page. We will decide which of the case reports each group will present in class once we see the composition and number of groups in each section.

Honor Code

Even though most of the work is done in teams, we expect you to have a *full understanding of any written material that is submitted with your name on it.* It is not acceptable for you to know nothing or very little about a particular case even if you pulled more than your weight on other cases. Therefore, you might have to "study" materials prepared by other group members. For example, if a different group member develops a spreadsheet that your group uses, we expect you to be completely familiar with the spreadsheet and able to answer questions about the calculations and assumptions.

Prior to turning in the case, it is a violation of the honor code to discuss the case with anyone other than your group members or to access solutions from any source. Likewise, you should not discuss the case with anyone in another group if his/her group has not turned in the case.

Grading:

Your performance in this course will be based on a total of 220 points, broken down as follows: the five reports, the proxy questions, and the one in-class presentation will be evaluated on a 20-point scale each, and memos on a ten-point scale each.

7	x	20	=	140	Reports, proxy write-up, and presentation
3	x	10	=	30	One-page write-ups
2	x	25	=	<u>50</u>	Class participation & rating by group members
Total				220	

Your individual grade in this course is based on the relative performance of your group and your contribution to the "effort" as assessed by the members of your team. At the end of the term we will hand out evaluation forms. They will instruct you to allocate points to each of your team's members including yourself, where the total number of points for the group add up to 100. For example, if there are four members in your group, and one person does twice as much work as anyone else, you should assign points of 20, 20, 20, and 40 to your team. Note: you also assign points to yourself. These individual valuations are the basis for the "ratings by teammates" part of the individual grades and will assume more importance in "borderline cases." Individuals receiving "extreme" averages may have their grade moved up or down, as we deem appropriate. The instructors will assign the class participation scores, ranging from 0, 5 (attended class but never talked), 10, 15 (attended almost every class and regularly made helpful comments), 20, and 25 (attended every class and made frequent helpful comments).

Attendance

We expect you to attend every class session. Please be on time at the start of class, and also after the break. If you have to miss class, please contact Prof. Graham in advance with an explanation of your absence. *Unexcused absences will result in extra individual projects being assigned to the student.*

Tuesday Lunches (Optional)

Each Tuesday (other than the second week) Ray and John will host a lunch. The first (March 22) and last (April 26) weeks we will provide pizza. Other weeks, BYOL (bring your own lunch). We invite you to come and mingle with your professors. The idea is to allow us to informally get to know you better and vice versa, and to allow us to keep tuned into to student progress in the course. The sixth week will be in Classroom G from 12:40 to 1:40. Fuqua Grad John Linker ('03) will be a guest speaker. He will present the GenCorp recap.

Schedule for Turning in Assignments:

TITLE	REPORTS	MEMOS	
Xerox (March 24) (required)*	None	Every	student
Wachovia (March 28)			
- First Union	Odd	None	
- Sun Trust	Even	None	
Proxy Questions (March 31)		Everyone individually	
Interco (April 4)	Odd	Even	
Time (April 6) WEDNESDAY	Even	Odd	
Consolidated Rail A & B (April 11)	Odd	Even	
Du Pont (April 18)	Even	Odd	
Marvel (April 21)	Odd	Even	
Qwest (April 25)	Even	Odd	
RJR Nabisco (April 28)			
- Mgt	Odd	None	
- KKR	Even	None	

* Note: it is important that you prepare this case so that you benefit from the discussion in class and because we will have a guest speaker who was involved in the Xerox transaction.

Note: Each individual student turns in the Xerox memo and proxy questions. Each group turns in five cases. In addition, each group chooses which two out of the three remaining memos to turn in.

Proxy Questions

Each individual will turn in an assignment answering questions about a proxy statement that can be found on the Internet. The questions appear in the coursepak. This assignment is designed to expose students to institutional detail and to provide some context for some of the topics discussed in class.

Guidelines for Reports:

For each case you will be provided with a list of questions designed to help guide and focus your analysis. The questions are not intended to be a complete list of the relevant issues in the case and, therefore, should not be used to define the limits of your analysis. The following are some general suggestions in preparing your reports:

Determine the major problems and/or opportunities in the case. Critically evaluate the information provided in the case.

Having identified the relevant issues, list the alternative courses of action. If needed, consult general texts and references pertinent to the problem. If business conditions, the legal environment or other events **at the date of the case** affect the solution, find the appropriate facts. Critically evaluate the statistical data and legal issues provided in the case. Confine your analysis to facts known at the time of the case. **Do not incorporate events and facts that occurred subsequently.**

Analyze and evaluate the alternatives, considering both the strengths and weakness of each and their relation to the firm's strategy, its environment and its competitive situation.

Determine a specific recommendation and fully develop the logic supporting it. In general, this is the most important phase of your analysis. Consequently, it will be the aspect of your report that we will focus on primarily.

Reports can be no longer than five pages, including a one-page Executive Summary, printed in 12-point type, double-spaced with 1-inch margins. The Executive Summary should contain the definition of the problem and the final recommendation. All supporting documents (spread sheets, analyses, tables, etc.) should be included as an appendix and will not be counted against the page limitations. The first page of the appendix should contain ALL of your assumptions regarding your valuation. Turn in a diskette (labeled with your team leader name and locker number) containing the spreadsheets. Place the diskette and the write-up in an envelope, to keep them together.

NOTE: **the quality and clarity of your writing counts** in your case write-up grade.

Guidelines for Memos:

Memos should be one page **printed in 12-point type, double-spaced with 1-inch margins.** State the problem at hand and sketch out how you would go about solving it. You can turn in more than this but it is not required.

Guidelines for Presentations:

Each group will be responsible for an oral presentation of one case. All oral presentations should be supported by any necessary aids such as handouts or overheads. **Please bring at least two hardcopies of your presentation, one for John and one for Ray.** Be advised that students cannot read Excel spreadsheets in 10-point type from the in-class computer.

You may find it useful to prepare a PowerPoint presentation. If you intend to use the AV equipment in the classroom, it is **your** responsibility to make sure it is in working order **before** the class begins. Ideally, you should load your file onto the classroom computer before the class period begins. If you choose to access the student G: drive, it can be accessed on the classroom computer at [\\galaxy\mba\\$](\\galaxy\mba$).

Oral presentations should be no more than 20 minutes. Violation of the 20-minute constraint (unless interrupted by questions) will be viewed negatively, so plan accordingly. Grading will be based on both the quality of the analysis and the quality of the presentation. You are expected to provide a well-prepared and polished presentation so that you do not waste the time of your classmates. You should discuss pertinent background or industry information but, to save time, please keep this discussion minimal. It is advisable that you limit the number of speakers to one or two individuals in order to minimize presentation time.

Note: even though your time is limited, don't gloss over the numbers. Ideally, you should present the key numerical results and explain how you got them.

Note: Be prepared to handle questions from your classmates and professors.

SYLLABUS / READING LIST/BULLETIN BOARD:¹

The course website can be found at <http://faculty.fuqua.duke.edu/~jgraham/finance455/>

Course bulletin board: http://mba.spring2005_session4.finance455.corporate_restructuring
Please check regularly and post and questions there that will be beneficial to the entire class.

The course pack contains the lecture notes, cases, and a few readings. Most of the readings are on e-reserve at http://www.fuqua.duke.edu/admin/library/internal/fin455_05.htm

Please read the lecture notes before class and bring them to class. We will not have additional copies. A recommended (not required) text for this course is Valuation: Measuring and Managing the Value of Companies, Third Edition, by Tom Copeland, Tim Koller and Jack Murrin, John Wiley & Sons, 2000 (available on Amazon.com). Another excellent text is Takeovers, Restructuring, and Corporate Governance, Pearson, 2004, by Weston, Mitchell, and Mulherin. Additional references appear on the last page of the Valuation Notes (Class 1).

¹ Please note that the course schedule is very full. In some cases we have written lecture slides that we will cover less thoroughly, or not at all.

Class 1: March 21

- Course overview
- The Structure and Governance of the Public Corporation
- Key legal rulings
- Cash flow definition from class #2 lecture

- Assignment #1: Judicial Decisions Regarding the Fiduciary Duties of Corporate Officers and Directors (handed out in the pre-assignment materials).
- Background #1: Bradley, Michael, and Cindy Shipani, 1999, "The Relevance of the Duty of Care Standard in Corporate Governance," *Iowa Law Review* 1, 1-74.

Optional Review Session: March 23 IN CLASSROOM B

- Valuation Exercise Workshop (Focus mainly on problems), 3:00 - 5:00 or 5:30 pm
- You can view last year's review session at
<http://stream.fuqua.duke.edu/Content/Users/jgraham/2004/FIN455/FIN455-20040317.smil>

Class 2: March 24

- Review of Valuation Methods
- *Xerox Case* and introduction to valuation spreadsheets
- Guest Speaker, Bharani Bobba,
Director, Multi-Industry Group, Merrill Lynch & Co
Team leader on the Xerox transaction and account manager for Xerox

- Assignment #2: Kaplan, Steven, and Richard Ruback, 1996, "The Market Pricing of Cash Flow Forecasts: Discounted Cash Flows vs. the Method of Comparables," *Journal of Applied Corporate Finance* 8 (Winter), 45-60.
- Background #2: Bradley, Michael, and Gregg Jarrell, 2004, "Inflation and the Constant Growth Valuation Model: A Clarification," Duke University working paper.

Class 3: March 28

- *Wachovia A&B Case*
- Guest Speaker, Bob Kelly, CFO, Wachovia

- Ray's experiences with First Union, Wachovia, Sun Trust
- Comparative Corporate Governance

Class 4: March 31

- *Turn in Proxy Questions*
- Mergers and Acquisitions
- Tender Offers and Defensive Tactics

- Assignment #3: Andrade, Gregor, Mark Mitchell, and Erik Stafford, 2001, "New Evidence and Perspectives on Mergers," *Journal of Economic Perspectives* 15(2), 103-120.
- Assignment #4: Shivdasani, Anil, and Marc Zenner, "Creating value with M&As," Salomon Smith Barney publication.
- Background #3: Comment, Robert, and G. William Schwert, 1995, "Poison or Placebo? Evidence on the Deterrence and Wealth Effects of Modern Antitakeover Measures", *Journal of Financial Economics* 39 (1), 3-43.
- Background #4: Bradley, Michael, Anand Desai, and E. Han Kim, 1983, "The Rationale Behind Interfirm Tender Offers: Information or Synergy?" *Journal of Financial Economics* 11, 183-206.
- Background #5: Bradley, Michael, Anand Desai, and E. Han Kim, 1988, "Synergistic Gains from Corporate Acquisitions and Their Division Between the Stockholders of Target and Acquiring Firms," *Journal of Financial Economics* 21, 3-40.

Class 5: April 4

- Student presentation of current mini-case: SBC/AT&T
- *Interco Case*
- Mini-cases, M&As

- Background #6: Hietala, Steven Kaplan, and David Robinson, 2003, "What is the Price of Hubris: Using Takeover Battles to Infer Overpayments and Synergy," *Financial Management* 32(3), 5-31.

Class 6: April 6 (NOTE: Thursday class held Wednesday)

- Student presentation of current mini-case: Gillette/P&G
- *Time A & B Cases*
- Paramount
- Strategic Planning and Restructuring Transactions

Class 7: April 11

- *Consolidated Rail Corporation A & B*
- Sarbanes Oxley

Class 8: April 14

- Divestitures
 - Sell-offs, Spin-offs, Carve-outs, Tracking stock
- Assignment #5: Cusatis, Patrick, James Miles, and Randall Woolridge, 1994, “Some New Evidence that Spinoffs Create Value,” *Journal of Applied Corporate Finance*.

Class 9: April 18

- *DuPont case*
- Bankruptcy
- Leverage related costs
- Assignment #6: “Note on Bankruptcy in the United States,” Harvard Business School (9-292-062).
- Background #7: Altman, Edward, “Bankruptcy and Reorganization,” Chapter 19 in *Evolution of the Bankruptcy Process in the United States*.

Class 10: April 21

- *Marvel Entertainment case*
- Leveraged Transactions
 - LBOs, Share Repurchases
- Assignment #7: Gilson, Stuart, Edith Hotchkiss, and Richard Ruback, 2000, “Valuation of Bankrupt Firms,” *Review of Financial Studies* 13(1), 43-74.
- Background #8: Gilson, Stuart, “Managing Defaults: Some Evidence on How Firms Choose Between Workouts and Chapter 11,” *Journal of Applied Corporate Finance*.
- Background (classic) #9: Jensen, Michael, 1986, “Agency Costs of Free Cash Flow, Corporate Finance, and Takeovers,” *American Economic Review*.

Class 11: April 25

- *Qwest case*
- Guest Speaker, Christopher Cormier
Managing Director, Telecom Group, Merrill Lynch & Co
Team leader on the Qwest transaction and account manager for Qwest

EXTRA GUEST SPEAKER: Tue, April 26 (Classroom G)

- John Linker, Wachovia, talking about the GenCorp recapitalization
- Pizza provided

Class 12: April 28

- *RJR – Nabisco*
- *Wrap-up*
- Background #10: Kaplan, Steven, and Jeremy Stein, 1993, “The Evolution of Buyout Pricing and Financial Structure (Or, What Went Wrong) in the 1980s,” *Journal of Applied Corporate Finance*.
- Background #11: Denis, David, 1994, “Organizational Form and the Consequences of Highly Leveraged Transactions: Kroger’s Recapitalization and Safeway’s LBO,” *Journal of Financial Economics* 36, 193-224.

Pizza and Movie: April 29 (Classroom C from 3:45 to 6 pm)

- “Barbarians at the Gate,” Movie about RJR-Nabisco case

Please note that the lecture material used in the course builds upon material developed by Professors Bradley, Graham, Groth, Mathews, and Viswanathan.

FACULTY BIOS

John Graham:

John R. Graham is a professor of finance at the Fuqua School of Business, Duke University. Professor Graham obtained his doctorate at the Duke University in business finance. He has served on the faculties of the University of Utah and Duke. He is a past winner of the “best teacher” award and the 1999 recipient of the overall Outstanding Faculty award at Fuqua. Since 1997 Graham has been the director of the Duke CFO Outlook Survey (<http://www.cfosurvey.org>), a quarterly survey of financial executives about the business outlook and topical economic issues. Graham advises several Fortune 500 firms on corporate financial issues including cost of capital, payout policy, capital structure, leasing, and tax issues. His estimates of corporate marginal tax rates are widely in research and practitioners (e.g., by Ibbotson Associates in their well-known cost of capital publications <http://www.ibbotson.com>). Graham is the area coordinator of the Fuqua finance group.

Graham is past or current Associate Editor of the Journal of Finance, the Review of Financial Studies, Financial Management, and Finance Research Letters. Graham has published more than two dozen scholarly articles in journals such as the Journal of Finance, the Journal of Financial Economics, the Review of Financial Studies, the Journal of Business, and the Journal of Public Economics. His paper, “The Theory and Practice of Corporate Finance: Evidence from the Field” was the winner of the 2002 Jensen Prize in Finance. Graham’s paper “How Big are the Tax Benefits of Debt?” won the 2001 Brattle Prize for the best corporate finance paper published in the Journal of Finance.

Ray Groth:

Raymond C. Groth is an Adjunct Professor of Business Administration at The Fuqua School of Business and a Visiting Scholar at Duke's Global Capital Markets Center. Mr. Groth was a managing director in the Merger and Acquisition Group of First Union Securities, Inc. (now Wachovia Securities, Inc.) in Charlotte, North Carolina until 2001. He joined First Union in 1994. Prior to that position, Mr. Groth was with the Merger and Acquisition Group of The First Boston Corporation (now Credit Suisse First Boston) in New York, New York for 14 years. At First Boston, Mr. Groth was project manager for some of the more interesting transactions seen on Wall Street, including the first contested tender offer under the federal tender offer rules, the first use of a "crown jewel" option, the first use of an 18.5% lock-up option, the first use of a cash and stock tender offer to block and unsolicited cash tender offer, the only "pac-man" transaction that has occurred to date (that is, the bidder and target each purchased shares in the other pursuant to their respective tender offers), and the largest open market NYSE purchase program to thwart an unsolicited tender offer from a third party.

Mr. Groth joined First Boston after practicing law with Cravath, Swaine & Moore in New York for seven years. Mr. Groth has an undergraduate degree in accounting (with Honors) from the University of Wisconsin-Madison and a law degree from Yale University Law School.

TEAR OFF AND TURN IN to Tara Bowens (John's asst.)

SECTION _____ Team Captain _____ E-mail _____

Presentation	Case	Date	Assignments	Preference ¹
1	Wachovia- First Union	March 28	Odd	
2	Wachovia- Sun Trust	March 28	Even	
3	Interco	April 4**	Odd	
4	Time	April 6**	Even	
5	Conrail	April 11	Odd	
6	Du Pont	April 18	Even	
7	Marvel	April 21	Odd	
8	Qwest	April 25	Even	
9	RJR Nabisco - Management	April 28	Odd	
10	RJR Nabisco - KKR	April 28	Even	

¹Rank order the 8 dates (indicating presentation preference) from 1=best to 8=worst

****OPTIONAL:** If your group would prefer, you can present 15-20 minutes about the SBC bid for AT&T, or the Gillette deal, instead of your group presentation of a case. If you do a particularly good job, your group will earn extra credit in the class participation part of the course.

If you are interested in this option, check below and see John Graham for details. The presentation dates will be either April 4 or April 6. If interested, check one (or check both if you are willing to present either):

SBC/AT&T: _____
P&G/Gillette: _____

Team Members:

Name (PRINT – as registered)	% work done	Name (PRINT)	% work done
1		4	
2		5	
3		6	