Benjamin J. Richardson, FIDUCIARY LAW AND RESPONSIBLE INVESTING IN NATURE'S TRUST (Routledge Research in Finance and Banking Law, 2013).

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Turning Over a New Leaf for Investors

"Investing cannot be viewed as merely a financial strategy to stimulate local economic activity but rather must be seen as a global trend of environmental and economic significance."[1]

Benjamin J. Richardson's *Fiduciary Law and Responsible Investing in Nature's Trust* takes an interesting approach to how financial markets can impact much more than our economy. Richardson approaches an intricate topic of fiduciary law from the standpoint that, yes, investors do need to act responsibly, but they need to act responsibly for the sustainability of our social and natural environment, not just the financial environment.[2] The theme throughout the book is that investors, investment companies and financial institutions need to take it upon themselves, through responsible investing methods, to take social and environmental considerations into account so that our natural resources are not depleted as rapidly as they have been. Richardson examines how different aspects of responsible investing have been implemented across international markets and where fiduciary law can be used for environmental sustainability.

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[1] *See* Benjamin J. Richardson, FIDUCIARY LAW AND RESPONSIBLE INVESTING IN NATURE'S TRUST, 37 (2013).
[2] *See* Richardson, *supra* note 1.

Benjamin Richardson is currently a Professor of Environmental Law at Macquarie Law School at the University of Tasmania in Australia. Richardson has had an extensive career in academia as well as working policy and consulting for environmental groups such as New South Wales ("NSW") National Parks and Wildlife Service in Sydney, Australia and the International Union for Conservation of Nature ("IUCN") in Kathmandu and Nairobi.[3] While most of Richardson's work has been focused in the environmental law field, he also specializes in corporate and social responsibility as well as fiduciary and trusts law.[4] Some of Richardson's other publications include *Socially Responsible Investing Through Voluntary Codes Harnessing Foreign Investment for Environmental Protection: Incentives and Safeguards,*[5] *Fiduciary and Other Legal Duties,*[6]*and Fiduciary Relationships for Socially Responsible Investing: A Multinational Perspective.*[7] These publications highlight Richardson's expertise in fiduciary law and how a theory of responsible investing[8] is integrated into environmental sustainability.

The main focus of Richardson's book revolves around fiduciary law, specifically how fiduciary law needs to expand, through responsible investing, beyond merely acting in a client's best financial interest and act in the best interest of social and environmental needs. This is because our natural resources or "nature's trust" as it is referred to in the book has a finite supply and can be greatly damaged through irresponsible investing. The book also discusses a theory of responsible investing, which is a way in which Richardson believes that "social, environmental,

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[3] *See* Macquarie Law School Honorary Associate Profile of Benjamin J. Richardson, *archived at* https://perma.cc/N7D6-GEYF.
[4] *See id*.
[5] *See* Benjamin J. Richardson, SOCIALLY RESPONSIBLE INVESTING THROUGH VOLUNTARY CODES, HARNESSING FOREIGN INVESTMENT TO PROMOTE ENVIRONMENTAL PROTECTION: INCENTIVES AND SAFEGUARDS, CAMBRIDGE UNIV. PRESS, (2013).
[6] *See* Benjamin J. Richardson, FIDUCIARY AND OTHER LEGAL DUTIES, SOCIALLY RESPONSIBLE FINANCE AND INVESTING: FINANCIAL INSTITUTIONS, CORPORATIONS, INVESTORS, AND ACTIVISTS, JOHN WILEY & SONS (2013).
[7] *See* Benjamin J. Richardson, FIDUCIARY RELATIONSHIPS FOR SOCIALLY RESPONSIBLE INVESTING: A MULTINATIONAL PERSPECTIVE, AM. BUS. L. J. (2011).
[8] *See* Richardson, *supra* note 1, at 1, 1-2.

and other non-financial criteria…" need to be taken into account and applied.[9] The book analyzes the general principles of being a fiduciary and how they are applied in different markets and what non-financial considerations must be considered to *truly* act as a fiduciary and sustain our environment's resources.

Richardson's book is broken down into long chapters which are further divided within each chapter, but not as subchapters or labeled in any numerical way. For a longer book, there are only six chapters in which Richardson walks the reader through his overarching theme, beginning with how responsible investing can aide fiduciary law in protecting the world's sustainability, through what fiduciary law is to how the public shall benefit from these changes. Throughout the chapters, Richardson, because of his expansive and worldly teaching experiences[10], bounces around and discusses how responsible investing has been implemented into fiduciary law in different countries and whether it has or has not had an impact. Also, how fiduciary law has taken different social and non-financial criteria into considerations without responsible investing. Unfortunately, the reader early on will realize that while the author has a clear thesis, he is very convoluted and scattered with his thoughts and ideas, making this book slightly confusing.

Furthermore, the author use countless abbreviations which are difficult to remember, and although he provides an index at the front of the book, it makes the reading choppy if the reader constantly needs to refer to the index for an abbreviation. The authors' thesis is that fiduciary law through help of responsible investing theories of considering non-financial social and environmental consequences, should be implemented to sustain the world's natural resources. This different perspective to investing, and fiduciary law bases its argument on the premise that

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[9] *See* Richardson, *supra* note 1, at 2.
[10] *See supra* note 3 (generalizing Richardson's expansive world-wide teaching positions).

investors, large financial institutions and clients, when considering financial investments, are/should be considering attenuated environmental consequences. The idea that investors should take social and non-financial consequences into consideration is not senseless; in fact, it is quite sensible. However, the author fails to realize that such consequences to these parties are at times too attenuated and in comparison, to the needs of the parties, may not be feasible.

The author suggests that fiduciary law should require investors to seek out environmentally friendly companies to invest in, such as tech start-up companies. His theory that these types of companies take environmental considerations into account and try to make their business models as “green” as possible, while other companies may not factor environmental consequences as much. Fiduciary law, at least in the U.S., is used to protect clients from an investor’s risky and selfish, compensation driven, investments and for the investor to act in their client’s best interest. As a client, one would seek an investment adviser to see financial growth or diversify assets, and while it is true that the company’s investors invest a client’s money into may not be environmentally friendly, a client and even an adviser may not have the necessary information to make the decision not to invest in that company or find an alternative. Further, there may not always be alternative options to invest into, or to truly influence a company’s environmental or social policies.

Benjamin Richardson in this book is seeking to influence a large aspect of fiduciary law which is constantly changing. His idea that responsible investing theories can expand fiduciary law to create more environmentally friendly investing and companies seems to be the wrong body of law to alter. To make an impact on where investors are investing their client’s money, fiduciary law may be proper, but to see a shift to environmentally friendly companies, he should also apply his theories to environment law or corporate regulation law. An investor who needs to abide by already stringent standards to financially help their client *and* make sure they are complying with social and environmental consequences will drive up the cost of using and investors because of the due diligence they will need to do; thus, dis-incentivizing an investor to use investors who are integral to the global financial market.

Overall this book was a good read because it shed light on an alternative perspective on an ever-changing body of law, and one which is so financially focused. The biggest strength of the book was the analysis of the global perspective and the social and environmental benefits that have subsequently followed, as well as how it can be applied in other, more financially driven markets such as the U.S. The biggest weakness of the book was how convoluted the author's argument and ideas became at times. The long chapters and complex financial issues which different markets experience, made it difficult to understand how the author's thesis was being applied at times.

Unfortunately, this book targets a niche market, it brings together differentiating and complex bodies of law. I would recommend this book to those in the financial regulating industry. Whoever reads this book must be in touch with current fiduciary law, some environmental law, and developing financial theories, all while understanding the global investment market. Overall, this was a good book, but the read was more difficult because of the content and organization by the author.