



# **Boards of Directors And Boards of Advisors – For Companies**

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# About the Presenter

- Herb Rubenstein,
    - Lawyer, Author, Public Speaker, Educator
    - Leadership and Management Consultant
    - Lecturer, Graduate School of Business of the University of Colorado Denver – Course in Strategic Management
    - Member, Corporate and Nonprofit Boards
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# About the Presenter (con't)

- Herb Rubenstein,
    - Phi Beta Kappa graduate of Washington and Lee University, Georgetown Law, Master of Public Affairs, LBJ School
    - Certified Strategic Management Professional by the Association for Strategic Planning
    - Author – *21<sup>st</sup> Standards and Practices for Boards of Directors* – Thomson Reuters
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# Learning Objectives

- Understand how to help select excellent board members and form committees
- Learn how to evaluate a board
- Learn how to manage a board
- Learn the legal responsibilities of a board
- Learn how to help Boards set goals
- Learn about advisory boards and their role

# Overview

- Section 1 – The Purposes of Boards of Directors and Boards of Advisors of Companies
  - Section 2 – Strategies for Making Boards Useful and Boards of Advisors
  - Section 3 – Composition of Boards
  - Section 4 – Your Business Opportunity
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# Overview (Con't)

- Optimal Role of the Board
- Agendas – Annual – Chair sets
- How to Enroll, Recruit, Train
- Governance Structures
- Voting and Committees

# Overview (Con't)

- Communication Structures
- Board Evaluation Approaches
- Your Role as An Accountant and Consultant to Companies and Boards
- Setting goals for board
- Advisory boards - benefits

# Overview (Con't)

- Certification in UK and Canada
- Business School Trainings for a Certificate
- Most Concepts Applicable to Advisory Boards
- In the Conclusion two topics – Chairman/CEO and Sustainability



# Section 1 – Purpose of Boards

- Govern, set rules for org, by-laws
- Approve budget, key decisions
- Hire, fire CEO and top management
- Keep organizational ethical
- Help create, lead supportive ecosystem
- Each committee has a separate purpose that includes RISK

# Section 1 – Purpose of Boards (con't)

- Typical Committees
- Nominating and Governance
- Audit
- Science and Technology
- Finance
- Compensation, HR, and Benefits
- Regulatory, Compliance, Government Relations, Environment

# Section 1 – Purpose of Boards (con't)

- Boards are Cops/Super Cops
- Boards are cheerleaders
- Boards oversee internal controls
- Boards responsible for quality of financials with CEO's who must sign
- Even in LLC's which require no board, still a good idea to have Board of Advisors

# Section 1 – Purpose of Boards (con't)

- Fiduciary standard and business judgment rule –
- Board must be informed, have proper expertise and work for betterment of company using its best judgment
- Valuations in mergers – huge area of dispute due to conflicts of interests, must protect minority shareholders

# Section 1 – Purpose of Boards (con't)

- Boards of Advisors –
- Can bring great benefits, advice, perspective to company without legal liability, and at minimal cost
- Monthly or quarterly meetings
- Can include all types of stakeholders
- Always seek to benefit advisory board members

# Section 2 – Strategies for Boards

- Selection of board members – key
- Onboarding – key – See next slide
- Board procedures, decision making authority clear – key
- Electronic voting and virtual meetings
- Board meets without Pres/CEO
- Independent board members
- Start up issues for boards - meetings

# Section 2 – Strategies for Boards

- Onboarding – EBoard Book
- Requires training, must know history of company, future directions
- All company documents must be available if sought by board member
- Must get to know other members
- Committee assignments critical
- Expectations clearly explained

# Section 2 – Strategies for Boards (con't)

- NIFO, but holds Mgmt accountable
- Be Fully Informed
- Provide Perspective
- Organize Committees According to Needs of the Organization
- Risk Assessment
- Evaluate Each Board Member and CEO in writing annually



## Section 2: Strategies for Boards (con't)

- Minutes, minimum but accurate
- Meetings between the meetings for Committees and subcommittees
- Clear role for executive committee
- Decision rights spelled out
- Charters for each committee
- Chair appoints all committee chairs

## Section 2: Strategies for Boards (con't)

- Agendas set at least two weeks in advance except for crisis items
- Must remove deadwood quickly and fairly after adequate warning
- Note: Investors have negotiated rights to board seats
- Boards must have budgets, staff, support
- New Position – Director of Board Relations

## Section 2: Strategies for Boards (con't)

- Ethics – beware of conflicts of interest, self-disclosure is essential
- Always tempting to do business with board members, and often justified
- Rubber stamp board for CEO is ethically unacceptable – Previous Chesapeake Energy Board, and Enron's board
- Board is a real job and should be paid
- Should approve code of ethics for company

## Section 2: Strategies for Boards (con't)

- Important role in product/service ideas and development if innovation important
- Should have metrics defined by which company reports to the board
- Board can talk to employees; can limit employees talking to board
- Board helps develop and approve strategic plan and deviations from plan

# Section 2– Strategies for Boards (con't)

- Board - investigatory power
- Quorum - key rule
- Special meetings and rules for calling
- Must approve all loans to employees
- Connectors, Eyes, Ears for company
- Decision makers
- Key rules about when members cannot speak to the public

# Section 2– Strategies for Boards (con't)

- Key role in developing succession planning systems
- Board evaluation should be formal process where each board member and CEO all evaluate each other
- Great role for accountant to assist
- Level of openness can be varied
- Diversity – Age and backgrounds

## Section 2– Strategies for Boards (con't)

- Diversity – Let's look at Starbucks
- Rosalind Brewer, President and Chief Executive Officer of Sam's Club, and executive vice president of Wal-Mart Stores, Inc. African American Woman
- Satya Nadella, CEO of Microsoft Corporation – Indian American
- Jørgen Vig Knudstorp, Danish, Executive Chairman of the LEGO Brand Group

## Section 2– Strategies for Boards (con't)

- Communication – cybersecurity is a key issue – can be hacked
- Board members will want to use their own email addresses, NO WAY
- Must create a virtual board library
- When board identifies a problem, Mgmt should be given limited time to address it – reporting requirements



# Section 2– Strategies for Boards (con't)

- Futurecasting per NACD –
- Job of the board to create scenarios about the future – Burger King and obesity – board member – salads – weathered storm better than MCD
- Downturn in oil and gas prices
- Gov regulations being enforced
- Awareness of new technologies

# Section 2– Strategies for Boards (con't)

- Voting – some items majority rule, some 2/3 – all votes recorded with arguments pro/con identified
- Committees reporting item out for a vote/or entire board can bring it up
- May follow Robert's Rules or informal
- Tabling a matter – very important if board does not have enough info

# Section 3: Board Composition

- How To Build a Board or How To Rebuild a Board
- Identify competencies and aim high
- Be willing to pay board members cash or stock or other benefits
- Term Limits
- Standards and Expectations

# Section 3 – Board Composition (con't)

- Develop a Candidate Pool far in excess of need so that a “waiting list” is generated
- Have directors’ and officers’ insurance to reduce risk of potential board members
- Clear records, resumes, start dates, votes for and/of board members in minutes
- List of competencies next slide

# Section 3 – Board Composition (con't)

- Governance – experience on board
- Knowledge of sector
- Financial acumen
- Merger & Acquisition
- Social Media and Information Technology
- Strong ecosystem for strategic alliances
- Legal, Accounting, PR,

# Section 3 – Board Composition (con't)

- Ample number of people willing to serve on boards of directors, especially women and minorities
- Measure the benefits of the board annually
- People can serve on committees who are not elected to serve on a board and could become great candidates for board
- Board training - how to speak for company

# Section 4 – Your Business Opportunity

- Boards are usually underperformers (McKinsey, Bain, other studies)
- Processes are often lacking
- You can be a consultant to the board, should be joined by legal counsel
- If your firm has strong IT background, setting up IT for board great role
- Helping board track processes
- Identifying reporting - company to board

# Section 4 – Your Business Opportunity

- Helping set formal board goals
- Establishing and managing the board evaluation process for themselves
- Establishing formal evaluation process of CEO
- Establishing protocols, charters, and schedules for committees
- Setting budget and monitoring expenses and expenditures of board



# Section 4 – Your Business Opportunity

- Assisting nominating committee recruit and vet new members
- Keeping minutes
- Being a watchdog for board - reporting concerns for future investigation/action by board/CEO
- Monitoring conflicts of interest and ethical issues for the board

# Conclusion

- Very under performing asset for companies and often nonexistent
- Must eliminate rubber stamp
- Must set up real processes, budget
- Independent of CEO and management
- Great potential for business development
- Need to be joined by legal counsel

# Conclusion (Con't)

- CEO/Chairman
- Fukushima
- Sustainability
- Committees Are Key
- Legal Standards Are Fairly Well Defined
- Indemnification is Important
- D&O Insurance is Critical – Covers Legal

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