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When the board rules

By BRUCE S. FOERSTER

You founded "your" company on which you bet your life savings. You begged and borrowed from family and friends. It probably was not elegant, but all that hard work paid off. You survived the IPO process, and your baby is now a publicly traded, Wall Street-researched stock. The last sale price appears each day in the financial press globally -- an instant report card.

You have been the "go to" person since Day One; you called all the shots early on; you are probably still the largest shareholder; you are used to getting your own way.

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So . . . what to make of all this recent (post-Enron) talk of "corporate governance"? Why should you, the CEO, have to report to a board of directors? Why shouldn't you still get to pick directors based on time-tested qualifications such as fishing buddy, tennis or golf partner, poker-party pal? Why trust a nominating committee to choose? Why can't you sit in on audit-committee meetings with the accountants and outside directors? Don't they know how important it is for the company to meet the Wall Street analyst community's quarterly earnings per-share expectation? Why should a compensation committee set your pay against some arbitrary benchmarks?

Here are some tips/concepts learned as an independent outside director.

• Being public is all about you, the CEO, dealing with the new owners of the business -- the public shareholders -- whom the board is charged with representing (along with the old shareholders).

• The requirement to file periodic reports with the U.S. Securities and Exchange Commission -- called "transparency" or "full disclosure" -- is one of the pillars upon which our public equity and fixed-income markets rest. Acceptance of this concept is never easy, but especially so when the news item or quarterly results are not positive.

• Manage your employees, capital expenditures, risks -- but not your earnings. Peter Lynch is right, "earnings [do] drive the market," and Wall Street is littered with the carcasses of CEOs who tried to manage earnings.

• The concept of achieving 15 percent quarter-on-quarter/year-on-year earnings per share growth is fantasy; it belies reality. It is a creation of Wall Street research analysts, financial public-relations specialists and naive financial journalists, most of whom have never sat on your chair.

• You want a financial focus? OK, try to achieve operating margins that will result in a 20 percent return on equity. That task should keep you busy for the rest of your career, and meeting (or coming close to) these goals will have a most positive effect on the price of your common stock.

• Contributing directors should be telling you what they think, not what they think you want to hear. The problem is: All of us want to be civil with each other, not confrontational, because that's how our mothers raised us. If you, as CEO, create an atmosphere of fear in the boardroom, you will have short, quiet meetings but will risk an even shorter career and a noisy departure.

Some closing thoughts:

• Board members, be ready to bet your seat on tough issues. The lessons of Enron are many, but look at how hot were the lights of congressional focus on the faces of Enron's independent outside directors; it is serious business to be a director. If you are not meeting without management present, at least quarterly, to challenge all management assumptions and each other, you might consider this practice. You represent people -- the shareholders -- who expect you to govern the corporation they own.

• CEOs, going public has changed the dynamics of ownership and accountability. You traded privacy and total autonomy for estate liquidity and the chance to grow wealthy through the magic of price-earning ratio expansion. You now work for the public shareholders and report to the board of directors -- not an easy transition from entrepreneur, founder and CEO of a private company with no SEC disclosure obligations. Remember, everyone's best protection from liability is an informed, committed, fully functioning board with a majority of truly independent outside directors.

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