

Aging Services of Maine and New Hampshire

Annual Conference & Exposition

Who

May 19-20, 2010

Marriott @ Sable Oaks, South Portland, ME

Decides?

Practicalities of Modern Governance

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The Role of the Board of Directors in Enron's Collapse

US Senate Sub-Committee on Investigations

July 2002

Conclusion:

“Enron’s Directors protest that they cannot be held accountable for misconduct that was concealed from them. But much that was wrong with Enron was known to the Board, from high-risk accounting practices and inappropriate conflict of interest transactions, to extensive undisclosed off the books activity and excessive executive compensation.

At the hearing, the Subcommittee identified more than a dozen RED FLAGS that should have caused the Enron Board to ask HARD QUESTIONS, examine Enron policies, and consider changing course. Those RED FLAGS were NOT heeded. In too many instances, by going along with questionable practices and relying on management and auditor representations, the Enron Board failed to provide the prudent oversight and checks and balances that its fiduciary obligations required and a company like Enron needed. By failing to provide sufficient oversight and restraint to stop management excess, the Enron Board contributed to the company’s collapse and bears a share of the responsibility for it.”



Board Governance ~ Collective Board Roles & Responsibilities



1. Management Oversight ~ The Board is responsible for:
 - a. Actions of the Chief Executive
 - b. Guidance to the Chief Executive in the form of goals/direction
 - c. Evaluation of the Chief Executive's performance based upon the agreed upon goals
 - d. Financial health of the organization

2. Visioning & Planning for the Future of the Organization ~ The Board is responsible for:
 - a. Establishing, promoting and protecting the mission
 - b. Strategically thinking & visioning for a successful future
 - c. Setting policy & direction
 - d. Strategically planning for the organization's future to ensure its perpetual existence
 - e. Evaluating the plan, direction and the overall performance

3. Board Management ~ The Board is responsible for:
 - a. Nominating & electing a qualified, diverse and knowledgeable Board comprised of people with the time and resources needed to fulfill their individual Board responsibilities
 - b. Orienting new Directors to the organization, to the collective and individual responsibilities, and to the organization's governing practices
 - c. Educating the Directors on the business of the industry, future trends and organization specific issues
 - d. Evaluating the collective Board and individual Directors
 - e. Creating/dissolving committees as needed to accomplish the work of the Board
 - f. Defining authority & responsibility of each committee
 - g. Providing each committee with clear directives and timeframes for its work
 - h. Holding each committee responsible and accountable for its work
 - i. Evaluating committees regularly
 - j. Creating, reviewing and updating its corporate documents, such as Articles of Incorporation/Constitution, Bylaws, Policies and Minutes
 - k. Validating the accuracy of all corporate tax paperwork submitted
 - l. Reviewing/Signing the Code of Interest annually

4. Ethics ~ The Board is responsible for creating an ethical framework to conduct the affairs of the organization in a manner that is consistent with the organization's mission and values.



Board Governance ~ Individual Director's Roles & Responsibilities



Obligations:

1. Duty of Care ~ requires each Director to act:
 - In good faith;
 - With the care an ordinarily prudent person in a like position would exercise under similar circumstances;
 - In a manner the Director reasonably believes to be in the organization's best interest.

It is the responsibility of each Director:

- To be familiar with the organization's activities and to know whether those activities promote the organization's mission and achieve its goals;
 - To be fully informed about the organization's financial status; and,
 - To have full and accurate information to make informed decisions.
2. Duty of Loyalty ~ requires each Director to act:
 - In the interest of the organization rather than in the personal interest of the Director or some other person or organization; and,
 - Without conflicts of interest that are detrimental to the organization.
 3. Duty of Obedience ~ requires each Director to act:
 - In accordance with the organizations rules, bylaws and policies; and,
 - To further the corporation's goals as stated in the mission statement, Articles of Incorporation, Bylaws and policies.
 4. Duty of Inquiry ~ requires each Director to:
 - Take such steps as are necessary to be sufficiently informed to make decisions on behalf of the organization and participate in the Board of Director activities.

Additional duties:

1. Commit to thoroughly understanding and supporting the organization.
2. Review and understand the Bylaws and Board policies. (Each Director is responsible to ensure that Bylaws and policies are followed.)
3. Review Board agenda and all materials prior to the meetings, and be prepared to comment and/or act on each item, as necessary.
4. Honor the responsibilities of the Chair and respond to requests in a timely manner.
5. Keep side bar conversations during meetings to a minimum.
6. Always disclose all possible conflicts of interest.
7. While in the Board meetings, always look out for the best interest of the organization. (Avoid personal agendas.)
8. Agree to and believe in the democratic governance process.
9. Attend all meetings ~ give timely notice when unable to attend.
10. Serve on a committee or task force.
11. Be an ambassador for the organization.