

*Building Effective Advisory
Boards & Their Importance to
Growing Businesses*

Growing Company Leadership Challenges

- Today's business leaders face a great number of challenges on a daily basis:
 - Managing Co-Founder and Shareholder Relationships
 - Building A Performance-Driven Culture (Internal/External)
 - Managing A Changing Workforce
 - Understanding Sarbanes-Oxley
 - Managing Relationships With Key Professional Services Providers
 - Many more
- By establishing an effective board of advisors, senior management opens itself to new ideas and to the experience of experts in a variety of fields related to their core business practices, target markets, and other important areas

What Is An Advisory Board?

- What are they?
 - An Advisory Board can also be an excellent way to get a second opinion on certain matters without interrupting existing relationships
 - Much more informal with regard to the number of meetings and agendas for meetings
 - Can be assembled for general purposes or a series of Advisory Boards could be set up for very specific purposes
 - Technical review
 - Marketing strategy
 - Recruitment and compensation
 - Research and development.
- What are they not?
 - Not required by provincial corporate laws
 - Does not owe the same levels of fiduciary duties to the shareholders
 - Hence cannot generally be held as responsible for their acts or recommendations

What Is An Advisory Board? Cont'd.

- An Advisory Board is a powerful management tool that no small business should be without
 - No business is too small to benefit from having an Advisory Board
 - Implement a formalized process to meet with other experienced business leaders and facilitate an open discussion, sharing ideas and concerns
- An Advisory Board is composed of people with a genuine interest in your business and a desire to see it do well
 - Think of an Advisory Board as a management think tank
 - Advisory Board members serve as a sounding board, a source of ideas and expertise - and give you honest advice
- As fewer and fewer individuals find themselves willing to take on the fiduciary responsibility of being a corporate director, advisory boards are a good way to tap otherwise out-of-reach experience and expertise

What Is An Advisory Board? Cont'd.

- Who should you target as advisory board members?
 - Recently retired executives and managers
 - Other experienced business people, customers or vendors
 - Individuals of diverse personal and professional backgrounds and ideas
 - Choose people you admire that you think you will be able to develop a relationship of trust with
- How big should an Advisory Board be?
 - The board might range from two people to as many as eight or ten, but remember there are always logistical challenges with larger groups
 - Consider creating topic specific advisory boards with two or three advisors
 - Tech advisory
 - Human Capital advisory
 - Governance advisory
 - Other operational areas

What Is An Advisory Board? Cont'd.

- Expectations for an Advisory Board
 - Meetings should be formalized and take place, usually on a quarterly basis
 - Advisory Compensation is an issue to consider
 - Monetary compensation may be expected though it is typically a token amount – do not expect your per meeting payment to be the lure for serving on your board
 - Identify other benefits to your Advisory Board members – ask them what draws their attention to serving and you might be surprised
 - Giving back to the entrepreneurial community
 - Unique and unusual tangible tokens of esteem from the company
 - The chance to meet and spend time with other like-minded and highly experienced individuals in a high-level creative atmosphere
 - Other intangible benefits

What Is An Advisory Board? Cont'd.

- Expectations Continued
 - Be prepared for each meeting of your Advisory Board
 - Prepare and distribute a meeting agenda ahead of time and include any related materials
 - Be prepared to be completely open and frank with your Advisory Board, sharing both your hopes and your fears
 - They won't be able to advise you properly or well if you hold back.

Key Issues In Establishing Advisory Boards

- Scope and Charter of the Advisory Board
- Compensation and Reimbursements
- Confidentiality
- Assignments of Inventions
- No Conflicting Employment: No Conflicting Obligations
- Defined Advisory Board Term Limits

Scope & Charter

- Rules governing the Board of Advisors are not set forth in a corporate law statute
 - Be very clear as to your expectations of each Advisory Board member as well as to how they will be compensated for their efforts
- Prepare an Advisory Board Member Agreement
 - The best way to capture and establish objectives and rewards
 - It should lay out your expectations for meeting frequency, attendance policy, agenda structure, compensation, confidentiality or non-disclosure, etc.

Scope & Charter

- Remember the differences between a Board of Advisors and a Board of Directors
 - Advisors – management retains the ability to accept or ignore the recommendations of any Advisory Board
 - Directors – management has a responsibility to shareholders and does not have the luxury of ignoring a mandate from the Board of Directors
 - Members of the Advisory Board do not owe the same duties to the company and its shareholders
 - They can be used to mediate disputes by and among the officers and/or between officers and directors
 - They can also be used in identifying potential board of director candidates or be a recruiting ground for eventual seats on the board

Compensation & Reimbursements

- In the early stages of the company's development, the rewards to Advisory Board members should be structured to:
 - Encourage a long-term commitment
 - Provide for being a proactive, not merely a reactive, contributor to the company's growth plans.
- Monetary compensation may be expected, though it is typically a token amount
 - Do not expect your monetary payment to be the true lure for experienced, well-compensated executives to serve on your board

Compensation & Reimbursements

- Identify other benefits to your Advisory Board members – ask them what attracts their interest in serving (you might be surprised)
 - Giving back to the entrepreneurial community & the ability to mentor young, growing companies
 - Unique and unusual tangible tokens of esteem from the company, indicating you value their input (from product, to corporate logo engraved items, and more)
 - The chance to meet and spend time with other like-minded and highly experienced individuals in a high-level creative atmosphere
 - Other intangible benefits

Legal Agreements: Confidentiality & Inventions

■ Confidentiality

- Advisors should be willing to sign a confidentiality or non-disclosure agreement
 - Invest time and resources in developing a strong confidentiality agreement
 - Do not expect advisors to sign a non-compete
- Be open and honest with your Advisory Board
 - Advisors can not assist you to the best of their ability if there is not full disclosure on the company's performance

■ Assignment of Inventions

- Like the confidentiality agreement, prepare a similar legal document related to the assignment of inventions
- The agreement should cover any inventions which relate, directly or indirectly, to the business of the company and arise out of the status of being advisor to the company or through a situation of “work for hire” as a compensated advisory to the company

Conflicting Employment/ Obligations

- Due diligence is a cornerstone to the strong foundation of trust and mutual respect between a manager and an advisor
 - Consult closely with a potential advisor to determine if there are any outstanding employment or other obligations that could infringe on their membership in an advisory capacity
 - Construct an agreement that covers any conflicting relationships they may have:
 - That they are not bound by any agreement or any other previous or existing business relationship which conflicts with or prevents them from acting as an advisor
 - That they will not improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer, or any other person or entity with whom they have an agreement or to whom they owe a duty to keep such information in confidence
 - That they will not directly or indirectly recruit, solicit or hire any employee of the Company, or induce or attempt to induce any employee of the Company to discontinue his or her employment relationship with the Company.
 - That they will notify the company of any change in employment status as it may effect their status as an advisor to the company

Advisory Board Term Limits

- Advisory Boards are vital for both established and growing companies but as the corporate landscape changes, so must the make-up and scope of your Advisory Board
- Term Limits are a convenient and formalized way to refresh the board
 - Move away from less relevant experience and advice
 - Include new ideas and expertise targeted to the advancement of your business model, systems and processes
- Include some discussion and a great deal of thought in developing your approach to this optional, but recommended, addition to the structure of the Advisory Board Agreement