Tracy Curley Audit Committee Case

Part 1:

Background:

•          A small public materials technology company specializing in biomedical polymers for extrusion, injection molding, films and coatings for a wide variety of uses subcutaneously.

•          Founded in 1993 and public since 1996.

•          Except for the current year (2016), the five previous years (2011 – 2015) the Company has been unable to file their 10K on time. Number quarterly filings have also not been filed on time.

•          They have had four different independent accounting firms as the auditors in the last six years (2011 – 2015).

•          No going concern for the last six years…but always on the cusp.

•          Signed certification in 2009 and 2010 as the acting CFO and signed certification from 2011 through 2014 as the CFO. No certification from a Chief Accounting Officer in the filed 2015 10K.

•          No material weaknesses reported in the 10K for the last six years (2011-2015).

You are a Member of the Audit Committee:

         Thoughts?

         Concerns?

         Questions?

Part 2:

From 1997 through 1999 the CFO mentioned above was the Acting Chief Financial Officer of a public company that came under SEC investigation.  The CFO was accused of assisting in document falsification and was permanently enjoining from violating, directly or indirectly:

         Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

         Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1, 240.13b2-2];

         Section 13(a) of the Exchange Act [15 U.S.C. §§ 78m(a)] and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13];

         Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)]; and

         Exchange Act Rule 13a-11 [17 C.F.R. § 240.13a-11].

The SEC also required the CFO to pay civil money penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] in an amount determined by the Court.

The SEC did not permanently prohibit the CFO from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

Questions:

         Thoughts?

         Concerns?

         Questions?

Part 3:

More Background:

During the audits the CFO was known to:

         Not tell the whole story

         Try to tell the engagement team how they should audit (scope)

         Ghost for weeks at a time without any forewarning

         Be rude and unprofessional

         Make comments that bordered on threatening (independence)

At least in one instance, the Chair of the Audit Committee was informed of the above behaviors.

Questions:

         Thoughts?

         Concerns?

         Questions?