

Bare Bones Board Basics- for the Private Company

Episode #1- Series Overview/Preview

November 11, 2021

A webinar co-production of the Alabama, Dallas, DC Metro, Nashville, New England, New York Metro, Tampa Bay & Wisconsin chapters of the Private Directors Association® & Financial Poise™



FINANCIAL
POISE



Welcome to the Jungle- the Boardroom Jungle!

- Every corporation has at least some of the legal rights and responsibilities enjoyed by natural persons. As the brain can be said to govern a person's actions, a board of directors governs the actions of a corporation. And leaving aside some legal nuances, the same can be said of the manager of an LLC. Publicly listed companies have active boards; they must. Historically, many private companies have not, though that has been changing rapidly over the past decade.
- The job of a board director can be quite difficult yet can be greatly rewarding.
- The benefits almost any company with multiple owners (and often even a company with a single owner) can derive from having an excellent and active board are tremendous.
- This is the first in a series of webinars produced by certain chapters of the [Private Directors Association](#) in association with [Financial Poise™](#) and certain other professional associations (TBA), to make you a more effective board member. This Episode #1 goes wide, not deep, and touches on each of the topics that will be covered later in the series.

Welcome to the Jungle- the Boardroom Jungle!

- Every corporation has at least some of the legal rights and responsibilities enjoyed by natural persons.
- Brain governs a person's actions → Board governs an entity's actions.
- Brain consists of individual synapses → Board consists of individuals directors.
- Synapses need to work, and work together...

Bare Bones Board Basics- for the Private Company

- #1 Series Overview / Preview- *November 11th*
- #2 Public v. Private & Fiduciary v. Advisory: Different Boards for Different Situations- *January 26th*
- #3 Where the Board's Duties Stop & the C-Suite's Duties Begin: An Overview of a Board's Functions & Fiduciary Duties- *February 23rd*
- #4 How to Conduct a Board Meeting- *March 30th*
- #5 Committees of a Board & Work Between Board Meetings- *April 27th*
- #6 Recruiting & Renummerating Directors & What Directors Should Do Before Saying Yes – *June 8th*

Bare Bones Board Basics- for the Private Company (cont'd)

- #7 Special Issues Require Special Attention: Retaining Experts & Conducting Investigations- *July 13th*
- #8 Soft Skills Workshop: Leadership, Communication & Trust- *TBD*
- #9 Enterprise Risk Management- *TBD*
- #10 Going into Executive Session- *TBD*
- #11 The Workings of the Audit Committee- *TBD*
- #12 The Workings of the Compensation Committee- *TBD*

Session #1 Panel

1. Elaine Eisenman - Saeje Advisors
2. Jonathan Friedland - Sugar Felsenthal Grais & Helsinger LLP
3. Allan Grafman - Oberon Securities, LLC and All Media Ventures
4. Christina Rashid - Lotos Groupe LLC

Public v. Private & Fiduciary v. Advisory: Different Boards for Different Situations (Episode #2)

- Key = Company's maturational/growth level
- Public v. Private Company
- Advisory v. Fiduciary
- Profit v. Non-profit

Where the Board's Duties Stop & the C-Suite's Duties Begin: an Overview of a Board's Function & Fiduciary Duties (Episode #3)

- Role of a director
- Fiduciary duties of a director
 - Duty of loyalty
 - Duty of care
- Director vs. c-suite functions

How to Conduct a Board Meeting (Episode #4)

- Structure, process & dynamics: best practices for effective Boards
 - Constructive discourse & disagreement
- Dissemination of materials, agenda, and other pre-meeting preparation
- Procedural rules
- Executive sessions
- Note taking

Committees of a Board & Work Between Board Meetings (Episode #5)

- What happens between Board meetings?
- Common standing committees
 - Nominating
 - Finance
 - Audit
 - Executive Compensation
 - Strategic Planning
- Ad hoc committees
- Committee / full-Board interaction

Recruiting & Remunerating Directors & What Directors Should Do Before Saying Yes (Episode #6)

- What do (and should) companies look for?
- What do (and should) directors look for?
- What do directors need to be wary of?
- Board interviews - - a two-way street
- Length of service
- Compensation

Special Issues Require Special Attention: Retaining Experts & Conducting Investigations (Episode #7)

- Right to retain & rely on experts
 - When? Experts about *what*?
 - How to locate? How to select?
- Investigations
- Specific legal concerns
 - Privilege
 - Joint defense agreements
 - Witness interviews
 - D&O Insurance

Soft Skills Workshop: Leadership, Communication & Trust (Episode #8)

- Best practices
- Internal education
- External education (e.g., PDA)

Enterprise Risk Management (Episode #9)

- Enterprise risk management (“**ERM**”) = process of identifying & methodically addressing potential events that represent risks to achieving a company’s strategic objectives.
- ERM is an essential element of strategic management of any organization; should be embedded in all activities.
- Short term v. medium term v. long term

Examples of Enterprise Risk Management (Episode #9- cont'd)

- Internal controls / Policies & Procedures
- Controls over financial reporting
- Regulatory compliance
- Cybersecurity
- Technological obsolescence
- Succession planning
- ESG

Going into Executive Session (Episode #10)

- Who is invited?
- When to do it?

The Workings of the Audit Committee (Episode #11)

- Public vs. Private
 - Sarbanes-Oxley
- Essential functions
 - Financial reporting
 - Internal controls

The Workings of the Compensation Committee

(Episode #12)

- Comp. Committee has primary responsibility for reviewing and approving the compensation of the c-suite.
- Listed companies' compensation committee members must be independent.
- Pay-for-performance as a best practice.
- Major categories of compensation
 - Salary
 - Equity
 - Stock options vs. Stock Appreciation Rights (“SARs”) vs. Restricted Stock vs. Restricted Stock Units
 - Perks
 - Retirement Programs

About the Faculty of Session #1

Elaine Eisenman - Saeje Advisors

Jonathan Friedland - Sugar Felsenthal Grais & Helsinger LLP

Allan Grafman - Oberon Securities, LLC and All Media Ventures

Christina Rashid - Lotos Groupe LLC

Elaine Eisenman

- Elaine Eisenman has served on public, private, PE, non-profit, start-up, family and advisory boards for over 20 years. She is recognized as an expert on governance, and is frequently interviewed and is widely quoted on tough issues.
- She currently serves as an independent director of DBI (NYSE), a vertically integrated shoe manufacturer and retailer, chairs the compensation committee and is a member of the audit committee.
- Eisenman is also the Managing Director of *Saeje Advisors*, providing strategic advisory services to private companies, and a faculty member at *Entrepreneurship Policy Advisors*, developing entrepreneurial ecosystems through growing and scaling companies.
- She was formerly a senior executive for several global public companies, and a Professor and Dean of Executive and Enterprise Education at Babson College. More information [here](#).
-

Jonathan Friedland

- Jonathan Friedland is a partner with the Sugar Felsenthal law firm.
- He regularly counsels boards of directors and owners of companies in financial distress.
- Friedland's wide range of experience includes representing companies in out-of-court workouts, chapter 11 bankruptcy, and controlled liquidations. He also has substantial experience in running both a wide variety of corporate transactions and a wide array of commercial litigation.
- He is widely recognized as a leading corporate restructuring and insolvency attorney by a number of legal publications. He has been rated for many years as AV® Preeminent™ by Martindale-Hubbell, 10/10 by AVVO, and 10/10 by Justia. Jonathan is the principal author of two leading legal treatises, and his scholarship is widely cited by legal scholars. He formerly served stints as an Adjunct Professor of Strategic Management at the University of Chicago's Graduate School of Business and as a Clayton Center for Entrepreneurial Law Visiting Professor of Business Law at the University of Tennessee College of Law. More information [here](#).

Allan Grafman

- Allan Grafman is experienced in serving on all committees, including audit, of boards. As an investment banker he raises capital for companies.
- He has served on a dozen boards, including those of public, private equity-owned, and venture-backed companies.
- Grafman currently chairs the audit committee of a public company and sits as a director of a REIT.
- Perhaps Grafman's most "colorful" experience was serving as chairman and president of Archie Comics. More information [here](#).

Christina Rashid

- Christina Rashid has enjoyed nearly thirty years of continuous board service for private companies and nonprofits.
- She currently serves as an independent director of First Women's Bank (chair of nominating & governance committees), St. Jude Children's Research Hospital/ALSAC (vice-chair of audit & compliance committee), and as an advisory board member and advisor to the c-suite of several private companies.
- Rashid came to board work after a long career as an operating and financial executive with experience in leveraged lending, private equity, and venture capital. She also previously served as an executive and board member / investment committee member of a NYSE Investment Company. More information [here](#).

About Private Directors Association®

- The Private Directors Association® (PDA) is an independent 501(c)(6) founded in 2014 and headquartered in Chicago, IL. PDA is the only national association dedicated to improving private companies' growth and sustainability through governance that adds value.
- Our close to 3,000 members include current and qualified future board members, private company owners, and C-level executives of family-owned businesses, ESOPs, private equity owned, early stage, and start-up organizations.
- The PDA's mission is to:
 - Advocate for and teach board formation and governance
 - Enhance private company value through high-performing boards
 - Advocate for the value of diverse and inclusive boards
 - Create a national alliance of directors, executives, and private company owners interested in board service to learn, network, and identify and attract exceptional board members

The Co-Producing Chapters

- Bare Bones Board Basics- for the Private Company is a co-production of Financial Poise and the following chapters of the Private Directors Association:
 - Alabama
 - Dallas
 - DC Metro
 - Nashville
 - New England
 - New York Metro
 - Tampa Bay
 - Wisconsin
- Go to <https://www.privatedirectorsassociation.org/chapters> for contact information for any of these, or other, chapters.

About Financial Poise™

- The primary mission of Financial Poise™ is to provide reliable plain English business, financial, and legal education to individual investors, entrepreneurs, business owners, and executives, and to help trusted advisors do the same.
- Sign up for our free weekly e-newsletter [here](#)*
- Learn how to write or speak for Financial Poise [here](#).
- Check out our other webinars [here](#).
- Send any other inquiry to info@financialpoise.com

****Newsletter subscribers are offered a free webinar weekly. Subscribers never receive more than one email per week and their information is never shared.***

Disclaimer

The material in this webinar is for informational purposes only. It should not be considered legal, financial or other professional advice. You should consult with an attorney or other appropriate professional to determine what may be best for your individual needs. While the webinar producers and speakers take reasonable steps to ensure that information presented is accurate, they make no guaranty in this (or any) regard.