# Before you say yes to a board invitation: 10 due diligence tactics

, Kathleen Camilli

You’ve met the other directors, asked smart questions, reviewed the financials, and ensured there’s good D&O insurance. You can’t wait to tell colleagues that you’ve been selected for a board seat. All seems good — and it probably is.

But even experienced directors sometimes encounter financial, ethical or other issues that lead them to quietly resign a short time after accepting a board position. Neither the board nor the director is apt to disclose the true reason for an abrupt departure. The director is wiser after the experience, but unclear if anything changes in the dynamics of the troubled situation.

This isn’t as rare as one would expect. A couple of times a year we get asked for advice on how to gracefully depart, or hear a board prospect say, “Whew, that was close. I dodged a bullet.” Surprisingly, even sophisticated directors are sometimes swayed by a company’s reputation or the reputation of colleagues in management or those already on the board and fail to probe deeply enough. “It never felt quite right, but it wasn’t until the first board meeting that I knew why,” declared one nationally recognized board director. “I should have trusted my gut,” another stated.

Anecdotal evidence points to an increase in incidents of abbreviated tenures — due to more first-time directors, increase in time constraints, conflicting interests and other factors. Of course, if you are the one encountering a significant problem, you don’t care much about the trend or what’s happened to others.

The old saying that you can’t do too much diligence is truer than ever today. Good D&O insurance can protect you against a financial loss, but the potential damage to your reputation and lost time (and sleep) can be even worse. Just ask anyone who’s waited, hoping things will improve, and resigned after the issues became truly problematic.

The wise candidate will investigate thoroughly, identifying and closely scrutinizing potential problems before accepting a board position. Always kick the tires. If a finalist, this includes touring plants, asking very specific questions about operations, talking to employees (if possible) and management. Skepticism is a virtue, especially when one recognizes that those most apt to know the problems are lawyers, consultants and fellow directors who are precluded by profession or confidentiality agreements from disclosing significant problems.

We interviewed numerous directors to develop and refine a due diligence checklist. We were surprised that emotional turmoil was still so close to the surface years later. “That was a nightmare I hope to never repeat,” declared one retail company director of an abortive boardroom experience.

Here is what a director nominee should thoroughly investigate:

1. SEC Filings: Most people interviewed said to go back for the last five years. “I’d look at the last five years in detail and review five years before that,” one director advised. 10-Qs are chock full of information; read them in detail, including

footnotes. This is where past risks to the firm are encountered and addressed. You want to know that you are joining a strong team with leadership that approaches problems together.

2. Management Turnover: This is a “red flag — second only to problematic issues uncovered in annual reports and SEC filings,” declared a highly regarded director. Sudden departures of a key executive or CEO successor, or several resignations within few months, are a major warning sign. Conversely, low turnover on the board can be a sign of strength, especially when the board has been built judiciously with the right skill sets. If the board and CEO are seeking change, this should be clearly articulated to prospective board members.

3. Background of Directors: Delve deep online and via your personal network. Look at interlocking relationships, friendships, prior jobs and boards, nonprofit work and interests. Ethical lapses, misrepresentation of work duties and timelines, lack of time/knowledge/commitment, or inflexibility are all warning signals. “He didn’t care about the interview,” reflected a leading director. “I should have realized he rarely contributed to meetings. What a waste of a board seat.”

4. Board Attendance: Poor attendance or attendance by phone (without a good excuse for not attending in person) is a warning sign, and is especially troubling if it’s the chair or lead director. “Lead director turnover seemed high, but explainable,” one director reflected. “But I then found most new directors left a year or so after joining the board. I don’t know why, but didn’t want to find out.”

5. Internet Inquiry: Investigate the company and directors with an intensive Google search — and follow links. Explore all the social media outlets thoroughly. A few years ago one board candidate reported finding pictures of a director cavorting with young girls. Always ask the CEO about specific items discovered on the Internet, to see his/her reaction.

6. Communications to the Board: Board materials should arrive in a timely fashion for directors’ review. Before the board meeting there should be pre-meeting reports from committee heads. Last-minute changes in the agenda is a red flag.

7. Negative Comments about Fellow Directors or Top Management: Everyone has strengths and weaknesses, but remarks by board interviewers reflecting lack of respect or trust of their peers are warnings. As we advised at the outset, asking smart questions and listening to answers will also reveal personality conflicts in the boardroom.

8. Lack of Knowledge about the Company’s Finances or Operations: All board members need to be able to read the financials and ask intelligent questions of the public accountant and internal auditor. Evasive answers — or, “the audit committee handles that” — indicate trouble.

9. Litigation: Current and potential lawsuits will be in filings or on the Internet. Some are normal, but others raise red flags. A Fortune 100 director advises diligence, noting, “I should have been more aware. The company courting me had substantially increased the number of in-house lawyers, plus legal costs were much higher. They knew trouble was coming.” Another director said, “My favorite question is: What do you think might go wrong in two years?”

10. Misreading the Board Culture: Sometimes everything seems fine in interviews of individual directors, but when the group convenes the culture is different. There may be cliques or people who openly don’t like each other. Ask about the atmosphere, how people disagree, and how things get settled. Ask newer directors what was the biggest surprise after joining the board.

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