

Endnote: What's in a Name?

By April Hall

Theranos' founders weren't looking for guidance. They were looking for influence.

Since joining *Directors & Boards*, I have become a student of corporate governance and have been fascinated with the concepts of the duty of care and loyalty as the foundation of public company governance.

I've been following the fraud case against Theranos founder and former CEO Elizabeth Holmes with similar fascination. News reports on the case and now the trial read like something from a soap opera. As I write this, the prosecution is still presenting its case a month into proceedings. One witness was on the stand for five days.



Theranos, valued at \$9 billion at its height, was a company that promised to change medical testing. Holmes claimed her tests could diagnose a variety of diseases and conditions — including cancer and pregnancy — in 20-30 minutes with just a couple of drops of blood collected and tested in supermarkets and drugstores. CEO Holmes was touted as the next Steve Jobs.

Eventually it was discovered that the company's tests didn't measure up to its claims. People were being misdiagnosed, test results were taking weeks to arrive and most samples weren't even tested on Theranos equipment. Holmes and former COO and president Sunny Balwani were charged with numerous counts of wire fraud.

As the case unfolds, I've been thinking, as did one Forbes article: "Where Was the Board?"

When I read The Wall Street Journal's coverage of the case ("The Fall of Theranos" package spanned six months in 2016), I was amazed at the story of the Theranos whistleblower who started the investigation into the company by talking to The Journal and filing a complaint with New York state's public-health lab under an alias.

The whistleblower was Tyler Shultz, a former Theranos employee and the grandson of George Shultz, who was serving on the company's board of directors. According to reports, the elder Shultz tried to silence Tyler after getting word that he was going to report Theranos to authorities. That certainly doesn't signal transparency. Instead, it signals that the C-suite was using George Shultz not to give them guidance, but to shut up a naysayer.

Shultz was, as we all know, Secretary of State under Ronald Reagan and, under Richard Nixon, served as Secretary of Labor, director of the Office of Management and Budget, and Secretary of the Treasury.

His appointment to the board was an interesting choice for a company that was working in the medical testing space but, of course, board members can come from all sorts of backgrounds to contribute to a company. For instance, having an influential person like Shultz in your corner can make introductions smoother and lend credibility to a young company looking to partner with major corporations like Safeway and Walgreens.

But the board was also stacked with other government veterans rather than medical professionals or tech experts, including Henry Kissinger, Nixon's Secretary of State; William Perry, Bill Clinton's Secretary of Defense; James Mattis, the retired four-star Marine general who resigned from the board to serve as Secretary of Defense in the Trump administration; Gary Roughead, a retired U.S. Navy admiral; former Senator Sam Nunn; and former Senate Majority Leader Bill Frist. Frist, a transplant surgeon, was one of two medical professionals on the board. The other was a former director of the Centers for Disease Control and Prevention, Dr. William Foege.

It seems the makeup of the board itself should have been a red flag. A company that plans to revolutionize the medical testing industry has two medical professionals out of 12 directors, but seven with military or legislative backgrounds.

The average age of the directors was 80. Fortune senior editor Jennifer Reingold wrote, "one wonders just how plugged in they are to Theranos' day-to-day

activities. Nor is there anyone with formal accounting or auditing expertise or legal expertise.”

It raises the question of why these men (there were no women aside from Holmes) were sitting on the board.

Mattis says he wasn't even sure why he was asked to join.

“I asked her ‘why.’ I was not a medical person,” Mattis said, according to a CNBC report from the trial. Holmes responded that she wanted Mattis “to help her build a corporate culture out of building elite teams, how to get commitment out of people, it was about management, about personnel.”

As we mark *Directors & Boards'* 45th anniversary, I've been looking through past issues where we've highlighted celebrities of every stripe who have become board directors. Some have made sense, others not so much. Some have been brought on to contribute to board deliberations, some for the flash. But the stories always note that filling the board with “names” won't guarantee success or shield a company from trouble.

That certainly seems to be the case for Theranos.