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Corporate Governance Records: Solving The Three-Ring Binder Problem

The Editor interviews Gary D. Levine, President and Founder, Two Step Software, Inc.

Editor: I understand that minute book documents have traditionally been kept in three-ring binders.

Levine: Yes. Generally, these types of records fall into two categories. The first is the corporate minutes and governing documents. The other, and perhaps the more complicated, is the stock ledger books and stock option records. They are both traditionally kept in paper form in three ring binders, with ownership records also commonly tracked in spreadsheets. A law firm may keep track of such records for hundreds of companies so the number of pages that accumulate over time can become very large. Corporations, even smaller ones, may have numerous subsidiaries and affiliates. The issue is that such records are not traditionally kept in an organized and easily accessible system.

Editor: What costs and inefficiencies are associated with the traditional system?

Levine: It takes a greater amount of time to manually track information than it does in a computer based system. The additional time required means that other legal work is postponed or the corporation or law firm needs to hire more people. Then, there are the costs involved in retrieving information and then transmitting it to the person that needs it. We have been told that lawyers and paralegals can waste hours per day looking for, summarizing and providing the information to members of the legal staff, managers, investors



Gary D. Levine

and board members. For example, the HR director may call the legal department to find out why an employee has so many vested options. To check this, someone in the legal department has to check the minute books to find the board votes that authorized the different stock option grants and then, after making the necessary calculations, prepare a report for the HR director. Those two tasks alone can take several hours to complete.

Editor: What additional costs and inefficiencies are generated where such records are kept in the traditional way by a law firm?

Levine: Where the records are kept by the law firm in the traditional way, the number of minute books is likely to be at least ten times the number involved where the records are housed at a typical company.

Also, more people (sometimes located in different offices) consult those records. This results in significant inefficiencies which are brought home to cost conscious clients when they review the law firm's bills.

Look at a typical situation. A client who wants a copy of a resolution from the board minutes calls its lawyer who then instructs a paralegal to locate the resolution. The lawyer spends time contacting the paralegal and then checking to be sure that he or she found the right resolution. The paralegal spends time locating the resolution. If another lawyer is using that volume of the minutes, the paralegal first has to track it down. The client wonders why it took so long to send the resolution over. Its concern may be compounded when the client receives its monthly bill. If more than one person needs to use the same resolution, additional time and costs are involved in copying and distributing the document.

Editor: What risks exist for maintaining corporate records in the traditional manner?

Levine: The greatest risk with respect to corporate records is the danger of losing them. You can lose them temporarily because they are misplaced. You can lose a small portion of them because someone removed pages to copy them and they were inadvertently discarded. You can also lose most or all of them in the wake of a disaster, such as a fire that strikes a particular location or a major catastrophe, such as Katrina or 9/11. We have encountered all of these situations with our clients. The minute books were affected and the result of losing the corporate

records is either a delay in the legal work or you are forced to guess about what they actually said. That creates a risk of mistake.

Editor: How can the costs, inefficiencies and risks inherent in the three ring binder approach be reduced?

Levine: Alternative methods for organizing documents are certainly out there. There are pure document management systems, such as iManage, Documentum or Hummingbird. Other systems collect documents and put them into a web portal – eRoom and Microsoft SharePoint are examples. There are also traditional records management systems like MDY. All of those systems are places where you can collect legal documents and post them for sharing.

The difference with Corporate Focus is that the corporate governance and ownership information that is collected and summarized is dynamically linked to the finalized legal documents and presented in a fashion that is intuitive to attorneys and their clients. First, the information is organized in a way that makes sense to a law firm or a legal department. Second, we take the information derived from the corporate records, such as the list of officers or the number of shares owned by each stockholder, and connect the information directly to the corporate minute book documents and other legal document back up. Instead of just showing you the documents and having you look through them, we give you a place to collect and organize the information and directly link the corporate documents to the information. This produces a legal audit trail for the information and enables lawyers to make decisions faster and to base their legal opinions on the information. The information is often complex. Using Corporate Focus, you can, for example, search for the names of the directors of a company at a specific point in time or look at the cap table at the end of last quarter. Since manually looking for that information would take a long time, it can be collected once and then connected to the related corporate records. Other systems are pretty much limited to collecting and electronically storing copies of the documents.

Editor: So a major difference between Corporate Focus and other products is that it can locate and organize needed information.

Levine: Yes. You need to be able to both locate the documents, but also organize all of the information that comes out of the documents. When you are searching corporate governance documents, the information you are looking for is frequently hard to find and could be anywhere. Corporate Focus includes a search engine that enables you to search for information in three ways. One is by data category, such as by date or by type. Another is by keywords, which is like searching by a category, but is more flexible. Third is actual text searching of the document content. For example, you can find all documents that relate to a particular officer's employment status by searching for the name of the employee within the agreements section or the minutes. Every document with those words will come up.

Editor: Corporate Focus is online. Why is that advantageous?

Levine: It makes access to the documents much more convenient. It is rare that a board room or conference room does not have Internet access these days. Since our system is browser based, users can log into the database and do a search to find the document or information they are looking for. It will open immediately and reports or historical documents can be printed out in real time. This is true even if the user is off site for a meeting. The highest levels of security and encryption protect the system from intruders.

Editor: How did your background lead to the creation of Corporate Focus?

Levine: I acquired a first hand understanding of the problems faced by lawyers in dealing with corporate records when I was a practicing attorney, both from a law firm and in-house perspective. Initially, I was at the Boston law firm of Hutchins & Wheeler beginning in the late 1980s doing venture capital and leveraged buyout transactions. I spent considerable manually calculating stock and option cap tables in connection with financing transactions. As a young associate, I was saddled with that work because of my finance degree from the Sloan School of Management at MIT. Later, I became general counsel of a software company called Pilot Software in Cambridge, Mass. where we had hundreds of employees, multiple rounds of venture capital investments, and subsidiaries in different countries. At Pilot, I developed a system

for tracking the stock and option ownership, as well as the corporate governance information for all of its subsidiaries. When Pilot was acquired by Dun & Bradstreet in 1994, I decided to develop a commercial system, based on what we used at Pilot, that would address the need for tracking complex private equity ownership information and the related corporate governance records. Although the system was initially developed for large law firms, it is now used by law firms and corporate legal departments of all sizes.

Editor: What is the market penetration of Corporate Focus?

Levine: It has been out in the market since 1995. Since that time, it has become the de facto standard for law firms and legal departments that want to track private equity information and the related corporate governance records. It is currently used by 40 percent of the AmLaw 100 law firms. However, it is used by law firms of all sizes from ten lawyers to the megafirms. When attorneys go from law firms to in-house counsel positions, they frequently recommend that their corporate legal departments purchase Corporate Focus. Hundreds of companies now use Corporate Focus. They range from privately-held, venture backed companies to large publicly traded companies.

Editor: How can our readers get more information about Corporate Focus?

Levine: They can visit our Web site at twostep.com or call us at (800) 223-8900. They can schedule an online demo, read one of our white papers, or sign up for one of our monthly webinars. Whether they're interested in looking at our software or just learning about easier ways to track private equity records and create complex cap tables, we're always available to help.

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