Two Dilemmas: #1 Do You Join a Board of Director in Obvious Turmoil?
#2 The Forgiveness Factor-How How Long Does a Board Wait Until it Fires the CEO?

By Dr. Robert Nadel

The Company, IRobotics (ROBO) was founded by two highly educated engineers and friends in **2011**. Both had worked previously at 3M in its Health Care Division. With increasing pressure on cost control and the redesign of future nursing services jobs, Tom Adams and Will Bradley, form ROBO to invent new software designed to assist nurses to lift patients from hospital beds wheel chairs rather than physically lifting them on their own. They believe this is a start in a new future of nursing jobs.

Adams, highly qualified as engineer seemed to have more interest in the business aspects of the new venture. He was the mover and shaker toward forming the new Company, its location in Utah, and the relationship with two of its first major clients. Bradley was more of the engineering visionary. The Engineering, Manufacturing and Quality Control functions became the focus of Bradley and the Marketing and Sales and Administrative functions became the focus of Adams. The initial lift business was private, sales were growing, and profits were at a reasonable 7% level, and the company focused on increasing manufacturing capability. Based on increasing revenues, ROBO opened a manufacturing site in Taiwan, along with an exploratory site for additional soft-ware engineering. Sales were scattered to hospitals and other health care institutions.

In **2012**, The engineering team came to Adams and Bradley with a software improvement that had major implications for the company. The engineers believed that software improvements could assist nurses by fitting many medical devices with small motors which could be aided by software to aide them not only in patient lifting, but also in moving equipment from room to room. This included:

-blood pressure and vital signs machines
-IV pumps, and Drug Delivery pumps
-food delivery and pick up trays, and
-laundry baskets

Demonstration models were built quickly by Engineering for display to Adams and Bradley, who became quickly interested in the futuristic thinking of these HR and cost savings products. Cost of manufacture and sales models were run and the informal private advisory Board consisting of Frank Newman, CPA, a friend; Henry Collins, Esq., an attorney who established the company; and Edwin Wilson, an elder statesman who had been the Chair of a NYSE listed company and now the successful head of a Global Computer peripherals company. Wilson was a long time Vietnam War buddy and a friend of the father of Bradley, who had worked at the NYSE company with Wilson after Vietnam War.

The Board agreed to strong possible growth opportunities for this product and agreed to the recommend allocation of a $500,000 investment, or 30% of the company's cash on hand. Although they were excited about this product, the Pros and Cons were as follows:

Pro: The Company's software was proprietary but not unique that it could be reverse-engineered by another company later on.
Con: The use of a motor required purchase or licensing.
Pro: While there was no barrier to entry from competitors, ROBO had established a sales channel relationship based on its early lifter success.
Con: There was no barrier to entry by competitors, and no guarantee of continued sales

The lifter revenue at that time was $8MM, Profits were 9% annualized, or $720K. Because of the 1 location, and the limited expense marketing lifters, before the new software, the company had accumulated cash. Executive salaries were slightly below the 50th percentile for comparable companies, the bonus plan had been designed to pay only for extraordinary performance, and benefits were modest.

The Company did not have difficulty attracting new lower level talent because of a the presence of a stock option and purchase plan. (We win-you win)

Beta models were made and invitations sent to major Patient Care Institutions. Many buyers liked the product and wanted demonstration models as soon as they could be manufactured. The primary targets were Large Hospitals and CCRC facilities.

As a result of this initial product acceptance in **2013,** the company considered taking itself pubic on NASDAQ, with the help of Collins, and his firm.

Because of that, and product expansion, the Board, encouraged by Mr. Wilson, asked Dr. Irene Dunbar, of Dunbar Associates, Inc., an organization management and compensation consulting firm known previously to Wilson, to perform an audit of the company's operating structure, the integration of the management jobs and their goals and priorities, and their readiness to undertake this product expansion. Dunbar interviewed key executives and top management about their jobs, and did an organizational audit.

The key findings reported were:

1. Bradley is a dominant manager who says he knows what's best for the company
2. Adams has been relegated to a more minor administrative management role.
3. There is no real organization. Bradley sits in on and runs all of the departments, including sales and marketing. But in addition, he also sits in the customer call in center and helps customers install or fix their products. He's everywhere.
4. Bradley challenges the CFO about his accounting decisions, a career Health Care company CFO.
5. There had been suggestions made by two major potential purchasers of the futuristic equipment, including suggestions for even additional products to improve the manufacturing and quality control process, but Bradley had overruled any suggestions as "they don't understand our business as well as we do"

In late **2013**, The Board, based on this report by Dunbar, suggested to Bradley and Adams, that they recruit a strong engineer with management skills to become the COO. This position would manage Engineering, Design, Manufacturing, with the CEO (Bradley) focusing on R & D, and Strategic Growth, and Adams focusing on Client Acquisition and Administration. The Board suggested that without this key hire they would be very conservative about committing to future product growth. Both Bradley and Adams reluctantly agreed based both on cost and the overall concept. Meanwhile sales grew from $8MM in Lifts and Demonstration Products to $19MM in 18 months.

Because of the increase in sales, the Company was taken Public, and raised $8MM in cash.

The success of the demonstration projects was excellent, with the very large commitment of a major purchase by the Yale-New Haven Medical Practice. The Yale-New Haven sale encouraged ROBO to hire a US Sales Manager, and also its first European Sales Manager, to expand to Europe. Sales rose to $30MM.

In **2014** shortly after the company went Public, all constituents related to Ogden received a most horrible news. Adams had died in an auto accident. His wife survived. This left Bradley as the CEO over the entire IRobotics operation, which now was operating in the US, Europe and Taiwan.

The most concerned, beside the personal loss of their dear friend, was Wilson. His concern, as the most successful and seasoned of the Board Members was that the Company no longer has a check and balance on the "Executive Aggressiveness" of Bradley. He was concerned that the limited counter-balance of Adams, was now gone. Wilson was further concerned that despite the upward sales growth he was convinced that without Adams, and with Bradley's top-down management style, the company could have later difficulties.

Coincidental, but not Incidental in 2002 to the death of Adams, **Sarbanes-Oxley**, a federal law that established sweeping changes auditing and financial regulations and transparency for Public Companies had passed. Wilson, as the elder statesman of the Board undertook to reshape the Board.

He told both Collins (*the lawyer*) and Newman, (*the accountant*) that they would not likely pass the regulatory definitions of "independence." Wilson called Dunbar and asked if she would come in for an interview with the CEO and him as a potential Board member.

Bradley said he knew a successful computer CEO, who was also interviewed, and Dunbar, even before making a decision, recommended a CPA who was a named partner in a second tier CPA firm. If Dr. Dunbar accepted the invitation to join the Board, that would be the composition of new Board of Directors of IRobotics.

Dilemma #1- If you were Dr. Dunbar, would you join such a Board, knowing what you had reported earlier, and also the issues that were discussed during her interview?

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Continuing:

Bradley remained as the CEO, Collins and his firm was asked by the Board to become outside legal counsel to the Board. The others resigned.

Revenue grew exponentially from the time of the induction of the new Board in **2014** with one setback. The engineer hired to be the COO, resigned after 1 year, indicating in his letter and exit interview with Wilson that the CEO never let go of his CEO role, and continued to attend engineering meetings, etc.

However, simultaneously, there were growing plusses and minuses:
Plus:

+Revenues increased
+More geographic areas were opened to increase sales, and that was working
+products became more sophisticated and were sold to new and previous users\

Minus:
-Expenses climbed
-The CEO traveled the world as the engineer and the salesman for the company, being away from his CEO role for long periods of time.
-There were now competitors who had caught up with the application of ROBO's products
-Prices of products became more competitive, while Revenues and Profits were up, profit margins were inching lower.

Now, with the newly elected and more independent Board, there were a series of hard discussions with the CEO, about this "simultaneous equation."\

On **one side** of the equation **revenues had grown** to $100MM**//** on the other side all of the decisions despite Board discussions, objections and interventions, the CEO was acting as a **one man show.**

In **2016,** there was a significant, unexpected, downturn in revenues by 23%. It was explained as a "marketing and production timing issue". Despite Board concerns about competition and the failure to be aggressive with its marketing, the revenue drop was met with cost cutting, office closures and discontinuation of product improvement. The stock price dropped from $15 to $9. The Board, at the objection of the CEO hired an "organization valuation and analysis" firm based in San Francisco.

Their final report had recommendations in marketing, which Bradley totally rejected, replacement of the CEO replacement, also included sale of the Company.

The CEO suggested that it might be best to take the Company private so **he** was not subjected to so many regulations which he did not like. Both the Lawyers and the Accountants explained the prohibitive costs of doing that.

In **2017**, Revenues declined an additional 19% and the stock price dropped to $5. At that time as well, NASDAQ issued its first warning that ROBO was failing to meet the criteria of a **Listed Company** on the Exchange.

After the annual meeting, which was open to shareholders, where there was limited attendance but significant agitation, the Directors, (planned in advance), asked for the CEO's resignation as the CEO, and become the Non-Executive Chair. This would allow the Board to appoint the successful Computer Executive Board member as Temporary President and CEO.

The response of the CEO was to threaten a Proxy fight, since he probably had, along with his wife, and the shares of the widow of Adams close to a majority if not a majority of the shares. He was sure the widow was on his side because she had received the proceeds of a significant life insurance policy from this young company, and had no reason to believe that her “friendship” would not prevail.

The Board chose not to follow through on its ask.

By **2019,** revenue had slipped to $12 MM and because of pre-committed expenses the company had not-been profitable for two years.

In December of 2019 after a number of warnings, NADSQ **delisted** the stock from open trading.

The company now trades on PINK sheets and the stock is valued at 6 cents.

Dilemma #2: If you were a Director of ROBO, was the Board remiss in not failing to fire the CEO?

Questions:

Please respond to the two dilemmas.

Have you seen similar dynamics at other companies?

Notes:

1)The Board considered its members to be strong and qualified.
2)They had sought outside “consulting counsel” twice on matters of organization.
3)They had not been challenged by shareholders, or ISS.
4)Executive pay was considered to be below the median for comparable companies, as well as Director’s Pay, and therefore not on ISS or shareholder radar.
5)Its product was a success until it was not.