

Lifting the Lid: Conrad Black trial casts harsh light on boards

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By Andrew Stern

CHICAGO, May 11 (Reuters) - Embarrassing testimony at the fraud trial of toppled media baron Conrad Black by former directors of the company he once ran has exposed the ease of duping an inattentive board.

"I missed it," or "I skimmed the document," or similar excuses were offered in often red-faced testimony this month in federal court by three high-profile directors who once comprised the audit committee at Hollinger International Inc.

Former Illinois Gov. James Thompson, economist and Manhattan socialite Marie-Josée Kravis, and former U.S. ambassador to Germany Richard Burt each sought to defend themselves from a barrage of questions demanding to know how they failed over the years to spot payments to Black and other executives that prosecutors say amounted to a \$60 million fraud.

"The Black trial has shown, mainly, the lack of expertise, and the obvious inclination of the members of the audit committee -- and I don't think they were bad people -- to take management's word," said governance expert Ric Marshall of The Corporate Library.

In Hollinger's case and others, such as Enron, Tyco International Ltd. and WorldCom Inc., supposedly independent boards of directors did not do their jobs, analysts said.

"Directors will say they are asking the tough questions and doing their jobs, but often they don't know what to ask about," said Paul Lapedes, director of the corporate governance center at Kennesaw State University in Georgia.

"Directors, largely male, have this tremendous level of confidence in their skills, as if they'd know when they were being misled," Lapedes said.

During their testimony, the Hollinger directors were asked by the defense why they did not probe when doubts were aroused about management. Each repeated some variation on the theme of "it was not our job as board members to investigate."

Those days appear to be over. While the accusations of fraud, tax evasion, and racketeering against Black and three fellow former executives largely predate the Sarbanes-Oxley Act of 2002, the law rewrote the rules governing oversight by independent company directors.

ASK QUESTIONS

"Certainly these days audit committees are encouraged to ask questions. A good audit committee asks for third-party advice" such as independent accountants or other outside experts, said John Jarrett of GovernanceMetrics International.

Directors generally have become more vigilant and tend to serve on fewer boards. But they also get paid more for the increased demands on their time, their expertise, and their exposure to liability if things go wrong, governance experts said.

The median annual compensation paid directors at 300 U.S. companies with at least \$1 billion in revenues was \$150,370 in 2006, up 7 percent from 2005, according to Equilar Inc. of San Mateo, California, which tracks executive salaries.

Thompson, Kravis, and Burt -- who each collected up to \$5,000 for every meeting they attended, plus an annual stipend and perks such as trips to Hollinger dinners -- all said they were misled or kept in the dark about the payments to executives.

Each admitted they missed references to the payments in financial disclosures they signed off on. Each declared they were not a "rubber stamp" for Black, some of whose memos that were read during the trial revealed his penchant to consider Hollinger as a fiefdom rather than as a public company.

Hollinger International passed a charter in 1999 that called for appointing a financial expert to its audit committee, but nothing was done about it, Thompson testified.

All three Hollinger directors were investigated by the U.S. Securities and Exchange Commission but the probe was dropped.

But a \$50 million settlement, paid by a corporate insurance policy covering the entire Hollinger board, went to Hollinger's successor company, Sun-Times Media Group (SVN.N: [Quote](#), [Profile](#), [Research](#)).

Other luminaries who were on Hollinger's board including former U.S. Secretary of State Henry Kissinger have not testified, but may do so before the end of the trial, which is expected by late June.

According to some accounts, Hollinger's board fit the clubby atmosphere prevalent on many high-profile boards prior to 2002, in which the company's business was dispensed with quickly and discussions turned to other topics.