Civility at Harvard

Corporate Board Member
Stephen Taub
January/February 2007

Intellectual wrangling is the norm at Harvard, and it's not uncommon for professors to continue arguing the finer points of issues that they've debated for years. So it's news of the man-bites-dog variety that two of the biggest names on the faculty, on opposite sides of a particular issue, decline to be drawn into a spat.

In one corner is the business school's Jay W. Lorsch, 74, whose off-campus work includes board service at CA, formerly Computer Associates, a software company that was hit by a major accounting scandal in 2004. In the other is the law school's Lucian A. Bebchuk, 51, a part-time corporate reformer whose target list includes CA. In 2006 Bebchuk proposed a bylaw change that, among other things, would require a unanimous vote by CA directors to extend the life of a poison pill.

His proposal, which would have been binding, got a 41% supporting vote from shareholders—respectable, but still not enough to pass. That clearly was what Lorsch and his fellow CA directors had hoped for. But has Lorsch discussed the issue with Bebchuk? "Absolutely not, and I wouldn't," says Lorsch. "There is no reason to have a discussion. He has one point, I have another."

Bebchuk is equally diplomatic: "Jay Lorsch and I share a strong interest in corporate governance and have long had a good collegial relationship, notwithstanding our having different views on various corporate governance issues. I don't see any reason for that to be adversely affected by our having different views concerning how CA shareholders should vote on my proposals."

A little rancor may lurk beneath these pleasantries, however. "The proposal he put forward does not make sense," Lorsch says about Bebchuk's ideas for CA. For his part, Bebchuk argues that changing bylaws is necessary because boards frequently opt not to follow nonbinding resolutions, even ones supported by a huge majority of shareholders. "In my view, board use of poison pills should be constrained by bylaw provisions," he says.

Whether CA investors vote for a change in the company's bylaws this proxy season probably depends on CA's performance. The past year was rough, and the stock was pounded by further restatements of earnings. In August, CA reported earnings of $35 million for the quarter that ended June 30, down from $97 million for the same period in 2005. It also announced a $200 million restructuring that would cut its workforce by about 1,700 positions (out of 16,000). And the company is certainly still cutting costs—even to the point of ending a 24-year tradition of giving employees free breakfasts, which it did away with in September.