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The BIOLASE Board of Directors Should Resign, Not Simply Name Another CEO

- No public company thrives with a corrupt, greedy and inept Board
- Further large losses loom and more dilution is ahead, perhaps increasing shares outstanding to 100 million or more
- The upcoming 2015 second quarter financial results will not be comparable to the prior year due to a deceitful shift of \$3 million in revenues from the 2014 second quarter to the third quarter, new management's initial full quarter
- I forecast 2015 sales in the low-\$40 million range with a higher cash burn of at least \$25 million and a year-end share price of 75¢
- The recently announced REPAIR periodontal protocol using YSGG is useless as procedures can be performed with a low-cost Diode laser with no need for a WaterLase® 2 Watts YSGG at 15-times the price
- Management's recent claims of the first increase in sales of WaterLase in the past two years is seemingly false; if they are referring to units sold and not revenues, the implication is large discounts and highly negative gross margins
- The price of BIOLASE common stock is down approximately 60% since Larry Feinberg sued for control of the Board

One year ago, on June 12, 2014, I resigned as Chairman of the Board and CEO of BIOLASE, Inc. (NASDAQ: BIOL) because of an appalling change in control headed by **Larry N. Feinberg of Oracle Partners**. Yet already, on May 18, 2015 to be precise, the company announced the appointment of another new President and CEO, representing its third in less than a year. Undeniably the company needs a better CEO than the outgoing one, but not the one they chose. Yet more importantly, BIOLASE needs a new Board of Directors as the current Board has time and again proven itself to be corrupt, greedy and inept.

What's particularly shocking to me, yet not surprising given the personalities that comprise the BIOLASE Board, is the insincerity in naming **Harold C. Flynn Jr.** as the new President and CEO. In making the announcement the company positioned the outgoing President and CEO, **Jeffrey M. Nugent**, as being a temporary appointment, noting that "last summer [he agreed] to step in and help us out."

Help with what? Destroying in less than eight months the company I had successfully re-built over three years of hard work and sacrifices, disgracefully and abruptly interrupted by the addition of **Frederic H. Moll** to the Board and **Dr. Alexander K. Arrow** as (short-lived) President and COO in the second quarter of 2013, both unmistakably undisclosed proxies of Larry Feinberg?

In the mid-June 2014 announcement naming Mr. Nugent interim CEO the company made clear he would be serving in that capacity "while a formal search is initiated to appoint a permanent CEO." The headline of a news release issued September 2, 2014 proclaimed, "BIOLASE Names Jeffrey M. Nugent Permanent President and Chief Executive Officer." I did not see an asterisk next to the word "Permanent" stating that at BIOLASE "permanent" means eight months. Clearly and without a shadow of a doubt, Mr. Nugent was terminated, and he was terminated because he severely failed in his duties as President and CEO, and he did so in record-fast time.

No amount of public thanks or generic language by Board Chairman **Paul N. Clark** about Mr. Nugent's time as CEO can obscure the fact that he was relieved of his executive duties by the very same Board, a proxy of Oracle Partners, that gave him those duties in the first place. Quite simply, the BIOLASE Board has lost any shred of residual credibility, presuming there was any left to lose. Notably, buried deep in an SEC filing and not included in the news release announcing the executive turnover, BIOLASE reported that as of July 2015 Mr. Nugent is also stepping down as a Director, and that he will be receiving a payment of \$150,000 *in addition to* his regular salary, to assist with the transition.

This is just the latest in a long string of missteps and deceitful actions under their oversight, from dreadful financial performance (such as the 2015 first quarter that generated only \$10.9 million in sales while burning \$7.4 million in cash), to ill-fated, desperate and absurd "guarantees of dental practice growth" strategies that will only cause the accumulation of large liabilities over time, to incestuous equity fundraises completed behind closed doors and with not-so-hidden agendas. If this Board were half as effective in running BIOLASE as they were in wresting control from the other effective, honest and competent Directors and factually stealing control of the company from shareholders a year ago, the company surely would be in a very different position today.

It is ominous that while performance has been disastrous, the new Board and management team have rewarded themselves with hefty compensation packages including shameful golden parachutes and large reimbursed travel and entertainment (T&E) expenses. All Directors now receive more than double what they were paid under my tenure, and the Chairman and CEO separate compensations now amount to nearly \$1 million including T&E expenses, not to mention a host of benefits. This compares with the \$1 in annual salary I received and modest yearly T&E expenses of about \$30,000.

At any growth company – moreover at BIOLASE, which has had more than its fair share of challenges over the years – turnover in the corner office is extremely damaging. As noted, when Mr. Flynn joins BIOLASE in July, he will be the third person to serve as CEO in 13 months.

Yet aside from this rapid turnover in leadership, let me tell you why BIOLASE shareholders and employees should be very wary of this change.

Replacing a CEO in such a short period of time portends that very poor financial results are surely coming for the second and third quarters of 2015, if not for the rest of the year. It means the new strategy under this incompetent Board is not working and that once again profound and traumatic changes are necessary. How can this Board face shareholders with any shred of credibility?

Yet placing a new executive at the helm will only buy the company perhaps a year of excuses. I can already hear the rhetoric about "strategic reviews," "assessments of markets and core competencies" and "dislocation caused by [self-inflicted] change" as BIOLASE continues to implode, investors pay the price and the few remaining good employees defect in a continued exodus of essential talent that was ignited by my departure. Undoubtedly all this dislocation and financial non-performance will drain the company's cash position, and before you know it there will be another (if not more than one) highly dilutive fundraising. How much dilution can shareholders who have already been diluted by about 90% be expected to take?

On a more personal level and with history as our guide, Mr. Flynn is destined to fail. He comes to BIOLASE from Zimmer Dental, a division of Zimmer Holdings, which trades on the New York Stock Exchange and has a market capitalization of about \$20 billion and 2014 net sales of \$4.7 billion. These figures are, respectively, nearly 200-times and 100-times greater than BIOLASE. Clearly Mr. Flynn comes from a fundamentally different business world than the one he is inheriting at BIOLASE, and innumerable small, growth companies serve as prime example of the challenges big-company executives face when they head down-market. Quite simply, the transition very rarely works and in this case with a company already disintegrating, it is almost assured to fail.

More specifically, at Zimmer Dental Mr. Flynn was responsible for dental implants, which is largely a commodity product category and is fundamentally different from selling expensive, high-end and technologically advanced capital equipment. As was true with Mr. Nugent who absurdly came to BIOLASE from Revlon, a cosmetics company, Mr. Flynn is bringing a consumables/consumer background to his new job, and that is not the skillset needed for success at this company.

So, as BIOLASE shareholders prepare for an onslaught of poor performance, excuses and finger-pointing, it is abundantly clear that even more change is required at the company, and that change should start at the top with the resignation of Paul N. Clark, **Jonathan T. Lord**, Frederic H. Moll and **James R. Talevich**, the entire incompetent and not-to-be-trusted Board of Directors.

For more history and details, please visit www.pignatelli-biolase.com.

Sincerely,

 Federico Pignatelli
 June 14, 2015

About Federico Pignatelli

Mr. Pignatelli served on the BIOLASE Board of Directors from 1991 through August 2014. He was Executive Chairman from 1994 through 2006, during which time revenues grew from approximately \$1 million to approximately \$70 million and the company's market capitalization increased from approximately \$3.5 million to approximately \$500 million. He was Chairman of the Board and Chief Executive Officer from August 2010 through June 2014, during which time he executed an exceptional turnaround by more than tripling revenues and reversing a default financial position into a thriving and newly growing company with a clear and ambitious strategy. During that period and at his request, he was paid an annual salary of only \$1 and refused to enact any golden parachute.