



Welcome to

Small Public
Company Forum

The Inaugural Event

June 24, 2009

Session Three:
*404 Error—File Not Found: Practical
Advice on
Sarbanes-Oxley 404 Compliance*

Moderated by

Paul Chestovich
Maslon Edelman Borman & Brand, LLP

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Session Three Panelists:

- **Jim W. Steiner** –
Partner with Carver Moquist & O'Connor, LLC;
- **Kaye O'Leary** –
Founding Partner of Tevera Consulting, LLC, and
former CFO at Caribou Coffee, Buca and OneLink,
Inc.;
- **Abigail Grenfell** –
Principal of Internal Control & Anti-Fraud Experts, LLC

Causes for concern

- Cost
- Staffing resources
- Results of attestation report
 - Shareholder and market perceptions
 - Difficulty “moving up” a stock exchange or market
 - Impact upon cost of equity capital

Rising costs

- History of dramatic cost increases following implementation of new Sarbanes-Oxley requirements
- Larger public companies experienced an approximate 40% increase in their auditor costs in 2004 (the year in which the auditor attestation requirement was implemented)

Our focus

- How do we maximize efficiencies and cut costs?
- How do we help ensure a positive result at the end of the process?

The big picture



The big picture – critical steps

- Have the right people, with the right skills and competencies (internally and externally)
- Communication with entire team (for clients beyond development stage, consider other departments needing to be involved); coordinating schedules and approaches
- A risk-based and principles-based approach
- Positive attitude – a way to improve operating efficiencies

The control framework



The control framework – critical steps

- The single easiest and most important thing you can do to have an efficient and cost-effective 404 program, and a positive result and attestation at year end, is to build and maintain a strong “control environment” and “tone at the top.”
- Examples of things to do:
 - Strong codes of conduct and insider trading policies
 - Audit committee (or full board) involvement
 - Strong and committed CEO and CFO
 - Mitigate risk of management override of controls

Implementation, testing, etc.



Implementation, testing, etc. – critical steps

- Start early to identify any deficiencies and permit time to remediate
 - Added benefit for the quarterly and annual 302 certification process
- Ensure that the auditor is integrating the audit with the 404 work
- Continue to communicate with the auditor throughout the year to avoid surprises
 - quarterly board or audit committee meetings (or in preparation for these meetings) are a great opportunity for doing this

Fraud



Fraud

- Involve your legal counsel
- Even on smaller activity-level matters, involve your legal counsel or invoke a process that has been reviewed by legal counsel
- Don't alter documentation, and begin taking notes
- Consider carefully whom to involve, if anyone, from management (revisit your whistleblower policy)

**Questions may be submitted
through the website:**

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Thank you

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