
Subject: FW: audit feedback
Attachments: KBA.pdf; ATT4106209.htm

From: "Rodman, Dale" <Dale.Rodman@KDA.KS.GOV>
Date: November 13, 2011 10:45:46 AM CST
To: "jsnyder@bkd.com" <jsnyder@bkd.com>
Cc: "Stegall, Caleb [GO]" <Caleb.Stegall@ks.gov>, "Anderson, Steve [Budget]" <Steve.Anderson@budget.ks.gov>, Dan Watkins <danwatkins@sunflower.com>
Subject: FW: audit feedback

Jim, these items were presented to BKD. We expect these to be addressed in BKD's work as the forensic auditor.

-----Original Message-----

From: Cynthia Enright [<mailto:cenright@ivalution.com>]
Sent: Friday, November 11, 2011 9:21 AM
To: Rodman, Dale
Subject: Fw: audit feedback

Secretary Rodman,

The auditors didn't contact me, but this is the feedback Cydney provided to them.

Cynthia
913-706-1996

Sent on the Sprint® Now Network from my BlackBerry®

-----Original Message-----

From: "Boler, Cydney" <CBoler@foulston.com>
Date: Fri, 11 Nov 2011 08:07:35
To: 'Cynthia Enright' <cenright@ivalution.com>
Cc: Pat George (patgeorge33@hotmail.com) <patgeorge33@hotmail.com>
Subject: RE: audit feedback

Cynthia,

Here's a pdf I prepared back in March of 2011 and these are the issues I shared with her. She seemed more concerned about the fact the KBA was receiving legal advice from non-Kansas attorneys than anything else I presented. The auditor had an answer for every concern I raised and never seemed to feel any of the concerns were of much importance. As I've stated, I am positive that the KBA will know well in advance what issues are going to arise from this audit and will be prepared or have already addressed any concern that was founded.

My biggest complaint is that the KBA has no missional direction. It is going 1000 different directions on what seems to be an unguided and uninformed path. I have raised the concern over and over and over again that the KBA is violating the Open Meeting rules in Kansas, but the only person that can address this is the AG's office. The auditor didn't even know about the Open Meetings rules and she certainly didn't seem to think it was important to address. How can

this not be important, because every action taken in a closed meeting that should have been an open meeting is void. This issue has not properly been addressed and the fact the KBA Board is not represented by its own legal counsel is also a large concern. The in-house counsel cannot be the legal counsel to the Board. Yet they use him that way. I could go on but bottom-line...we spoke for about 30 mins, but anything I pointed out seemed to be a moot point with her.

Let me know if I can be of further assistance.

Cyd

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After a review of materials provided by the KBA several concerning questions arise, specifically between the projects funded by the KBA provided in the February 21, 2011 testimony materials and the Allen, Gibbs & Houlik (AGH) report as well as publically available resources found on line.

Some of the more concerning discrepancies are as follows:

- The AGH report shows an investment by the KBA in Innovia Medical in the amount of \$650,000 also listed as an "equity investment" by the Kansas Inc. 2004-2008 review found at <http://www.kansasinc.org/pubs/working/kbaeval.pdf>. This is not listed in the KBA testimony of Client companies provided on February 21, 2011. It is also not reflected in the Jobs Traced Back to KBA Funding. KBA claims they received \$3.1 million back in equity. Innovia moved out of Kansas, and while registered with the Sec. of State as a foreign company their headquarters is in Innovia Medical LLC, 17310 Wright Street, Suite 202 Omaha, NE 68130. Where is the \$3.1 million reflected?
- Quintiles. They announced in February 2006 that they were moving their phase 1 facilities to Overland Park. <http://www.quintiles.com/news/2006-2-10/quintiles-to-build-new-home-for-all-kansas-city-area-operations/>. The grant from the KBA didn't come until April 2006 yet KBA takes credit for the 751 jobs created when the company had already announced plans to locate the facility there.
- Cydex. The KBA provided a grant for \$195,000 to Cydex in 2009. In 2011 Cydex was acquired by Ligand <http://www.ligand.com/cydex>. Ligand's goals to reduce Cydex's operations and move it to California per their business model. <http://www.ligand.com/about-ligand>. Additionally the former President (till November 2010) was Theron Odlaug. <http://investing.businessweek.com/research/stocks/private/person.asp?personId=30684537&privcapId=428931&previousCapId=428931&previousTitle=CyDex%20Pharmaceuticals,%20Inc>. Mr. Odlaug also sits on the Board of Directors with Tom Thornton at Advanced Life Sciences Holdings, Inc. While an R&D Voucher grant was given to Cydex, the relationship between Mr. Odlaug and Mr. Thornton was not disclosed to the Board per the meeting minutes. Mr. Odlaug is also an Illinois native and former iBIO director in which he and Tom frequently interacted. Again, this relationship was not disclosed.
- EnalaPed. KBA provided \$74,500. There is NO mention or record of EnalaPed in any board minutes. Upon inspection at the Kansas Secretary of State's website EnalaPed is registered to Michael Beckloff. <https://www.accesskansas.org/bess/flow/main?execution=e1s5> Mr. Beckloff also owns Beckloff and Associates a regulatory consulting firm in Overland Park which has received tons of money from KBA through "collaborations". Mike Beckloff and Tom Thornton sit on the Enterprise Center of Johnson County Board <http://www.ecjc.com/s/656/index.aspx?sid=656&gid=1&pgid=260>. This relationship was not disclosed. But more concerning, the decision to fund EnalaPed was never disclosed to the Board per public minutes. Finally Mike Beckloff also sits as a BOD member for KBIO, Angela Krep's organization.
- The Kansas Cancer Center at KU. Again, booth Tom Thornton and Jeff Reene sit together on the board of the Enterprise Center of Johnson County

<http://www.ecic.com/s/656/index.aspx?sid=656&gid=1&pgid=260>. Jeff is the CFO of the Kansas Masonic Cancer Center at KU. This relationship has never been disclosed.

- Terry Osborne of the KBA's Heartland BioVentures. Terry works at the KBA and has 2 other full time jobs as the President and CEO of AbaStar MDx and GeneExpress, Inc both of Chicago Ill. Terry is listed as a resident of the state of Illinois on the company's public documents. With all three of his combined, full time jobs, Mr. Osborne makes \$450,000 a year. Terry and Tom also sit on the Board of Directors of Advanced Life Sciences Holdings, Inc. in Illinois. Again, this relationship has not been disclosed
- Aero Innovative Research, Inc. (AIR). **Not on the AGH audited financial chart**. KBA awarded \$73,000. Both the phone number and website for this company no longer work.
- AGCO Corporation. \$1.5 million in KBA Funding. Not a Kansas company, but rather a large multinational company.
- ANOxA Corp. \$300,000 of KBA funding. Forfeited its Kansas Business status. <https://www.accesskansas.org/bess/flow/main?execution=e1s9>. Now located in Reno NV. No money has been returned. There has been no FDA approval for the drug being tested and all testing on the product was done in Pennsylvania.
- ChocoFiness, LLC. \$131,800 in KBA funding. Not a Kansas Corp. Only has a name reservation on file <https://www.accesskansas.org/bess/flow/main?execution=e1s11>. The address is a home in Oak Hills in Lenexa Kansas owned by Sandra and Roger Kroh. Sandra is a middle school teacher at Arrowhead Middle School. They are looking to commercialize EPG which has been to the FDA 5 times and each time the FAP has been denied. Again, the business is at a residential home and neither of the 2 listed have a scientific background. Also, the award is for an odd amount.
- National Drug Development Accelerator Project. Per June 26, 2009 KBA Board of Directors meeting it was KBIO and not the KBA that was responsible for bring this project to Kansas with offers promise "to drug development and research activities in Kansas." Why wasn't this a KBA project? If Kansas Bio is out doing these things and they are successful at it, why is the KBA needed?
- Eminent Scholars. Per the July 20, 2009 KBA Board of Directors meeting the KBA had to hire out and spend \$10,000 to investigate an application for an eminent scholar. They were not able to make that determination on their own.
- Nancy Ruf, the Contracts Administrator is not an attorney yes she is responsible for "developing and writing the contracts approved by the Investment Committee and the Board and she is responsible for monitoring milestones in the grants."
- Rising Star Krista Walton. KBA approved funding of \$700,000. http://www.kansasbioauthority.org/about_the_kba/Meeting.aspx?id=27. However, Dr. Walton left Kansas in May of 2009. In a BOD meeting Tom Thornton states that Dr. Walton is the first KBA funded Rising Star http://www.kansasbioauthority.org/about_the_kba/Meeting.aspx?id=43. However, the funding is not noted on the AGH audited report and there is no record that the \$700,000 was returned to the KBA.

- Finally, Kansas Bio. It's currently represented by one Kevin Sweeny of Polsinelli. Kevin is not a licensed Kansas attorney yet he is listed as KBIO's outside counsel and he routinely comes over to Kansas to advise Kansas Bio on legal matters. As a practical matter that's the unauthorized practice of law in Kansas. <http://www.polsinelli.com/krsweeney/>. Through its relationship with KBIO and Angela Kreps on the KBA, Polsinelli has been able to put a lock on legal work coming out of these 2 entities effectively shutting out competitors.