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Moonves Tells Agenda: “It’s Far From Over”

By Stephanie Forshee, Jennifer Williams-Alvarez December 18, 2018

Nearly five months after the **CBS** directors began an investigation into sexual misconduct allegations against **Leslie Moonves**, the board has determined that the former chairman and CEO will not get his $120 million severance.

Moonves tells *Agenda* that this issue is “far from over,” however.

“How quickly the board forgets the job I did for CBS. They were a rudderless ship when I went there, when I took over,” Moonves says. The former CEO believes that the board will review his years of service and the company’s financial performance under his leadership and that the parties will “be able to settle this amicably.”

“I think the board will do the right thing, ultimately,” Moonves says.

He says he is undecided on whether he plans to pursue arbitration, an option provided for in his Sept. 9 separation agreement. “I don’t know. That’s a hard thing to answer at this point,” Moonves says, adding, “it’s been discussed.”

Moonves did not comment on the board’s findings, other than to say, “Well, obviously, we disagree with it. I disagree with it.”

His attorney, **Andrew Levander**, told the **AP** that Moonves, who joined CBS in 1995, “vehemently denies any non-consensual sexual relations and cooperated extensively and fully with investigators.”

Moonves’s Share

With the Dec. 17 announcement that Moonves would not receive severance pay, the board put an end to a months-long investigation led by firms **Covington & Burling** and **Debevoise & Plimpton**. The probe began after a bombshell report by *The New Yorker,* which detailed years of alleged sexual misconduct by Moonves.

“With regard to Mr. Moonves, we have determined that there are grounds to terminate for cause, including his willful and material misfeasance, violation of Company policies and breach of his employment contract, as well as his willful failure to cooperate fully with the Company’s investigation,” the board said in a statement Monday. “Mr. Moonves will not receive any severance payment from the Company.”

A company spokesperson declined to comment beyond the board’s statement.

The statement from the board on Moonves’s severance notes that while harassment and retaliation are “not pervasive” within the company, investigators determined that past policies, practices and structures did not adequately prioritize the prevention of such behaviors. It was also found that resources dedicated to initiatives that foster respect and inclusion in the workplace were insufficient and that human resources and the company had previously failed to hold “high performers” accountable. The board has already made moves to improve the environment within the company, according to the statement, and those efforts will continue.

At an annual meeting last week, the allegations against Moonves were notably absent from the topics of discussion raised by shareholders, according to *The New York Times*. Shareholders voted to elect CBS’s slate of eleven directors at the meeting, which included six new board members.

Moonves confirmed that he received $69.3 million in 2017, which includes a $3.5 million salary, a $20 million bonus and $43.7 million in stock awards, according to the company’s proxy. And he could have been eligible to receive a $120 million golden parachute, had the board not found his termination to be “for cause.”

That $120 million, which is being held in a grantor trust, will be distributed back to the company, according to a regulatory filing.

Hasbro CEO **Brian Goldner,** who now chairs CBS’s compensation committee after **Bruce Gordon** resigned in September, did not respond for comment. **Edward Hauder,** a lead advisor at **Exequity**, CBS’s compensation consultant, declined to comment.

Moonves’s separation agreement stipulated that the former CEO would perform “transition advisory services” for CBS for a period of one year following his resignation or earlier if the board terminated him for cause. Moonves tells *Agenda* that this relationship has ended and declined to comment on what plans he has following his departure at CBS.

“No Tears Will Be Shed”

Corporate governance professionals are applauding the board’s decision, but it’s not a given that other boards should take the same tack, experts say.

This was the “obvious conclusion” from CBS and one that acknowledges that an alternative conclusion would have elicited a “firestorm of protest,” **John Coffee Jr.**, director of the Center on Corporate Governance at **Columbia Law School,** writes in an e-mail. “History will conclude that he behaved like a medieval sovereign, insisting on a right of access to all the women in his kingdom. No tears will be shed for his lost golden parachute.”

Jill Fisch, professor at the **University of Pennsylvania Law School,** agrees this was an inevitable decision for the CBS board, especially given that the board and CBS have been under intense scrutiny since the allegations first came to light in July. For instance, the *Times* has recounted alleged efforts by Moonves to silence an accuser and has reported that he misled investigators, citing a draft of a report prepared for the board by investigators that was obtained by the publication.

“CBS has been much more in the public eye than many other companies and I think when you get that level of scrutiny, that puts the board under a lot of pressure. It makes it hard for the company and the board to work things out and sweep things under the rug,” Fisch says. And these considerations would be weighed against the fallout that may come from termination for cause, such as litigation from the executives, she adds.

But she says that it’s too soon to tell whether the CBS board’s example will be widely followed by other boards dealing with similar allegations of sexual misconduct by an executive. “I think companies are recognizing, in light of the public reaction, that it’s not enough for a high-profile executive to leave. That’s not sufficient condemnation of the conduct,” Fisch explains. “Whether it’s a bellwether in terms of what we can expect from future companies is yet to be seen.”

In CBS’s case, she says “the turmoil” made it an easy decision for the board, in some ways, to determine Moonves’s termination was “for cause.” But for other boards, “it’s going to be a case by case analysis,” adding that “it will depend on what kind of evidence the investigation uncovers.”

Charles Elson, director of the Weinberg Center for Corporate Governance at the **University of Delaware,** agrees that a board’s decision on how to deal with allegations of sexual misconduct by a CEO should vary based on the specific circumstances. If the facts at CBS are as they have been reported, then it would have sent a very bad message throughout the company to have paid Moonves the golden parachute, he says.

However, a board facing a decision like CBS’s will have to determine the facts specific to each scenario, says Elson, who is also a director at **Encompass Health**. “You either have the evidence or you don’t,” he explains.

While governance experts think CBS’s board made the right call, some question whether it should have come to this point. **Donna Boehme,** principal at consulting firm **Compliance Strategists** and former group compliance and ethics officer for **BP**, questions why it took the report from *The New Yorker’s* **Ronan Farrow** to prompt the board to act.

“Board members who learned of the problem could have exhibited some ethical leadership by immediately commencing an internal investigation and managing the problem outside the glare of media headlines, rather than allow the company to suffer such significant reputational and brand damage,” Boehme says in an e-mail to *Agenda*.

Jeffrey Sonnenfeld, senior associate dean of leadership programs at the **Yale** School of Management, similarly questions the previous board of directors at CBS, though he says he applauds the reconstituted board for “making the right call.”

“It is unfortunate that the old board was so consumed by its hostility towards their own controlling owner, [**Shari]** **Redstone**, and their cult-like personal [fealty] to their loathsome leader that they showed such apparent lack of diligent concern for their duties of care and loyalty to their owners,” he writes in an e-mail.

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