FifthFluor Part 2: Diverging Objectives

Joyce Baker arranged several stacks of paper on her desk as she prepared for the hastily arranged special board conference call. The need for the special session became evident when Joyce conducted one-on-one calls with board members to share the excellent Phase 2 results for FF-001. Naturally, those calls had been very positive as each board member expressed sincere congratulations to Joyce and her team. She noted, however, that each call quickly pivoted to the implications of the trial results on the next steps for the company. At that point, each call had followed its own course. Seeing the potential for significant conflict among the board members, and feeling she could not begin taking action until there was greater consensus, Joyce had arranged for a special conference call.

It Seems Like an Obvious Plan

The strategy for FF-001 would establish the foundation of the company's business plan. Joyce had been considering a well-established US biotech strategy. An ex-US licensing program seemed an obvious path. She had reviewed the public disclosures for deals that seemed like good comparables to her. In those deals, companies had received up-front payments in the range of $25M to $100M. Subsequent milestones and royalty payments achieved billion dollar biobucks levels. It seemed that a successful out-licensing program would allow Joyce to build the financial war chest necessary for independent completion of Phase 3 trials while leaving enough to prepare for commercialization in the US.

Not only was Joyce caught off guard by the variety of responses she had received when she floated the idea of a licensing program, she was truly surprised by the high level of emotion the topic elicited. In prior meetings, the board had rather passively received new information and generally provided encouragement for Joyce's plans. Now, it seemed that each board member had different objectives and there was no way to gain consensus on the company's critical next steps.

Divergent Points of View on How to Move Forward

Joyce began the call by outlining her expectations for the licensing program, but she didn't get far. The first to interrupt her had been Amita Aggarwal. Aggarwal had built her own fortune through well calculated, but high risk strategies. She had led two companies as they carried products through the clinic. In one instance, Aggarwal's company had a large pharmaceutical partner, in the other the company had made it through a successful regulatory filing independently. Everyone on the call was aware of these stories, but Aggarwal again shared the highlights and emphatically made the point that a deal for FF-001 would not be non-dilutive. The dilution would come, she said, from the reduction in the value of the asset. She strongly encouraged Joyce to continue independent development of FF-001. She said she would guarantee further investment from her firm if necessary—but only if Joyce eliminated any spending that was not focused on FF-001.

John Cooper, the individual who had taught Joyce much of what she knew about product licensing, weighed in with a different point of view. John was now a partner at the fund that had made an early investment in FifthFluor. In recent years the fund's performance had lagged behind those of its peers. It was whispered that Cooper's fund needed some near term wins to reassure the limited partners. Cooper emphasized the opportunity for bringing new cash into the business through an IPO. Using examples that were now more than two years old, John mentioned several companies in FifthFluor's position that had raised funds approaching $100M with valuations nearing $400M. Some of those companies had soared past $1Billion after releasing positive news from late stage trials.

That point drew comments from Joyce's most experienced board member, Bernhard de Graaf. Bernhard was the managing partner at Chiaro Capital, one of the most storied venture capital funds in the industry. In fact, it was unusual for Bernhard to participate so actively in a company the size of FifthFluor. He suggested that it would be foolish for the current investors to enter the capital markets now. Why let those investors participate in the upside when early trials in anti-infectives had such a strong predictive power? Moreover, the company only needed a modest increase in funds. He offered to use his contacts to test the market for a deal covering the European markets. By emphasizing up-front values, de Graaf suggested such a deal could go a long way to funding both the Phase III trial and FifthFluor's early pipeline. When others pressed him, de Graaf confirmed that he would even be in support of licensing worldwide rights if the right deal was presented. He cautioned, however, that any such deal would need to either substantially reward FifthFluor for the promise of FF-001 or offer substantial upside potential.

Once the conversation turned to a larger deal, Greta Weber became more engaged in the discussion. Greta was the representative from a German corporate venture capital fund. When Greta's company had invested in FifthFluor, the company and the fund had emphasized that there were neither explicit nor implicit rights to early negotiation. Nevertheless, everyone recognized that Greta's company was a mid-level player in hospital critical care products with aspirations for a larger market share. In fact, the timeline for FF-001 fit neatly in a period when Greta's company expected a significant loss in revenue resulting from patent expirations.

Greta was adamant that a decision to casually explore licensing opportunities was unacceptable. She proposed a highly structured licensing program with clear deadlines for partners to provide first an expression of interest, then non-binding terms, and finally a formal offer.

Hearing this, Joyce was immediately concerned. She worried that such a program would quickly put FifthFluor in play as an acquisition target. She fully appreciated her responsibility to build value for the company's investors, but she also was looking forward to a time when the company's priorities centered on commercial issues rather than research and development. She wanted to get back to that comfort zone where she could become a more forceful leader.

As the call slid into a second hour, Joyce worried that she had misjudged how to prepare for this session. She had in hand all of the answers from a financial perspective, but she lacked a full understanding of the priorities motivating each board member.