Books-Are-Reading-Fun, Inc. ("BARF") is a publicly held corporation, traded on the New York Stock Exchange. It has offices in London, Hong Kong, Islamabad (Pakistan), Rome, Tokyo and Tel Aviv.

BARF operates in three division: (i) romance novels; (ii) literary fiction; and (iii) non-fiction. The Romance Novel division ("RND") has traditionally been a consistent money maker for BARF. All romance, mystery, science fiction and "popular" fiction are produced by this division. The Literary Fiction division ("LFD") has traditionally been the "high brow" division. It is the oldest division of BARF, though now no longer the largest or most profitable. At one time, it was also the most notorious division -- publishing (at first unsuccessfully, the works of D.H. Lawrence and the English translations of the works of Josef Stalin). Serious fiction and translations of important non-English language works are produced by this division. The Non-Fiction division ("NFD") handles all other book production. It's most important product are books produced for the public school market. This has been highly profitable in the past.

The Board of Directors is currently composed of the following people: Aurora, Borealis, Coreolanus, Dandini, Eponimus, Frutella, and Gaeia. Aurora, Borealis, Coreolanus, Dandini are also officers of BARF. Dandini is the president of the company. Eponimus, Frutella are each the chief executive officers of other, independent corporations, with no connection to BARF other than for their membership on the BARF Board. Assume that the bylaws of BARF are identical to the Model Bylaws in the Statutory Supplement. Gaeia is the managing partner of a limited partnership, the business of which is to find and buy undervalued businesses, turn them around financially, and then sell them for a profit.

PART A

During the course of several meetings throughout 1995, the Board began considering expanding the scope of the business to include retail outlets. They figure if other publishers could do this, then they might be able to make money on this as well. They all agreed to begin operations in the Boston to Washington, D.C. corridor.

On January 31, Gaeia received a phone call form Harry Hoohoo. Harry and Gaeia have done business before. This time Harry has a great opportunity. It seems that ExLiber, a large retail book store chain, based in Los Angeles, with branches in Utah, California, Arizona and Nevada is up for sale. Originally free standing, it had
been bought by Conglomo, Inc. in the 1970's, and, since then, has not performed well. Gaeia believes this can be explained by poor management and lack of direction from Conglomo. It is currently a wholly owned subsidiary of Conglomo. Conglomo is willing to sell ExLiber for about $2 million less than book value. Gaeia thinks she can turn a quick profit in about a year after extensive overhaul of the management of the company, after which she would sell her stake in the company to the public in a public offering.

The BARF board meets on February 1. You represent Gaeia. She calls you up immediately after her chat with Harry and asks you for advice.

PREPARE A MEMO FOR GAEIA IN WHICH YOU TELL GAEIA WHAT SHE SHOULD DO AND WHY?

PART B

For the past several years the editors of the LFD have been working with Judas. Judas was born Muslim, but has since been accepted into the Episcopal faith. His wife and Children are Jewish. After much work, the LFD has finished Judas' latest work -- *The Opiate of the People*. It is work of surreal poetry which contains passages which seem to suggest that the Hebrew prophets and the Prophet Mohammed were delusional, and that the Christian Apostles were all sodomites who invented their religion in order to avoid prosecution by the Roman authorities in Palestine.

On January 1, *Opiate* is released for distribution. It is distributed in English from London, Hong Kong, Islamabad (Pakistan), Rome, Tokyo and Tel Aviv. Hebrew and Arabic language versions are also available in Tel Aviv and Islamabad. It immediately causes a scandal. The reviews are mixed but sales are brisk. Many bookstores have run out of copies and a number of additional runs are planned. The book will produce a large profit for the LFD. On January 10, the Government of Iran suggests that Judas is a heretic who must be executed (the punishment for heresy). The Christian Coalition has stated that it will urge a boycott of all company products if the book continues to be marketed in the U.S. At the same time, the National Organization of Women and the Lambda Legal Defense and Education Fund threatens a boycott if BARF pulls the book. The Premier of Indonesia, has threatened to command all believers to boycott BARF if it makes the book available anywhere, and Muslim clerics in Egypt have denounced the book as blasphemous. The Pakistani government has threatened to shut down the Company's local operations and expropriate all its property. It has already filed a suit against the Company for damages based on a cause of action for blasphemy. While it is unlikely to win (because of treaty restrictions with the U.S.), the suit is having an effect, although it is not clear whether net sales from worldwide operations have increased or decreased as a result. After foreign government protest to the State Department, the President of the United States, and the Chairman of the House Foreign Affairs
Committee both expressed their outrage about the publication of the book and promised an investigation of the company should it proceed. The Chairwomen of the Senate Labor and Education Committee and the Senate Foreign Affairs Committee have both condemned the statements of the President and the House Chairman and vowed to resist any attempt to interfere with the first amendment rights of corporations to publish what they will. BARF, of course, has been on the front pages of national newspapers ever since.

You represent Dandini. It is February 14, and the Board has not even met to discuss the reaction to the book. He is quite concerned and wants the Board to meet tomorrow. He wants to call a meeting of the Board for tomorrow.

1. CAN DANDINI COMPEL THE BOARD TO MEET TOMORROW?

2. IF NOT, WHAT MUST HE DO TO GET THE BOARD TO MEET?

3. SHOULD THE BOARD CANCEL THE PUBLICATION OF THE BOOK? ON WHAT BASIS SHOULD THAT DECISION BE MADE?

4. DESCRIBE AND EXPLAIN ANY BASIS FOR LIABILITY TO THE COMPANY OR THE BOARD ARISING OUT OF OR RELATED TO ANY SUCH DECISION.

PART C

The Board has decided to pull the book, subject to the approval of the shareholders at the upcoming shareholders’ meeting. Kalinka Koma owns 100,000 of the 600,000 outstanding shares of BARF. Another 250,000 shares are owned by three institutional investors. The BARF board owns another 60,000 shares. The rest are held by small holders and actively traded on the Exchange.

Koma is adamantly opposed to the decision to pull the book, believing that it amounts to an interference by foreigners onto the reading market in the United States and an even greater interference with the American principles of free speech. She takes out a full-page advertisement in the New York Times and urging all Americans, including the shareholders of BARF to mobilize to oppose the proposed action by the board. Kalinka has made no filings and doesn't mail out any material to shareholders.

HAS SHE VIOLATED ANY LAWS? WHY OR WHY NOT?

PART D

Assume that, instead of pulling the book, the BARF board decides to sell the LFD. This past year LFD accounted for about 58% of the property plant and equipment
of BARF and employed about 41% of the total number of employees of BARF. It contributed about 26% to the operating revenues company, but only about 12% of BARF's net profits from operations. In prior years the figures were as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>% Total PP&amp;E</th>
<th>% Total Employees</th>
<th>% Operating Rev.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>57</td>
<td>51</td>
<td>15</td>
</tr>
<tr>
<td>1991</td>
<td>52</td>
<td>54</td>
<td>12</td>
</tr>
<tr>
<td>1992</td>
<td>46</td>
<td>42</td>
<td>29</td>
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<td>1993</td>
<td>38</td>
<td>25</td>
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<td>1994</td>
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<td>30</td>
<td>35</td>
</tr>
<tr>
<td>1995</td>
<td>50</td>
<td>46</td>
<td>20</td>
</tr>
</tbody>
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The BARF board believes that no more than 10% of the shareholders would aggressively disapprove of the sale. However, the BARF board fears that any shareholder vote would affect confidence in the Company and perhaps significantly lower share trading prices. If that happened, the board fears that the institutional investors would seek their replacement.

1. **IS SHAREHOLDER APPROVAL REQUIRED IN DELAWARE OR UNDER THE RMBCA. WOULD THE POSSIBILITY OF SHAREHOLDER APPROVAL AFFECT THE DECISION TO SELL THE LFD, AND IF SO, HOW?**

2. **WHAT ADDITIONAL ISSUES, IF ANY, WOULD BE RAISED IF THE BUYER WAS A COMPANY ALL OF WHOSE STOCK WAS HELD BY EPONIMUS AND FRUTELLA?**

3. **IF SHAREHOLDER APPROVAL OF THE SALE WOULD BE REQUIRED, ARE THERE OTHER WAYS TO STRUCTURE THE TRANSACTION TO AVOID THE NECESSITY OF SHAREHOLDER APPROVAL?**

**PART E**

Kalinka has become very interested in the affairs of BARF after the book fiasco. She would like to gain representation on this year's board. The BARF bylaws currently provide for a fixed number of board members, and sets that number at seven.

1. **HOW MANY DIRECTORS CAN KALINKA ELECT (VOTING HER OWN SHARES) UNDER A STRAIGHT VOTING SYSTEM?**

2. **HOW MANY DIRECTORS CAN KALINKA ELECT (VOTING ONLY HER OWN SHARES) UNDER A CUMULATIVE VOTING SYSTEM?**

3. **HOW COULD THE BOARD ATTEMPT TO PREVENT KALINKA FROM GAINING BOARD REPRESENTATION UNDER BOTH THE RMBCA AND**
DELAWARE LAW? HOW SUCCESSFUL WILL IT BE? WHY? IF THERE WERE NO INSTITUTIONAL INVESTORS SO THAT NO SHAREHOLDERS OWNED A LARGE BLOCK OF STOCK CHANGE YOUR ANALYSIS? WHY OR WHY NOT?

4. IF KALINKA IS SUCCESSFUL IN GAINING BOARD REPRESENTATION, WHAT STEPS CAN THE OTHER BOARD MEMBERS TAKE TO MINIMIZE HER INFLUENCE?

PART F

Kalinka is not successful in her efforts to acquire what she considers to be an effective voice on the Board. Instead, she wants to elect her own slate of directors to the board. She has spoken with the other institutional investors. They all agree to pool together to elect a different slate of directors.

YOU REPRESENT KALINKA. SHE WANTS YOU TO WRITE HER A MEMO EXPLAINING THE VARIOUS ALTERNATIVES AVAILABLE FOR ENFORCING THE AGREEMENT BETWEEN HER AND THE OTHER INVESTORS, AND THE PROS AND CONS OF EACH.

PART G

Kalinka and Borealis have agreed to join together to purchase the LFD of BARF. They each agree to contribute $500,000 to a new corporation, to be named Liberace, Inc. Each will receive 50,000 shares of Liberace.

1. AT WHAT AMOUNT MUST PAR VALUE BE SET IF LIBERACE WERE INCORPORATED IN (I) DELAWARE, AND (II) AN RMBCA STATE. EXPLAIN.

2. ASSUME THAT THE TOTAL PURCHASE PRICE OF THE LFD IS $10,000,000. KALINKA AND BOREALIS WILL BORROW $9,000,000, SECURED BY THE ASSETS OF LFD. KALINKA AND BOREALIS WOULD LIKE TREAT $150,000 AS A CAPITAL CONTRIBUTION, AND $350,000 AS A LOAN, SECURED BY A SECOND LIEN OF THE ASSETS OF LFD. ADVISE KALINKA AND BOREALIS ON THE FEASIBILITY OF THIS IDEA AS WELL AS ALL THE POSSIBLE CONSEQUENCES OF THIS CAPITALIZATION PLAN.

3. ASSUME THAT KALINKA WILL CONTRIBUTE $50,000 AND BOREALIS WILL CONTRIBUTE $950,000. KALINKA WOULD LIKE TO CONTROL THE BOARD AND SECURE A SIGNIFICANT SALARY, BUT BOREALIS WOULD LIKE A SIGNIFICANT GUARANTEED RETURN ON HIS INVESTMENT AND THE POWER TO HAVE A SAY IN THE COMPANY’S BUSINESS. HE ALSO WANTS TO TAKE OVER THE COMPANY IF HIS SECURITY IS IMPERILED. HOW SHOULD
LIBERACE BE CAPITALIZED?

QUESTION 2

PART A

In the movie, Other People's Money, Lawrence Garfield offered to trade his shares and "go away" in exchange for the Wire and Cable Division.

WHAT DO YOU RECOMMEND AS THE BEST WAY OF STRUCTURING THIS TRANSACTION AND WHY?

PART B

"Jorgy", New England Wire and Cable's Chairman, and Lawrence Garfield, "Larry the Liquidator", have two very different visions of the role of the corporation in American society and of the identity of the people whose interests a corporation ought to serve. Larry has the better of the argument and the shareholders know it. But Larry really did not have the winning argument -- Jorgy did, he just didn't know it! The problem, therefore, was that Jorgy did not use his best argument against those raised by Larry when he made his speech before the shareholders.

YOU ARE JORGY. THE SHAREHOLDERS ARE WAITING TO HEAR YOU TELL THEM WHY THEY SHOULD REELECT YOUR SLATE OF CANDIDATES FOR THE BOARD. MAKE THE BEST ARGUMENTS YOU CAN AGAINST LARRY AND IN SUPPORT OF YOUR SLATE OF CANDIDATES.