Institute of Corporate Directors
Podcast Topic: **Be It Resolved: Nose In, Fingers Out, Remains the Way Forward for Directors.**

Rahul Bhardwaj (0:05 - 1:41)
Welcome to Be It Resolved, Season 2, where bold ideas meet courageous leadership. I'm Rahul Bhardwaj, President and CEO of the Institute of Corporate Directors in Canada. Each episode explores the issues that influence directors, governance, and decision-making in the boardroom.

My guest today is Richard Powers, ICD.D., who's been teaching at the Rotman School of Management at the University of Toronto since 1992. Rick's an internationally recognized expert in both corporate and not-for-profit governance. Rick's also the National Academic Director of the Director's Education Program, also known as the DEP, and the Not-for-Profit Governance Essentials Program, also known as the GEP, both delivered in partnership with the Institute of Corporate Directors.

Ricks led and taught in the DEP and GEP for over 20 years. He's assisted in designing and implementing the programs at 13 universities across Canada. He's also a very experienced director.

He chaired the Governance and Compensation Committee of the TXV-listed Pivotry, Inc. and also serves on the boards and committees of several not-for-profit organizations, including Commonwealth Sport Canada and the Canadian Olympic Committee. He's received the Peter Day Governance Achievement Award and was inducted into the Rugby Canada Hall of Fame. Welcome.

Richard Powers (1:42 - 1:43)
Thanks very much, Rahul. A pleasure to be here.

Rahul Bhardwaj (1:44 - 2:55)
Great to have you. For everyone, today, our resolution, Be It Resolved: Nose In, Fingers Out, Remains the Way Forward for Directors. You'll get to vote, and Rick, I'm going to come back to you a little bit later, and you're going to get to vote on this resolution.

But to set up the discussion today, the phrase ‘nose in, fingers out’, well, this has guided directors for decades. It reminds directors to stay deeply informed without crossing into management's role. But today's environment looks very different.

We've got artificial intelligence, geopolitical uncertainty, cyber threats, stakeholder expectations, more complex regulatory environment. These are all demanding even more from boards. Some directors now ask whether the traditional corporate governance model still works or whether today's realities require a different balance, something other than nose in, fingers out.

So, Rick, let's start there. But how about we flesh out a little bit more about nose in, fingers out, because this is pretty core to the DEP as well.

Richard Powers (2:56 - 3:18)

Thanks, Rahul. I think that the statement is still relative, but whereas in the past, it was used to define a hard line between management and the board, today, I would describe it as a moving line or wavy line. The new issues that you have mentioned require directors to be more introspective than in the past.

And I think that naturally leads them into more of what we would typically describe as management functions.

Rahul Bhardwaj (3:19 - 3:38)

So, when we talk about ‘nose in, fingers out’, I mean, people love to quote that all the time because it's not a hard line. It's a wavy line, but does it pass the sniff test? The idea is, I think, and correct me if we're wrong, we're saying to boards, don't do management's job.

Your idea is just to see if it passes the sniff test. Is that right?

Richard Powers (3:38 - 4:26)

Yeah, I would agree. The main reason I believe that it still is important to keep that in mind is that management often spends up to 2,500 hours per year or more managing the organization. Directors on the other hand, spend far less, maybe 250 to 300 hours in a public company scenario.

Double that for the chair of the board though. Directors will never know as much as management. And despite their expertise in various functional areas like accounting, finance, HR, risk, etc., they do not have the insights and benefit of numerous discussions that were made before a recommendation is presented to the board from management.

To my mind, that is the number one reason directors should stay out of operations. They do not understand them as well as they'd like to, or as well as they believe they do.

Rahul Bhardwaj (4:26 - 4:48)

You said that was the number one reason, and I would agree. This asymmetry of information is important and it's growing, but there are other reasons as well. Let's just touch on those a little bit.

I mean, there's the beginning one that says management's deep into this, boards aren't deep into this. I'm curious, are there any liability issues that come along with this as well? If boards colour too far outside the lines?

Richard Powers (4:49 - 5:52)
No, I don't believe so. The two main principles that we discuss in our director's education program and that are part of every director's responsibility are their fiduciary duty and the standard of care that they're expected to meet in that role. The fiduciary duty, as we know in Canada, is to the corporation or to the organization.

They have to make decisions that are in the best interest of the corporation or in other sectors, the organization. Nothing matter with representing interests of different stakeholder groups, but in the end, the directors have to make a decision that is in the best interest of the organization or corporation, as I said. The other important feature to keep in mind is the standard of care.

And in Canada, it's a reasonable standard of care, but it is incumbent on the skill sets that that director brings to the board. For example, if you're an accountant, you would be judged, was that a reasonable decision given your role or given your experience as an accountant for about 15, 20 years? That's the standard of care.

Directors can have different standards of care when they sit around the table.

Rahul Bhardwaj (5:53 - 6:28)
Right. It's all in the context, which is really important. And I guess a part of what we're seeing in the world of corporate governance in the world in general is the context keeps shifting.

If you go back to 25, 30 years ago, we're talking a little bit around geopolitical uncertainty, digital transformation. We're in a whole new world right now, especially around things like AI and increased geopolitical risk. Is that giving anybody a moment of pause to think about whether nose in and fingers out is still the right principle?

Is it waning? Should it be something different in your mind?

Richard Powers (6:29 - 7:38)
That's a great question, but I would still fall back on my previous comments to answer. The board comes to the table with great intentions, but as I mentioned, they will never know as much as management given the time difference, 2500 hours versus approximately 250 hours per year. But on a skills-based board, and I think that's what you're talking about today, which I would argue is essential in today's environment, they can certainly ask more probing questions, talents management's assertions, and push management to ensure that they have exhausted alternative choices in their recommendation.

You talk about 25, 30 years ago. Well, back then, you really got on a board based on your Rolodex at that time or who you knew. Oftentimes, the AGM would be coming up and the chair would look down the table and say four words, does anybody know anyone?

That is not as common today. Certainly, contacts help, but boards are certainly looking for more skills, and that's why these issues are becoming more prevalent at board discussions because they have the skill sets to drill down on them a bit more. It's no longer just a general oversight.

It can be very specific, particularly when there's a crisis.

Rahul Bhardwaj (7:39 - 8:17)
That opens up the whole conversation around something, a board matrix is really important now in a way perhaps it wasn't before. And if you do a really good job on your board matrix and you brought in some very knowledgeable directors, there's going to be an inclination or perhaps an invitation to really lean in. And we don't want passive directors.

We want active directors. I mean, that's what you bring in there is to lean in. But I guess the conversation we're having is, can you lean in too far?

And what can boards do to ensure that they manage this nose in, fingers out, don't lean in too far, don't get into management space?

Richard Powers (8:17 - 9:13)
I think that's the job of committees. The committees can have a much more fulsome discussion on a lot of these issues. But once the issue comes to the board with a recommendation, that's the responsibility of the chair to make sure it stays at the noses in, fingers out level.

There may be directors who want to drill down a little bit further. In the limited time that directors have to ask questions and really add value in their role, the chair's position or the chair's role becomes so important in guiding that conversation, keeping them out of the weeds. If a director really wants to dive into the weeds a bit more, that can be perhaps taken offline.

But it's at the board level. The discussion really takes place at the committee level. Once it gets to the board, again, other board members may have questions or want certification that the management has looked at other alternatives.

But in the end, it's the chair's responsibility to make sure that the discussion remains at the governance or oversight level and does not go too far into operations.

Rahul Bhardwaj (9:14 - 9:35)
You mentioned the committee level. I think we've all been a part of committee meetings where you get into a little bit more detail, that's for sure. But there's always a risk too that some of these questions become existential questions and it sends management down these rabbit holes that may not necessarily be in the best interest and particularly in capacity constrained organizations.

Do you ever see that happening?

Richard Powers (9:36 - 10:53)
It does happen. And my advice in situations like that, first of all, there should be some protocols in place. Directors should not be calling up management and asking them to do things for them.

The management team does not report to the board. The CEO does. Management team reports to the CEO.

And the last thing you want is that I can tell you when a senior manager gets a call from a director and they're trying to decide whose work do I do first, my job, according to the CEO's directives, or the board member, they'll do the board members first. And that's unfair to them because it puts them in a conflict position with their boss. So any deeper conversations that directors want to have with management should be directed through the CEO.

I often suggest that there's a sort of a dotted line to the chair as well just to keep them informed. The CEO may know the answer and can cut off the discussion right there or provide the answer right there. But in many cases, if they want to speak with management, it should be directed through the CEO because then the CEO knows that their manager or their senior member of the management team is actually doing some work on behalf of one of the directors and may be late or unable to fulfill their own responsibilities for a given period of time.

But those instances are rare, I think, Rahul. I think directors today understand, for the most part, that they are there for oversight, not operations.

Rahul Bhardwaj (10:54 - 11:26)
Rick, you've been involved in director education probably longer than anybody right now in Canada. And one of the great tools that you use are director dilemmas. You've got a real talent on distilling some fantastic scenarios, both what to do and what not to do.

I'm wondering if there's a theme that you could pull through those that would describe common situations where boards unintentionally cross that line between governance and management. In other words, when you see the nose in, fingers out, not being followed well, what can that look like?

Richard Powers (11:27 - 12:51)
Oftentimes, the board is looking for a fix. There's a crisis or there's a problem and they want to see it fixed. And again, in the limited time that they have to devote through their jobs, they want to see it done quickly when there is a serious issue.

And when you talk about these director dilemmas, these are real cases that we derive from the media. It's interesting. You open up the paper in the morning or you listen to the news and oftentimes I'm receiving emails from previous attendees in our program, in the director's education program, saying, did you see this case?

This would make a great director dilemma. And oftentimes they do. Those cases, though, I think really challenge boards and management to reflect on what are our responsibilities.

And there should be processes in place. And that can really put a stop to directors getting too involved. The one mistake I think many boards make is trying to move too quickly.

You know, there's an interesting one of our sessions with Navigator. They point out better to be fast and wrong than slow and right. But that doesn't mean being too fast.

We've seen a number of cases where the board has responded without having all the information but responded without having very much information at all. And that often can lead to problems down the road. There has to be some protocols in place.

Risk management is such an important part of a board's responsibility. And it really comes to the fore when there's a crisis or an issue that needs to be solved.

Rahul Bhardwaj (12:52 - 13:10)
You're often asked by boards to provide them some discussion points on how to be more effective and what works, what good boards and best practices are. From your perspective, what sort of practices actually help create trust, accountability, healthy governance boundaries?

Richard Powers (13:10 - 14:59)
I think it's important that the senior management team is involved with the board to a certain degree. Oftentimes, as we know, the CEO sits typically on a corporate board and they have a vote as well. But a good CEO will bring in members of the senior management team to the board meeting to provide information, to provide background, and to be there to answer questions.

Some boards want to just be meeting with the CEO, and that's fine for a period of time. But I do think it's important that the senior management team is there. What that does is it develops some familiarity with the senior management team.

It develops trust. That's the first thing I would say is just the making sure, taking a look at who do we have in the room. Second, I think, is having a good chair.

The chair is so critical in assuring that the board acts effectively and efficiently. We talk about how does a board add value? They add value by asking better questions.

Coming well-prepared for board meetings. I know in the past, board meetings were more of a social gathering, and oftentimes, directors were seeing the materials or reviewing the materials for the first time at the meeting. That typically doesn't happen anymore.

Being a director, particularly on a corporate board, is a serious job. Coming well-prepared to the board meeting is essential, and most directors recognize that. That, I think, is the two critical factors.

Understanding who's in the room, developing that trust and familiarity with the senior management team. A good CEO will give their senior managers an opportunity to present to the board and create situations where they're socializing. The parties get to know each other.

That builds trust, and it builds a camaraderie within the teams. The board members and management feel more comfortable asking questions and providing information in the limited time that directors have to add value. I believe that time is well spent with management.

Rahul Bhardwaj (14:59 - 15:45)
It's interesting to hear you refer to it once upon a time as a social time. And I can see that for board members. I'm pretty sure management didn't feel the same way at that time.

But this is an important dynamic where a lot of really important work gets done. And if these principles are followed, you can get some really interesting, effective outcomes, which is the name of this game. But Rick, if we look forward just a little bit, it's hard to have a crystal ball here, but things are changing really quickly.

Technology is playing a really new role. You know, the role of Canada we've been speaking about in geopolitics is shifting what Canadian companies might consider as successful going forward. Do you think that impacts this nose in, fingers out principle in any way?

Or do you think that that's going to stand the test of time?

Richard Powers (15:46 - 16:07)
I think it will. I think it's important. The situations will change, as you mentioned, but we still have to keep in mind the amount of time that the board has versus management.

And that idea that, and not just an idea, a fact is that the board will never know as much as management. I still believe that is the number one reason why noses in, fingers out is still a good policy to follow.

Rahul Bhardwaj (16:08 - 16:34)
Rick, we've run a really good conversation from looking back into some foundational principles, and I'm getting the sense that it's time to go back to the resolution. To our listeners,

from what you've heard: Nose In, Fingers Out Remains the Way Forward for directors. Would you support that or not?

Rick, from your perspective, I'm getting the sense that you think it does stand the test of time, but which way would you vote on this resolution?

Richard Powers (16:36 - 17:25)
I would vote in favour that the resolution should still be in place, given the differences in time that directors have versus management to devote to their jobs and the various skill sets that we see around boards today. The directors are well-placed to oversee and ask probing questions, but there's still a good reason for them to stay out of the weeds. In closing, Rahul, I understand this is your last podcast.

I would just like to thank you on behalf of myself and the Rotman School of Management and the many Directors Education Program graduates from across the country. Your work in collaboration with the Rotman School and your involvement in governance over the past 10 years as the CEO and President of the ICD has been outstanding success. Thank you, very much and good luck, in your future.

Rahul Bhardwaj (17:26 - 18:32)
Rick, thank you for this conversation today and thank you for everything you've done for Corporate Director Education in Canada. And to our listeners, I hope you enjoyed today's episode of Be It Resolved, that you gained some valuable insights for your own boardroom. If you found today's discussion thought-provoking, we encourage you to subscribe and leave a review on your preferred podcast platform.

From the Institute of Corporate Directors, I'm Rahul Bhardwaj. As I sign off as host of Be It Resolved, I thank our remarkable guests, our dedicated listeners, and the governance community that has made this journey so rewarding. It's been a privilege to engage with some of Canada's and the world's leading voices in corporate governance and to connect with an audience that now spans more than 80 countries around the world.

This may be the end of my chapter as host, but the conversation continues. A new season, new perspectives, and a new host will arrive, bringing fresh insights on the issues shaping boardrooms today and tomorrow. Keep well.