

From Disruption to Environmental, Social, and Governance (ESG) Achievements and Sustainable Growth

By AMY LIN MEYERSON

On September 25, 2015, 193 world leaders joined together and committed to the United Nation's 17 Sustainable Development Goals (SDGs)¹ or UN Global Goals with the objectives to end extreme poverty and hunger, fight inequality and injustice, and tackle climate change, by 2030. The SDGs build upon decades of socially responsible undertakings to improve the lives of people across the globe, including the UN Millennium Development Goals,² UN Principles of Responsible Investing,³ and the UN Global Compact.⁴

Historically, institutional investors and analysts often took a pessimistic view of a company's corporate social responsibility efforts to advance these global goals, reporting such sustainability activities as risks that would eat into profits. It was once held that the "consideration of ESG by pension funds and other financial institutions and intermediaries in investment decisions was unlawful or a breach of fiduciary duties."⁵ Some critics argued that companies were only highlighting ESG endeavors as a marketing ploy, making grand promises they did not intend to fulfill, or "greenwashing" by conveying a false impression that the company's products were environmentally sound. Fortunately, this negative thinking and reluctance to embrace ESG issues has largely shifted.⁶

Over the past decade, more than \$7.2 billion has been invested in companies

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with core business models that advance solutions to global, environmental, educational, and workforce development; responsible consumption and production; worker safety; and societal challenges, as reported by KKR.⁷ Global assets tied to ESG criteria have almost doubled in four years, and more than tripled over eight years, to \$40.5 trillion in 2020.⁸ Bloomberg reports that a new study by PwC predicts that by 2025, at least 60 percent of all mutual fund assets will be ESG funds.⁹

This focus on ESG puts companies in a position to identify risks for disasters before they occur, and therefore, to implement effective and scalable solutions, positively impacting profits. Integration of environmental, social, and governance considerations into investment processes and decision-making is not only good policy but also financially sound. Further focus and closer examination of ESG and its reporting are on the horizon. The SEC Division of Enforcement recently announced the creation of a Climate and ESG Task Force charged with developing initiatives to proactively identify ESG-related misconduct.¹⁰

The White House has named climate change and racial and gender equality issues among the nation's priorities.¹¹ Companies around the world have done the same. Unlike the approach during the 2007-2009 financial crisis where companies focused on finances and all but eliminated efforts to include social responsibility, companies are actively promoting innovation and sustainability work. Blackrock CEO Larry Fink noted that "[f]rom January through November 2020, investors in mutual funds and ETFs invested \$288 billion globally in sustainable assets, a 96% increase over the whole of 2019."¹²

The Connecticut Bar Association (CBA) embraces the important impact of ESG factors on our organization's sustainability, growth, and success. The pandemic has made us all take a closer look at how we use energy and resources, and how we affect and are affected by the environment and society around us. No one could have predicted that we would be experiencing great social unrest and injustice, mental health and wellbeing issues, extremely disparate impacts on the economy, and threats to our democracy,

right in the middle of a global pandemic! This time of disruption has forced us to embrace technology and examine how we have been doing things, collaborate, and implement creative solutions, further ensuring the advancement of diversity, equity, and inclusion, and sustainability. We have let go of old ways to embrace ESG-compliant practices in order to become stronger, more resilient, more inclusive, and more valuable to our members and communities.

The CBA makes every effort to use resources wisely and is conscientious about the resources we take in, the emissions and waste we discharge, and the consequences of our actions for our staff, members, and visitors to the CBA offices. We have been replacing incandescent and fluorescent lighting with LEDs as bulbs burn out and added timers with photocells to outside lights. Our periodic energy conservation assessment includes planning for roof upgrades to further promote energy efficiency. We have shifted to paperless, electronic correspondence and virtual meetings. The CBA helped its members “go green” by offering Shredding Days on May 12th (Fairfield) and 19th (West Hartford).

As a member service association, the CBA focuses much of its efforts on the S (Social) and G (Governance) rather than the E (Environment) of ESG. Social practices that advance diversity, equity, and inclusion reflect the broad, diverse society in which we live and bring about positive change. According to a recent study by Goldman Sachs, “Increased diversity of experience, gender identity, race, ethnicity, and sexual orientation reduces the risk of groupthink and unlocks creative and impactful solutions.”¹³

In 2014, Paulette Brown took over as the first African American female president of the American Bar Association. Under her leadership, the ABA Board of Gov-

ernors passed a mandatory rule requiring all ABA-sponsored CLE panels to include at least one diverse speaker or moderator. Opponents argued that she was attempting to lower the quality of CLEs by requiring the inclusion of diverse panelists.¹⁴

We strongly believe the diversity of our panelists strengthens the content and depth of CBA’s award-winning CLEs. The declaration we made six years ago at the March 2015 CBA House of Delegates meeting is perhaps even more relevant today: “We are a richer and more effective association because of diversity, as it increases our association’s strengths, capabilities, and adaptability. Through increased diversity, our organization can more effectively address member and societal needs with the varied perspectives, experiences, knowledge, information, and understanding inherent in a diverse relationship.”¹⁵

With regard to governance, our work is greatly facilitated by the diverse composition of CBA leadership in gender, practice area, practice setting, geographical location, age, ethnicity, and experience from across all CBA entities. As reflected in our Strategic Plan, through transparency, disclosure, and accountability, we strive to improve the internal system of practices, controls, and procedures we adopt to govern our organization, make effective decisions, comply with the law, and meet the needs of our stakeholders.

ESG considerations are intertwined. By thinking about and acting on ESG issues, we have been able to safeguard the CBA and continue to serve our members and communities during this disruptive time. Maintaining a strong ESG position has helped us expand our services, reach new members, and further promote access to justice. Our association has become stronger, more connected, and more inclusive. Through our leadership;

staff; and over 70+ sections, committees, and task forces, the CBA stands ready to assist you with our ESG programs and initiatives.

Because of the pandemic, many of us have had to adapt to a new way of doing things, whether working from home, taking on new practice areas, or even changing jobs or firms. We honored some of our colleagues, who thrived in this challenging environment, at our virtual Celebrate with the Stars event, held on April 8, and highlighted on page 10 in this issue.

During our annual meeting, on June 15th, we will take the opportunity to pay tribute to the people in the Connecticut legal community who passed away this year and the lives lost throughout the state due to the pandemic. Our thoughts and hearts are filled with gratitude for frontline workers, especially the frontline attorneys, who put themselves and their families at risk to help clients with critical legal matters. They have continued to provide in-person representation on emergency and time-sensitive issues, such as individual health, safety, and liberty; family relations and stability; health care and end-of-life planning; criminal defense; and immigration.

The CBA cordially invites you to join us at our Connecticut Legal Conference, to be held virtually on June 15-17, with over 10 educational tracks, concurrent sessions, and plenaries featuring local and national speakers, and the 2021 Annual Meeting and Officer’s Installation. (Please see the complete Connecticut Legal Conference Guide on page 14.)

On June 15th, during the President’s Track, from 2:00 p.m. to 4:00 p.m., the Executive Committee and the In-House Counsel Committee are co-sponsoring “What General Counsel and In-House

Continued on page 40 —



Learn more about this topic at the 2021 Connecticut Legal Conference in **PT02 What General Counsel and In-House Counsel Are Doing to Drive Change and Achieve Results**. Register online at ctlegalconference.com.

President's Message

Continued from page 5

Counsel are Doing to Drive Change and Achieve Results." In this exciting program, we will hear from corporate counsel about how the desire to achieve sustainability and advance ESG is driving change in their companies, and what companies need from outside counsel to address ESG factors, regulation, and reporting.

The CBA has been with you throughout these unprecedented, trying times and we will stand with you as we navigate and define the new normal. To better serve you and your professional needs, please take a minute to update your CBA profile, including firm size and type, and area of practice, so that we can continue to deliver the high-quality content that you deserve.

As we begin to safely reopen the CBA offices and bring back in-person meetings, please mark your calendars and join Connecticut legal professionals and the CBA past presidents and their families at our Summer BBQ on Sunday, June 27 from 11:00 a.m. to 5:00 p.m. at Holiday Hill in Prospect. Learn more and register at ctbar.org/BBQ.

DE&I

Continued from page 31

ing reactive, or part of an affirmative and comprehensive program to achieve long-term change? Will the training be part of an ongoing DEI effort, building knowledge or awareness over time, or simply a one-time "check the box" event with little or no follow-up? If implicit biases are deeply-held positive and negative associations built up within our subconscious minds over time, can we reasonably expect a stand-alone training to challenge those associations in 60 or 90 minutes? Can such a training, without more, guarantee the individual and organizational action steps necessary to effectuate actual and long-term change? Relying on an isolated training event to meaningfully advance DEI is akin to utilizing a lecture or a good book to ad-

Stay safe and be well. ■

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1. www.un.org/sustainabledevelopment/sustainable-development-goals/
2. www.un.org/millenniumgoals/
3. www.unpri.org
4. www.unglobalcompact.org
5. www.responsible-investor.com/articles/the-rise-of-esg-law-firms-part-i-esg-law-gets-hot-and-ceos-get-bothered-leading-to-integrated-esg-legal-practices
6. www.forbes.com/sites/george-kell/2018/07/11/the-remarkable-rise-of-esg/?sh=782e67b71695
7. www.kkr.com/businesses/global-impact
8. www.pionline.com/esg/global-esg-data-driven-assets-hit-405-trillion
9. www.bloomberg.com/news/articles/2020-10-19/almost-60-of-mutual-fund-assets-will-be-esg-by-2025-pwc-says
10. Bloomberg L.P. (3/4/2021). Climate, ESG Task Force Formed by SEC in Enforcement Division. Retrieved from Bloomberg database
11. www.whitehouse.gov/priorities
12. www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter
13. Goldman Sachs 2019 Sustainability Report Driving Inclusive Growth at p. 24.
14. www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2017/winter2017-0217-paulette-brown-engineer-for-justice/
15. www.ctbar.org/about/diversity-equity-inclusion

vance personal health and wellness. You may learn important lessons in 60 to 90 minutes, but impact is ultimately determined by whether you apply those lessons in what you do afterwards.

Take the time to find or reexamine your DEI "why" and "why not." Be honest in your self-reflection and examination, challenging your fears and assumptions as necessary. Your DEI "whys" and "why nots" are often quite perceptible, particularly to those within your organization who are impacted by the product of your collective efforts, or lack thereof. In the end, your DEI commitment should be real and spectacular: a woven tapestry of the collective experiences and differences of the people that make your organization truly strong, effective, and inspiring. ■

PDD

Continued from page 9

withdrawing a pending action without permission of the Complainant and for failing to keep the Complainant reasonably informed of the status of her case. *Cathy Topping vs. Michael A. Peck*, #19-0374 (9 pages).

Proposed disposition to reprimand the Respondent is ordered. Reprimand issued pursuant to agreed disposition where attorney acknowledged that there was sufficient evidence to prove violation of Rule 8.4(3) and is ordered to initiate the Connecticut Bar Association fee arbitration process for the parties. *Robert Boisvert vs. James R. Hardy III*, #19-0471 (10 pages). ■

Time to Go Pro Bono

Continued from page 33

reference materials, available through CBA Pro Bono Connect. You may access these trainings at your convenience, and will be able to coordinate with the referring civil legal service provider to take a case according to your availability within the year after you take the Pro Bono Pledge. While the time commitment is greater, you will be a great reassurance to a low-income individual or family navigating unfamiliar systems and difficult circumstances. Learn more and sign up at ctbar.org/CBAProBonoConnect.

I hope you will find an opportunity to engage in pro bono legal service through all of the CBA's many pro bono programs. Each of them is tailored to your availability, provides support for your involvement, and will allow you to give your time, expertise, and professional skills to those in greatest need of our help. ■

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1. Connecticut Rules of Professional Conduct, Rule 6.1 (2021)
2. www.ctbar.org/events-education/upcoming-special-events/pro-bono-clinic
3. www.ctbar.org/members/volunteer-today/pro-bono/CBA-pro-bono-connect