Richmond Journal of Global Law & Business

Volume 5 | Issue 1 Article 2

2005

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Recommended Citation

Colin P. Jones, *Sarbanes-Oxley and the Inch-Thick Contract*, 5 Rich. J. Global L. & Bus. 1 (2005).
Available at: http://scholarship.richmond.edu/global/vol5/iss1/2

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SARBANES-OXLEY AND THE INCH-THICK CONTRACT

*Colin P.A. Jones**

Synopsis
One overlooked but potentially significant ramification of the Sarbanes-Oxley requirement that public companies establish and maintain disclosure controls and procedures, is the impact this mandate may have on the way such companies document significant corporate transactions. The requirement makes it necessary to conduct ongoing, active and systematic monitoring of corporate contractual obligations to deal with any potential disclosure issues arise from non-compliance. As a result, overly complicated contract documentation may actually enhance the risk that technical defaults are not systematically detected and reported, or that the nature of complex contractual obligations cannot accurately be explained to senior management through the disclosure process. This may result in potential liability to SEC-registered issuers for failure to maintain adequate disclosure controls and procedures, independent of whether the substance of the issuers' disclosure complies with SEC requirements.

I. INTRODUCTION

In the fall of 2003, the *Asian Wall Street Journal* carried a front page article about a contract dispute between Polo Ralph Lauren Corp., the holding company of the famous designer of the same name and his brands, and Jones Apparel Group Inc., an apparel manufacturer.[1] Under a licensing agreement between the two companies, Jones produced the designer's "Lauren" line of women's sports clothes in exchange for paying the designer's company a royalty on its sales revenue.[2] The dispute began when Polo Ralph Lauren, pressured by falling sales, sought to renegotiate the license agreement.[3] Their leverage for doing so was to cite a cross-default provision in the license

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[1] Salley Beatty, *Apparel Suppliers Come Into Vogue with Designs on Trendy Labels' Power*, ASIAN WALL ST. J., Sept. 18, 2003, at A1.

[2] *Id.* at A8.

[3] *Id.*

agreement which allowed them to terminate the license early if Jones missed minimum sales targets on another Polo Ralph Lauren product line handled by Jones.[4] That was the stick; the carrot was that they would not invoke the cross-default if, among other things, Jones agreed to pay a drastically increased royalty on its sales of the Lauren line.[5] Jones eventually responded by suing Polo Ralph Lauren for breach of contract.[6]

So far all of this seems to be business as usual - the dispute was deemed newsworthy because apparel makers in this sort of situation usually do not sue the designers who provide them with brand names.[7] What caught my eye in this article was that Jones' CEO supposedly "didn't even know the cross-default [provision] existed."[8]

Why is this statement significant? Because, if true, under the enhanced disclosure regime imposed on public companies by the Sarbanes-Oxley Act of 2002 (the "Act"),[9] it would arguably constitute evidence of a failure by Jones to maintain the disclosure controls and procedures mandated by the Act and its implementing regulations - specifically Rules 13a-15 and 13d-15 under the Securities Exchange Act.[10] The admission of the Jones CEO, that he was unaware of a potentially significant contractual default, could also be construed as *prima facie* evidence that any certifications he made under Section 302 of the Act, as to the adequacy of his company's disclosure controls and procedures and his periodic review of their adequacy, were untrue.[11]

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[4] *Id.*

[5] *Id.*

[6] *Id.* The litigation relating to this contract dispute is summarized in Jones Apparel's 10-Qs filed on August 14, 2003 and November 14, 2003. To view these filings online visit http://www.sec.gov/edgar.shtml (last visited Feb. 23, 2005).

[7] *Id.*

[8] *Id.*

[9] Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002).

[10] 17 C.F.R. § 240.13a-15 (2004); 17 C.F.R. § 15d-15 (2004).

[11] At the risk of generating a gigantic footnote, it is helpful to have the full text of Section 302 certification currently required of CEOs and CFOs that must be attached to periodic reports filed with the SEC. *See supra* note 9.

"I, [identify certifying individual], certify that:

1. I have reviewed the [specify report] of [identify registrant]
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in the light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of opera-

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tions and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(d) *and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f))* for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures, or caused such controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared:
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) and has materially affected, or is reasonably likely to affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial matters which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting."

This would, in turn, raise questions as to the accuracy of the periodic disclosure documents filed with the SEC and to which such certification was attached.[12]

The example of Jones Apparel has not been cited with the intention of suggesting any deliberate or negligent wrongdoing on the part of that company or its CEO. My knowledge of the matter is limited to the article in question and a cursory review of Jones Apparel's recent 10-Qs. Furthermore, the actual issue arose before the disclosure control and certification requirements were applicable.[13] Indeed, this particular dispute alone would probably not warrant an article. Nevertheless, the Jones case illustrates the potentially serious implications Sarbanes-Oxley may have for the way public companies approach their contract documentation.

II. SUMMARY OF THE SARBANES-OXLEY REQUIREMENTS

It is worth reviewing the obligations the Act imposes on SEC-registered companies with respect to disclosure controls and procedures. The certification itself reflects the substantive provisions of Rules 13a-15 and 15d-15 that include, among other things, the basic

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Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, Exchange Act Release No. 47986, [2003 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 86,923 at 87,712 (June 5, 2003). The emphasized text is applicable to the additional requirements relating to internal controls over financial information which were not yet in effect at the time of writing.

[12] Such certifications are required of the CEO and CFO of any public company and must be attached as exhibits to the periodic Exchange Act filings of a company on form 10-K, 10-Q and certain other filings. *See* Regulation S-K (17 CFR § 229 (2004)); Rule 13a-14(a) (17 CFR § 240.13a-14(a) (2004)); Rule 15d-14(a) (17 CFR § 240.15d-14(a) (2004)). Note that these requirements are applicable to foreign issuers and US issuers alike, though foreign issuers who do not have to file quarterly reports may not need to certify as to their controls and procedures with the same degree of frequency as US issuers. Note further that to the extent that the license agreement with Polo Ralph Lauren constituted an asset, the failure of the CEO to be aware of its potential breach might also be a prospective violation of the Sarbanes-Oxley requirements regarding the maintenance of adequate internal controls over financial information. *See* Rules 13a-15(f) (17 CFR § 240.13a-15(f) (2004)) and 15d-15(f) (17 CFR § 240.15d-15(f) (2004)). Since I am not an accountant, however, and because the rules relating to internal controls are not yet in effect, this article will focus exclusively on issues relating to disclosure controls and procedures.

[13] The certification requirements as to disclosure controls were applicable to all annual and quarterly reports filed after August 29, 2002. *See* Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, Exchange Act Release No. 47986, [2003 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 86,923 at 87,678 (June 5, 2003).

requirement that public companies "maintain disclosure controls and procedures."[14] "Disclosure controls and procedures" are defined as "controls and other procedures of an issuer that are designed to ensure that information required to be disclosed in the reports that it files or submits under the [Securities Exchange] Act . . . is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms."[15] The definition further states that disclosure controls and procedures include (but are not limited to) those "controls and procedures designed to ensure that information required to be disclosed by an issuer . . . is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers . . . as appropriate to allow timely decisions regarding required disclosure."[16]

Not only are issuers subject to an affirmative requirement that they establish and maintain disclosure controls and procedures, but the text of the certification imposes a number of additional obligations. First, the CEO and CFO are personally responsible for their establishment and maintenance.[17] Second, the requirements apply to consolidated subsidiaries and information that may be known to "others within those entities" - not an insignificant thing, particularly in the case of international companies whose foreign subsidiaries may operate with a high degree of independence.[18] Third, the CEO and CFO must periodically evaluate the effectiveness of controls and procedures and report on their conclusions "about the effectiveness of the disclosure controls and procedures" as of the end of the applicable reporting period.[19] So, not only must the controls and procedures be established, but they must be tested and evaluated for effectiveness on an ongoing basis.

III. RETHINKING DOCUMENTATION PRACTICES IN LIGHT OF SARBANES-OXLEY

In the case of Jones Apparel, one could easily conclude that the CEO's ignorance of the details of a significant contract is simply a sign of poor management. As a former in-house lawyer, however, I have a

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[14] 17 C.F.R. §§ 240.13a-15(a) & 240.15(a)-15(d) (2004).

[15] 17 C.F.R. §§ 240 13a-15(e) & 240 15(d)-15(e) (2004).

[16] *Id.*

[17] *Supra* note 11.

[18] *Id.*

[19] *Id.* It is a bit of a mystery how a CEO/CFO making a certification including mandatory language that the disclosure relating to certification is materially accurate, and that the disclosure controls and procedures which generated the disclosure are designed to ensure the flow of all material information, can then issue a report on those controls and procedures that points out any deficiencies.

great deal of sympathy for the harried senior executive with countless demands on his time, not to mention the general counsel who supports him. Arguably, Jones simply shows that CEOs are mere mortals like the rest of us. Furthermore, in his defense, the contract with Polo Ralph Lauren was almost certainly long, complex and negotiated largely out of the direct control of the CEO. He probably specified a set of general goals and delegated their negotiation and documentation to others. This is what good managers are supposed to do.

Unfortunately, under the new regime imposed by Sarbanes-Oxley, this defense is probably ineffective, particularly when subject to third-party scrutiny and the benefit of hindsight in the context of litigation or administrative action. The CEO's declaration of ignorance of a contractual provision in a newsworthy dispute becomes a potential breach of the obligations described above – that he establish, maintain and evaluate controls and procedures to ensure that he is being provided with all potentially disclosable information about his company on a timely basis. If it makes the news and the CEO does not know about it, the logical (though not necessarily *reasonable*) implication is that this obligation has not been satisfied.

The core principle behind securities regulation - that companies disclose in a timely manner information that may be material to an investment decision – predates Sarbanes-Oxley and remains unchanged. However, the new externally-imposed requirement that companies have *systems* in place to ensure the internal flow of significant information has potentially serious ramifications. It bears repeating that this is because any perceived failure in disclosure can potentially lead to SEC or other third-party scrutiny of the adequacy of that system, even if the resulting disclosure is not "materially deficient".

In the area of corporate contracting, this is not insignificant. Public corporations typically have a well-staffed (though probably overworked) in-house legal department, but rely heavily on outside lawyers to negotiate and document their major corporate transactions; be they financings, joint ventures or other ongoing business relationships. On one hand, these outside lawyers, always having malpractice liability in mind, typically take a conservative approach and attempt to add (or at least appear to add) as much value as possible for the benefit of their clients. On the other hand, once the agreements they draft and negotiate are signed, they will rarely have to deal with them on a day-to-day basis as living, operative documents. That task falls to the in-house lawyers, who have many other things to do, and whose involvement in the drafting and negotiation process may have been limited to ensuring that the contract addresses the principle concerns of their senior management.

In my experience, contracts produced under these circumstances frequently tend to be long, complicated and attempt to address every possible contingency. They are negotiated with the primary goal of "closing the deal" rather than producing a functional document. Provisions in forms that are used as models will be left in "because it can't hurt to leave them in." Compared to the amount of the underlying transaction, the legal fee associated with drafting the relevant documentation is frequently a minor expense (and may be capitalized in certain types of transaction). Other than the time charged by lawyers drafting and negotiating these agreements, therefore, the fact that they are long and contain complex provisions is effectively cost-free and arguably provides greater protection (or more likely, the feeling of having greater protection) to their signatories.

Under Sarbanes-Oxley, however, this may no longer be true. Each additional contractual provision that involves ongoing rights and obligations is no longer "free" but rather may become a compliance issue that must be monitored on an ongoing basis, in case a possible breach results in a potentially disclosable change of circumstances. The duplicative use of "potential" and "possible" in the preceding sentence is deliberate because, for disclosure controls and procedures to work, they must surely handle a great deal of information that *potentially* requires disclosure, but is ultimately determined immaterial.

Of course, it has always been the case that breach of contract and other compliance problems give rise to potential disclosure issues that need to be monitored and reported to senior management. Prior to Sarbanes-Oxley, however, such monitoring could be done on an *ad-hoc* basis and, as long as material issues springing from any particular contract were timely disclosed, there was no problem. Now, however, the SEC can take enforcement action against a company for failing to maintain adequate disclosure controls and procedures, again, *even if there is no material deficiency in the disclosure they generate*. Furthermore, once the adequacy of the disclosure controls and procedures is under suspicion, the CEO and CFO certifications as to those controls and procedures are also subject to claims that they were untrue, potentially exposing both these officers and their company to further liability (including civil liability from shareholders) under Rule 10b-5 and other provisions of the securities laws.[20]

In light of these potential new liabilities, companies may wish to rethink the wisdom of using inch-thick contracts to document significant corporate transactions. While it may be helpful to have top-

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[20] *See, e.g.*, 17 C.F.R. § 240.10b(5) (2004). The ability to report contractual issues on an ad-hoc basis will probably be further degraded by the pending rules implementing Section 409 of Sarbanes-Oxley which requires registrants to move to a "real time" disclosure regime. Sarbanes-Oxley, §409, 116 Stat. at 791.

notch law firms spend time trying to anticipate and draft for every possible contingency that might arise in a transaction, the effort associated with actively reporting and monitoring the occurrence (or non-occurrence) of each such contingency must now be taken into account. The potential burden here may be significant, particularly considering the Act's explicit requirement that disclosure controls result in material information being reported to the CEO and the CFO, rather than some other unspecified corporate officer.[21] This means that not only do contracts have to be actively and systematically monitored for ongoing compliance, but all potential disclosure issues that arise from them need to be assimilated into a format that can be explained to a principal executive officer who is already overloaded by demands on his time. Thus, the key aspects of the underlying contract must presumably itself be comprehensible to the officers and employees who implement the disclosure controls and procedures in order for them to present potential disclosure issues to the CEO and the CFO. This may be no small task in the case of complex junk bond indentures or derivative instruments. After all, who wants to be responsible for succinctly but accurately summarizing to the CEO an equity swap agreement that is based on heavily modified versions of the ISDA form swap documentation, for example? What CEO wants to take responsibility for being misinformed about such an instrument? Yet the problem described in this article is particularly applicable to the documentation for such transactions because of the additional layer of disclosure requirements newly imposed by Sarbanes-Oxley on the companies that use such complex financing vehicles.[22] Accordingly, the need to have controls and procedures to monitor potential developments involving such contracts is particularly great.

Even where the subject matter of the agreement is not necessarily complex, the issue remains the same - all ongoing contractual obligations give rise to the possibility that the adequacy of disclosure controls and procedures may be questioned, even if they do not give rise to actual disclosure issues. Let us take one very simple, trivial even, example to illustrate the point. Any contract document of any length will have notice provisions, describing the formalities under

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[21] *Id.*

[22] Section 401 of Sarbanes-Oxley together with Item 303(a)(4) of Regulation S-K, *supra* note 12, impose detailed disclosure requirements on issuers who use "off-balance sheet arrangements," which includes certain types of guarantees and other contingent obligations. Sarbanes-Oxley, §401, 116 Stat. at 785-87; Item 303(a)(5) of Regulation S-K, *id.*, further require issuers to include in their periodic filings tabular disclosure of long term debt obligations, capital lease obligations, operating lease obligations and purchase obligations. Accordingly, the contracts underlying the transactions subject to such disclosure are already subject to enhanced scrutiny.

which notice given to each other by parties in connection with contractual matters. These provisions are typically included in the miscellaneous boilerplate provisions at the end of the agreement, but they are frequently the provisions that the parties and their in-house lawyers deal with on a daily basis. The authors of these provisions do not typically spend a great deal of time on them. The in-house lawyer or business person to whom outside counsel reports may be focused primarily on the business issues to be reflected in the contract.

So what? Well, a common notice provision will typically require that for notices under the contract to be validly given, they must be delivered by hand or express courier. Many notice provisions also allow for delivering notices by fax. Many of those require that fax notices be followed up by a copy sent by certified mail. I have never seen a notice provision that allows for notice via e-mail. However, given the realities of continuing business relationships based on one or more contracts, many routine communications between contract parties are likely to be given by fax or by e-mail. In my own experience, it is a rare occasion when any such communications are actually followed up by express courier or certified mail. But if anyone were to check, it is likely that many communications that constitute notices under any given contract are not conducted using the required formalities.[23]

Again, so what? Does the fact that day-to-day notices given to a contract counterparty may be invalid become a disclosure issue? Probably not. Will the failure of any particular notice to be valid result in a material default that becomes a disclosure issue? It depends on the contract, but probably not. I would hate to try to win a contract case based solely on the argument that "we only got notice by fax, with no mail copy to follow." I would, however, be comfortable making an argument that the failure of a company to report its own non-compliance with the terms of a major contract (or such non-compliance by a counterpart) up the chain of management constitutes *prima facie* evidence of that company's failure to establish and maintain adequate disclosure controls. A logical (though again, not necessarily *reasonable*) inference from this is that company is not complying with stipulated *external* notification procedures may not be complying with internal ones either.

I have used the example of notice provisions, which are to most people trivial and non-substantive, precisely because they appear in most contracts and should thus be easy to understand, even if the potential issues may be exaggerated. The difficulty of coming up with

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[23] Note that most boilerplate provisions in a contract of any length will also contain a provision stating that no failure to assert a right under the contract will constitute a waiver of that right. Therefore, the fact that the other party accepts the defective notice without objection will not necessarily render it valid.

clear and comprehensible example involving a ninety-page credit agreement for a $500 million multi-currency secured loan facility - one that includes not just notice provisions, but scores of affirmative and negative covenants, representations and warranties and financial ratios that have to be maintained at all times – hopefully illustrates the problem that such agreements cause to the company trying to maintain disclosure controls and procedures that significant developments relating to such a document.

Large companies may be able to shield themselves in the same way that they avoid disclosing any contracts as exhibits to their Exchange Act filings - by stating that no single contract is material to their business. If no contract is material then, logically, no breaches of them can be either; it is possible that Jones Apparel's license agreements with Polo Ralph Lauren may not have constituted a material contract either notwithstanding the resulting litigation. But, as I have tried to show, any situation arising from a contract to which the company is a party and which, through the benefit of hindsight is deemed significant or newsworthy, calls into question the adequacy of that company's controls and procedures independent of materiality. It is no longer possible for the CEO or the CFO of that company to say "we didn't know" or "we didn't understand the contract when we signed it," without subjecting themselves and their company to potential liability. While this may hold CEOs liable for a degree of omniscience that some of them are doubtless already attributing to themselves, it places a significant burden on those below him who must support that omniscience, most likely the corporation's legal and compliance departments.[24]

IV. CONCLUSION

So where does all this lead? Possibly nowhere, but more likely in a number of directions. First, public companies will need more in-house lawyers or other professionals just to keep up with the enhanced compliance burden. This should not be a surprise to anyone. But it may not be enough to have a larger legal department upon which the increased compliance burden falls. People change jobs, and as described above, in-house lawyers may not be involved in all of the details of a document's creation. It will be, thus, less feasible to rely on institutional memory to effect compliance. Documents that can be easily read and understood by anyone will become increasingly important, irregardless of how large the legal department has become.

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[24] An interesting issue is to what extent the CEO and CFO can rely upon back-up certifications as to information controls and procedures as to legal matters from the corporation's chief legal officer.

Second, the establishment of disclosure committees, as recommended (but not required) by the SEC, will become even more important.[25] This is not only because the existence of such a body provides concrete evidence of a company's intent to establish disclosure controls and procedures, but because it will act as a filter for a *potential* myriad of compliance-related disclosure issues. The importance of such a filter is, hopefully, apparent from the foregoing discussion. Otherwise, to put it back in the context of the Jones Apparel breach of contract case, if I were a CEO and had to admit I did not know about the provisions in an agreement to which my company was a party, I would feel much more comfortable attributing my lack of knowledge to the decision of a disclosure committee, than to a general failure of "somebody" to tell me. The burden of performing its filtering role will probably further enhance the desirability of documentation that can be readily summarized and understood by the committee's members.

Third, the benefits of the increasing use of standardized contracts that are only lightly negotiated (where possible) should be increasingly apparent. Many firms already use standardized contracts – most Wall Street lawyers are familiar with, say, the Chase form of credit agreement or the Merrill Lynch form of Underwriting Agreement. But Sarbanes-Oxley may render this an even more widely-accepted approach, and make the companies that use such contracts even less reluctant to accept significant changes to their form. The fewer variations there are from a widely-known form, the easier it is to track compliance with all of the contracts using that form.[26]

The fourth result is the one that is at the center of this article and is perhaps the least intended result of Sarbanes-Oxley. Companies may come to appreciate the value of shorter, simpler contracts written in something approaching "plain English" – contracts that can be succinctly explained to senior management and that can be read and understood years after they are signed and without the benefit of context. This would not be a bad result, except possibly for law firms who, until now, have in effect been paid by the word and generate follow-on fees from requests to decipher their own work. But it does not have to be so. Shorter contracts require drafters to exercise their judgment as what to leave out as much as about what to put in. This often requires more mature professional skills and experience than the "eve-

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[25] *See, e.g.*, the adopting releases for (among other things) Rule 13a-15 and 15d-15, 67 Fed. Reg. 174 (Sept. 9, 2002), in which the SEC states at Section B.3 that "[w]e do recommend, however, that, if it has not already done so, an issuer create a committee with responsibility for considering the materiality of information and determining disclosure obligations on a timely basis."

[26] It also includes some risk, since the breach or invalidity of a provision under a standardized contract may result in the same effect under all contracts of the same type, making it more likely that in the aggregate there is a material impact.

rything but the kitchen sink" approach which results in contracts that are an inch thick.[27]

And even where a long document with many provisions is unavoidable (it is unlikely that lenders, for example, will give up the extensive undertakings required of borrowers in their loan agreements), having contracts drafted using more widely-accessible language will still make it easier for companies to comply with the disclosure requirements. As most lawyers who have tried doubtless know, it can actually be quite difficult to try to draft in "normal" English, dispensing with passive voice whenever possible, and avoiding the use of "herein," "provided however" and all those other magic words that are the mark of "lawyerly" writing. These words are, after all, a form of shorthand that save lawyers' time because we expect other lawyers to understand their meaning and usage without explanation. But perhaps under Sarbanes-Oxley we should not just draft for the benefit of the lawyers on the other side of a transaction. Contracts are living documents and we should try to make it easier for our clients to live with them.

Contracts, together with regulatory compliance, litigation and a host of other issues, are just one of the many facets of a company's business matters that will test the strength of these controls and procedures. Nevertheless, because contracts are largely self-inflicted compliance obligations, companies have more control over how those obligations fit into their internal disclosure systems. Thus, there may be significant opportunities for lawyers to help companies develop contracting practices to ensure that their CEOs never have to say "I didn't know."

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[27] Lest any reader think I am exaggerating with this descriptor, I have worked on project financing transactions where the combined contract and related documentation was two *feet* thick and filled as much shelf space as a set of encyclopedias.