TRANSLATIONAL MEDICINE SYMPOSIUM 2013: Business Strategy and Financing Panel

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BUILDING A VENTURE THAT CAN RAISE MONEY AVOIDING RED FLAGS

• Substance over promotion
• Business factors – working prototype, paying clients, etc.
• Experienced team – at least a technical leader and a business manager
• Simple, Clean structure
• Accounting and financial systems and management reporting
• Open to input
• Careful documentation
• Be focused
• Don’t ignore business to search for money
• Confidentiality/Proprietary Information Agreements
• Ownership/protective of intellectual property
• Vesting arrangements
• Corporation
  • Best-developed body of law, but less flexible and harder to maintain
  • Liability protection for stockholders and directors – but avoid risk of “piercing the veil”
  • Governance: Officers, directors and stockholders/Directors and officers have fiduciary duties
  • Federal taxation: Corporations can be taxed as a “C” or “S” corporation
• Limited Liability Company
  • Newest and most flexible form of business, both in terms of governance and taxation
  • Liability protection for members and managers – but avoid risk of “piercing the veil”
  • Governance: - Member-managed or manager-managed/Operating agreement provides much flexibility
  • Federal taxation: - By default a flow-through entity, but LLC can “check the box”
  • State law governs the rights and obligations of members/managers
SELECTION OF AN ENTITY (cont’d)

- Limited Partnership
  - Newer than corporations
  - Limited partners not liable for the debts of the company, but general partner has full liability
- Governance:
  - General partner (who manages all aspects) and any number of limited partners
  - Fiduciary duties
- Federal taxation:
  - Taxed as a pass-through entity
  - Like the “S” corporation, partners taxed on partnership income, even if not distributed