

JOB Act – Strategic Opportunity

Biomedical Commercialization LLC

Barry Michael

Past Personal Lessons:

Wharton – Strategy can start on the back of an envelope.

Bloodborne Pathogens Standard-
Carefully study the actual document.

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Conclusions:

JOB Act – Opens up new investor segments

Scenario planning should start now

Early stage companies need to demonstrate scientific, technical and management expertise

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SEC disclaimer on website:

... please consult with an attorney
who specializes in securities law ...

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Train wreck : Neogenix Oncology

“The company has concluded that finders fees were paid to individuals and entities whom the company has not been able to confirm were registered as broker-dealers or otherwise licensed under state law to participate in the sale of the company’s securities on a compensated basis.”

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Jumpstart Our Business Startups

Cut and pasted into:

Securities Act of 1933

Securities Exchange Act of 1934

Investor Protection and Securities Act of 2010

Sarbanes-Oxley Act of 2002 ...

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Project based Crowdfunding:

Kickstarter - \$137,417 for a phone stand and \$134,236 for a stylus for writing on touch screens

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Example of registration under the Securities Act of 1933

Atossa Genetics Inc.

CIK 00014888039

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Exemptions from Registration:

Private offerings to a limited number
of persons

Offerings of limited size

Intra state offerings

Government Securities

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Title III - Crowdfunding

Short Title

*“The Capital Raising Online While
Deterring Fraud and Unethical Non-
Disclosure Act of 2012”*

NOT YET LEGAL

Not more than \$1MM in a 12 month period
preceding the transaction date

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Title III - Crowdfunding

Some Portal/Broker Dealer roles:

Explain risk of loss

Determine if investor can afford

Must Answer Questions

Insure investor stays under his/her personal investment limit which ranges from \$2,000 to \$100,000

No success fees allowed!

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Title III – Crowdfunding

Some things Issuer must address:

Terms and types of securities

Limitations on rights, possible dilution

Principal stockholder rights

How valued today and future examples

Minority ownership risks

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Title III - Crowdfunding

Some things Issuer must address:

Provide anticipated Business Plan

For offering < \$100K tax and financials certified by principal executive

For offering > \$100K but <\$500K financial statements reviewed by public accountant

For offering >\$500K audited financial statements

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Title III - Crowdfunding

Issuer requirements:

Can't advertise terms of offering

At least annually file with SEC & provide investors reports on results of ops and financial statements

Issuer is liable for misrepresentation

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Title II – Access to Capital for Job Creators Sometimes referred to as “Section 201”

“Prohibition against general solicitation or general advertising shall not apply to offers and sales of securities provided that all purchasers are accredited investors.”

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One of several Accredited Investor definitions:

A natural person with \$200K of annual income over last two years and expectation of the same in most recent year....\$300K if joint income ...and in either case \$1MM in assets not including primary residence.

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Section 201 scenario planning:

Timing indeterminate while waiting for Mary Jo White's confirmation.

BIO is very positive.

Representative Patrick McHenry wants to move to an interim final rule.

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“For Startups, Culture Shouldn’t be Overlooked”

“Sharing a vision is a key to success”

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Section 201 scenario planning:

Both investors and employees have a similar interest in financial reward

Strategic planning and Communication should emphasize milestone accomplishments in science, technology and management

My Reviews of 730 medical device websites indicates this is not the norm

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“Who Needs Wall Street?”

By Gorfine and Miller

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A Good overview of lifting the ban on general solicitations and advertising

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