Kansas Bioscience Authority

Forensic Audit

December 31, 2011

BKD LLP
CPAs & Advisors

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INTRODUCTION

On April 11, 2011, **BKD, LLP** ("BKD") was engaged to perform a Forensic Audit of the Kansas Bioscience Authority ("KBA"). The scope of the Forensic Audit expanded significantly during the early phases of the investigation. In addition to the expansion in the initial scope of the investigation, the reporting process was changed to include a process by which interim drafts of the report were provided to representatives of KBA and certain representatives of the State of Kansas. The purpose of this reporting process was to obtain broad input and information relating to the investigation. The report that follows is the result of this investigation.

Several meetings were held pertaining to the Forensic Audit in July, September and December. These meetings were attended by representatives of KBA and select representatives of the State of Kansas. During these meetings, additional information was provided and additional investigative procedures were developed, which resulted in further expansion of the scope of the investigation.

BKD utilized the services of 16 different professionals, including eight Certified Fraud Examiners and three computer forensics specialists during the course of this investigation. These professionals spent approximately 2,800 hours on the investigation and incurred fees and expenses of approximately $762,000. As discussed later in this report, this included interviews, extensive review of documents and data at KBA's offices, forensic analysis of computers and a variety of other investigative techniques and procedures.

BKD conducted interviews of 69 individuals during the investigation. This has included current and former KBA employees, current and former members of KBA Board of Directors, current and former lawmakers with knowledge pertaining to KBA and persons and companies doing business with KBA. To our knowledge, every person who expressed an interest in providing information regarding KBA was provided an opportunity to present information.

During the investigation, BKD provided multiple methods for providing input and information. For example, early in the investigation, we established a special email address for those who wished to provide information in that manner. We provided contact information for the investigators.

In addition, we publicized our availability at various locations off KBA's campus for those who felt more comfortable meeting in an off-campus environment. We also announced our availability on or off KBA's campus during lunch hours or after business hours in an effort to provide an easy way for anyone with information to provide this information.

Representatives of KBA have been cooperative and have provided the information that we have requested. Representatives of the State of Kansas have been involved in providing information and identification of sources of information to consider as part of the investigation.
Dale Rodman, Secretary of Agriculture, State of Kansas; Caleb Stegall, Chief Counsel to Governor Brownback, State of Kansas; and Steve Anderson, Budget Director, State of Kansas

have all provided information and identified potential sources of information pertaining to the investigation. The participation of the representatives of the State of Kansas in this process, in our judgment, has been helpful to the breadth and scope of the investigation.

Before getting into the specifics of our findings and recommendations, we note that several unusual events occurred during the course of our investigation:

- Tom Thornton resigned as the President/Chief Executive Officer on April 13, 2011, shortly after the Forensic Audit started.

- After his resignation, Tom Thornton's KBA computer was returned to KBA. Upon examination of the computer by BKD's computer forensics team, we discovered that information had been wiped from the computer.

- KBA's former Chief Financial Officer/Chief Operating Officer, Jan Katterhenry, changed employment status during the course of the Forensic Audit and is now no longer employed by KBA.

These are unusual events in the course of any business and are particularly unusual in the course of a Forensic Audit.

These matters have been investigated and will be the subject of supplemental disclosures and recommendations to KBA's Board of Directors. To the extent possible, consistent with confidentiality of personnel matters, our findings relating to these issues are also set forth in this report.

This report and the attached exhibits are voluminous. Where appropriate, we have attempted to provide both the detail relating to our findings and summaries of information to improve the readability of this report.

BACKGROUND OF ENGAGEMENT

In late 2010 or early 2011, representatives of the Center of Innovation for Biomaterials in Orthopaedic Research ("CIBOR") contacted Senator Susan Wagle regarding KBA's alleged promise of $20 million in funding, over five years, which was not forthcoming as anticipated.[1]

On February 15, 2011, KBA's then President/Chief Executive Officer ("CEO"), Tom Thornton, gave an overview of KBA's operations to the Senate Commerce Committee (the "Commerce Committee") at the request of Senator Wagle. That progress report included an overview of KBA's operations, its goals, investment strategy, investment tools, target funding areas and Outcomes. At the conclusion of Thornton's presentation, Senator Wagle, Chair of the Commerce Committee, stated that the Commerce Committee had a number of questions regarding how KBA was spending taxpayer dollars. Senator Wagle indicated that some companies seeking assistance from KBA had contacted members of the Commerce Committee with concerns. Senator Wagle stated, "And when you have little projects from Kansas investors, who have come before you for investments and they are not getting funded, then those projects come to us and they say what is going on up there, so this is why they are asking these questions."[2]

As a result of questions raised by the Commerce Committee, KBA again appeared before the Commerce Committee on February 22, 2011 and provided information and discussion with regard to:

- the ranking of Kansas as the 5th of the top 10 states in biotechnology strength;
- KBA client company technologies;
- jobs traced back to KBA funding;
- an overview of the benefits of an Eminent Scholar;
- salaries of all KBA employees;
- statute requirements for funding expiration;
- the authorization and expenses related to the Venture Accelerator;
- expenses related to meetings, travel, and contractual, consulting and marketing services; and
- KBA meetings held out-of-state.

After the Commerce Committee's review of the information and resulting questions, Senator Ty Masterson moved that the Commerce Committee request a Post Audit of KBA. The motion was seconded by Senator Julia Lynn and the motion carried. Senator Wagle indicated that another meeting would be scheduled to allow the Commerce Committee time to review the information submitted by KBA as a result of the February 15th meeting, and to submit questions to KBA to be answered by Thornton at the subsequent meeting.[3]

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[1] It is our understanding that KBA disputes the promise of $20 million in funding to CIBOR. Please refer to the separate Forensic Audit report prepared by Meara Welch Browne, PC for a detailed discussion of this issue.

[2] Senate Commerce Committee minutes from February 15, 2011. http://www.kslegislature.org/li/b2011_12/year1/committees/ctte_s_cmrce_1/minutes/.

[3] Senate Commerce Committee minutes from February 22, 2011. http://www.kslegislature.org/li/b2011_12/year1/committees/ctte_s_cmrce_1/minutes/.

KBA again appeared before the Commerce Committee on March 4, 2011. Senator Wagle began that meeting by reading a letter from Melissa Lynch, former Executive Assistant to Thornton at KBA, which alleged "unethical actions by Tom Thornton or the waste of taxpayer money." Please refer to ***Exhibit 1*** for a copy of the letter. Senator Wagle also presented an anonymous fax[4] regarding how KBA analyzes job growth, as well as a scope statement from Post Audit regarding a review of the appropriateness of KBA's expenditures. Senator Wagle stated that she thought the Commerce Committee was most concerned about the use of taxpayer dollars and salaries and bonuses and questioned the validity of the salary information previously submitted to the Commerce Committee.[5]

KBA appeared before the Commerce Committee for a fourth time on April 1, 2011. Information submitted by KBA as a result of the March 4th meeting was discussed and additional information and concerns were presented by Senator Wagle. In that meeting, various questions were raised regarding Thornton's employment history and potential conflicts of interest related to Thornton's involvement with business and political organizations in Illinois and with various entities and persons interacting or doing business with KBA. Senator Wagle indicated that the Commerce Committee was considering the need for a forensic audit.[6]

On April 11, 2011, KBA's Board of Directors ("BOD") hired **BKD, LLP** to perform a Forensic Audit, the result of which is this report. The scope of the audit has changed over time at the request of representatives of the State of Kansas as presented below.

ENGAGEMENT SUMMARY

Engagement Overview, Scope and Approach

On May 18, 2011, the original scope of the Forensic Audit was finalized, with input from Governor Brownback's representative, Secretary of Agriculture Dale Rodman, to address the following:

1. KBA expenditures from inception to the present related to the current and past management and employees of KBA, including, but not limited to compensation, travel and entertainment;
2. payments and contractual arrangements with all contracted entities engaged by KBA from inception to the present;
3. payments by outside entities from inception to the present, including, but not limited to compensation, travel and entertainment received by current and past KBA management, employees and BOD members with voting rights;

[4] In an interview with Senator Wagle on October 6, 2011, she indicated that after her inquiries into KBA's operations and spending were made public, she received a significant number of emails, phone calls and documentation regarding possible improprieties in KBA's operations and spending. BKD requested access to all the information received by Senator Wagle; however, she declined due to confidentiality concerns for the individuals who submitted the information to her.

[5] Senate Commerce Committee minutes from March 4, 2011.
http://www.kslegislature.org/li/b2011_12/year1/committees/ctte_s_cmrce_1/minutes/.

[6] Senate Commerce Committee minutes from April 1, 2011.
http://www.kslegislature.org/li/b2011_12/year1/committees/ctte_s_cmrce_1/minutes/.

4. potential conflicts of interest by current and past KBA management, employees and BOD members with voting rights, including, but not limited to the KansasBio and Kansas Technology Enterprise Corporation ("KTEC");
5. potential conflicts of interest in regard to the awarding of funding from inception to the present from KBA to recipient companies, including, but not limited to contributors and board members of KansasBio, and employees and board members of KTEC; and
6. analysis of funding by KBA of out of state ventures in conflict with KBA's enabling statutory language.

On September 21, 2011, KBA's Chairman Dan Watkins and Interim President David Vranicar, and Secretary of Agriculture Dale Rodman and Governor Brownback's Chief Counsel Caleb Stegall had the opportunity to review an interim Forensic Audit report to identify any factual errors and to raise any questions regarding the procedures performed to date and the preliminary findings.

Subsequent to the September 21, 2011 meeting, BKD received requests regarding additional procedures and expanded areas for review. The following procedures, among others, were performed after the September 21, 2011 meeting:

- the interview of specifically requested individuals;
- the analysis of the executive search process and the hiring of Tom Thornton;
- an analysis and verification of Tom Thornton's historical and current employment;
- an expanded conflict of interest analysis based on various allegations made by concerned citizens; and
- the analysis of specific investments of interest for various issues.

The draft of the Forensic Audit report was presented to those same individuals and KBA's General Counsel Tariq Abdullah on December 7, 2011 and was provided to the Johnson County District Attorney's Office. Representatives of KBA's BOD and management were then given the opportunity to provide comments related to the Findings. KBA's responses to the Findings are so noted throughout the report.

Our services do not constitute a rendering by **BKD, LLP** or its partners or staff of any legal advice, nor do they include a compilation, review or audit of financial statements. Because our services are limited in nature and scope, they cannot be relied upon to discover all documents or other information or provide all analyses that may be of importance in this matter. For example, any procedures we perform cannot be relied upon to give assurance that any defalcations or misappropriations that might have taken place will be discovered. Furthermore, we will place full reliance upon information provided to us for review or through conversations and interviews with relevant parties, inclusive of, but not necessarily limited to current or past management, employees and directors of KBA. All references to possible dishonest acts detailed in this report are considered to be alleged dishonest acts. We assign no guilt to any party as that is the jurisdiction of the courts.

ENGAGEMENT APPROACH

Interviews

Interviews were conducted with the following individuals, inclusive of current and former KBA employees and BOD members, legislators, representatives of organizations that have sought funding from KBA, representatives of Kansas State University, representatives of organizations providing services to KBA and members of the public.

Current KBA employees:

- David Vranicar – Interim President/CEO of KBA and President of Heartland BioVentures
- Marsh LoScalzo – Executive Assistant to President/CEO
- Ruth Saale – Director of Accounting and Financial Reporting and Interim Chief Financial Officer
- Nancy Ruf – Contract Administrator
- Mary Cummings – Marketing Communications Specialist
- Ryan White – Outcomes and Database Analyst
- Tariq Abdullah – General Counsel
- Gary Micheel – Facilities Project Manager
- Keith Harrington – Director of Commercialization, Heartland BioVentures
- Tom Krol – Director of Commercialization, Heartland BioVentures
- Brad Kemp – Director, Cancer Cures Project
- Tony Simpson – BioEnergy Director, Heartland BioVentures
- Don Colbert – Federal Research Funding Specialist

Former KBA employees:

- Tom Thornton[7] – President/CEO
- Jan Katterhenry[8] – Chief Financial Officer/Chief Operating Officer
- Lindsay Holwick Thornton[9] – Director of Special Projects
- Katie Montes – Financial Executive Assistant
- Lisa Kay – Executive Administrative Assistant, Heartland BioVentures
- Melissa Lynch – Executive Assistant to President/CEO
- Dr. Terry Osborn – Director of Commercialization, Heartland BioVentures
- Forest Decker – Contract Administrator
- Christine Murray – Marketing Specialist for Venture Accelerator
- Jim Mitchell – Director of Commercialization, Heartland BioVentures
- Chuck Willis – Director of Commercialization, Heartland BioVentures
- Alan Felton – Former Employee

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[7] Mr. Thornton's counsel, Jim Eisenbrandt and Christina DiGirolamo of Berkowitz Oliver Williams Shaw & Eisenbrandt were present for the interview, which was conducted on August 24, 2011.

[8] Ms. Katterhenry's counsel, Patrick McInerny of Husch Blackwell Sanders was present for the interview, which was conducted on August 23, 2011.

[9] Lindsay Holwick Thornton's counsel, JR Hobbs and Nathan Owings of Wyrsch Hobbs & Mirakian, P.C., were present for the interview, which was conducted on August 24, 2011. Lindsay Holwick Thornton is referred to as such throughout this report. However, she was Lindsay Holwick prior to her marriage and became Lindsay Thornton on January 15, 2011.

Current KBA BOD members:

- Governor John Carlin – Visiting Professor, Executive in Residence at Kansas State University
- Dan Watkins – Law Offices of Daniel L. Watkins
- Bill Sanford – CEO Symark, LLC; Chairman of NanoScale; Board Member Cleveland Clinic; Advisory Board Member Cleveland Clinic Innovations; Former Chairman BioEnterprise of Cleveland; Former Advisory Board Member Heartland BioVentures
- Sandra Lawrence – EVP/CFO Children's Mercy Hospital and Clinics
- Earl McVicker[10] – Chairman/CEO/President of Central Financial Corporation and Central Bank & Trust Co.
- Dr. David Franz – VP and Chief Biological Scientist MRIGlobal
- Mr. Jerry Boettcher – President Boettcher Enterprises, Inc.; Boettcher Supply, Inc.; and Boettcher Aerial, Inc.
- Dr. Don Beggs (R&D Advisory Council) – President Wichita State University
- Dr. Kirk Schulz (R&D Advisory Council) – President Kansas State University
- Dr. Bernadette Gray-Little (R&D Advisory Council) – Chancellor University of Kansas
- Dr. Steven Scott (R&D Advisory Council) – President Pittsburg State University

Former KBA BOD members:

- Dr. Ray Smilor – Robert and Edith Schumacher Executive Faculty Fellow in Innovation and Technology at the Neeley School of Business, Texas Christian University
- Dolph Simons, Jr. – Editor Lawrence Journal World
- Clay Blair – CEO Clay Blair Services and Prime Development; former President of the Kansas Board of Regents
- Dr. Jon Wefald – Former President Kansas State University
- Angela Kreps – President of KansasBio
- Ed McKechnie – Chief Commercial Officer Watco Companies
- Bill Thornton – Former Secretary of Commerce and Former General Counsel for MGP Ingredients
- Senator Jim Barone
- Reggie Robinson – Kansas Board of Regents
- Andy Tompkins – Kansas Board of Regents

Kansas Legislators:

- Senator Chris Steinegar
- Senator Susan Wagle
- Senator Julia Lynn

Other individuals:

- Dale Rodman – Secretary of Agriculture, State of Kansas
- Caleb Stegall – Chief Counsel to Governor Brownback
- Cydney Boler[11] – Foulston Siefkin, LLP
- Dick Bond – Former President of the Senate and Former President of the Kansas Board of Regents

[10] Mr. McVicker has not yet been confirmed by the Kansas Senate as a director.
[11] Ms. Boler declined a follow-up interview.

- Kent Glasscock – President National Institute for Strategic Technology and Acquisition Commercialization at Kansas State University
- Sue Peterson – Director of Governmental Relations and Assistant to the President of Kansas State University
- Ron Trewyn – Vice President for Research at Kansas State University
- Dr. Steven St. Peter – Managing Partner of MPM Capital and CEO of Aratana Therapeutics; Former Advisory Board Member Heartland BioVentures
- Dan Schmisseur – Formerly with KTEC
- Ron Madl – Director of Bioprocessing and Industrial Value-Added Program at Kansas State University
- Baiju Shah – CEO BioEnterprise of Cleveland; Former Advisory Board Member Heartland BioVentures
- Tim Cesarek – Managing Director of Organic Growth and Corporate Venturing at Waste Management; Former Advisory Board Member Heartland BioVentures
- Mayor Michael Copeland, Olathe, Kansas
- Jude Sullivan – Attorney at K&L Gates
- David O'Dell – Summit Computer Solutions
- Michael Beckloff – President, Beckloff Associates; Former Chairman KansasBio; Chairman KTEC Pipeline; Principal EnalaPed, LLC.
- Tim Newkirk – CEO MGP Ingredients
- Nick Brill – Principal of Brill Neumann
- Karen Shanahan – Senior Counsel Cleveland Clinic Innovations
- Cynthia Enright – Principal, iValuation
- Dr. Forest Chumley – President/CEO Heartland Plant Innovations, Inc.

Interviews were sought with the following persons, for whom contact information could not be located, or who did not return BKD's telephone calls or emails:

- Cary Nourie – Former Director of Commercialization, Heartland BioVentures
- Arika Nester – Former Accountant at KBA
- Chad Bettes – Former Director of Marketing and Communications at KBA
- Bret Healy – Former Director of Commercialization, Heartland BioVentures
- Ashley Tyrrell – Former Financial Executive Assistant at KBA
- Leslie Genovia – Former Contract Administrator at KBA
- Pam Fellin – Former Contract Administrator at KBA
- Joe Fritton – Former Consultant at KBA
- Dan Glickman – Former BOD Member at KBA
- Victoria Haynes – Former BOD Member at KBA
- Stephen O'Connor – Former BOD Member at KBA
- Tom Corcoran – Former BOD Member at KBA
- Melvin Neufeld – Former BOD Member at KBA
- Michael Borgman – Former BOD Member at KBA
- Robert Hemenway – Former Chancellor of the University of Kansas
- Sukh Bassi – MGP Ingredients
- John Brooks – Former Advisory Board Member Heartland BioVentures
- Tom Wiggans – Former Advisory Board Member Heartland BioVentures

- Tom Giarla
- Joni Cobb – Cobb Communications; President KTEC Pipeline
- Chris Coburn – Executive Director Cleveland Clinic Innovations
- Thomas Graham – Chairman of Cleveland Clinic Innovations

BKD made available a public email address, KBAFORENSICINPUT@bkd.com, through which members of the public could submit any information or concerns for consideration. The email address was made available on April 11, 2011 and remained active as of the date of this report.

Members of the BKD team made their office and cell phone numbers available and were available to meet with any interested party at a mutually convenient location of their choosing. Additionally, BKD made it known to both KBA staff and others that a member of the BKD team was available on November 28, 29 and December 2, 2011 from 11:30 a.m. to 1:30 p.m. at specific Olathe restaurants to meet with any interested party.

Documentation Reviewed

In performing our forensic procedures, BKD reviewed and analyzed the following:

- Available minutes of the BOD, Executive Committee, Investment Committee, Audit Committee and Nominating and Governance Committee from inception through April 2011. It should be noted that no minutes or recording of any Executive Session for any BOD or committee meeting are maintained. Therefore, the content of discussions held during Executive Sessions was not available for consideration by BKD;
- Available expense reimbursement forms, supporting documentation and payment documentation for all current and past employees and current and past BOD of KBA from inception through April 2011;
- Available American Express statements for three cards issued to Tom Thornton, Jan Katterhenry and Melissa Lynch from inception through April 2011;
- Available personnel files, employment contracts, compensation studies and detailed payroll information for all current and past KBA employees from inception through April 2011. The BOD receives no compensation for services as directors;
- Available contracts, supporting documentation and payment documentation for contracted services from inception through April 2011;
- Available contracts, supporting documentation and payment documentation related to the Kansas Bioscience Park and the Venture Accelerator from inception through April 2011;
- Available documentation related to financial grants, investments or other assistance given to bioscience companies, inclusive of applications, awards, post-award reporting, milestone applications and payments and other correspondence from inception through April 2011;
- Request for Qualifications and independent third-party review of venture capital companies approved for investment under the Kansas Bioscience Growth Fund;
- Available documentation and information related to the relationships or partnering between KBA and KTEC, KansasBio and BioEnterprise of Cleveland;
- KBA cell phone records for Tom Thornton from June 12, 2010 through March 11, 2011; and
- Various documents supplied by persons interviewed or persons supplying information for consideration in the Forensic Audit.

Computer Forensics

Computer hard drives for the KBA server and hard drives used by the following current and former KBA personnel were imaged and forensic analysis and email review of certain hard drives were performed.

Tom Thornton	Lindsay Thornton
David Vranicar	Jan Katterhenry
Tariq Abdullah	Marsh LoScalzo
Ruth Saale	Katie Montes
Nancy Ruf	Lisa Kay
Terry Osborn	Tony Simpson
Brad Kemp	Keith Harrington
Tom Krol	Don Colbert
Ryan White	Mary Cummings
Gary Micheel	Chad Bettes
Melissa Lynch[12]	Ashley Tyrrell[13]
Forest Decker[14]	Pam Fellin[15]
Cary Nourie	

In addition, Tom Thornton's email files and content were retrieved from the off-site server storage by Summit Computer Solutions, KBA's external IT provider, for review by BKD. The email was retrieved as a single PST[16] file. Thornton's PST file contained email messages and attachments, contacts and appointments, as well as email folders and distribution lists.

[12] Email belonging to Melissa Lynch was found on her former computer, which is in use by another employee.
[13] Email belonging to Ashley Tyrrell was found on her former computer, which is in use by another employee.
[14] Email belonging to Forest Decker was found on his former computer, which is in use by another employee.
[15] Email belonging to Pam Fellin was found on her former computer, which is in use by another employee.
[16] In computing, PST or personal storage table is an open proprietary file format used to store copies of messages, calendar events and other items within Microsoft email software.

HISTORY AND OVERVIEW OF KBA OPERATIONS

KBA was created on April 19, 2004 by the Kansas Economic Growth Act ("KEGA") and was originally projected to be a 15 year, $581.8 million[17] initiative focused on growing the bioscience sector in the state of Kansas. KBA is charged with:

- building world-class research capacity;
- fostering the formation and growth of bioscience start-ups;
- supporting expansion of the state's bioscience clusters; and
- facilitating industrial expansion and attraction.

KBA is governed by an 11-person[18] BOD, appointed by various state leaders,[19] comprised of local and national leaders in industry and academia. KBA's funding is based on the growth of state tax withholdings of bioscience employees working for bioscience companies and state universities in Kansas. State withholding taxes that exceed 95% of the 2003 base-year measurement of such taxes for companies with specifically identified NAICS codes accrue to KBA for investment in additional bioscience growth for 15 years or until funding reaches $581.8 million.[20]

KBA is focused on expanding Kansas' research and industry strengths to:

- increase the quantity of high-quality research that has commercial relevance for Kansas;
- expand the availability of investment capital needed to form and grow new companies;
- grow and nurture an increasingly experienced pool of entrepreneurial management talent supported by organized systems of services and networking;
- expand the availability of capital and assistance to support product innovation in established companies; and
- facilitate bioscience corporate expansion and attract new-to-Kansas bioscience corporate activity that grows and strengthens specific clusters of excellence.

KEGA indicates that the mission of KBA is "to make Kansas the most desirable state in which to conduct, facilitate, support, fund and perform bioscience research, development and commercialization, to make Kansas a national leader in biosciences, to create new jobs, foster economic growth, advance scientific knowledge and improve the quality of life for the citizens of the state of Kansas."[21] KEGA contained some clear requirements with regard to specific KBA programs, which are noted where appropriate throughout this report. However, KEGA left much of the "how" KBA was to accomplish its stated mission to the interpretation of KBA's BOD.

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[17] Due to funding caps in place since 2008, it is now projected by KBA management that KBA will not reach its maximum funding of $581.8 million prior to its sunset date of 2019, 15 years after the enactment of KEGA.
[18] Nine voting members and two non-voting members.
[19] The Governor has two appointments, the Speaker of the House of Representative has two appointments, the President of the Senate has two appointments, the Minority Leader of the House has one appointment, the Minority Leader of the Senate has one appointment and one position is held by the Secretary of Commerce. All voting members must be confirmed by the Senate. The Secretary of Commerce is a voting member who need not be confirmed.
[20] K.S.A. 74-99b33 and 74-99b34.
[21] K.S.A. 74-99b02(a)(5).

START-UP PHASE

KBA has operated under two distinct phases: the Start-up and Operational Phases. In the Start-up Phase (April 2004 to October 2006), KBA operated under the leadership of Chairman of the Board ("COB") Clay Blair. During Mr. Blair's tenure with KBA, he was the driving force behind KBA's operations, performing many duties that would fall to a CEO. Until October 2006, KBA operated out of a conference room in Mr. Blair's company, Clay Blair Services. From its inception to October 2006, KBA operated with no employees, and most administrative and back office activities were performed on behalf of KBA by KTEC, utilizing KBA funds for operational and programmatic payments. The involvement of KTEC in KBA's initial operations was specifically addressed in KEGA.[22] Please refer to the KTEC section of this report for further discussion. Mr. Blair indicated that the BOD became dissatisfied with the level of services being provided by KTEC for the amount of fees paid, and in February 2006 hired a contract employee, Janet Mosser, to assist Mr. Blair and perform administrative services.

Much of the first several months of KBA's existence consisted of establishing a structure around the statutory requirements of KEGA with regard to KBA's operations and refining the funding mechanism for KBA. Most investments made during the Start-up Phase were focused in the Expansion and Attraction and R&D Voucher programs and served to increase the presence of bioscience companies and research in Kansas. Mr. Blair indicated that during this period, he was personally responsible for KBA's outreach in Kansas and to bioscience companies outside of Kansas.

Initially KBA's funding was minimal as its funding mechanism was dependent upon increases in taxes paid by bioscience employees. Therefore, Mr. Blair indicated his focus was primarily on attracting and expanding bioscience jobs in Kansas. Mr. Blair was successful in his efforts. During 2006, largely before KBA had its own offices or dedicated staff, KBA provided funding to Hospira, Quintiles,[23] Caravan Ingredients, JACAM, Ventria and OncImmune through the Expansion and Attraction program. This funding either assisted in attracting new jobs to Kansas or retaining existing jobs.

Mr. Blair indicated that during his tenure, he focused on the aspect of attracting and creating bioscience jobs as this was his strength given his entrepreneurial background. He was not as familiar with the scientific research side of the bioscience sector and was looking for a CEO(s) for KBA and Heartland BioEnterprise (now Heartland BioVentures), that would fill that gap and interface well with the research institutions to provide the additional programmatic requirements as outlined in KEGA. After an executive search process, Tom Thornton was hired to fill that gap.

Milestones of the Start-up Phase

The major milestones in the Start-up Phase are as follows:

- Legislation passed – April 2004
- BOD formation – August 2004
- First BOD meeting – September 2004
- First application – August 2005

[22] K.S.A. 74-99b09(i) and (j).
[23] Please to refer to the section on Quintiles later in this report.

- First funding decision – April 2006
- Commencement of CEO recruiting process – March 2006
- Announcement of siting of Kansas Bioscience Park – July 2006
- Tom Thornton hired – October 2006

OPERATIONAL PHASE

The Operational Phase (October 2006 to present) was primarily under the leadership of Tom Thornton, former President/CEO of KBA. It is during this phase that employees were hired, organizational structure was put in place, key operational policies and procedures were implemented and most programs were initiated.

Directors serving on the BOD in 2006 indicate that Mr. Thornton brought needed organizational structure to KBA. Administratively, he established the office and assembled the staff. He oversaw the establishment of financial management procedures and systems; the development of a post-investment monitoring and reporting system; the refinement of criteria for screening and evaluating opportunities of interest and the establishment of Heartland BioVentures. Programmatically, KBA funding tools through which client companies receive grants from or are invested in by KBA were established or refined, and the number and magnitude of investments grew significantly.

Strategic Direction of KBA during Operational Phase

Early in his tenure, Tom Thornton stepped into a leadership role in the pursuit of the National Bio and Agro-defense Facility ("NBAF") with which he and KBA became closely aligned. Mr. Thornton also established the Cancer Cures project within KBA to support the University of Kansas Cancer Center's ("KUCC") efforts to attain the National Cancer Institute ("NCI") designation. These two initiatives became significant strategic foci of KBA's investment strategy. As an example, KBA's BOD and management made a specific decision that funding related to the University of Kansas ("KU") would generally be supportive of the NCI designation pursuit.

However, KBA's investment focus was not readily apparent to many seeking funding. In interviews conducted by BKD, a common comment was that KBA's investment strategy was not readily understandable; that it was not transparent. Many individuals interviewed stated that they would look to KEGA to determine if their project was something that was within KBA's mission. They would then be told by KBA that the intent of their project was not within KBA's scope, or in at least one instance, KBA's BOD/management would rescind their support after a Letter of Support ("LOS") had been issued.

As an example of this occurrence, on September 29, 2008, KBA issued a LOS to Kansas State University ("KSU") under KBA's Matching Funds program in the amount of $780,789. KSU was seeking support for a proposal to the National Science Foundation's ("NSF") Integrative Graduate Education and Research Training ("IGERT") program. The central focus of the training program was supporting doctoral students in the conduction of integrated bioenergy research. In the LOS, KBA stated, "KBA is pleased to express its enthusiastic support for the Kansas State University proposal to establish an integrated effort in renewable and sustainable fuels in the state of Kansas.…We encourage the National Science Foundation to award Kansas

State University the proposed grant and look forward to helping fund this important and innovative effort."

On August 7, 2009, KSU was awarded an initial NSF grant of $588,886 as part of a five-year grant of approximately $3.2 million. On August 14, 2009, David Vranicar notified KSU that "After careful review of the above referenced proposal and your request for funding, the Kansas Bioscience Authority has decided that we are not in a position to fund your proposal at this time.…Our decision on this project is primarily due to the fact that the proposal doesn't fit well with our commercialization investment priorities for the current fiscal year as defined by our Board of Directors. In addition, the NAICS code for this project is not within the statutorily-defined set of bioscience codes eligible for investment by KBA."

On February 11, 2010, KSU submitted a letter describing proposed modifications to their application to emphasize commercialization efforts by the doctoral students and support to KSU's industrial partners. On March 23, 2010, Tom Thornton responded, "We appreciate your efforts to augment the commercialization activities in this program. After thoughtful consideration, we must reiterate our original decision that this project does not meet our current investment priorities and, thus, is not something for which KBA can provide matching funds." The letter goes on to discuss that KBA's investment priorities center on programs and investments that lead to the expansion of the state's research enterprise and the direct commercialization of the products of that research, and that the BOD has elected not to consider graduate training, education and workforce development programs. Thornton also discussed that KBA's projected transfers from the State of Kansas had been reduced, resulting in the need for KBA to tighten its investment focus. Thornton stated, "Simply put, with reduced funding, it will be difficult to continue our pace of investment in Eminent Scholar and Rising Star programs, the Kansas Bioscience Centers of Innovation, the cancer fighting cures initiative, and efforts to maximize the economic impact of the NBAF, let alone to consider investments outside these priorities." Please refer to ***Exhibit 2***.

BKD discussed with David Vranicar the impression that over time, KBA had focused its investment dollars on specific areas, notably those described in Thornton's March 23, 2010 letter to KSU, rather than addressing all the areas of investment that could be construed to be allowable under KEGA. Mr. Vranicar stated that KEGA sets out the mission of KBA and describes various statutory programs that are to be available through KBA; however, the BOD and management strategically determine KBA's investment focus based on the goal of leveraging the strengths in Kansas' bioscience community and research universities. Vranicar indicated that KBA's investment focus is determined yearly and published in its Annual Operation Plan ("AOP"), and that it is the AOP that guides KBA's investment priorities.

In addition, Vranicar stated that the perceived viability of a funding opportunity is a significant consideration as to whether the investment opportunity is accepted by KBA. An investment that fits the current strategic focus for investments, but is not likely to succeed for a variety of reasons, will not be funded. Vranicar stated that while KBA could not guarantee that every opportunity it invests in will be successful, the staff have a duty to try to ensure that the investment opportunities that are presented to the Investment Committee and the BOD have the ability to be successful.

KBA's Response:

KBA's September 2008 Letter of Support to KSU was non-binding, and the potential investment in the IGERT program had not been reviewed or approved by the Investment Committee or the Board of Directors. Since 2010, KBA has amended the process of considering and providing Letters of Support. The current practice is to provide binding Letters of Support only with the approval of the Board. KBA also continues to provide non-binding Letters of Support for projects and proposals it believes will benefit the state of Kansas and its citizens, with the non-binding nature of such letters clearly stated.

KBA Culture under Tom Thornton's Leadership

Mr. Thornton was described by many individuals interviewed by BKD as obviously intelligent, a strategic thinker and a gifted speaker. However, just as often comments were made regarding his arrogance and the self-aggrandizing manner in which he took credit for the work of others. Furthermore, his behavior was often described as erratic by some who sought funding from KBA and some who worked for KBA.

Many individuals interviewed by BKD commented that they would talk with Mr. Thornton regarding a funding opportunity and he would make statements or promises indicating that some specific action would be taken by KBA. He would then "go dark" and would not communicate with them or follow-up on the promised actions. When they would next speak with Thornton about the issue, he would act as if the previous conversations never took place or as if he had no recollection of them. This created confusion and distrust among some of the entities attempting to work with KBA.

Furthermore, Mr. Thornton's management style and work practices reportedly created a difficult work environment for some KBA staff members. Both Thornton's former and current Executive Assistants commented that at times Thornton would be "missing in action." They would not be able to reach him on his cell phone and would have no idea where he was. They also both commented that at times he would be evasive about his whereabouts, indicating that he was at one location when his calendar or other information would indicate he was somewhere else. They described him as "secretive." These observations were shared by other current and former KBA employees as well.

Mr. Thornton was described by some KBA staff members as intimidating. BKD was told of several instances in which some KBA staff members were uncomfortable with Thornton's actions, but none were comfortable speaking with Thornton about them or with reporting any of the actions to KBA's BOD for fear of retaliation by Thornton. Specific allegations recounted include a mischaracterization of expenses discussed later in this report; alleged favoritism shown by Thornton and Jan Katterhenry, former CFO/COO, to Thornton's then girlfriend, now wife, Lindsay Holwick Thornton; and alleged instances of intimate encounters between Thornton and Lindsay Holwick Thornton in Thornton's office. These issues, whether real or perceived, had a significant impact on the morale of some KBA employees.

BKD notes that not all KBA employees shared these observations and perceptions. KBA staff members involved directly in dealing with the investment side of KBA's business were generally laudatory of Mr. Thornton's tenure with KBA and none shared with BKD a belief that inappropriate activities had taken place in KBA's offices. These staff members consistently described Thornton as an effective leader and generally credited him with garnering support for KBA's mission throughout the state. Even Thornton's detractors credited him with a large role in the successful pursuit of NBAF.

The culture of the office was further impacted for some employees by the reportedly demanding and difficult manner in which Jan Katterhenry managed her direct reports.

BKD learned of instances in which Mr. Thornton made the decision to keep information from the BOD that most BOD members indicated in their interviews with BKD they should have been told. Most BOD members learned of the personal relationship between Mr. Thornton and Lindsay Holwick Thornton, who was KBA's Director of Special Projects, when they received the Thornton's wedding invitation in December 2010. However, Thornton and Lindsay Holwick Thornton had been involved in a personal relationship since October 2009. Governor Carlin asked KBA's external legal counsel, Lathrop & Gage, to research applicable nepotism laws and regulations to see if any action needed to be taken because of the relationship.[24] However, the BOD should have been given the necessary information to have made those investigations much earlier in the Thornton's relationship.

A second instance involved Jan Katterhenry being named as a defendant in two 2008 lawsuits against her former employer, Epiq Systems, Inc.,[25] related to stock option backdating allegations. Ms. Katterhenry indicated she told Mr. Thornton about the lawsuits as soon as she was notified and inquired if they should tell the BOD. Thornton indicated there was no reason to do so. BOD members interviewed by BKD indicated that this was something they should have been told. As Katterhenry was KBA's CFO/COO, they would have liked to have had the opportunity to ask questions of her regarding the allegations.

Based on the totality of comments shared with BKD by current and former employees and many individuals interacting with KBA from outside the organization, it appears that Mr. Thornton's leadership style was problematic and overall did not garner the type and level of respect that is necessary for someone leading KBA. Tom Thornton resigned as CEO of KBA on April 13, 2011, as discussed later in this report.

Milestones of the Operational Phase

The major milestones in the Operational Phase are as follows:

- KBA's significant involvement in the NBAF project commenced – December 2006
- Announcement of NBAF siting in Kansas – December 2008
- Heartland BioVentures ("HBV") initiated with the formation of the Advisory Board – January 2009
- KBA initiated the Cancer Cures Project – July 2009
- KBA approved $50 million investment in Kansas Bioscience Growth Fund – October 2009

[24] Lathrop & Gage determined that no action was required as Lindsay Holwick Thornton's direct line of reporting had already been taken from Tom Thornton and given to Jan Katterhenry.
[25] The July 2008 suit settled in April 2010 and resulted in a monetary payment by Epiq Systems, but included the denial of any liability, wrongdoing or improper conduct. The September 2008 suit was voluntarily dismissed in November 2008.

- KBA investment in three venture capital funds under the Kansas Bioscience Growth Fund – March 2010 through October 2010
- Tom Thornton resigned – April 2011
- KBA headquarters moved to the Venture Accelerator building – May 2011

INVESTMENT PROCESS

The review of KBA's investment process was one focus of BKD's procedures, as was the review of specific investments.

KBA has an established, standardized investment process for all potential grants or investments that are considered under a KBA program. Each program managed by KBA has its own unique program guidelines and application materials; however, the review process detailed below is the same regardless of the funding program, with the exception of Proof of Concept Investments less than $75,000.

Application Assessment

Initial assessments of all application submissions are made by an HBV staff member applying program guidelines and eligibility and investment criteria, and is based on a review of written submissions provided by the entity seeking investment. KBA rejects many opportunities at this assessment stage with an email or telephone call. The basis for rejection varies, but includes the perceived lack of viability, the existence of other established and accepted competing products or services, a lack of conformance with KBA's then current strategic direction for investments, and the lack of budgeted funds for the specific program under which the application is submitted. The aim is to qualify submissions quickly before either party allocates and uses significant resources. The submitter of each rejected investment has the opportunity to request a debriefing session with the HBV staff member and is given the opportunity to reapply with a modified submission.

Scientific and Financial Due Diligence

All eligible applications are subjected to scientific and financial due diligence, among other evaluation criteria required by the program's guidelines. HBV staff members conduct due diligence on most investment opportunities but may also choose to contract with outside parties to provide additional capabilities in unique circumstances, such as the review of specialized science and technology for the Eminent Scholars program.

During the scientific and financial due diligence, HBV staff discuss the opportunity in weekly deal flow meetings. If it is determined that an opportunity is potentially suitable for investment, an initial Investment Recommendation is prepared for presentation to KBA's Investment Committee, a standing committee of the BOD. The Investment Recommendation is forwarded to Investment Committee members five to seven days prior to the scheduled Investment Committee meeting to give directors sufficient time to review the Investment Recommendation and formulate their questions.

David Vranicar, President of HBV, and other members of HBV staff indicated that Mr. Thornton rarely attended deal flow meetings and would often first become aware of an investment opportunity through his review of the Investment Recommendation prior to its submission to the

Investment Committee. All current HBV staff indicated that at no time did they recall Thornton inappropriately championing any particular investment.

However, one former employee told BKD that on at least one occasion, during a deal flow meeting, he was instructed to write an Investment Recommendation in a particular manner so that it would make it past the Investment Committee.

Investment Committee Review

During the Investment Committee meeting, the nature of each opportunity is discussed along with due diligence findings and recommendations provided by HBV staff members or outside contractors. The committee then votes whether to recommend the investment to the BOD for approval.

Review of Investment Committee minutes and memoranda indicates that this review process is detailed. Committee members often return the investment to HBV staff for additional due diligence or to make specific inquiries of potential client company management. At times, potential client company management attend Investment Committee meetings and answer questions about their projects. Not all investments presented by HBV staff receive Investment Committee approval.

Individual interviews with HBV staff resulted in the consensus opinion that the Investment Committee review process is quite thorough.[26] Committee members receive the written Investment Recommendations for review and study days before the meeting. Based on information available to BKD through interviews and the review of the Investment Committee minutes, it appears that opportunities that are presented to the Investment Committee receive adequate consideration.

Executive Committee or BOD Review/Approval

Final investment approval is based on a review of the Investment Recommendation by the Executive Committee or BOD. The Executive Committee or BOD have the right to reject an investment opportunity, change terms, funding level and other financing parameters, and have done so.

Investment Monitoring and Tracking

In July 2007, KBA initiated the collection of economic impact data related to every investment KBA had made up to that time. The information requested included job creation, project progress, wages, patents, revenue and other financial and commercial information. The data request has been carried forward for all investments with some modifications made to the information requests for clarity and desired underlying support for submitted metrics. The data collected is intended to validate investment projections and milestones and is compiled in KBA's annual report. KBA requests this information each time a milestone payment is requested, as well as annually for the funding period and the subsequent 10 years.

[26] More than one HBV staff likened presenting an investment opportunity to the Investment Committee to being put through the gauntlet.

In December 2007, KBA went live with an investment tracking database, Biztrakker, in which relevant information related to investments is warehoused and made available for tracking and reporting purposes. Biztrakker contains information related to each client company and its awards. It contains a log of significant communications with the company, including relevant email correspondence. Furthermore, all documents related to the awards are contained in Biztrakker, including applications, Investment Recommendations, relevant committee or BOD approval minutes, the executed grant agreement and all reporting and payment information. KBA is continuing to refine its investment monitoring and tracking processes.

Post-Award Reporting Requirements

Investments are very rarely made in lump-sum payments. Investment payments usually require the attainment of various milestones staged throughout the awarding of the investment. A report on milestones is required before each staged award payment is made, in addition to a final report on project success and progress against milestones and objectives. The reports are to provide a clear statement of work, including objectives, tasks and expected Outcomes.

In addition, the client company's CFO is responsible for reporting on the economic impact created by grant project activities. KBA tracks specific economic impacts, including:

- full-time jobs created and/or jobs retained and the associated wages;
- part-time jobs created and/or jobs retained and total associated wages;
- increased revenues;
- number of strategic partners;
- number of patents applied for or granted;
- federal funds acquired;
- capital expenditures (purchase of new equipment or construction/rehabilitation of facilities at the company);
- new start-up companies created;
- number of commercial products or services (e.g., patents) and associated income; and
- third-party funding:
  - Venture capital
  - Other investments (such as from strategic partners).

OVERVIEW OF KBA FUNDING PROGRAMS

Over its existence, KBA has had various programs through which it has made grants or direct equity investments available. The descriptions of those programs are detailed below.

Kansas Bioscience Eminent Scholars

K.S.A. 74-99b09 created and established the Kansas Bioscience Eminent Scholars program designed to recruit distinguished bioscience researchers to conduct their research and commercialization activities at Kansas research institutions. An Eminent Scholar is a world-class, distinguished and established investigator recognized nationally for research, achievements and ability to attract significant federal funding on an annual basis. Eminent Scholars are either members of or likely candidates for the National Academy of Sciences or other prominent national academic science organizations.

The program goals are to: 1) recruit world-class, distinguished bioscientists to Kansas PhD-granting institutions; 2) increase current and federal research funding to Kansas; 3) stimulate and enhance innovative research that will lead to economic gains through product development, commercialization, company start-ups and licensing and other intellectual property agreements; and 4) build already excellent academic programs through increased visibility, training of new scholars and attraction of outside funding.

All PhD-granting institutions in Kansas conducting bioscience research are eligible to apply for funding under this program. To qualify for funding, the proposing institution must match KBA funds dollar for dollar.[27]

To apply, the institution is required to submit a Letter of Intent describing the Eminent Scholar's stature, qualifications and future potential and the qualifications of the applicable area of research according to four guidelines:

- the presence of bioscience faculty members with the funding potential and stature to attract a scholar-leader;
- the presence of academically outstanding bioscience graduate students in the applicable area of research;
- the presence of adequate research and academic support services; and
- the existence of an appropriate academic environment, infrastructure, specialized equipment, etc., that is conducive to the applicable area of research.

KBA staff screen the submitted information for completeness and general appropriateness for the Eminent Scholar program and request the institution submit a full proposal, if appropriate. The full proposal more specifically and completely outlines the Eminent Scholar's qualifications, based on previous research and funding, the institution's financial and other support for the applicable area of research and the anticipated economic benefit. The proposal is then subjected to a peer review by a panel of nationally recognized experts in the appropriate area of bioscience who live and work outside of Kansas. Each panelist provides a recommendation for acceptance or denial of the proposal and a justification for their recommendation.

When a proposal receives a positive external review, an Investment Recommendation is considered by the Investment Committee. The Investment Committee then makes a recommendation to the BOD for final action. A representative of the institution is invited to attend each meeting where the proposal is considered and may be asked to make a presentation or address specific questions. Institutions whose Eminent Scholar applications are approved by KBA BOD are expected to secure a signed employment agreement with the candidate within 30 days of the approval date. If the institution fails to secure the signed agreement, KBA's commitment may be terminated.

The funds awarded under the Eminent Scholar program are tied to specific milestones that must be met and documented prior to the payment of funds. Reporting related to jobs created or retained, commercialization or increased revenues, strategic partners, number of patents applied for and granted, federal or third-party funding, capital expenditures and new start-up companies created are periodically made to KBA and are tracked as Outcomes of the investment.

[27] KBA website: http:// www.kansasbioauthority.org/how_we_can_help/Scholars.aspx.

Through June 30, 2011, nine Eminent Scholars have been approved for funding in the amount of $20,670,639. Through June 30, 2011, $9,519,342 had been paid. Please refer to ***Exhibit 3*** for a listing of the Eminent Scholar awards.

Results of the Eminent Scholar Program
In response to a specific request for a discussion of the results of the Eminent Scholar program, KBA supplied the following narrative.

> "Among the most significant Outcomes of these investments have been new external research funding and the creation of high paying jobs in Kansas. As of June 30, 2011, the nine Eminent Scholars had attracted almost $52 million in new external research grants to Kansas. Fifty-three jobs have been created in Kansas as a result of Eminent Scholar grants, and those jobs have an average annual salary of approximately $86,000.
>
> More than half of these grants were approved in 2010, so the scholars are very early in their tenure in Kansas. As they establish their research programs, Kansas can reasonably expect them to generate significant new Outcomes.
>
> Notably, seven of the nine grants have been for scholars that the KUCC needed to recruit in order to build an enterprise worthy of designation by the National Cancer Institute. One benchmark for the designation application was the requirement that the cancer center be winning at least $11 million a year in NCI funding; the nine scholars recruited under the Eminent Scholars program brought about $2.3 million a year in NCI funding. These recruits also filled a number of key leadership positions that the NCI had said had to be filled by the time of the designation application."

BKD has not independently verified KBA's assertions.

Kansas Bioscience Rising Stars

K.S.A. 74-99b09 created and established the Kansas Bioscience Rising Star program designed to help attract world-class bioscience scholars to Kansas and to retain and advance the best and brightest bioscience scholars already working in the state. Researchers must have a proven track record of grant productivity and team leadership in a research environment. Rising Star scholars would be likely candidates for the National Academy of Sciences or other prominent national academic science organizations in the future.

All PhD-granting institutions in Kansas conducting bioscience research are eligible to apply for funding under this program. To qualify for funding, the proposing institution must match KBA funds dollar for dollar.[28]

The application, evaluation, review and award process is exactly as that described above for the Eminent Scholar program. The post-award monitoring and reporting process also mirrors that of the Eminent Scholar program.

[28] KBA website: http:// www.kansasbioauthority.org/how_we_can_help/Stars.aspx.

Through June 30, 2011, three Rising Stars have been approved for funding in the amount of $1,857,500. Through June 30, 2011, $992,500 had been paid. Five additional Rising Stars were originally approved for funding, but the awards were cancelled due to the Rising Star candidates' decision not to accept employment with the research institution that applied for the grant. Please refer to ***Exhibit 4*** for a listing of the Rising Star awards.

Kansas Bioscience R&D Voucher Program

K.S.A 74-99b61-68 created and established KBA Bioscience R&D Voucher program to provide funding to Kansas bioscience companies to partner with a Kansas research university, company or institution to conduct early-stage applied research and development activities intended to commercialize bioscience technologies. The program is designed to provide early-stage financing and commercialization support for high-potential, but high-risk innovations.

The program goals are to: 1) grow successful technology businesses in Kansas; 2) grow jobs in Kansas; 3) increase the value of intellectual property owned by Kansas bioscience companies; 4) promote collaboration between Kansas bioscience companies and Kansas research institutions; 5) provide early-stage financing and commercialization support for Kansas bioscience companies; 6) advance companies to the point that they are eligible for lower-risk financing and loans; and 7) increase corporate and venture capital investment in bioscience companies in Kansas.

The maximum amount of voucher funds awarded to a lead company shall not exceed $1 million each year for two years, equal to a maximum investment of $2 million and shall not exceed 50% of the cost of the research.

An application must be submitted by the company and the partnering organization which details the project, and includes any third-party evidence that the project is technically sound and commercially viable, a business plan, financial statements, capitalization chart, budget, any required patents or licenses and evidence of the availability of matching funds to meet the anticipated budget.

R&D Voucher applications are reviewed by KBA staff and, if appropriate, an Investment Recommendation is forwarded to the Investment Committee for review. If the Investment Committee approves the recommendation, it is sent to the BOD for final action.

The funds awarded under the R&D Voucher program are tied to specific milestones that must be met and documented prior to the payment of funds. Reporting related to jobs created or retained, commercialization or increased revenues, strategic partners, number of patents applied for and granted, federal or third-party funding, capital expenditures and new start-up companies created are periodically reported to KBA and are tracked as Outcomes of the investment.

Through June 30, 2011, 12 R&D Voucher awards have been approved for funding in the amount of $4,238,377. Through June 30, 2011, $2,819,755 had been paid. Please refer to ***Exhibit 5*** for a listing of the R&D Voucher awards.

Kansas Bioscience Matching Fund Program

K.S.A. 74-99b84 created and established the Kansas Bioscience Matching Fund program to build research excellence at Kansas' universities, research institutions and bioscience companies by matching research dollars from federal, private and other sources of funding. This matching program is intended to leverage federal technology development grants, such as those available through the Small Business Innovation Research program and the Small Business Technology Transfer program to Kansas-based bioscience entities.

The program goals are to: 1) increase federal peer-reviewed research dollars and investments in Kansas research institutions; 2) create academic centers of excellence in line with federal opportunities and the existing Kansas high tech industrial base; and 3) increase research at Kansas universities in areas critical to supporting a bioscience economy.

Funding is available to match large-scale federal R&D projects at academic institutions, such as federally designated research centers that require matching funds. Technology development awards may be granted to encourage commercialization of new products and technologies. The matching program may match up to 50% of such awards. The 50% match is based on the portion of the work being performed in Kansas.[29]

An application must be submitted by the company which details the project and how it meets the goals of the program, and includes a business plan, financial statements, capitalization chart, budget, resumes of all principals, details of any partnerships with industry or institutions, proposed budget for federal application and an economic impact statement.

Matching Fund applications are reviewed by KBA staff and, if appropriate, Investment Recommendations are forwarded to the Investment Committee for review. If the Investment Committee approves the recommendation, it is sent to the BOD for final action.

The funds awarded under the Matching Fund program are tied to specific milestones that must be met and documented prior to the payment of funds. Reporting related to jobs created or retained, commercialization or increased revenues, strategic partners, number of patents applied for and granted, federal or third-party funding, capital expenditures and new start-up companies created are periodically reported to KBA and are tracked as Outcomes of the investment.

Through June 30, 2011, 22 Matching Fund awards have been approved for funding in the amount of $12,590,591. Through June 30, 2011, $5,108,332 had been paid. Please refer to ***Exhibit 6*** for a listing of the Matching Fund awards.

Kansas Bioscience Expansion and Attraction Program

KBA works closely with partners on the attraction, expansion and retention of bioscience opportunities for Kansas. KBA has, at times, partnered with the Kansas Department of Commerce, KTEC and regional economic development organizations on these projects. KBA may offer qualifying companies direct financial assistance in the form of low-interest loans,

[29] KBA website: http:// www.kansasbioauthority.org/how_we_can_help/Matching.aspx.

grants or bonds. KBA also works with partners at the state and local levels to facilitate the offering of tax incentives and job training grants.[30]

The program goals are to attract, expand or retain bioscience companies with the potential to add high-quality jobs, develop or recruit bioscience researchers and partner with Kansas research institutions on bioscience research and commercialization incentives.

An application must be submitted which details the project and how it meets the goals of the program, and includes a business plan, financial statements, capitalization chart, budget and resumes of all principals. In addition, the applicant must complete a detailed questionnaire and economic impact statement detailing the number of jobs to be created, projected research dollars, projected capital investment and projected capital expenditures.

Expansion & Attraction applications are reviewed by KBA staff and, if appropriate, an Investment Recommendation is forwarded to the Investment Committee for review. If the Investment Committee approves the recommendation, it is sent to the BOD for final action.

The funds awarded under the Expansion & Attraction program are tied to specific milestones that must be met and documented prior to the payment of funds. Reporting related to jobs created or retained, commercialization or increased revenues, strategic partners, number of patents applied for and granted, federal or third-party funding, capital expenditures and new start-up companies created are periodically reported to KBA and are tracked as Outcomes of the investment.

Through June 30, 2011, 23 Expansion & Attraction awards have been approved for funding in the amount of $16,210,388. Through June 30, 2011, $8,930,388 had been paid. Please refer to ***Exhibit 7*** for a listing of the Expansion & Attraction awards.

Bioscience Tax Investment Incentive Program

K.S.A. 74-99b53 created and established the Bioscience Tax Investment Incentive program ("BTIIP"), which allowed direct payments to a bioscience company in the amount of 50% of its Kansas net operating loss. Upon receipt of the completed BTIIP form and required materials, KBA determined whether it approved the application. If KBA determined to proceed with the applicant, KBA requested that the Kansas Department of Revenue certify that the applicant had filed for a net operating loss claim and the amount of net operating loss. KBA may thereafter make the payment to the bioscience company. The BTIIP awards had an aggregate limit of $1 million annually.

The goal of this program was to encourage the expansion and attraction of bioscience companies in Kansas.

Through June 30, 2011, two BTIIP awards have been approved for funding in the amount of $451,670. Through June 30, 2011, $451,670 had been paid. Please refer to ***Exhibit 8*** for a listing of the BTIIP awards. During the FY2009 Annual Operating Plan development, the program was reviewed and it was determined that it would no longer be offered.

[30] KBA website: http:// www.kansasbioauthority.org/how_we_can_help/Retention.aspx.

Direct Equity Investments

The objective of the Direct Equity Investment program is to collaborate with private investors, accredited investors and others to provide direct equity investments into high growth potential bioscience start-ups and companies.

Equity investments in bioscience companies in Kansas made by KBA are on a syndicated basis. KBA will co-invest equity capital alongside professional investors on the same terms and conditions as experienced investors. Professional investors are defined as angel (SEC accredited investor standards), venture capital, private equity or strategic partner investors. This approach allows KBA to leverage professional market and technical due diligence, participate in terms set by experienced investors and to share risk with professionals experienced in the management of seed, early-stage investments.

Through June 30, 2011, KBA has invested in nine client companies with commitments totaling $8,986,693 of which $8,086,693 had been paid. Please refer to ***Exhibit 9*** for a listing of the Direct Equity Investment awards. All investments in client companies are carried on KBA's financial statements at cost. An impairment analysis is conducted on a quarterly basis, and reviewed by the Audit Committee, to determine if any investment should be written down. The impairment analysis is reviewed by the external auditors as part of the annual audit of the financial statements. One investment, Innovia Medical, LLC, has been determined to be impaired. Innovia Medical, LLC is discussed later in this report.

Kansas Bioscience Centers of Innovation

The Kansas Bioscience Center of Innovation program is intended to both build world-class bioscience research centers and "…to assist existing and emerging bioscience industries in capturing new knowledge and research findings for their product and production functions." The goal of the program is to focus on core technology areas to build national and international research excellence and lead to the commercialization of new products and processes. These centers are intended to be consortia that will leverage university, private company and federal resources.

The **Center for Animal Health Innovation** is linking technology developers with industry, with the goal of bringing new products to market faster and more efficiently. The center will bring nine area animal health companies, plus regional universities and government agencies together to accelerate job creation, research, development and commercialization of the next generation of animal health and nutrition products. The center is located at KSU's new Olathe campus.

The **Kansas Alliance for Bioenergy and Biorefining** is uniting key industry players such as Archer Daniels Midland with the world-class research and development efforts at KU and KSU. The center of innovation will use commercial biorefining to develop alternative fuels and chemicals, commercialize efficient biomass resources for cost-effective quality power and improve carbon capture. The focus of this center is commercial viability, which requires the confluence of economic viability with technical feasibility and marketplace acceptance.

Heartland Plant Innovations is developing advanced technologies for gene discovery, trait validation and crop improvement in order to deliver new products and production platforms. The global research team associated with the center will focus on emerging commercial opportunities for wheat and sorghum, crops in which Kansas has leadership and expertise. The center is a public and private collaboration of Kansas Wheat Commission, KSU, KU and many private investors.

The **Center of Innovation for Biomaterials in Orthopaedic Research** is creating medical instruments, medical devices and composite implants that will improve the practice of orthopedic medicine. The center focuses on commercial viability, conducting research requested by industry to meet market needs and capitalizing on the concentration of composites expertise found in Wichita due to the state's longstanding aviation industry leadership. Together with KBA, CIBOR is jointly sponsored by Via Christi, one of the largest health systems in the Midwestern U.S. and Wichita State University, home of the National Institute of Aviation Research.

There is a cost sharing requirement between the centers and KBA. The centers must at least match dollar for dollar the investment by KBA for the construction and operation of the project in accordance with a budget included as part of the application process. Each center's cost sharing participation must be reported to KBA on a quarterly basis and the report must be certified by the center director.

Through June 30, 2011, four Center of Innovation awards have been approved for funding in the amount of $16,296,667. Through June 30, 2011, $11,957,756 had been paid. Please refer to ***Exhibit 10*** for a listing of the Center of Innovation awards.

Collaborative Biosecurity Research Initiative

The Collaborative Biosecurity Research Initiative ("CBRI") was a $2.5 million initiative designed to bring together researchers nationwide to create products that protect Americans from the intentional use of animal-borne diseases to infect humans or to disrupt the national economy. This initiative is separate from, but supported the efforts to attract NBAF. It was initiated in FY2008 during the NBAF site selection competition as a mechanism to engage academic research institutions as partners for the Kansas bid.

The CBRI supported inter-institutional research to: 1) develop countermeasures for foreign-animal diseases; 2) provide advanced test and evaluation capability for threat detection, vulnerability and countermeasure assessment for animal and zoonotic diseases; 3) support licensure of vaccine countermeasures through essential animal-model testing and evaluation; and 4) strengthen biosecurity capabilities of institutions serving certain regions and populations, such as students underrepresented in biosecurity research.

The goal of the CBRI was to bring the nation's brightest researchers together to protect the public health and safeguard the agriculture economy, using the unique biosecurity research capabilities and facilities at KSU. The initiative allowed academic, federal-agency and nonprofit researchers to collaborate with KSU scientists to perform research not possible at their home institutions.

The CBRI provided awards to investigators conducting projects in partnership with researchers at KSU Biosecurity Research Institute, building on Kansas' international leadership in plant- and animal-health research.

Through June 30, 2011, three CBRI awards had been approved for funding in the amount of $2,546,917. Through June 30, 2011, $1,723,000 had been paid. Please refer to ***Exhibit 11*** for a listing of the CBRI awards.

Kansas Bioscience Drug Development Program

The Kansas Bioscience Drug Development program supports relatively late-stage drug development projects that have a clear focus on commercialization (as opposed to early-stage research). The program funds only projects to advance products that are close to a regulatory filing.

Kansas universities with pharmaceutical research programs are eligible to apply. Because the state has strong assets in drug research and development, projects that involve collaborations to combine those assets in new ways likely to drive innovation will be strongly preferred. Projects that promote interactions among academic institutions, other nonprofit enterprises and industry will be preferred, as will projects that attract collaborators from outside Kansas who bring expertise or other resources not now available in Kansas or from whom KBA's investment will leverage additional project funding.

Individual awards under this program shall not exceed $500,000 a year nor have durations longer than two years.

Through June 30, 2011, one Drug Development award has been approved for funding in the amount of $500,000. Through June 30, 2011, no funds have been paid. Please refer to ***Exhibit 12*** for a listing of the Drug Development award.

Proof of Concept Investment Program

The Proof of Concept Investment program ("POCI") is a by invitation only program structured to provide early stage "seed" financing to selected HBV clients. The purpose of the POCI program is to allow HBV to further assist its clients in the development of their technology and business concepts in order to reduce the uncertainty and risk of the technology, and to help bridge the gap between basic research funding and the next stage of outside investment.

POCI awards are restricted to HBV clients and range from $25,000 to $200,000. Investment Recommendations for funding greater than $75,000 are evaluated and approved by KBA's Investment Committee. POCI awards less than $75,000 must be approved by each of 1) the President of HBV, 2) the CFO and 3) the CEO/President of KBA, and a formal written Investment Recommendation must be sent to the Investment Committee. If any Investment Committee member objects to a proposal approved by KBA management within five days of receipt of the written recommendation, the proposal must go to the Investment Committee for approval before an award can be made. Investments over $75,000 must be approved by the Investment Committee and BOD under the normal investment approval process, as must all follow-on investments.

Through June 30, 2011, 13 POCI awards have been approved for funding in the amount of $1,500,000. Through June 30, 2011, $716,198 had been paid. Please refer to ***Exhibit 13*** for a listing of the POCI awards. The POCI program has been budgeted for an additional $1,000,000 in commitments in FY2012.

Some individuals BKD interviewed objected to the idea of a "by invitation only" program funded with taxpayer money. David Vranicar stated that the purpose of the POCI, particularly the POCI less than $75,000, which requires less formal approval and, therefore, can be made on a somewhat expedited basis, is to be able to give a very early-stage company money it needs to determine if it actually has a product or idea worth pursuing. These companies are too early-stage to fit into other KBA funding programs. However, not every early-stage company or idea is invited to participate for a number of reasons. HBV turns many opportunities away because they are not well thought out or do not have a sustainable market. Therefore, HBV staff is selective regarding the opportunities that are awarded POCIs. Mr. Vranicar indicated this is why the POCI program is not listed on KBA's website.

Bioscience Research Facilities Program

K.S.A. 74-99b09(16) allows for the funding for the construction and on-going maintenance of bioscience research facilities. These facilities can be developed in collaboration with communities and universities with the goal of providing for sufficient state-of-the-art bioscience research space. This program has supported the development of incubators, laboratories, the Kansas Bioscience Park and the Venture Accelerator.

Through June 30, 2011, seven Bioscience Research Facilities awards have been approved for funding in the amount of $30,768,968. Through June 30, 2011, $8,925,186 had been paid. Please refer to ***Exhibit 14*** for a listing of the Bioscience Research Facilities awards. The two largest commitments, the Kansas Bioscience Park and the Venture Accelerator are discussed in more detail later in this report.

Kansas Bioscience Growth Fund

K.S.A.74-99b09(27f) states that KBA may invest the funds received from gifts, grants, donations and other operations of the authority in such investments as would be lawful for a private corporation having purposes similar to the authority including pre-seed, seed capital and venture capital funds whose purpose is to commercialize bioscience intellectual property, and in any obligations or securities as authorized by the BOD. Please refer to the Kansas Bioscience Growth Fund section later in this report for further discussion.

As of June 30, 2011, eight Growth Fund awards have been approved for funding in the amount of $50 million. Through June 30, 2011, $6,841,382 had been paid. Please refer to ***Exhibit 15*** for a listing of the Growth Fund awards.

Companies can receive funding under more than one of the above detailed programs at a time. A listing of companies receiving funding under multiple funding programs is detailed in ***Exhibit 16***.

OTHER KBA INITIATIVES AND PROJECTS

NBAF

On January 25, 2007, Governor Sebelius issued Executive Order 07-01, which created the Kansas National Bio and Agrodefense Facility Task Force to lead Kansas' pursuit of NBAF. Governor Sebelius gave KBA the responsibility of providing primary support and assistance to the task force. Therefore, Mr. Thornton stepped into a leadership role with regard to NBAF. In

January of 2007, the BOD committed $250,000 to support the consortium pursuing bringing NBAF to Kansas. KBA subsequently committed in excess of $3.6 million for legal, consulting and other services in support of the pursuit.

In March 2008, the BOD moved to approve a development plan to pursue bringing the NBAF project to Kansas, including a commitment by KBA to support a significant portion of the costs incurred by this effort. Support could include the acquisition of real estate, the acquisition or construction of buildings, research grants and exercise by KBA of its power to cause the issuance of bonds.

In September of 2008, the Executive Committee approved a recommendation to retain the law firm Dickstein Shapiro, specifically Dennis Hastert, former Speaker of the U.S. House of Representatives, to represent Kansas before the Administration as it presented its final case for siting NBAF in Kansas. The scope of this engagement was to include: representing Kansas in NBAF-related matters before senior officials of departments directing the NBAF site selection process (the Department of Homeland Security and the Department of Agriculture); representing Kansas in NBAF-related matters before senior officials of the Bush White House and providing key intelligence related to other states' advocacy activities. During the Executive Committee's consideration of the contract, Tom Thornton disclosed that he had previously worked for Dennis Hastert. Payments under this contract totaled $123,150.52.

It was announced on December 5, 2008 that Kansas had been selected as the NBAF site. In April 2009, Texas filed a bid protest against the USA before the Federal Court of Claims alleging that the Department of Homeland Security ("DHS") failed to adequately analyze tornado risk, improperly rated the Kansas site higher than the Texas site and improperly rejected Texas' cost share proposal. Plaintiffs also claimed that Kansas officials improperly influenced DHS and that DHS violated procurement rules by failing to properly evaluate sites per the site selection process. However, no Kansas entities were named in the suit. Because of its stake in the outcome, KBA requested to intervene in the lawsuit and to participate in the defense of the DHS site selection decision. Intervening in the matter did not subject Kansas to any monetary damages or liability. The Executive Committee unanimously authorized the retention of the law firm Akin Gump to represent KBA, authorized expenditures as necessary and authorized Akin Gump to intervene on KBA's behalf. Akin Gump was chosen as they knew the history of the entire application process and could rapidly bring legal resources to bear. It was known to the BOD that Governor Carlin's son was employed by Akin Gump.

The Texas lawsuit contained an allegation that Tom Thornton had a previous relationship with then Navy Admiral Jay Cohen while Thornton served on the staff of Representative Dennis Hastert, and that the relationship was used to lobby Admiral Cohen when he later became DHS Undersecretary with responsibility for the NBAF site selection. Thornton stated that he never met with Admiral Cohen prior to his visit to Manhattan and had no contact with Admiral Cohen while a member of Hastert's staff.

On July 17, 2010, the federal judge dismissed the Texas Consortium's lawsuit. The Court sided with legal arguments by DHS that the suit by the Texas Consortium was based on hypothetical or contingent claims and, thus, not suitable for judicial review. In dismissing the case, the judge did not prohibit the Texas Consortium from re-filing at a later date. KBA spent $440,478.04 with Akin Gump to intervene in the case.

The Texas Consortium also requested a review by the DHS Inspector General into the appropriateness of the site selection process. The DHS Inspector General concluded that DHS carried out the site selection process fairly and did not identify any bias in the decision to build NBAF in Kansas.

Congress directly appropriated $40 million for NBAF construction in FY2011, despite the on-going debates regarding budget deficits. The President's budget request for FY2012 included $150 million for NBAF construction. On-going debates at the federal level regarding deficits and debt ceilings place funding for large projects such as NBAF at considerable risk, making the FY2012 budget process a crucial point in the life of this project. KBA management indicated that it is essential that NBAF receive a large FY2012 appropriation to begin construction on the main lab and maintain positive momentum.

Kansas has committed $105 million of matching State funds to the NBAF project and $35 million of research funding, both of which require active management. Therefore, on July 15, 2011, Governor Brownback issued Executive Order 11-22 creating the National Bio and Agro Defense Facility in Kansas Steering Committee, of which the COB of KBA is a member. The goal of the Steering Committee will be continued coordination of actions on behalf of the State of Kansas with federal, state and private sector actors regarding funding, site planning, risk mitigation, resource allocation, transition research, legislative activity, etc.

The remaining significant commitment by KBA for NBAF is the $35 million in research funding over an eight-year period to establish an R&D program to enhance national biosecurity research during NBAF construction and expedite the transition of such research to the KSU Manhattan campus.

Through June 30, 2011, $39,190,000 had been committed for NBAF of which $2,785,444 has been paid. Please refer to ***Exhibit 17*** for a listing of NBAF awards.

Cancer Cures Project

The Cancer Cures project is focused on statewide efforts to improve the quality of cancer-related research and care in Kansas and the region. The goals of the project are to leverage existing excellence in pharmaceutical research to spur the commercialization of cancer fighting drugs and boost Kansans' access to the most advanced cancer fighting therapies. KBA's roles in this project are to:

- coordinate the development and implementation of an integrated and statewide cancer research strategy;
- work with cancer research institutions to implement a federal advocacy agenda to enhance the institutions' abilities to garner federal research and development funding;
- build the regional and national reputation of the KUCC and position it as the leader in cancer drug discovery, development, and delivery; and
- expand cancer research expertise and infrastructure in Kansas by nurturing collaborations among research and health care institutions statewide through investments in basic and clinical research; drug discovery, delivery and development; and facilities for cancer research programs.

As the goals of the program align with the desire of KUCC to attain the NCI designation, the awards under this program, as well as some under the Eminent Scholar program, are being specifically awarded to assist KUCC in achieving its goal.

The largest investment under this project is the Wahl/Hixon renovation approved in the amount of $26.4 million in March 2009. KUCC requires space to advance its cancer research program for NCI designation and to recruit cancer-related Eminent, Rising Star and emerging scholars. KUCC has identified 170,000 gross square feet in the Wahl/Hixon Research Complex to meet the near-term, state-of-the-art space needs for basic and translational cancer research. The total estimated renovation cost is $50 million, of which $34 million is for design and construction and $16 million is for equipment. KBA investment will support 10 years of bond payments for construction costs.

In May 2009, the BOD authorized a budget of $600,000 to assist the advancement and support of KUCC's pursuit of the NCI designation. The support included hiring a project director at KBA to work with KUCC to support comprehensive cancer care; invest in a peer review process to get additional federal funding; retain a consulting group to provide eyes and ears in Washington D.C. to monitor federal funding of research projects related to comprehensive cancer care; and facilitate communication and marketing of the Comprehensive Cancer Care effort and the NCI designation application. On July 1, 2009, KBA hired Brad Kemp as the Director of the Cancer Cures project. Mr. Kemp serves as the liaison to KUCC.

In May 2010, the BOD authorized a budget of $693,000 to assist KUCC. The support was to include the funding for three years of salary for a KU BioCenter Director, direct project support and the continued retention of a consulting group.

In May 2011, the BOD authorized an additional budget of $316,000 to assist KUCC. The support is to include direct project support and the continued retention of a consulting group.

KUCC submitted its NCI designation application in September 2011. Mr. Kemp indicated that there is every reason to be optimistic that KUCC's application will be successful.

As of June 30, 2011, ten Cancer Cures awards have been approved for funding in the amount of $30,508,975. Through June 30, 2011, $10,305,123 had been paid. Please refer to ***Exhibit 18*** for a listing of the Cancer Cures awards.

Other Investments

Other investments, not fitting into the aforementioned categories are discussed below. Much of the investment in this category is related to efforts to partner with other organizations to grow the bioscience industry in Kansas, such as the investments in the annual BIO conventions discussed in the KansasBio section later in this report.

Wichita Center for Graduate Medical Education

The largest grant in the Other Investment category is for the Wichita Center for Graduate Medical Education ("WCGME"). WCGME is a not-for-profit consortium consisting of the KU School of Medicine-Wichita, Via Christi Regional Medical Center and Wesley Medical Center. WCGME employs the medical residents that work at the member hospitals and is seeking to increase scholarly research activity by residents in response to increased requirements of the

Accreditation Council for Graduate Medical Education. WCGME must fulfill accreditation standards by funding a centers-based infrastructure that will enhance clinical and translational research of faculty and resident physicians in the KU School of Medicine at Wichita. The new environment fostered by this initiative will prepare physicians to participate in and lead research projects that will improve health care delivery and patient outcomes, and potentially lead to new drugs, medical products and intellectual property. The $6.13 million grant consists of $250,000 for plan development and $2.94 million for research in year one; $1.96 million using KBA programs in year two and $979,200 using KBA programs in year three.

Through June 30, 2011, funding of $7,369,200 had been committed for Other Investments and $4,429,200 has been paid. Please refer to ***Exhibit 19*** for a listing of investments.

Arthropod-Borne Animal Research Laboratory

The U.S. Department of Agriculture Arthropod-Borne Animal Disease Research Laboratory ("ABADRL") was located in Laramie, Wyoming, but due to the lack of re-certifiable BSL-3/BSL-3Ag facilities, the USDA Agriculture Research Service approved the relocation of the lab to the Biosecurity Research Institute – a state-of-the-art BSL-3/BSL-3Ag facility – at KSU. The mission of the laboratory is to solve major emerging and/or exotic arthropod-borne disease problems that affect the U.S. livestock industry and wildlife. Many of these arthropod-borne diseases also have an effect on human health. KBA's BOD approved a grant of $1.5 million to the City of Manhattan to facilitate ABADRL's near-term laboratory and office needs by building-out shell space in the new City of Manhattan incubator facility.

Through June 30, 2011, $1,022,000 of the grant had been paid. Please refer to ***Exhibit 20.***

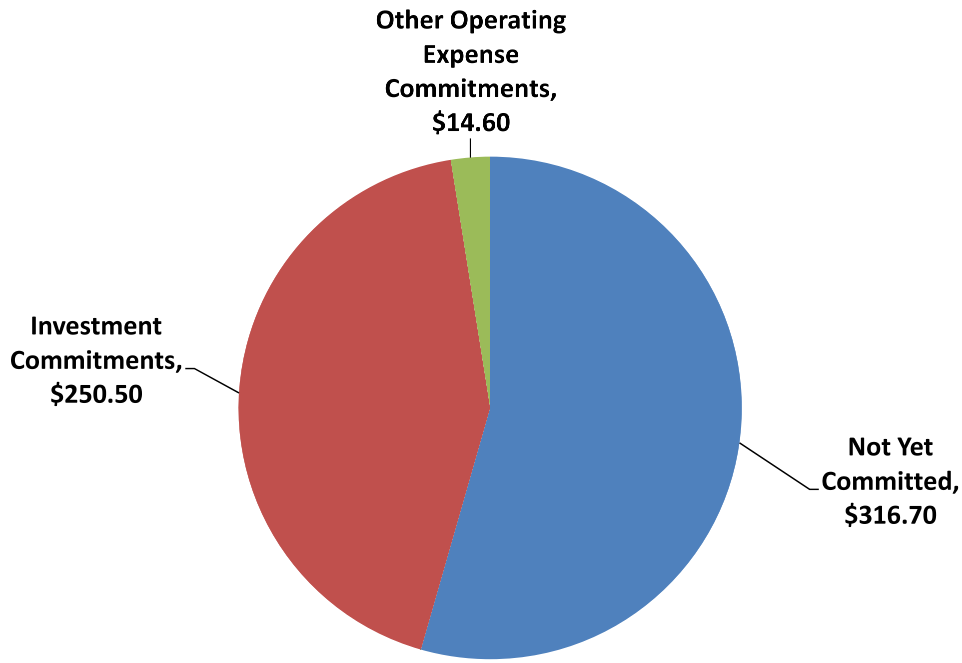
KBA FUNDING CAP COMPARISON

As previously stated, KBA was created in April 2004 and was originally projected to be a 15 year, $581.8 million initiative. However, due to annual funding caps in place since 2008, it is now projected that KBA will not reach its maximum funding of $581.8 million prior to its sunset date of 2019.

The State of Kansas has paid $175.1 million to KBA as of June 30, 2011. An additional $21.6 million is receivable from the State of Kansas as of that date. Therefore, a total of $196.7 million has been committed by the State of Kansas to KBA as of June 30, 2011. Assuming the $35 million annual cap remains in place through 2019, an additional $280 million would be committed by the State of Kansas to KBA through the sunset date. The total of the $196.7 million committed by the State of Kansas to KBA through June 30, 2011 and the $280 million projected commitments from the State of Kansas to KBA is $476.7 million, well below the initially anticipated $581.8 million.

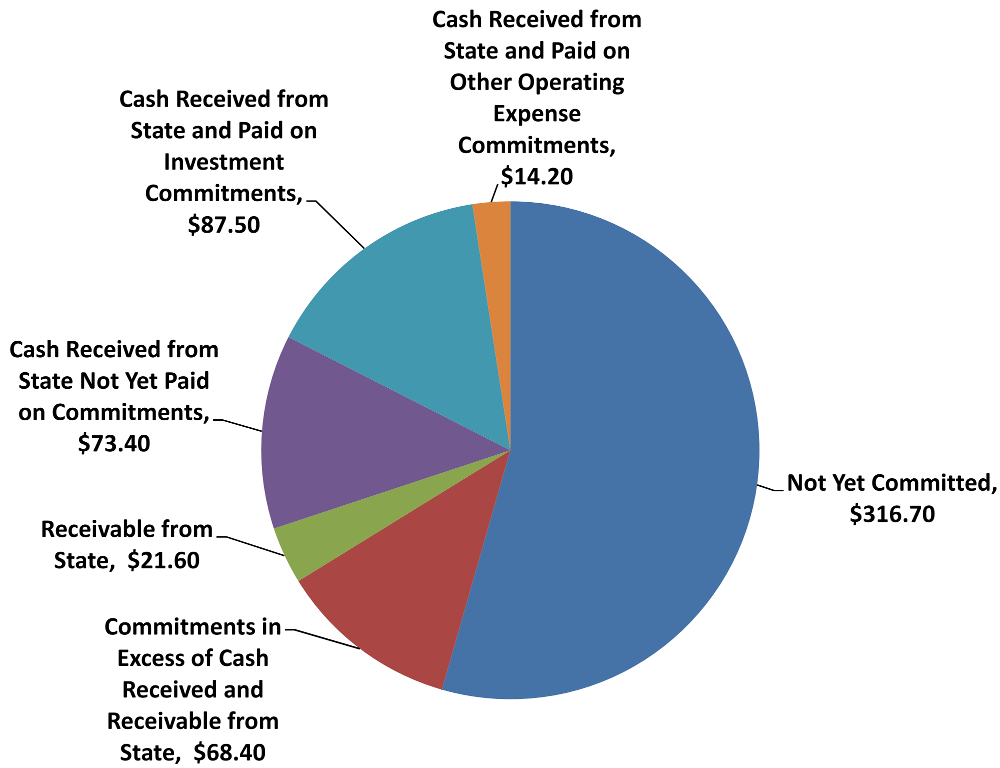
Through June 30, 2011, KBA has made total Investment Commitments of $250.5 million and total Other Operating Expense Commitments of $14.6 million, for total commitments of $265.1 million. This leaves $316.7 million in funds not yet committed, of the originally anticipated $581.8 million, as displayed below.

$581.8 Million Funding Cap Breakdown – Commitments (in Millions)



Of the $250.5 million investment commitments, $87.5 million has been paid by KBA. Of the $14.6 million operating expense commitments, $14.2 million has been paid by KBA. Therefore, a total of $101.7 million has been paid by KBA on commitments. Assuming all funds used to pay for commitments are State funds and not internally generated funds, this means that of the $175.1 million paid to KBA by the State of Kansas, $73.4 million has not yet been paid out on Investment and Other Operating Expense Commitments by KBA. After considering the additional $21.6 million receivable due to KBA from the State of Kansas, total commitments exceed total cash received and receivable from the State of Kansas by $68.4 million. KBA indicated that these commitments take into consideration projections of future funding when the commitments are established. A graphical representation of the payment status of these commitments is below.

$581.8 Million Funding Cap Breakdown – Payment Status of Commitments (in Millions)



KBA is audited by the firm Allen, Gibbs & Houlik, L.C. KBA's audited statements as of June 30, 2011 are included as ***Exhibit 21***. BKD performed no procedures with regard to the audited financial statements and presents them for informational purposes only.

REQUESTED AREAS OF INVESTIGATION

In conjunction with the original and expanded scopes, Secretary Rodman requested that specific issues be investigated and explained in the report.

HIRING OF TOM THORNTON

In early 2006, the BOD undertook a search for a CEO/President for KBA, as well as a president for Kansas BioEnterprise (now HBV). The executive search consulting firm of Brill Neumann was hired on March 24, 2006 at the recommendation of Bill Sanford. Mr. Nick Brill indicated that Brill Neumann had previously done a number of economic development searches in Ohio and Mr. Sanford was on some of the search committees for those projects. Brill Neumann focuses on recruiting leaders to institutions of higher education, academic medical centers and research institutes.[31] Fees for Brill Neumann's services totaled $60,000.

Early in the process, Mr. Brill met with the KBA Search Committee as a whole and individually on at least two occasions to discuss the position descriptions for the two positions. Search Committee members included Clay Blair, Bill Sanford and Dolph Simons.[32] Mr. Brill indicated that he also participated in a number of telephone calls related to the position descriptions. The formal position descriptions enumerate the responsibilities of the job as well as the qualifications of desired candidates. Please refer to ***Exhibit 22*** for copies of the position descriptions.

The candidate pool was then created by Brill Neumann using three paths to identify candidates for both positions. Brill Neumann reached out to its contacts in the venture community to identify potential candidates who had experience investing in and/or starting and building bioscience companies and whose interests might be appropriate for the Kansas BioEnterprise position. Brill Neumann also spoke with sources in the economic development arena to identify potential candidates who had both commercial sector experience and strong track records in technology based economic development. And third, Brill Neumann sought candidates who had private sector experience and proven ability to commercialize intellectual property developed at research institutions. The contact list provided by Brill Neumann indicates that 75 individuals were contacted. Mr. Brill indicated that he did not recall from whom Brill Neumann received Mr. Thornton's name. However, he believes it would have been through one of the economic development contacts.

The information provided by Brill Neumann indicates that seven candidates were identified for the KBA CEO/President position, four of whom were pursued. Of the four pursued by Brill Neumann, the KBA Search Committee chose to interview:

- Bill Duncan – President and Chief Executive Officer, Kansas City Area Life Sciences Institute
- Tom Thornton – President, Illinois Technology Development Alliance

Brill Neumann identified 27 candidates for the Kansas BioEnterprise President position, seven of whom were pursued. Of the seven pursued, the KBA Search Committee chose to interview:

- Terry Crabtree – Former President, Inoveon Corporation
- Vineet Kapur – Chief Financial Officer, Touchstone Asset Management

[31] http://brillneumann.com.
[32] Available minutes do not detail the members of the Search Committee.

- Tom Thornton – President, Illinois Technology Development Alliance
- Mark Wdowik – Executive Director, Office of Technology Transfer, University of North Carolina

Although the documentation provided by Brill Neumann indicates the individuals were interviewed for two separate positions, Mr. Brill indicated that all five were interviewed for the KBA CEO/President position. Mr. Brill indicated that the goal was to hire the KBA CEO/President position first and then fill the Kansas BioEnterprise position at a later date. That is, in fact, what occurred.

Interviews of these five candidates were conducted in Kansas City on May 1 – 3, 2006 by KBA Directors Clay Blair, Dolph Simons, Jr. and Bill Sanford, all members of the Search Committee as well as the Executive Committee. Messrs. Blair, Simons and Sanford narrowed the five candidates to the final two, Tom Thornton and Mark Wdowik. Additional interviews of Thornton and Wdowik took place on May 25, 2006 in Washington, D.C. with Directors David Franz, Dan Glickman and Clay Blair. Mr. Blair indicated that Director Jim Barone interviewed Thornton during the process as well.

Mr. Blair stated that the BOD was interested in attracting federal research funding to Kansas. Therefore, the BOD was interested in a candidate with experience in Washington who knew how Washington worked. Mr. Thornton's experience in Washington was viewed very favorably, and set him apart from other candidates. Mr. Nick Brill of Brill Neumann stated that Thornton's Washington experience was a factor in his hiring. However, another significant factor was that it was perceived that Mr. Wdowik would be difficult to successfully recruit. Mr. Brill indicated that Mr. Wdowik's wife was a professor and the KBA Search Committee discussed that it was likely a position would need to be located for her in order for Mr. Wdowik to accept an offer from KBA. Ultimately, Thornton was recommended to the full BOD.[33]

In the July 13, 2006 BOD meeting, Mr. Blair stated that he expected the announcement of the new CEO/President of KBA to be forthcoming in a matter of weeks if not days. At the October 12, 2006 BOD meeting, Tom Thornton was introduced as the President/CEO of KBA.

Allegations Related to Tom Thornton's Employment History

Allegations have been made with regard to Mr. Thornton's employment history, specifically related to his employment on Representative Dennis Hastert's staff and his employment by divine interVentures. The allegations related to Thornton's employment by Hastert are that Thornton misrepresented that he was employed by Hastert while Hastert was Speaker of the House, and that Thornton inflated the importance of his responsibilities on Hastert's staff. The allegations related to Thornton's employment by divine interVentures are that he was directly involved in that company's financial downfall and ultimate demise. Therefore, BKD reviewed Thornton's employment history based on his resume as received from Brill Neumann, publicly available information and an interview with Jude Sullivan, the former General Counsel of divine interVentures.

[33] The BOD and Executive Committee minutes do not reflect the recommendation or a vote.

Mr. Brill indicated that a background and reference check were performed on Mr. Thornton. Brill Neumann hired an outside firm to verify employment dates and run credit history, driving record and criminal conviction reports. The reference check involved Brill Neumann calling references provided by Thornton, as well as people who were "off-list" (not listed as a reference by Thornton) who may have known Thornton. Mr. Brill believes the information was relayed verbally to the KBA Search Committee, likely through Mr. Blair, and that the information was sent to Mr. Blair as well. Brill Neumann no longer has record of this information in its database. Mr. Blair indicated that Brill Neumann did inform him that it had performed a background check, but he did not recall receiving any written information related to the background check.

The copy of Mr. Thornton's resume provided by Brill Neumann, ***Exhibit 23,*** lists Thornton's employment history from most recent to most historical. The resume lists his employment with Hastert as "Senior Policy Analyst, Congressman J. Dennis Hastert, U.S. House of Representatives: January 1991 – December 1993." Mr. Hastert was Speaker of the House from January 6, 1999 through January 3, 2007. Thornton included his period of employment with Hastert on his resume, which does not overlap Hastert's position as Speaker. In the description of his duties, Thornton identifies Hastert as Representative J. Dennis Hastert, *currently* Speaker of the House. At the time of the submission of Thornton's resume, Hastert was Speaker of the House. Therefore, it appears that the description of Thornton's employment by Hastert on the resume is accurate.

With regard to Mr. Thornton's employment by former Speaker Hastert, Mr. Brill indicated his firm did speak to someone in Hastert's office who spoke highly of Thornton. Mr. Brill does not recall Thornton indicating that he was with Hastert's office while Hastert was Speaker of the House. Mr. Brill offered that many people will list their employment by date order and if the person they are referring to being employed by has since gained a new title, they may use that title. Brill indicated that he has seen many resumes and this is not unusual. However, Mr. Blair indicated that during the interview process Thornton indicated that he had been with Hastert when Hastert was Speaker of the House. Blair recalled that Thornton stated he was involved in putting together the charges against Clinton related to Monica Lewinsky. Mr. Brill indicated that he did not remember ever hearing Thornton say that, and it is the kind of thing he thinks he would remember if he heard it. However, he indicated that there were many interviews of Thornton that he did not take part in. To the extent it has been written or stated that Thornton was a member of Hastert's staff while Hastert was the Speaker of the House, that is inaccurate.

Questions have also been raised regarding Mr. Thornton's title and responsibilities while employed by Representative Hastert's office. On his resume, Thornton's description of his responsibilities stated, "As Senior Policy Analyst, Mr. Thornton served as principal policy advisor and managed affiliated policy staff for Representative J. Dennis Hastert, currently Speaker of the U.S. House of Representatives." BKD emailed Speaker Hastert, now employed by the law firm Dickstein Shapiro, LLP and asked Speaker Hastert to verify Thornton's dates of employment and to provide a description of Thornton's responsibilities. Speaker Hastert verified the dates of employment listed on Thornton's resume and indicated that Thornton's title was Leg. Director. Thornton's primary responsibility was to make sure policy and funding for Fermi Lab (in Illinois) was in place. However, Speaker Hastert indicated that in a small legislative office, staffers cross discipline whenever needed. Please refer to ***Exhibit 24*** for Speaker Hastert's email response.

divine interVentures' Bankruptcy

An additional allegation related to Mr. Thornton's employment revolves around his tenure as a Managing Partner of divine interVentures from October 1999 through May 2001. Thornton's resume, as provided by Brill Neumann, indicates that "Mr. Thornton led divine's business-to-business e-commerce investment team, managing $120 million in investments in 15 portfolio companies. Chicago-based divine is a publicly held operating company that partners with entrepreneurs and brick-and-mortar businesses to build market leaders in business-to-business e-commerce, Internet infrastructure and Internet-based related business services." The resume also noted that Thornton assisted in the development and marketing of divine's initial public offering ("IPO") that rose over $400 million.[34] divine went public in July 2000 and declared bankruptcy in February 2003. Allegations have been made that Thornton was integrally involved in the financial decline of divine interVentures.

BKD reviewed this issue by examining filings associated with Enivid, Inc. (formerly known as Divine, Inc. and divine interVentures) and Sabine, Inc. (formerly known as RoweCom, Inc.) bankruptcies and through an interview with Jude Sullivan, former Secretary and General Counsel of divine interVentures and former President of RoweCom, Inc.

Bankruptcy filings[35] indicate that divine interVentures was founded in 1999 as an Internet-holding company known as an incubator company, engaged in business-to-business e-commerce through a group of associated companies. divine interVentures provided management and other resources with the goal of taking companies in its portfolio public. divine interVentures rose over $100 million in its IPO in July 2000. However, the IPO market for dot-com companies evaporated in 2000 and divine interVentures failed to produce a single IPO for its incubated association of companies.

Toward the end of 2000, many members of management believed that the incubator concept had failed and that divine interVentures should pursue a new business strategy. In February 2001, divine interVentures, then known as Divine, announced that it would acquire companies engaged in the "Enterprise Web Solutions" business and then integrate the acquired companies and their products and services into the portfolio of existing Divine products. Divine actively implemented its strategy in the remainder of 2001 during which it acquired 20 companies. Divine focused on acquiring financially distressed companies with operational concerns. The new business strategy contributed to Divine's cumulative operating loss for the first three quarters of 2001 in excess of $175 million. By this time, many members of management questioned the new business plan due to its cost, negative effect on cash flow and operational challenges associated with the acquisitions. However, the CEO would not be dissuaded and the dissident members of management failed to alert the BOD of their concerns.

[34] Publicly available information indicates that divine raised approximately $120 million through its IPO. However, there were simultaneous private placements that approximated $259 million. "divine interVentures Announces Second Quarter 2000 Results and Provides Post-IPO Update," http://www.thefreelibrary.com/divine+interVentures+Announces+Second+Quarter+2000+Results...

[35] In re ENIVID, Inc., et al. Debtors, JAMES B. BOLES, LIQUIDATION TRUST REPRESENTATIVE OF THE LIQUIDATING TRUST OF ENIVID, INC., Plaintiff, v. ANDREW J. FILIPOWSKI, PAUL HUMANSKY, MICHAEL CULLINANE AND JUDE SULLIVAN, Defendants. Chapter 11, Case No. 03-11472-JNF, Adv. P. No. 04-1439-JNF, UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF MASSACHUSETTS.

One of the companies targeted for acquisition by Divine was RoweCom, Inc. RoweCom was a financially distressed company, having operated at a loss for several years. Based on RoweCom's business model, vendor payments in the fourth quarter were routinely in excess of customer payments, and would require funding by Divine. Divine's on-going cash flow problems and a lack of synergy between RoweCom and Divine's business, led some within Divine to question the acquisition of RoweCom. However, Divine completed the transaction on November 6, 2001 and arguably entered the "zone of insolvency"[36] on November 30, 2001. Nevertheless, Divine's CEO remained steadfast in his acquisition strategy, acquiring eight additional companies.

Divine continued to suffer from severe cash flow problems and in July 2002 disbanded its Merger and Acquisitions unit. By the third quarter of 2002, Divine's cumulative operating losses totaled $683.7 million since its IPO in July 2000. In the fourth quarter of 2002, RoweCom's usual, fourth quarter cash need arose. However, Divine did not have sufficient cash or available financing to meet RoweCom's cash needs. Furthermore, Divine had used cash paid to RoweCom by customers throughout the first three quarters of the year to fund its own operations rather than accumulating those payments to meet the large payments due RoweCom's vendors in the fourth quarter for services provided RoweCom's customers throughout the year. Through the fourth quarter of 2002, Divine unsuccessfully attempted to sell RoweCom. By mid-December 2002, Divine determined that it was not able to continue to support RoweCom and was not in a position to finance the RoweCom year-end vendor payments. On January 27, 2003, RoweCom filed bankruptcy.

Once in bankruptcy, RoweCom filed an adversary proceeding against Divine seeking $73 million in damages, for, among other things, "looting" RoweCom. Thereafter, the United States Department of Justice and the Securities and Exchange Commission began investigating the management of RoweCom and Divine. In addition, prior to RoweCom's bankruptcy, Divine's auditors informed the company that it would issue a "going concern" qualification in the absence of a definite operating plan for 2003. Divine explored several strategic alternatives, including the sale of its entire business or various divisions, but could not secure a buyer. Divine filed bankruptcy on February 25, 2003.

BKD interviewed Jude Sullivan and his recounting of what led to the downfall of divine interVentures closely approximated that detailed in the bankruptcy filings. Sullivan indicated that divine interVentures was an incubator and early-stage venture capital fund that focused on Internet-enabled businesses. Sullivan was originally the legal director of the Partner Development Group of which Mr. Thornton was one of three managing partners. In April 2000, the Internet bubble burst and divine interVentures subsequently restructured its business model to be less of an Internet-enabled company incubator and more of an acquisition company to buy Internet and software companies that could not get funding elsewhere. In the restructuring of Divine, Sullivan became General Counsel. During this process, Divine significantly dismissed the Partner Development Group. Thornton took over the Skyscraper Fund, which was basically a very early stage venture capital fund. It was the "garage fund" for Divine, making investments of $300,000 to $500,000. Thornton left Divine in May 2001 and Sullivan indicated his recollection was that the Skyscraper Fund only made a few investments before Thornton left.

[36] Zone of Insolvency is a legal term used when a company is in danger of going bankrupt.

Sullivan indicated that everything that Divine did that mattered, as far as its demise, happened long after Thornton left. Sullivan indicated that most of the responsibility lies with the RoweCom matter previously described.

Mr. Sullivan indicated that Mr. Thornton was never a defendant in any of the resulting lawsuits. The defendants were Andrew Filipowski, the CEO; Paul Humenansky, the President and COO; Michael Cullinane, the CFO; and Jude Sullivan as Secretary and General Counsel of Divine and President of RoweCom. Sullivan was not a director of either Divine or RoweCom and indicated that he was named in the suit largely due to the fact that he was General Counsel. However, the bankruptcy documents indicate that Sullivan voiced his concern regarding the RoweCom and other investments to management, but not to the outside directors, which contributed to the deals being approved and was a breach of his fiduciary duty. The various bankruptcy cases consolidated and settled in May 2005. Sullivan was a party to the Settlement Agreement, which was funded by the insurance companies. Sullivan indicated that there were no resulting ramifications to his law license or his ability to practice law. Sullivan indicated that he was not an individual party to any sort of investigation, including those by the Securities and Exchange Commission or the Department of Justice.

Other previous employment listed on Thornton's resume included positions with The Illinois Coalition, Convergent Technology Group, Inc. and Illinois Technology Development Alliance. A review of publicly available information indicates that Thornton was employed by those entities. In addition, Thornton became a director of Advanced Life Science ("ALS") in June 2001. ALS was a biopharmaceutical company engaged in the discovery, development and commercialization of drugs to treat the areas of infection, oncology and respiratory disease. On May 5, 2011, ALS suspended operations and terminated its staff due to a severe lack of liquidity. Thornton's annual BOD fees from ALS were $50,000. BKD found no evidence of any interactions between KBA and ALS.

TOM THORNTON'S RECRUITMENT BY CLEVELAND CLINIC INNOVATIONS

In early 2011, allegations began to surface that KBA was not appropriately funding some grants to client companies. Shortly thereafter, the Senate Commerce Committee began to question the operations of KBA and its spending of taxpayer funds. To attempt to address concerns being raised by members of Kansas government regarding KBA's spending and potential conflicts of interest in the grant and investment award process and contracting, the BOD initiated this Forensic Audit in early April 2011. A few days into the Forensic Audit, on April 13, 2011, Tom Thornton resigned and accepted the position of General Manager of Alliances with Cleveland Clinic Innovations, a start-up incubator of The Cleveland Clinic[37] in Cleveland, Ohio.

[37] Director Bill Sanford is a member of the BOD of Cleveland Clinic and the Advisory Board of Cleveland Clinic Innovations. Mr. Sanford stated that he had no knowledge of or involvement in Thornton's employment at Cleveland Clinic Innovations. Mr. Thornton indicated that he was frequently approached with potential employment opportunities and pursued the position with Cleveland Clinic Innovations. He indicated that the timing of the offer was right given the allegations being directed at KBA.

Allegations have been made that Mr. Thornton called in a few favors to obtain the job with Cleveland Clinic Innovations after announcement of the Forensic Audit. It has been alleged that Director Bill Sanford and/or Mr. Baiju Shah[38] assisted Thornton in obtaining his new employment. Mr. Sanford is an Advisory Board member of Cleveland Clinic Innovations and a Board member of Cleveland Clinic and Mr. Shah is the CEO of BioEnterprise, of which Cleveland Clinic is one of the founding members. Both Messrs. Sanford and Shah deny assisting Thornton in his move to Cleveland Clinic Innovations. The forensic review of Thornton's email from the email server and computer forensics performed on Thornton's KBA computer indicates the following chain of events. Please refer to ***Exhibit 25*** for the relevant emails described below.

The review of Mr. Thornton's email indicates that he was first contacted by Chris Coburn, the Executive Director of Cleveland Clinic Innovations, regarding a possible employment opportunity on December 7, 2010. The email reads "Thomas-we might be brewing something in Cleveland that (would) be of interest to you. Do you want to chat more? If so, what (would) your target (compensation) be?" Thornton replied that same date that he was "intrigued" and agreed to talk more. On December 8, 2010, Thornton's KBA cell phone records indicate a 21 minute call was placed to the phone number associated with Chris Coburn at Cleveland Clinic Innovations.

On December 12, 2010, Mr. Coburn again contacted Mr. Thornton and stated that he had mentioned Thornton to one of their key people and there was real interest. Thornton replied on December 13, 2010 that he was absolutely interested and would forward his bio, which he did on December 14, 2010.

On December 19, 2010, Mr. Coburn asked Mr. Thornton when he would be available to come to Cleveland for an interview. On December 21, 2010, Thornton confirmed that he would be in Cleveland on January 6, 2011 and asked for a position description and a listing of who he would be meeting with.

On January 5, 2011, Mr. Thornton verified that the meeting the next day was still on schedule and again asked for more information on the position and who he would be meeting with. That same day, Thornton received a schedule of meetings from 11:30 a.m. through dinner, with a breakfast meeting with the Chairman of Cleveland Clinic Innovations the following morning. Thornton placed a one minute phone call on his KBA cell phone to the phone number associated with Linda Ludrosky, Chris Coburn's Administrative Assistant.

BKD noted that the plane ticket purchased for Mr. Thornton to fly to Cleveland for the January 6, 2011 interviews was paid for by KBA as discussed in more detail later in this report. BKD asked Thornton in his August 24, 2011 interview if the January trip was an interview for a job. Thornton replied that it was not; that Cleveland Clinic Innovations was just interested in hearing about KBA's successful business model.

On January 11, 2011, Mr. Coburn sent Mr. Thornton an article entitled "Cleveland Clinic, MedStar join forces to move medical technologies to market." Thornton replied, "Great news…let me (know) what the next steps are."

[38] Baiju Shah and BioEnterprises were consultants to HBV as discussed later in this report.

On January 11, 2011, Mr. Coburn indicated he got Mr. Thornton's voicemail, and stated, "Assuming you are seriously interested, along the lines of what we discussed a few weeks ago (in terms of scope and comp), I am going to float your name confidentially (with) the MedStar folks tomorrow when I have my kick-off meeting with them." Thornton replied, "Sure thing. Have you put any thought into bonus opportunity?"

On January 12, 2011, Mr. Thornton sent a blog to Mr. Coburn entitled "Fixing Biotech's Broken Business Model" along with the message "Chris, a very timely blog that emphasizes the critical importance of the innovation alliance. The alliance will be a national model for health care commercialization. I'd look forward to being a part of it."

On January 20, 2011, Mr. Coburn's assistant sent Mr. Thornton an email to check his availability for a meeting with MedStar on February 8th.

On February 15, 2011, Mr. Thornton placed a one minute call on his KBA cell phone to the phone number associated with Chris Coburn.

On February 22, 2011, Mr. Thornton placed a two minute call on his KBA cell phone to the phone number associated with Debra Cunningham, Department Coordinator at Cleveland Clinic Innovations.

On February 23, 2011, Mr. Thornton was copied on an internal email between MedStar personnel, which stated, "Just a reminder that Tom Thornton will be in DC 2/28 to 3/2 and asked through Chris if we could set up some follow-up meetings for him with us (which is a great sign that he is mentally transitioning to join us). Tom thought he could carve out about 4 hours of time on one of the days to come over for meetings."

On February 28, 2011, Mr. Thornton placed a two minute call from his KBA cell phone to the number associated with Chris Coburn.

On March 10, 2011, Mr. Thornton placed a one minute call from his KBA cell phone to the number associated with Susan Bernat, Director of Operations and Finance at Cleveland Clinic Innovations. On March 10, 2011, Thornton received an email from Susan Bernat at Cleveland Clinic Innovations, which stated, "Tom- just checking to see if you had a chance to pull together the numbers we discussed this morning." On March 11, 2011, Thornton replied, "I was provided a $50K moving allowance upon joining KBA. These are the actual data (round figures) from my move from Chicago to run KBA: $21,000 for move of possessions; $8,000 for temporary housing in Kansas (4 months); $4,000 for airfare between Chicago and Kansas (pre-job hunting in Kansas, disposition of Chicago condo); $1,000 for storage."

Although Mr. Thornton's KBA computer has been effectively wiped,[39] there were some Windows shortcut files with names, but not contents, of folders and files that existed on Thornton's computer at one time. The following Windows shortcut files were found to be relevant to the possible timeline of Thornton's offer and acceptance of employment from Cleveland Clinic Innovations.

[39] Refer to Thornton Computer Section later in this report for a discussion of the removal, deletion and wiping of information from Thornton's KBA computer by Thornton.

Windows Shortcut File	Date Created	Time Created
C:\Documents and Settings\Thornton\Desktop\Resignation	March 10, 2011	8:24 p.m.
C:\Documents and Settings\Thornton\Resignation\KBA Resignation.docx	March 10, 2011	8:37 p.m.
C:\Documents and Settings\Thornton\Desktop\Resignation\KBA Situational Analysis.docx	March 10, 2011	10:01 p.m.
C:\Documents and Settings\Thornton\Desktop\Resignation\KBA Resignation Memo.docx	March 10, 2011	10:02 p.m.
C:\Documents and Settings\Thornton\Desktop\Resignation\Resignation KBA Board.docx	March 11, 2011	1:48 a.m.

Furthermore, Mr. Thornton told BKD that he accepted the offer from Cleveland Clinic Innovations in March.

On March 28, 2011, Mr. Thornton received an email from Susan Bernat at Cleveland Clinic Innovations, which stated, "Tom- Just wanted to reach out to you and see if a start date has been established. Please let me know if you need any assistance from me in getting everything together."

On April 13, 2011, Mr. Thornton sent an email entitled "Transition Plan" to Governor Carlin with the message "Per our discussion." Governor Carlin indicated that Thornton tendered his resignation to Carlin in a phone conversation on April 13, 2011, shortly prior to sending the email described above.

Emails indicated that Mr. Thornton was acquainted with Mr. Coburn at least as far back as September of 2007. Furthermore, BKD saw no direct indication in Thornton's emails of any involvement by Messrs. Sanford or Shah in Thornton's recruitment by Cleveland Clinic Innovations. BKD identified no calls to/from Thornton's KBA cell phone to/from the number associated with Mr. Shah at BioEnterprise. There were several calls between Thornton and Mr. Sanford over the period reviewed, but none that clearly indicated Mr. Sanford's involvement in Thornton's recruitment process. Furthermore, both Messrs. Sanford and Shah indicated to BKD that they had not been involved with Thornton's employment opportunity at Cleveland Clinic Innovations.

BKD attempted to contact Chris Coburn to speak with him regarding Mr. Thornton's hiring. BKD received a call back from Ms. Karen Shanahan, Senior Counsel of Cleveland Clinic Innovations. Ms. Shanahan indicated that in this instance, she had been given clearance by Cleveland Clinic Innovations' Human Resources Department to provide some information in response to questions posed by BKD. Ms. Shanahan indicated that Thornton has been known to the management of Cleveland Clinic Innovations since the mid-1990's and no one associated with KBA, inclusive of Mr. Sanford and Mr. Shah, assisted Thornton in securing his employment with Cleveland Clinic Innovations. She also confirmed that Thornton is still employed by Cleveland Clinic Innovations. An additional question posed by BKD was whether or not Thornton was using any information, documents, intellectual property, contact lists, etc., brought with him from KBA. Ms. Shanahan stated that Cleveland Clinic Innovations did not believe there was an overlap in Thornton's responsibilities in his current position and his position at KBA that would result in his continued use of KBA information.

CHANGE OF EMPLOYMENT STATUS OF CFO/COO DURING FORENSIC AUDIT

On October 8, 2011, the employment status of CFO/COO Jan Katterhenry changed. Because of the timing of this change in status, BKD evaluated two issues:

1. Was the change in status motivated by issues related to the Forensic Audit?

2. Did the change in status interfere with the auditors' ability to perform the Forensic Audit?

As to the first issue, BKD did not find any evidence indicating that the change in status was motivated by issues related to the Forensic Audit.

As to the second issue, BKD does not believe that that change in status interfered with the auditors' ability to perform the Forensic Audit. BKD interviewed Ms. Katterhenry before the change in status and, accordingly, had access to information pertaining to the Forensic Audit.

Subsequent to her change in status, BKD left word with Ms. Katterhenry, through her legal counsel, indicating BKD's ability to receive any additional information, if any, Ms. Katterhenry wished to provide. We received no indication from Ms. Katterhenry or her counsel of a desire to provide supplemental information.

ALLEGATIONS RESULTING IN CLAY BLAIR'S RESIGNATION

One of the accomplishments of the Start-up Phase was the siting of the Kansas Bioscience Park. In July 2006, Chairman Blair announced that the City of Olathe ("Olathe") would donate 92 acres of land valued at approximately $9 million to KSU and KBA to be used for the KSU Olathe campus, a bioscience incubator and a bioscience business park. (Please refer to the Kansas Bioscience Park section later in this report for further discussion.) This accomplishment was cited in many interviews with current and former BOD members as a testament to Mr. Blair's entrepreneurial talents. KBA directors interviewed that served on the BOD with Mr. Blair consistently credited him with bringing KBA's operations into existence and quickly building support for the organization. Many of those BOD members commented that Clay Blair was the right person to lead KBA in its inaugural phase due to his business talents and ability to get things done. However, Mr. Blair's tenure was not without controversy. Please refer to ***Exhibit 26*** for the emails described below.

Some of Mr. Blair's business practices raised concerns with some members of the BOD. By April 2007, Director Sandra Lawrence was expressing concern related to governance issues. In a letter to BOD members dated April 5, 2007, Ms. Lawrence raised issues related to the timely submission of Conflict of Interest Disclosure forms; vendor relationships with vendors related to Mr. Blair, specifically an Administrative Services Agreement[40] between Clay Blair Services and KBA; and other matters. Two versions of the Administrative Services Agreement are attached in ***Exhibit 26***. In the earlier version (transmitted via email dated March 15, 2007), Clay Blair Services would receive $4,000 a month to assist KBA staff in business attraction, public appearances, negotiating agreements for benefit of KBA and assisting in the screening of

[40] BKD attempted to conduct a follow-up interview with Mr. Blair regarding the agreement, but was unable to reach him for comment.

possible grants and investments. Thornton objected to this agreement as unnecessary and noted that these services to be provided by Mr. Blair would not be subject to staff direction, discretion and/or management. Thornton was also concerned that Blair would not keep KBA informed of his activities. In the latter version (signed by Dave Franz on March 23, 2007), Clay Blair Services would receive $4,000 a month for administrative support services until such time as KBA could support itself. However, in the March 27, 2007 email from Thornton to Sandra Lawrence, Thornton pointed out that KBA had a staff of four, two of which were administrative assistants, and again questioned the necessity of the agreement. Ms. Lawrence therefore withdrew her approval of the agreement, and the agreement was never executed. In her March 5, 2007 email to Mr. Blair and other BOD members, Ms. Lawrence stated that she was aware that the BOD approved the payments to Clay Blair Services before KBA established its own office, but that she understood it would stop once KBA had its own infrastructure in place. Payments to Clay Blair Services totaled $16,000 in FY2006 and $30,000 in FY2007.

The primary accusations that led to Mr. Blair's resignation related to potential conflicts of interest caused by Mr. Blair's hiring of family members to perform work for KBA and the potential personal financial benefit related to the siting of the Kansas Bioscience Park. Mr. Blair indicated that he hired the law firm of Stinson Morrison Hecker through his cousin Allen Blair to perform services on KBA's behalf. Stinson Morrison Hecker was paid $27,163.45 in FY2005, $55,377.48 in FY2006, $51,660.44 in FY2007 and $7,344.00 in FY2008. Mr. Blair indicated that he hired his son-in-law Dennis Patterson to oversee the Kansas Bioscience Park project as Patterson was an experienced project manager having successfully worked with Mr. Blair on various real estate development ventures. Mr. Patterson was paid $7,687.50 in FY2007. Furthermore, as previously mentioned, Mr. Blair's company, Clay Blair Services provided administrative services for which it received payment. Mr. Blair stated that none of these payments were made with the purpose of financially benefitting a family member or himself. Mr. Blair indicated that he hired Allen Blair and Dennis Patterson not because they were family members, but because he knew them to be competent from previous experience and knew that they would provide quality work at a fair price. With regard to the payments to Clay Blair Services, Mr. Blair indicated that it was reimbursement for overhead and administrative assistance for the use of Clay Blair Services' space, personnel and supplies. Mr. Blair stated that he worked many hours on KBA's behalf, for which he received no personal compensation.

The allegation that Mr. Blair benefitted from the siting of the Kansas Bioscience Park related to the fact that Mr. Blair owns land near the Kansas Bioscience Park, which he developed into the residential subdivision Prairie Brooke. The marketing materials for Prairie Brooke reportedly stated that it is located near the Kansas Bioscience Park. The allegation is that the value of Mr. Blair's land was increased by its proximity to the Kansas Bioscience Park. Mr. Blair indicated that given his land holdings in Johnson County, it would be difficult to develop a 100 acre parcel in Johnson County that was not near one or more of his land holdings. With regard to the mention of Prairie Brooke's proximity to the Kansas Bioscience Park in its marketing material, Mr. Blair indicated that the marketing materials also mentioned that the development is near a high school, a middle school and an elementary school. Mr. Blair indicated that it is common in marketing real estate to describe the amenities in close proximity to the development. Mr. Blair indicated that the siting of the Kansas Bioscience Park did not increase the value of lots or homes in the Prairie Brooke subdivision.

Ethics Investigation Regarding Clay Blair

Mr. Blair stated that the previously described allegations against him were false, but given the publicity surrounding them, he believed it was in the best interest of KBA to resign. Mr. Blair resigned from the BOD of KBA on June 8, 2007. Mr. Blair told BKD that after he resigned, he hired an attorney, Reid Holbrook, and had Mr. Holbrook contact the Kansas Governmental Ethics Commission to request an investigation into the allegations against him. Mr. Blair indicated that the investigation did not find that he had done anything in violation of any laws or regulations.

BKD called the Kansas Governmental Ethics Commission to inquire as to the existence and findings of the investigation of Mr. Blair. A representative of the Kansas Governmental Ethics Commission indicated that it would confirm or comment on the existence or results of an investigation only if that investigation had resulted in a public hearing; however, there was no record of a public hearing regarding Mr. Blair.

BKD believes an investigation did occur based upon an email from Mr. Thornton to Troy Findley, dated May 24, 2007 that indicated that Thornton was contacted by an investigator at the Kansas Governmental Ethics Commission related to an investigation of Mr. Blair. Furthermore BKD located letters from Blair's attorney, Reid Holbrook, requesting information from KBA under the Kansas Open Records Act as early as June 12, 2007. BKD could locate no public findings related to the investigation and could not determine if the investigation was initiated by Mr. Blair, or was on-going when Mr. Blair requested an investigation. Please refer to ***Exhibit 27*** for copies of the described documents.

KBA SELF-REPORTED ETHICS MATTER

In October 2007, Dan Schmisseur, formerly with KTEC, contacted KBA's Audit Committee Chair, Angela Kreps, to report possible ethics violations[41] involving Mr. Blair.[42] KBA's Audit Committee hired the law firm of Polsinelli Shalton Flanigan Suelthaus, PC ("Polsinelli") to investigate the October 2007 allegations. The result of the investigation was a March 26, 2008 letter to the Kansas Governmental Ethics Commission self-reporting a potential violation related to the possible acceptance of an inappropriate payment from a vendor to KBA for entertainment of KBA personnel. In addition, the following information has been gathered from the forensic review of Thornton's email from the email server. Please refer to ***Exhibit 28*** for the documents described below.

Based on a February 19, 2008 email from Frank Ross of Polsinelli to Michael Foley of UBS Financial Services, Inc. ("UBS"), it appears that there were two issues under review: the payment of expenses associated with a cocktail party and dinner by UBS for KBA BOD in Washington, D.C. in the late winter/early spring of 2007; and whether KBA's relationship with UBS had resulted in any benefit to Clay Blair in connection with his own personal and related business relationships with UBS. On February 27, 2008, UBS indicated it would provide information related to the cocktails

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[41] Ms. Kreps indicated to BKD that the allegations included improprieties related to the siting of the Kansas Bioscience Park and her recollection was that the siting was included in the investigation conducted by the law firm. However, available information reviewed by BKD did not indicate that the siting of the Kansas Bioscience Park was a subject of the investigation by the law firm.

[42] BKD attempted to conduct a follow-up interview with Mr. Blair regarding this issue, but was unable to reach him for comment.

and dinner potentially hosted by UBS and further indicated that the UBS Special Investigations Unit had started an internal investigation, pursuant to their normal protocol, into the allegations that Blair personally benefitted from KBA's relationship with UBS. However, UBS did not commit to a timeline for the internal investigation.

On February 22, 2008, Polsinelli received a letter from Michael Norton of Blackwell Sanders, LLP, representing Mr. Schmisseur, inquiring about the status of the ethics complaint lodged by Schmisseur four months earlier. The letter alleged that not only had no meaningful steps been taken to address the serious ethical breaches identified by Schmisseur, but Schmisseur and others had been subject to retaliation resulting in financial loss and other harm due to further ethical breaches after the complaint.

The letter stated that the initial malfeasance reported by Schmisseur, and Ms. Kreps' subsequent breach of her duty of confidentiality, led directly to the termination of an individual from the KTEC Pipeline Program and loss of business opportunity, and also led to the termination of Schmisseur and another individual from the Center for Economic Development, Innovation and Commercialization ("CEDIC").

Through his attorney, Mr. Schmisseur requested information regarding what safeguards were taken to ensure an independent investigation and regarding the level of knowledge Ms. Lawrence and other KBA BOD members had regarding Schmisseur's complaint and Ms. Kreps' involvement in the underlying issue (assumedly, his termination from CEDIC). The letter ended with the comment that Schmisseur had authorized his attorney to explore other legal avenues to address his concerns to the extent he was not satisfied with KBA's diligence in these matters.

On March 19, 2008, Polsinelli replied to the Schmisseur letter. The response indicated that the issues raised by Schmisseur were highly sensitive as were the related findings. KBA's Executive Committee was informed of the information provided by Schmisseur and had identified certain matters requiring action. However, the letter did not provide any detail and indicated that the letter would be the last correspondence with regard to the issues raised.

KBA chose to self-report the issue related to the potential payment by UBS for cocktails and dinner to the Kansas Governmental Ethics Commission in a March 26, 2008 letter with attachments. In that letter, KBA reported the possibility that all or a substantial part of the costs associated with a KBA BOD dinner meeting in Washington, D.C. on March 12, 2007 may have been paid for by UBS. Under Kansas Ethics Laws, directors and officers of KBA are prohibited from either soliciting or accepting free or special discount meals from a source outside of state government, except under specific circumstances. KBA's internal investigation found that Clay Blair may have made the arrangements with UBS without the knowledge of any other BOD member. However, KBA did not interview Blair to attempt to confirm that allegation.

The details of the payment indicate that the $4,326.74 catering invoice for the dinner was paid by Mr. Thornton on his personal credit card, for which he was reimbursed by KBA. There were reportedly six UBS employees in attendance at the dinner. By letter dated February 27, 2008, UBS indicated that it did not host, sponsor or pay for the event. KBA informed UBS after it had consulted with its attorneys, that instead of UBS hosting or paying for the dinner, KBA would organize, host and pay for the dinner itself. However, UBS did make a $6,000 donation to KBA on February 28, 2007, but that donation was unconditional in terms of how KBA would use the funds.

As a result of the possible violation of Kansas Ethics Laws, KBA returned the $6,000 to UBS. KBA's accounting records indicate a $6,000 payment was made to UBS on March 24, 2008.

BKD did not locate any information regarding the outcome of the internal investigation by UBS into allegations that Mr. Blair personally benefitted from KBA's relationship with UBS.

CURRENT ALLEGATIONS RELATED TO THE SITING OF THE KANSAS BIOSCIENCE PARK

BKD received information via email to KBAFORENSICINPUT@bkd.com and through a follow-up interview concerning allegations related to the siting of the Kansas Bioscience Park ("KBP"). The information reiterated the previously published allegation that Mr. Blair personally benefitted from the siting of the KBP and indicated that there were potentially illegal acts by Clay Blair and Jon Wefald in negotiating the donation of land by Olathe. The email questioned why no other municipality in Kansas was given the opportunity to compete with Olathe as the best site for this major investment and asked why there was no RFP, no public hearing announcing the goal of finding a suitable location, no independent site selection committee or no independent consultant's report on the ideal location in Kansas to optimize economic development outcomes.

In addition, the email indicated that Chancellor Hemenway, a non-voting BOD member, was kept in the dark regarding the negotiations with Olathe and was informed only a few days prior to the announcement of the siting of the KBP. The author raised the question of if the state would have had greater benefit by making the campus a joint KU/KSU campus.

At the forefront of this complaint is KEGA's prohibition to BOD members from engaging in the authorization of KBA transactions in which they have a direct or indirect financial interest. K.S.A. 74-99b08(a) states that "Any member of the board and any employees, other agent or advisor of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority in writing. This interest shall be set forth in the minutes of the authority, and no director, officer, employee, other agent or advisor having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that, the provisions of this section shall not be construed to prohibit any employee of bioscience research institutions, or any public institute or private enterprise engaged in the business of bioscience who is a member of the board, who has no personal interest, from voting on the authorization of any such contract or transaction between the authority and such employee's employer."

The allegation regarding Mr. Blair's personal financial benefit from the siting of the KBP relates in part to the previously discussed fact that Mr. Blair owns development property in close proximity to the KBP. However, the current allegations go further by stating that the fact that Mr. Blair is personally involved in real estate development is at issue as he would have had "first knowledge" of bioscience companies relocating to or within the area, and could assumedly have steered them towards land he owns or a location that could somehow benefit the value of land he owns. If Mr. Blair's real estate development ties and land holdings created a conflict under K.S.A. 74-99b08(a), then Mr. Blair was in violation of that section of KEGA with regard to the authorization of various agreements entered into by KBA related to the KBP. The first mention of a formal authorization related to the KBP is the passage of the January 9, 2007 BOD resolution authorizing KBA to enter into a benefit district with Olathe. The Executive Committee approved the execution of agreements with Olathe on September 5, 2007. Neither set of minutes indicated that any BOD member noted a potential conflict, or recused themselves from voting.

However, BKD did note that from late 2005 through July 2006, based on documentation available for review, Mr. Blair appeared to have been the only individual negotiating with Olathe and KSU on KBA's behalf. Based on the history of the siting of the KBP as described below, the first time the land donation and potential partnering with KSU is disclosed in the BOD minutes is the day the press release regarding the donation occurs. As is alleged, there was no RFP regarding the siting of the KBP and no public hearings or independent studies were done prior to the announcement of Olathe's intent to gift land to KBA and KSU for the KBP. BOD members on the BOD during the relevant period differ in their recollections of when the BOD became involved in the process. Some BOD members recall the announcement of the gift of land as being presented as *a fait accompli*; however, they do recall that after the announcement, they were kept informed and up-to-date on the progression of the project. One BOD member stated that the BOD was informed and involved from a very early stage.

KBA's internal documentation regarding the history of the siting the KBP is scant and consists primarily of information in Executive Committee and BOD minutes. The review of the available BOD and Executive Committee minutes indicate that the first mention of the KBP or land donation for the KBP occurred in the BOD minutes on July 13, 2006. Clay Blair stated that one of the innovations from the April BOD meeting in Chicago was the Community Bioscience Facility Matching Fund program. He formally announced that as part of that program, Olathe would donate approximately 100 acres of land valued at $9 million to KSU and KBA to be used for a bioscience incubator and bioscience industrial park. The press conference to announce the gift was scheduled for 1:30 p.m. that day.

BKD researched publicly available information regarding the siting of the KBP and interviewed Clay Blair, Mayor Michael Copeland of Olathe, former President of Kansas State University Dr. Jon Wefald, Dick Bond and current and former BOD members on the BOD during the relevant period. Based upon the information gathered, it appears the history of the siting of the KBP is generally as follows.

In 2004, Mayor Michael Copeland participated in a Greater Kansas City Chamber of Commerce Leadership Exchange in San Diego and through listening to various speakers and presentations, realized how critical a world-class research institution is to the success of a metro area. He was particularly struck by how important the presence of University of California San Diego was to San Diego's growing bioscience community. In early 2005, this realization was reaffirmed by the Greater Kansas City Community Foundation's "Time to Get It Right" report. The Greater Kansas City Community Foundation had commissioned a Blue Ribbon Task Force of nationally-recognized leaders to conduct a study of higher education in the metropolitan area and the role it could play in the future of the region. The task force found that Kansas City suffered by not having a world-class research university in the region.

In late 2005, Mayor Copeland was asked to meet with representatives from KSU and KBA. The conversation touched on KBA's interest in meeting the challenges presented in the Greater Kansas City Community Foundation's report. Clay Blair had approximately 40 acres of land south of 119th street and west of K-7 that he was considering donating for a joint KSU/KBA campus, but it was not in the best location from the perspective of highway access and was not large enough to meet KSU's needs and Blair's idea of creating a bioscience park. Ten years before, the Olathe school district had been interested in purchasing 100 acres of land from an Olathe land owner; however, the land owner would only sell a 200 acre plot. Therefore, then Councilman Copeland was involved in the negotiation of the purchase of the 200 acres; 100 acres of which was sold to the Olathe school district and 100 acres of which was held by the city for a future yet undetermined use, but likely for use as a park.

The land was near College Blvd and K-10 Highway, the primary link between Lawrence and Johnson County. Mayor Copeland remained interested in locating a research institution in Olathe from his 2004 trip to San Diego, and proposed that KSU, KBA and Olathe explore a partnership whereby Olathe would donate land in exchange for KSU/KBA developing some type of research/educational facility in Olathe. In addition, the opportunity to acquire low-cost land that could be made available to bioscience companies at an extremely low price was attractive to KBA.

Mayor Copeland recalls that over the next several months, city staff met with KSU and KBA as well as with representatives of the Olathe Chamber of Commerce and Olathe Public Schools. KSU was interested in the opportunity, but needed to conduct its own due diligence regarding the demographics and character of Olathe and to determine for itself if the community would be willing to embrace a KSU facility in KU's backyard. KSU and KBA came to embrace the idea and after several more months of work, a Development Agreement was signed with KBA and KSU in September 2007, creating the KBP. In conjunction with the Development Agreement, KSU committed to constructing its first building in the KBP, and intended to privately finance the construction.

Both Mayor Copeland and Mr. Blair stated that there was no RFP process related to the location and no studies. Mayor Copeland indicated that Olathe, KSU and KBA just went out and made it happen. Blair indicated that he had mentioned the idea to the mayors of some of the other Johnson County cities, but not on a formal basis, more passively. Blair indicated that Olathe was the only city that had a large enough block of available land.

As stated in a May 3, 2011 *Johnson County Sun* article, on a parallel track, during the 2003 and forward time period, several community and business leaders in Johnson County had been considering how to raise money for the KU Edwards Campus. Ideas included partnering with Johnson County Community College ("JCCC"), which has a local taxing authority, to raise the mill levy and share those proceeds with the KU Edwards Campus. However, the JCCC Trustees would not give their approval. Between 2005 and 2006, community and business leaders considered going to the Legislature to seek the authority to create a similar county tax for KU Edwards Campus, but Chancellor Hemenway would not give his approval as his focus was getting the NCI designation for KUCC. Dick Bond, then President of the Kansas Board of Regents, indicated he approached President Wefald to ask if Wefald would support legislation permitting KSU in Salina and KU Edwards Campus to share in a local taxing authority. At that time, KU and KSU had both been given real estate from the Sunflower Ordinance at the former Sunflower Munitions Plant in DeSoto, Kansas. Wefald asked about support for Johnson County to help KSU build research facilities there.

However, the Kansas Board of Regents institutions are subject to a Service Area Agreement which limits the institutions to certain areas of the state. At that time, an institution wishing to locate facilities in another institution's service area required the approval of that institution's Chancellor or President in order to do so. Dick Bond indicated that Chancellor Hemenway was approached regarding KSU locating in KU's Service Area. Informal polling had indicated that a tax to support the KU Edwards Campus and the KU Cancer Clinical Research Center would not succeed. However, it was determined that the tax might succeed if KSU was added as there were 18,000 to 20,000 KSU graduates in Johnson County. Furthermore, KSU committed that its Johnson County campus would only provide programs in the areas of Animal Health and Food Science, which are not in competition with KU's offerings in the Service Area. In a July 23, 2006 *Lawrence Journal World* article, Chancellor Hemenway indicated he heard about the plans for the site two or three days before the announcement. Hemenway indicated that Wefald called him and told him about it. Hemenway indicated that "I didn't think about it one way or the other. I really don't see this as a competitive situation at all." Chancellor Hemenway gave his approval to KSU and both Hemenway and Wefald began championing what had become the Johnson County Educational Research Triangle ("JCERT") 1/8 cent sales tax in 2006.
Dr. Wefald recalled that he and Hemenway made several joint presentations in support of JCERT to help it gain voter approval. Voters approved the JCERT tax in November 2008. KSU will now pay for construction costs on its campus with the JCERT sales tax rather than through private financing. Please refer to ***Exhibit 29*** for copies of articles.

With respect to the siting discussions and decisions, there is evidence of a lack of involvement and active participation by the BOD (other than Clay Blair) with respect to these important decisions. For example, Blair appears to have been the only individual negotiating with Olathe and KSU on behalf of KBA. There is a difference of opinion as to whether the siting decision was presented to the BOD as *a fait accompli.* Overall, the impression is that the siting negotiating, decisions and approval was largely the result of the efforts of one person acting on behalf of KBA. However, without the active involvement and leadership of Clay Blair, there is serious question as to whether the siting decision would have occurred.

KANSAS BIOSCIENCE PARK

K.S.A. 74-99b09(16) states that KBA may own, acquire, construct, renovate, equip, improve, operate, maintain, sell or lease any land, buildings or facilities in the state that can be used in researching, developing, sponsoring or commercializing bioscience in the state, including, without limitation, a state-of-the-art facility, laboratory or commercial wet lab space incubator to be used by KBA, and also to be made available for use by bioscience research institutions or Kansas companies conducting bioscience research and development for bioscience research, commercialization and technology transfer of bioscience products, processes and other intellectual property in accordance with provisions of KEGA.

It was announced in July 2006 that Olathe would donate approximately 100 acres of land at Lone Elm and Highway 7 to KBA and KSU to be used for KSU's Olathe campus, KBA headquarters and incubator space and a bioscience park with potential graduation space for incubated companies.

On January 9, 2007, KBA's BOD authorized entry into a benefit district in Olathe to build infrastructure at KBA/KSU Olathe Innovation Campus. The estimated cost was to be $7.6 million to be paid over 20 years. The cost was to be prorated based on the acreage owned by KBA, KSU and future companies locating in the research park.[43]

KBA has worked with Olathe and KSU to develop the KBP on 92 acres of land that Olathe transferred (for $10 each) to KSU and KBA as the developers. The K-State Innovation Campus is an anchor tenant on its 38-acre (41.34%) research campus. KBA's 54 acres (58.66%) was developed to include KBA Venture Accelerator and a future business park for bioscience commercialization.

Olathe closed out the benefit district contracts in March 2010 and initiated the sale of the bonds. KBA's BOD approved funding for KBA's share of the estimated $7.9 million in infrastructure improvements. The final cost of the improvements was approximately $6.6 million, and KBA's share was determined by Olathe to be $3,467,989.48. The first assessments of benefit district taxes were due in 2010, and KBA paid a total of $293,322.55.

KBA has 44 developable acres. Two of those acres have been used for the Venture Accelerator. A master plan has been developed to guide the use of the remaining 42 acres. The plan designates which portions of land will be earmarked for use as graduation space for start-up companies that have outgrown the Venture Accelerator or other bioscience incubators, yet does not require KBA to develop additional infrastructure. The plan also designates which portions of land will be reserved for the purpose of attracting or retaining established bioscience companies. The master plan allows graduation space facilities to be developed by either KBA or an outside development firm. The smallest building considered per the master plan is 25,000 square feet ("sf").

KBA is marketing the land in the park to candidates. KBA's obligations to Olathe include securing the start of construction of a second building by January 2016.

Development Agreement

Olathe, KSU and KBA entered into a Development Agreement (the "Agreement") dated September 20, 2007. Article 6 of the Agreement, Use and Operations, gives specificity to the KBA facility to be built on the site. Subsection iv states, "KBA shall obtain a Final Certificate of Occupancy for the construction of a building not less than 25,000 square feet in size within the KBA Site pursuant to the Development Plan and shall obtain a Certificate of Occupancy for the same no later than three years after the final approval of the Special Benefit District described in 3.6 above. KBA shall also continue to develop buildings within the KBA Site pursuant to the Development Plan so that a new building is started within five years of issuance of a Final Certificate of Occupancy of a prior building. Without the consent of Olathe, each subsequent building shall contain not less than 50% of the area of the prior building."

Exhibit 12 of the Agreement describes the Design Criteria, which were described as not absolute criteria, but described as what should be used as the "target" in meeting the objectives of quality development. Under the "Building Design Guidelines" section, the design criteria states that the intent is to produce an "orderly and aesthetically pleasing environment that is compatible with

[43] January 9, 2007 KBA Board minutes.

the natural aspects of the park. The aesthetic appearance of the exterior of the building is paramount to the city. Innovative architectural designs that harmonize with the environment and express individuality are strongly encouraged. The intent shall be to ensure buildings are designed to create street level interest and pedestrian comfort."

The Agreement was signed by Thomas V. Thornton, with what appears to be his digital signature. His signature was notarized by Melissa Lynch, his executive assistant, on September 21, 2007. In an interview with Ms. Lynch, she indicated that she did not specifically remember the signature on the Agreement. However, she indicated that if she recognized the electronic signature as being Thornton's signature, she would likely have notarized it. BKD does not consider the use of electronic signatures to sign contracts requiring notarization to be an appropriate control.

BKD considered whether Thornton was the appropriate party to sign the Agreement on KBA's behalf. In September 2007, KBA's policies were silent on the appropriate level of authorized signature for a document such as the Agreement. The policies that were in place at the time addressed approvals for vendors, consultants and purchases. These are summarized below.

1. Vendor/Consultant Contract Management Policy and Procedure, Issue No. 2, dated June 8, 2007, states that all contracts for goods or services with a value greater than $1,000 shall be submitted to the CFO/COO, and all contracts will be signed by the President to bind KBA.
2. Purchasing Policy Issue number 2, dated June 8, 2007, stated the "Proper approvals must be obtained prior to establishing a firm order or contract to purchase goods or services for the company…" The appropriate level for long term contracts for >$100,000 is the Chairman of the Board and the President.

However, BKD did note that the Agreement had been authorized by the Executive Committee on September 5, 2007.

VENTURE ACCELERATOR

Considerations for Venture Accelerator Size

KBA's BOD and management determined that the Venture Accelerator building would house KBA's headquarters as well as incubator and wet lab space. To determine an appropriate size for the building, KBA reviewed and took recommendations from a variety of market demand studies that had been performed for bioscience incubators.

The Economic Development Corporation of Kansas City ("EDC-KC") completed a Market Demand Feasibility Study for Bioscience Incubators in a report dated February 7, 2006. It concluded that there was "clear evidence that there is a compelling need for bioscience incubator located centrally to the Kansas City area's research facilities." It recommended that the incubator have, at a minimum, wet laboratories to accommodate space for six to eight businesses and flexible space for an additional 12 to 15. The study suggested that the average company would require approximately 1,000 sf and could grow to 3,000 sf. The study averaged this to a size of 2,000 net sf, yielding a demand ranging from 36,000 to 46,000 net sf.

The Kansas City Area Life Science Institute ("KCALSI") commissioned a demand feasibility study in April 2007 called the "Analytical Study Targeting Optimal Site Characteristics for Regional Wet Laboratory Incubator." The report ranked the University of Kansas Medical Center's ("KUMC") site highest among the Kansas incubator sites in the location study, which included Olathe and Shawnee. Other options were studied for refurbishing the existing Breidenthal Building and/or constructing various series of new facilities at or near the Breidenthal site at KUMC.

Existing Incubator Space

ESTIMATED

KBA reviewed descriptions of existing or planned bioscience incubator facilities in the region which have both office and wet lab space. The existing or planned facilities changed with time, and KBA updated its analysis when labs were planned, opened and closed. The initial estimates of planned bioscience incubator facilities could not be located by KBA. Updated existing or planned facilities as of January 2011 are summarized below:

Incubator	Lab & Lab Office Space w/o Lawrence (net sf)	Lab & Lab Office Space w Lawrence (net sf)	Comments
KUMC Cambridge Street	-	-	Closing March 2011
KUMC Breidenthal	15,000	15,000	Occupancy March 2011
KC Biotechnology Center	-	4,500	Existing graduation space
UMKC	*unknown*	*unknown*	Rumored
Independence REC	7,900	7,900	Opened October 2010
LDCBA -BTBC	-	8,061	Opened July 2010
LDCBA BTBC Expansion Facility	-	17,500	In operation
"Kit" Bond Science & Technology Incubator	-	9,100	In operation
KBA	12,580	12,580	Occupancy approx. May 2011
Total	35,480	74,641	

The combined 35,480 net sf of existing and proposed incubator space as of January 2011 falls just below the minimum need of 36,000 forecasted by the EDC-KC in February 2006.

When comparing the proposed KBA incubator to the existing KUMC Breidenthal incubator, Breidenthal ranked higher in many categories of the KCALSI siting study, including access to strategic research partners, proximity to clinical study centers, proximity to hospitals and networking/collaboration potential, image, quality of life and access to business acumen and equipment. However, the KBA incubator ranked higher in proximity to potential graduation space and physical access.

KBA decided to move forward with the KBP and incubator with specific aims[44] of:

- providing wet lab incubator space to foster the formation and growth of bioscience start-up firms;

[44] Per January 26, 2009 Investment Recommendation, Kansas Bioscience Park Venture Accelerator.

- providing office space for KBA staff that will allow them to promote all programs and initiatives of KBA;
- providing space for KBA meetings and events; and
- providing exhibit space to showcase success stories of KBA.

ACTUAL
Existing or planned facilities as of January 2011 were between 35,480 and 74,641 net sf, as stated above. Our investigation found that as of the end of fieldwork, the actual available incubator space is over 80,000 net sf.

Incubator	**Estimated**	**Actual**
KUMC Breidenthal	15,000	15,500
KC Biotechnology Center	4,500	4,500
UMKC	*unknown*	*unknown*
Independence REC	*7,900*	*13,000*
LDCBA-BTBC	8,061	8,361
LDCBA BTBC Expansion Facility	17,500	17,500
"Kit" Bond Science & Technology Incubator	9,100	15,000
KBA	*12,580*	*12,432*
Total	74,641	81,193

In summary, it appears that some due diligence was performed relating to the market demand for incubator space prior to the decision to proceed with construction. The projections, however, appear to have underestimated the supply of incubator space in the current market.

Project Budget

A $12 million preliminary budget for a 25,000 sf building program was brought before the BOD in October 2008. The 25,000 sf size was the minimum set forth in the Development Agreement. Based on the market demand studies previously discussed, KBA management and the BOD decided that a larger building was necessary. In December 2008, the BOD was approached again with revised costs given the increased size of the building. The actual size of the building is 38,773 sf.

The total cost to construct the Venture Accelerator was $14,934,654. The BOD approved $10,631,200 for the general contract for construction of the building, and $4,303,454 for ancillary contracts, which include architectural fees, office furniture and fixtures, audio/visual equipment, lab equipment, etc. See the Incubator Financing section below for details of the project funding.

Selection of Architects

KEGA required that KBA work through the State Building Advisory Committee ("SBAC") for the selection of incubator architects, providing a list of architects from which KBA could choose. The SBAC list of architects determined to be proficient in lab design included the following:

- PGAV Architects
- Gould Evans
- HMN Architects, Inc.
- Treanor Architects/The Clark Emerson Partners

The committee that reviewed the architects was comprised of three KBA staff members and the head of the Division of Facilities Management ("DFM") of the State of Kansas.

The DFM calculated the fees that the architects could charge based on a prescribed process according to the size and complexity of the project. Therefore the committee selection was qualification based, rather than based on price. The architectural presentations were made in June 2008, and the selection of PGAV Architects ("PGAV") was made at the end of July or early August 2008.

Construction

The DFM received sealed bids from interested parties for the construction of the incubator. The DFM opened the bids, with a KBA member present, and provided a tabulation of bids dated October 27, 2009.

Excel Constructors from Overland Park, Kansas, was the lowest bid at $10,903,000. Their base bid was $10,270,000 with $633,000 of alternatives, all of which were accepted. The next closest bid was a base bid of $10,937,000 with $707,400 of alternatives.

Groundbreaking at the incubator site was held in early December 2009. The Agreement with Olathe stated that the project was to be substantially complete at the end of January 2011. The PGAV contract was for substantial completion by February 25, 2011. Substantial completion was achieved May 25, 2011. The delay was caused by several factors, including, but not limited to, an on-site accident that occurred during the metal work early on in the construction, and weather. There were no financial repercussions associated with not meeting the substantial completion deadline outlined in the Agreement.

Actual Cost

As of the date of our analysis, the total incubator project cost paid was $13,419,000 with anticipated additional costs of $1,516,000, bringing the total incubator project cost to $14,935,000, which includes a contingency of over $800,000 (which may or may not be used). Construction cost is currently $11,045,000. The price per sf is summarized below.

	Amount	Sq. Feet	Price per Sq. Foot
Construction Cost	$ 11,044,644	38,773	$ 284.85
Incubator Project Cost	14,113,638	38,773	364.01
Incubator Project Cost w/ contingency	14,934,653	38,773	385.18

BKD reviewed the pay applications for the amounts paid through the end of our fieldwork. We were able to find support for all expenses, and the classification of the expenditures appeared appropriate.

Financing

The Executive Committee approved financing of the Venture Accelerator on October 23, 2009 using Industrial Revenue Bonds issued through Olathe and purchased by UMB Bank. Gilmore & Bell acted as Bond Counsel in connection with the issuance of the following bonds:

Series 2009A: $3,475,000 - Lease Revenue Bonds - *UMB Loan*

Series 2009B: $6,605,000 - Taxable Lease Revenue Bonds - *UMB Loan*
Series 2009C: $4,000,000 - Subordinate Taxable Lease Revenue Bonds - *KBA Self-Funded*

Bond Counsel, Gilmore & Bell, issued an opinion letter dated December 18, 2009, stating that the Bonds have been "authorized and issued under and pursuant to K.S.A. 12-1740 to 12-1749d, inclusive, as amended, and the Indenture for the purpose of providing funds to pay part of the costs of purchasing, acquiring, constructing, improving, equipping and remodeling the Project." Further, KBA's external counsel, Lathrop & Gage, LLP, rendered an opinion regarding the issuance and sale of the bonds, as did the City of Olathe, Kansas. These opinions can be found at ***Exhibit 30***.

Series 2009A Bond and Series 2009B Bond - ("UMB Bonds")
UMB Bank agreed to finance up to 80% of the appraised value of the building and up to 75% of the cost of certain furniture and equipment. The UMB loan totals $10,080,000.

Bond counsel determined that of Series 2009A Bonds, $3,475,000, qualified for tax-exempt financing. In order to qualify for the tax exemption, KBA had to lease the property, the facility and the furniture and equipment to Olathe. Olathe, in turn, leased the property, the facility and furniture and equipment back to KBA pursuant to a triple net lease. The remainder of the UMB loan is allocated to the Series 2009B Bond.

	Series 2009A	Series 2009B	Total UMB Funded			Values for Financing
Real Estate Improvements	$3,249,850	$5,950,150	$ 9,200,000	80%	1	$11,500,000
Furniture & Equipment	225,150	654,850	880,000	75%	2	1,173,333
Total	$3,475,000	$6,605,000	$10,080,000			$12,673,333

1 UMB Bank agreed to finance up to 80% of the appraised value of the building

2 UMB Bank agreed to finance up to 75% of the cost of certain furniture and equipment not included in appraised value

KBA makes monthly loan payments in the form of "rent" to Olathe under the Lease Agreement. As Olathe has assigned the Lease Agreement to the Bond Trustee, these payments are made directly to the Bond Trustee. Rent is equal to the monthly payment of interest or interest and principal, in accordance with the Bond Indenture. The Bond Trustee deposits the rent payments into the debt services fund and distributes to UMB as the bond owner. When the Series 2009A and 2009B Bonds are paid in full, the bonds will be cancelled and the Lease Agreements will be terminated.

The Lease Agreement requires KBA to maintain the facility in good condition and pay all costs of owning and operating the facility. KBA is to maintain a net asset value not less than the principal balance of the UMB loan represented by the Series 2009A and 2009B bonds. KBA is precluded from incurring any other indebtedness secured by the facility.

Monthly payments for Series 2009A and 2009B Bonds begin in January 2012, and are amortized over the life of the bond.

	Loan Amount	Years	Monthly Payment
Tax-exempt building	$ 3,249,850.00	20	$ 19,065.64
Tax-exempt equipment	225,150.00	7	$ 3,039.33
Taxable building	5,950,150.00	20	$ 40,930.33
Taxable equipment	654,850.00	7	$ 9,410.22
	$10,080,000.00		$ 72,445.52

Series 2009C - KBA Self-Funded

Taxable Series 2009C Bonds, totaling $4,000,000 are held by KBA. They were issued after the Series 2009A and 2009B Bonds were complete. They will mature after the initial 24 month construction period. These funds cover the difference between the purchases from the general contractor and the maximum amount funded by the UMB Bonds. The bonds are to allow for sales tax exemption for 100% of the purchases by contractors, which are not reimbursed through UMB Bonds. There is no requirement that KBA make the payments of principal and interest to itself.

Loan Advances

The UMB Bonds are structured as “draw downs,” so that principal amounts advanced by UMB and KBA are based upon construction progress draws made by KBA. During the construction period, interest only payments were made on the current outstanding principal balance.

Debt Service

The Venture Accelerator will be financed partially by revenues generated from tenant leases. The revenue and subsidy model is based on the premise that the construction costs of the incubator will be provided by KBA and tenant revenues as well as an on-going subsidy to sustain operations.[45]

The Venture Accelerator has the capacity to accommodate six to 14 start-up bioscience organizations.[46] The initial objective was to fill the Venture Accelerator with high growth potential bioscience companies, with 50% occupancy in FY2011, 75% occupancy in FY2012 and 85% occupancy in FY2013.

KBA hired Long Performance Advisors, LLC to provide a “Facilities Report.” This report evaluated the client lease rates and comparative lease data at similar facilities to determine an “ideal” charge for typical clients for the Venture Accelerator. KBA was provided a pricing assessment, lease escalation policy, and eligibility/screening criteria for clients. The Facilities Report recommended either a per square foot per year amount, or a flat rate per month. These recommended amounts, and amounts used in KBA leases are summarized below:

[45] Kansas Bioscience Park Venture Accelerator Business Plan, Section 5 - Financing Model.
[46] Kansas Bioscience Park Venture Accelerator Business Plan, Section 10 - Marketing Plan.

	Recommended Per Square Foot Per Year	Actual Used Per Square Foot Per Year
Wet Lab Space	$ 28	$ 28
Additional Rent	$4.00-$5.00	$ 4
Office Space	$ 18	$ 18

	Recommended Per Month	Actual Used Per Month
Single Office	$ 275-$400	$ 340
Double Office	$ 550-$800	$ 650
Single Wet Lab	$ 1,100	$ 1,500
Double Wet Lab	$ 2,200	$ 3,000

KBA is currently using the flat monthly rate fee for new leases. At full occupancy, the Venture Accelerator has a revenue potential of nearly $45,000 a month.

	Lease Rate	Total	Potential Revenue
Single Office	$ 340	16	$ 5,440
Double Office	$ 650	12	$ 7,800
Single Wet Lab	$ 1,500	5	$ 7,500
Double Wet Lab	$ 3,000	8	$ 24,000
			$ 44,740

However, occupancy of the Venture Accelerator has been below projected levels.

	FY2011	FY2012*
Budgeted	50%	75%
Actual	13%	21%

* As of August 2011

KBA did not begin FY2012 at 75% occupancy as planned; therefore they have modified their budget revenue projections. These projections are based on occupancy percentages for office space and lab space separately. Their modified projections show an increase in occupancy throughout the year. KBA is maintaining revenue at these modified projections through September 2011. According to the "Revenues and Expense Budget Comparison for Year-to-date September 30, 2011," rent revenue had a year-to-date budget of $18,216 for which KBA had collected $21,222, resulting in a favorable variance of $3,006.

	July 2011	Aug. 2011	Sept. 2011	Oct. 2011	Nov. 2011	Dec. 2011	Jan 2012	Feb. 2012	Mar. 2012	Apr. 2012	May 2012	June 2012
Office Space	30%	30%	30%	50%	50%	50%	50%	50%	50%	75%	75%	75%
Lab	16%	16%	16%	50%	50%	50%	50%	50%	50%	75%	75%	75%

If KBA is able to maintain the above modified plan level of increases, they project to be at the targeted 75% by the end of the fiscal year. Per discussions with KBA staff, there are currently ongoing discussions with three different potential tenants. One tenant they expect will be brought before KBA's Review Committee for approval early next quarter. If all prospective companies become tenants, KBA will reach its target occupancy for the current fiscal year.

Current Tenants

KBA currently has six tenants, for a monthly income of $8,300.25. KBA staff indicates that tenants will likely stay at the Venture Accelerator for two to three years. Once a tenant is exiting the start-up phase and ready to relocate, KBA is in a good position to help facilitate building or leasing part of a building in the KBP.

Current tenants include Expedite, LLC; Novita Therapeutics, LLC; GreenTree Technology Partners; Agrilytics, LLC; Pasture USA, LLC and Epic Medical Concepts & Innovations, Inc.

Tenant Break-Even Point

Considering only expenses related to tenant occupancy, KBA had budgeted that by year five they will be breaking even on their operating costs for the tenant space.[47] Below is a summary of the budgeted revenues and budgeted operating costs. This does not include operating costs for KBA offices.

	Year 1 FY2011	Year 2 FY2012	Year 3 FY2013	Year 4 FY2014	Year 5 FY2015
Budgeted Tenant Revenue	$ 23,201	$279,045	$329,712	$342,501	$355,710
Utilities	3,040	66,880	68,552	70,266	72,022
Service Contract	11,692	69,256	70,987	72,762	74,581
Office Expense & Supplies	928	10,584	12,216	12,536	12,536
Property Insurance	2,560	10,240	10,496	10,758	11,027
Staff Salaries/Benefits	65,283	96,798	104,406	109,671	115,206
Dues/Memberships	336	336	656	656	656
Meetings/Travel	5,120	5,120	5,120	5,120	5,120
Marketing Services	83,200	52,480	52,480	52,480	52,480
Property Tax Special Assessment	-	9,318	9,121	8,923	8,737
	172,159	321,012	334,034	343,172	352,365
Budgeted Cash Reserve(Loss)	$(148,958)	$ (41,967)	$ (4,322)	$ (671)	$ 3,345

[47] Kansas Bioscience Park Venture Accelerator Business Plan, Section 5 - Financing Model.

Updating the model from the Kansas Bioscience Park Venture Accelerator Business Plan for the actual tenant revenue from FY2011, and the updated budget for FY2012, the losses in the first two fiscal years are more substantial than the initial estimates.

	Year 1 FY2011	**Year 2 FY2012**
Tenant Revenue	*$ 4,534*	*$ 181,200*
Utilities	3,040	66,880
Service Contract	11,692	69,256
Office Expense & Supplies	928	10,584
Property Insurance	2,560	10,240
Staff Salaries/Benefits	65,283	96,798
Dues/Memberships	336	336
Meetings/Travel	5,120	5,120
Marketing Services	83,200	52,480
Property Tax Special Assessment	-	9,318
	172,159	321,012
Budgeted Cash Reserve/(Loss)	$(167,625)	$(139,812)

Total Venture Accelerator Operating Budget

The Total Venture Accelerator Operating Budget shows losses per year averaging around $200,000 for the first five years. The office space that KBA leased from Cedar Creek Development VI, LLC was at $13,016 per month or approximately $156,000 per year, assuming no price increase. Therefore, the cost of operating the Venture Accelerator, as opposed to leasing office space, at budgeted capacity, is approximately $50,000 more per year.

Below is the operating budget for KBA space as well as tenant space.

	Year 1 FY2011	**Year 2 FY2012**	**Year 3 FY2013**	**Year 4 FY2014**	**Year 5 FY2015**
Budgeted Tenant Revenue	$ 23,201	$ 279,045	$ 329,712	$ 342,501	$ 355,710
Utilities	4,750	104,500	107,113	109,790	112,535
Service Contract	16,300	96,400	98,810	101,280	103,812
Office Expense & Supplies	1,288	15,564	18,114	18,614	18,614
Property Insurance	4,000	16,000	16,400	16,810	17,230
Staff Salaries/Benefits	102,005	151,247	163,134	171,361	180,010
Dues/Memberships	525	525	1,025	1,025	1,025
Meetings/Travel	8,000	8,000	8,000	8,000	8,000
Marketing Services	130,000	82,000	82,000	82,000	82,000
Property Tax Special Assessment	-	14,560	14,268	13,976	13,685
	266,868	488,796	508,864	522,856	536,911
Budgeted Cash Reserve(Loss)	$ (243,667)	$ (209,751)	$ (179,152)	$ (180,355)	$ (181,201)

Debt Service Payments

Debt service payments consist of interest only or interest and principal depending on timing. For the first 24 months, or the "Construction Period" (December 1, 2009 – December 1, 2011), interest only payments are due on the UMB Bonds. Beginning January 1, 2012, interest and principal payments will be due. The furniture and equipment portions of the loan payments are amortized over seven years, and the real estate improvement portion is amortized over 20 years. In January 2012, KBA will start making monthly debt service payments of $72,445.52, which is broken down by bond and summarized below.

	Loan Amount	Years	Monthly Pmt.
Tax-exempt building	$ 3,249,850.00	20	$ 19,065.64
Tax-exempt equipment	225,150.00	7	3,039.33
Taxable building	5,950,150.00	20	40,930.33
Taxable equipment	654,850.00	7	9,410.22
	$10,080,000.00		$ 72,445.52

UMB Bank's amortization schedule shows that $5,364,794.38 in interest will be paid if payments are made over the entire life of the debt. There is no penalty for pre-payment of the debt.

	Loan Amount	Interest Rate	Total Interest
Tax-exempt building	$ 3,249,850.00	3.63%	$1,325,903.31
Tax-exempt equipment	225,150.00	3.63%	30,153.99
Taxable building	5,950,150.00	5.50%	3,873,128.40
Taxable equipment	654,850.00	5.50%	135,608.68
	$10,080,000.00		$5,364,794.38

KBA Self-Funded Series 2009C bonds are at a flat interest rate of 5.00%; however, there is no requirement that KBA actually make payments of principal and interest to itself on these bonds. Each month, KBA has been issuing letters to the UMB Bank, as bond trustee, to note the monies in the Series 2009C that have been expended.

HEARTLAND BIOVENTURES

Despite its recognized bioscience research strengths, at KBA's inception, Kansas ranked very low in both the number of bioscience start-ups and the amount of private venture capital they attracted. The BOD believed that effectively addressing these issues would be critical if KBA was to be successful in its mission to make Kansas a national leader in the bioscience industry. Therefore, the BOD looked for other organizations that were effectively fostering and attracting start-up companies in the bioscience industry to study their operations with the goal of identifying best practices.

BioEnterprise Model

In the spring of 2005, Director Bill Sanford introduced the BOD to BioEnterprise of Cleveland, Ohio as a successful bioscience commercialization organization on which KBA could model its own commercialization efforts. Director Sanford was a co-founder of BioEnterprise and COB. BioEnterprise's other founders and partners are Cleveland Clinic, University Hospitals, Case Western Reserve University, Summa Health System and BioInnovation Institute in Akron.

Mr. Baiju Shah, President of BioEnterprise, made a presentation to the BOD in April 2005 regarding BioEnterprise's operations. BioEnterprise provides its client companies with:

- experienced bioscience management guidance;
- relationships with research and clinical institutions;
- access to bioscience venture capital and private equity firms as well as knowledge of grant funding opportunities;
- business development and alliance support for strategic partnerships; and
- network of regional business capabilities, including technical services, equipment, professional service providers and flexible development space.

BioEnterprise reported success with its operating model as it had assisted 45 new bioscience companies for whom $155 million in new funding was raised since July of 2002.

In October 2005, Chairman Clay Blair reported that BioEnterprise would advise KBA regarding the development of a business plan for a similar commercialization entity in Kansas, which became Heartland BioVentures.[48] Members of KTEC[49] met with Mr. Shah and studied BioEnterprise's operations and in January 2006, recommended to KBA BOD that KBA replicate the BioEnterprise model in Kansas.

KBA's commercialization efforts languished during 2006 due to other priorities, but were taken up again by Tom Thornton in the spring of 2007. At its May 25, 2007 meeting, the Executive Committee approved up to $4.6 million over a three-year period to initiate HBV. At that same meeting, the Executive Committee took steps to address the lack of access to venture capital funds in Kansas and authorized Tom Thornton to develop a white paper on a fund-of-funds established and funded by KBA, to invest in venture capital firms, which would in turn invest in seed and early stage companies, such as those fostered by HBV. That fund-of-funds[50] became the Kansas Bioscience Growth Fund, which is discussed later in this report.

KBA continued its affiliation with BioEnterprise as HBV was being structured operationally. HBV entered into an Affiliation Agreement with BioEnterprise to assist HBV in the areas of recruiting, business assistance and operations and procedure development in September 2008. Specific services provided for in the contract included:

- reviewing job descriptions for key KBA personnel;
- identifying sources of talent for open positions in collaboration with search firms;
- interviewing candidates for key KBA senior positions as requested;
- training KBA senior staff on appropriate processes, including opportunity sourcing/screening, opportunity reviews, network building and client support;

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[48] October 5, 2005 KBA Board of Director minutes and October 5, 2005 Kansas Bioscience Authority Strategic Plan.

[49] Early in KBA's tenure, KTEC provided many administrative and advisory services to KBA. Please refer to the KTEC section later in the report for further discussion.

[50] The fund-of-funds concept had been previously utilized by Mr. Thornton's former employer.

- assisting KBA with understanding health care investment interests nationally and at the fund level, and reviewing opportunities in order to target investors; and
- assisting KBA in creating a strategy for marketing and public relations with a focus on regional entrepreneurs and national investors and the development of selection criteria to be used in the due diligence process for identifying HBV clients.

Mr. Baiju Shah stated that the services provided to HBV included hands-on training. Mr. Shah indicated that members of HBV's team spent time at BioEnterprise's offices to actually see the business model in action and participated in meetings with BioEnterprise clients. In addition, BioEnterprise made introductions of HBV personnel to BioEnterprise's network of Technology Transfer and Venture Capital contacts. BioEnterprise was paid $200,000 for its services over the term of the Affiliation Agreement. Mr. Shah stated that the relationship between BioEnterprise and KBA/HBV ceased with the end of the Affiliation Agreement, and that other than the $200,000 received under the Affiliation Agreement, BioEnterprise has received no other payments or funding from KBA/HBV. Of the $200,000 paid to BioEnterprise by KBA, $122,723.69 was paid while Bill Sanford was a member of the BioEnterprise BOD.[51] Mr. Shah indicated that he was not acquainted with Thornton prior to being introduced to him through KBA/HBV.

BKD reviewed a *Crain's Cleveland Business* article[52] dated January 29, 2007 in which Mr. Shah was quoted as stating that "once Heartland (BioVentures) becomes active, the organizations plan to help each other find venture capital, technology, talent and information in their respective regions." The same article quoted Mr. Shah as stating, "Though Kansas is not yet brimming with venture capital, it is already a source of other resources. For instance, though the Cleveland area is active in biopharmaceutical research, Kansas is a good source of pharmaceutical entrepreneurs who could help launch companies in Ohio."

With regard to the above quotations from the article, Mr. Shah indicated that the "partnering" between BioEnterprise and HBV in reality was the services provided to HBV by BioEnterprise under the Affiliation Agreement and Mr. Shah's participation in the short-lived HBV Advisory Board. Mr. Shah indicated that BioEnterprise never received any client referrals from HBV and never made any client referrals to HBV. Mr. Shah indicated that BioEnterprise clients do not have any Kansas based entrepreneurs or technology involved in their operations. However, he indicated that he is not knowledgeable regarding BioEnterprise clients' possible Kansas contacts or connections.

In summary, KBA looked to other established organizations with a similar set of service offerings to those KBA envisioned offering. KBA hired BioEnterprise of Cleveland, associated with KBA Director Bill Sanford through his position as COB of BioEnterprise, and paid $200,000 under an Affiliation Agreement for start-up operational advice, assistance with recruitment of staff and introduction to useful contacts in the areas of technology transfer and funding. BKD identified no evidence of purposeful partnering between the two organizations, and the Affiliation Agreement has terminated.

[51] Mr. Sanford's last meeting as member of the BioEnterprise BOD was November 11, 2009.
[52] "Kansas BioEnterprise to Mirror Local Operations," *Crain's Cleveland Business,* January 29, 2007.

Heartland BioVentures Model

HBV formally started in January 2009 with the establishment of its Advisory Board.[53] HBV is KBA's business assistance program and incubator to facilitate risk capital investment in Kansas bioscience companies. The principal goal of HBV's activities is to provide assistance and early-stage financing to bioscience firms in their start-up phase to fundamentally address business, technology, management and other strategic issues critical to their success and, thus, improve their access to venture capital.

Many of HBV's clients need mentoring and "incubating" in order to get them ready for funding, either by KBA or other funding entities. KBA could be a potential investor in an HBV client, but there is no requirement for KBA to invest in an HBV client, nor is an investment by KBA guaranteed. However, by ensuring its client companies are "venture-ready" HBV is a source of pre-qualified deal flow for private venture investors.

HBV involves and participates with the Kansas research institutes, Centers of Innovation and Kansas funding organizations, venture capital funds and local angel investors. HBV's intent is not to duplicate or circumvent these organizations' internal technology, management and commercialization processes, but rather to support these organizations as they launch start-up companies and pursue capital for these ventures.

Specific services provided by HBV staff include management counsel and recruitment; facilitation of clinical collaborations; recalibration of business models, financial modeling, target markets or commercialization strategies; business development; and access to capital and other start-up funding for client companies.[54]

Management Support: HBV provides executive-level management advice and support in the areas of strategy and market positioning, product development, operations, strategic alliances, financing and organization development through HBV staff experienced in the bioscience sector.

Clinical Collaborations: HBV has a working relationship with many clinical and research institutions throughout Kansas and the metropolitan Kansas City area. HBV assists client companies in accessing these institutions, facilitating clinical validation and development collaborations.

Investment Capital and Other Start-Up Funding: KBA may provide grants and convertible notes to client companies in order to hit critical commercialization milestones, thereby reducing the risk of private investment. HBV also assists client companies looking to raise investment capital and other start-up funding by establishing relationships with bioscience and health care venture capital firms, private equity groups and investment banks across the country. HBV also assists client companies in identifying grant opportunities to support product and clinical development.

[53] The HBV Advisory Board is no longer a functioning entity.
[54] KBA website: http://www.kansasbioauthority.org/heartlandbioventures/services.

Business Development: HBV has a network of industry contacts and business development experience to assist client companies to explore and enter into strategic relationships.

HBV staff manages KBA investment process, which allows them to screen and evaluate all opportunities coming to KBA and facilitates the identification of HBV client candidates. HBV staff provides due diligence and funding recommendations for KBA's Investment Committee in their consideration of potential client company applications under the various KBA programs.

Through June 30, 2011, KBA has budgeted $5,362,500 in funding to support the operations of HBV, of which $2,846,967 had been spent. Please refer to ***Exhibit 31*** for a listing of the approved investments in support of HBV's operations.

GRANT AND INVESTMENT REVIEW

Grants and equity investments made by KBA since its inception were reviewed for adherence to the investment process, the adequacy of investment documentation and monitoring and the payment of milestone applications. In addition, the investments and grants were reviewed for any evidence of potential conflicts of interest. Please refer to Potential Conflicts of Interest section later in this report.

Grants and investments were reviewed through many avenues. Investment Committee and BOD minutes and attached Investment Recommendations were reviewed to ensure that all investments went through the review process as previously described. (Please refer to the Investment Process section earlier in this report.) Investment documentation was reviewed in Biztrakker to ensure that appropriate information was being tracked for monitoring purposes. All milestones were traced back to the grant agreements and supporting documentation for the payment of milestones was reviewed. All milestone payments were then traced back to QuickBooks, KBA's financial accounting software.

Overall, the investment process appeared to be followed. The multiple levels of due diligence, review and approval required in KBA's investment process appear to significantly reduce the risk of improper grants or equity investments. In the approval process, the various rounds of review and approval by HBV staff, the Investment Committee and the Executive Committee/BOD would make it very difficult for an improper grant or investment to be "railroaded" through. However, as previously mentioned, one former employee indicated that he had been instructed to write-up Investment Recommendations in a particular manner in order to get them through the Investment Committee.

In addition, the review of the Investment Committee minutes indicated that the members of that committee are thorough in their review. It was not uncommon for a potential investment to be handed back to HBV staff for further due diligence or to make specific inquiries of potential client company management on a variety of subjects. Furthermore, it was noted that, at times, there was disagreement between Investment Committee members with regard to investments and/or their terms. It was also noted that the Investment Committee rejected some investment applications that were recommended by HBV staff. Likewise, not all investments recommended to the BOD for approval were approved or were approved with their recommended terms. The BOD could and did reduce awards and change milestones attached to award payments. Therefore, based on the information available for review, the investment process appeared to be sufficiently diligent to prevent the improper approval of a grant or equity investment. However, this does not imply that all grants or equity investments made by KBA have or will lead to a successful outcome with regard to jobs created or revenue generated.

The investment documentation process appears to be adequately followed. For the first two years that KBA made grants and investments, 2006 and 2007, the documentation was a bit less formal compared to present day. Beginning in 2008, the grant agreements and documentation became more robust and standardized. For example, a standardized grant agreement was put into place; however, grant agreements are tailored to the unique facts and circumstances of each grant or investment. As KBA began making grants in its Start-up Phase, the paperwork supporting the grants in 2006 and 2007 appear to be what might be expected of a new organization still establishing and refining its processes. It is evident that KBA improved its investment documentation processes after 2007.

With regard to the payment of milestone awards, client companies are required to submit an application for payment and substantiate that they have met the required milestone. The information is then reviewed for adequacy and a determination is made with regard to approval of the milestone payment. The approval process usually requires sign-off by the President/CEO, CFO/COO and BOD Treasurer. A rejection of a payment application can occur at any of those three review levels. Emails and documents in Biztrakker suggest that KBA staff make efforts to ensure milestones are met, appropriately documented and approved.

The review of grants and investments for potential conflicts of interest identified many associations among client companies, between client companies and KBA and between KBA and its partnering organizations. However, given the investment process utilized, no obviously inappropriate grants or investments to client companies were identified which were in violation of KBA's Conflict of Interest Policy or the conflict of interest requirements of KEGA. Furthermore, all interviews conducted by BKD included specific questions regarding the interviewee's knowledge of any potential conflicts of interest by any current or former KBA employee or BOD member. Other than those discussed later in this report, none were identified. BKD specifically asked Mr. Thornton if he held any personal investment in any company that received funding or services from KBA. Thornton indicated that he did not.

Discussion of Specific Grants and Investments

The following grants and investments warranted discussion, or allegations were made regarding these grants and investments.

ANOxA Corporation

On October 28, 2008, the BOD approved a $300,000 Expansion & Attraction grant to assist ANOxA Corporation in moving its operations from New York to Kansas. The company was a biotechnology company dedicated to the development and commercialization of veterinary research products. ANOxA was working to complete the development and launch of its initial product EIPHISOL, reportedly the first and only proprietary, non-performance enhancing treatment for exercise induced pulmonary hemorrhage, a disorder that afflicts many racehorses. The expected Outcomes for this grant were to be seven managerial jobs and $6 million in equity financing. To date, KBA has funded $120,000 of the grant, based on milestones.

Beginning in August 2009, Ryan White, KBA's Outcomes and Database Analyst, began having significant difficulties contacting company management regarding the post-award reporting process. When management was finally reached, they repeatedly made promises to submit requested information that rarely materialized.[55] By January 2010, the company's business registration in Kansas had been forfeited due to failure to file an annual report. On August 1, 2011, KBA received some information for the company, including Kansas Department of Labor Quarterly Wage Reports for 2009, 2010 and 2011, which indicated that no wages had been paid in Kansas since early 2009.

On August 3, 2011, KBA notified the company that it was in breach of its grant agreement for failure to comply with the terms and conditions of the grant agreement and for ceasing operations in Kansas. Therefore, KBA requested the immediate repayment of grant funds.

KBA received a letter from ANOxA's counsel dated September 9, 2011 that indicated that the forfeiture of the Kansas business registration was due to an inadvertent failure to file the required annual reports. ANOxA has since filed the required reports, and the Kansas Secretary of State website indicates that ANOxA is a company in good standing as of August 22, 2011. ANOxA's counsel indicated that the Kansas Department of Labor Quarterly Wages Reports indication that no wages had been paid in Kansas for 2009, 2010 and 2011 was due to the manner in which the employee's wages were reported. The company submitted copies of Kansas Form KW-3E, New York State Form NYS-45-MN and summary sheets for the employee's 2009 and 2010 tax returns, which show wages reported and taxes paid to Kansas. Reportedly all reporting and withholding services were outsourced to PAYCHEX and performed according to their understanding of current tax/employment law; which required the reporting of wages to New York as the employee is a legal resident of New York. Therefore, wages were reported to New York and not to Kansas. The company has offered to amend its wage reporting per KBA's direction.

BKD questioned the presence of ANOxA's operations in Kansas given that an address could not be publicly located and there appeared to be only one employee, who is a resident of New York. KBA's General Counsel, Tariq Abdullah, indicated KBA is in the process of investigating the presence of ANOxA's operations in Kansas. If it is determined that ANOxA does not have operations in Kansas, KBA will consider its right to enforce the claw back provision of the grant agreement.

ANOxA has reportedly contacted animal health researchers at KSU to discuss ANOxA's product and discuss any potential synergies with KSU research. This may be an avenue of resurrecting future prospects. However, David Vranicar stated that KBA currently has no plans to make additional payments to ANOxA under its grant agreement.

Aero Innovative Research, Inc.

On May 7, 2010, Heartland BioVentures granted a $73,000 POCI grant to Aero Innovative Research, Inc. ("AIR") to fund the salary for a new CEO/President for six months. AIR was a HBV client company that the HBV team had been assisting with commercialization of its products. After assessment, HBV and AIR's founders concluded that the company needed to

[55] One individual contacted BKD regarding allegations that ANOxA's management made a statement to him that they took KBA's funds without a clear intent to fulfill this obligation under the grant agreement.

significantly strengthen its management team, immediately raise capital and build product distribution capabilities to position AIR for growth of its initial product, a portable wheelchair utilizing lightweight, strong aerospace materials. With FDA medical device approval, a Veterans Affairs contract, and early initiation of sales, the company needed experienced management and sales leadership. Through its network, HBV identified a sales-focused executive with significant medical device experience who was interested in the CEO position. The purpose of the POCI investment was to allow the company to recruit this new CEO to AIR where he was to immediately focus on fundraising, development of distribution channels, limited advertising and ongoing operations. The CEO sourced by HBV was hired.

HBV Director of Commercialization Keith Harrington indicated that, unbeknownst to HBV, the company owed back taxes to the IRS. Therefore, much of the KBA funds that were to go for the CEO's salary were garnished. In addition, once the company sought HBV's assistance to put together a valid financial model, it became apparent that the company could not produce their product profitably. Therefore, investors lost interest and the CEO left the company within a few months.

At this point, the company has closed down its operations. Keith Harrington has unsuccessfully attempted to contact the founders to determine if they intend to file for bankruptcy.

AGCO Corporation

On January 26, 2010, KBA's BOD approved $1,500,000 in matching funds in support of AGCO Corporation's U.S. Department of Energy ("DOE") Renewable Energy Research and Development grant of $5,000,000 to demonstrate the viability of the densified, large square bale as a least cost means for supplying biomass feedstocks to cellulosic biofuel processors. The company is developing technology to produce bales of feedstock for economical delivery to biofuel processors, which will lead to the manufacture of balers at AGCO's facilities in Hesston, Kansas, if successful. The total estimated cost of the project is $11.7 million, of which $10.2 million is to be spent in Kansas. HBV's Director of Bioenergy, Tony Simpson, indicated that with the successful development of these systems, Kansas would be one of the few states, if not the only state, in the U.S. to have all of the components of the bioenergy supply chain: bioenergy crops and available crop residues; equipment to remove it from the field; biorefining technology companies; facilities to process the biomass and the infrastructure to get biofuels into the fuel supply system. The harvest and collection capability will make Kansas a leading place to develop fuel plants, and AGCO states that there is potential for baler sales of $100 million per year by 2022, which would bring an estimated 400 new jobs to its Hesston facility. The grant agreement contains a clause that KBA's grant will be repaid if the balers are manufactured outside of Kansas.

When considering this investment at the Investment Committee, minutes indicated that Mr. Sanford questioned whether the funding requested of KBA for this project might be better used elsewhere. Mr. Sanford expressed his opinion that KBA's contribution would likely not have much impact on a company the size of AGCO, and that KBA's funding is only a relatively minor part of a much larger project funding by DOE and AGCO itself. A member of AGCO's management, Mr. Disberger, was in attendance and acknowledged the validity of these points. However, he stated that AGCO's involvement in this project was deemed to be a challenge and exposed AGCO to a greater level of risk than other R&D projects it has undertaken. Incentives offered by KBA and the federal government will help AGCO to undertake this more risky R&D effort and product development.

ChocoFinesse, LLC

On February 7, 2011, KBA's Investment Committee approved a $131,800 POCI grant to ChocoFinesse. ChocoFinesse is an early-stage Kansas company[56] focused on late stage product development and successful commercialization of EPG (esterified proproxylated glycerol) as a safe and highly palatable low calorie substitute for cocoa butter and other fats in confectionary and other food uses. The technology is owned by KSU/National Institute for Strategic Technology Acquisition and Commercialization ("NISTAC") and ChocoFinesse has negotiated an exclusive world-wide license for the technology from KSU/NISTAC. This intellectual property was developed over 10+ years by a partnership between Best Foods and Arco Chemicals. The acquisition of Arco Chemicals by commodity chemical producer Lyondell Basell in 1998 and operating losses at Best Foods, which ultimately resulted in acquisition by Unilever in 2000, ended the collaboration, and resulted in the "mothballing" of the EPG Project. This intellectual property was ultimately donated to KSU/NISTAC, based upon a December 15, 2003 valuation by Standard and Poor's of $23,974,000. At the same time that the Best Foods/Arco consortium was developing EPG, Proctor and Gamble was developing its Olestra fat substitute materials. The P&G experience with Olestra provided critical lessons, insights and opportunities for ChocoFinesse.

KBA funding will be used to gain proof of concept by: (a) evaluating existing data from Best Foods/ARCO research for essential safety, toxicology and regulatory results to assess the potential to achieve FDA Generally Regarded As Safe (GRAS) regulatory status, and identify any known deficiencies, (b) evaluating alternative manufacturing processes and scale-up options, and manufacturing product samples for demonstration, by the Kansas Polymer Research Center at Pittsburg State University, and (c) initiating market research to update understanding of perceptions and attitudes toward the company's product. The $131,800 grant amount was arrived at from the company's assignment of specific dollar amounts to these four activities.

It has been alleged that the company is managed by a schoolteacher and her husband. According to information available from the grant application, key company personnel include:

David Rowe, *Founder & Chief Executive Officer,* founded ChocoFinesse in 2010. Prior to founding ChocoFinesse, David served as Managing Partner for Crane Venture Capital, a private equity firm investing in early-stage Midwest life sciences companies, and served as Senior Regulatory Consultant for The Anson Group specializing in regulation of food (health claims), dietary supplements, OTC and Rx pharmaceuticals. Between late 2002 and early 2008, David created and ran ParaPRO Pharmaceuticals, a virtual drug development company based upon licensed preclinical drug technology from Eli Lilly and Company, Johnson & Johnson and Dow Chemical Company. In less than five and a half years, David guided the drug through all phases of drug development to the end of Phase 3 clinical trials. Before this, David served as Global Business Leader for Biotechnology for Dow Chemical's Dow AgroSciences unit.

[56] See Kansas Secretary of State website at www.accesskansas.org. The company's certificate number is 6530612.

Leo Strecker, *Chief Technology Advisor***,** served as Manager Technical Services for Best Foods Technical Center, and served on the EPG Liaison Team. He managed the development of EPG as a low calorie oil. Leo brought the project from concept stage to pilot plant scale and commercial production feasibility; and coordinated extensive product assessment program involving food applications and preparation of vehicles for safety screening, animal safety/toxicity testing and human clinical trials.

John M. Rowe, *VP Commercial,* most recently was Vice President, General Manager – Strategic Marketing for Michael's Stores, with responsibilities which included customer loyalty, customer analytics, consumer insights, targeted marketing, digital marketing and e-commerce. For almost a year, he served as Michael's Acting Chief Marketing Officer, with accountabilities including brand strategy, advertising, consumer insights, public relations and issues management, category marketing, e-commerce, interactive marketing, social networking, loyalty and targeted marketing. Before Michael's, he served at Circuit City as VP **,** General Merchandise Manager – Home Entertainment, which included overseeing vendor relations and a purchasing team for this $4 billion business. Earlier, John worked as Senior Product Manager in Frito Lay's snacks business. John worked extensively on projects that included candy, reduced calorie snack foods and meat snacks.

David Bechtel, *Senior Regulatory and Toxicology Advisor,* is a Global Vice President for Cantox Health Sciences and leads Cantox's U.S. operations. Cantox is the largest firm in the Foods and Nutrition segment of the Toxicology and Regulatory Consulting Industry. Dr. Bechtel joined Cantox in 1994. His primary technical roles focus upon toxicology and regulatory compliance, including issues management and global strategy development, client and regulatory, liaison, business development and planning, project development, execution and quality, assurance and supervision of scientific staff serving primarily the food, pharmaceutical and household product sectors. From 1987 to 1994, he worked for Best Foods, and worked with the Best Foods/ARCO consortium where he was responsible for the toxicology testing and assessment program for EPG.

The Investment Committee did not initially approve this Investment Recommendation and sent it back to HBV staff for further due diligence. One question of interest to the Investment Committee was why Unilever did not develop the EPG product. Terry Osborn, former HBV Director of Commercialization, indicated that EPG intellectual property was developed over 10+ years by a partnership between Best Foods and ARCO Chemicals. Then, ARCO Chemicals was acquired by commodity chemical producer Lyondell Basell in 1998, and Best Foods was acquired by Unilever in 2000. Unilever is a marketing company (not a product development company) so the EPG project was a casualty of merger integration and new priorities.

ICM, Inc.

On October 28, 2008, KBA's BOD approved a $1 million R&D Voucher award, payable over two years, for a collaborative bioenergy research project to bring cellulosic ethanol solutions to the marketplace using non-food sources such as switchgrass, corn fiber and sorghum.

ICM is working with Edenspace Systems, Diamond Ag and KSU following the DOE's January 29, 2008 selection of ICM as one of four small-scale biorefinery companies to lead biomass-to-ethanol research efforts using innovative conversion technologies.

On June 8, 2010, ICM announced that it had signed a Cooperative Agreement with DOE to receive $25 million to fund the construction and operation of its cellulosic ethanol pilot and demonstration facility in St. Joseph, Missouri. ICM modified its existing dry fractionation grain-to-ethanol pilot plant located at LifeLine Foods, LLC, in St. Joseph, Missouri to produce fuel ethanol from captive corn fiber and two high-impact cellulosic feedstocks, switchgrass and energy sorghum. ICM is contributing $6 million of its own funds as the cost-share portion of this project.

Given ICM's January 2011 completion of the construction of the remodeled pilot plant in St. Joseph, Missouri, allegations have been made that KBA's funds were, therefore, spent in Missouri rather than Kansas.

KBA's October 2008 grant was for a specific purpose: to support research over a two-year period for ICM's collaborative research effort with Edenspace, Diamond Ag and KSU focused on the identification and development of emerging technologies for the production of renewable fuels, specifically ethanol, and on improving current process technology for existing ethanol manufacturing plants. The focus of the research was on the evaluation of corn fiber, switchgrass and sorghum conversion, integrating biochemical processing and demonstrating energy recycling within the biorefinery setting. The results of this research will be put into practice at ICM's St. Joseph facility. However, HBV Director of Bioenergy, Tony Simpson, stated that the research funded by KBA was performed at ICM's Colwich, Kansas location. Nancy Ruf, KBA's Contract Administrator, pointed out that the ICM's original application stated with regard to the use of KBA funds, "ICM will use its research laboratory in Colwich, KS for initial development. When the new technologies are ready for pilot scale testing, ICM will use its expanded laboratory in St. Joseph, MO."[57] Simpson indicated that he has visited the ICM Colwich location a number of times and could verify that the research is being done at that location based on his observations and discussions with management while on-site.

The payout of KBA's funds is based on specific milestones related to evaluation and development of the process technology and specified in the original application. To date, $550,000 has been paid. In the July 2011 Post-Award Report, ICM verified that it invested KBA funds as part of its on-going commercialization process for cellulosic ethanol. Additional funds have been invested by ICM directly into its DOE cellulosic process project in Missouri. Based on the available information, it does not appear that KBA funds were used to construct or remodel ICM's pilot plant at its St. Joseph location.

Kansas Alliance for Biorefining and Bioenergy

On March 9, 2009, KBA's BOD approved a $4.1 million grant to Kansas Alliance for Biorefining and Bioenergy ("KABB"). KABB is an industry-led and directed Center of Innovation focused on identifying barriers and solutions in the area of bioenergy. The Center seeks and funds disruptive or transformative inventions from Kansas universities, companies, entrepreneurs and others, and invests in bringing them to market. Resulting products will be high-value technologies that utilize bioscience or biological resources to create alternative energy, fuel, co-products, food and non-fuel chemicals. KBA has one seat on KABB's BOD, per the Centers of Innovation program. That seat is currently held by Tony Simpson.

[57] ICM R&D Voucher Application, page 32.

An allegation has been made that an attempt by KABB to hire a president was derailed by Simpson. An email from Simpson to KABB BOD members and consultants dated December 16, 2009 indicates that Simpson believed the candidate in question was qualified, but stated that KBA would support a compensation package up to a maximum of $250,000 for the first year. He further stated that there was no support for a salary package in excess of $250,000 and indicated that KABB should pursue other candidates if that salary package was unacceptable. Therefore, it appears Simpson's concerns were salary based rather than specific to the individual.

Quintiles

Quintiles announced on February 10, 2006 that it was moving its Phase 1 facilities to Overland Park, Kansas. However, the KBA grant of $3.5 million over five years was not approved by KBA's BOD until April 2006. Therefore, allegations have been made that since Quintiles announced its decision to relocate to Kansas prior to the approval of KBA's grant, the grant was unnecessary and was made in order to claim the Outcomes.

On December 1, 2005, KBA sent a letter to Quintiles' law firm, Blackwell Sanders Peper Martin, LLP, continuing KBA's dialogue around the opportunity to provide Quintiles a substantial incentive package to locate in Kansas. In that letter, KBA offered an additional $500,000 in incentives in addition to the existing offer of $3 million.

The February 10, 2006 press release by Quintiles refers to KBA's involvement in a quote from Stan McDermott, Vice President and General Manager, Clinical Development, Kansas City which states, "Quintiles would like to thank the City of Overland Park, the Kansas Bioscience Authority and the Kansas Department of Commerce for their support." In a February 10, 2006 *Kansas City Star* article, a spokesman for Quintiles references incentives from Overland Park, the State of Kansas and KBA.

In addition, an undated letter in KBA's files from Roy Heinbach, Associate Director of Finance for Quintiles to Jan Katterhenry, former KBA CFO/COO, states, "Enclosed is the attached information that you requested. Thanks again to KBA for your assistance in making this move to OP KS possible. We've benefitted tremendously from this partnership and we are excited about our future in KS." Please see ***Exhibit 32*** for a copy of the described documents.

Innovia Medical, LLC

On July 10, 2007, the BOD approved a $650,000 equity investment in Innovia Medical, LLC. Innovia Medical owned an FDA-approved product called EarCheck, which Innovia Medical claimed utilized the only technology for the rapid detection of middle ear fluid, a key indication of ear infections. The company had both a professional and a consumer/retail model. EarCheck was expected to be in stores in the fall of 2007. The original recommendation for the investment was based on: 1) patented and proven technology, 2) the product was FDA approved, 3) the consumer and professional model both had been successfully marketed with proven acceptability, 4) high operating margins, 5) an experienced management team, 6) current revenue stream, 7) proven industry value, 8) high level of retailer interest and 9) the company had successfully raised equity capital.

However, the EarCheck product languished on retail shelves as it did not garner the anticipated wide-spread appeal in the professional or consumer markets. As revenue generation stalled and did not meet projections, many investors lost interest. The lead investor moved the company to Nebraska and attempted to recapitalize the company. KBA declined to invest in the Nebraska company and in October 2010, wrote the investment in Innovia down to $0.

David Vranicar, KBA's Interim CEO/President, indicated that the equity investment carried with it a risk of loss. Therefore, there was no available avenue to try to recoup the invested funds. The Innovia Medical Confidential Private Placement Memorandum carries the warning in bold type and all caps, "AN INVESTMENT IN THE SECURITIES OFFERED HEREBY IS SPECULATIVE AND INVOLVES A HIGH DEGREE OF RISK. INVESTORS MUST BE PREPARED TO BEAR THE ECONOMIC RISK OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD AND BE ABLE TO WITHSTAND A TOTAL LOSS OF THEIR INVESTMENT." Furthermore, neither the executed Subscription Agreement nor Letter Agreement include any sort of claw back clause.

Abaxis, LLC

Abaxis announced on January 27, 2011 that it had formed a strategic alliance with KSU, K-State Veterinary Diagnostic Lab and NISTAC and would locate Abaxis Veterinary Reference Laboratory ("AVRL") in Kansas. However, the KBA grant of $650,000 over three years was not approved by KBA's BOD until May 2011. Therefore, allegations have been made that as Abaxis announced its decision to locate AVRL in Kansas prior to the approval of KBA's grant, the grant was unnecessary and was made in order to claim the Outcomes.

Based on emails reviewed by BKD, it is apparent that KBA began establishing a relationship with Mark Patterson and Ilya Frumkin, the eventual President and Vice President of Commercial Operations of AVRL, as early as June 9, 2009. At that time, Messrs. Patterson and Frumkin were respectively the President and SVP of Sales, Marketing and Business Development of OmniVet, LLC. OmniVet was a start-up company formed to enter the veterinary diagnostic and pathology laboratory market that was invested in Abaxis and became AVRL in January 2011. Based on a two-page summary of the company that accompanied the June 9, 2009 email, OmniVet was already aligned with KSU, K-State Veterinary Diagnostic Laboratory and NISTAC.

On June 9, 2009, OmniVet asked KBA for the HBV Request for Assistance form and sought HBV Director of Commercialization Terry Osborn's advice regarding venture financing. The completed Request for Assistance was submitted to KBA on July 1, 2009. OmniVet was seeking $1.7 million in start-up capital and $2.7 million to fund on-going operations.

Emails indicated that KBA provided space in its offices for meetings between representatives of OmniVet, KSU and Abaxis on March 4 and 5, 2010. However, it does not appear that KBA participated in those meetings. However, KBA continued to assist OmniVet and participated in a lunch meeting on April 19, 2010 in which it appears KBA introduced OmniVet to Midpoint Venture Capital (now Cultivian). Additionally, on May 21, 2010, Mr. Frumkin contacted Terry Osborn and asked for a meeting in early June to discuss funding opportunities with KBA.

On July 16, 2010, members of KBA's management team met to discuss Abaxis' interest in OmniVet. On September 10, 2010, Mr. Frumkin contacted Terry Osborn and Tony Simpson to schedule a meeting with "Mike from Abaxis" to ensure there is understanding on how the currently proposed structure of the initiative relates to a potential relationship with KBA. On November 16, 2010, Mr. Frumkin asked to see the Letter of Support that had been discussed the previous week, and asked questions regarding how to fill out the application. On November 16, 2010, KBA's management (Thornton, Katterhenry and Vranicar) approved a Letter of Support in the amount of $650,000. The Letter of Support was transmitted to Messrs. Patterson and Frumkin on December 1, 2010 via email and was addressed to Patterson, Frumkin and Mike Solomon at Abaxis. Please refer to ***Exhibit 33*** for a copy of the Letter of Support.

The $650,000 grant from KBA was sought by principals of AVRL prior to Abaxis' signing of the agreements that created the strategic alliance with KSU and that resulted in the announcement that AVRL would locate in Kansas and was based on an established business relationship going back to June 2009. Therefore, the allegation that KBA offered funding for a "done deal" in order to claim the Outcomes is false. However, Abaxis' strong December 31, 2010 third quarter financial statements,[58] as well as the long-standing strategic alliance between the veterinary lab operations Abaxis purchased and KSU and its affiliates, imply that KBA's funds were not necessarily a decision factor, but rather a consideration in the decision to locate AVRL in Kansas.

KBA's Response:
"OmniVet" was Patterson's and Frumkin's name for the business concept that ultimately became AVRL when Abaxis invested in it. Thus, the KBA's relationship with AVRL dates to a first meeting in June 2009, more than 18 months before the decision to locate AVRL in Kansas. That Abaxis has a strong balance sheet and positive cash flow ought not to make it ineligible for KBA incentives. Indeed, part of KBA's mission is to attract established, solid companies to Kansas. In this case, KBA was an integral part of the Kansas team that did just that.

CyDex Pharmaceuticals

On May 19, 2009, KBA approved a $195,000 grant, payable over one year, to CyDex. CyDex is a specialty pharmaceutical company based in Lenexa, Kansas. On January 26, 2011, CyDex was acquired by San Diego-based Ligand Pharmaceuticals. CyDex currently operates as a wholly-owned subsidiary of Ligand.

Allegations have been made that Ligand's goal is to reduce CyDex's operations and move it to California per their business model. The implied assumption is that the state of Kansas will, therefore, not realize the benefit of KBA's investment.

In conjunction with the purchase of CyDex by Ligand, KBA waived its right under the grant agreement to require the repayment of its funds due to the change in control of more than 50% of the ownership of CyDex on the effective date of the Grant. However, KBA reaffirmed its right under the grant agreement to require the repayment of its funds if CyDex's operations leave the state of Kansas.

[58] For the third quarter of 2010, Abaxis reported revenue and net income for the nine-month period of $106.1 million and $11.2 million, respectively. Furthermore, Abaxis reported cash, cash equivalents and investments of $104.6 million as of December 31, 2010.

Furthermore, HBV Director of Commercialization Tom Krol stated rather than moving operations to California, CyDex is currently in the process of moving operations to Lawrence, Kansas, where it will lease space in the Bioscience and Technology Business Center at KU.

EnalaPed, LLC

On August 4, 2010, HBV awarded a $74,500 POCI grant to EnalaPed. Per the grant agreement, EnalaPed agreed to use all the grant funds exclusively for the support of the project, defined as the preparation of an overall regulatory/development assessment, including initial assessment and feasibility of a potential Orphan Drug Designation Request, submission of an FDA pre-IND meeting request, preparation and submission of a pre-IND meeting briefing package and conduct of the FDA pre-IND meeting. EnalaPed contracted with Beckloff Associates to execute these efforts.

EnalaPed was founded by the Institute for Pediatric Innovation, Children's Mercy Hospital, KU and Innovative Pharmaceuticals. Support is also provided via the Institute for the Advancement of Medical Innovation and the Kauffman Foundation. The company was established to develop and commercialize a new liquid formulation of Enalapril, an angiotensin converting enzyme inhibitor that is indicated for use in treatment of hypertension in adults and pediatric patients. The compound is currently only available in tablet form and at adult doses and strengths. Currently, pediatric formulations must be compounded and dispensed by an appropriately qualified compounding pharmacy, which is time consuming and prone to quality and safety issues.

Tom Thornton sat on the BOD of the Enterprise Center of Johnson County with Michael Beckloff. Mr. Beckloff is also a BOD member of KansasBio and the current COB of KTEC Pipeline. Mr. Beckloff is the President of Beckloff Associates, a service provider to 10 companies that have received funding from KBA.[59] Mr. Beckloff's other relationships with KBA funded companies include personal ownership and debt holdings in Innovia Medical, Orbis and VasoGenix Pharmaceuticals. Beckloff Associates also has an ownership interest in ImmunoGenetix. Mr. Beckloff is an Advisor to Orbis and is a principal in EnalaPed. Mr. Beckloff indicated he does not receive compensation or fees directly from any KBA funded company with which he or Beckloff Associates is involved, inclusive of Orbis and EnalaPed. Furthermore, Mr. Beckloff indicated he no longer has personal ownership in Beckloff Associates as it has been purchased by Cardinal Health.

However, the August 2, 2010 Investment Recommendation sent to the Investment Committee for review does not mention these associations. The Investment Recommendation does state that the services funded by the grant will be provided to EnalaPed by Beckloff Associates and does note Mr. Beckloff's association with both EnalaPed and Beckloff Associates. As POCI grants less than $75,000 go through an abbreviated review process and do not require a discussion by the Investment Committee if there are no objections, there is no discussion of the approval of the EnalaPed investment in the Investment Committee minutes. Therefore, there was no formal disclosure of Mr. Beckloff's many relationships to KBA and its client companies. BKD noted

[59] Mr. Beckloff reviewed a listing of companies funded by KBA at BKD's request to determine which companies Beckloff Associates has provided services. Mr. Beckloff identified 10 companies, but declined to name them as Beckloff Associates has signed Confidentiality and Disclosure Agreements with its clients. Mr. Beckloff indicated that some companies had received pro bono services from Beckloff Associates in an effort to assist them in their initial start-up.

no evidence of any potentially inappropriate influence on Mr. Thornton's part with regard to the EnalaPed investment.

MegaStarter, LLC

During the interview process, one individual stated that he was unfamiliar with the MegaStarter investment and questioned whether it was an actual operating entity.

On August 14, 2009, KBA's Investment Committee approved an Investment Recommendation to KBA's BOD of $1.3 million to incentivize MegaStarter[60] to relocate their company to Manhattan, Kansas. MegaStarter is bringing a new direct-fed microbial supplement to the U.S. dairy and beef cattle industry. The microbe strain was developed in South Africa and was relocated by MegaStarter to Kansas for commercialization in the U.S. market.

This investment was recommended to KBA BOD and approved, through two KBA programs. The first KBA investment of $300,000 was approved to go directly to MegaStarter through an Expansion and Attraction grant conditional on the completion of certain milestones. The second was an investment of $1 million through KBA Matching Fund program to the City of Manhattan to match the city's commitment of $450,000 to build out the remaining pilot space at the Manhattan/K-State Innovation Center located in the K-State Research Park. This initial build out was targeted for MegaStarter, but would be available for use by other companies in the future if MegaStarter relocated to another, larger facility.

Subsequent to KBA's investment commitment, MegaStarter management committed in writing its willingness to move to Manhattan and periodically reported to KBA staff on its progress on the FDA approval process and its anticipated timing for the move to Manhattan. However, in April 2010, MegaStarter encountered lease issues related to the proposed Manhattan location that made it unacceptable to MegaStarter to locate in Manhattan. MegaStarter located an alternate facility location in Wamego, Kansas, but it required an outlay of $300,000 to purchase and additional funds to build-out the facility to Phase 1 production capacity of 100,000 product doses per month.

On June 9, 2010, KBA approved the reaffirmation of the original $300,000 commitment and a no-interest loan of $500,000 with a five-year balloon. The loan is forgivable in $250,000 increments if, at the end of five years, MegaStarter has 40 employees and $15 million in revenue.

NATIONAL DRUG DEVELOPMENT ACCELERATOR PROJECT

The June 26, 2009 BOD minutes, state that "members of the BioVenture's team attended meetings in San Diego on drug discovery. (Thornton) indicated that KansasBio was involved in the development of the National Drug Development Accelerator ("NDDA") project, which offers promise to drug development and research activities in Kansas." Based on this entry, questions have been raised regarding why this project was brought to Kansas by KansasBio rather than KBA and if KansasBio is successful at attracting projects, why is KBA needed.

NDDA is a marketing effort, initiated in November 2008 by KansasBio, aimed at building the region's pharmaceutical industry. The accelerator was intended to be a tool to expand current and attract new drug-development companies to the region, which has a rich history in this

[60] MegaStarter appears to also have an Internet presence as MS Biotec.

industry dating back to Marion Laboratories. The main focus of the accelerator was to market the services of drug-development related companies in the Kansas and Kansas City metro area to small and midsized pharmaceutical companies nationwide.

However, approximately a year and a half ago, HBV team members Tom Krol and Terry Osborn perceived that the NDDA marketing effort had outpaced the actual identification of resources and determination of what services could be marketed to specific target markets. Therefore, they approached KansasBio and suggested the formation of a working group of interested parties to formally address these issues. KansasBio agreed and a working group was formed, including the two organizations, KCALSI and Kansas City Area Development Council ("KCADC"). Beckloff Associates was added to the working group to give input on behalf of the strong contract research organization ("CRO") sector in the region. Subsequent to Terry Osborn leaving KBA to join KCAS, LLC, KCAS was added to the working group as well.

To determine what resources are available, KBA has funded a study by the Simon Management Group and subscribed to a PharmaCircle database. This represents Phase 1 of the project. Phase 2 is the Tufts University study that has been commissioned by KBA to look at the market for the various resources and potential services that have been identified out of Phase 1.

This initiative will no longer be called NDDA as there is another organization (North Dakota Dental Association) that goes by that acronym. Therefore, the initiative is currently referred to as the Kansas City Region CRO initiative. KBA has hired Global Prairie to do the final branding and to market what comes out of the Tufts study.

There is now an expanded working group or "Advisory Board" which includes 11 CROs in the area along with the four non-CRO members of the working group. The Advisory Board includes the Missouri Bioscience Organization and the Missouri Technology Corporation as this is a bi-state issue. The Advisory Board has only met twice, but a short-term and long-term goal for the group are under discussion. The short-term goal is to grow the area CRO/clinical service provider ("CSP") business from $1 billion annually to $2 billion annually. The long-term goal is to use this concentration of respected CRO/CSPs to attract additional biotech and pharma start-up companies to the region.

KBA is only providing the "seed" funding to determine what resources are available and what can be done with them. The other involved organizations will be expected to participate in the funding of the marketing effort going forward.

KCAS, LLC

Dr. Terry Osborn resigned as KBA Director of Commercialization effective May 20, 2011 and became the CEO of KCAS, LLC. Dr. Osborn had been working with KCAS prior to his resignation and allegations have been made regarding a potential conflict of interest related to Dr. Osborn and his work on behalf of KCAS prior to his resignation from KBA.

The allegation is that in September 2010, KBA issued a Request for Proposal ("RFP") for the provision of research and analytical services comparing CRO services in the greater Kansas City region to other parts of the world, and that KCAS was awarded the contract. Dr. Osborn was involved in the selection of KCAS, who he is now employed by, for a $250,000 contract. It is further alleged that Dr. Osborn is a part owner of KCAS as is Michael Beckloff. Mr. Beckloff is associated with EnalaPed, who has received funding from KBA, and is the President of Beckloff Associates, a CRO who provides services to some companies that receive funding from KBA.

BKD interviewed Dr. Tom Krol, Dr. Terry Osborn and Michael Beckloff concerning these allegations. The history of Dr. Osborn's involvement with KCAS and KCAS' participation in the Kansas City Region CRO Initiative (please refer to the National Drug Development Accelerator section of this report for further information regarding the Kansas City Region CRO Initiative) is as follows. In 2009, AAIPharma notified KCAS management that KCAS was going to be put up for sale. Management wanted to keep the business in town, so they proposed a buyout and approached KBA for partial funding. Dr. Osborn took the opportunity before the Investment Committee, but the committee declined as they considered KCAS to be a bioscience "service" company. However, Dr. Osborn was supportive of KCAS' services and operations and accepted a position on KCAS's BOD under the management consulting function of HBV in December 2009.

Drs. Krol and Osborn jointly managed the Kansas City Region CRO Initiative on KBA's behalf. Other organizations involved in the Kansas City Region CRO Initiative working group included KansasBio, KCALSI, KCADC and Beckloff Associates. Beckloff Associates was included in the working group as representatives of the CRO industry to ensure that the service providers had access to input and clarification from industry participants, therefore, providing legitimacy to the study from the CRO industry's perspective. KCAS was added to the working group after Osborn became CEO of that organization. The first Phase of that initiative was to identify CRO resources in the Kansas and Kansas City region and Simon Management Group was hired to perform the study. Simon Management Group was paid $45,000 for the study and PharmaCircle was paid $20,000 for a database used in the study. Neither contract required an RFP under KBA's purchasing policy. KBA provided the funding for those contracts. That study was released in June 2011, after Dr. Osborn joined KCAS.

KBA did issue an RFP with regard to the Kansas City Region CRO Initiative and subsequently hired Tufts University to conduct a study comparing the area CRO/CSPs to 14 other CRO/CSP concentrations. The resulting study will be used as a piece of a marketing initiative to grow CRO/CSPs in this region. The contract with Tufts is anticipated to approximate $200,000 when completed.

Dr. Osborn indicated that he is an officer and director of KCAS, but has no ownership interest. Furthermore, Michael Beckloff has no association with KCAS. His involvement with the initiative is through his employer, Beckloff Associates. Furthermore, Dr. Osborn indicated that KCAS has received no payment from KBA in relation to the initiative and, in fact, has received no funding of any sort from KBA. A review of KBA's QuickBooks accounting software indicated that KBA had made no payments to KCAS. Therefore, BKD finds the allegations to be false.

ADDITIONAL ALLEGATIONS

The Commerce Committee meetings regarding KBA's operations have resulted in a number of questions and allegations and have resulted in additional testimony by members of KBA's BOD and management, and the submission of documentation for review. BKD is recounting specific issues raised and allegations made and providing responsive information based on our research of publicly available information, interviews we conducted and information provided by KBA.

Kansas' #5 Ranking in Top 10 States for Biotechnology Strength

In the *Business Facilities* publication, the state of Kansas was ranked #5 in terms of strength of biotechnology. This ranking was set forth in *Business Facilities'* July/August 2010 "2010 Rankings Report." This ranking was disputed during the Commerce Committee meetings and by at least one individual interviewed by BKD.[61]

Although a comprehensive re-engineering of the methodology used for this calculation is beyond the scope of the Forensic Audit, BKD did examine information relating to the process and methodology used to compute this ranking.

As a result of questions raised in the Commerce Committee meetings regarding the ranking, KBA contacted group C media, the publisher of *Business Facilities* and requested a written description of the process *Business Facilities* utilized to generate the state rankings for biotechnology strength. Jack Rogers, Editor in Chief of *Business Facilities* replied by letter dated March 2, 2011.

Mr. Rogers indicated that statistics are gathered from several sources, including the biennial State Biosciences Initiatives Report and the U.S. Bureau of Labor statistics, for more than two dozen criteria. Those criteria include bioscience employment/specialization by sector, state funding of research and development, available tax incentives, university grants, bioscience degrees awarded by universities in the state, number of patents issued and state funding of biotech facilities. A proprietary point scale and a location quotient are applied to each of these criteria, giving extra weight to the percentage value (per capita) of these investments to create a meaningful comparison of programs among states regardless of population or GDP. The evaluation of the growth potential of a state's biotech initiative and the state's execution of its economic development strategy were the most important factors considered in developing the rankings.

Allegations were made that KBA "bought" its ranking through the purchase of advertising in the *Business Facilities* publication. Mr. Rogers stated that the states and municipalities that are ranked in the publication are not involved in the preparation or evaluation of the rankings and are not informed of the ranking decisions until these rankings are finalized and announced. The rankings are not influenced in any way by the purchase of advertising space in the publication. According to Mr. Rogers, any suggestion of a *quid pro quo* relating advertising to the annual biotech ranking is "absolutely false and defamatory." Please refer to ***Exhibit 34*** for a copy of the letter.

Kansas Open Meeting Act Issues Related to KBA

It is BKD's understanding that the Kansas Open Meeting Act ("KOMA") applies to public agencies, generally those created by statute or by some governmental action, funded by the government, and performing some governmental function. A meeting consists of three elements: 1) an interactive discussion; 2) involving a majority of the membership of the public body; 3) on

[61] During the course of our interviews, we were provided information from different magazines which provided alternative rankings. One such alternative ranking appeared in a study by Jones Lang LaSalle entitled "Life Sciences Cluster Report."

the affairs of the public body. If all three elements are present, no matter the location or title of the gathering, then KOMA applies to those discussions rising to the level of a meeting.[62]

As previously noted, KBA's BOD and some committees at times recess into Executive Session. A director will "move that the Board of Directors of the Kansas Bioscience Authority recess to Executive Session pursuant to K.S.A. 74-99b07." A reason for the Executive Session is stated. It is often noted as "to discuss financial and operational information and related material of the Authority as it relates to the marketing and operational strategies of the Authority which, in the opinion of the Committee, would be harmful to the competitive position of the Authority if disclosed." However, BKD noted other descriptors in use, such as, "for the purpose of discussing personnel matters of non-elected personnel" and "to consider a proposal or proposals for funding." The minutes of the meeting note the time that Executive Session is entered into, how long it will continue and what time the meeting will reconvene in open session. Furthermore, the minutes note who is in attendance for the Executive Session. BKD noted that Tariq Abdullah, KBA's General Counsel is normally in attendance. Prior to Mr. Abdullah's hiring, KBA would routinely have its external legal counsel participate.

On June 22, 2011, Senator Wagle sent a letter to Attorney General Derek Schmidt requesting that he opine on two questions. On October 18, 2011, the Attorney General's office forwarded the letter to KBA with a request for KBA's position. KBA submitted a reply to the Attorney General's office on November 11, 2011.

Question 1: Does K.S.A. 74-99b07(b)(3) allow the KBA Board to adjourn to Executive Session solely for the virtually all-encompassing purpose of discussing "marketing or operational strategies"?

K.S.A. 74-99b07(b)(3) states, "in the case of the Authority, discussion and consideration of the following may occur in Executive Session, when in the opinion of the Board, disclosure of the items would be harmful to the competitive position of the Authority…contracts for bioscience research, bioscience product manufacturing or commercialization, construction and renovation of bioscience facilities and marketing or operational strategies."

Senator Wagle's concern is that KBA's BOD appears to have isolated the phrase "marketing or operational strategies" from the remainder of paragraph 3 so that it can be utilized as a stand-alone basis for Executive Session. However, Senator Wagle believes that as the paragraph is constructed, it would appear that the term "contracts" is intended to apply to all of the clauses that follow.

KBA's General Counsel, Tariq Abdullah, responded to this question by stating that KBA is a unique, independent entity created to act in a manner similar to private industry, while still operating under the strict oversight of the legislature that created it. Often times, the BOD will require a closed discussion of sensitive information that would hurt KBA or person or entity being discussed if discussed in the open meeting. Executive Session is often used to discuss, among other things, confidential details of companies pertaining to their technology, intellectual property, trademarked or patented matter, finances, business plans, etc.; the development of KBA's annual operating plan prior to its completion and public release; a company's potential

[62] February 19, 2007 letter from Office of the Attorney General, Paul J. Morrison to KBA.

merger, acquisition or other restructuring; the (re)structuring of an equity investment or note; the status of a company's potential move to Kansas; and marketing strategies to attract companies from outside of Kansas.

Mr. Abdullah stated that KBA must be allowed to discuss these types of matters in confidence to ensure that private businesses will feel comfortable in dealing with an entity of the State. Limiting KBA's ability to discuss these items in Executive Session would chill the desire of a company to work with KBA and thereby diminish its ability to fulfill its mission to advance bioscience in the state of Kansas.

Question 2: Is the Analysis that was provided by the Attorney General's Office on February 19, 2007, to KBA Board's Chairperson still correct regarding KOMA and the ability for a state entity to conduct a meeting outside of Kansas when a list of five conditions is met?

KBA generally holds one meeting a year outside the state of Kansas. These meetings have generally been held in Washington, D.C. or in the location of the annual BIO Conventions. The 2007 Attorney General's opinion was that meetings held outside the state of Kansas are appropriate if 1) the entity holding the meeting is a public body subject to KOMA; 2) the public body is holding a meeting subject to KOMA; 3) it is reasonably considered necessary to hold the meeting in a different location for the conduct of public business; 4) notice has been provided to those persons requesting notice; and 5) there is some way for the general public interested in attending to do so without incurring additional cost.

Mr. Abdullah stated that KBA has no issue with the 2007 Attorney General's opinion and has fully complied with the elements in that opinion letter when holding meetings outside of Kansas.

As of the date of this report, Attorney General Derek Schmidt had not yet given an opinion on either question.

In summary, during the performance of BKD's procedures, it became apparent that there is an on-going dialog regarding and disagreement with KBA's application of KOMA and its use of Executive Session. KBA's BOD should exert care to ensure that KBA's BOD's and committees' use of Executive Session is necessary and appropriate, and should pursue and comply with the determination by the Attorney General's office.

Director of Special Projects

Lindsay Holwick Thornton was hired October 13, 2008 as the Director of Special Projects. She was introduced at a staff meeting that day and it was noted that she would be working on special projects such as NBAF and the NCI designation for the KUCC.[63]

From 2006 through October 2008, Lindsay Holwick Thornton had been employed by the Missouri Coalition for Lifesaving Cures where she had been involved in advocacy and fund raising efforts surrounding stem cell research in Missouri. During 2002 through early 2006, she had been a Senior Legislative Assistant to Missouri Representative Jo Ann Emerson in Ms. Emerson's Washington D.C. office. Therefore, Lindsay Holwick Thornton had experience

[63] Source is a KBA staff member's contemporaneous notes.

in the areas of bioscience and governmental affairs, which Mr. Thornton indicated were skill sets that qualified her for the position of Director of Special Projects.

Lindsay Holwick Thornton's job responsibilities, as noted in her offer letter dated September 22, 2008, included coordinating with staff to manage special projects as assigned by the President/CEO. The position was to have extensive contact with key constituents, including state and federal public officials, civic leaders, economic development professionals and the KBA BOD. Representative projects were to include:

- *Strategic Planning and Execution* – facilitate development of KBA strategic plan; analysis and implementation planning for strategies and special projects.
- *Government Affairs* – monitor legislative trends and regulations at state level; monitor federal science and technology issues; identify funding opportunities; manage advocacy-related activities; manage KBA efforts to pursue large-scale federal R&D opportunities (NBAF, National Cancer Designations, etc.).
- *KBA BOD* – staff the Executive, Governance and Nominating committees and coordinate BOD meetings.
- *Partner Relationships* – work with KTEC, KansasBio and the Kansas Department of Commerce to lead and coordinate joint projects.

In October 2009, Tom Thornton and Lindsay Holwick Thornton began a personal relationship. As that relationship progressed through the spring of 2010, Mr. Thornton made the decision to change Lindsay Holwick Thornton's line of reporting from himself to Jan Katterhenry, KBA's CFO/COO and Ms. Katterhenry was notified of the relationship. However, members of the BOD were not notified of the personal relationship until they received wedding invitations in the late December 2010 timeframe. All BOD members canvassed indicated that this information is something they would have liked to have known at the point the reporting structure was changed to Katterhenry.

On January 3, 2011, KBA's external counsel, Lathrop & Gage, was contacted and asked to perform a review of any appropriate regulations or statutes related to state employees and nepotism in light of Tom Thornton's and Lindsay Holwick Thornton's upcoming marriage. KBA's external counsel reviewed state statutes, opinions of the Kansas Governmental Ethics Commission and posed the hypothetical situation to a member of the Kansas Governmental Ethics Commission by telephone. It was determined that only K.S.A. 46-246a would apply if KBA employees were state employees, which external counsel noted they were not.

K.S.A. 46-246a does not prohibit a state employee from being in a position to exercise authority over a subordinate family member (including spouses), but does prohibit:

- the actual exercising of authority in areas of appointment, promotion, transfer, advancement and discipline; and
- the participation in an action relating to employment or discipline of family members.

KBA's own internal policies indicate that neither officers nor BOD members may advocate or cause the employment of such an officer's or member's household or a family member, nor may they participate in any disciplinary action related to such person's employment.

In summary, it appears that Lindsay Holwick Thornton was hired by Mr. Thornton prior to the commencement of their personal relationship and her reporting structure was realigned under KBA's CFO/COO in spring 2010, prior to the marriage. Tom Thornton and Lindsay Holwick Thornton married in January 2011. Mrs. Thornton continued her employment with KBA through March 25, 2011 when she resigned.

In hindsight, management's handling of this matter should likely have been in a more open and forthright manner. While many KBA employees indicated that they were not aware of the relationship until the engagement announcement, many other KBA employees were in a position to notice the significance of the developing relationship between the Thorntons at a much earlier date. Additionally, as previously mentioned, there are allegations that inappropriate intimate behavior occurred between Mr. Thornton and Lindsay Holwick Thornton in KBA's offices. Furthermore, when Lindsay Holwick Thornton's line of reporting was changed to Jan Katterhenry, there was a perception that Lindsay Holwick Thornton was not being held to the same level of responsibilities and requirements as those placed upon Katterhenry's other direct reports. Jan Katterhenry indicated that there was no preferential treatment of Lindsay Holwick Thornton. However, as is the case with the perception of a conflict of interest, even the perception of preferential treatment can be harmful. The perception of preferential treatment afforded Lindsay Holwick Thornton was harmful to the office culture and morale.

KBA's Response:
KBA management agrees that Tom Thornton's relationship with a KBA staff member should have been handled in a more open and forthright manner. While management believes that Lindsay Holwick Thornton received no preferential treatment, the relationship created the potential for and perception of preferential treatment. Management will recommend that KBA's Board update the policies governing the handling of any similar situations to ensure transparency in the future.

In addition, in 2010 management contracted with an independent reporting service through which employees can anonymously report any concerns about unethical, illegal or irresponsible activity. These reports are automatically forwarded to the chair of the Board's Nominating and Governance Committee and to KBA's general counsel, who serves as the corporate compliance officer.

Allegations Related to the Hiring of Lindsay Holwick Thornton

Allegations have been made that Tom Thornton was acquainted with Lindsay Holwick Thornton prior to her hiring and created a position for her that did not exist and was not needed, due to his personal interest in her. Further, it has been alleged that she was unqualified for the responsibilities she was to fulfill. In reviewing these allegations, BKD interviewed KBA management and staff members and BOD, interviewed Mrs. and Mr. Thornton separately and performed computer forensics on Lindsay Holwick Thornton's KBA computer.

In her August 24, 2011 interview, Lindsay Holwick Thornton indicated that she was first mentioned to Mr. Thornton as a potential employee by a mutual acquaintance at KSU in 2006 or 2007. However, at that time, she was not interested in leaving her then employer and did not pursue an interview. However, in mid-2008, Lindsay Holwick Thornton decided to follow-up on any potential employment opportunities with KBA and contacted Tom Thornton to inquire. It appears that Lindsay Holwick Thornton imported her Outlook calendar from her previous employer into her KBA Outlook calendar, as appointments go back to 2005. Based upon BKD's review of Lindsay Holwick Thornton's Outlook calendar, she interviewed for employment with KBA on three occasions between June and September of 2008. Therefore, the interview process spanned a number of months before culminating in her employment. Both Mr. Thornton and Lindsay Holwick Thornton have stated that they were not acquainted with one another prior to the first interview.

Mr. Thornton indicated that the Director of Special Projects position was an established position that had been approved by the BOD in an AOP. BKD's review of both the AOP for fiscal years[64] 2008 and 2009 did not reveal the existence of the Director of Special Projects position. The FY2008 AOP indicated that KBA's human resource plan for the next 12 months included a Marketing and Communications Project Manager and that position would "manage our community outreach efforts associated with the National Bio and Agro-Defense Facility."[65] A Director of Marketing and Communications was hired in August 2007, which fell in FY2008.

KBA's FY2009 AOP included an organization chart which indicated the existing Director of Marketing and Communications and the existing Marketing Communications Specialist,[66] but did not note a filled or open Director of Special Projects position. The FY2009 human resources plan in the AOP only referenced four open director-level positions on the investment team to enhance KBA's capacity to evaluate investment opportunities and to provide commercialization support under Heartland BioVentures.[67] One of those positions was filled October 1, 2008. The remaining three positions were shown as open positions on the FY2009 AOP organization chart.[68] However, it is noted that the Marketing Communications Specialist position was not addressed in the FY2008 AOP, but was created and filled during FY2008. Therefore, it appears that positions that were not specifically approved in an AOP were created and filled during a fiscal year. Interviews with the BOD confirmed that Thornton was within his authority as President/CEO to create and fill any necessary position for KBA, as long as the budget dollars were available to fund the position.

Mr. Thornton indicated that the Director of Special Projects position was necessary as he was doing the primary outreach with regard to the NBAF and Cancer Initiative, in addition to his responsibilities to implement the programmatic aspects of KBA's mission and to appropriately staff the organization. NBAF was generating much interest by local, state and national government officials and KBA was being asked to provide updates to various officials regarding what was happening at both the state and federal level with regard to its siting and eventual funding. The job responsibilities of the Director of Special Projects, as described by Thornton, encompassed being the point person for information dissemination related to NBAF and the Cancer Initiative, as well as covering general governmental affairs related to advocating for KBA and its programs at both the state and national level.

[64] KBA's fiscal year runs from July 1 through June 30 and is referenced by the year in which June 30th occurs.
[65] Kansas Bioscience Authority FY2008 Annual Operating Plan, page 9.
[66] Kansas Bioscience Authority FY2009 Annual Operating Plan, page 9.
[67] Kansas Bioscience Authority FY2009 Annual Operating Plan, page 10.
[68] Kansas Bioscience Authority FY2009 Annual Operating Plan, page 9.

Allegations have been made that the Director of Special Projects' responsibilities were already being fulfilled by others in the marketing and communications department. There was overlap to a degree. Members of the marketing and communications department did at times participate in outreach efforts to stakeholders. However, Mr. Thornton drew a distinction between the outreach done by the marketing and communications department and the Director of Special Projects. He indicated that the marketing and communications personnel were not asked to attend and monitor legislative meetings, or to perform outreach to or to promote KBA with state and national government officials. According to Thornton, these activities were either performed by him personally or by the Director of Special Projects. Stated opinions of members of KBA management and staff differ as to whether Lindsay Holwick Thornton was effective in the position of Director of Special Projects.

Melissa Lynch's Termination of Employment

In response to the previously discussed letter submitted by Melissa Lynch to Senator Wagle (see ***Exhibit 1***), Tom Thornton testified at the March 4, 2011 Commerce Committee meeting that Melissa Lynch had been terminated for just cause. Ms. Lynch disputes Thornton's statement and indicated to BKD that she had resigned.

Ms. Lynch indicated that in early 2008 she had begun to look for other employment as she did not want to work with Thornton any longer given his unethical and erratic behavior. Lynch indicated that during the first week of February she told Thornton that she had taken another job and gave two weeks' notice. She indicated a few days later, she emailed KBA staff to let them know she would be leaving.

The forensic review of Mr. Thornton's email account indicates that on February 8, 2008 at approximately 4:30 p.m., Lynch emailed KBA staff letting them know that she would be leaving KBA and that her last day would be either February 15th or February 20th. Thornton was a recipient on that email. On February 8, 2008 at approximately 6:00 p.m., Thornton sent an email to Directors Lawrence, Sanford and McKechnie informing them that as of February 15th, Lynch would no longer be an employee of KBA and that her responsibilities would transition to Marsh LoScalzo on February 27th. Lawrence responded to Thornton's email asking if Lynch knew she was being terminated and what severance she would receive. Thornton replied that Lynch would receive no severance and that he told her he would inform Lawrence. Thornton indicated that Lynch had performance issues and when he spoke to her about them earlier in the week, she abruptly said she had a job offer and was quitting. On February 9, 2008 at approximately 9:00 a.m., Lynch indicated she was reviewing Thornton's email as part of her job responsibilities, and she saw the email exchange between Thornton and Lawrence and forwarded it to her personal email account. At approximately 9:15 a.m., Thornton accessed his email account and saw that Lynch had forwarded the email to her personal account. Thornton emailed David O'Dell, KBA's outside IT consultant, and told him to terminate Lynch's email access immediately as she was pulling emails into her personal account. At approximately 3:20 p.m., Thornton sent an email to Katterhenry, for the files, noting that Lynch had accessed his work and personal email and forwarded them to her personal email account. Lynch indicated that Thornton subsequently called her and told her not to come back to work.

On February 11, 2008, Jan Katterhenry emailed Thornton regarding the final payroll for Lynch. Katterhenry indicated that Lynch would be paid through February 8th and KBA would deduct personal charges of $343.72 to the business American Express card. Katterhenry indicated it made her mad that Lynch used the American Express card for personal use as she had repeatedly been told not to do so. Katterhenry then forwarded a January 11, 2008 email to Thornton that he had been originally copied on in which she reprimanded Lynch for repeated personal purchases on KBA American Express card as this was against KBA policy. Lynch stated to BKD that she did occasionally charge personal items to the American Express card, as did Katterhenry and Thornton. However, all reimbursed KBA for the personal use of their cards. Lynch indicated that she did not know why Thornton told people he fired her. She indicated that she had never been informed of any performance reviews and had never had a written performance review while at KBA. Lynch indicated that when she requested a performance review, Thornton told her everything was great. BKD reviewed Lynch's personnel file and found no written performance review. Please refer to ***Exhibit 35*** for the described emails.

Mr. Thornton indicated to BKD that he had actively been looking for a replacement for Lynch for a number of months prior to her termination. The review of Marsh LoScalzo's personnel file supports this statement as there is evidence that KBA had hired The Mayer Group, through which LoScalzo was recruited, by October 2007 to search for Executive Assistant candidates. LoScalzo's application for KBA Executive Assistant position is signed November 10, 2007.

KBA's General Counsel, Tariq Abdullah, indicated that following the March 4, 2011 Commerce Committee meeting in which Ms. Lynch's letter was discussed, then KBA COB John Carlin asked Abdullah to conduct an internal investigation into matters relating to Melissa Lynch during her employment at KBA. The scope of the investigation was to answer two questions: 1) did Melissa Lynch engage in any legal or ethical misconduct while employed at KBA and 2) what were the circumstances surrounding Melissa Lynch's separation from employment at KBA?

Mr. Abdullah's memorandum indicated that in performing his investigation, he reviewed available documentation and conducted interviews of current staff members that were employed at KBA during Ms. Lynch's term of employment. Abdullah reviewed Lynch's personnel file and remaining documents stored on her computer. Ms. Lynch indicated that she had received a copy of Abdullah's memorandum through the mail from an anonymous source and that she disagreed with much of Abdullah's findings. Abdullah verified to BKD that no one at KBA had been authorized to send a copy of the memorandum to Ms. Lynch.

The memorandum indicated that a full background check, including credit check was obtained on Ms. Lynch prior to her beginning employment, but as Lynch pointed out in her interview with BKD, the background check information[69] attached to the memorandum is dated February 11, 2008, which was after Lynch left KBA's employment.

Mr. Abdullah found that both the written record and interviews supported the fact that Lynch did engage in legal or ethical misconduct while employed at KBA. Specifically, Lynch used Thornton's KBA American Express card to make personal purchases. This was an unauthorized use and against policy, occurred on more than one occasion and was supported through email

[69] BKD noted that Exhibit B to the memorandum contains one page of employment screening information dated December 26, 2007, but based on the address referenced, the information appears to be applicable to Marsh LoScalzo.

and interview. As previously stated, Lynch indicated that Katterhenry and Thornton also occasionally used the American Express cards for personal use and reimbursed KBA. BKD was able to verify both Katterhenry and Thornton's occasional personal use of and reimbursement for the American Express cards.

Mr. Abdullah also found unethical behavior in that Ms. Lynch accessed Mr. Thornton's email without his consent. Lynch indicated that part of her job responsibilities were to review his email and delete emails that he did not need to read. She indicated that Thornton, therefore, knew that she had access to his email. Thornton disputed that he gave Lynch access to his email. BKD notes that Thornton's recent Executive Assistant, Marsh LoScalzo, did not have access to his email account.

Mr. Abdullah found that Ms. Lynch was separated from employment at KBA due to negative performance issues and unauthorized access to Thornton's email. Abdullah found that Thornton felt Lynch's job performance was lacking, specifically in the area of communicating with the BOD. Therefore, in late 2007, Thornton initiated a confidential search for Lynch's replacement. Abdullah indicated that most likely, during the first full week of February 2008, Thornton met with Lynch to discuss her on-going performance issues. During this meeting, Lynch informed him that she had found new employment and that February 15th would be her last day. Thornton accepted this and on February 8th informed Directors Lawrence, Sanford and McKechnie of the same.

Mr. Abdullah's memorandum referred to the previously described email string in which Lynch accessed Thornton's email account and forwarded to her personal account Thornton's email to Directors Lawrence, Sanford and McKechnie. Therefore, Abdullah found that Lynch originally gave notice of her intent to leave KBA at the close of business on February 15, 2008, but was separated from her employment for cause prior to that date.

Other Employment Decision Allegation

During the course of our investigation, we received information relating to at least one other employment decision by Mr. Thornton. We were asked to investigate whether this employment decision was made in an effort to cover up alleged inappropriate intimate behavior between Mr. Thornton and Lindsay Holwick Thornton in KBA's offices.

Based on the review of computer forensic records and evidence and an evolution of the relevant timetable, our assessment is that the most likely scenario is that the decision was made for work performance related issues.

Use of Non-Attorney as Contract Administrator

It has been alleged that it is inappropriate for KBA to use non-attorney personnel in the position of Contract Administrator as that position is responsible for developing and writing the contracts approved by the Investment Committee and the BOD, and is responsible for monitoring milestone grants.

KBA's General Counsel, Tariq Abdullah, indicated that there is no requirement that the contract administrator be an attorney. Furthermore, Mr. Abdullah indicated that he drafts the contracts and Nancy Ruf, the contract administrator, assists him under his direction and supervision. Mr. Abdullah stated that he reviews all contracts prior to their execution.

Mr. Abdullah indicated that it was his understanding that the original grant and investment contracts had been drafted by outside counsel and had become a template for future use. When Mr. Abdullah was hired as general counsel, he reviewed all the contract templates and made amendments and revisions as he saw necessary.

BKD noted that Ms. Ruf's resume indicated that she has significant contract administrator experience dating back to 1989. Her resume indicated that from July 1989 through December 1999, contract administration was a primary function in her listed job descriptions. For that period, her listed titles were Contract Administrator or Manager of Contracts. From January 2000 until hired by KBA in 2009, negotiating contracts with subcontractors and city governments remained part of her primary job responsibilities with her previous employer.

Use of Outside Consultants to Review Eminent Scholar Applications

It has been alleged that it is an inappropriate use of KBA funds to hire outside consultants to review Eminent Scholar applications. The implication is that KBA personnel should be qualified to make application determinations on their own.

David Vranicar indicated that KBA hires qualified outside consultants, when necessary, to perform peer reviews for Eminent Scholar and Rising Star applications where very specialized and specific scientific and technical knowledge is required. Mr. Vranicar stated that this is in KBA's best interest to ensure that funding is going to support qualified candidates.

Rising Star Krista Walton

It has been alleged that KBA funded a Rising Star award for Krista Walton in the amount of $700,000; however, that award is not listed in the audited financial statement report and there is no record that the $700,000 was returned to KBA.

It was reported at the May 18, 2009 BOD meeting that Dr. Walton notified KSU that she was taking another position at Georgia Tech University. Apparently, Dr. Walton chose Georgia Tech for personal reasons because her family is located near there. None of the $700,000 awarded to KSU was ever funded.

Allegations Related to the Replacement of KBA Servers

It has been alleged that in late February 2011, after the first Commerce Committee meeting, KBA had the hard drives on the server replaced in an effort to destroy information.

An email was sent to all staff announcing that the server would be down over the weekend. This was seen as unusual by some staff as they believed that there were only four staff members who could access the network remotely. Those staff members were Tom Thornton, Jan Katterhenry, Ruth Saale and Marsh LoScalzo. Therefore, there was a perception that the email was sent out as a "cover" for the destruction of information housed on the server.

BKD interviewed David O'Dell of Summit Computer Solutions. Mr. O'Dell indicated that one of the two hard drives in the server had failed and the other was indicating "predicted failure." Therefore, it was necessary to replace the hard drive as soon as possible. Some KBA staff do work in the office over the weekend, so Katie Montes, the Financial Executive Assistant, sent a calendar appointment to staff on Tuesday, February 22nd, alerting them that the server would be down on Saturday, February 26th from 10:00 a.m. to 2:00 p.m. Please see ***Exhibit 36***. Summit

Computer Solutions' invoice detailed the services provided on February 26, 2011 as "Replace failed HD's in SERVER—Create backup image of server. Troubleshoot and replace failed HD's in server. Clean and test server and server 2 hardware. Install updated Dell Open Manager Server Administration Software on Server 2." BKD found no indication that the replacement of the server was for other than maintenance reasons.

REVIEW OF NAICS CODES OF COMPANIES RECEIVING FUNDING FROM KBA

BKD reviewed the NAICS codes assigned to companies receiving funding from KBA for compliance with the allowable codes under KEGA. K.S.A. 74-99b33(d) defines a bioscience company for the purposes of KEGA and lists NAICS codes determined to be bioscience company codes. In addition, the statute states, "A company identified by another NAICS code may be determined to be a bioscience company by the authority and the secretary of revenue based on verifiable evidence that the company is engaged in the business of bioscience in the state."

We considered all commitments totaling $250.5 million as of June 30, 2011 for this analysis. First, for each commitment, we determined whether or not the commitment required a NAICS code. If funds were to be used internally by KBA, for Centers of Innovation, by universities or colleges located in the state of Kansas or in relation to the Kansas Bioscience Growth Fund, a NAICS code was not deemed to be necessary. The total committed amount that fell into this category was $211,134,832, of which $60,784,900 had been paid as of June 30, 2011.

Of the remaining commitments, $36,664,253 (of which $25,735,736 had been paid) have KEGA approved NAICS codes and $2,750,000 (of which $940,300 had been paid) do not have KEGA approved NAICS codes. However, KBA has received a waiver from the Department of Revenue for the three companies without approved NAICS codes. The companies are Cargill, AGCO and ICM.

KANSAS BIOSCIENCE GROWTH FUND

As previously mentioned, a major challenge identified by KBA's BOD is the lack of access to venture capital in the state. Access to risk capital is a key aspect of any region's bioscience growth. To address this challenge, KBA created the Kansas Bioscience Growth Fund ("KBGF"), to be funded to a $50 million level over a four to six year period. The purpose of the KBGF is to provide bioscience companies access to risk capital as a key component of their funding strategy. The focus is on the necessity of providing access to funding to Kansas bioscience companies to provide for the growth of their operations and not on any speculative return the fund may or may not generate. The objectives of the KBGF are to:

- stimulate both the quantity and quality of venture capital seeking and making investments in the Kansas bioscience market;
- improve the probability that high potential bioscience companies in Kansas will ultimately achieve high growth and commercial success;
- create a private equity climate in Kansas that will encourage entrepreneurs to launch a new business that will create high paying jobs and associated economic activity, and ultimately, wealth for the entrepreneurs and investors;

- create a bioscience industry climate that will encourage bioscience companies located outside of Kansas to relocate their business to Kansas;
- complement and support the investments and business assistance services provided by KBA under its existing programs; and
- generate superior, risk-adjusted financial returns on the capital invested by KBA.

KBA Evaluation Process

The Venture Capital Fund Management Services Request for Qualifications ("RFQ") was developed by KBA staff and reviewed by KBA's external legal counsel. In November 2008, the BOD approved the RFQ, which defined the requirements and guidelines for eligibility that would need to be met for potential investment fund managers to qualify. The RFQ was posted on KBA's website and other bioscience organization websites, as well as being sent to venture capital funds known to invest in the bioscience sector. By the close of the extended submission deadline on February 13, 2009, 12 venture capital funds responded with an application for investment consideration through the fund. KBA staff conducted the initial compliance evaluation of the submissions for adherence to the requirements of the RFQ.

Similar to the investment review process for Eminent Scholars, Rising Stars and the Centers of Innovation, the respondents were evaluated by a third-party qualified to conduct financial and other assessments in order to recommend suitable venture capital fund investments. In mid-April 2009, after interviewing and evaluating five firms capable of conducting in-depth due diligence and assessing the strategy, management team and track record of the venture funds, KBA selected Ennis Knupp, KBA's financial advisor, to conduct these services on behalf of KBA. The BOD minutes indicate that Ennis Knupp was chosen as it has a nationally recognized private equity evaluation team and could provide the required services in a timely and cost effective manner. Additionally, their existing relationship with KBA would allow them to hit the ground running.

Ennis Knupp's role was to assist in the evaluation of all 12 proposals received and to provide advice and recommendations regarding the relative merits of each proposal. The Chairman of the HBV Advisory Board, noted in the May 19, 2009, KBA BOD minutes that the whole process was conducted through Ennis Knupp as an independent third-party to avoid any possibility of favoritism by KBA Board or the HBV Advisory Committee. Management and/or Advisors of some of the Venture Capital Funds, such as MPM Capital, Open Prairie and Midwest Ventures were known to members of KBA and HBV's staff, BOD or Advisory Board. Furthermore, Steven St. Peter, Managing Partner of MPM Capital, one of the respondents, was a member of HBV's Advisory Board.

Ennis Knupp used evaluation criteria defined in the RFQ, including track record; experience of management; investment strategy; commitment to locate in Kansas; knowledge of the Kansas marketplace and the fund's terms and conditions. In addition, HBV met with management of each venture capital fund with the goal of getting to know each firm and their investment thesis by sector and stage so that KBA can source Kansas investment opportunities to the most appropriate firm; and to share information about HBV's approach and services to get client companies "venture ready."

After the RFQ evaluation, Ennis Knupp moved forward with its more in-depth due diligence on all 12 applicants. During its due diligence process, Ennis Knupp focused on a wide number of key variables, concentrating particularly on the experience, strategy, track record and strength of the funds' management teams. Ennis Knupp also conducted reference calls of each venture firm's historical limited partners, co-investors, portfolio company executives, financial sponsors and investment bankers. Based on Ennis Knupp's rankings, the Investment Committee shortened the list to eight candidates. The eight selected candidate firms then made presentations to the Investment Committee for further assessment.

Selected Venture Capital Funds

On October 8, 2009, the BOD approved $50 million in investments in the following venture funds:

- $10 million in MPM Heartland BioVentures, L.P., when minimum funding of $40 million is closed
- $10 million in Burrill Life Science Capital Fund IV, L.P., when minimum funding of $40 million is closed
- $5 million in Prolog Capital III, L.P., when minimum funding of $25 million is closed
- $5 million in MidPoint Food and Ag Fund, L.P., minimum funding of $25 million already raised
- $5 million in Open Prairie Ventures II, L.P., minimum funding of $25 million already raised
- $5 million in Triathlon Medical Ventures Fund II, L.P., when minimum funding of $25 million is closed
- $5 million in Midwest Venture Fund I, L.P., when minimum funding of $25 million is closed
- $5 million in Meadowlark Venture Partners, L.P., when minimum funding of $25 million is closed

KBA will invest in each venture capital fund as a limited partner. A limited partner's liability is limited to the extent of the partner's share of ownership. Limited partners generally do not have any kind of management responsibility or authority in the partnership, and are not responsible for its debt obligations.

KBA Requirements and Side Letter Terms

Approved investments in each venture capital fund are contingent upon each of the following terms:

- each venture capital fund must raise a minimum of $25 million of investment capital before KBA will be required to invest, and in the case of MPM Capital and Burrill, a minimum of $40 million;
- KBA's funding commitment to each venture capital fund will not exceed 20% of the fund's aggregate capital raised or available for capital investment; and
- KBA and each venture capital fund must execute a mutually acceptable limited partnership agreement and any other associated legal documents required to appropriately document the rights and responsibilities of each party.

Commitments and special arrangements between KBA and the selected fund managers that do not apply to all limited partner investors in the fund are detailed in a side letter executed by KBA and each fund's general partner prior to funding. Common commitments to date include the following:

- each fund manager shall commit to make a good faith effort to invest at least an amount equal to KBA capital commitment into bioscience companies in Kansas;
- each fund manager shall commit to open an office in Kansas within 90 days of the date KBA executes the fund's limited partnership agreement. In addition, each firm shall maintain the office for the life of the fund and shall have a Managing Director, or employee of equivalent title spend no less than three days per month in Kansas seeking and making investments, and managing portfolio companies post-investment;
- for those funds that have not already raised the required minimum investment capital, each will commit to a first fund closing of the required minimum amount within 12 months from the date the limited partnership agreement is executed. KBA commitments to invest will terminate after 12 months if the required minimum funding milestone is not achieved;
- KBA (through HBV) and each fund shall commit to closely collaborate with one another with respect to providing investment leads, evaluating prospective investments, offering advice and counsel regarding companies of interest, assisting portfolio/client companies to achieve commercial success, identifying investment criteria and the like; and
- each fund manager shall commit to have at least one principal attend the annual Invest Midwest Venture Capital Forum in Kansas City or St. Louis, the Animal Health Investment Forum in Kansas City and the Great Plains Capital Conference in Wichita.

It should be noted that the venture capital funds invested in by KBA are not required to invest those funds in Kansas. HBV's president indicated that venture capitalists generally will not be restricted geographically; they need an attractive rate of return first and foremost. In order to attract syndicated deals for Kansas, venture capitalists must have good deals to look at not only in Kansas, but in the region.

In addition, the managing directors of the venture capital firms are not specifically monitored with regard to the amount of time they spend in Kansas. KBA management indicated that all spend sufficient time to become acquainted with Kansas bioscience companies and investment opportunities and to meet with and counsel their portfolio companies as appropriate. Therefore, at times, the managing directors are in Kansas for more than three days a month and at other times for less than three days a month. It is noted that Open Prairies has staffed an office in Olathe, Kansas since 2005 and, thus, is present on a full-time basis. KBA management stressed that the time commitment is to require the venture capital firms to spend sufficient time in Kansas to become aware of and consider the investment opportunities; and they believe all three venture capital firms funded through KBGF to date are doing so.

There are several key reasons KBA staff recommended making investments into venture capital funds via KBGF in addition to making investments directly into client companies. First, since KBA commitment to each fund will only represent a maximum of 20% of the fund's total capital, KBA's $50 million commitment will be leveraged into at least $250 million of total investment capital that will be seeking and considering bioscience investment opportunities in Kansas. Second, since most venture capital investments will be syndicated among multiple venture firms that will co-invest alongside KBA recommended firms, it is likely that the total venture capital investment into Kansas bioscience companies will exceed the $50 million that KBA invests into the recommended funds. Finally, KBA staff wishes to leverage the expertise and skills of highly qualified institutional venture capital fund managers who are highly skilled in making early-stage bioscience investments and growing companies to successful exits.

Status of Investments

To date, KBA has invested in three of the eight venture capital fund candidates, MPM Capital LLC, Cultivian Ventures (formerly MidPoint Food & Ag) and Open Prairie Ventures. Side letters have been executed with all three venture capital fund general partners.

Cultivian Ventures (fka MidPoint Food & Ag)

Cultivian met its funding requirements in March 2010 and received funding of $5 million from KBA. Cultivian shares office space with another tenant in the Enterprise Center of Johnson County.

In December 2010, Cultivian Ventures invested in Aratana Therapeutics, a KBA client company.

On February 22, 2011, Cultivian Ventures achieved its first liquidity event from one of its portfolio companies. Portfolio company Divergence was sold to Monsanto. The distribution to KBA related to the sale was more than twice the amount of previously contributed capital. As KBA invested into a venture capital fund used to invest in portfolio companies, it can benefit from liquidity events related to that fund's portfolio companies, no matter where they are located.

In March 2011, the BOD approved $373,335 for KBA's pro-rata share of the secondary investment opportunity offered in Cultivian Ventures. Cultivian Ventures offered KBA the opportunity to purchase its pro-rata share of a multimillion dollar position held by an investor in the fund that wished to liquidate its interest. The purchase was made at a substantial discount to the paid-in-capital associated with this position. As the original holder of this position elected to sell out prior to the distribution from the sale of Divergence, KBA received a second distribution from the Divergence sale related to its newly acquired position in the fund.

MPM Capital

MPM Capital met its funding requirement in September 2010 and received $10 million from KBA. MPM Capital bought and renovated the former Ronald McDonald house near KUMC for its offices. Dr. Steven St. Peter, Managing Director of MPM Capital, indicated that he spends five to 10 days a month in Kansas and is in the process of purchasing a residence in Kansas City.

In December 2010, Aratana Therapeutics, a start-up company co-founded by MPM Capital to develop therapeutic pharmaceuticals for the animal health sector, was launched in Kansas City, Kansas with $20 million in equity capital committed by MPM Capital, Cultivian Ventures, KBA and Avalon Ventures, a California-based venture capital firm. KBA's investment was $1 million.

Open Prairie

Open Prairie met its funding requirement in October 2010 and received $5 million from KBA. Open Prairie has an office in Olathe, Kansas with a full-time principal located in that office since 2005. Open Prairie had already invested in three Kansas-based companies prior to funding by KBA. One company is a life sciences company also invested in by KBA. On May 31, 2011, Open Prairie invested $3 million[70] into Novita Therapeutics, a Venture Accelerator tenant and KBA client company.

Therefore, the venture capital funds, which through June 30, 2011 have received $6,841,382 from KBA, have already participated in $22 million in investments in Kansas bioscience companies.

Status of Remaining Growth Fund Awards

Given the difficult economy in which the remaining funds have attempted to raise the minimum required capital, the 12-month requirement from approval date was extended for the remaining five funds. Of those five, Burrill Life Science Capital and Triathlon Medical Ventures remain viable investment opportunities. However, the awards to Midwest Venture, Prolog Capital and Meadowlark Venture Partners were cancelled as it appeared those funds would not be able to raise the required capital. However, the $15 million in cancelled awards remains available through the KBGF.

LEGISLATOR EXPENSES

BKD was asked to identify expenses paid by KBA for the benefit of state and federal government agency representatives related to events organized by KBA. With the assistance of KBA personnel, including Marsh LoScalzo, Executive Assistant and Mary Cummings, Marketing Communications Specialist, we identified two such annual events. They are the Federal Priorities Trip and the Legislative Bioscience Innovations Tour.

As part of our procedures, BKD reviewed KBA’s policy regarding the payment of travel expenses related to state and federal government agency representatives’ attendance at KBA sponsored events or events that benefitted KBA for 2008 through the present. KBA has never had a written policy indicating under which circumstances it would or would not pay for state and federal government agency representative expenses. Furthermore, current KBA management was unaware of the existence of any informal policy or standard practice. BKD was requested to review the evolution of practice relating to reimbursement of these expenses.

We reviewed available itineraries, invited guest listings, RSVP listings, email communication and expense documentation related to these events. There was not a single final guest list for each event, but rather various Excel spreadsheets and emails which indicated who was to be invited or who had responded and indicated they would be attending. We summarized this information for each event into a guest listing, which is located at ***Exhibit 37***. These listings

[70] http://www.openprairie.com/Novita_Therapeutics_News.html.

include only those guests determined to be state and federal government agency representatives.[71]

Federal Priorities Trip

The federal priorities trips were two-day events in Washington D.C., which took place in either late February or early March in 2008 through 2011. Each trip included a BOD meeting and various other activities and meetings. Guests were invited to attend certain portions of the trip, which included the following: a reception in the early evening of the first day, the purpose of which was to celebrate Kansas' bioscience progress and the State's commitment to meeting national bioscience challenges; a dinner following the reception, which included guests only in certain years; and a breakfast on the second day, where topics covered typically included an update on KBA's goals, an update on NBAF and federal bioscience priorities.

The following are our findings with respect to the payment and reimbursement of these items of expenses based on our forensic analysis:

In 2008, guests paid for their own rooms directly.

In 2009, KBA paid for the hotel rooms and guests were not asked to reimburse KBA.

In 2010, guests paid for their own rooms directly, with one exception. A room for then Secretary of Commerce William Thornton, a former KBA board member, was paid for by a KBA credit card on March 9, 2010 and subsequently reimbursed by William Thornton on April 6, 2010. Also in 2010, KBA paid for transportation for certain guests.[72]

In 2011, KBA initially paid for guests' hotel rooms. All guests subsequently reimbursed KBA for these rooms, with one exception.[73]

Legislative Bioscience Innovations Tour

In the fall of 2008, 2009 and 2010, KBA hosted a Legislative Bioscience Innovations Tour where legislators were invited on a bus tour to see firsthand the various investments KBA had made. In 2008 and 2009, this was a two-day event where KBA bused guests from location to location across the state of Kansas and provided meals and lodging along the way. In 2010, there were four different one-day tours, each covering a different area of the state. KBA paid for

[71] Guest listings for the November 9, 18 and 19, 2010 Legislative Bioscience Innovation Tours could not be located by KBA.
[72] For the 2010 federal priorities trip, KBA paid for the University of Kansas' jet to fly the Governor of Kansas and six members of the Legislature round trip to Washington D.C. A memorandum dated May 3, 2010 from the Assistant General Counsel, Office of the Governor of the State of Kansas states, "…it is my opinion that it is legal and acceptable for the Authority to pay the bill for using KU's jet during a week the state plane was unavailable to take a delegation that included the Governor and members of the Legislature to Washington D.C. for KBA/NBAF meeting." See ***Exhibit 37*** for a copy of this memo.
[73] A member of the Executive Branch who did not end up using a reserved hotel room was not asked to reimburse the KBA. The timing of the request for reimbursement by KBA in 2011for other rooms is as follows: On March 25, 2011, the original hotel invoice was entered into KBA's accounting software for payment. On the same date, KBA sent invoices out to guests seeking reimbursement of the expense it advanced. Prior to that time, two individuals had separately requested an invoice, Secretary Rodman and the CEO of the Kansas Board of Regents.

all expenses on these trips, including guests' hotel rooms in 2008 and 2009, and did not seek reimbursement.[74]

Summary

For those activities where guests included state and federal government agency representatives, we summarized the cost of the events, as follows:[75]

Dates	Event	Location	Amount*
March 1 & 2, 2011	Federal priorities trip	Washington D.C.	$ 9,116.82
November 4, 9, 18 & 19, 2010	Legislative Bioscience Innovation Tours	Across Kansas	4,164.83
March 8 & 9, 2010	Federal priorities trip	Washington D.C.	18,831.18
October 12 & 13, 2009	Legislative Bioscience Innovation Tour	Across Kansas	5,586.54
March 9 & 10, 2009	Federal priorities trip	Washington D.C.	11,989.00
November 19 & 20, 2008	Legislative Bioscience Innovation Tour	Across Kansas	4,576.68
February 25 & 26, 2008	Federal priorities trip	Washington D.C.	5,333.15
			$ 59,598.20

*Amount includes only those portions of the event where state and/or federal government agency representatives were invited.

Additional detail including a breakdown of the various types of costs including lodging, meals and reception expenses is located at ***Exhibit 38***.[76]

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

KTEC[77] was a state-charted corporation established in 1987 to stimulate economic development in Kansas by fostering innovation and development of technology. KTEC developed specific programs to accelerate the research, development and commercialization process of new technologies in Kansas. The programs fell into three basic functional areas: research, business assistance and investment. KTEC's goal was to assist in the diversification of the Kansas tax base and to create jobs for Kansans.

KTEC was at the forefront of the effort to secure Kansas' place as a leader in the bioscience sector through its work and assistance on the research, writing and passage of KEGA, the enacting legislation for KBA. KTEC was statutorily partnered with KBA through KEGA. KEGA indicated that KBA BOD may contract with KTEC for the commercialization efforts for bioscience intellectual property and may transfer funds to KTEC for the operation and

[74] Early in the Forensic Audit we were made aware of an allegation that KBA was renting limousines to transport state or federal government agency representatives for various purposes. We searched for payments fitting this description and found none. We did find, however, that the name of the company which rented the buses to KBA for the Legislative Bioscience Innovation Tours was "Executive Limousine," which is a company that rents both buses and limousines. However, we reviewed all invoices from this company and all were for buses, not limousines.

[75] For the November 4, 2010 Legislative Bioscience Innovation Tour, lunch was provided by KBA as part of the KBA's regular stakeholder's luncheon, which was taking place the same day of the Tour and included a large number of guests outside of those involved with the Tour. As such, we have not included the expense associated with this luncheon in this schedule.

[76] Meals and reception expenses are provided in total only rather than by individual attendee. These totals include charges incurred not only by state and federal government agency representatives, but also by KBA representatives and any other guests who may have attended each event, as these expenses were not tracked by the KBA on an individual basis.

[77] KTEC received funding through the Economic Development Initiatives Fund, which consisted of revenue from the Kansas Lottery and Gaming Commission.

management of KBA-owned facilities and employment of personnel to assist with KBA. Furthermore, KEGA stated that KBA BOD shall contract with KTEC at least once a year for KTEC to submit a report to the BOD identifying patents secured, licenses granted, the number of Eminent Scholars and Rising Star scholars in the state, a complete accounting of technology sold, transferred, licensed or otherwise disposed of, and any other information the BOD deemed appropriate.

Although it does not appear that KBA's BOD utilized KTEC for all the activities described above, KTEC was involved in the initiation and Start-up Phase of KBA. Early in KBA's existence, KTEC was to support KBA by "incubating" the start-up operations and facilitating a strategic planning process for KBA's BOD members. In addition to providing some level of basic management and operational services, KTEC assisted KBA by working with the Kansas Department of Revenue to secure the funding mechanism from the State Treasury to KBA.

Due to KBA's lack of staff during its Start-up Phase, KBA BOD contracted with KTEC to provide various services. KTEC provided management, operational and administrative services, investment management services, and performance reporting services. KTEC indicated that it purposely priced the services at less than half of what KBA would have had to commit to provide the services itself, in order to support KBA in its start-up efforts. The proposed contract by KTEC was reviewed by external counsel and in April 2005, KBA BOD approved a one-year contract with fees of $320,000. All operational or programmatic funds paid out by KTEC on KBA's behalf were reimbursed to KTEC by KBA. By July 2005, it was determined that the contract with KTEC would not be extended beyond its initial one-year term as KBA had its own resources and several BOD members indicated they wanted KBA to identify its own leadership and form its own identity. KBA paid KTEC $455,833 in service fees from October 2004 through February 2006.

As previously noted, the primary focus of KTEC was to develop specific programs to accelerate the research, development and commercialization process of new technologies in Kansas. KTEC's focus was on technology and was not industry specific. Therefore, in fulfilling this function, KTEC made investments in some bioscience companies that also received investments or grants from KBA. However, KBA management and BOD indicate that there was no program or agreement in place by which the two organizations would cooperate or coordinate investments. This is supported by former KTEC President/CEO Tracy Taylor who reported to the KTEC BOD on March 7, 2008 that "due to the decision of the Kansas Bioscience Authority's board of directors to not maintain a formal partnership with KTEC on Heartland BioVentures, KTEC would create its own program of capital formation working with non-bioscience companies."[78]

This lack of a purposeful syndication appears to be further supported by the 2009 Kansas, Inc. evaluation of KTEC. In the Kansas, Inc. report, it was noted, "KTEC maintains a portfolio of investments that is diversified among industry sectors in terms of number of companies, but is weighted toward bioscience companies in terms of investment dollars. While this perhaps made sense prior to KBA's full rollout…it now gives the impression that KTEC is an adjunct to KBA interests. In the long-run, this will not provide a balanced investment strategy for Kansas at a

[78] KTEC March 7, 2008 Board of Directors minutes.

systematic level….Going forward, KTEC will be less involved in the bioscience industry."[79] This coincides with KBA's Interim President/CEO's recollection that once KBA was fully operational, KTEC ceased investment in bioscience.

Exhibit 39 details the pattern of KTEC's $3.1 million investment in bioscience companies between 2000 and 2009. KBA did not start making investments until 2006, so most of the KTEC investments in bioscience companies were made prior to KBA availability of funds.

The Edenspace investment is a noted exception.[80] Before relocating to Kansas in 2007, Edenspace was headquartered outside Washington D.C. in suburban Virginia. In 2006, the DOE awarded Edenspace $1.9 million to fund development of corn hybrids. Edenspace also signed a multi-year contract for biocellulosic fuels with its go-to-market partner, a current KBA client company headquartered in Kansas. These successes required increased research capacity, personnel and space. The facility in Virginia was inadequate and Edenspace needed a good solution that met its need for growth.

Twelve different states courted Edenspace because of the strong future perceived in the company's technology and value: reducing the cost of cellulosic ethanol and gaining position as an economically viable ethanol source. Edenspace heard about KTEC from a Kansas bioscience company that had received assistance through KTEC and was encouraged to look at Kansas more closely. Members of the Kansas economic development community – KTEC, Department of Commerce, KBA and Junction City – pulled together and developed an attractive solution for Edenspace in northeastern Kansas. In 2007, Edenspace relocated its headquarters and primary energy crop development to a 10,500 square foot facility in Manhattan, Kansas.
KBA and KTEC did partner in one specific area. It was determined that there was a need for a Federal Funding Specialist to assist Kansas entrepreneurs to gain access to Federal grants. Therefore, in April 2010, KBA and KTEC jointly hired a Federal Research Funding Specialist. The Federal Research Funding Specialist assists with the writing of proposals for federal funding and provides professional management counseling and technical assistance to early stage companies. Until KTEC's recent dissolution, this position was paid for jointly by KBA and KTEC with each organization reimbursing for expenses related to their individual client companies. The position continues to be funded by KBA and those services are now generally available only to KBA client companies.

PRIMARY FINDINGS AND RECOMMENDATIONS

This section represents issues and allegations reviewed by BKD for which we have adverse findings and/or recommendations.

SCOPE LIMITATIONS

Thornton Computer

On April 13, 2011, Tom Thornton was notified by KBA's General Counsel, Tariq Abdullah, that BKD had formally requested his KBA-owned computer for forensic imaging and analysis. The purpose of the request was to enable BKD to search the computer for any information, including emails, documents, spreadsheets, presentations, etc., that would be relevant to the Forensic

[79] Kansas, Inc. evaluation of KTEC dated April 8, 2009, p 67.
[80] Kansas, Inc. evaluation of KTEC dated April 8, 2009, p 72.

Audit. After additional requests of Mr. Thornton for the computer by Mr. Abdullah, the computer was returned to KBA via United States Postal Service Express Mail on April 26, 2011. BKD forensically imaged and analyzed the computer on April 26, 2011 and determined that information had been removed from the computer and the computer had been effectively wiped prior to being returned to KBA.

Information which resided only on the hard drive of Mr. Thornton's KBA-owned computer could have materially changed the findings of this report. Therefore, BKD limits the findings of this report to the information made available to us for review and analysis and information acquired through interviews. BKD can make no assurances that all relevant information with regard to the appropriateness of investment discussions participated in by Mr. Thornton or any potential conflicts of interest involving Mr. Thornton have been identified.

Please refer to the Tom Thornton KBA Computer section later in the report for a detailed discussion of this matter.

Center of Innovation for Biomaterials in Orthopaedic Research

In the process of performing the conflict check with regard to BKD's acceptance of this engagement, it was determined that BKD would not investigate any of the specific allegations surrounding CIBOR's funding status as CIBOR is an audit client of BKD's Wichita office.

Please refer to supplemental report prepared by Meara, Welch, Browne PC, for the investigation into CIBOR's funding status.

Use of Executive Session

Executive Session is used frequently in the BOD meetings, the Executive Committee meetings and the Investment Committee meetings to discuss issues of a sensitive or proprietary nature related to KBA or to the client companies it funds. No notes or recordings are made of Executive Sessions. This is a common business practice. Therefore, information discussed in Executive Session was not available for BKD's review and could not be considered with regard to the findings of this report.

TOM THORNTON

Tom Thornton KBA Computer

On April 13, 2011, Tom Thornton was notified by Tariq Abdullah, KBA's General Counsel, via email, that BKD had formally requested his KBA-owned computer for forensic imaging and analysis. The purpose of the request was to enable BKD to search the computer for any information, including emails, documents, spreadsheets, presentations or the like that would be relevant to the Forensic Audit. On April 14, 2011, Thornton was contacted by Marsh LoScalzo at Governor Carlin's request and again asked for the laptop. Ms. LoScalzo indicated that the laptop was needed that day. Thornton replied that same day that he was in Washington D.C. and then was going to Cleveland, but that he could send the computer via FedEx. On April 18, 2011, Mr. Abdullah contacted Thornton's attorney, Jim Eisenbrandt of Berkowitz Oliver Williams Shaw & Eisenbrandt, to again request the computer. Thornton's computer was returned to KBA via United States Postal Service Express Mail on April 26, 2011. The mailing label indicated the computer had been sent from Thornton's Fairway, Kansas address on April 25, 2011.

Mr. Abdullah contacted BKD via email on April 26th and indicated that he had received the computer. BKD forensically imaged the computer on April 26, 2011.

Forensic tools are capable of extracting formerly deleted files as well as a host of residual data (such as Internet-based email, chat, document fragments, etc.) and operating system artifacts that provide evidence of user activities from the free space of a computer. Free space or “unallocated space” is the area of the hard drive not currently in use for active files. It is the area on the hard drive where deleted information not overwritten in the normal use of the computer may reside. This type of information is commonly utilized in internal investigations where allegations of abuse or misuse of assets or funds have been made.

Forensic analysis of Thornton’s KBA-owned computer indicated that information had been removed from the computer, essentially all of the user-created content had been deleted, and that the free space had been wiped making the recovery of deleted items impossible. This occurred before the computer was returned to KBA. Forensic analysis revealed the following:

- On April 21, 2011, a USB device was connected to the computer. USB devices are commonly used to transfer files between computers and other media storage devices.
- On April 21, 2011, the control panel applet “Add or Remove Programs” was last accessed. This applet can be used to delete programs from a computer.
- On April 21, 2011, RegEdit (Microsoft Windows Registry Editor) was run. RegEdit can be used to remove the path to specific programs after they have been removed through the “Add or Remove Programs” applet.
- On April 22, 2011, at 8:23 a.m. CCleaner was run. CCleaner is a computer cleanup tool that cleans a number of common areas that track user activity. Analysis of user activity areas on the computer such as the Internet Cookie Directory, the Temporary Internet File Directory and the Recent Files folder shows those directories to be empty. CCleaner also has the ability to wipe Free Space.
- On April 22, 2011, at 8:42 a.m. Eraser was installed on the computer and was run twice. Eraser is a Free Space and drive wiping tool which can wipe individual files as well as Free Space.
- On April 22, 2011, at 10:12 a.m. the computer was last shut down.
- On April 25, 2011, the computer was placed with United States Postal Service Express Mail for shipment to KBA.

While some evidence has been recovered that illustrates the former existence of files and folders on the laptop, a typical characteristic of wiping tools is that they do not provide a log of exactly what was erased or cleaned. Therefore, a complete quantification of what activities, files and folders existed on the computer prior to the use of the wiping tools is not possible. Importantly, BKD cannot determine whether or not Thornton’s KBA-owned computer held any possible evidence of misuse or abuse of KBA assets or funds such as the improper granting of funds to client companies; the improper contracting of any vendor or consultant; the preferential treatment or payment of any vendor or consultant; or the improper payment or reimbursement of expenses of any current or former KBA employee or BOD member.

Mr. Eisenbrandt, Thornton's attorney, stated that he was unaware of the removal or wiping of information from Thornton's KBA-owned computer until notified by BKD. When interviewed on August 24, 2011, Mr. Thornton indicated that he had removed information from KBA-owned computer and then used wiping software to remove data from the hard drive. Mr. Thornton indicated that he did so because he was concerned that representatives of the State of Kansas would be involved in the review of the computer's content and would possibly be politically motivated to inappropriately construe or use its contents. Mr. Thornton indicated that he had used the KBA-owned computer for his personal use and that it contained personal financial and tax information, family photos and other information of a personal nature, some of which would be embarrassing if made public.[81] BKD requested to analyze the USB device utilized to remove information from the KBA-owned computer and any computer to which that device was subsequently connected. Mr. Thornton indicated that he would consider that request. However, as of the date of this report, the USB device and computer have not been provided.

Mr. Thornton's computer would synchronize or "back up" to the server when connected. However, David O'Dell of Summit Computer Solutions, KBA's external IT provider, indicated to BKD that the user could define or select which folders and files would automatically back up when connected to the server. BKD reviewed the information stored on KBA server from the last back up of Mr. Thornton's KBA computer. The folders and files contained information related to various KBA operations and initiatives, none of which were determined to be of an inappropriate nature given their content. However, there is evidence on Thornton's KBA computer of files that once resided on the computer that are not found to be present on the server. Therefore, BKD cannot verify that all files on the Thornton computer were backed up to the server. It remains possible that files containing information important to the results of the Forensic Audit were never backed up to the server and were wiped from Thornton's computer.

In summary, Mr. Thornton resigned from KBA on April 13, 2011 and removed and/or destroyed information stored on his KBA-owned computer prior to returning it to KBA on April 26, 2011. KBA's General Counsel, Tariq Abdullah, indicated that KBA does not have to comply with the document retention requirements of the Kansas State Historical Society as the State's record retention laws do not apply to an "independent instrumentality of the State." KBA's Retention Policy indicates that "In the event of a governmental audit, investigation, or pending litigation, record disposal may be suspended at the direction of the CFO/COO." According to Mr. Abdullah, Ms. Katterhenry made an announcement at a staff meeting on April 8, 2011 that a litigation hold was in place; however, Thornton was not in attendance at that meeting. The written dissemination of the litigation hold was transmitted as a reminder via email on May 5, 2011, which was after Thornton had resigned and no longer had access to his email. Please see ***Exhibit 40*** for the described emails.[82]

[81] Based on BKD's computer forensic procedures, we discovered certain file remnants and file descriptions that could be consistent with files containing pornography. However, no pornographic images were found on the computer.

[82] KBA received a subpoena from the Johnson County District Attorney's Office on April 20, 2011.

Recommendation:

Management should consider the possible violation of Section 8(3) of Thornton's Employment Agreement related to the destruction or failure to return all relevant information upon his termination. Section 8(3) of the Thornton Employment Agreement[83] states:

> "*Immediately upon termination of Executive's employment, Executive will return to KBA all property of KBA and any entities with which KBA has provided services, including, without limitation, originals and copies of documents and other materials, whether in printed or electronic format or otherwise, containing or derived from confidential information in Executive's possession or under Executive's control, and Executive will not retain any copies thereof.*"

In addition, management should consider the possible violation of the May 7, 2010 "General Computer Usage Policy,"[84] which states that "Unauthorized use, destruction, modification and/or distribution of Kansas Bioscience Authority's information or information systems are strictly prohibited."

KBA should evaluate and consider whether other contractual provisions have been breached or laws have been broken with respect to the actions taken with respect to Thornton's computer.

KBA should evaluate and implement procedures for the proper communication of "litigation hold" processes.

KBA's Response:

KBA's outside counsel is reviewing whether KBA may have claims it might assert against Mr. Thornton. KBA management is not aware at this time of any quantifiable damages to KBA as a result of Mr. Thornton's actions. KBA management is also working with outside counsel to prepare a policy for litigation hold purposes which will be presented to the KBA Board of Directors.

Allegations Related to Thornton's Removal of Information from the Server

BKD first interviewed Mr. Thornton's Executive Assistant, Marsh LoScalzo, on April 15, 2011. At that time, Ms. LoScalzo indicated that between March 11th and 14th, she noticed that Thornton was in the J-Drive on the network. The J-Drive could only be accessed by Thornton, Jan Katterhenry, Tariq Abdullah and LoScalzo. The J-Drive holds information that other KBA staff are not privy to such as personnel files, unapproved BOD minutes, confidential company information and the like. Ms. LoScalzo noticed that Thornton had gone through the files and "cleaned up" files and folders. However, she could not say specifically what folders or files were missing. BKD contacted David O'Dell of Summit Computer Solutions shortly after the interview of Ms. LoScalzo to inquire about the possibility of getting a back-up copy of the server prior to March 11, 2011. However, O'Dell indicated that KBA used a standard 30-day rolling back- up schedule, meaning that information more than 30 days old was no longer available. Therefore, O'Dell indicated that information from the period of March 11th through March 14th was no longer available.

[83] July 1, 2010 Thornton Employment Agreement, Section 8(3).
[84] Kansas Bioscience Authority Employee Handbook, page 10.

Ms. LoScalzo further recalled that around this time, there was also an issue with Thornton's computer that Summit Computer Solutions had been called to address. BKD reviewed Summit Computer Solutions' invoice and noted on March 11, 2011, Summit was called to "troubleshoot missing My Documents folder on Tom's PC. Restore files to server from online backup." BKD contacted David O'Dell of Summit Computer Solutions regarding these services. O'Dell indicated that he did not know exactly how or why Thornton's My Documents folder was missing. However, O'Dell indicated that the KBA folder that would automatically sync with the on-line back-up system was housed within Thornton's My Documents folder. O'Dell indicated that he restored the KBA file from the on-line back-up, but that no other folders that had been housed within Thornton's My Documents folders were restored as they were not automatically sync'd with the on-line back-up system. O'Dell offered that it was his impression that Thornton had inadvertently deleted the My Documents folder.

In addition to his alleged cleaning up of server files, Ms. LoScalzo indicated that around the same time period of March 11th to 14th, Mr. Thornton started doing a lot of cleaning in his office. It appeared to her that he was readying to step down. He started to take his office knick knacks home. He cleaned out file cabinets that he kept locked. Ms. LoScalzo indicated that Thornton cleaned a lot, but nothing was ever in his waste basket. She indicated that Thornton kept a big box under his desk for two to three weeks that he kept taped shut, and then it was gone.

BKD notes that the approximate March 11th date on which Ms. LoScalzo started noticing Thornton's alleged cleaning of his office and his files coincides with the date on which it appears he may have accepted the offer of employment from Cleveland Clinic Innovations as discussed earlier in this report. Furthermore, in his interview, Thornton stated that he accepted the offer from Cleveland Clinic Innovations sometime in March.

Executive Compensation

K.S.A. 74-99b04(j) states that "No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or members of the board, except that the authority may …pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes, including to pay its employees reasonable compensation." Furthermore, K.S.A. 74-99b04(m) indicates that the BOD shall appoint a president who will serve as the CEO of KBA and the president's salary shall be set by the BOD.

The Executive Committee is charged with approving key policies related to executive and employee compensation. The Committee is responsible for:[85]

- reviewing and recommending to the BOD compensation and compensation plans for the President/Chief Executive Officer of KBA and other key management personnel (collectively "Senior Executives"), which compensation and compensation plans can include, but not be limited to, base salary, periodic adjustments to base salary, short-term and long-term incentive compensation plans, qualified plans and non-qualified plans;
- reviewing and approving qualified and non-qualified benefit plans for KBA, including any such program that has specific application to Senior Executives or represents a material change in the structure of any such program;

[85] Executive Committee Charter
http://www.kansasbioauthority.org/about_the_kba/ExecutiveCommitteeCharter.aspx.

- reviewing with the CEO matters relating to management succession, including but not limited to compensation; and
- reviewing and monitoring the compensation-related processes and actions taken by the CEO and/or KBA's Human Resources Department.

In June 2009, KBA issued an RFP for executive compensation consulting services. After the review of applications, Buck Consultants was engaged by KBA to perform a compensation assessment for the executive team, consisting of the President/CEO of KBA, the CFO/COO of KBA and the President of Heartland BioVentures.

Services provided by Buck Consultants included the development of a compensation philosophy, the creation of a comparison group, benchmarking KBA executive compensation against a comparison group and provision of compensation plan recommendations.

In performing the compensation review, Buck Consultants developed three "straw man" comparison groups for not-for-profit organizations for the Executive Committee's consideration in comparing KBA executive pay to market pay levels. The three comparison groups were developed based on their similarity to KBA, both in terms of industry (development, commercialization, biotech, etc.) and size (assets).[86]

Buck Consultants reviewed all three comparison groups with the Executive Committee and Tom Thornton to get their input on the appropriateness of the individual companies to be used for comparison. Executive Committee members interviewed indicate that there was a great deal of discussion regarding which companies were and were not appropriate to be used for comparison purposes and a revised set of companies, taking into account the Executive Committee's input, was developed. The final group contained 17 not-for-profit organizations believed to best reflect the mission and size of KBA, work in similar industries to KBA and were viewed as representative of the labor markets in which KBA competes.

KBA's President/CEO was matched to the comparison group's top executive; KBA's CFO was matched to the comparison group's top-level finance executive and the President of HBV was matched to the highest paid executive that was not the CEO or top finance executive in the comparison group.

The results of the study indicated that with regard to total cash compensation (base salary plus bonus opportunity), KBA's President/CEO was at the 75th percentile of the competitive market, the CFO/COO was below the 75th percentile of the competitive market and the President of HBV was slightly above the market median of the competitive market. With regard to total remuneration (total cash compensation plus benefits plus expenses), KBA's President/CEO was at the 75th percentile of the competitive market, the CFO/COO was between the 50th and 75th percentile of the competitive market and the President of HBV was between the 25th and 50th percentile of the competitive market.

86 However, Buck Consultants ultimately determined that there was no relationship between executive pay and organization size for entities like KBA.

Based on these findings, Buck Consultants recommended that KBA's base executive salaries should remain constant assuming the adoption of the following bonus opportunity plan. The bonus opportunity for the President/CEO should remain at 50% of the base salary, the bonus opportunity for the CFO/COO should increase to 20% of base salary and the bonus opportunity for the President of HBV should increase to 30% of base salary. Buck Consultants also recommended the implementation of the "target bonus" concept for KBA executives. With target bonuses, a more robust goal-setting process is utilized where goals are objective, measurable and documented and performance level for varying bonus pay-outs are determined.

KBA's CFO/COO and President of HBV's base salary and bonus opportunity were set by Mr. Thornton. Jan Katterhenry's, CFO/COO, base salary for fiscal year 2011 was set at $175,000 and a bonus opportunity of up to 15% of the base salary was available. The base salary is in line with the Buck Consultants recommendation and the bonus opportunity was below the recommended amount. David Vranicar's, President of HBV, base salary for fiscal year 2011 was set at $175,000 and a bonus of up to 15% of the base salary was available. Both the base salary and the bonus opportunity were below the recommended amount. Therefore, it is unclear if Thornton utilized the Buck Consultants study in setting compensation for the other executive officers. David Vranicar's salary increased to $192,500 on April 16, 2011 when he assumed the role of Interim President/CEO of KBA.

In May 2010, the BOD requested that Buck Consultants provide additional recommendations on Mr. Thornton's compensation arrangement. Thornton's salary review was being moved from his hiring anniversary month (October) to coincide with the beginning of KBA's fiscal year (July). The previous comparison information had been gathered and annualized to December 1, 2009. In order to better reflect the current market, Buck Consultants gathered comparison information and annualized it to July 1, 2010. In addition, the aging factor used was increased from 2% to 2.4% to reflect the projected total salary increase for executives in 2010. New comparisons were made of Thornton's total cash compensation to the comparison group as of July 1, 2010. Based on the updated analysis, Buck Consultants recommended an increase of 4% or $10,000 to a new base salary of $260,000. This increase was slightly higher than the market projected increase; however, Buck Consultants believed it was appropriate based on the fact that Thornton had not had a salary increase in several years, the belief that KBA had been a high performing organization under Thornton's leadership and their understanding that Thornton had a major role in KBA's favorable performance. Furthermore, Buck Consultants recommended that the bonus opportunity be increased to 60% of the CEO's base salary, which would result in total cash compensation of $416,000, which would exceed the updated 75th percentile by $28,000.

Buck Consultants also recommended a revised structure for determining the bonus pay-out, utilizing a combination of BOD discretion and measurable performance against KBA's AOP. The recommendation was that 70% of the bonus (representing 42% of the base salary) would be based on the BOD's qualitative assessment of the CEO. The other 30% of the bonus (18% of base salary) would be tied to specific operating metrics (e.g., 10% for meeting metric A, 10% for meeting metric B, 10% for meeting metric C). Buck Consultants noted that the majority of the bonus opportunity is based on BOD discretion, which limits any downside potential on pay. However, the fact that 30% of the bonus opportunity is based on operating plan metrics should provide sufficient motivation for the CEO to continue to perform at a high level. Furthermore, it was noted that if the CEO only received the discretionary portion of the bonus opportunity, this would equate to a decrease in pay (from the previous bonus level of 50% of base salary), which would likely be an appropriate result if the objective metrics have not been satisfied.

In addition to the 60% bonus opportunity, Buck Consultants proposed an additional 10% of base salary that would be deferred and paid out at a later date. The goal would be for the deferred compensation to function as a retention vehicle with regard to the CEO. The recommended deferral period was five years.

The actual July 1, 2010 Employment Agreement for Tom Thornton had a base salary of $265,000 and provided for a total bonus opportunity of 60% of base salary, 42% at the discretion of the BOD and 18% tied to the level of NBAF funding secured, the initiation of the NBAF research mission at BRI and the continued improvement in Kansas' annual ranking as a bioscience powerhouse by the Battelle/*Business Facilities* Magazine.

Therefore, Tom Thornton's total cash compensation for FY2011 could have totaled $424,000. BKD verified that Mr. Thornton did not receive any bonus payout for FY2011 upon his resignation.

Recommendation:
KBA's BOD should consider the review of the salary structure for all employees on a periodic basis and ensure that appropriate performance metrics are established for all positions. Moreover, since KBA performance is one of the factors in determining appropriate compensation, the BOD should carefully consider and establish an appropriate manner to evaluate the performance of KBA based on tested and verifiable information.

KBA'S Response:
Buck Consultants is an international human resources consulting firm. KBA engaged Buck through an RFP process to advise the Board regarding appropriate levels and structure for compensation of KBA top officers. Buck reviewed and confirmed that the compensation package offered to Mr. Thornton in the July 1, 2010, employment agreement was consistent with its recommendations to the Board. As a point of clarification, while the bonus of up to 42 percent potentially available to Mr. Thornton under his employment agreement was at the discretion of the Board, it was nevertheless tied to an assessment by the Board of the overall efforts of Mr. Thornton to promote and support KBA strategic and operational goals as set forth in the fiscal 2011 Annual Operating Plan.

Mr. Thornton resigned his position and received no bonus for 2011.

KBA management will review policies and practices governing employee compensation and performance evaluations.

Other Payments Under Tom Thornton's Employment Agreements

K.S.A. 74-99b04(m) and (n) indicate that the President's salary shall be set by the BOD and that the BOD may negotiate and enter into an Employment Agreement with the individual selected as President, which may provide for compensation allowances, benefits and expenses as may be included in such agreement. In addition, the BOD may provide supplemental benefits to the President and other employees designated by the BOD in addition to the benefits provided under KEGA.

In addition to base compensation and bonus opportunities, Tom Thornton's Employment Agreements provided for supplemental benefits. Additional benefits afforded Thornton included KBA contribution to his qualified retirement plan of up to 8% of his base salary, health care insurance for him and his family, life insurance coverage not to exceed 200% of his base salary, and long-term disability insurance. Thornton also received up to $1,500 in premium reimbursement for supplemental term life insurance owned by Thornton in the amount of up to $1 million, and reimbursement of up to $1,000 in legal fees for a review of his Employment Agreement. Thornton also received a car allowance of $325 per month beginning October 2006, which was increased to $625 per month in October 2007. Until KBA established a health care insurance plan for its employees, KBA reimbursed Mr. Thornton for premiums he paid to continue his COBRA[87] health care coverage.

Thornton was also given $50,000 in relocation expenses intended to cover reasonable relocation and travel expenses. Some receipts were submitted in support of relocation expenses incurred; however, receipts were not required for payment.

With regard to expenses, KBA agreed to reimburse Thornton for "all ordinary and necessary out-of-pocket expenses incurred and paid by Employee in the course of the performance of Employee's duties…" consistent with KBA travel policies and subject to approval. However, the term "ordinary and necessary" lacks definition. We have identified the following questionable payments:

While receiving the $325 per month car allowance, Mr. Thornton was also reimbursed mileage. While receiving the $625 car allowance, Mr. Thornton was also reimbursed for fuel. Mr. Thornton indicated that the $325 allowance was to reimburse him for the lease payment on his vehicle. The following year, he purchased a new vehicle and the $625 allowance was to reimburse him for his loan payment. The BOD members interviewed varied on the appropriateness of the payment of a car allowance and mileage or fuel.

Mr. Thornton was also reimbursed for routine service and maintenance for his vehicle. In January 2010, he was reimbursed $942.68 for a service which included four new tires and installation. The Yokohoma P215/60R16 tires cost $159.00 each, for a total of $636.00 plus $107.90 for installation and waste removal fees. Other services performed include an alignment for $79.95, wiper blades for $19.95 (installed), an oil change for $30.87 and tax of $68.01. Superior Toyota performed the service on Tom Thornton's 2008 Toyota Camry on December 18, 2009. In July 2009, Thornton was reimbursed $1,123.38 for costs incurred to have his car re-keyed when he left his keys in an airplane seat pocket while traveling on KBA business. This included $577.12 for parts, $152.19 for labor and $14.00 for a disposal fee related to the re-keying process, $235.30 for the tow-in fee, $62.82 for routine maintenance including an oil change, a $0.90 administrative charge and $81.05 for tax. Superior Toyota performed this service on Tom Thornton's 2008 Toyota Camry on July 17, 2009. In both instances, KBA's former CFO/COO Jan Katterhenry brought these specific expenses to the attention of the then COB Governor Carlin, and he approved them. The related expense reports and supporting documentation is located at ***Exhibit 41***.

[87] Consolidated Omnibus Budget Reconciliation Act of 1985.

A summary of the payments made to or for the benefit of Mr. Thornton is below, organized by Mr. Thornton's annual contract periods starting with Mr. Thornton's initial contract year of October 2006 through September 2007. In July 2010, a new contract was executed which caused the annual period to shift from the twelve month period from October–September to July-June. However, Mr. Thornton resigned in April 2011, prior to the end of the contract period July 2010 through June 2011.

Tom Thornton Pay, Benefits, and Expenses

	Salary	Bonus	Relocation	Car Allowance	Retirement
Oct06 - Sep07	$ 194,663	$ 40,000	$ 50,000	$ 3,900	$ 3,317
Oct07 - Sep08	250,000	-	-	7,500	21,813
Oct08 - Sep09	250,000	115,000	-	7,500	20,280
Oct09 - Jun10	187,500	125,000	-	5,625	15,120
Jul10 - Apr11	209,792	100,000	-	6,250	17,290
	$ 1,091,955	**$ 380,000**	**$ 50,000**	**$ 30,775**	**$ 77,820**

	Health Insurance	COBRA	Dental Insurance	AD&D, LTD, STD	Supplemental Life Insurance
Oct06 - Sep07	$ 3,066	$ 13,752	$ 296	$ 174	$ -
Oct07 - Sep08	9,494	-	912	1,453	1,488
Oct08 - Sep09	10,002	-	977	1,932	1,488
Oct09 - Jun10	7,311	-	770	1,268	1,488
Jul10 - Apr11	11,487	-	599	808	1,488
	$ 41,360	**$ 13,752**	**$ 3,554**	**$ 5,635**	**$ 5,952**

	Gross-Up Taxes*	Amex	Reimbursement		Total
Oct06 - Sep07	$ 1,256	$ 6,806	$ 29,336		**$ 346,566**
Oct07 - Sep08	-	30,642	5,462		**$ 328,764**
Oct08 - Sep09	1,157	48,588	1,497		**$ 458,421**
Oct09 - Jun10	1,339	12,082	3,431		**$ 360,934**
Jul10 - Apr11	1,905	21,710	2,285		**$ 373,614**
	$ 5,657	**$ 119,828**	**$ 42,011**		**$ 1,868,299**

*Taxes paid by KBA relate to Tom Thornton's Group Term Life Insurance, supplementary life insurance, and car allowance.

A breakdown of Tom Thornton's expense reimbursements and charges on Thornton's American Express Card is located at ***Exhibit 42***. Of the $119,828.16 total charges on Tom Thornton's KBA American Express card, $28,506.68 was for charges benefiting other employees. These charges primarily consist of airfare, lodging and conference related charges for other KBA employees. For example, in February 2009, a $400.19 flight on Midwest Airlines was paid for Mary Cummings, Marketing Communication Specialist, to fly to Washington D.C. As another example, in December 2008, a $350 registration fee for was paid for Chuck Willis to attend the Invest Midwest event.

We compared the actual pay and benefits listed in the chart above with Tom Thornton's applicable employment contracts and noted the following discrepancy.

Per Tom Thornton's employment contract dated July 1, 2010, "KBA will pay Executive a car allowance of Six Hundred Twenty-Five Dollars ($625.00) per month." Tom Thornton resigned from KBA on April 13, 2011, but was paid the car allowance for the entire month of April 2011. Therefore, he should not have been paid a car allowance for 17 of the 30 days in April 2011.

Tom Thornton Overpaid Car Allowance

April 2011 Car Allowance Paid	$	625.00
Number of Days Disallowed		17/30
Amount Overpaid	**$**	**354.17**

KBA's Response:
KBA has made a written demand to Mr. Thornton for reimbursement of $4,679.88, which is the total of the overpayment of the car allowance discussed in this section and, as discussed in later sections, personal use of KBA owned artwork, reimbursement for personal travel expenses and the inadvertent double reimbursement for some business travel expenses. Mr. Thornton has agreed to repay this amount in full.

Personal Use of KBA Owned Artwork

Tom Thornton used a KBA owned piece of art for personal use. Mr. Thornton purchased "Mt. Oread from Vinland," a 36" x 36" print, for $427.38 on March 1, 2007 from Fields Gallery. He reported the expense on his March 16, 2007 expense report, and was reimbursed for the expense with check #629 on March 23, 2007. The former Executive Assistant, Melissa Lynch, explained that she saw the piece in Mr. Thornton's home around June 2007 during a party hosted by Thornton. Ms. Lynch took a picture of the art at that time, which she provided to BKD. BKD recognized the print, which had been sitting on the floor of Thornton's office around April or May of 2011 in the previous KBA location. BKD had utilized Thornton's office when working at KBA and BKD personnel had seen the print. BKD asked the current Executive Assistant, Marsh LoScalzo, if she had ever seen the print. She indicated she had seen it, but it had never been displayed at KBA. The only time she had seen it was after Thornton had resigned from KBA on April 13, 2011. She explained that the artwork appeared in Thornton's office over a weekend sometime after his resignation but before KBA moved to its new facility on May 14, 2011. LoScalzo liked the print and went online to search for a copy of the print to purchase for herself, and was certain that the title of the print was "Mt. Oread from Vinland" as she needed the name of the print to perform her online search. After some time, LoScalzo asked Thornton what he wanted done with his personal items that were still at KBA, including this print. Thornton directed LoScalzo to give his personal items to Brad Kemp, another KBA employee and friend of Thornton's, so Kemp could in turn deliver the items to Thornton. Kemp indicated that he delivered Thornton's personal belongings to him on May 12, 2011, but according to Kemp, Thornton did not want the print. Thornton offered the artwork to Kemp, who accepted it. Kemp subsequently donated it to the Douglas County CASA (Court Appointed Special Advocates) on June 22, 2011 for their auction on July 14, 2011. Kemp indicated he was not aware that the artwork had been purchased with KBA funds. Please refer to ***Exhibit 43*** for copies of the referenced documents.

Recommendation:
The BOD should determine whether legal action should be taken against Thornton related to the artwork and should seek reimbursement for the cost of the artwork.

KBA's Response:
As noted earlier, KBA has made a written demand to Mr. Thornton that he reimburse KBA for various items noted in this report, including the cost of the artwork. Mr. Thornton has agreed to reimburse the amount demanded.

Personal Use of Executive Assistant's Time

While employed by KBA, Mr. Thornton regularly used his executive assistants to perform personal tasks for him such as paying his personal bills with his personal funds, arranging for his yard work and house cleaning, arranging travel for his children to visit him and the like. The job description used in hiring Ms. LoScalzo in 2008 specifically included these types of tasks. LoScalzo estimates that she spent three to four hours a week on Thornton's personal tasks. The offer letter extended to Thornton's former executive assistant, Ms. Lynch, did not reference these types of tasks.

In interviewing Thornton, he indicated that his use of the executive assistant in this matter was known and approved by the BOD. BOD members interviewed were not concerned that he used the executive assistant for personal tasks, but some were of the opinion that the level was excessive.

Recommendation:
KBA's BOD should formally consider the propriety of allowing the position of CEO/President to use the Executive Assistant position for personal matters.

KBA's Response:
KBA management agrees that the executive assistant's time should not be used for the personal tasks of the CEO or other executives, and the job description has been revised to reflect this.

TRAVEL AND ENTERTAINMENT EXPENSE REVIEW

BKD reviewed all expense reports for current and former KBA employees and BOD members from inception through April 2011, and traced the reimbursements back to the QuickBooks accounting software. The expenses were reviewed for adherence to statutory requirements and KBA's travel related policies.

In the Start-up Phase (April 2004 through October 2006), the expense reports were not as well documented as they are currently. KBA has improved its expense reimbursement process over time and supporting documentation in more recent years was generally good. However, the process could be improved by ensuring that the business purpose for all expenses is clearly stated. In addition, the names of attendees with relation to meals and entertainment expenses should also include the company or organization they are with to better support the business purpose of the expense.

However, the reasonableness of the amount of some expenses is questionable. K.S.A. 74-99b04(j) states that "No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or members of the board, except that the authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes…" However, the term "reasonable" is not defined. However, the Board of Directors' Travel Policy and the Travel Expenses section of the Employee Handbook stated that "Entertainment expenses shall reflect KBA's regard for its clients and customers, but not be excessive or extravagant." In interviews with members of KBA management and BOD, BKD determined that there is no internal definition or benchmark used to determine what level of expense is reasonable and what level would be considered excessive. It appears that this is left to the judgment of the individual approving the expense report on which the expense is reported.

The following expenses are discussed either because their reasonableness is questionable or because the payment of these expenses was alleged to be inappropriate. The majority of these expenses were incurred on one of two KBA American Express Cards and, thus, were paid directly by KBA rather than being reimbursed to an employee.

Noteworthy Expenses

Thornton Personal Airfare

KBA paid for Tom Thornton's personal airfare and parking for a trip to Cleveland, Ohio on January 6 through 7, 2011. The purpose for this trip was for Thornton to interview at Cleveland Clinic Innovations, where he subsequently obtained employment. Please refer to the Tom Thornton's Recruitment by Cleveland Clinic Innovations section earlier in this report. The airfare totaled $723.40 and the parking totaled $35.00, both of which were paid by a KBA American Express card in the name of Thornton. Thornton has not reimbursed KBA for these personal charges.

Staples Account

There was an allegation that a KBA employee, Katie Montes, had inappropriately tried to influence KBA to use Staples as the supplier for certain business supplies in mid-2011 to benefit her husband, who is employed by Staples. KBA's Executive Assistant, Marsh LoScalzo, verified that Ms. Montes had lobbied to get KBA to use Staples and, specifically, to use Ms. Montes' husband as the Staples contact. BKD confirmed that an account was established with Staples by KBA, and that Ms. Montes' husband was providing customer service to KBA, based on a review of three emails from Mr. Montes to KBA personnel on August 24, 2011, September 6, 2011 and September 7, 2011. However, he is no longer providing customer service to KBA according to Julie Sailors, KBA's Financial Executive Assistant, and the account manager on KBA's Staples account is a different Staples employee. Only one order has been placed with Staples since the establishment of the account. The single order was for printer toner and file folders, and was made and invoiced on August 20, 2011 for a total of $148.48. However, the toner was returned and the tax credited off the balance, leaving a balance due of $43.72, which had not been paid as of November 18, 2011. KBA has no plans to do future business with Staples as of November 18, 2011. Furthermore, KBA's Financial Executive Assistant, Julie Sailors, contacted the Staples account manager in November 2011 and inquired as to whether Ms. Montes' husband was still associated with KBA's account. The account manager indicated that Mr. Montes was no longer associated in any way with KBA's Staples account.

Alleged Payment of Thornton Wedding Expenses

There was an allegation that approximately $17,000 of expenses related to Tom Thornton's wedding was paid with a KBA American Express card. BKD searched Lindsay Holwick Thornton's email near the time of the wedding, January 15, 2011, to determine what vendors were used in the wedding. This search identified the following vendors:

Hilton President Hotel
Holy Trinity Cathedral
Loose Mansion, LLC
Sugar 'n' Spice
Michael Beers Band

BKD searched for payments to these vendors by either KBA American Express card or by check and noted none. Further, BKD reviewed KBA American Express card statements and supporting documentation from December 2010 through April 2011 and noted no transactions that appeared to be wedding related.

Fogo de Chao

One expense in this category was brought to BKD's attention in several staff members' interviews. On October 21, 2009, a dinner at the Fogo de Chao restaurant in the amount of $501.06 was charged by Tom Thornton on his KBA credit card. When he submitted the expense to Marsh LoScalzo for inclusion on his expense report, he reportedly told her that the expense was related to an SSTI dinner and he could not remember who all was there. Therefore, she should get the names of 12-13 people from the conference and list them as attendees. LoScalzo indicated that it made her uncomfortable, but that she completed the expense report in the manner instructed and submitted it. She indicated that it was her belief that the expense report went through the approval process as submitted. The approval process included a review and approval by KBA's CFO/COO at the time, Jan Katterhenry, and subsequent approval by KBA's then COB, Governor Carlin.

Ms. LoScalzo later learned that the dinner was in fact a farewell dinner for Ashley Tyrrell, the Financial Executive Assistant at KBA, and was only attended by KBA staff. LoScalzo spoke to Ruth Saale, a member of the accounting staff, who raised the issue with KBA's CFO/COO Jan Katterhenry, who was reportedly in attendance at the dinner. Ms. Saale voiced the concern that the purpose of the dinner was misstated on the expense report and during the approval process. Reportedly, Ms. Katterhenry indicated that she would take care of it. On a subsequent occasion, approximately six months later, when LoScalzo had reason to refer to that particular expense report again, she saw that the purpose of the expense had been changed to "staff dinner." When interviewed with regard to this matter, Ms. Katterhenry indicated that when the issue was brought to her attention, she discussed it with Thornton and he agreed that it was more of a staff event, so the purpose on the expense report was changed. However, she did not recall whether the revised version of the expense report was sent through the full approval process again. When interviewed with regard to this matter, Thornton indicated that he never instructed anyone to come up with names to put down. However, he did not recall if any attendees to the conference, other than KBA staff, were in attendance. Thornton agreed that Katterhenry brought the matter to his attention and that he agreed that the description should be changed.

BKD reviewed both versions of the expense report containing the Fogo de Chao charge, noting one version contains the description "SSTI State Dinner/KBA Staff and SSTI State Members" while the second version contains the description "KBA Staff Dinner." They were both signed with what appears to be Tom Thornton's electronic signature and Jan Katterhenry's manual signature, with the note "checked by" next to Jan Katterhenry's signature. Jan Katterhenry's signature was dated November 23, 2009 on both versions. Tom Thornton's signature bore no date in either version. An email from Governor John Carlin approving the expense report was included in the file.

The Fogo de Chao receipt indicates nine "#2" Dinners for $42.50 apiece, a "#99" Bday Dessert for $0.01 and a "#71" Chocolate Molten for $8.25 were purchased, plus $39.96 for taxes and $70.34 for gratuity were charged for a total of $501.06. No list of attendees was included in either version, contradictory to policy, which requires attendees be listed. Both versions of the expense report and the related supporting documentation are included in ***Exhibit 44***.

China Grill

Thornton's expense report includes a dinner for seven individuals on May 5, 2010 in the amount of $1,009.06 at China Grill in Chicago, Illinois. This equates to approximately $144 per person. The specific items purchased were:

3 GL CHARD CAMBRIA	$ 39.00
1 MOJITO	$ 11.00
1 LEMONGRASS SAKET	$ 13.00
2 JUNIPER BLOSSOM	$ 26.00
5 MARGARITA/ROCKS	$ 57.50
4 BOMBAY SAPPHIRE	$ 54.00
6 TASTING MENU	$ 348.00
1 HALF SK SALAD	$ 16.00
1 SPICY TUNA	$ 44.00
1 ICHIBAN	$ 10.00
3 GL ST FRANCIS	$ 39.00
1 GL La CREMA	$ 14.00
4 TSINGTAO	$ 28.00
3 GREY GOOSE	$ 42.00
3 Coffee	$ 8.25
2 STELLA	$ 14.00
18.00% GRATUITY	$ 137.48
CHARGED TIP	$ 20.00
TAX	$ 87.83
CHARGED TO AMEX	$1,009.06

The purpose of this meeting was reportedly to discuss a technology transfer partnership with the University of Illinois. Representatives of the University of Illinois in attendance included Nancy Sullivan, Director of the Office of Technology Management and Jeremy Hollis, Assistant Director of Business Development of the Office of Technology Management. Another guest, Marcelo Quiroga of Logos Capital Partners, was also in attendance. Nancy Sullivan and Marcelo Quiroga appear to be good friends of Tom Thornton based on a review of Thornton's email.

Representatives of KBA in attendance included Tom Thornton, Jan Katterhenry, Chad Bettes, former Director of Marketing and Communications and Terry Osborn, Director of Commercialization (resigned May 20, 2011). Management indicated that this expense was reasonable given the attendees and resulting business connections that resulted from this dinner. The expense report and supporting documentation are included in ***Exhibit 45***.

Wisconsin Economic Development Association Conference

On October 6 through 10, 2010, Tom Thornton and Lindsay Holwick Thornton attended a Wisconsin Economic Development Association conference at which Thornton made a lengthy presentation. In addition, they spent the weekend in Madison, Wisconsin and attended a University of Wisconsin Engineer's Day dinner and the homecoming football game. Thornton is an alumnus of the University of Wisconsin and it was alleged that the purpose of the trip was more personal than business. Furthermore, the necessity of the attendance of Lindsay Holwick Thornton at the event was questioned. In his interview, Thornton indicated that Lindsay Holwick Thornton's attendance was appropriate based on the outreach responsibilities of her job. She participated in the conference as she networked with other attendees and fielded questions regarding KBA's operations. There was reportedly an informal exhibitor area where she made information regarding KBA and its programs available to attendees. In the review of the expenses related to this trip, it was noted that KBA was charged for airfare, meals on the day of the conference, the Engineer's Day dinner and four days of rental car. Thornton indicated that he personally paid all other expenses, including all hotel expense. When questioning Jan Katterhenry, KBA's former CFO/COO, regarding the appropriateness of the four days of rental car (totaling $426.47) for a one day conference, she responded that it was appropriate as KBA was not charged for any hotel stay, and at least one night of hotel and two days of rental car could have been charged if the trip had been for business only.

Bret Healy Airfare

One of the Directors of Commercialization for HBV, Bret Healy, was originally hired as a consultant in February 2008 and converted to a full-time employee in October 2008. When it was necessary for him to travel, it appears that he arranged his own flights and primarily used one particular carrier, for which airfare appears to have been high. Under KBA Travel Policy, staff are to use KBA's centralized travel planning through an agency service and are to select the lowest possible fare, regardless of airline. Despite what the policy says, KBA has not routinely used a travel agency to book employee travel. In fact, this is the rare exception rather than the rule. Most employee travel is booked by KBA's executive assistant, but it is not uncommon for employees to book their own travel and seek reimbursement. BKD saw no evidence that Mr. Healy did not select the lowest possible fare, as discussed in additional detail below. However, one former employee questioned whether the use of a centralized travel planner resulted in the lowest possible fare. On at least one occasion, this individual located a cheaper airfare elsewhere.

BKD considered the fact that Mr. Healy may have been selecting flights with a particular airline in order to accumulate frequent flier miles for personal benefit. However, BKD's analysis indicates that this was not occurring. It was determined that often he booked flights only a few days in advance of the flight, which caused airfare to be much higher than a ticket purchased weeks or months in advance. It was also determined that the regional airport out of which he flew charged higher rates than larger airports. BKD searched for flights similar to those taken by Mr. Healy and noted that all airlines charged similar prices. Therefore, it does not appear that a more expensive airline was chosen by Mr. Healy to accumulate frequent flier miles for personal benefit. It appears that Mr. Healy was in compliance with the portion of the Travel Policy that dictates an employee is to select the lowest possible fare, regardless of airline.

KBA Staff Events

For the period 2007 through December 2010, KBA held various events for the benefit of the staff, such as holiday parties and team building events. Events of this nature that were noted as holiday parties, staff lunches or team building events on the expense reports totaled approximately $5,000. However, the purpose of expenses charged to the American Express cards was not always clearly noted on the expense reports, so BKD considers this amount to be a minimum.

KBA Meeting Expenses
In general, with regard to meeting with legislators in Washington D.C. and in association with various industry conventions and BOD meetings, KBA spent money to entertain guests in a manner management felt was appropriate given the circumstances, but others might find extravagant. With regard to meetings in Washington D.C., KBA at times hosted meals for up to 40 attendees. Meals were often held at nice restaurants and sometimes included expensive wine. Hotel rooms in Washington D.C. and convention locations were sometimes higher priced than what is the custom in the Kansas City area. KBA management and BOD members indicate that the lodging was appropriate given the need to be near the other meeting or convention attendees for networking purposes. In reviewing the supporting documentation for and discussing the larger travel and entertainment expenses with management, BKD did not identify any expenses for which there clearly was not an appropriate business purpose.

Expense Policy and Procedures Review

KBA Travel Policy for Employees

KBA Travel Policy[88] indicates that employees will be reimbursed for all necessary and reasonable travel expenses related to the normal conduct of business. Original receipts are required for all expenses and photocopies will not be accepted. Detailed receipts of a meal must be included; not just the credit card receipt.

Business expenses are defined as:

- those that are necessary to the operations of KBA;
- those that benefit or advance the interests of KBA; and
- those that meet the requirements of reasonableness.

The policy includes a listing of expenses which are not reimbursable, or are only reimbursable with the employee's manager's prior approval. BKD noted some payments that may have violated the policy. The primary example is personal and guest bar bills without management approval. A second common example was the failure to provide an itemized receipt, providing instead only the credit card receipt.

We noted that the current policy appears to be closely adhered to at the staff level, by the former CFO/COO, Jan Katterhenry and by the Interim CEO/President, David Vranicar, but was less so by Tom Thornton as described above. However, all employees should ensure they adhere to the requirements of the Travel Policy.

KBA Travel Policy for BOD

KBA Board of Directors' Travel Policy[89] states that it is only "advisory" and indicates that BOD members will be reimbursed for all necessary and reasonable travel expenses related to the normal conduct of directors' meetings and activities.

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[88] KBA Policies – Travel Policy – Employee Travel Policy, May 19, 2009. KBA has issued a total of four travel policies for employees over time. However, all have been substantially the same with respect to what types of expenses are allowed or disallowed and what documentation is required. Each iteration primarily clarifies certain points of possible contention, and in some instances makes minor modifications to the substance of the policy.

[89] KBA Policies – Travel Policy – Board of Directors' Travel Policy, May 19, 2009.

Business expenses are defined as:

- those that are necessary to the operations of KBA;
- those that benefit or advance the interests of KBA; and
- those that meet the requirements of reasonableness.

BOD travel arrangements are to be arranged by the executive assistant of KBA's President/CEO.

The policy includes a listing of expenses which are not reimbursable, which includes airline upgrades and excess tips. It was also noted that there is no restriction related to personal or guest bar bills as there is for employees. BKD noted some payments that may have violated the policy, such as occasional airline upgrades and some tips considered to be excessive, and the reimbursement for some expenses without the submission of all required documentation. The instances of the airline upgrades and excessive tips all occurred in 2006 or prior, when the current Travel Policy was not yet in place. The instances of the payment of expenses without all required documentation were not significant. However, BOD members should adhere to the requirements of the Travel Policy.

<u>KBA Credit Card Policy</u>

KBA had two American Express cards[90] to be used for travel, meetings and in unusual circumstances, to purchase an item for office use. The credit cards were issued to the former President/CEO, Tom Thornton the former CFO/COO, Jan Katterhenry, and, for a short time, the former Executive Assistant, Melissa Lynch, for the use of business travel, meetings and pre-approved purchases where another form of payment is not acceptable.

The current KBA Credit Card Policy[91] states that expense reports are to be submitted on a monthly basis with receipts that match the charges on the credit card. Personal expenses may not be charged on the credit card. Expenses that cannot be supported with a receipt become the employee's responsibility and must be paid by the employee.

The American Express card statements are to be reconciled monthly. All expenses are to be coded from the expense report or the purchase requisition. Any charges that are not appropriately supported will become the responsibility of the employee and must be paid to KBA immediately.[92]

Our review of the American Express card statements and the associated expense reports indicated that the cards were used for personal expenses on a few occasions, but that all occasions of personal use were reimbursed to KBA. Furthermore, these instances primarily took place prior to the implementation of the current policy. Instances of the personal use of the American Express cards were noted for Tom Thornton, Jan Katterhenry and Melissa Lynch in the total amounts of $3,104.02, $1,204.41 and $1,425.69, respectively. See ***Exhibit 46*** for a detailed list of these reimbursed personal expenses.

[90] The American Express Cards were cancelled subsequent to Tom Thornton's resignation.
[91] KBA Policies – Banking & Treasury – Credit Card Policy, June 30, 2010.
[92] KBA Policies – Banking & Treasury – Credit Card Policy, June 30, 2010.

Furthermore, the required supporting documentation for purchases made on the American Express cards was not always present and the clear business purpose of all expenses was not always stated. These issues were much more prevalent with regard to expenses charged to the American Express cards than expenses reimbursed to KBA staff or BOD. In the future,[93] management should ensure that KBA staff know the requirements for the use of the cards and enforce those requirements.

KBA's Response:
KBA management has taken BKD's recommendation a step further. KBA credit cards are held by only the president and the CFO. Under the direction of the president or CFO, travel and other approved expenses for staff members may be charged to these cards.

Double Payments of Expenses
In reviewing the expense reports and American Express statements, we noted the following instances of the double payment of expenses.

Expense reports for BOD member David Franz in May 2007 and for Tom Thornton in April 2007 were processed by KBA staff twice resulting in the individuals being reimbursed twice. These were reviewed by KBA staff and verified as double payments. There were a number of issues that appeared to cause confusion during that time frame that possibly contributed to the inadvertent double payments of $680.36 to David Franz and $1,674.93 to Tom Thornton.

First, the COB of KBA, who was in charge of approving these individuals' expense reports, turned over in June 2007. Chairman Clay Blair, who was in charge of approving both of these individuals' expense reports at the time, resigned on June 8, 2007. At least seven days before his resignation, KBA employee Ashley Tyrrell tried to contact Chairman Blair to obtain approval for both of the aforementioned expense reports.[94] The checks had already been cut at this point, as they were dated May 30, 2007. Chairman Blair eventually signed these checks, but apparently did not sign the expense reports. Subsequently, the unsigned expense reports were provided to the new Chairman of KBA board, Sandra Lawrence. Chairman Lawrence signed the expense reports on June 20, 2007. A second set of checks was issued on June 21, 2007.

Second, KBA changed banks in that time frame and the expenses were inadvertently paid out of both bank accounts. A UBS bank account was used through May 2007 and a US Bank account was used beginning in June 2007. In both instances, the original reimbursement check was dated May 30, 2007, written out of the UBS account, and the second reimbursement check was dated June 21, 2007, written out of the US Bank account.

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[93] KBA's American Express cards were cancelled during the billing cycle ending May 17, 2011. On May 10, 2011, KBA's BOD authorized staff to secure new purchasing cards in the names of the CEO and CFO with a limit not to exceed $25,000. A US Bank VISA account was opened in September 2011 with cards issued to David Vranicar, Interim President & CEO and Jan Katterhenry, former CFO/COO. Upon Jan Katterhenry's resignation, her card was cancelled. Subsequently, a US Bank VISA card was issued to Ruth Saale, Interim CFO. The limits on Mr. Vranicar's and Ms. Saale's cards are $15,000 and $10,000, respectively.

[94] Ashley Tyrrell email dated June 1, 2007 at 1:48PM to Jan Katterhenry indicates Ms. Tyrrell contacted Mr. Blair's assistant Chris to check on the status of the approval. According to the email, Chris indicated approval would be taken care of on Monday, June 4, 2007. Clay Blair formally resigned June 8, 2007.

With respect to the David Franz double payment, the third issue which potentially contributed to confusion was the naming convention used within KBA accounting software, QuickBooks. There are two vendors set up within QuickBooks for Dave Franz, one with the name "David Franz" and one with the name "Dave Franz." In this instance, the first check was cut to vendor "Dave Franz" and the second was cut to "David Franz." Had there been a single vendor set up for David Franz, KBA accounting department may have noticed that a payment for $680.36 had already been processed for Mr. Franz, but since the second payment was made to a different vendor, from QuickBooks perspective, that fact would not have been so apparent.

The original reimbursement check to David Franz was numbered 679 dated May 30, 2007 and the second reimbursement check to David Franz was numbered 1029 dated June 21, 2007. Both reimbursed the same expenses and totaled $680.36. The original reimbursement check to Tom Thornton was numbered 692 dated May 30, 2007 and the second reimbursement check to Tom Thornton was numbered 1032 dated June 21, 2007. The original check totaled $2,326.95, however, it paid multiple of Tom Thornton's expense reports. Only $1,674.93 of this total was subsequently paid a second time. The second reimbursement check to Tom Thornton totaled $9,736.19, which also paid multiple of Tom Thornton's expense reports. Only $1,674.93 of this total was duplicative. BKD searched for additional double payments following this same pattern but noted none. Payment and supporting documentation for each are located at ***Exhibit 47***.

On an expense report covering expenses from January 7, 2008 through January 13, 2008, Tom Thornton reported expenses charged to his KBA credit card in the "Paid by Employee" section rather than the "Paid with Company Credit Card" section, resulting in an inappropriate payment to Mr. Thornton of $1,465. The check number was 1378 and the check date was March 4, 2008. Payment and supporting documentation is located at ***Exhibit 48***.

Jan Katterhenry was reimbursed twice for $138.29 of expenses she incurred conducting KBA business; an entire expense report was double paid. She was reimbursed $138.29 on August 1, 2007 with check 1113 and was reimbursed for those same expenses a second time on August 7, 2007 with check 1083. Check 1083 totaled $163.81 which included the $138.29 of expenses plus $25.52 of new expenses. Payment and supporting documentation is located at ***Exhibit 49***.

Ruth Saale, Interim CFO, believes what caused the double payment related to the procedure in place at the time for individuals who had both personally paid expenses to be reimbursed by KBA and incurred expenses on behalf of KBA using KBA American Express card, explained as follows. At the time, a single form with two sections was used for both types of expenses. The top half of this form was used to report employee paid reimbursable expenses and the bottom half was used to report KBA paid American Express expenses. The employee was to fill out both sections of the form, and then create a copy to be filed with the American Express statement and a copy to be filed with that employee's expense report file. BKD notes that no such copy could be located in the American Express file, and two copies were located in Jan Katterhenry's expense report file. This misfiling of the second copy of the expense report may have caused the double payment to occur. The fact that the checks were for different amounts in different months may have caused the double payment to go undetected.

Jan Katterhenry was reimbursed twice for the same expense, resulting in a $10.42 overpayment to Ms. Katterhenry. Ms. Katterhenry initially reported this expense on her expense report dated October 24, 2007 with no receipt and subsequently reported this same expense on her expense report dated November 27, 2007, supported with the itemized receipt. Both requests were paid to Ms. Katterhenry in full.

On an expense report covering expenses incurred on September 17, 2008, Cary Nourie reported a $309.00 airfare expense twice. The expense was listed in both the "Air & Rail Travel" column and the "Misc." column of the expense report. The total of the expense report was $722.00, which was paid in full on October 1, 2008 with check number 1677. Payment and supporting documentation is located at ***Exhibit 50***.

Bret Healy, one of the former Directors of Commercialization for HBV, was reimbursed twice for the same expense, resulting in a $13.04 overpayment to Mr. Healy. Mr. Healy initially reported the expense from TGI Friday's on his expense report dated January 13, 2009, supported with the itemized receipt, and subsequently reported this same expense on his expense report dated February 15, 2009, supported with the credit card receipt. Both requests were paid to Mr. Healy in full.

KBA management has reviewed and verified all of these payments to be double payments.

Recommendation:

Management should ensure that all KBA employees and BOD members adhere to the appropriate policy. Any exceptions to policy for which reimbursements are made should be formally approved and the documentation should be maintained with the expense report. The business purpose of all expenses should be clearly explained on the expense report; and the name of the attendee and their business affiliation should be noted with regard to all meal and entertainment expenses. Furthermore, the BOD should consider requesting reimbursement for any verified instances of duplicative expense reimbursements.

Management should consider creating parameters around the definition of "normal and reasonable" with regard to travel and entertainment expenses. With regard to expenses that exceed the stated definition, a short description of why the incurred expenses are considered to be reasonable should accompany the expenses reimbursement form.

KBA's Response:

KBA accepts BKD's recommendations noted in this section. KBA has made written requests for reimbursement from the individuals who were inadvertently issued duplicate expense reimbursements; Tom Thornton, $3,139.33; David Franz, $680.36; Jan Katterhenry, $148.71; Cary Nourie, $309.00; and Bret Healy $14.04. Mr. Franz and Ms. Katterhenry have repaid the amounts requested. Mr. Thornton has agreed to repay the amounts requested. KBA management will recommend the Board adopt a more detailed definition of "normal and reasonable" with regard to travel and entertainment expenses, in line with BKD's recommendation. Of course, KBA management and the Board may refuse reimbursement of expenses considered unreasonable.

VENDOR CONTRACT AND RELATED EXPENSE REVIEW

Given the scope of our engagement, BKD reviewed vendor contracts with two objectives: 1) to determine with whom and for what large sums of money were spent, and 2) to determine the appropriateness of the vendor contracting, contract authorization and vendor payment processes. We reviewed 104 contract files for approximately 300 vendors in this process. A listing of contract files reviewed is located at ***Exhibit 51***.

Significant Vendors

BKD's review indicated that significant amounts of money (subjectively defined as greater than $100,000) were expended by KBA with regard to the following projects or initiative:

- NBAF
- KUCC NCI designation pursuit
- Heartland BioVentures
- Animal health
- Eminent Scholars funding program
- Investment consulting
- Bioscience Park and Venture Accelerator
- General Counsel
- Office expense/administrative auditing
- Sponsorships

Please refer to ***Exhibit 52*** for a listing of significant contracts and their total payments.

NBAF

NBAF had eight significant contracts (greater than $100,000) for a total of $2,841,099.

Akin Gump

The service agreement with Akin Gump Strauss Hauer & Feld, LLP ("Akin Gump"), signed by John M. Simmons, began December 15, 2007 and was to provide "Advocacy services to promote the interest of the National Bio and Agro-Defense Facility." The fee arrangement included a $25,000 monthly retainer and reimbursable expenses. The contract was renewed at the same terms through December 15, 2008. On January 12, 2009, KBA acknowledged the automatic renewal of the contract. On March 1, 2009, a new unexecuted contract specified that the terms changed to monthly payments of $20,000. This contract expired February 28, 2010, and contracts dated December 1, 2009 and June 1, 2010 followed. The terms remained at $20,000 per month. Beginning in December 2010, the monthly retainer was reduced to $15,000. BKD did not observe an RFP in the file for the subsequent contract. The finding for the March 1, 2009 unexecuted contract is located at ***Exhibit 53*** - *Contract Exhibit A- Missing Contract Findings*.

In addition to the monthly retainer, Akin Gump charged hourly for legal fees associated with the NEPA portion of the representation, which was not engaged separately. This was $49,634.74 in September 2008 and $62,806.75 paid in February 2009. Akin Gump also assisted in the Texas Biological and Agro-Defense Consortium Lawsuit discussed previously in this report. Akin Gump was paid a total of $1,422,979.

The agreements state that Akin Gump would "include monthly expense documentation with each invoice," supporting the reimbursable expenses. BKD found that the majority of expense documentation was not included, exceeding $40,000 throughout the life of the contract with Akin Gump. This finding is contained on ***Exhibit 53*** *- Contract Exhibit G- Supporting Documents Findings*.

It was noted that Governor Carlin's son is employed by Akin Gump. However, in his interview, Mr. Thornton indicated that Akin Gump responded to an RFP and was chosen based upon the strength of that response and references from work they had performed in Kansas related to the Base Reallocation and Closure Act process with regard to Fort Riley.

BJE Associates

KBA signed a contract for services rendered for strategic business development with BJE Associates (Barry J. Erlick). The primary task was for administrative and scientific consultation and advice regarding KBA's leadership and support for the NBAF task force. The initial contract was signed on April 27, 2007 with a $5,000 monthly retainer, effective back to January 16, 2007. The trend of signing contracts after the effective date continued:

- contract with effective date of September 1, 2007 signed September 12, 2007 - monthly retainer $2,500;
- contract with an effective date of January 2, 2008 signed February 7, 2008 - monthly retainer $2,500;
- contract with an effective date of December 1, 2008 signed December 10, 2008 - monthly retainer $2,500; and
- contract with an effective date of January 16, 2010 was not dated, but the accompanying letter was dated August 23, 2010 - monthly retainer $2,500.

BKD's review found that there was no contract in place for the following payments made to BJE Associates:

8/7/2007	$ 5,000.00
9/19/2007	5,000.00
8/19/2008	2,500.00
10/1/2008	2,500.00
10/13/2008	2,500.00
11/18/2008	2,500.00
12/12/2008	2,500.00
	$ 22,500.00

KBA paid a total of $142,050.83 to BJE Associates.

Blue Ocean Consulting

Blue Ocean Consulting, previously Anthenix Solutions, was contracted for website design and development for a website supporting NBAF. KBA further contracted with Blue Ocean Consulting for technical services. Contracts for Blue Ocean were signed by Scott Woodward and Lynn L. Heltz. The total amount contracted with Blue Ocean was $36,630. The majority of the remaining $64,751 paid by KBA to Blue Ocean was for website hosting, project management, software engineering and additional technical services that were not under contract. KBA paid Blue Ocean Consulting $101,381.

Burns and McDonnell Engineering Co., Inc.

KBA contracted with Burns and McDonnell Engineering Co., Inc. ("Burns & McDonnell") for oversight services regarding the NBAF site prep work at KSU by DHS. The contracts were signed by David Yeamans and Richard Keeler. Although the contract was in the amount of $50,000, KBA was only charged $47,602 for the services. KBA paid an additional $38,233 for an "EIS Evaluation," for which KBA had a contract for $30,000. This finding is included in ***Exhibit 53*** - *Contract Exhibit A- Missing Contract Findings*. This totals $85,835 for NBAF. Burns & McDonnell also assisted KBA with animal health, which is discussed later in the report.

Dickstein Shapiro, LLP

Dickstein Shapiro, LLP was contracted by KBA beginning in September 2008 for advocacy services in Washington D.C. to achieve the siting of the NBAF facility at KSU. The fee arrangement included a $25,000 monthly retainer and reimbursable expenses. The value of the initial contract was $300,000, and no RFP was found in the corporate files. This finding is included in ***Exhibit 53****- Contract Exhibit B- RFP Findings*.

An additional contract was dated December 1, 2008 for advocacy services in the State of Kansas' pursuit of favorable federal policy in bioenergy and biorefining. This contract also provided for a $25,000 monthly retainer and capped reimbursable expenses at $1,000 per month. The value of the initial contract was $300,000, and no RFP was found in the corporate files. This finding is included in ***Exhibit 53*** - *Contract Exhibit B- RFP Findings*.

The total paid to Dickstein Shapiro was $269,250 in fees and expenses of $4,846.34. Although the contract indicated that the control included monthly expense documentation with each invoice, we did not find support for expenses in the corporate file. This finding is contained on ***Exhibit 53*** - *Contract Exhibit G- Supporting Documents Findings*.
During our investigation, we noted that an invoice for $25,082.15 was sent to KBA for services through August 29, 2008. The invoice was not paid, as there was no contract yet in place. However, this indicates that Dickstein Shapiro was working on behalf of KBA before a contract was set into place. This finding is included in ***Exhibit 53*** - *Contract Exhibit D- Valid Contract*. As noted previously, Dickstein was hired due to its employment of former Representative Dennis Hastert, for whom Mr. Thornton had worked.

Fleishman-Hillard Inc.

KBA contracted with Warren Dudley at Fleishman-Hillard Inc. ("Fleishman") for communication services, which included NBAF brochures, material development and professional services. The initial contract was for $75,000, dated August 23, 2007. As there was no RFP in the corporate files, this finding is included in ***Exhibit 53*** - *Contract Exhibit B- RFP Findings*.

KBA continued to use Fleishman after the initial contract for additional $120,000 in professional services, brochures and material development. There were no contracts for these amounts. Therefore, this finding is included in ***Exhibit 53*** - *Contract Exhibit A- Missing Contract Findings*.

The total paid to Fleishman was $194,902.50.

Midwest Research Institute

Midwest Research Institute ("MRI") was hired by KBA for NBAF policy making, grants and other strategies. The contracts were signed by Jeff Shular. The initial contract was effective March 11, 2009 and was for $40,000. On April 8, 2009, KBA contracted with MRI for "Task Order No. 2" for a total of $200,000 for "NBAF GOCO Strategy." On April 14, 2009, an additional contract, "Task Order No. 3," for biosecurity research institute compliance acceleration support was effective for $200,000. We did not observe an RFP in the corporate file for these contracts. These finding are included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

The initial contract for $40,000 was completed and paid. Task Order No. 3 was completed and paid. Task Order No. 2 was cancelled after $62,160 was paid. In addition, KBA paid for consulting, for which AGCO was billed the full amount and KBA reimbursed a portion of it. The total paid to MRI was $325,849.

BOD member Dr. Franz is employed by MRI. However, the minutes note that Dr. Franz recused himself and did not participate in the discussion regarding the contract.

Parris Communications, Inc.

KBA had several contracts with Parris Communications, Inc. ("Parris") beginning in February 2009 to represent KBA before the DHS regarding NBAF. The contracts were signed by Laurie Roberts, Senior VP. The fee arrangement started as a $10,000 monthly retainer with a $1,000 cap in expenses. The value before expenses of this contract was $60,000. The initial contract was amended/extended twice. Two additional contract were made. The first dated August 1, 2010 and the second February 1, 2011, both with a monthly retainer reduced to $8,000 per month.

At the amendment of the initial contract, with an additional contract value of $60,000, an RFP or sole source justification should have been issued. We could not find this documentation in the corporate files. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

In September 2010, an additional service contract was added to represent KBA before DHS for $2,000 per month. KBA paid Parris a total of $281,505 for contracted service and expenses. Although the contract indicated that the control included monthly expense documentation with each invoice, we did not find support for expenses in the corporate file. This finding is contained in ***Exhibit 53*** *- Contract Exhibit G- Supporting Documents Findings*.

On March 22, 2011, KBA paid Parris $12,500 for "Public Relations and Communication Director Outreach Services" for the review of candidates for KBA's communications director. These services were not provided under a contract, as required by the Vendor/Contract Management Policy and Procedures.[95] This finding is included in ***Exhibit 53*** *- Contract Exhibit A- Missing Contract Findings*.

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[95] II Purchasing Policy, b. Vendor/Contract Management Policy and Procedure; Issue 4; "All vendor/consulting contracts for goods or services with a value greater than $1,000 shall be prepared or reviewed by the contract administrator."

KUCC NCI Designation Pursuit

B&D Consulting
B&D Consulting ("B&D"), a division of Baker & Daniels, LLP, was contracted for federal consulting services for advanced biomedical innovation and NCI cancer center designation. The contract was signed by Debra R. Lappin. This agreement was between B&D and KBA. The initial agreement was effective July 20, 2009 and specified $45,000 for Phase I, with $10,000 maximum in expenses. The contract was amended in October 2009 for Phase II for an additional $60,000. In November 2009, the contract was amended again to allow for a monthly fixed fee of $17,500 with $10,000 maximum reimbursement for expenses through May 2010.

This Phase II contract was extended to May 2011 with the same $17,500 monthly retainer with $20,000 maximum reimbursement for expenses, for a total contract value of $115,000. BKD did not locate an RFP or sole source justification form in the corporate file. This finding is included in ***Exhibit 53** - Contract Exhibit B- RFP Findings*.

A second contract extension dated May 24, 2010 for one year was signed by Thomas V. Thornton on July 9, 2010. The value of this contract was $230,000. In the corporate file, there is a copy of an email dated June 30, 2010 from Brad Kemp, Director for the Cancer Initiative to Jan Katterhenry, KBA's CFO/COO, indicating she had told him of the need to add justification for not issuing an RFP to the Vendor Authorization form. The Vendor Authorization form explaining why KBA did not go through an RFP process is dated June 10, 2009, which appears to be backdated. The form is signed by Jan Katterhenry, Tom Thornton and KBA's then COB, Governor Carlin in July 2010. As the Vendor Authorization form is dated June 10, 2010 and the email explaining the need for this form is dated June 30, 2010, the Vendor Authorization form appears to be backdated. Please see ***Exhibit 54*** for the referenced email.

Although the contract indicated that the control included monthly expense documentation with each invoice, BKD did not find support for expenses in the corporate file. This finding is contained on ***Exhibit 53** - Contract Exhibit G- Supporting Documents Findings*. KBA paid B&D consulting a total of $347,766.

Heartland BioVentures

Heartland BioVentures had four significant contracts (greater than $100,000) totaling $866,229.

BioEnterprise Corporation
The September 10, 2008 agreement between BioEnterprise Corporation and KBA was for HBV staffing, training, strategy, marketing and public relations. The agreement allowed for an $8,333 monthly payment for a total of $200,000. There was a draft of this agreement in the corporate file dated July 2006, with the compensation at $300,000. This draft was not signed. The total amount paid under this contract was $200,000, with expenses of $477.

Before the contract, $476.80 was paid for travel expenses for Mr. Baiju Shah to travel to KBA for the July 2005 meeting.

Mr. Bret Healy

Mr. Healy was originally hired under a consulting agreement and later became a HBV employee performing the same services of strategic business development and commercialization in the biosciences. His initial contract was effective February 1, 2008, signed by Mr. Thornton on March 4, 2008 and included payment for part of January 2008. Mr. Healy re-signed for additional contracts services. A summary of the contract terms is below:

	Contract Term		
	Beginning	**End**	**Monthly Fee**
Contract #1	2/1/2008	4/30/2008	$ 10,000.00
Contract #2	5/1/2008	8/31/2008	12,500.00
Contract #3	9/1/2008	9/30/2008	12,500.00
Contract #4	4/16/2009	7/15/2009	7,500.00
Contract #5	7/16/2009	9/15/2009	7,500.00

There were delays between the effective date and the signing of the contract. This finding is noted in ***Exhibit 53*** *- Contract Exhibit C- Effective date findings.* From October 1, 2008 through May 1, 2009 Mr. Healy was a KBA employee paid through payroll.

BKD noted that the May 1, 2008 contract was signed using the electronic signature of Thomas V. Thornton. This finding is shown in ***Exhibit 53*** *- Contract Exhibit F- Signature Findings.*

Total payment to Bret Healy totaled $183,856.23, which included expenses of $49,468.74.

Mr. Cary Nourie

Mr. Nourie was originally hired under a consulting agreement and later became a HBV employee performing the same services of strategic business development and commercialization in the biosciences. His initial contract was dated January 26, 2009, and provided for $12,500 monthly, with a contract value of $75,000. We did not observe an RFP in the corporate file for this contract.

The contract with Mr. Nourie was renewed in July 2009 and again in January 2010. We did not locate a RFP or sole source justification form in the corporate file. These findings are included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings.*

The total paid to Mr. Nourie was $218,744, which included expenses of $4,676.61. Mr. Nourie became a KBA employee on June 28, 2010, after which he was paid through payroll.

Dr. Terry Osborn

Dr. Osborn was originally hired under a consulting agreement and later became a HBV employee performing the same services of strategic business development and commercialization in the biosciences. His initial contract was dated June 1, 2008, and provided for $6,000 monthly, plus expenses.

A new contract was dated January 26, 2009 increasing the fee arrangement to $12,500 per month, plus expenses. We did not observe an RFP or a sole source justification in the corporate file for this contract. These finding are included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings.*

The total paid to Dr. Osborn was $263,629.59, which included expenses of $20,704.59. Dr. Osborn became an employee on June 28, 2010, after which he was paid through payroll.

<u>Animal Health</u>

Burns and McDonnell Engineering Co., Inc.

Burns & McDonnell also contracted with KBA for KSU Animal Resource Facility Relocation, Design/Build Contract Support, effective December 1, 2009. The contract was for $54,000. KBA paid an additional $10,000 on the contract for a total of $64,000. According to KBA, there was no amendment to the contract for this additional amount.

Expedite, LLC

Expedite, LLC ("Expedite") was contracted by KBA to create an infrastructure and operations model; foster bridges into research, business development and senior management in major animal health companies; and identify sources of research and technologies in the animal health field. The contract with Expedite was effective September 1, 2010 for $175,000. BKD did not observe an RFP in the corporate file for this contract. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

A second contract was effective February 2, 2011 for $72,000. As this was a continuation of the previous contract, a sole source justification should have been used. BKD did not find this documentation in the corporate files. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

Expedite is the company of William Davies and Tom Overbay, who were previously contracted by KBA as individuals for review and evaluation of Symbiotic Corporation and veterinary diagnostic market in June 2010 for $10,000. The total paid to Expedite (including William Davies and Tom Overbay) is $257,000.

<u>Eminent Scholars</u>

KBA's practice was to contract for peer reviews for applicants under the Eminent Scholars program.

Oak Ridge Associated Universities, Inc.

Oak Ridge Associated Universities, Inc. contracted with KBA for managing and coordinating peer reviews for the Eminent Scholars program. The contracts were signed by Rebecca M. Kennard. The initial contract was dated January 14, 2008 for $14,200. On May 29, 2008, a new contract was signed, which paid based on hourly rates and expired in May 2011. KBA has paid a total of $147,901.40. BKD did not locate a RFP or sole source justification form in the corporate file. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

<u>Investment Consulting</u>

KBA hired consultants to assist in the analysis of venture capital funds for investment, and for management of KBA's investment portfolio. The significant contracts in this area include the following:

Ennis Knupp & Associates, Inc.
KBA had multiple contracts with Ennis Knupp & Associates, Inc. for the following:

- due diligence review and ranking of selected capital funds for potential investments, effective April 8, 2009 for $45,400;
- due diligence review and ranking of selected capital funds for potential investments, effective May 6, 2009 for $10,000;
- investment consulting services relating to private equity “back office” services, effective March 1, 2010 for $33,000;
- evaluating Open Prairie Ventures & Prolog Capital, effective August 18, 2010, for $6,000;
- evaluating Burrill Life Sciences Capital Fund, Triathlon Medical Ventures Fund, Midwest Venture Fund, and Meadowlark Venture Fund, effective September 9, 2010 for $14,000; and
- investment fund management, initial contract effective October 7, 2008 for $110,000 and second dated October 1, 2009 for $224,000. We noted an RFP dated June 16, 2008 for this contract.

The contracts were signed by Brett Nelson, Rick Ivinjack and David Testore. The total amount paid to Ennis Knupp & Associates, Inc. was $408,660.

K&L Gates, LLP
K&L Gates, LLP (“K&L”), previously Bell Boyd & Lloyd, LLP, contracted with KBA for legal services related to equity investment by KBA. The contract was effective June 2, 2008, signed by Jude M. Sullivan, and was for $350 per hour. The total amount paid to K&L was $115,018.12. As these were ongoing services with the potential to go over $75,000, BKD would have expected to see an RFP in the corporate files. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings.*

Mr. Sullivan had been an associate of Tom Thornton’s at divine interVentures, where Mr. Sullivan was General Counsel. Mr. Thornton indicated that Mr. Sullivan’s law firm was hired to work on KBA’s equity investments after two large local law firms consulted for client companies with which they had a relationship while representing KBA, thus creating a conflict. KBA management and the BOD, therefore, determined that there was a need to contract with a law firm outside of the area. Thornton indicated that everyone knew he had an existing relationship with Mr. Sullivan because Thornton gave Mr. Sullivan a personal endorsement.

<u>Venture Accelerator/Bioscience Park</u>

Expenses paid directly by KBA for the Venture Accelerator included those funded through Bond Series 2009C, KBA’s self-funded bonds. The significant contracts for the Venture Accelerator/Bioscience Park are below.

Excel Contractors
The total contract with Excel Contractors, Inc. was for $10,631,200 for the construction of the Venture Accelerator. Pay applications #17 and #18 were paid directly by KBA within Series 2009C Bonds. The total paid directly was $901,022. See the Bioscience Park and Venture Accelerator sections of this report for further details.

John A. Marshall Company
John A. Marshall Company is the office furniture supplier for KBA. There is a contract with KBA in October 2008 for $34,489.93 specifically for office furniture. However, there were additional purchases of $76,734.40 made with purchase orders rather than contracts.

PGAV Architects
PGAV Architects was the architecture firm selected to design the Venture Accelerator. They were paid both from UMB Bonds and the self-funded KBA Series 2009C Bonds. The contracts, signed by Michael A. Schaadt, began in September 2008 for $866,000. This amount was amended up to $1,182,000 when the building square footage adjusted upwards. There was a third amendment for an additional $56,980, and a fourth for $9,700, giving the final contracted amount for the Venture Accelerator of $1,248,680. Two additional contracts were signed in May 2010 for $9,700 for architectural services and December 2010 for $12,650 for digital renderings. The self-funded portion paid with Series 2009C Bonds totaled $939,901. The remaining was paid through the UMB Bonds, and discussed in the Bioscience Park and Venture Accelerator section of this report.

General Counsel

KBA's external counsel, which served as general counsel prior to the hiring of a general counsel, changed over time. KBA's initial counsel was Stinson Morrison Hecker ("Stinson") from mid-2005 through June 13, 2007. KBA paid Stinson $114,341.92. At the time of the drafting of this report, KBA could not locate an RFP or engagement letter with Stinson for their services. These finding is included in ***Exhibit 53*** *- Contract Exhibit A- Missing Contract Findings* and in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings.*

KBA used Polsinelli Shalton Flanigan Suelthaus, PC ("Polsinelli") from March 2006 through May 2009, paying a total of $619,446.83. Contracts with Polsinelli relate to representation regarding Kansas Bioscience Park signed June 12, 2007, and representation regarding Douglas County Development, Inc., signed August 13, 2007. At the time of the drafting of this report, KBA could not locate a RFP or an engagement letter with Polsinelli for their general counsel services until June 12, 2007. This finding is included in ***Exhibit 53*** *- Contract Exhibit A- Missing Contract Findings* and in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

KBA engaged Lathrop & Gage for general counsel/legal services in February 2009. They have paid a total of $462,112.13 to Lathrop & Gage.

Office, Administrative and Auditing Expense

BKD, LLP
KBA has a contract with BKD who was engaged on April 11, 2011 for a Forensic Audit of KBA. The total paid to BKD through fiscal year ended June 30, 2011 includes retainers totaling $125,000 and a bill for $62,357.12. The second retainer of $100,000 was requested in June 2011. At this time, policy dictates that a sole source justification form be approved and placed in the corporate files. This finding is included in ***Exhibit 53*** *- Contract Exhibit B- RFP Findings*.

Cedar Creek Development VI, LLC
Cedar Creek Development VI, LLC ("CCD") is the company through which KBA had its lease at 25501 West Valley Parkway in Olathe, Kansas. Craig M. Eymann signed the contracts for CCD. The initial contract was effective October 1, 2006, and the lease was amended and renewed multiple times through KBA's occupation of the office space. KBA paid a total of $448,403, all which appeared to be within the terms of the lease. By the first renewal of the lease, KBA's policy required an RFP for amounts over $75,000. BKD did not see a sole source justification form in the corporate file. This finding is included in ***Exhibit 53*** - *Contract Exhibit B- RFP Findings*.

Haake Companies
Haake Companies ("Haake") carries the insurance for KBA. Insurance coverage for KBA through Haake has cost $242,233 through the fiscal year ended June 30, 2011.

KTEC
KTEC provided a variety of administrative and consulting services to KBA in its Start-up Phase. KBA BOD minutes indicate that KBA entered into a contract for these services with KTEC in 2005; however, a copy of the contract could not be located. KBA paid a total of $455,833 to KTEC for these services. Please refer to the KTEC section later in this report.

Summit Computer Solutions
Summit Computer Solutions provides IT services, computers and computer supplies to KBA. KBA has spent $212,158 with Summit between March 2006 and June 2011, but does not have a formal arrangement or contract. This finding is included in ***Exhibit 53*** - *Contract Exhibit A-Missing Contract Findings.*

<u>Sponsorships</u>

Biotechnology Industry Organization
KBA was a sponsor of the 2010 Biosecurity Conference in the amount of $27,500 and the exhibition floor for BIO 2010 and BIO 2011 in the amount of $34,200 and $42,000, respectively. However, the $34,200 invoice was made out to KansasBio and paid by KBA to KansasBio. There is no contract in the name of KBA for the BIO 2010 exhibition floor. The $42,000 contract for the BIO 2011 exhibition floor is between the exhibitor and KansasBio, yet the invoices were in the name of and paid for by KBA. The exhibitor floor space sponsorships of $76,200 were approved over email with no formal contract. This finding is included in ***Exhibit 53*** - *Contract Exhibit A- Missing Contract Findings.*

The total sponsorship for the two conventions was $103,700. All payment documentation is located at ***Exhibit 53*** - *Contract Exhibit 3*.

Contracting Policies and Procedures Review

Adherence to the Contracting Policies and Procedures is one of the key factors determining the appropriateness of the contracting, contract authorization and vendor payment processes.

Multiple policies address these items. BKD considers these to be, collectively, "Contract Procedures." BKD's review of Contract Procedures related to KBA policies addressed the following:

- Purchasing Policy & Procedure
  - Purchasing and Signing Authority
  - Vendor/Consulting Contract Management Policy and Procedure
- Accounts Payable
  - Accounts Payable

KBA has authored its own policies and procedures, which have changed over time. See ***Exhibit 53*** - *Contract Exhibit 2* for a chart of the applicable procedures for our contract review, and how these changed over time.

During our review of vendor contracts and related expenses, we found the following exceptions:

- contracts that could not be located;
- unexecuted contracts;
- signature dates after the effective date of the contract;
- Thornton's electronic signature used on contracts;
- missing documents in corporate contract files;
- payments without indication of the proper approval; and
- inconsistent general ledger classification of expenses.

<u>Contract Policy</u>

Exhibit 53 - *Contract Exhibit 2* details how the Purchasing Policy changed over time for the contract requirements. Presently, KBA's Contract Procedures states that the executive staff are responsible for reviewing, approving and monitoring all contracts for KBA. The guidelines indicate that all vendor/consulting contracts will be prepared and/or reviewed by the contract administrator and approved by the executive staff. The financial executive assistant is responsible for the storage, archiving, destruction of the original documents and maintaining a renewal tracking file of contract termination dates in order to review documents prior to their renewal or termination.

The Contract Policy gives a minimum threshold of $1,000 for requiring a vendor/consulting contract for goods or services. The policy suggests that where possible, contracts should be submitted 30 days in advance of the effective date. When not possible, the submitter should identify a requirement date for return of the contract.

The contract administrator issues two sets of final contract documents. The executed copy is scanned and put on the network, and the paper copy is filed in the corporate files. The corporate files should also include subsidiary documents such as confidentiality agreements, nondisclosure agreements, conflict of interest statements, schedules, exhibits, addenda and amendments.

On a quarterly basis, the financial executive assistant is to provide the CFO/COO with a list of all agreements which will be renewed in the following three months, and indicate which of the contracts require action to extend. The CFO/COO is to forward the list to the CEO for renewal approval. The executive staff will indicate which agreements should be allowed to expire. The contract administrator will issue written notice 60 days in advance of expiration.

Approvals for payments of expenditures in long-term contracts are as follows:

- under $10,000 - President or CFO
- under $50,000 - President or COB
- under $75,000 - RFP & President[96]
- over $75,000 - RFP, COB and President

The authorized approval levels for expenses adds an additional level of approval for the executive assistant:

- under $1,000 - Executive Assistant
- under $10,000 - President or CFO
- under $50,000 - President or COB
- under $75,000 - RFP & President
- over $75,000 - RFP, COB and President

Request for Proposal Policy

Exhibit 53 - *Contract Exhibit 2* details the thresholds for RFPs. Presently, KBA's Contract Procedures states if the contract amount is above $75,000, or goes above $100,000 if the term is extended under the existing scope of work, then an RFP to receive bids for services is to be issued. The contract administrator will complete a "Vendor Authorization Form" for signature by the CFO/COO, the President/CEO and the COB. We noted that this amount is higher than the "Purchasing and Signing Authority" policy, which states that an RFP should be issued for commitments greater than $75,000 unless a sole source justification is drafted and approved.

Findings

We found 92 vendors with findings related to unlocated, unexecuted and/or unextended contracts. Included are instances where the contracts did not adhere to the Contract Policy, and additional instances where BKD found a lack of appropriateness in the contracting process, but there was not yet a formal policy in place.

In general, during our review, BKD noted that the level of documentation, organization and completeness of the files improved over the years. The early years (FY2005, FY2006 and FY2007) contained the majority of our findings.

Unlocated/Unexecuted/Unextended Contracts
Exhibit 53 - *Contract Exhibit A: Missing Contract Findings* for details findings of contracts for which:

- corporate files did not contain a contract;
- corporate files did not contain an executed contract (contract with signatures);

[96] Stated as shown in the policy; however, the RFP process for contracts begins at $100,000.

- corporate files did not contain an executed amendment for a contract; and
- corporate files did not contain a contract for an additional project by a previously contracted provider.

Our analysis found 301 payments without a contract, including 102 payments that violated KBA's Contract Policy. The total contract cost involved totaled $1,219,271.81 in payments without a contract, including $571,828.20 in payments which violated Contract Policy.

Missing Request for Proposal
The Contract Policy requires an RFP if the contract amount is above $75,000, or will go above $100,000 if the term is extended under the same scope of work.[97]

We noted 17 instances where the initial contract was for a commitment above $75,000, and the corporate files did not contain an indication that an RFP had been issued or a sole source justification form had been approved. ***Exhibit 53*** *- Contract Exhibit B- RFP Findings* contains the details for each instance.

Recommendation:
We recommend that KBA place all copies of RFPs in the corporate files with the contracts. If an RFP is required by policy and not issued, the file should contain a written approval for the use of a sole source contract.

Contract Signature Missing or After Contract Effective Date
During our review, we noted three instances where the signature on the contract was significantly after the contract date and payments were made on contracts before the contracts were signed. These findings are detailed at ***Exhibit 53****- Contract Exhibit C- Effective Date Finding.*

Effective Dates of Contract Dates After Work Performed
During our review, we noted four instances of contracts for which KBA signature was dated after or during the performance of the work, or the contract was dated after services had already been performed. These findings are detailed at ***Exhibit 53*** *- Contract Exhibit D- Valid Contract Findings*.

KBA Vendor/Consultant Policy states that contracts should be submitted for review at least 30 days in advance of the effective date. The policy does not explicitly state that no work can be done on a contract prior to being executed. Given that the policy requests 30 days advanced submission, we believe that executing a contract after work has been substantially performed violates the intent of the policy.

Recommendation:
We recommend that the policy explicitly state that vendor/consulting contracts require execution before work can be performed.

[97] See Exhibit 52, Contract Exhibit 2 for how the policy for Request for Proposals changed over time.

General Ledger Classification

General ledger accounts were used inconsistently for some expenses on four occasions. We also observed two instances where the payment was made to a person different than the contracted vendor. These findings are detailed at ***Exhibit 53*** - *Contract Exhibit E- GL Findings*.

Missing Supporting Documents

Contracts with consultants and attorneys at times stated that they will provide itemized detail and documentation on travel expenses to be reimbursed in addition to their hourly/contracted fee. During our review, we found that the corporate files did not contain this detailed expense documentation for four contracts which contained this language. We cannot determine if the consultant/attorney did not provide this information, or KBA did not retain it. These findings are detailed at ***Exhibit 53*** - *Contract Exhibit G- Supporting Documents Findings.*

Recommendation:

We recommend that KBA require all itemized detail and documentation for travel expenses for consultants/attorneys, before disbursing funds in payment of a bill.

Electronic or Substitute Signature Use

We noted that on occasion, the electronic signature of "Thomas V. Thornton" was used for the signing of contracts. On one occasion, a signature of "Thomas V. Thornton" did not resemble Mr. Thornton's signature, making it appear that someone else signed Mr. Thornton's name on his behalf. The eight observations of this are detailed at ***Exhibit 53*** - *Contract Exhibit F- Signature Findings*.

It is our understanding that Mr. Thornton would authorize his executive assistant to use his electronic signature on items from time to time, giving approval via the telephone or email. For the instances found within our contract review, the corporate contract files did not contain evidence of authorization to use the electronic signature.

Recommendation:

We recommend that the BOD consider a formal policy regarding the controls surrounding the use of electronic signatures to sign contracts. The use of electronic signatures should be closely controlled and evidence of approval of use should be required. Furthermore, an electronic signature should not be used to sign contracts requiring signature notarization. This will safeguard the organization from unauthorized individuals committing KBA to contracts.

Payment Approval

Beginning March 1, 2007, an Accounts Policy Guideline (Issue No. 1) was put in the place, which stated, "All amounts recorded shall be based on approved and documented vendor invoices." However, the policy did not specify who was to be the approver. We can look to the Purchasing Policy dated March 1, 2007, which states that the Executive Assistant could approve purchases of $1,000 or less. Anything above $1,000 would require the President/CFO, and additional levels of approval for larger purchases. The Accounts Payable Issue No. 2 specifies that invoices are given to the CFO/COO for approval and forwarded on to the CEO/President as necessary.

With a higher concentration in the early years, invoice authorization for payment was missing. Our review looked for the signature or initials of the CFO, CEO, COB, etc., to authorize the payment of the expenditure within the terms of the contract. There were 127 instances where invoices did not appear to be approved, with dates before the first issue of the Accounts Payable Policy on March 1, 2007. Between March 1, 2007 and the second issue of the Accounts Payable Policy, dated June 30, 2008, there were 25 instances without proper approval. Subsequent to the second issue of the Accounts Payable Policy, we found 91 instances without proper approval. These findings are detailed at ***Exhibit 53*** *- Contract Exhibit H- Payment Approval Findings.*

KBA's Response:
While BKD notes the level of documentation, organization and completeness of KBA files has improved over the years, KBA management will consider revisions to further improve documentation and practices in the areas of RFPs and sole source contracts, vendor/consulting contracts, vendor expense reimbursement, use of electronic signatures and invoice pre-approval.

PAYMENTS BY OUTSIDE PARTIES

BKD's scope included the review of payments by outside entities from inception to the present, including but not limited to compensation, travel and entertainment received by current and past KBA management, employees and BOD members with voting rights.

Discussions with KBA management and accounting staff and the review of the QuickBooks accounting software indicated that KBA has received no payments by outside parties that were passed on to current or past KBA management, employees and BOD members with voting rights. Management indicated that if a KBA employee or BOD member would be asked to speak at a conference or event, the host usually pays those expenses directly.

POTENTIAL CONFLICTS OF INTEREST

The issue of potential conflicts of interest that exist with regard to KBA's employees and BOD members, client companies, vendors and collaborating organizations was reviewed. In doing so, BKD created a large database of information to identify relationships. The relationships are multifarious.

To determine if a relationship represented a potential conflict of interest, we considered various regulations and policies related to potential conflicts of interest that apply to KBA.

K.S.A. 74-99b08(a) requires that any member of the BOD and any employee, other agent or advisor of KBA, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority in writing. This interest shall be set forth in the minutes, and no BOD member, employee, other agent or advisor having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that, the provisions of this section shall not be construed to prohibit any employee of bioscience research institutions, or any public institute or private enterprise engaged in the business of bioscience who is a member of the BOD, who has no personal interest, from voting on the authorization of such contract or transaction between KBA and such employee's employer.

Additionally, KBA's BOD approved a Conflict of Interest and Documentation Policy at its January 9, 2007 meeting, which has over time been implemented through the Conflict of Interest Disclosure Form signed annually by all employees and BOD members. The purpose of the policy and form is to protect KBA's interest by requiring disclosure and appropriate action in a number of instances, including but not limited to, when: (1) KBA is interacting with another entity or person in a way that might benefit, directly or indirectly, a KBA employee, their spouse, any of their children of any age and any persons residing in the residence of the employee (collectively referred to as an "Interested Person"); (2) an Interested Person has an interest in an entity competing with KBA; or (3) an Interested Person either owns or proposes to own an interest in an entity that has entered into an agreement with KBA. The form requires the disclosure of any direct or indirect substantial interests[98] in any entity that has entered into or is considering entering into an agreement with KBA. The policy extends to the review, consideration, documentation and monitoring of investments.

KBA's BOD members are required to annually sign an acknowledgement of the Conflict of Interest Policy. In addition, per K.S.A. 74-99b08(b), KBA officers and BOD members must annually file written Statements of Substantial Interest ("SSI") with the Kansas Secretary of State disclosing compensation, certain business interests and honoraria received in the preceding year by the officer or member and his/her spouse.

BKD reviewed the SSI forms for the BOD members and officers as of April 2011 and noted the following disclosures of relevance. Governor Carlin is employed by KSU, as is his spouse. Ms. Lawrence is employed by Children's Mercy Hospitals and Clinics. Dr. Franz is employed by Midwest Research Institute and is the Chairman of the Biosecurity Research Institute Advisory Committee at KSU. Angela Kreps is employed by KansasBio. Mr. Sanford is Chairman of the Board and a 14% owner of NanoScale Corporation.

In reviewing the Investment Committee and BOD minutes, it was noted that any time a client company[99] that was associated with one of the BOD members was discussed, that BOD member noted their affiliation for the record and recused themselves from the discussion and vote, if appropriate. Therefore, it appears that BOD members are aware of and are adhering to KBA's Conflicts of Interest and Disclosure Policy. However, the BOD should consider whether additional conflict of interest polices are appropriate to avoid actual conflicts of interest or the appearance of conflicts of interest.

Recent Potential Conflict of Interest

A potential conflict of interest involving Jan Katterhenry, former KBA CFO/COO and Pinnacle Technology, Inc. ("Pinnacle") arose recently. The discussion that follows details the matter and how it was handled.

[98] Substantial interest includes ownership exceeding $5,000 or 5%; compensation of $2,000 or more; gifts/honoraria of $500 or more or of unknown value and a position as a director, officer, associate, partner or proprietor.
[99] Payments regarding BIO Convention sponsorships are addressed in the KansasBio section of the report.

On October 28, 2008, KBA's BOD approved a $375,000 matching grant for Pinnacle to partially match a Phase II Small Business Innovation Research grant from the National Institutes of Health. The approved milestones for the award are listed below.

#1	Execute agreement between Grantee and KBA and receipt of NIH Notice of Award for 2008	$100,000.00
#2	Provide written documentation of the initiation of the Go-To-Market strategy as defined by Peak Performance	$ 64,506.50
#3	Provide written documentation of the hiring of two sales engineers	$ 64,506.50
#4	Receipt of NIH Notice of Award for 2009	$100,000.00
#5	Provide written documentation of completion of testing at independent sites	$ 22,993.50
#6	Provide written documentation of the recommendation of a slate of BOD and if available, individual BOD commitments	$ 22,993.50

The milestones were paid out of order. Milestone #1 was requested December 22, 2008, milestone #4 was requested December 18, 2009 and milestone #2 was requested February 23, 2010. In the milestone #2 request, Pinnacle noted that they hoped to request payment for milestone #3 in May 2010. They had hired one sales engineer and hoped to hire another one in May.

On July 9, 2010, KBA's Contract Administrator, Nancy Ruf, emailed Pinnacle's CEO and asked if she knew when she would be requesting the next milestone payment for KBA cash flow planning purposes. The CEO replied that it would not be in July. "I am having a very hard time finding a sales engineer. My latest posting has given me one resume so far. I had been hoping for May."

On October 6, 2010, Katterhenry's son, Chris Katterhenry, signed an employment agreement with Pinnacle as a Sales Engineer. On October 7, 2010, Pinnacle submitted a payment request form for milestone #3.

Katterhenry indicated that her son graduated from KU in May 2010 with a degree in biochemistry. She forwarded his resume to HBV staff members and asked if anyone knew of any openings. She believes that one or more HBV staff members then emailed her son's resume to their contacts. Katterhenry indicated that she was not directly involved in sending her son's resume to Pinnacle and had no discussions with anyone at Pinnacle regarding her son's employment. She stated that she was unaware that the hiring of her son triggered the milestone payment.

Katterhenry's December 1, 2010 Conflict of Interest Disclosure form noted her son's employment by Pinnacle. Furthermore, her Conflict of Interest Disclosure information contained a December 1, 2010 email to Tariq Abdullah, KBA's General Counsel, which stated, "I know we have discussed the fact that my son…accepted employment with Pinnacle; however, I want to make sure you have this (in) writing. Pinnacle is an HBV client so there may be a conflict. I am not currently reviewing or working on any information related to Pinnacle. Please let me know if you need additional information or have questions."

Subsequently, on April 4, 2011, KBA's Investment Committee approved an additional $424,895 award to Pinnacle. The minutes of that meeting indicate that the Katterhenry disclosed her son's employment and noted that she had not provided any input with regard to the Investment Recommendation. The BOD approved the award at the May 9, 2011 meeting.

Katterhenry disclosed this potential issue in writing in a timely manner and did not participate in the review or analysis of the proposed investment. Therefore, she complied with KBA's Conflict of Interest and Documentation Policy. However, additional judgment should have been given to the potential perception of a conflict posed by this situation. Katterhenry's son has recently terminated his employment with the client company.

Potential for Conflicts of Interest Due to Existing Relationships

The issue of potential conflicts of interest regarding KBA has been reviewed previously. The December 2008 Kansas, Inc. evaluation of KBA noted the following with regard to conflicts of interest: "Given the size of the bioscience sector in the state of Kansas, it is not unexpected that members of KBA's staff and BOD may be acquainted with representatives of companies seeking financial or other assistance from KBA. However, it is, therefore, imperative that KBA appropriately disclose these relationships and manage even the smallest perception of a conflict. A key factor in protecting KBA's reputation and credibility with its stakeholders is total transparency and accountability in its operations. Central to this is a governance structure that includes a Conflict of Interest policy that is strictly adhered to by all KBA staff and directors, and extends to the review, consideration, documentation and monitoring of investments."

If KBA's President/CEO and other staff members are appropriately fulfilling their job responsibilities through their outreach activities, they will meet many individuals associated with potential client companies prior to the companies actually making application to KBA for funding. Mr. Thornton indicated that he probably had met someone from almost every client company prior to its application for funding due to his attendance at bioscience industry events and his speeches and presentations.

As previously discussed, the investment review and approval process at KBA is rigorous. Therefore, it does not appear that any one person could champion an improper investment and shepherd it through the investment process. In addition, the vast majority of investment awards are staged and attached to specific milestones that must be met prior to payment. Therefore, even the approval of an investment opportunity by the Investment Committee and Executive Committee or BOD does not guarantee payment. The client company is required to meet their milestones and supply supporting evidence that they have prior to receiving payments.

However, in reviewing the relational database, we identified the following specific relationships that we believe worthy of discussion.

<u>Tom Thornton</u>

Dr. Terry Osborn

Tom Thornton sat on the BOD of Advanced Life Sciences with Terry Osborn. On June 1, 2008, KBA hired Osborn through a consulting agreement to assist KBA up to three days a month through the provision of strategic business development and commercialization services. On January 26, 2009, KBA hired Dr. Osborn as a consultant to perform the services of a Director of

Commercialization for Heartland BioVentures five days a week, representative of a full-time position. Osborn became an employee in June 2010 at the request of KBA. Please refer to the Dr. Terry Osborn description of the Vendor Contract and Related Expense Review section earlier in this report.

BKD interviewed Dr. Osborn regarding his existing relationship with Thornton. Dr. Osborn indicated that he served on the BOD of Advanced Life Sciences with Thornton, but had not worked with Thornton and did not know him otherwise. In 2008, Dr. Osborn had just finished working with a California company to assist it in going public and was looking for new consulting opportunities. He reached out to his contacts, including Thornton. The forensic review of Thornton's email indicates that he received an email from Dr. Osborn on February 19, 2008 to that effect. Dr. Osborn indicated that Thornton responded that he could use some assistance at KBA. Thornton is copied on an email exchange between Dr. Osborn and Jim Mitchell, formerly with KBA, on March 24, 2008 which indicates that KBA is interested in entering into a consulting agreement with Dr. Osborn. Dr. Osborn indicated that the original consulting agreement was for only a few days a month. However, in January 2009, Jim Mitchell resigned from KBA and Dr. Osborn approached Thornton about a more full-time opportunity with KBA. A January 5, 2009 email from Dr. Osborn to Thornton supports this. Thornton indicated that Dr. Osborn was left on a consulting contract until June 2010 as it was working well and no one thought to change the status quo. However, in June 2010, KBA made the decision to formalize Dr. Osborn's position as an employee as he was working on a full-time basis and it seemed more appropriate. Please refer to ***Exhibit 55*** for copies of the relevant emails.

BKD identified no evidence that Thornton's existing relationship with Dr. Osborn was formally disclosed to KBA's BOD. BOD members interviewed by BKD generally did not recall that the existing relationship was disclosed. However, they consistently indicated that it would not have been a red flag or a concern as Dr. Osborn was qualified and they believed he did quality work on behalf of KBA. Furthermore, it does not appear that disclosures were required under either K.S.A. 74-99b08(a) or KBA's Conflict of Interest and Documentation Policy as Thornton had no direct or indirect interest in Dr. Osborn's contract and received no form of compensation from Dr. Osborn.

Additionally, allegations have been made that while working for KBA, Osborn had two other full time jobs as president and CEO of AbaStar MDx and Gene Express, Inc., both of Chicago, Illinois. It was further alleged that with all three alleged full time jobs, Dr. Osborn made $450,000 a year. It was further alleged that Osborn's relationship to Thornton through their membership of Advanced Life Sciences' BOD had not been disclosed. Osborn resigned May 2, 2011 and is now the CEO of KCAS.

BKD interviewed Dr. Osborn regarding his employment history. Dr. Osborn stated that he had no other employment while working for KBA and the only compensation he received, outside of BOD fees for Advanced Life Sciences, was paid by KBA. Dr. Osborn indicated he left Gene Express in 2006 and is a BOD member of AbaStar MDX, for which he receives no compensation.

Cary Nourie
Tom Thornton worked with Cary Nourie at the Illinois Technology Development Alliance in Chicago, Illinois. On January 26, 2009, KBA hired Nourie as a consultant to perform the services of a Director of Commercialization for Heartland BioVentures. Nourie became an employee in June 2010 at the request of KBA. Please refer to the Cary Nourie description of the Vendor Contract and Related Expense Review section earlier in this report. Mr. Nourie's primary residence was in Chicago, Illinois, but he maintained an apartment locally. Mr. Nourie was terminated by KBA on August 23, 2010. Furthermore, it does not appear that disclosures were required under either K.S.A. 74-99b08(a) or KBA's Conflict of Interest and Documentation Policy as Thornton had no direct or indirect interest in Mr. Nourie's contract and received no form of compensation from Mr. Nourie.

Jude Sullivan
As previously stated, Tom Thornton was a Managing Director at divine interVentures in 1999 through 2001. Jude Sullivan was General Counsel for divine interVentures during that same time. Sometime subsequently, Jude Sullivan became employed by K&L Gates. Effective June 2, 2008, K&L Gates was hired to perform legal services for KBA. KBA has paid K&L Gates $115,018.12 to date. Please refer to the K&L Gates description of the Vendor Contract and Related Expense Review section earlier in this report. Mr. Thornton indicated that his existing relationship with Mr. Sullivan was disclosed in the contracting process.

Dennis Hastert
Early in his career, Tom Thornton worked for Representative Dennis Hastert. Sometime subsequently, Hastert became employed by the firm Dickstein Shapiro, LLP. In September 2009, KBA hired Dickstein Shapiro to assist in the pursuit for the siting of NBAF. KBA paid Dickstein Shapiro $274,096 for its assistance. Please refer to the Dickstein Shapiro description of the Vendor Contract and Related Expense Review section earlier in this report. Mr. Thornton's existing relationship was disclosed in the contracting process.

Michael Beckloff
Tom Thornton sat on the BOD of the Enterprise Center of Johnson County with Michael Beckloff. Mr. Beckloff is also a BOD member of KansasBio and the current COB of KTEC Pipeline. Mr. Beckloff is the President of Beckloff Associates, a service provider to 10 companies that have received funding from KBA.[100] Mr. Beckloff's other relationships with KBA funded companies include personal ownership or debt holdings in Innovia Medical, Orbis, and VasoGenix Pharmaceuticals. Beckloff Associates also has an ownership interest in ImmunoGenetix. Mr. Beckloff is an advisor to Orbis and is a principal in EnalaPed. Mr. Beckloff indicated he does not receive compensation or fees directly from any KBA funded company with which he or Beckloff Associates is involved, inclusive of Orbis and EnalaPed. Furthermore, Mr. Beckloff indicated he no longer has personal ownership in Beckloff Associates as it has been purchased by Cardinal Health.

[100] Mr. Beckloff reviewed a listing of companies funded by KBA at BKD's request to determine to which companies Beckloff Associates has provided services. Mr. Beckloff identified 10 companies, but declined to name them as Beckloff Associates has signed Confidentiality and Disclosure Agreements with their clients. Mr. Beckloff indicated that some companies had received pro bono services from Beckloff Associates in an effort to assist them in their initial start-up.

As previously discussed, EnalaPed received a $74,500 grant under Heartland BioVentures POCI program, the majority of which was used to pay Beckloff Associates for services provided to EnalaPed. This fact was disclosed in the EnalaPed POCI application. Per the structure of the POCI program, Heartland BioVentures staff can approve a POCI Grant up to $75,000 based on uncontested notification of the Investment Committee. The notification is the submission of a formal written Investment Recommendation as is required for all other investment opportunities under consideration. The formal presentation and discussion of the Investment Recommendation by the Investment Committee or BOD is not required if no questions are raised by committee members. Therefore, EnalaPed was not brought before the Investment Committee or the BOD for discussion. BKD identified no evidence of Thornton's disclosure of his relationship with Mr. Beckloff at any stage of the consideration of the EnalaPed investment. Furthermore, it does not appear that disclosures were required under either K.S.A. 74-99b08(a) or KBA's Conflict of Interest and Documentation Policy as Thornton had no direct or indirect interest in Beckloff Associates and received no form of compensation from Mr. Beckloff.

Although Mr. Thornton had an existing relationship with Mr. Beckloff, the EnalaPed grant went through the standard KBA investment process for POCI Grants. BKD noted no evidence of any potentially inappropriate influence on Mr. Thornton's part with regard to the EnalaPed investment.

Please refer to the Relationship Appendix for a depiction of Mr. Beckloff's relationship map.

Theron Odlaug

Tom Thornton sat on the BOD of Advanced Life Sciences, Inc. with Theron Odlaug.
Mr. Odlaug is the CEO of CyDex, a company that received a $195,000 grant from KBA in 2009. BKD identified no evidence of Thornton's disclosure of his relationship with Mr. Odlaug at any stage of the consideration of the CyDex investment.
In responses to the Commerce Committee's concern regarding the lack of disclosure by Thornton of this relationship, KBA offered that Thornton's acquaintance with Mr. Odlaug did not constitute a substantial interest or conflict in that Mr. Thornton:[101]

- Did not own any legal or equitable interest in CyDex as evidenced by his annual Statements of Substantial Interest
- Did not receive compensation from CyDex or Mr. Odlaug
- Had not received, directly or indirectly, gifts or honoraria having an aggregate value of $500 or more from CyDex or Mr. Odlaug
- Did not hold the position of officer, director, associate, partner or proprietor of CyDex
- Had not received any fee or commission from CyDex or Mr. Odlaug

Although Mr. Thornton had an existing relationship with Mr. Odlaug, the CyDex grant went through the standard KBA investment process. BKD noted no evidence of any potentially inappropriate influence on Mr. Thornton's part with regard to the CyDex investment.

[101] Kansas Bioscience Authority Responses to Materials Distributed by the Senate Commerce Committee Hearing Date: Friday, April 1, 2011.

Tom Churchwell
Tom Thornton sat on the BOD of BioAngels with Tom Churchwell. Mr. Churchwell is the General Partner of Midwest Ventures, Inc., a venture capital fund that was originally awarded a $5 million investment under the Kansas Bioscience Growth Fund. However, Midwest Ventures was unable to raise the minimum required capital and the investment award by KBA was cancelled. Furthermore, it does not appear that disclosures were required under either K.S.A. 74-99b08(a) or KBA's Conflict of Interest and Documentation Policy as Thornton had no direct or indirect interest in Midwest Ventures and received no form of compensation from Mr. Churchwell. Although Mr. Thornton had an existing relationship with Mr. Churchwell, the fact that Midwest Ventures went through the review and approval process for Kansas Bioscience Growth Fund awards, as described later in this report, mitigates any potentially inappropriate influence on Mr. Thornton's part.

Allegations have been made that Midwest Ventures was not a venture capital company as it had no venture fund when KBA committed $5 million as an investment. Midwest Ventures was attempting to raise $100 million for Midwest Venture Fund I, LP when fundraising officially began in March 2009. The fund initially expected to hold a first close in November of 2009. At the time the $5 million commitment was made by KBA, Midwest Ventures had soft commitments for $28 million and anticipated they would ultimately be successful in raising the $100 million. However, given the difficult fundraising environment, after 12 months of fundraising, Midwest Ventures pulled the offering from the market. As Midwest Ventures was unsuccessful in raising its capital fund, it did not meet the requirements for KBA investment and KBA did not invest in Midwest Ventures.

Jeff Reene
Tom Thornton and Jeff Reene sat on the Board of the Enterprise Center of Johnson County. Mr. Reene is the COO of the KUCC. David Vranicar stated that although Mr. Reene attends Investment Committee and BOD meetings when an investment related to KUCC is being considered, he is not involved in the request for funding or application process. BKD identified no evidence of Thornton's disclosure of his relationship with Mr. Reene. Furthermore, it does not appear that disclosures were required under either K.S.A. 74-99b08(a) or KBA's Conflict of Interest and Documentation Policy as Thornton had no direct or indirect interest in KUCC and received no form of compensation from Mr. Reene. BKD noted no evidence of any potentially inappropriate influence on Mr. Thornton's part with regard to the KUCC investments.

Mr. Thornton's original Employment Agreement indicates that he shall have no ownership or investment in any entity to which KBA provides assistance or considers providing assistance; or with which he comes in contact through his employment with KBA. Mr. Thornton's most recent Statement of Substantial interest indicated that he had no ownership or investment in any relevant company. Mr. Thornton confirmed the same in his August 24, 2011 interview.

Please refer to the Relationship Appendix for a depiction of Mr. Thornton's relationship map.

<u>Tom Krol</u>
Tom Krol was employed by CyDex from 2001 through 2005. CyDex received a grant from KBA in 2009. Tom Krol was employed by KBA in January 2010 and listed former and current CyDex employees as references. Therefore, Tom Krol was not a KBA employee when the grant to CyDex was awarded. Mr. Krol is now the HBV counselor for CyDex. However, the fact that

any future milestone applications or grant applications will go through the standard review and approval processes mitigates any potentially inappropriate influence on Mr. Krol's part.

Please refer to the Relationship Appendix for a depiction of Mr. Krol's relationship map.

Tony Simpson

Tony Simpson reported to a current member of ICM's management team while both were employed by a previous employer. In addition, Mr. Simpson listed that individual and another current member of ICM's management team as references. ICM received grant awards from KBA on October 28, 2008 and January 27, 2009. Mr. Simpson was not employed by KBA until October 2009. Therefore, Mr. Simpson was not a KBA employee when the grants to ICM were awarded. Mr. Simpson is now the HBV counselor for ICM. However, the fact that any future milestone applications or grant applications will go through the standard review and approval processes mitigates any potentially inappropriate influence on Mr. Simpson's part.

Please refer to the Relationship Appendix for a depiction of Mr. Simpson's relationship map.

Relationship maps for other KBA staff and BOD members are presented in the Relationship Appendix.

Recommendation:

KBA's Conflict of Interest and Documentation Policy defines Interested Persons as "all Officials of the Authority and spouses, any children of any age and any persons residing in the residence of such Officials." The term "Officials" is defined as "all directors and officers of the Authority and any other person to whom power has been delegated by the Board of Directors of the Authority." However, in an industry sector as narrow as bioscience companies in the state of Kansas, the BOD should consider the need to manage the perception of conflicts of interest based on previous associations between KBA and its employees and BOD, and those of the bioscience companies and vendors.

In doing so, the BOD would need to broaden the Conflict of Interest and Documentation Policy to address the appropriate disclosure of all existing relationships (prior employment/co-workers, common board or committee membership, personal/social relationships) between KBA's employees and BOD members and the employees, owners, directorate and advisors of any company seeking to transact business with or seeking assistance from KBA.

Furthermore, it is recommended that any BOD member having any financial interest in a client company or an employment relationship within their immediate family should recuse themselves and, in addition, physically remove themselves from any and all discussion and authorization of that project.

Additionally, it is recommended that all Investment Recommendations sent to the Investment Committee contain a discussion regarding all known potential relationships between KBA employees and BOD members and the company requesting funding. This analysis should include relationships disclosed in the conflict of interest disclosure process. Consideration should also be given to the disclosure of relationships that do not trigger a formal disclosure under the Conflict of Interest Policy. If no relationships exist, that should be noted as well.

KBA's Response:
KBA management will discuss with the Board BKD's recommendations to further strengthen the specifics of the Conflict of Interest and Documentation Policy.

APPROPRIATENESS OF GRANTS TO ORGANIZATIONS WITH FINANCIAL TIES TO BOD

From inception through the present, KBA has at times made grants to companies with financial ties to BOD members. Whether or not those grants are appropriate under the statute creating KBA, KEGA, is now being called into question by members of the Legislature.

To date, KBA has made grants to two organizations associated with BOD members, NanoScale and KansasBio.

Director Bill Sanford is the COB and 14% owner of NanoScale, a bioscience company that has received four grants totaling $674,996 from KBA. BKD's review of the Investment Committee and BOD minutes, as well as interviews with current and former KBA BOD members, indicate that Mr. Sanford recused himself from all discussions and votes on NanoScale grants.

Former Director Angela Kreps is the President of KansasBio, the bioscience trade organization for Kansas that has received funds from KBA. KBA pays an annual membership due of $5,000 and has provided financial support to KansasBio to partially underwrite and participate in annual BIO conventions from 2006 through the present. Payments made for the BIO conventions totaled $100,000 for 2006, $75,000 for 2007, $100,000 for 2008 and $100,000 for 2009. Beginning in 2010, KBA did not contribute funds to KansasBio for the event, but paid for specific goods and services related to BIO 2010 and BIO 2011.

Ms. Kreps did not become a BOD member until June 8, 2007, subsequent to the approval for the BIO 2006 and BIO 2007 conventions. The payments for the BIO 2008 and BIO 2009 conventions were approved as part of the AOPs for FY2008 and FY2009 respectively. However, BKD identified no recusal by Ms. Kreps with regard to the approval of the sponsorships of the BIO conventions in those plans. Therefore, Ms. Kreps may have been in technical violation of KBA's Conflict of Interest and Documentation Policy.[102] Ms. Kreps chose not to stand for reappointment to the KBA Board when her term expired early this year and is no longer a KBA director.

Some members of the Legislature are questioning whether these grants/investments are appropriate under KEGA. A portion of K.S.A. 74-99b04 states, "No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or members of the board, except that the authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the authority shall be authorized and empowered

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[102] Ms. Kreps' position as President of KansasBio had been disclosed to KBA's BOD and was well known by the KBA BOD members. The FY2008 AOP lists a specific line item of $100,000 for BIO 2008. The FY2009 AOP indicates that as part of its marketing and communications strategy, "KBA will continue to tell the Kansas success story at the world's largest biotechnology industry event, the BIO International Convention, by providing financial support and by helping with the planning of the Kansas presentation." No specific dollar amount was specified in the FY2009 AOP for BIO 2009.

to pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes, including to pay its employees reasonable compensation."

However, KBA management and BOD believe that the grants are allowable under K.S.A. 74-99b08 which states, "Any member of the board and any employee, other agent or advisor of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority in writing. This interest shall be set forth in the minutes of the authority, and no director, officer, employee, other agent or advisor having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that, the provisions of this section shall not be construed to prohibit any employee of bioscience research institutions, or any public institute or private enterprise engaged in the business of bioscience who is a member of the board, who has no personal interest, from voting on the authorization of any such contract or transaction between the authority and such employee's employer."

If the provisions of K.S.A. 74-99b08 are deemed to apply, it would appear that the action taken by KBA with respect to NanoScale meets the statutory standard. However, regardless of whether the standard required is met, the BOD should consider issues pointing to the appearance of impropriety with respect to all investment decisions.

KBA's Response:
KBA management believes KBA's investment in NanoScale and KBA's support for the state's bioscience industry association, KansasBio, for its activities related to Kansas' participation at annual National BIO expositions, are appropriate uses of KBA funds.

KANSASBIO

The Kansas Bioscience Organization ("KansasBio"), is a state-wide trade association founded by KTEC[103] and KCALSI in July 2004. KansasBio serves to educate, advocate and connect public, private and academic partners within the bioscience industry. The mission of KansasBio is to encourage and enable the successful attraction, creation, commercialization and growth of bioscience technologies, products and services in Kansas. KansasBio is a state affiliate to the Biotechnology Industry Organization ("BIO").

One of KansasBio's primary goals is to engage bioscience industry participants in collaborative industry development activities. KansasBio's three primary initiatives are to: 1) develop attractive benefits for members, 2) grow its membership, and 3) organize events that create awareness and interest in the biosciences in Kansas. KansasBio's efforts were expected to complement and support the strategies and action plans developed by KBA. KansasBio's membership was expected to comprise some of the most important "customers" and "partners" of KBA as it seeks to grow the bioscience industry in Kansas.[104]

KansasBio is funded by annual membership dues, sponsorship donations, event and sales proceeds and grant revenue. KansasBio has grown to be one of the larger state BIO affiliates with more than 150 members who are bioscience companies, research organizations, non-profits, institutions, investors and other stakeholders within the bioscience community. KBA has been a

[103] In 2005, KTEC provided "essential administrative support" to KansasBio.
[104] KTEC operations update to KBA, April 7, 2005.

member of KansasBio since 2006. Membership benefits include participation in the BIO Business Solutions program and other value-added programs, educational resources, networking opportunities and awareness building for the industry as a whole, such as the annual participation in the national BIO convention.

At the January 5, 2006 BOD meeting, Angela Kreps[105] asked the board for $100,000 to support KansasBio's participation in BIO 2006, to be held in Chicago. After a discussion of the significant investment being requested and the perceived significant benefit of attendance, the contribution was approved.[106] Since 2006, KBA has been a significant financial supporter of KansasBio through its support and contributions to the annual BIO conventions. KBA provided support of $100,000 for BIO 2006, $75,000 for BIO 2007, $100,000 for BIO 2008 and $100,000 for BIO 2009. Commencing with BIO 2010, KBA made the decision to financially support the BIO convention through payments for specific goods or services for the Kansas booth at the convention rather than through a contribution to KansasBio. Direct payments for the benefit of vendors in the amount of $61,700 were made for BIO 2010 and $42,000 for BIO 2011.

As previously discussed in the Appropriateness of Grants to Organizations with Financial Ties to BOD section of this report, Ms. Kreps was not a member of KBA's BOD when the BIO 2006 and BIO 2007 sponsorships were approved. However, the BIO 2008 and BIO 2009 sponsorships were addressed in the AOPs for those fiscal years, and it appears that Kreps voted affirmatively for those AOPs with no mention of the fact that funds were designated in those AOPs for payment to KansasBio in support of the annual BIO conventions. This may have been a technical violation of K.S.A. 74099b08(a) and KBA's Conflict of Interest and Documentation Policy as Ms. Kreps received compensation from KansasBio as its President.[107] Ms. Kreps chose not to stand for reappointment to KBA's BOD when her term expired earlier this year and is no longer a KBA BOD member.

A review of KansasBio's 990 reports for 2006 through 2009 (the latest year available on the Internet) indicates that KBA's support of KansasBio through its membership fees and BIO convention sponsorships was substantial. KBA paid annual membership dues of $5,000, which was a minor percentage of operating expenses, inclusive of personnel salary and benefits. However, KBA's sponsorship of the annual BIO conventions for 2006 through 2009 was significant. KBA management indicates that the organization benefited from its sponsorship participation given the level of visibility that was afforded KBA and the networking opportunities that resulted.

The December 2008 Kansas, Inc. evaluation of KBA noted the following with regard to conflicts of interest: "A state the size of Kansas, within a field as narrow as bioscience, does make it hard to maintain a balance between qualified board members who have no potential conflict with any KBA project. One example cited in numerous interviews is the funding that KBA has provided

[105] This request pre-dated Ms. Kreps becoming a KBA director.
[106] January 5, 2006 KBA Board minutes.
[107] Ms. Kreps' position as President of KansasBio had been disclosed to KBA's BOD and was well known by the KBA BOD members. The FY2008 AOP lists a specific line item of $100,000 for BIO 2008. The FY2009 AOP indicates that as part of its marketing and communications strategy, "KBA will continue to tell the Kansas success story at the world's largest biotechnology industry event, the BIO International Convention, by providing financial support and by helping with the planning of the Kansas presentation." No specific dollar amount was specified in the FY2009 AOP for BIO 2009.

to KansasBio. Critics view this as an example of a conflict of interest, but another viewpoint is that KBA is leveraging the existing assets in the state to further its mission. KBA would also be criticized if it duplicated the activities of KansasBio in order to avoid a potential conflict with a member of the board."

Angela Kreps, President of KansasBio, was appointed to the BOD in June 2007 to replace Clay Blair. During her tenure on the BOD, Ms. Kreps frequently noted her association with various client companies seeking funding from KBA given her responsibilities with KansasBio. However, she indicated that neither she nor KansasBio had a financial interest in any client company. Therefore, she participated in the discussion of and voting on the relevant Investment Recommendations. Ms. Kreps voluntarily did not seek reappointment when her term expired in March 2011.

A high percentage of client companies receiving grants or investments from KBA are KansasBio members. However, interviews with current and former KBA management and BOD indicate that there is no requirement or recommendation that a client company be a member of KansasBio in order to receive funding or services from KBA. Several Investment Committee members indicated that the issue of KansasBio memberships was never discussed with regard to any client company when considering a recommendation for approval to the BOD.

David Vranicar, Interim President/CEO of KBA became a board member of KansasBio in March 2011.

In summary, the missions of KansasBio and KBA are closely aligned in that KansasBio is the trade association for bioscience companies in the state of Kansas and KBA provides funding to that same sector. Both organizations have as a goal growing bioscience companies in Kansas. Therefore, it is natural that the president of KansasBio will have relationships with many of the client companies seeking funding from KBA. However, these relationships can result in the perception of a conflict of interest if the president of KansasBio is serving on the BOD of KBA and voting on investment opportunities. Therefore, the appointing authorities to KBA's BOD should consider the appearance of this conflict when considering future appointments that may link KansasBio and KBA too closely.

Please refer to ***Exhibits 56 and 57*** for a listing of companies receiving funding that are members of KansasBio and a listing of companies receiving funding that are not members of KansasBio, respectively.

KBA's Response:
KBA management notes that this recommendation is made to the persons in the executive and legislative branches of the Kansas government who appoint members to the KBA Board of Directors.

OUTCOME VERIFICATION

Through June 2011, KBA states investments have helped generate 1,347 new jobs; $278.5 million in capital expenditures; $104.9 million in new research funding and $78.9 million in equity investments. This information was supplied by KBA. KBA has taken some steps to verify this information. For example, although KBA relies on the client company CFO to certify these Outcomes, to some extent, KBA now requires substantiating information such as financial statements, capital charts and payroll. In addition, in FY2010, KBA began a client company audit process through which client companies' Outcomes are periodically validated. The client companies are chosen subjectively based on the review of information received during the year and any resulting questions or concerns. To date, nine projects have been audited. The accounting firm Mize Houser & Company performed Agreed Upon Procedures for the following grants during FY2010.

- Edenspace – for the annual reporting period ended June 30, 2008
- Eminent Scholar Wooley – WSU – for the annual reporting period ended June 30, 2009
- Eminent Scholar Peterson – KU – for the annual reporting period ended June 30, 2009
- Eminent Scholar Richt – KSU – for the annual reporting period ended June 30, 2009

No adjustments were made to reported Outcomes for those investments.

Ryan White, KBA's Outcomes & Database Analyst, has taken over the audit process and performed audits on the following grants during FY2010.

- Remel Expansion – jobs decreased by 17 due to misunderstanding the reported amount in the Post-Award Report
- ANOxA – this audit is still in process and KBA is questioning the number of jobs in Kansas and the research dollars generated
- Nowa Technology – jobs decreased by three as Nowa reported some part-time jobs as full-time jobs
- BRI Training – no adjustments
- KU Breidenthal – jobs decreased by one

KBA intends to audit five to eight projects each year going forward. However, the historical process of collecting Outcome data based on company submissions without the requirement of supporting documentation or independent verification calls the veracity of the currently reported information into question.

Although BKD discussed these procedures with Ryan White, a comprehensive independent verification of this information was outside of the scope of the Forensic Audit.

Recommendation:
Outcome verification can take a number of different forms depending upon the nature and level of the assurance that is sought by virtue of the verification process.

With respect to past results and Outcomes that have been reported, management should take into account the costs of additional verification in assessing whether this is an appropriate expenditure of funds. BKD has previously communicated that such verification of past results would likely require independent auditing of organizations outside KBA in order to achieve a high level of independent assurance with respect to the reported Outcomes. There is a significant level of expense and time associated with such a verification process.

With respect to reporting on future Outcomes, the BOD should hire an independent third party to verify such Outcomes. This verification should include a definition of all metrics used and should define what is considered to be acceptable supporting documentation. The BOD should seek input from various stakeholders in evaluating this process and the verification options that are available. BKD can assist in identifying some of the verification techniques and methodologies that are available.

Independent verification of both past and future Outcomes can take a number of different forms ranging from simple independent math check to 100% coverage of the entities reporting Outcome results to KBA.

KBA's Response:
KBA management will discuss with the Board the possibility of engaging a qualified third party to review the Outcomes methodology and make recommendations for any revision of metrics, definitions, documentation, and audit procedures. Management is determined that the data collected and procedures for reporting Outcomes be completely accurate and reliable.

INVESTMENT MONITORING AND TRACKING

During the course of the Forensic Audit, it was noted that newly received information from or regarding a client company may be loaded into Biztrakker without the HBV staff responsible for that client company being made aware of the new information. The concern is the timely review of information to allow KBA to appropriately take any necessary action.

Recommendation:
Management should consider instituting a practice whereby HBV staff are notified when new information is added to Biztrakker regarding any client company for which they are responsible. Management may investigate if the functionality of Biztrakker can be amended to cause it to automatically send an email to the appropriate HBV staff alerting them of the presence of new information.

KBA's Response:
KBA management will consider possible software or process revisions to address the concern identified by BKD.

KBA HEARTLAND BIOVENTURES DEAL FLOW MEETINGS

HBV staff attend weekly deal flow meetings. The purpose of these meetings is to internally vet the investment opportunities and to access the collective experience of the HBV staff in connection with the opportunities. Reportedly Tom Thornton did not often participate in the weekly deal flow meetings. However, allegations have been made that it is at this stage that some investments are inappropriately denied appropriate consideration. No minutes of these meetings are maintained to document how often they are held, who is in attendance and what is discussed.

Recommendation:
The BOD should consider requiring that minutes of deal flow meetings be maintained. In addition, the BOD should consider requiring the maintenance of agendas of the meetings, attendance at the meetings and written documentation of why an investment opportunity was not recommended for advancement to the Investment Committee.

KBA's Response:
KBA management will review these recommendations and change practices if appropriate.

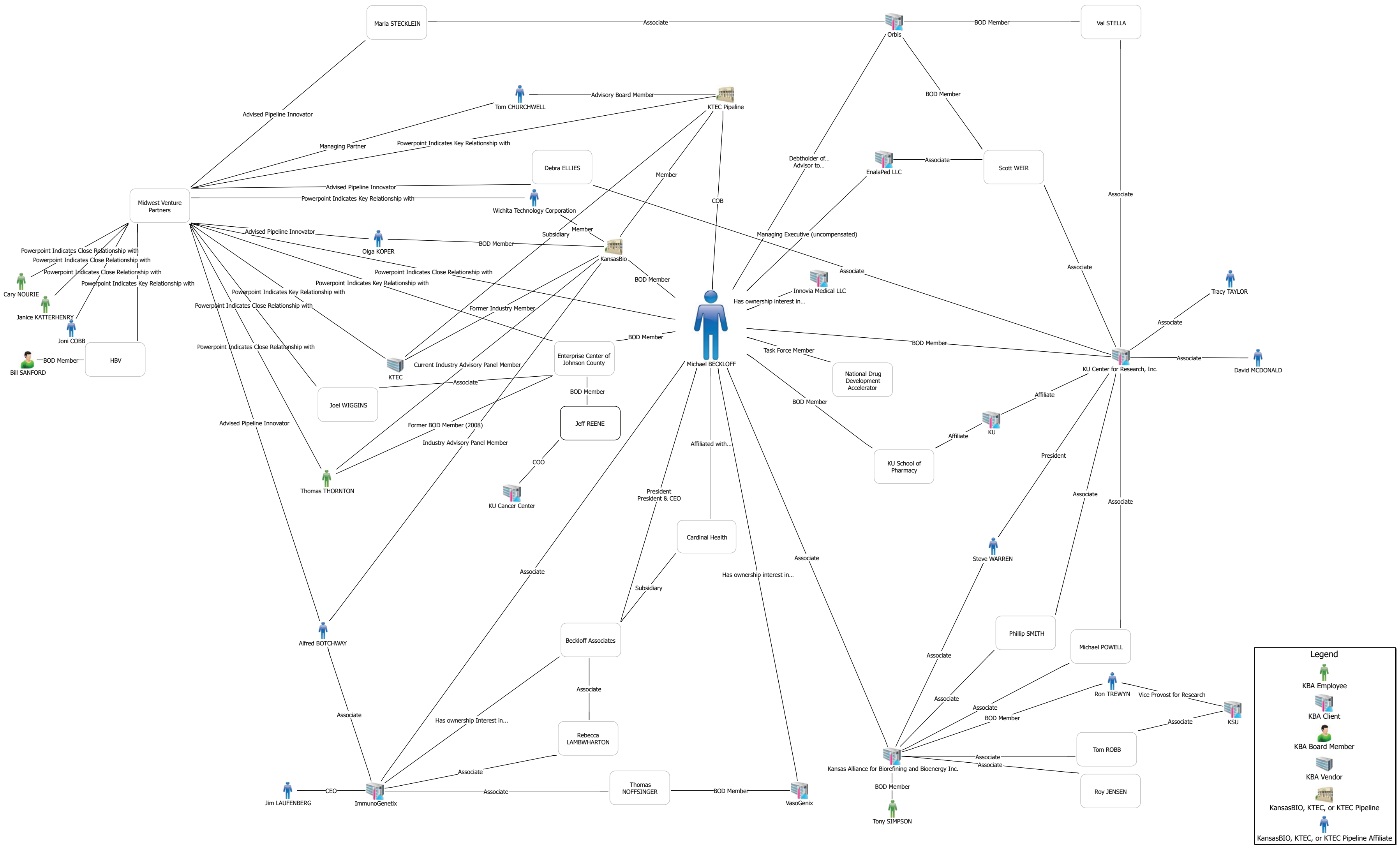
HEARTLAND BIOVENTURES ADVISORY BOARD

The HBV Advisory Board is listed on KBA's website as comprising of Advisory Chairman Bill Sanford; John Brooks, III – President and Managing Director of Medical Capital Group; Tim Cesarek – Managing Director of Organic Growth and Corporate Venturing of Waste Management, Inc.; Steven St. Peter – Managing Director of MPM Capital; Thomas Wiggans – Chairman/CEO of Peplin and Baiju Shah – President/CEO of BioEnterprise. Please see ***Exhibit 58***. However, in an interview with Mr. Sanford, he indicated that the Advisory Board was disbanded approximately 12 to 18 months ago. Mr. Shah, Dr. St. Peter and Mr. Cesarek verified that the HBV Advisory Board was short-lived. Furthermore, in a November 20, 2009 letter from Thornton to Mr. Wiggans, Thornton informed Mr. Wiggans that his status as a political candidate precluded his continued involvement on HBV's Advisory Board. David Vranicar indicated that to his knowledge the HBV Advisory Board had not formally been disbanded, but agreed that it no longer is a functioning entity.

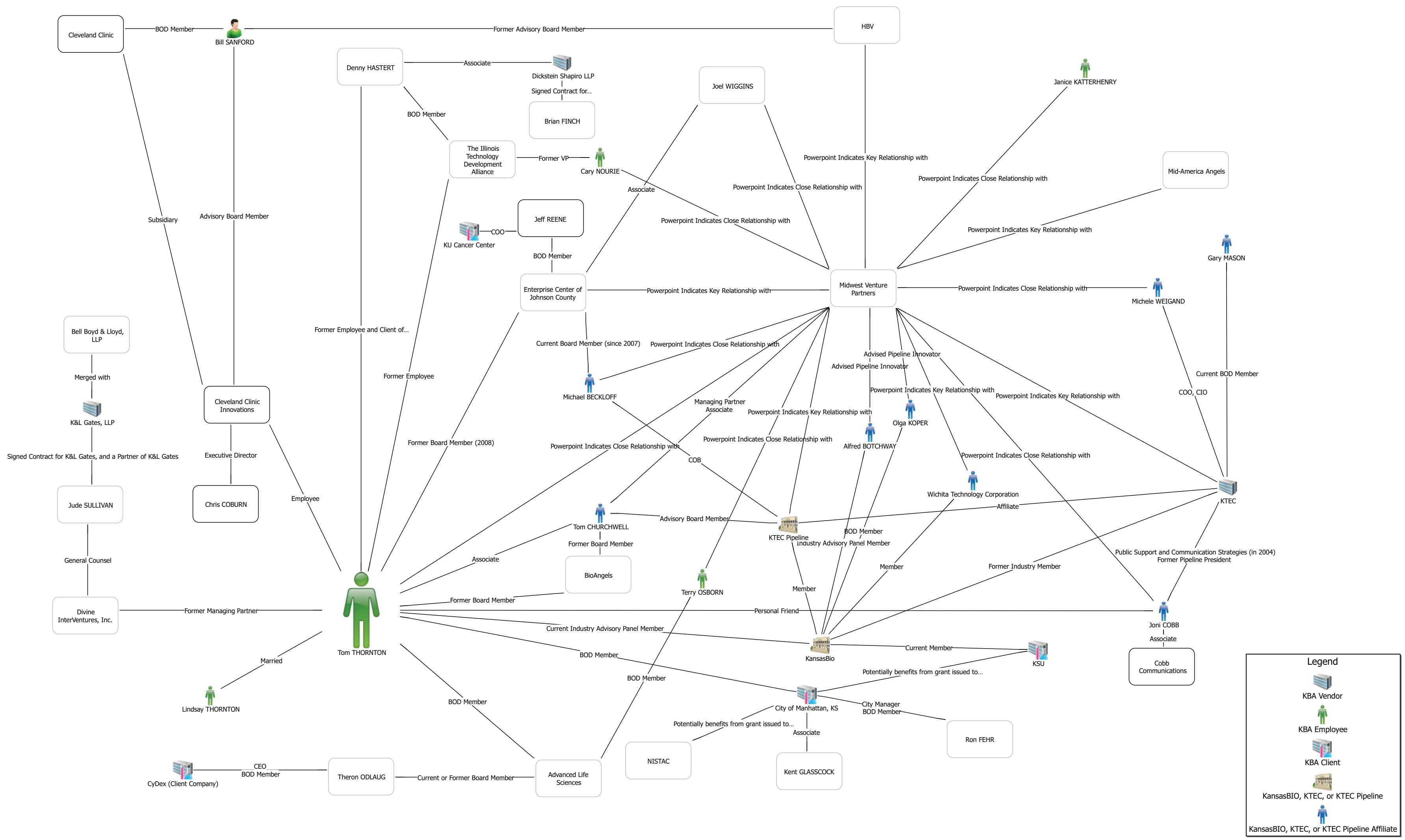
Recommendation:
The listing of the HBV Advisory Board on KBA's website is misleading. It could imply that HBV has access to expertise and a level of oversight that in reality is not available. The webpage should be taken down.

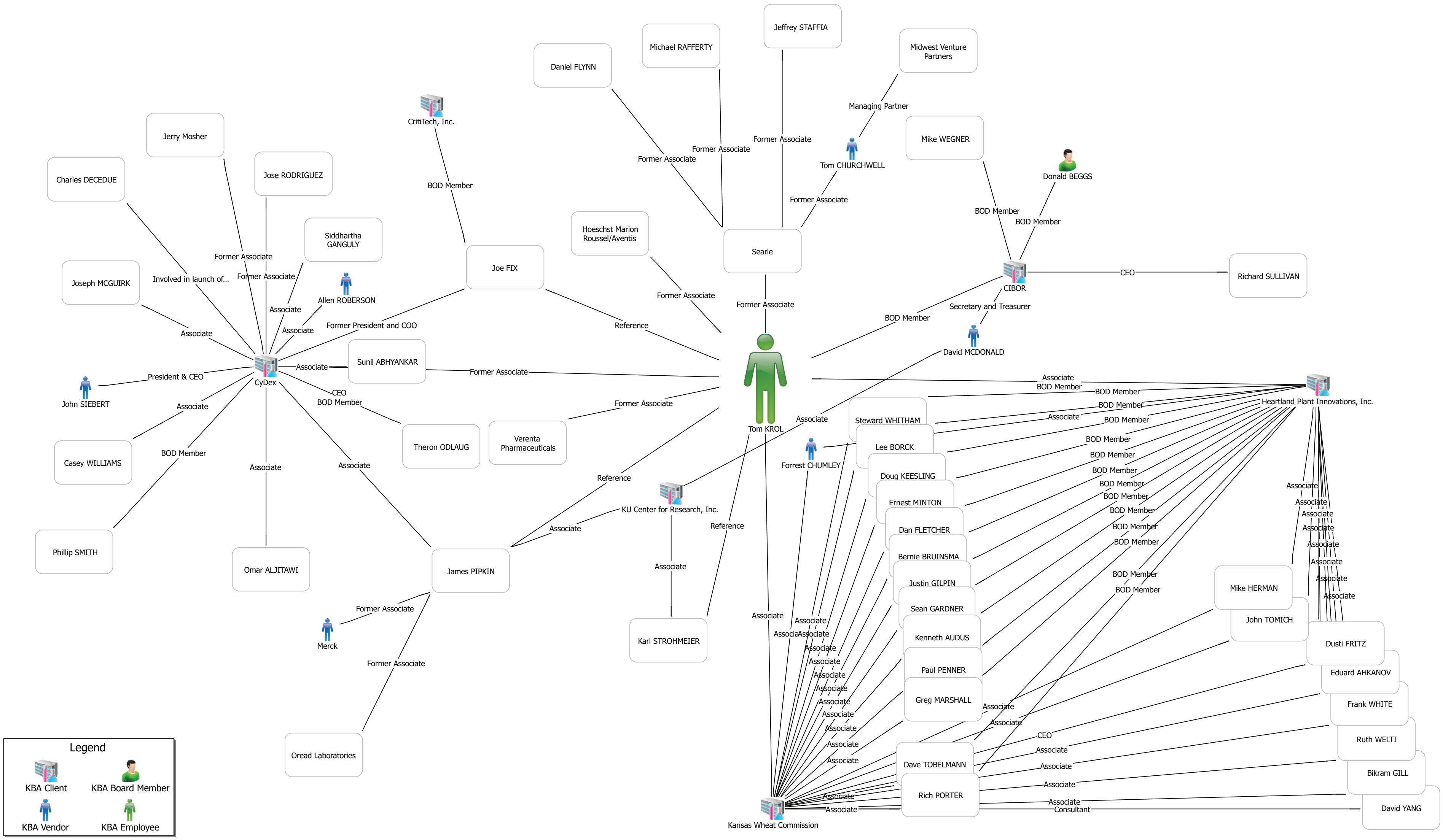
KBA's Response:
The listing of the HBV Advisory Board has been removed from KBA's website.

RELATIONSHIP APPENDIX

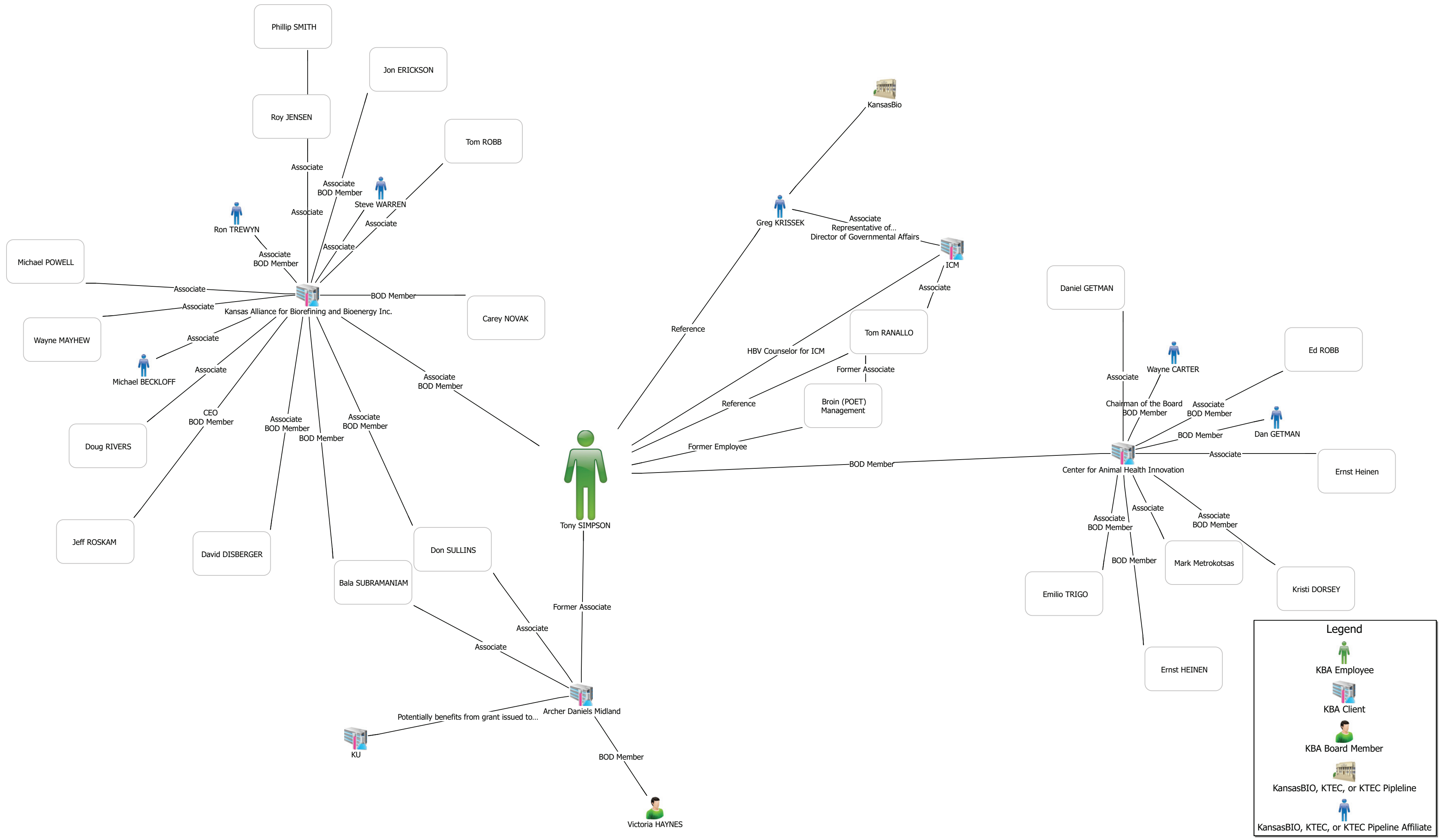


Maria STECKLEIN
Associate
Orbis
BOD Member
Val STELLA
Tom CHURCHWELL
Advisory Board Member
KTEC Pipeline
Advised Pipeline Innovator
Managing Partner
Powerpoint Indicates Key Relationship with
BOD Member
Debtholder of...
Advisor to...
EnalaPed LLC
Associate
Scott WEIR
Debra ELLIES
Member
COB
Associate
Midwest Venture Partners
Advised Pipeline Innovator
Powerpoint Indicates Key Relationship with
Wichita Technology Corporation
Subsidiary
Member
Managing Executive (uncompensated)
Advised Pipeline Innovator
Olga KOPER
BOD Member
KansasBio
Associate
Associate
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
BOD Member
Innovia Medical LLC
Tracy TAYLOR
Cary NOURIE
Powerpoint Indicates Key Relationship with
Has ownership interest in...
Associate
Janice KATTERHENRY
Powerpoint Indicates Close Relationship with
Former Industry Member
Joni COBB
BOD Member
BOD Member
Bill SANFORD
BOD Member
HBV
Powerpoint Indicates Close Relationship with
Enterprise Center of Johnson County
Michael BECKLOFF
Task Force Member
KU Center for Research, Inc.
Associate
David MCDONALD
KTEC
Current Industry Advisory Panel Member
National Drug Development Accelerator
Associate
BOD Member
Affiliate
Joel WIGGINS
BOD Member
KU
Jeff REENE
Affiliate
Advised Pipeline Innovator
Former BOD Member (2008)
Affiliated with...
Industry Advisory Panel Member
KU School of Pharmacy
President
COO
Thomas THORNTON
KU Cancer Center
President
President & CEO
Associate
Associate
Cardinal Health
Associate
Associate
Associate
Steve WARREN
Has ownership interest in...
Subsidiary
Alfred BOTCHWAY
Beckloff Associates
Phillip SMITH
Associate
Michael POWELL
Associate
Associate
Associate
Ron TREWYN
Vice Provost for Research
Associate
Has ownership interest in...
BOD Member
KSU
Associate
Rebecca LAMBWHARTON
Associate
Tom ROBB
Associate
Associate
Kansas Alliance for Biorefining and Bioenergy Inc.
Jim LAUFENBERG
CEO
ImmunoGenetix
Associate
Thomas NOFFSINGER
BOD Member
VasoGenix
BOD Member
Roy JENSEN
Tony SIMPSON
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

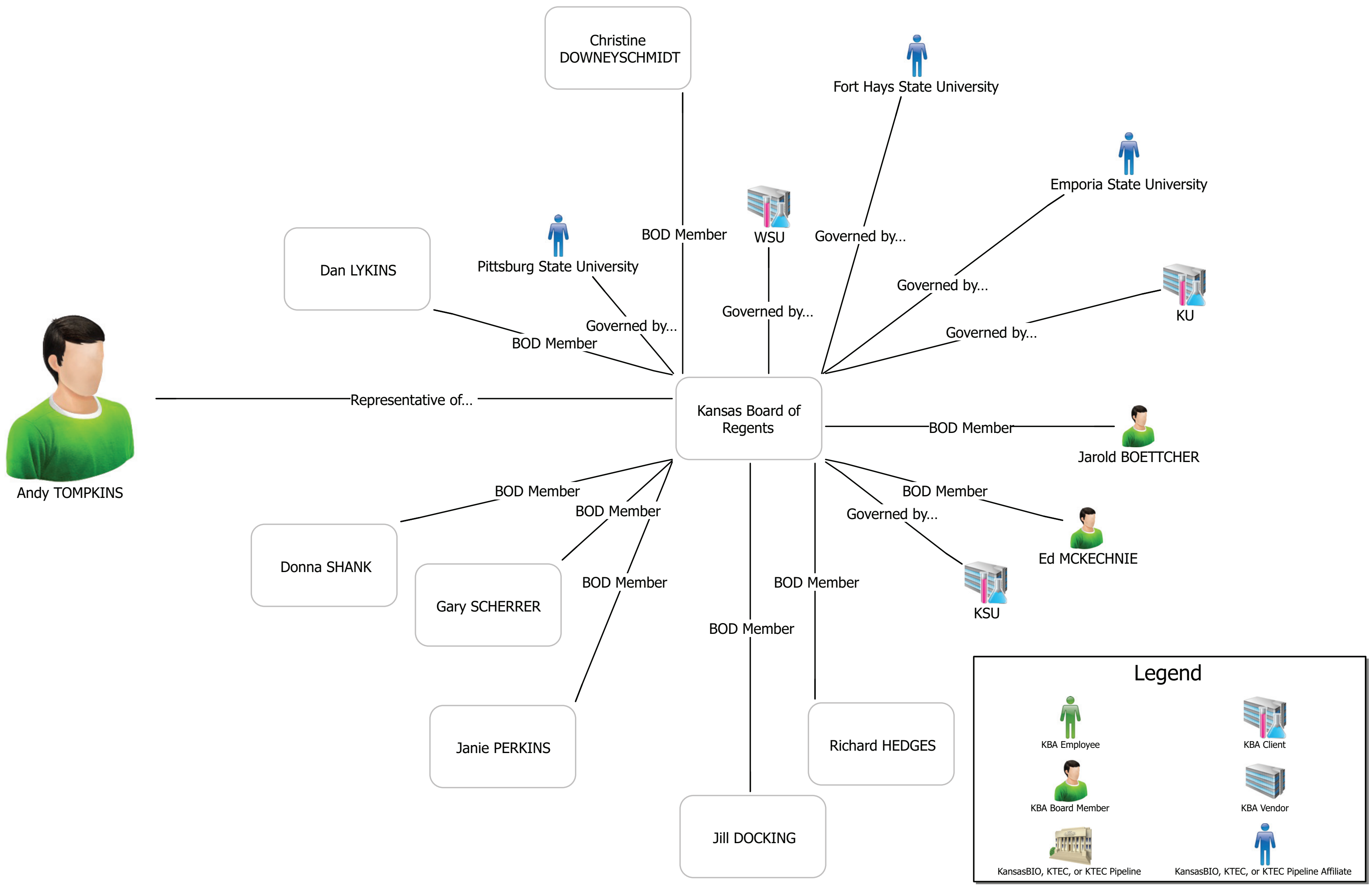

Cleveland Clinic
BOD Member
Bill SANFORD
Former Advisory Board Member
HBV
Denny HASTERT
Associate
Dickstein Shapiro LLP
Signed Contract for...
Brian FINCH
Joel WIGGINS
Janice KATTERHENRY
BOD Member
The Illinois Technology Development Alliance
Former VP
Cary NOURIE
Associate
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Mid-America Angels
Subsidiary
Advisory Board Member
Jeff REENE
COO
KU Cancer Center
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
BOD Member
Gary MASON
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Midwest Venture Partners
Powerpoint Indicates Close Relationship with
Michele WEIGAND
Former Employee and Client of...
Bell Boyd & Lloyd, LLP
Current Board Member (since 2007)
Powerpoint Indicates Close Relationship with
Advised Pipeline Innovator
Advised Pipeline Innovator
Former Employee
Merged with
Michael BECKLOFF
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Current BOD Member
COO, CIO
Cleveland Clinic Innovations
Managing Partner
Associate
Powerpoint Indicates Key Relationship with
Olga KOPER
K&L Gates, LLP
Former Board Member (2008)
Powerpoint Indicates Close Relationship with
Alfred BOTCHWAY
Powerpoint Indicates Close Relationship with
Signed Contract for K&L Gates, and a Partner of K&L Gates
Executive Director
COB
Powerpoint Indicates Close Relationship with
KTEC
Jude SULLIVAN
Chris COBURN
Employee
Wichita Technology Corporation
Tom CHURCHWELL
Advisory Board Member
Affiliate
KTEC Pipeline
BOD Member
Former Board Member
Industry Advisory Panel Member
General Counsel
BioAngels
Associate
Member
Former Industry Member
Public Support and Communication Strategies (in 2004)
Former Pipeline President
Terry OSBORN
Member
Divine InterVentures, Inc.
Former Managing Partner
Former Board Member
Personal Friend
Joni COBB
Tom THORNTON
Current Industry Advisory Panel Member
Associate
KansasBio
Current Member
KSU
Cobb Communications
Married
BOD Member
Potentially benefits from grant issued to...
Lindsay THORNTON
BOD Member
BOD Member
City of Manhattan, KS
City Manager
BOD Member
Potentially benefits from grant issued to...
Ron FEHR
Associate
NISTAC
CEO
BOD Member
Kent GLASSCOCK
CyDex (Client Company)
Theron ODLAUG
Current or Former Board Member
Advanced Life Sciences
Legend
KBA Vendor
KBA Employee
KBA Client
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



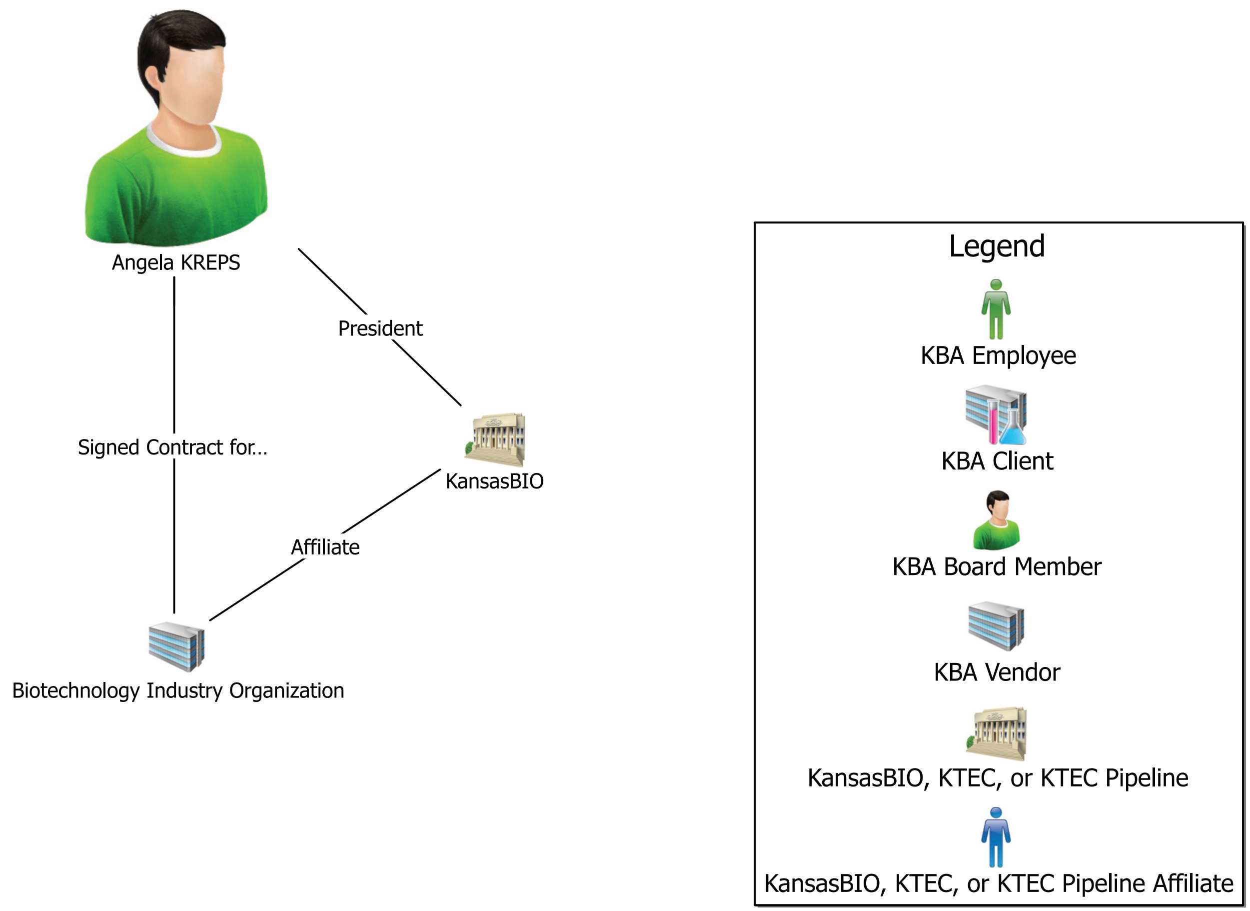
Tom KROL
CyDex
CritiTech, Inc.
Searle
CIBOR
Heartland Plant Innovations, Inc.
KU Center for Research, Inc.
Kansas Wheat Commission
Charles DECEDUE
Jerry Mosher
Jose RODRIGUEZ
Siddhartha GANGULY
Allen ROBERSON
Joseph MCGUIRK
John SIEBERT
Casey WILLIAMS
Phillip SMITH
Omar ALJITAWI
Sunil ABHYANKAR
Theron ODLAUG
Verenta Pharmaceuticals
Joe FIX
James PIPKIN
Merck
Oread Laboratories
Daniel FLYNN
Michael RAFFERTY
Jeffrey STAFFIA
Midwest Venture Partners
Tom CHURCHWELL
Hoeschst Marion Roussel/Aventis
Mike WEGNER
Donald BEGGS
Richard SULLIVAN
David MCDONALD
Forrest CHUMLEY
Karl STROHMEIER
Steward WHITHAM
Lee BORCK
Doug KEESLING
Ernest MINTON
Dan FLETCHER
Bernie BRUINSMA
Justin GILPIN
Sean GARDNER
Kenneth AUDUS
Paul PENNER
Greg MARSHALL
Dave TOBELMANN
Rich PORTER
Mike HERMAN
John TOMICH
Dusti FRITZ
Eduard AHKANOV
Frank WHITE
Ruth WELTI
Bikram GILL
David YANG
Involved in launch of...
Former Associate
Associate
President & CEO
CEO
BOD Member
Former President and COO
Reference
Managing Partner
Secretary and Treasurer
Consultant
Legend
KBA Client
KBA Board Member
KBA Vendor
KBA Employee

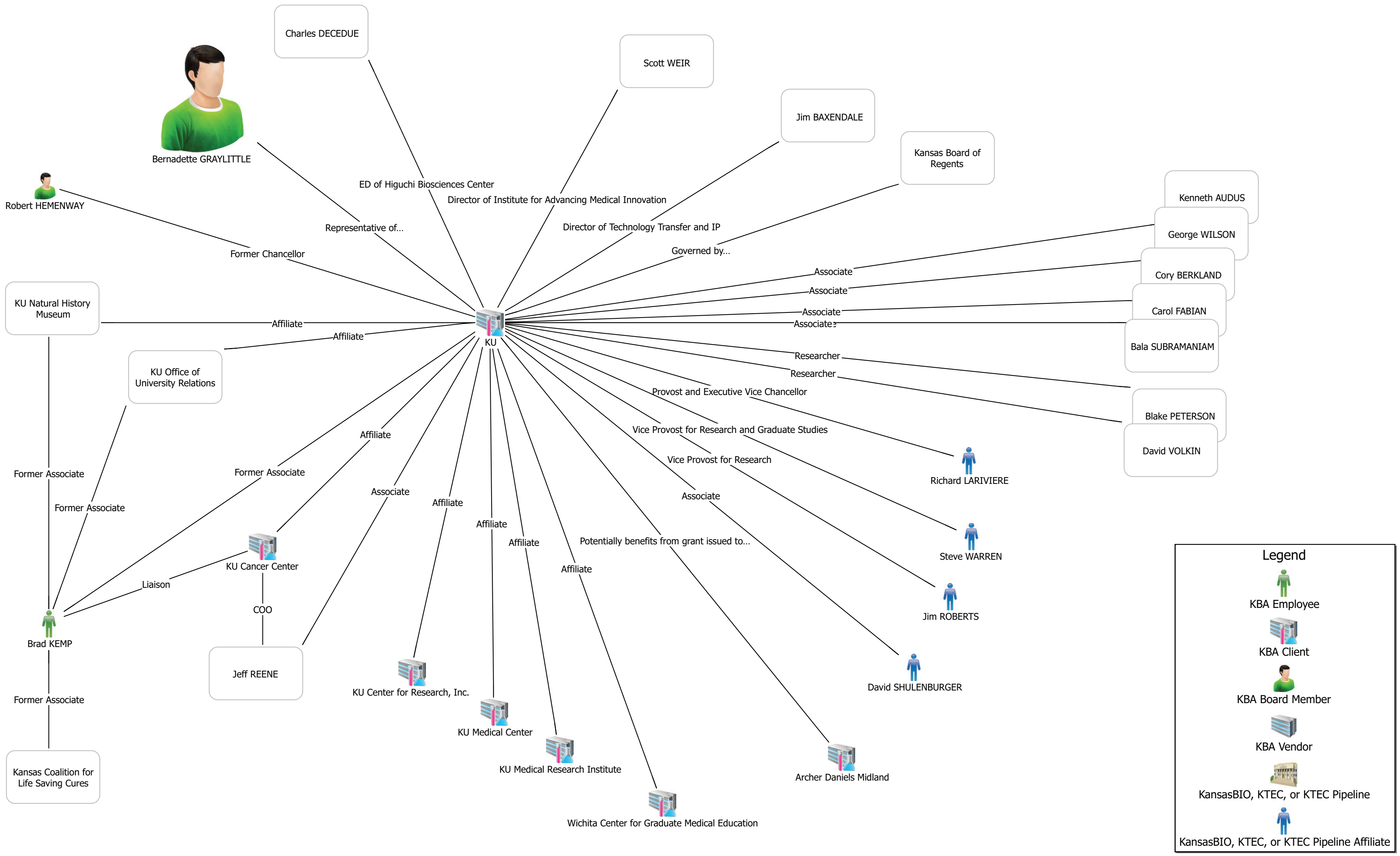


Phillip SMITH
Jon ERICKSON
Roy JENSEN
Tom ROBB
Associate
Associate
BOD Member
Steve WARREN
Associate
Ron TREWYN
Associate
Associate
Associate
BOD Member
Michael POWELL
Associate
BOD Member
Carey NOVAK
Associate
Kansas Alliance for Biorefining and Bioenergy Inc.
Wayne MAYHEW
Associate
Michael BECKLOFF
Associate
Associate
BOD Member
Doug RIVERS
CEO
BOD Member
Associate
BOD Member
BOD Member
Associate
BOD Member
Jeff ROSKAM
David DISBERGER
Bala SUBRAMANIAM
Don SULLINS
Tony SIMPSON
Former Associate
Associate
Associate
Archer Daniels Midland
Potentially benefits from grant issued to...
KU
BOD Member
Victoria HAYNES
KansasBio
Greg KRISSEK
Associate
Representative of...
Director of Governmental Affairs
ICM
Associate
Reference
HBV Counselor for ICM
Tom RANALLO
Former Associate
Reference
Broin (POET)
Management
Former Employee
BOD Member
Daniel GETMAN
Associate
Wayne CARTER
Ed ROBB
Chairman of the Board
BOD Member
Associate
BOD Member
Dan GETMAN
BOD Member
Associate
Ernst Heinen
Center for Animal Health Innovation
Associate
Associate
BOD Member
Associate
BOD Member
BOD Member
Mark Metrokotsas
Kristi DORSEY
Emilio TRIGO
Ernst HEINEN
Legend
KBA Employee
KBA Client
KBA Board Member
KansasBIO, KTEC, or KTEC Pipleline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

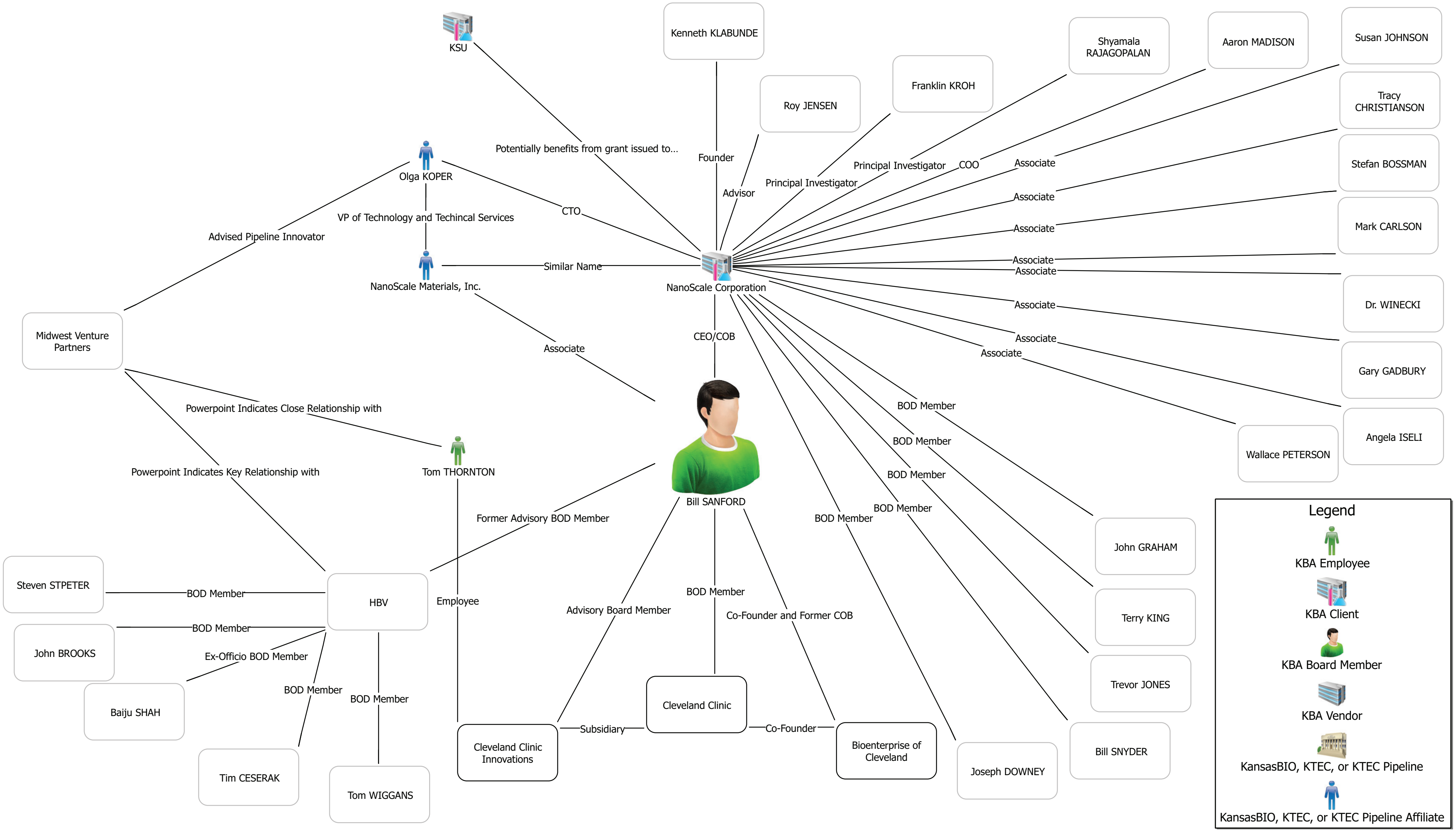


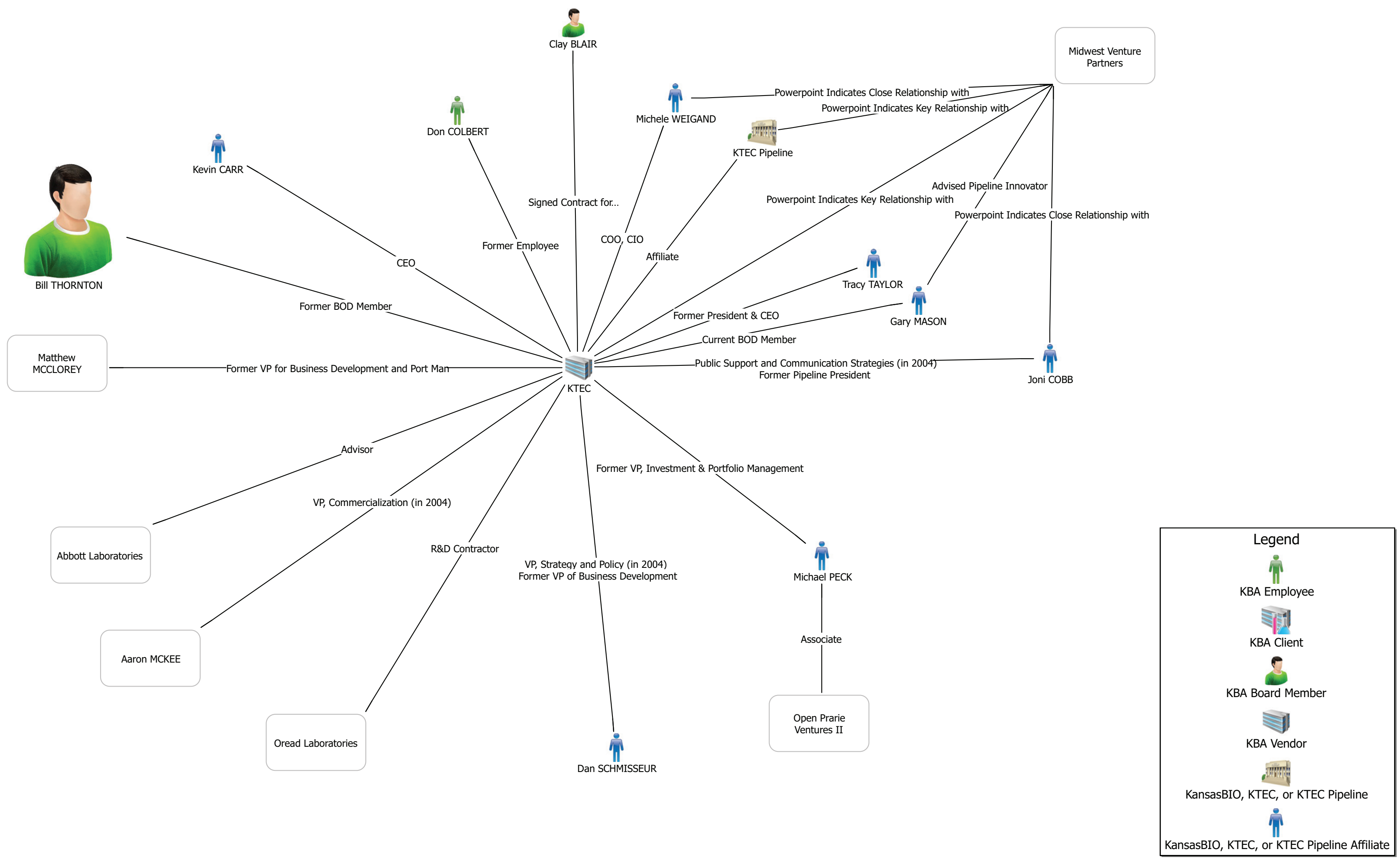
Christine DOWNEYSCHMIDT
Fort Hays State University
Emporia State University
Dan LYKINS
Pittsburg State University
BOD Member
WSU
Governed by...
Governed by...
Governed by...
KU
Governed by...
Governed by...
BOD Member
Governed by...
Andy TOMPKINS
Representative of...
Kansas Board of Regents
BOD Member
Jarold BOETTCHER
BOD Member
BOD Member
BOD Member
Governed by...
Ed MCKECHNIE
Donna SHANK
Gary SCHERRER
BOD Member
BOD Member
KSU
BOD Member
Janie PERKINS
Richard HEDGES
Jill DOCKING
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

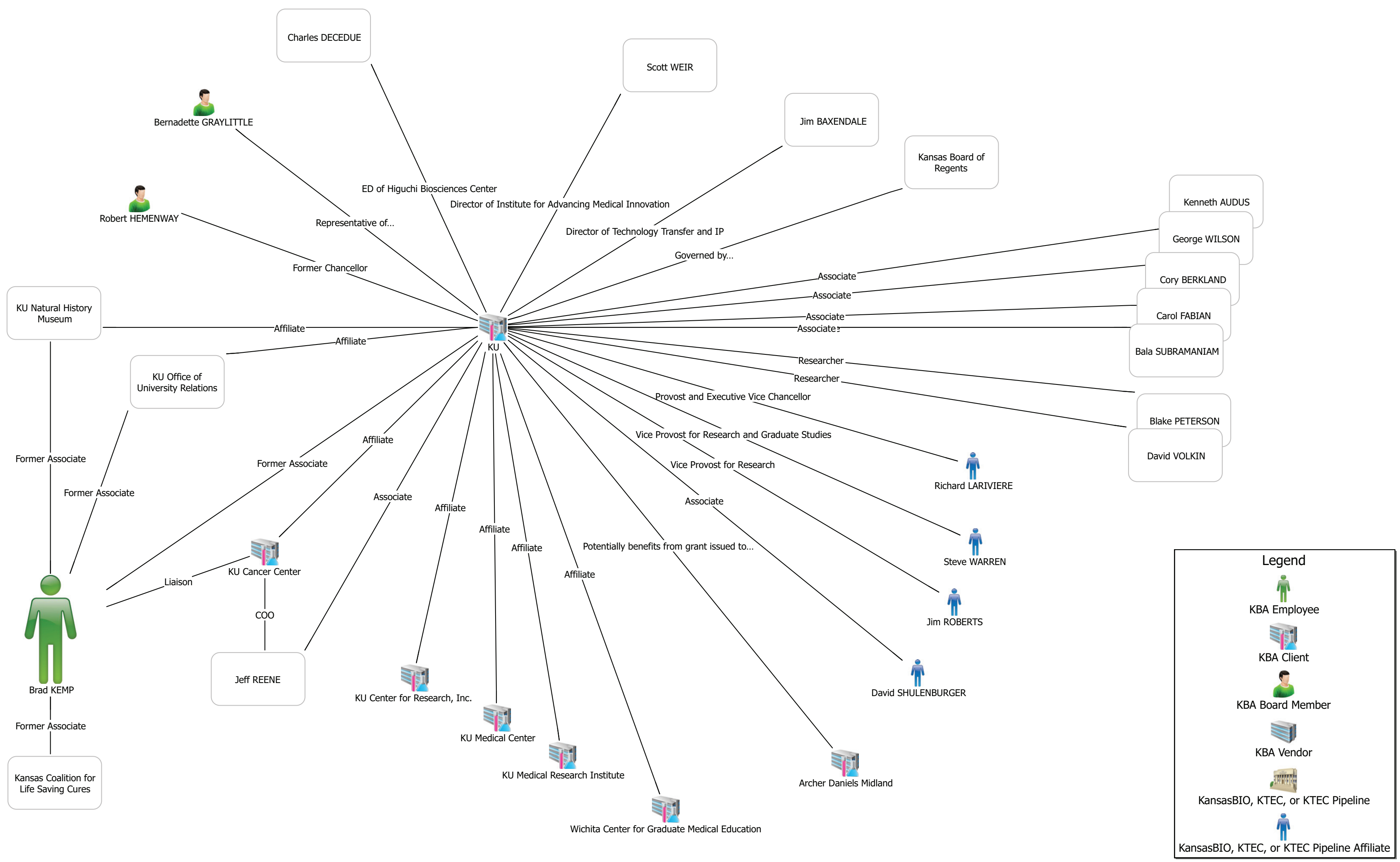

Angela KREPS
President
Signed Contract for...
KansasBIO
Affiliate
Biotechnology Industry Organization
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Charles DECEDUE
Scott WEIR
Jim BAXENDALE
Kansas Board of Regents
Bernadette GRAYLITTLE
Robert HEMENWAY
Kenneth AUDUS
George WILSON
Cory BERKLAND
Carol FABIAN
Bala SUBRAMANIAM
Blake PETERSON
David VOLKIN
ED of Higuchi Biosciences Center
Director of Institute for Advancing Medical Innovation
Director of Technology Transfer and IP
Representative of...
Governed by...
Former Chancellor
Associate
Associate
Associate
Associate
Researcher
Researcher
KU Natural History Museum
Affiliate
Affiliate
KU
KU Office of University Relations
Provost and Executive Vice Chancellor
Vice Provost for Research and Graduate Studies
Vice Provost for Research
Richard LARIVIERE
Steve WARREN
Jim ROBERTS
David SHULENBURGER
Affiliate
Former Associate
Former Associate
Former Associate
Associate
Affiliate
Affiliate
Affiliate
Potentially benefits from grant issued to...
Affiliate
Associate
KU Cancer Center
Liaison
COO
Brad KEMP
Jeff REENE
Former Associate
Kansas Coalition for Life Saving Cures
KU Center for Research, Inc.
KU Medical Center
KU Medical Research Institute
Wichita Center for Graduate Medical Education
Archer Daniels Midland
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


KSU
Kenneth KLABUNDE
Roy JENSEN
Franklin KROH
Shyamala RAJAGOPALAN
Aaron MADISON
Susan JOHNSON
Tracy CHRISTIANSON
Stefan BOSSMAN
Mark CARLSON
Dr. WINECKI
Gary GADBURY
Angela ISELI
Wallace PETERSON
Potentially benefits from grant issued to...
Founder
Advisor
Principal Investigator
Principal Investigator
COO
Associate
Associate
Associate
Associate
Associate
Associate
Associate
Associate
Olga KOPER
CTO
VP of Technology and Techincal Services
Advised Pipeline Innovator
NanoScale Materials, Inc.
Similar Name
NanoScale Corporation
Midwest Venture Partners
Associate
CEO/COB
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Tom THORNTON
Bill SANFORD
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
John GRAHAM
Terry KING
Trevor JONES
Bill SNYDER
Joseph DOWNEY
Former Advisory BOD Member
Steven STPETER
BOD Member
HBV
Employee
John BROOKS
BOD Member
Ex-Officio BOD Member
Baiju SHAH
BOD Member
BOD Member
Tim CESERAK
Tom WIGGANS
Advisory Board Member
BOD Member
Co-Founder and Former COB
Cleveland Clinic Innovations
Subsidiary
Cleveland Clinic
Co-Founder
Bioenterprise of Cleveland
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Clay BLAIR
Midwest Venture Partners
Michele WEIGAND
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Don COLBERT
KTEC Pipeline
Kevin CARR
Signed Contract for...
Advised Pipeline Innovator
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Former Employee
COO, CIO
Affiliate
CEO
Bill THORNTON
Tracy TAYLOR
Former BOD Member
Gary MASON
Former President & CEO
Current BOD Member
Matthew MCCLOREY
Former VP for Business Development and Port Man
Public Support and Communication Strategies (in 2004)
Former Pipeline President
Joni COBB
KTEC
Advisor
Former VP, Investment & Portfolio Management
VP, Commercialization (in 2004)
Abbott Laboratories
R&D Contractor
VP, Strategy and Policy (in 2004)
Former VP of Business Development
Michael PECK
Associate
Aaron MCKEE
Oread Laboratories
Open Prarie Ventures II
Dan SCHMISSEUR
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Charles DECEDUE
Scott WEIR
Bernadette GRAYLITTLE
Jim BAXENDALE
Kansas Board of Regents
ED of Higuchi Biosciences Center
Director of Institute for Advancing Medical Innovation
Robert HEMENWAY
Representative of...
Director of Technology Transfer and IP
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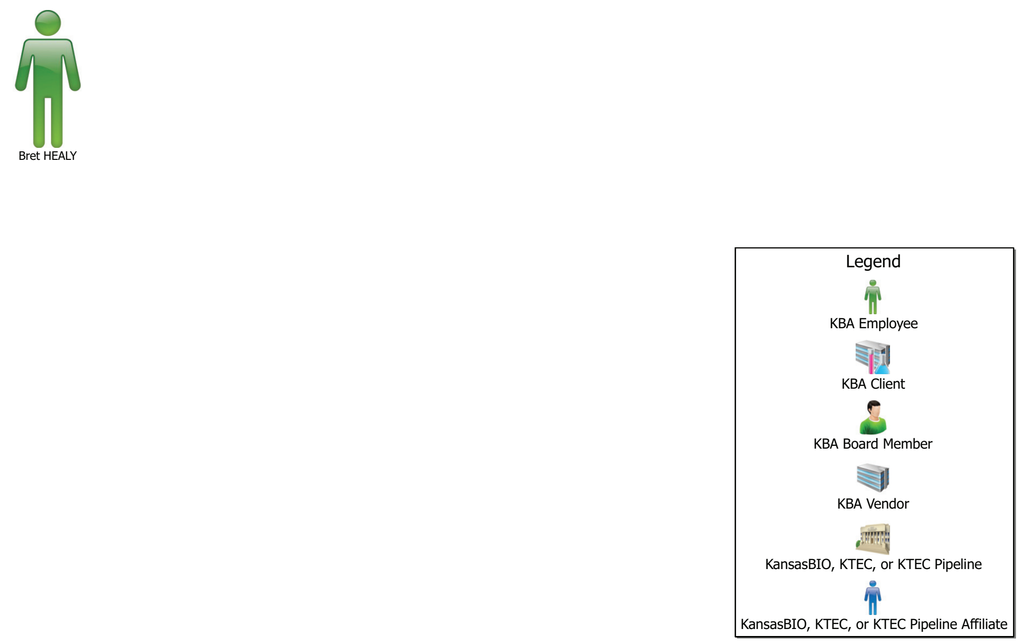
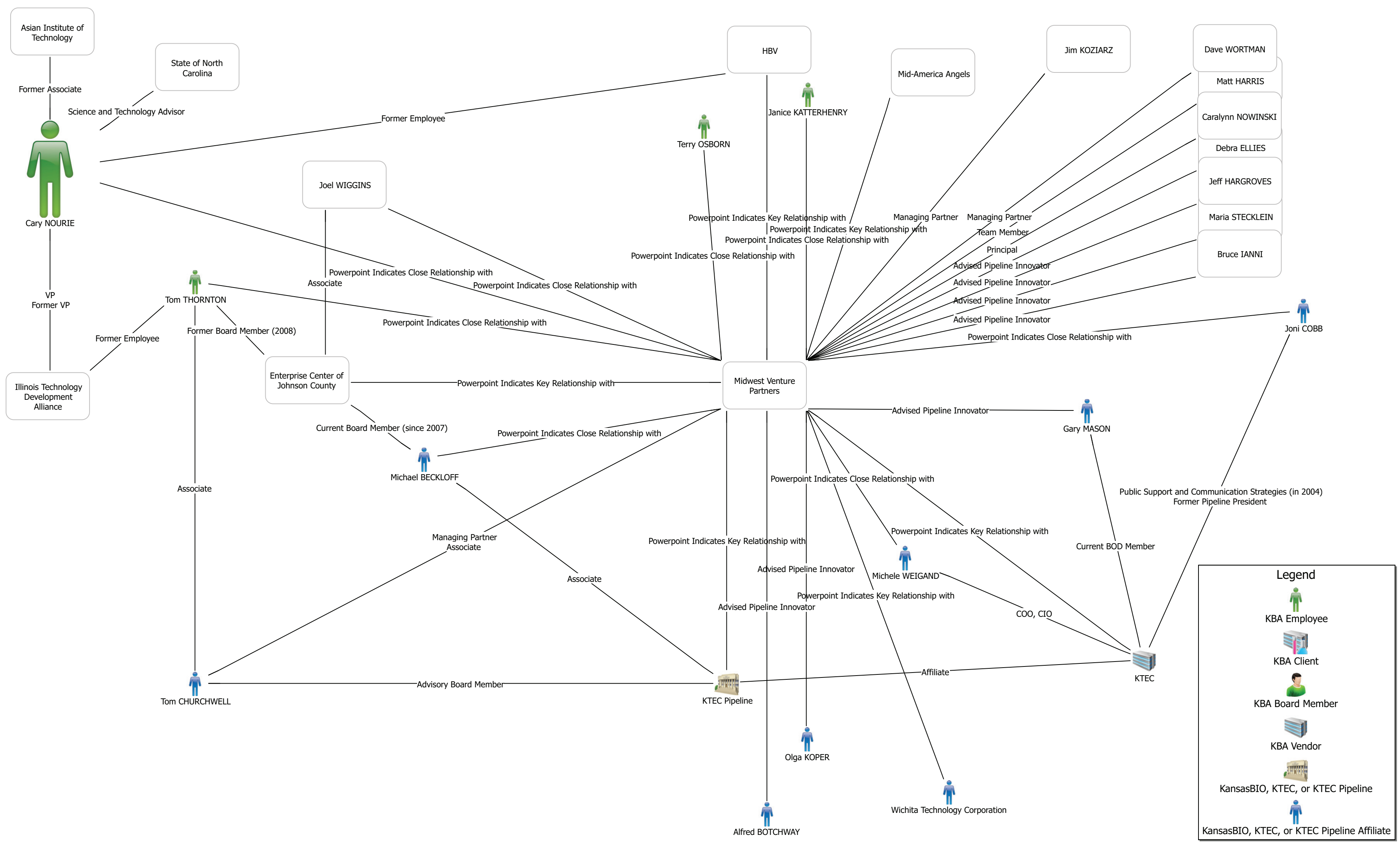
George WILSON
Governed by...
Former Chancellor
Cory BERKLAND
Associate
Associate
KU Natural History Museum
Affiliate
Associate
Carol FABIAN
Associate
Bala SUBRAMANIAM
KU
Affiliate
KU Office of University Relations
Researcher
Researcher
Provost and Executive Vice Chancellor
Blake PETERSON
David VOLKIN
Vice Provost for Research and Graduate Studies
Affiliate
Richard LARIVIERE
Former Associate
Former Associate
Vice Provost for Research
Former Associate
Associate
Associate
Affiliate
Affiliate
Affiliate
Potentially benefits from grant issued to...
Steve WARREN
KU Cancer Center
Affiliate
Liaison
Jim ROBERTS
COO
Brad KEMP
Jeff REENE
KU Center for Research, Inc.
David SHULENBURGER
Former Associate
KU Medical Center
KU Medical Research Institute
Archer Daniels Midland
Kansas Coalition for Life Saving Cures
Wichita Center for Graduate Medical Education
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Bret HEALY
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Asian Institute of Technology
Former Associate
State of North Carolina
Science and Technology Advisor
Cary NOURIE
Former Employee
HBV
Janice KATTERHENRY
Terry OSBORN
Mid-America Angels
Jim KOZIARZ
Dave WORTMAN
Matt HARRIS
Caralynn NOWINSKI
Debra ELLIES
Jeff HARGROVES
Maria STECKLEIN
Bruce IANNI
Joni COBB
Joel WIGGINS
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Managing Partner
Managing Partner
Team Member
Principal
Advised Pipeline Innovator
Advised Pipeline Innovator
Advised Pipeline Innovator
Advised Pipeline Innovator
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Associate
Powerpoint Indicates Close Relationship with
VP
Former VP
Tom THORNTON
Former Employee
Former Board Member (2008)
Powerpoint Indicates Close Relationship with
Illinois Technology Development Alliance
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Midwest Venture Partners
Advised Pipeline Innovator
Gary MASON
Current Board Member (since 2007)
Powerpoint Indicates Close Relationship with
Michael BECKLOFF
Associate
Powerpoint Indicates Close Relationship with
Public Support and Communication Strategies (in 2004)
Former Pipeline President
Powerpoint Indicates Key Relationship with
Managing Partner
Associate
Powerpoint Indicates Key Relationship with
Current BOD Member
Associate
Advised Pipeline Innovator
Michele WEIGAND
Powerpoint Indicates Key Relationship with
Advised Pipeline Innovator
COO, CIO
Affiliate
KTEC
Tom CHURCHWELL
Advisory Board Member
KTEC Pipeline
Olga KOPER
Wichita Technology Corporation
Alfred BOTCHWAY
Legend
KBA Employee
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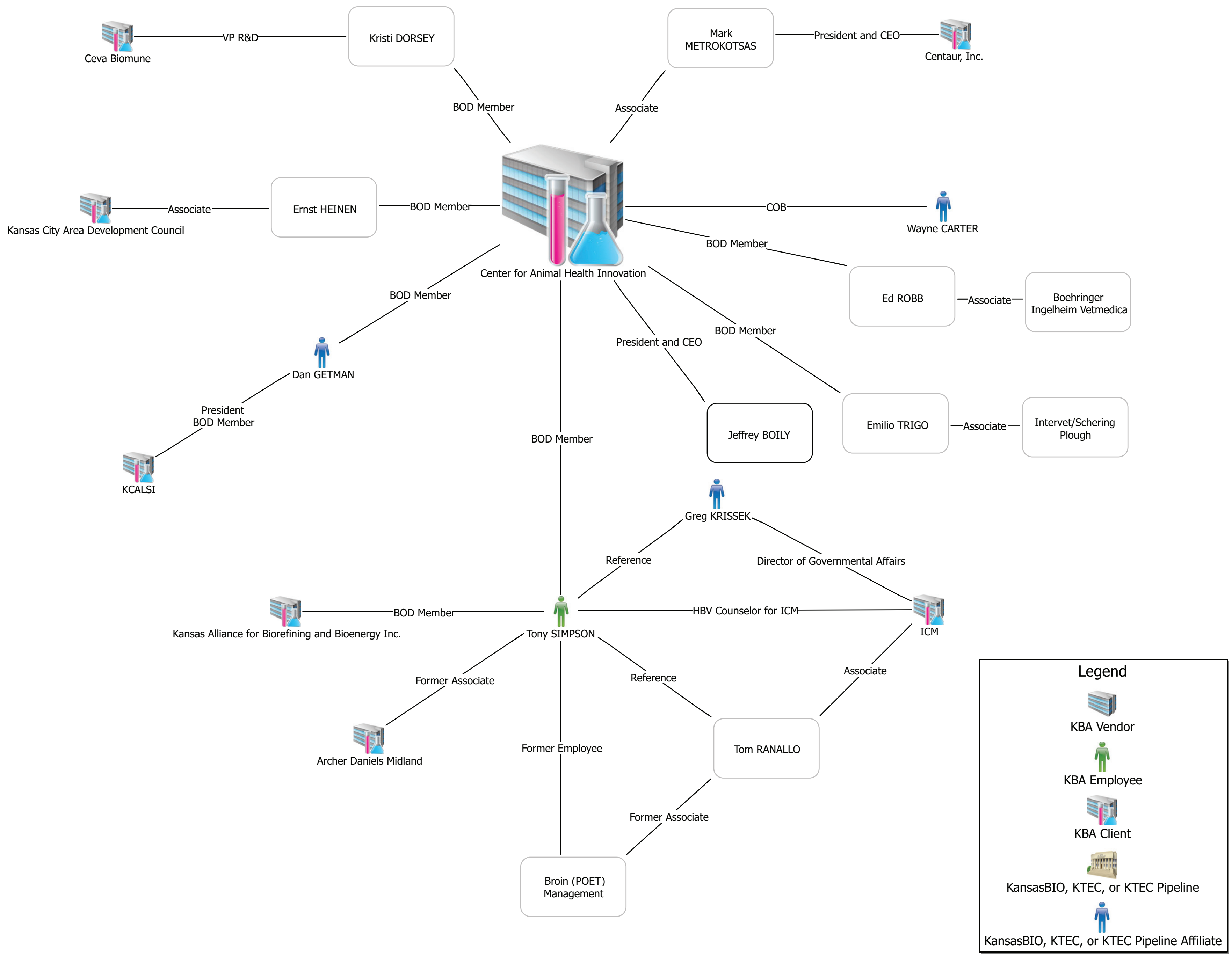
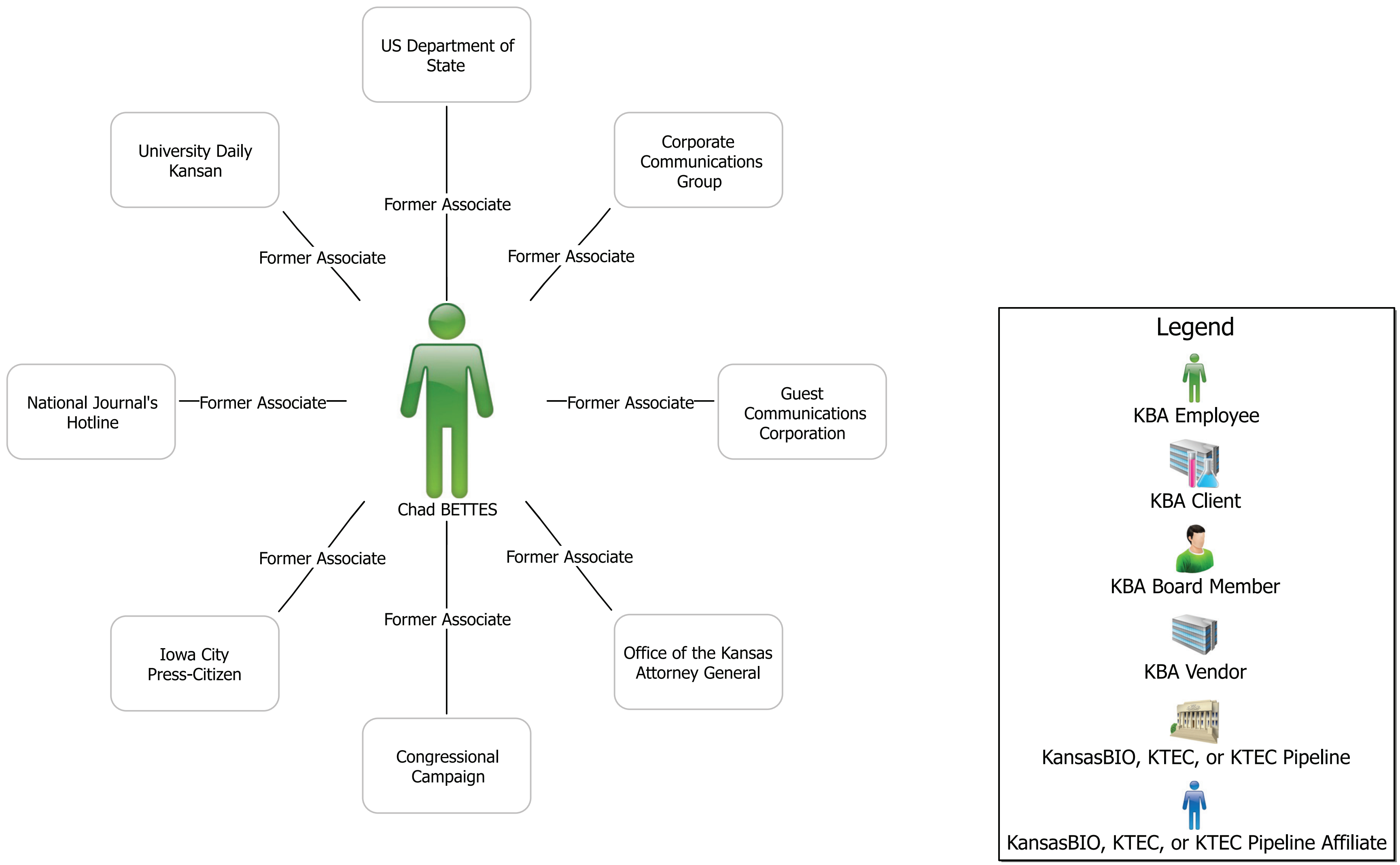
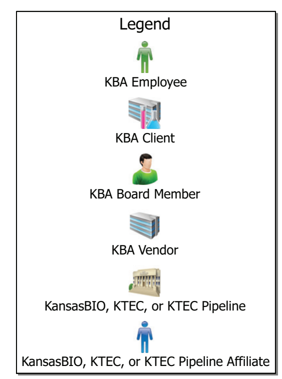
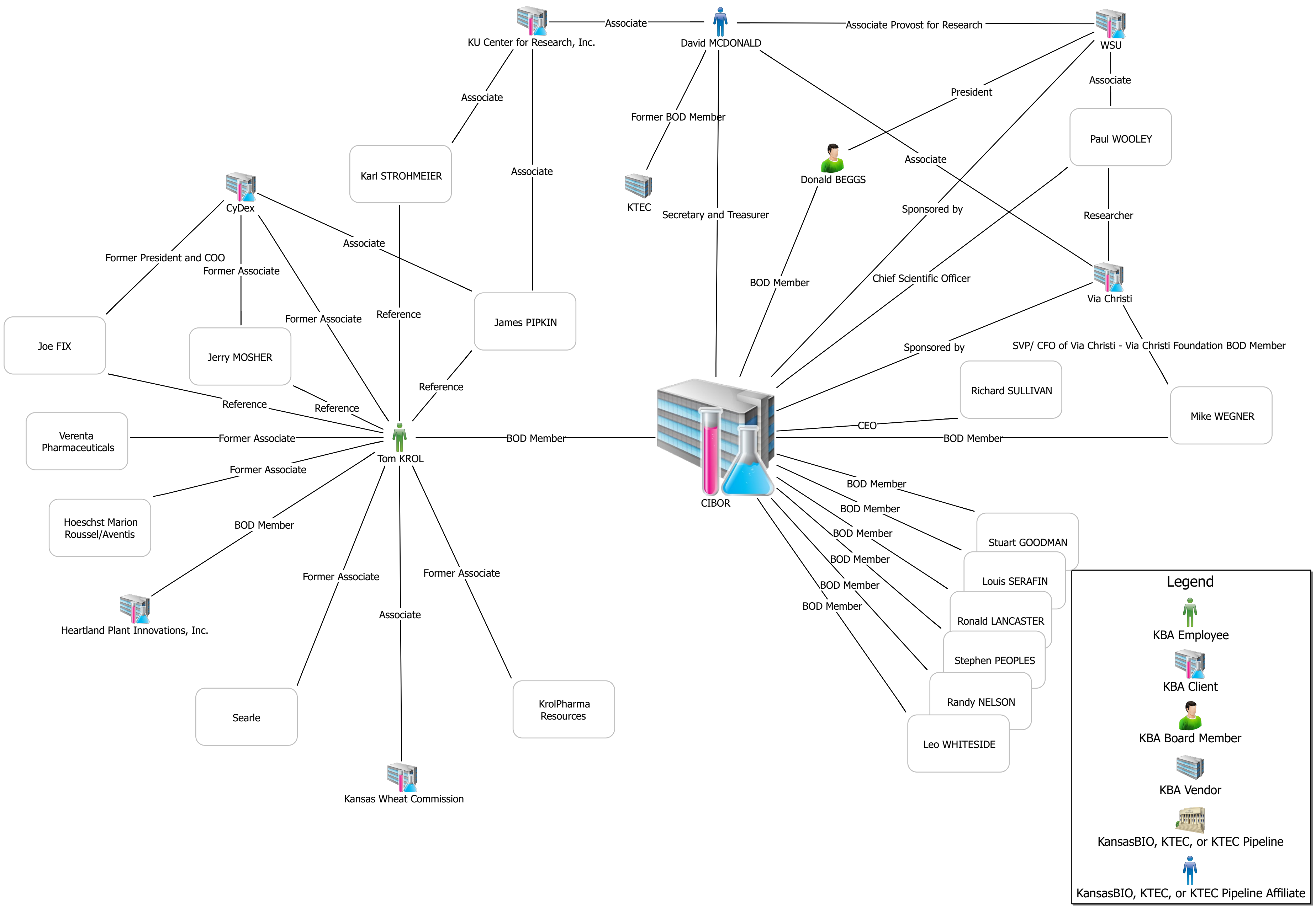
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

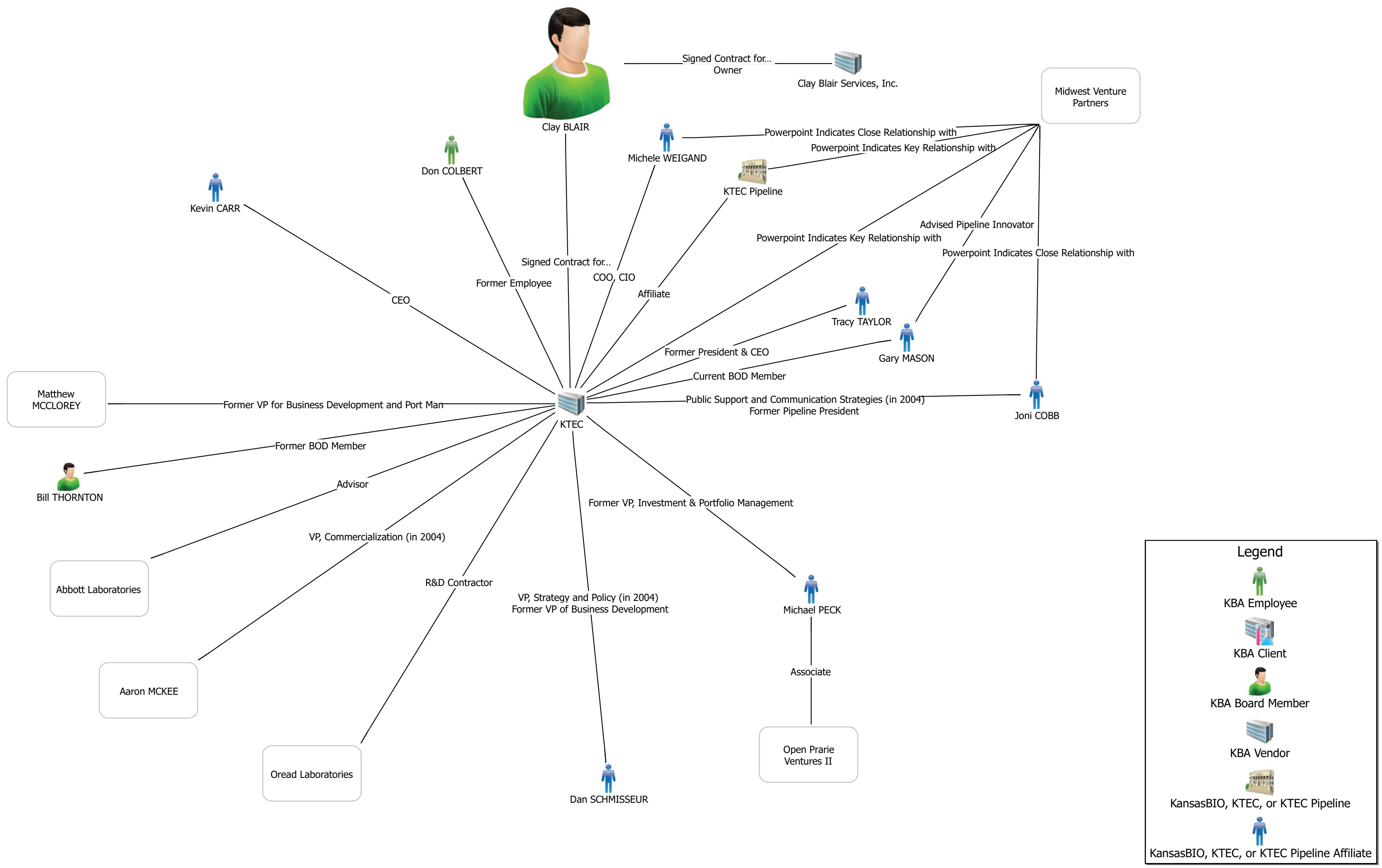

Ceva Biomune
VP R&D
Kristi DORSEY
Mark METROKOTSAS
President and CEO
Centaur, Inc.
BOD Member
Associate
Kansas City Area Development Council
Associate
Ernst HEINEN
BOD Member
COB
Wayne CARTER
BOD Member
Center for Animal Health Innovation
Ed ROBB
Associate
Boehringer Ingelheim Vetmedica
BOD Member
President and CEO
BOD Member
Dan GETMAN
President
BOD Member
KCALSI
BOD Member
Jeffrey BOILY
Emilio TRIGO
Associate
Intervet/Schering Plough
Greg KRISSEK
Reference
Director of Governmental Affairs
Kansas Alliance for Biorefining and Bioenergy Inc.
BOD Member
Tony SIMPSON
HBV Counselor for ICM
ICM
Former Associate
Reference
Associate
Archer Daniels Midland
Former Employee
Tom RANALLO
Former Associate
Broin (POET) Management
Legend
KBA Vendor
KBA Employee
KBA Client
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


US Department of State
University Daily Kansan
Corporate Communications Group
Former Associate
Former Associate
Former Associate
National Journal's Hotline
Former Associate
Former Associate
Guest Communications Corporation
Chad BETTES
Former Associate
Former Associate
Former Associate
Iowa City Press-Citizen
Office of the Kansas Attorney General
Congressional Campaign
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Chuck WILLIS


Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


KU Center for Research, Inc.
Associate
David MCDONALD
Associate Provost for Research
WSU
Associate
Former BOD Member
KTEC
Secretary and Treasurer
President
Donald BEGGS
Associate
Paul WOOLEY
Researcher
Sponsored by
BOD Member
Chief Scientific Officer
Via Christi
Sponsored by
SVP/ CFO of Via Christi - Via Christi Foundation BOD Member
Richard SULLIVAN
Mike WEGNER
CEO
BOD Member
CIBOR
Karl STROHMEIER
Associate
CyDex
Associate
Former President and COO
Former Associate
Former Associate
Reference
James PIPKIN
Joe FIX
Jerry MOSHER
Reference
Reference
Reference
Verenta Pharmaceuticals
Former Associate
Tom KROL
BOD Member
Former Associate
Hoeschst Marion Roussel/Aventis
BOD Member
Heartland Plant Innovations, Inc.
Former Associate
Associate
Former Associate
Searle
KrolPharma Resources
Kansas Wheat Commission
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
Stuart GOODMAN
Louis SERAFIN
Ronald LANCASTER
Stephen PEOPLES
Randy NELSON
Leo WHITESIDE
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Clay BLAIR
Signed Contract for...
Owner
Clay Blair Services, Inc.
Midwest Venture Partners
Michele WEIGAND
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Don COLBERT
KTEC Pipeline
Kevin CARR
Advised Pipeline Innovator
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Signed Contract for...
Former Employee
COO, CIO
Affiliate
CEO
Tracy TAYLOR
Gary MASON
Former President & CEO
Current BOD Member
Matthew MCCLOREY
Former VP for Business Development and Port Man
Public Support and Communication Strategies (in 2004)
Former Pipeline President
Joni COBB
KTEC
Former BOD Member
Bill THORNTON
Advisor
Former VP, Investment & Portfolio Management
VP, Commercialization (in 2004)
Abbott Laboratories
R&D Contractor
Michael PECK
VP, Strategy and Policy (in 2004)
Former VP of Business Development
Associate
Aaron MCKEE
Oread Laboratories
Open Prarie Ventures II
Dan SCHMISSEUR
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

Dan GLICKMAN

Legend

KBA Employee

KBA Client

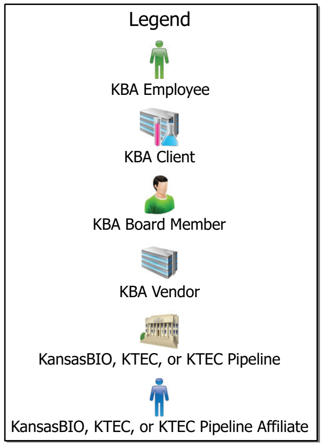
KBA Board Member

KBA Vendor

KansasBIO, KTEC, or KTEC Pipeline

KansasBIO, KTEC, or KTEC Pipeline Affiliate


Dan WATKINS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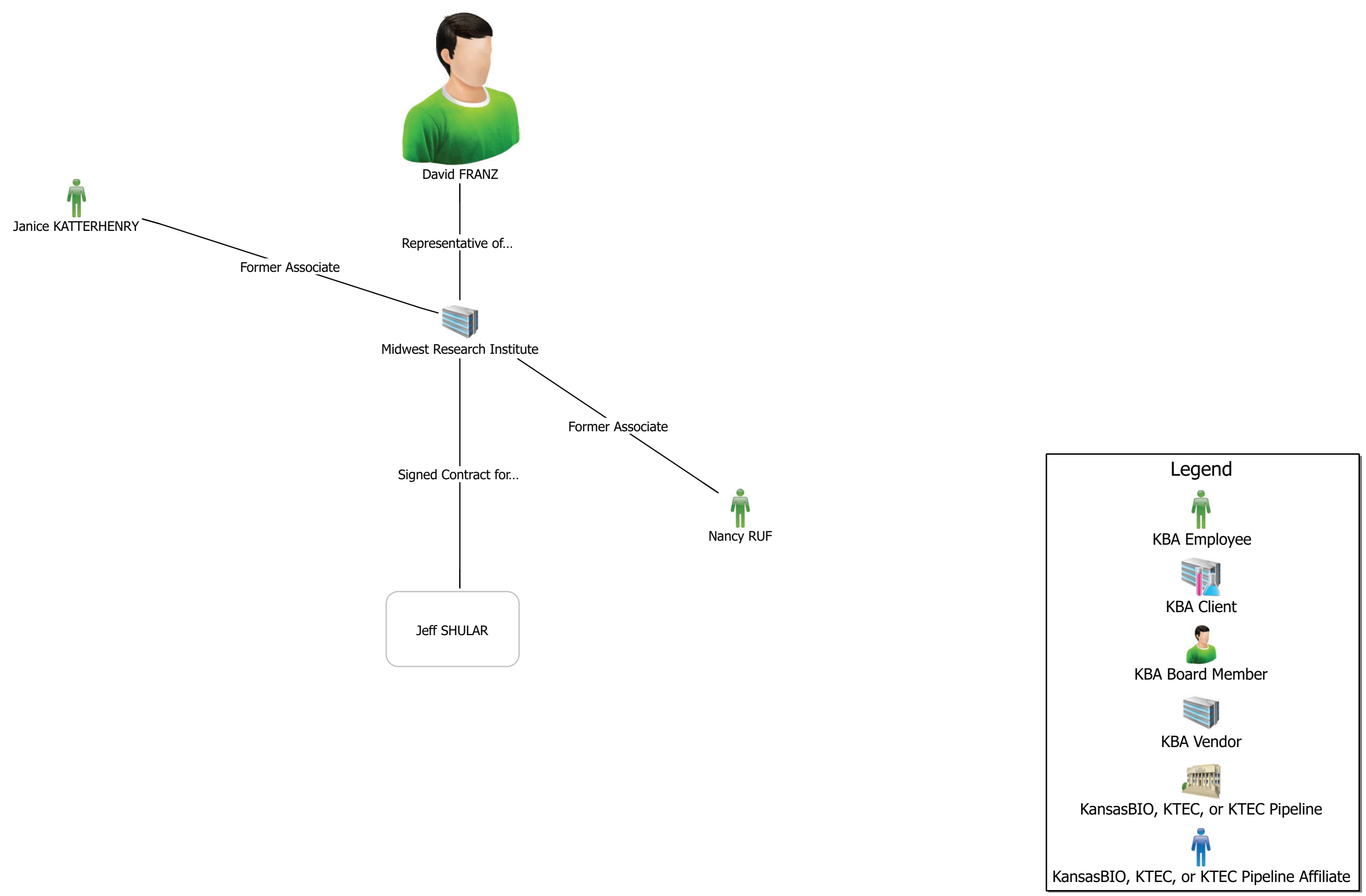
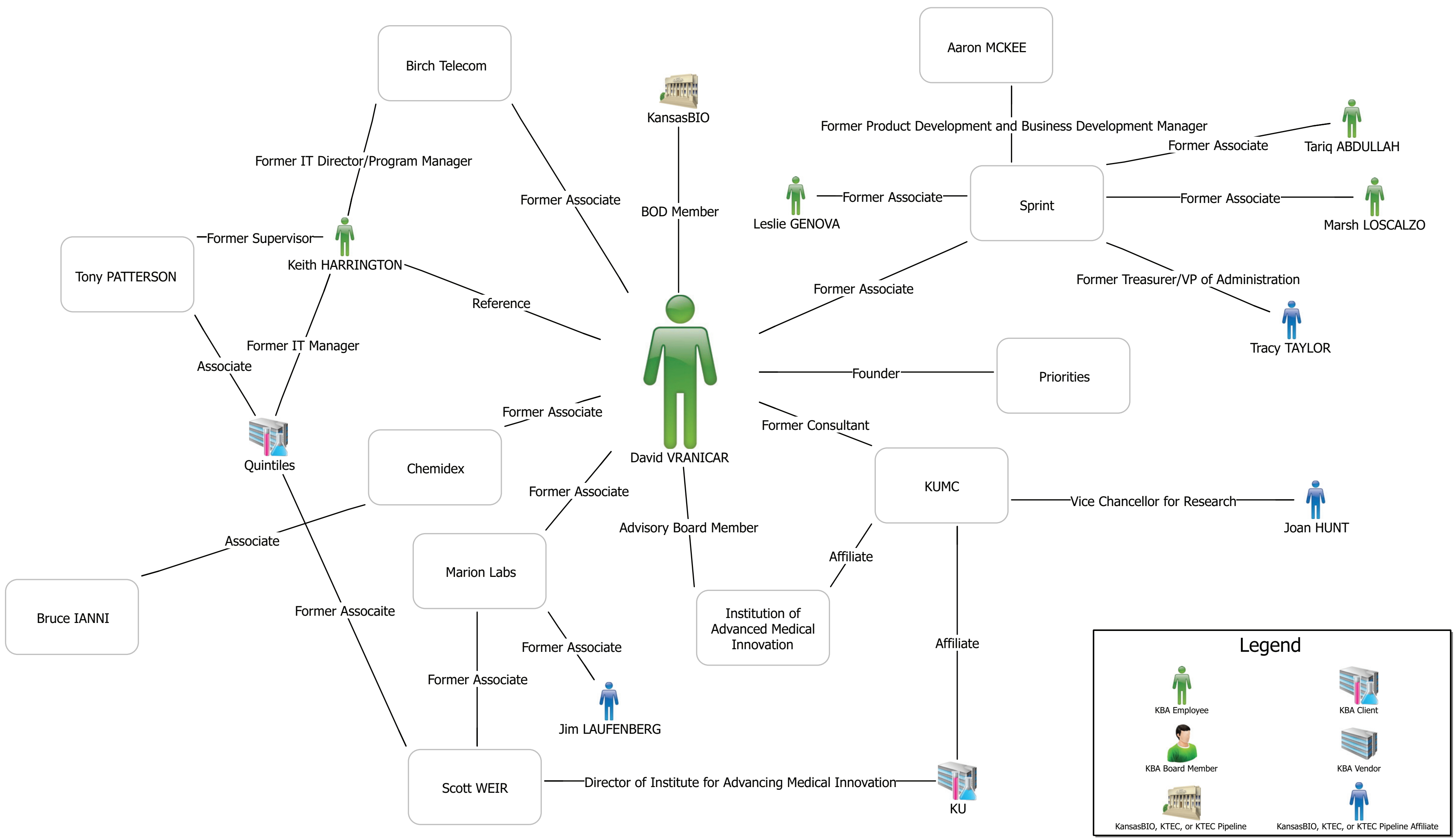
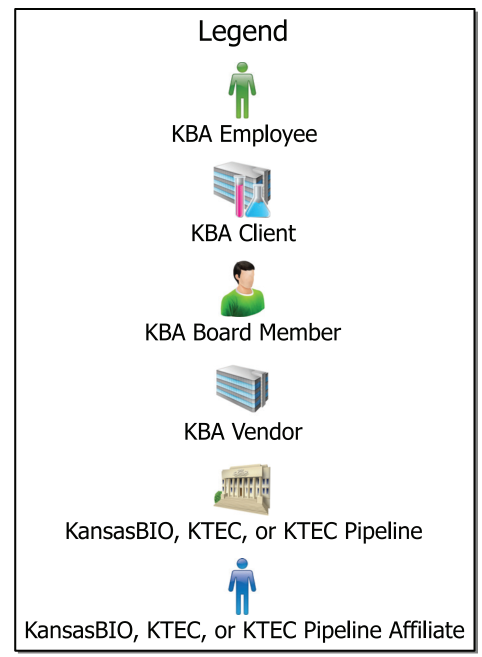
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


David FRANZ
Representative of...
Janice KATTERHENRY
Former Associate
Midwest Research Institute
Former Associate
Nancy RUF
Signed Contract for...
Jeff SHULAR
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Birch Telecom
KansasBIO
Aaron MCKEE
Former Product Development and Business Development Manager
Tariq ABDULLAH
Former Associate
Former IT Director/Program Manager
Former Associate
BOD Member
Leslie GENOVA
Former Associate
Sprint
Former Associate
Marsh LOSCALZO
Tony PATTERSON
Former Supervisor
Keith HARRINGTON
Former Associate
Former Treasurer/VP of Administration
Reference
Tracy TAYLOR
Former IT Manager
Associate
Founder
Priorities
Former Associate
Quintiles
Former Consultant
Chemidex
David VRANICAR
KUMC
Former Associate
Vice Chancellor for Research
Joan HUNT
Advisory Board Member
Associate
Affiliate
Marion Labs
Bruce IANNI
Former Assocaite
Institution of Advanced Medical Innovation
Former Associate
Affiliate
Former Associate
Jim LAUFENBERG
Scott WEIR
Director of Institute for Advancing Medical Innovation
KU
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Dolph SIMONS


Legend
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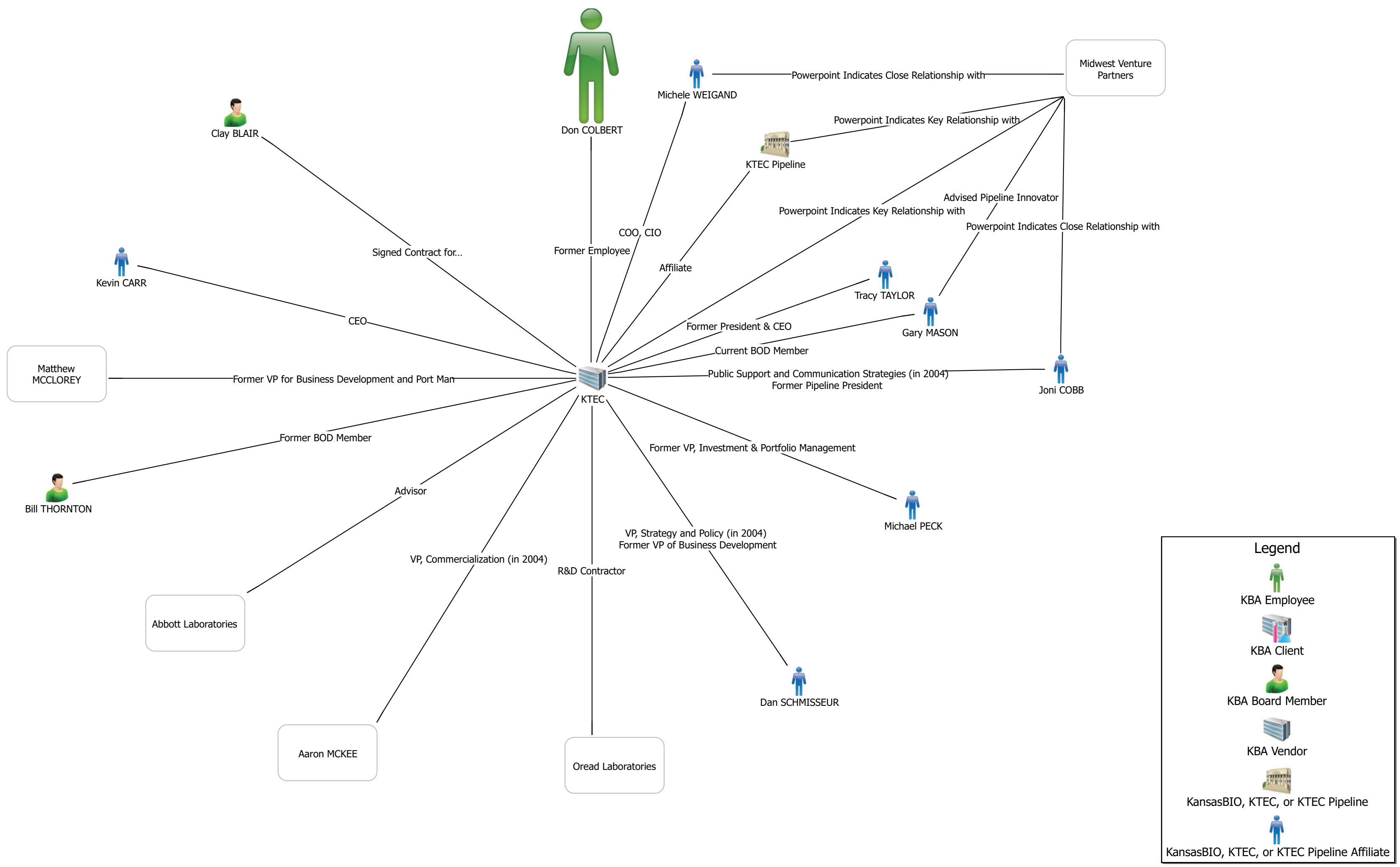
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Don COLBERT
Michele WEIGAND
Midwest Venture Partners
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
KTEC Pipeline
Clay BLAIR
Signed Contract for...
Former Employee
COO, CIO
Affiliate
Powerpoint Indicates Key Relationship with
Advised Pipeline Innovator
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Kevin CARR
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Tracy TAYLOR
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Matthew MCCLOREY
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KTEC
Public Support and Communication Strategies (in 2004)
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Advisor
VP, Commercialization (in 2004)
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VP, Strategy and Policy (in 2004)
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Abbott Laboratories
Aaron MCKEE
Oread Laboratories
Dan SCHMISSEUR
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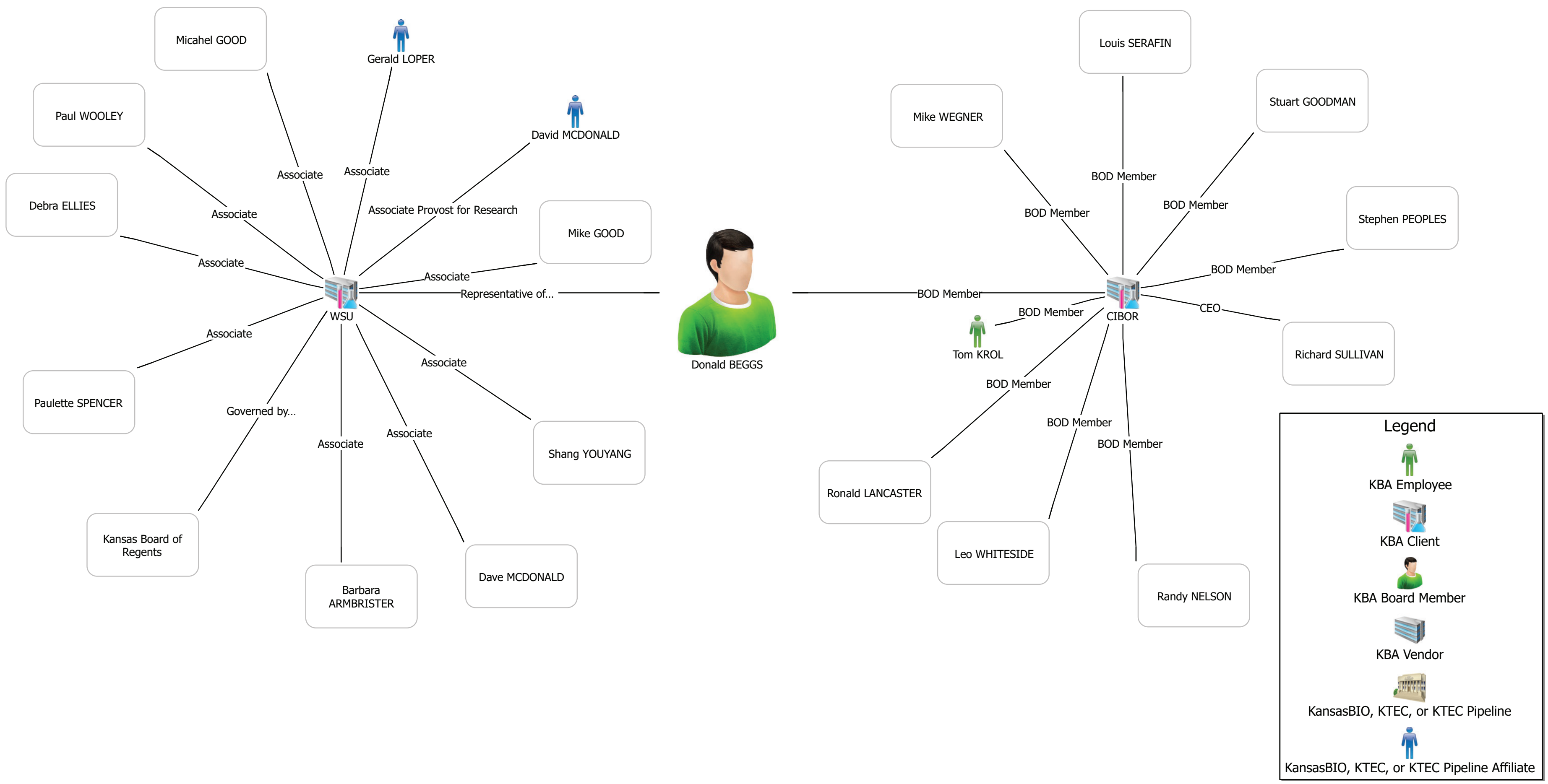
Micahel GOOD
Gerald LOPER
Paul WOOLEY
David MCDONALD
Debra ELLIES
Associate
Associate
Associate
Associate Provost for Research
Mike GOOD
Associate
Associate
Representative of...
WSU
Associate
Associate
Paulette SPENCER
Governed by...
Associate
Associate
Shang YOUYANG
Kansas Board of Regents
Barbara ARMBRISTER
Dave MCDONALD
Donald BEGGS
Louis SERAFIN
Mike WEGNER
Stuart GOODMAN
BOD Member
BOD Member
BOD Member
Stephen PEOPLES
BOD Member
BOD Member
CIBOR
BOD Member
CEO
Tom KROL
Richard SULLIVAN
BOD Member
BOD Member
BOD Member
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Randy NELSON
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KBA Employee
KBA Client
KBA Board Member
KBA Vendor
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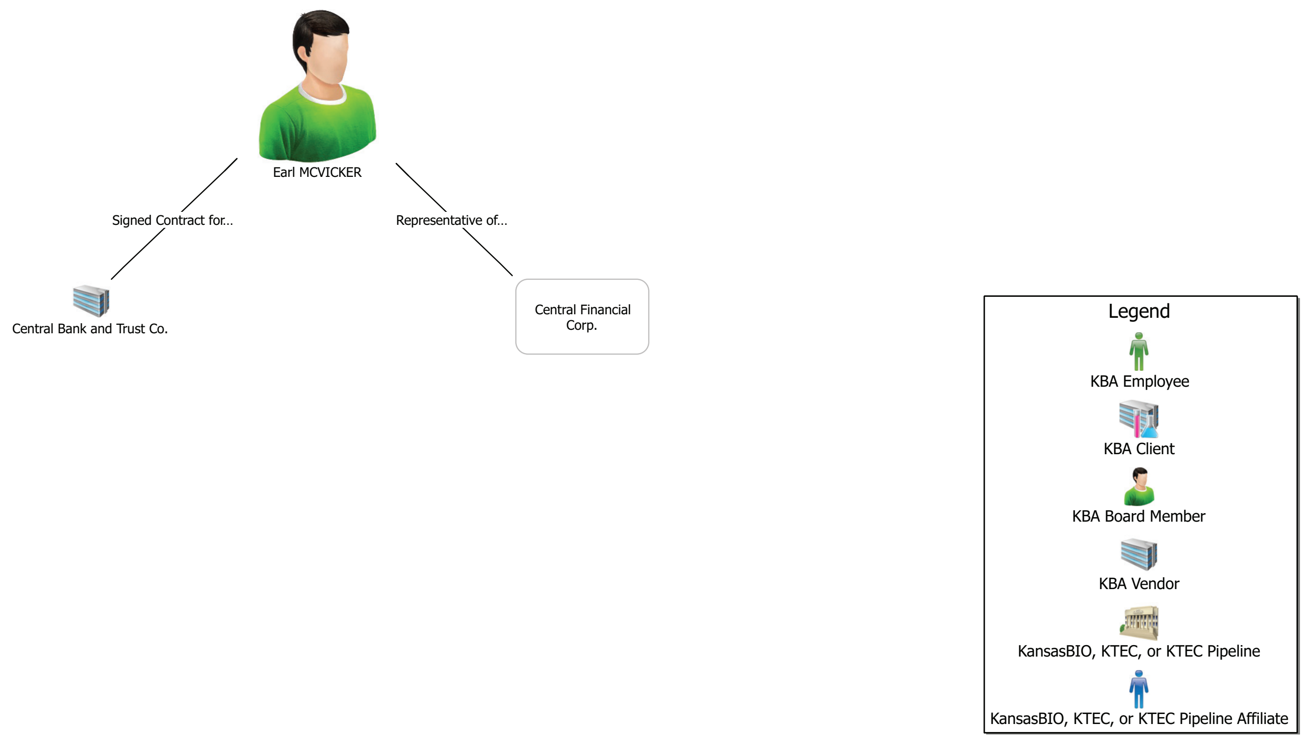
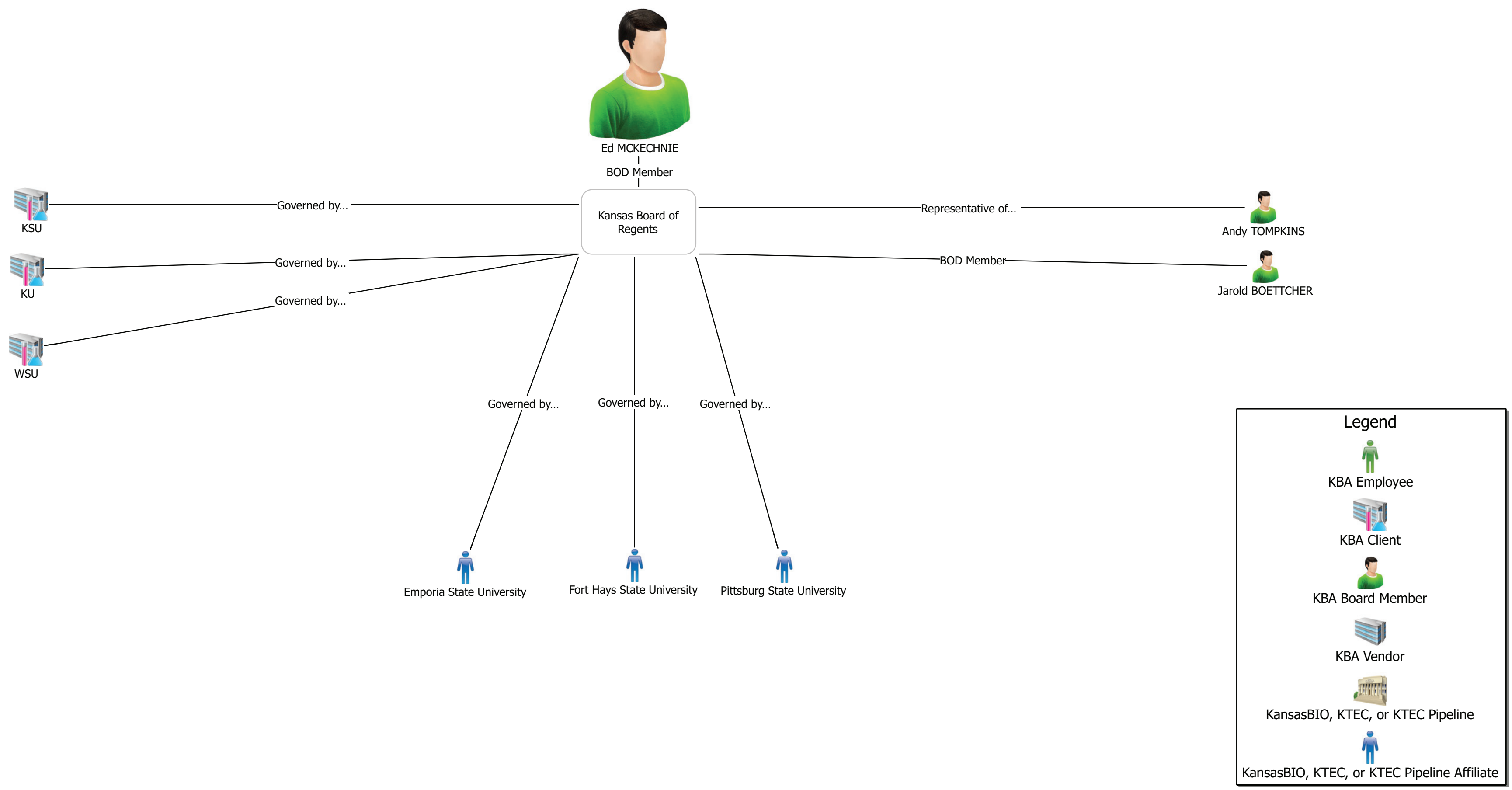
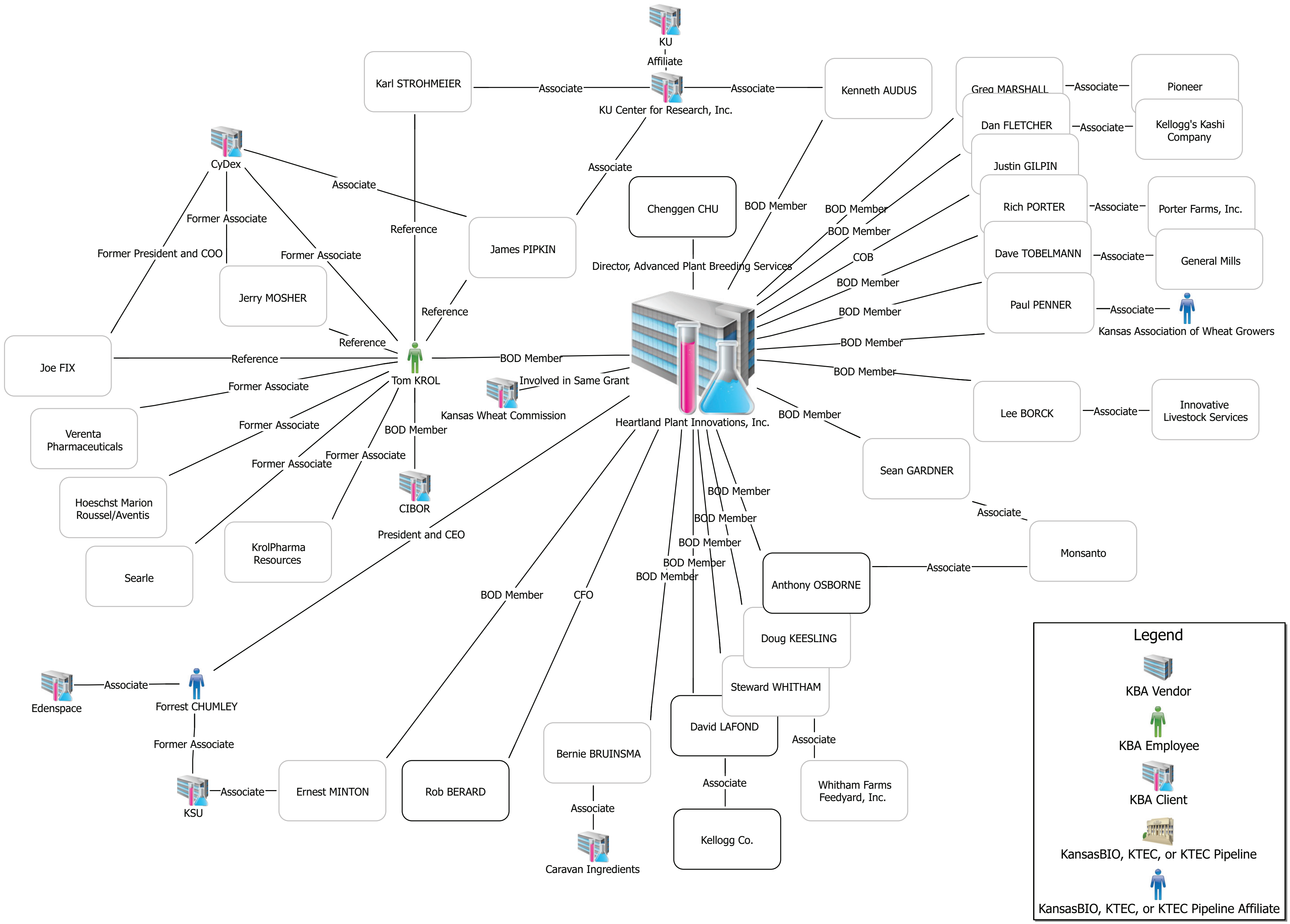
KansasBIO, KTEC, or KTEC Pipeline Affiliate

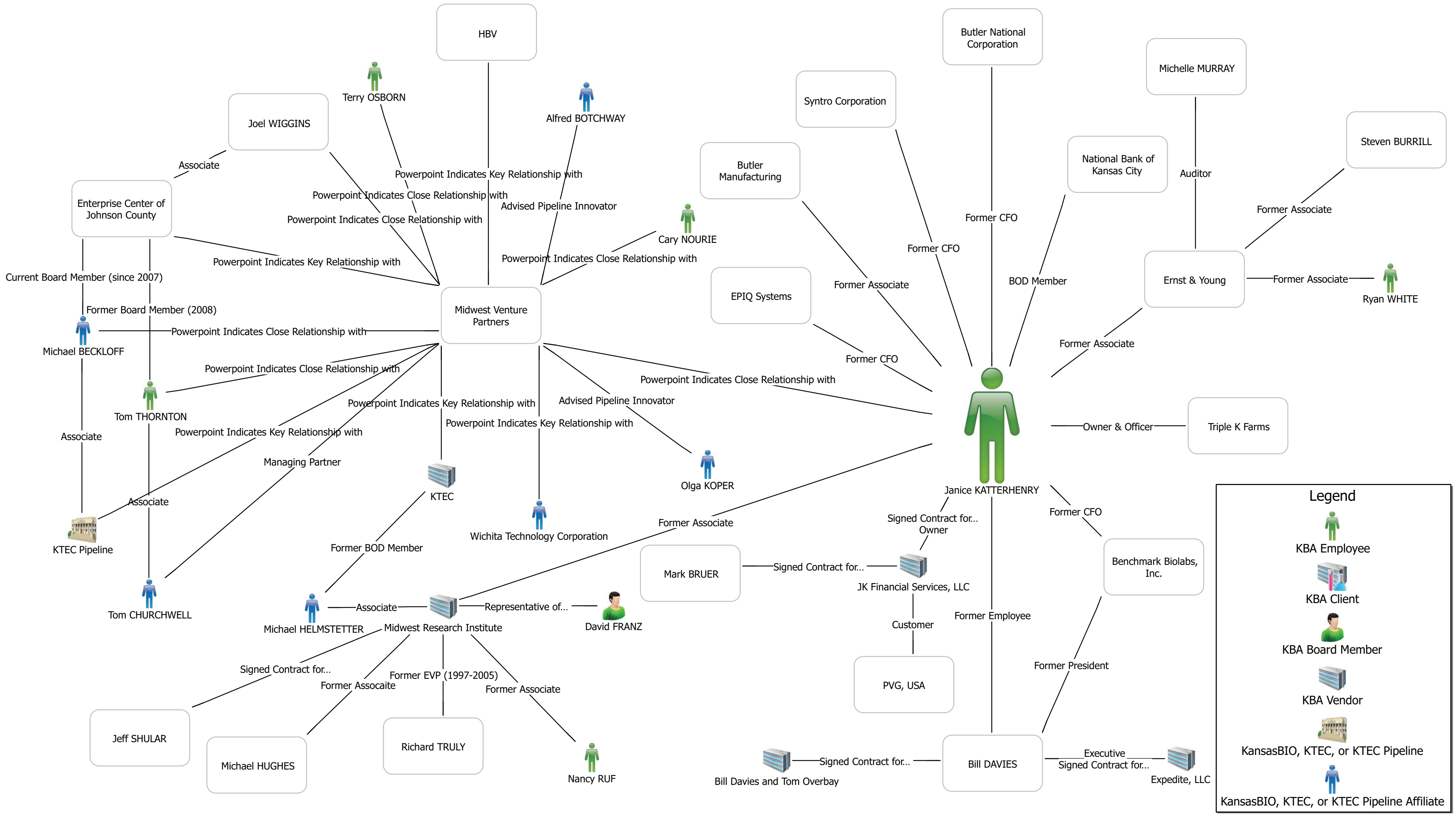


Earl MCVICKER
Signed Contract for...
Representative of...
Central Bank and Trust Co.
Central Financial Corp.
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

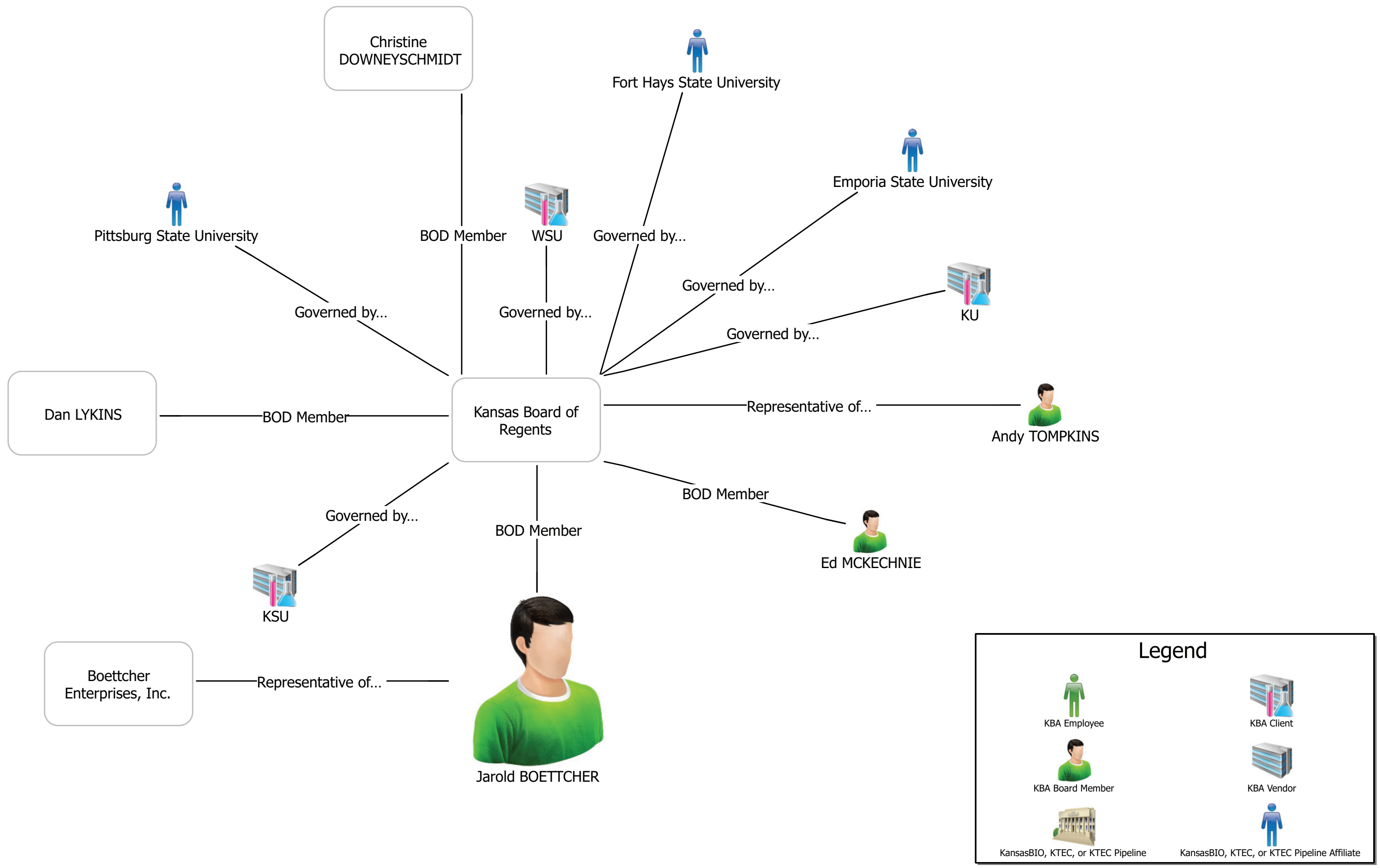


Ed MCKECHNIE
BOD Member
Kansas Board of Regents
KSU
Governed by...
KU
Governed by...
WSU
Governed by...
Representative of...
Andy TOMPKINS
BOD Member
Jarold BOETTCHER
Governed by...
Governed by...
Governed by...
Emporia State University
Fort Hays State University
Pittsburg State University
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

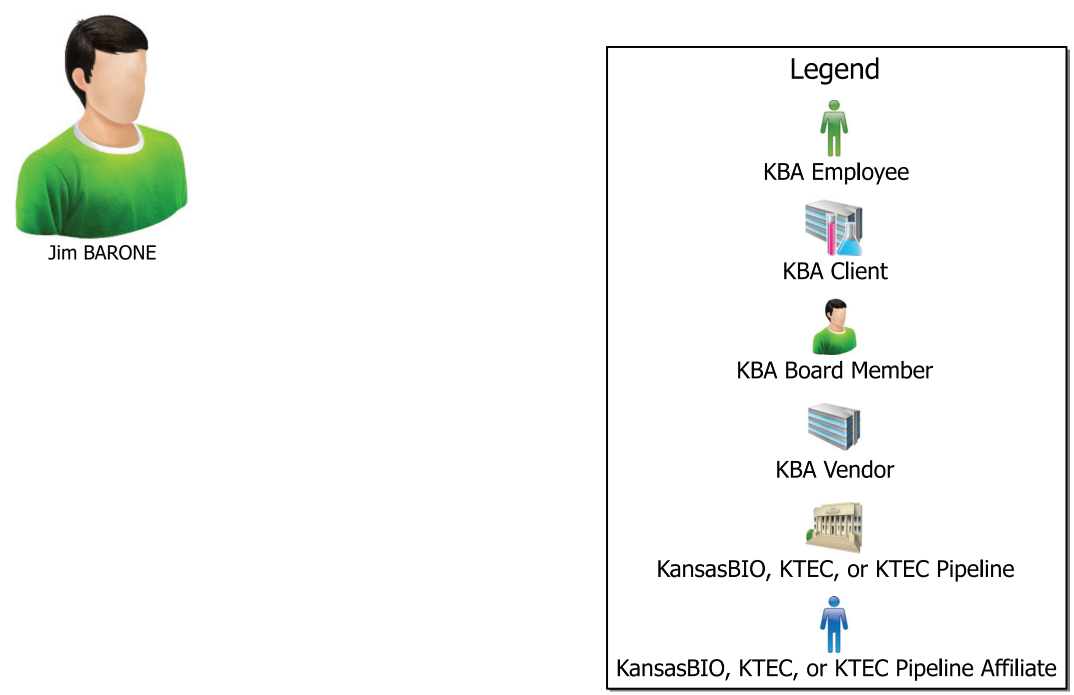

KU
Affiliate
KU Center for Research, Inc.
Associate
Karl STROHMEIER
Associate
Kenneth AUDUS
Greg MARSHALL
Associate
Pioneer
Dan FLETCHER
Associate
Kellogg's Kashi Company
Justin GILPIN
Rich PORTER
Associate
Porter Farms, Inc.
Dave TOBELMANN
Associate
General Mills
Paul PENNER
Associate
Kansas Association of Wheat Growers
CyDex
Associate
Former Associate
Former President and COO
Former Associate
Reference
Associate
James PIPKIN
Chenggen CHU
BOD Member
BOD Member
BOD Member
COB
BOD Member
BOD Member
BOD Member
Director, Advanced Plant Breeding Services
Jerry MOSHER
Reference
Reference
Joe FIX
Reference
Tom KROL
BOD Member
Involved in Same Grant
Kansas Wheat Commission
Heartland Plant Innovations, Inc.
BOD Member
Lee BORCK
Associate
Innovative Livestock Services
BOD Member
Sean GARDNER
Associate
Monsanto
Former Associate
Verenta Pharmaceuticals
Former Associate
Hoeschst Marion Roussel/Aventis
Former Associate
Former Associate
BOD Member
CIBOR
Searle
KrolPharma Resources
President and CEO
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
Anthony OSBORNE
Associate
Doug KEESLING
Steward WHITHAM
Associate
Whitham Farms Feedyard, Inc.
BOD Member
CFO
Edenspace
Associate
Forrest CHUMLEY
Former Associate
KSU
Associate
Ernest MINTON
Rob BERARD
Bernie BRUINSMA
Associate
Caravan Ingredients
David LAFOND
Associate
Kellogg Co.
Legend
KBA Vendor
KBA Employee
KBA Client
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

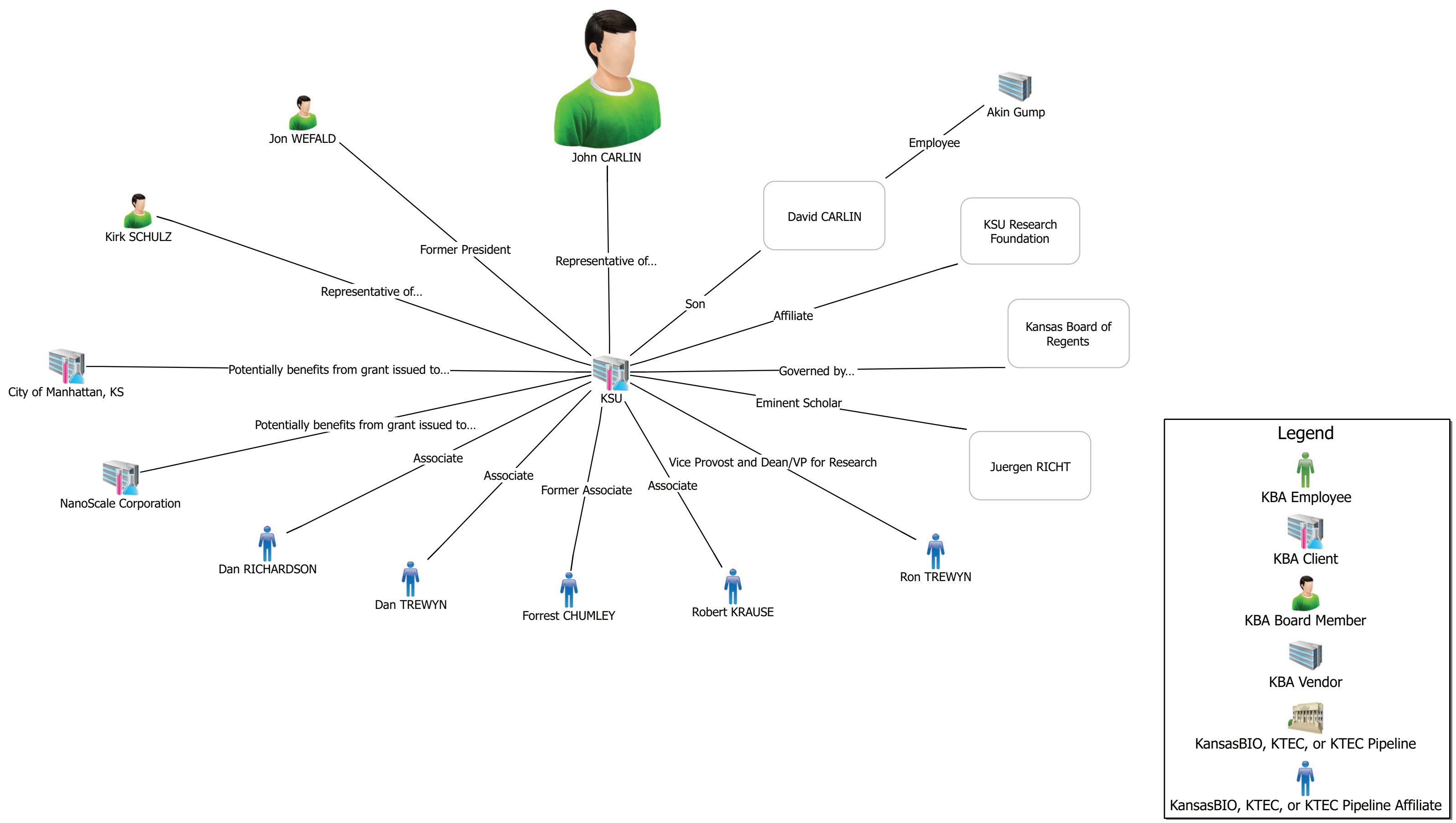


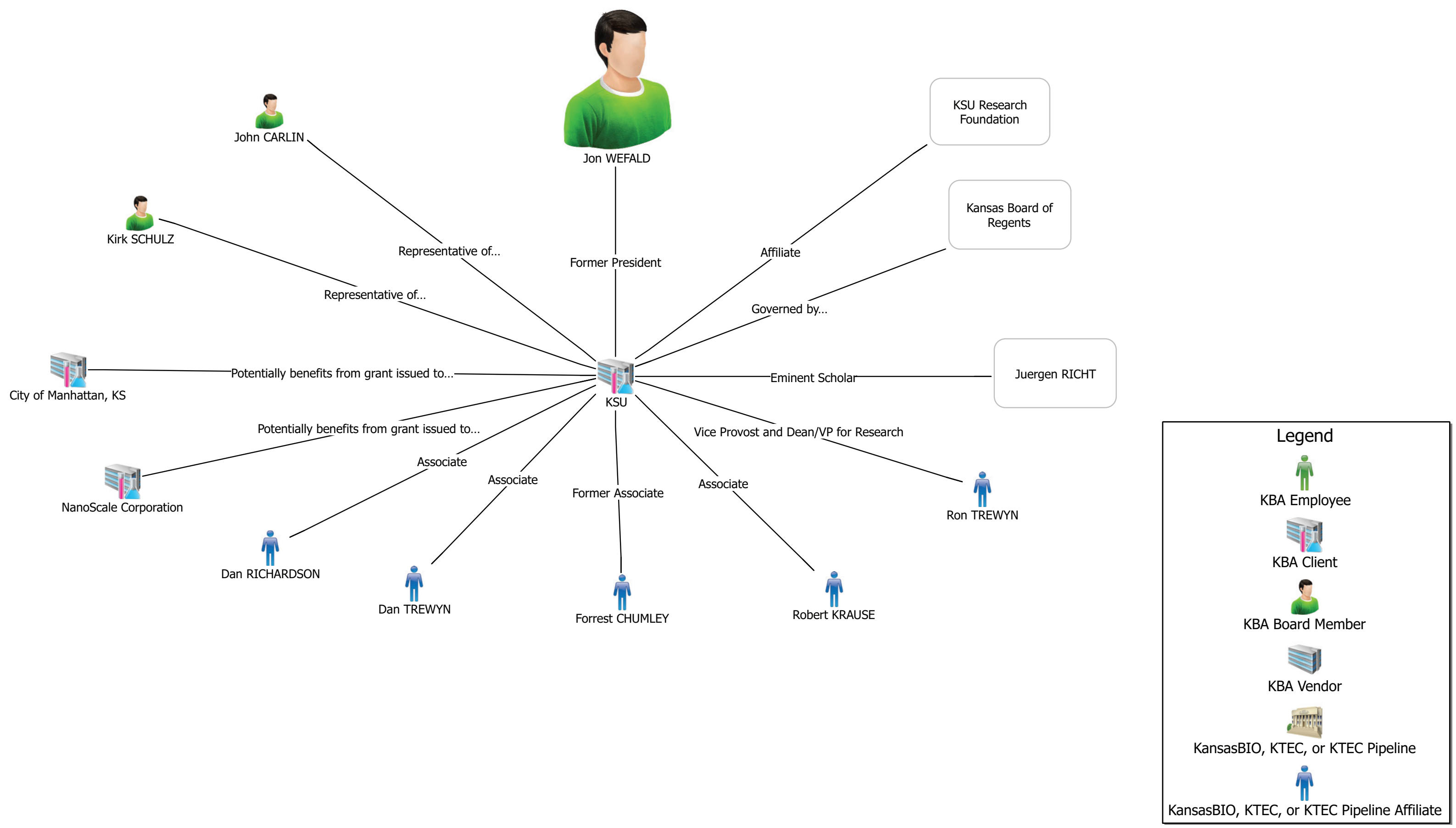
HBV
Terry OSBORN
Alfred BOTCHWAY
Joel WIGGINS
Associate
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Advised Pipeline Innovator
Powerpoint Indicates Close Relationship with
Cary NOURIE
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Current Board Member (since 2007)
Former Board Member (2008)
Michael BECKLOFF
Powerpoint Indicates Close Relationship with
Midwest Venture Partners
Powerpoint Indicates Close Relationship with
Tom THORNTON
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Advised Pipeline Innovator
Powerpoint Indicates Close Relationship with
Associate
Managing Partner
Associate
KTEC Pipeline
KTEC
Wichita Technology Corporation
Olga KOPER
Tom CHURCHWELL
Former BOD Member
Michael HELMSTETTER
Associate
Midwest Research Institute
Representative of...
David FRANZ
Signed Contract for...
Former Assocaite
Former EVP (1997-2005)
Former Associate
Jeff SHULAR
Michael HUGHES
Richard TRULY
Nancy RUF
Butler Manufacturing
Syntro Corporation
Butler National Corporation
National Bank of Kansas City
Michelle MURRAY
Steven BURRILL
EPIQ Systems
Former Associate
Former CFO
Former CFO
BOD Member
Auditor
Former Associate
Ernst & Young
Former Associate
Ryan WHITE
Former CFO
Former Associate
Owner & Officer
Triple K Farms
Janice KATTERHENRY
Former Associate
Signed Contract for...
Owner
Former CFO
Mark BRUER
Signed Contract for...
JK Financial Services, LLC
Benchmark Biolabs, Inc.
Customer
Former Employee
Former President
PVG, USA
Bill Davies and Tom Overbay
Signed Contract for...
Bill DAVIES
Executive
Signed Contract for...
Expedite, LLC
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

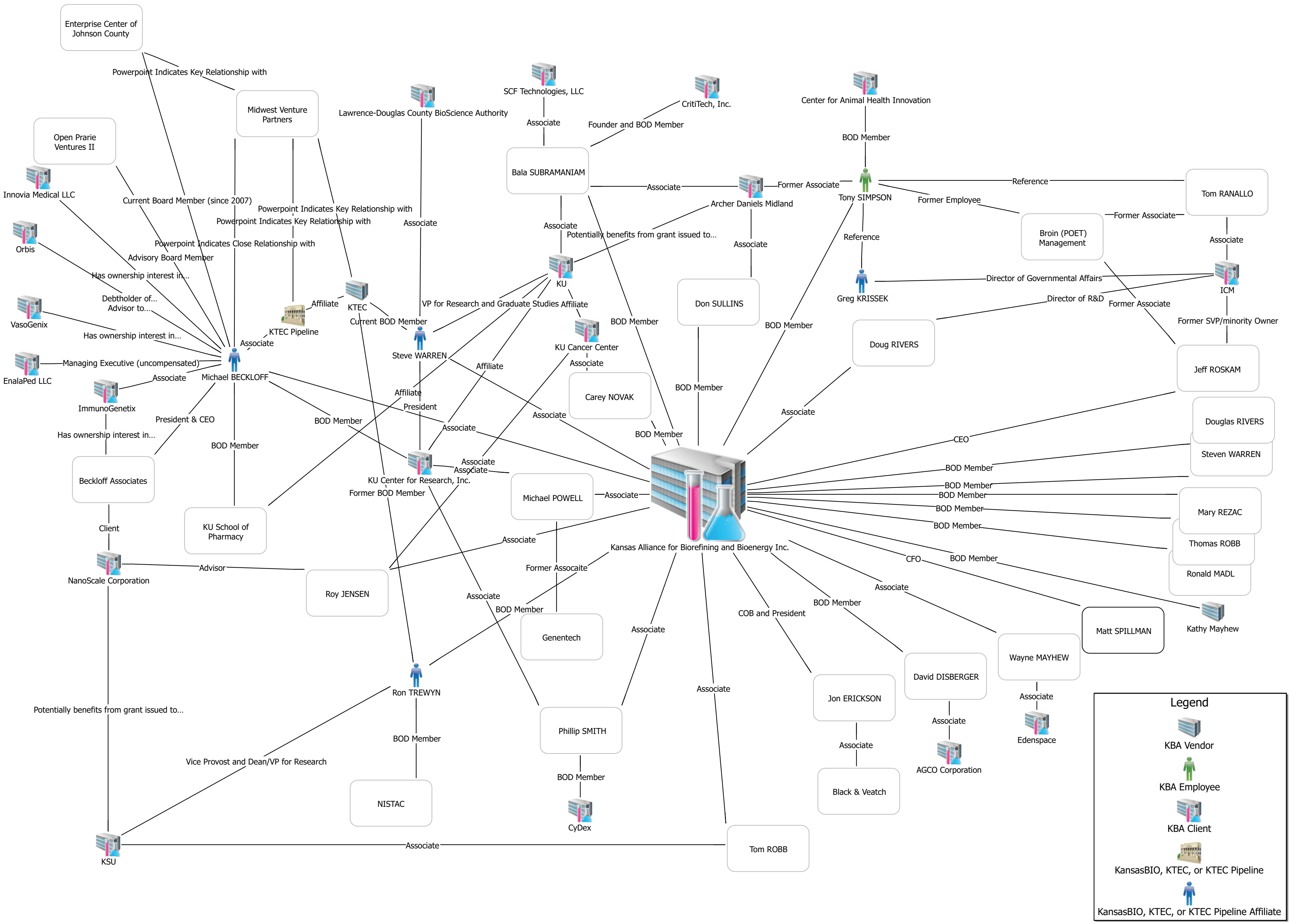


Christine DOWNEYSCHMIDT
Fort Hays State University
Emporia State University
Pittsburg State University
BOD Member
WSU
Governed by...
Governed by...
KU
Governed by...
Governed by...
Governed by...
Dan LYKINS
BOD Member
Kansas Board of Regents
Representative of...
Andy TOMPKINS
BOD Member
Governed by...
BOD Member
Ed MCKECHNIE
KSU
Boettcher Enterprises, Inc.
Representative of...
Jarold BOETTCHER
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

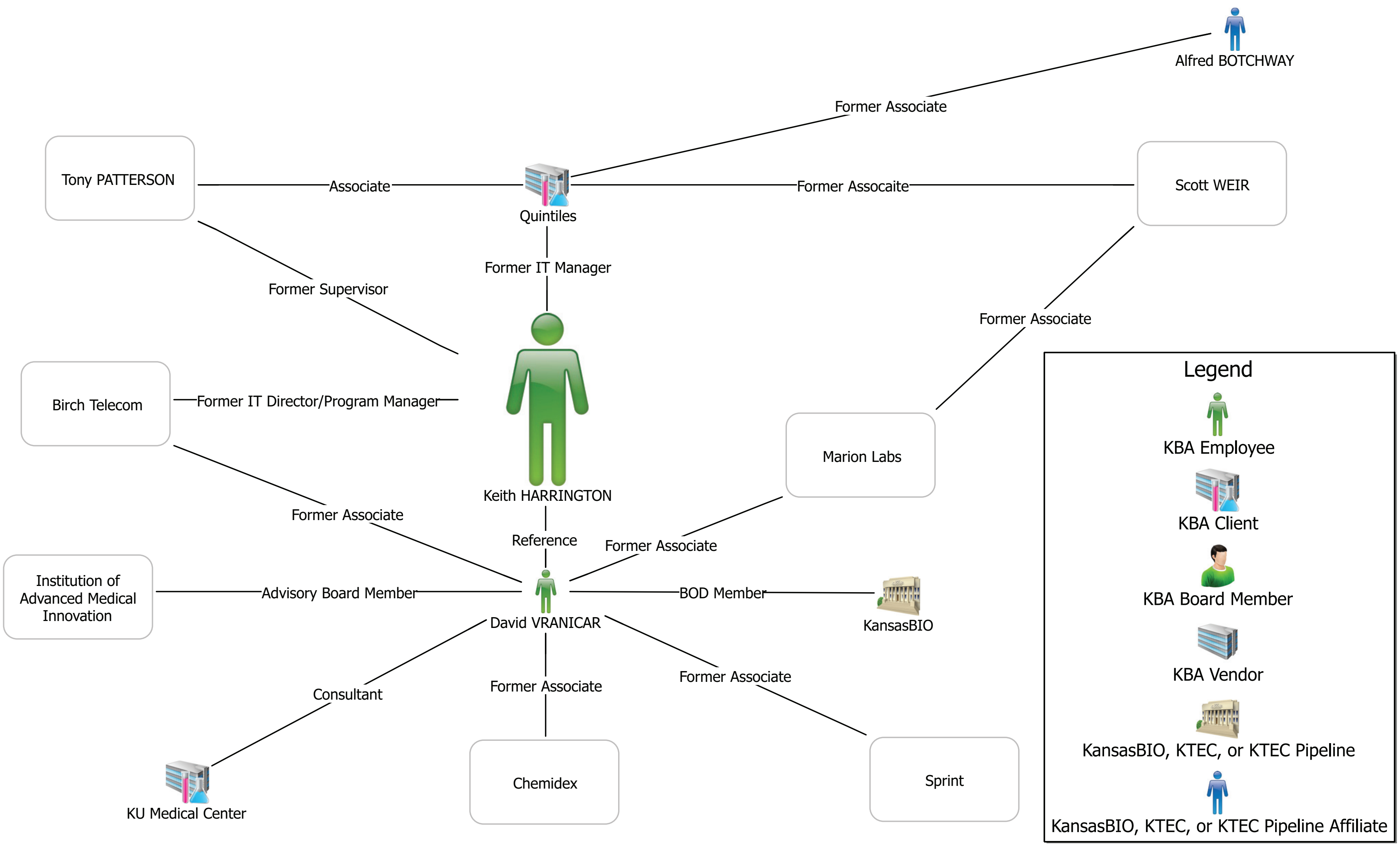

Jim BARONE
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

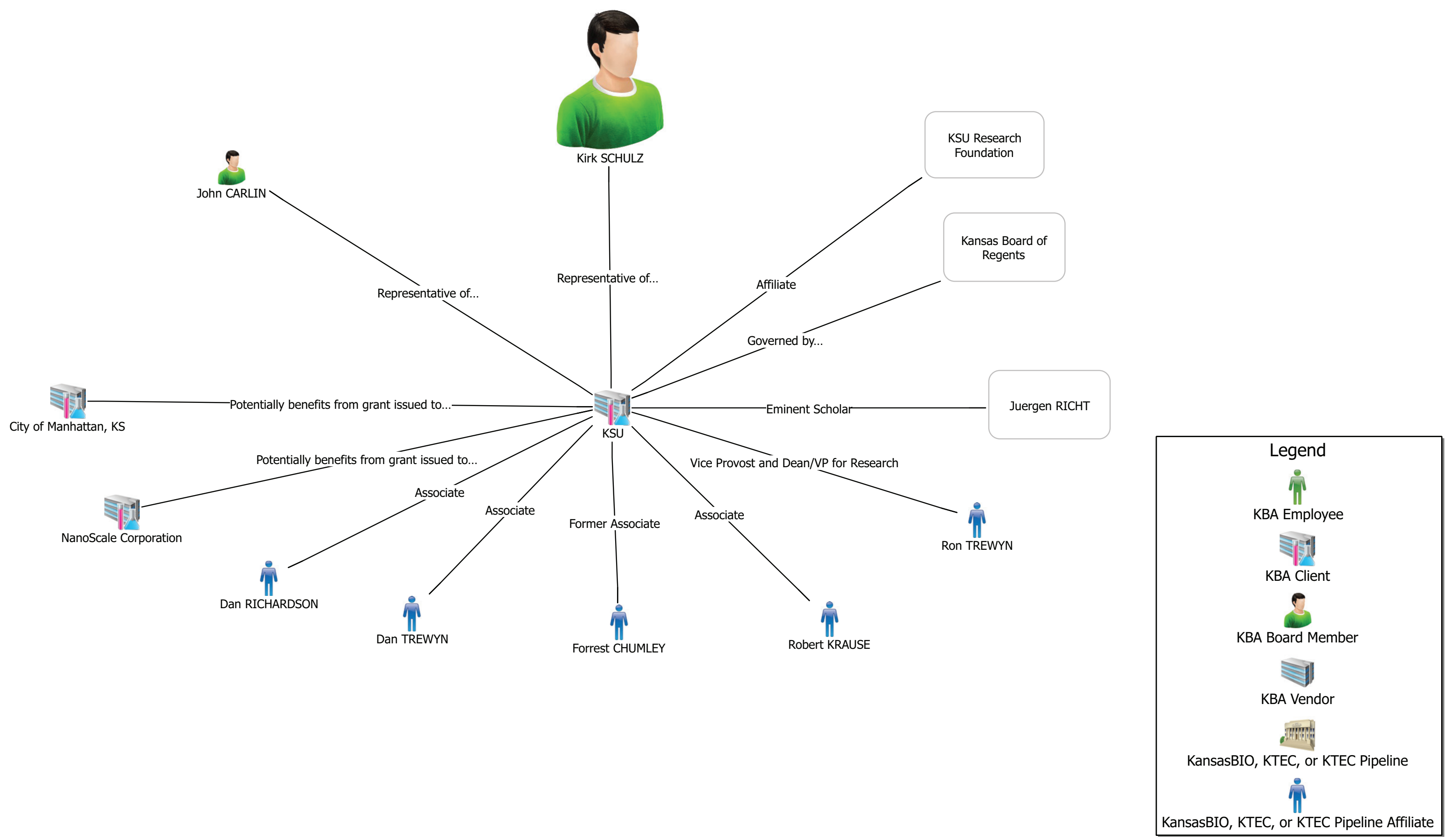

John CARLIN
Jon WEFALD
Kirk SCHULZ
Akin Gump
Employee
David CARLIN
KSU Research Foundation
Kansas Board of Regents
Juergen RICHT
Former President
Representative of...
Representative of...
Son
Affiliate
City of Manhattan, KS
Potentially benefits from grant issued to...
KSU
Governed by...
Eminent Scholar
Potentially benefits from grant issued to...
NanoScale Corporation
Associate
Associate
Former Associate
Associate
Vice Provost and Dean/VP for Research
Dan RICHARDSON
Dan TREWYN
Forrest CHUMLEY
Robert KRAUSE
Ron TREWYN
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

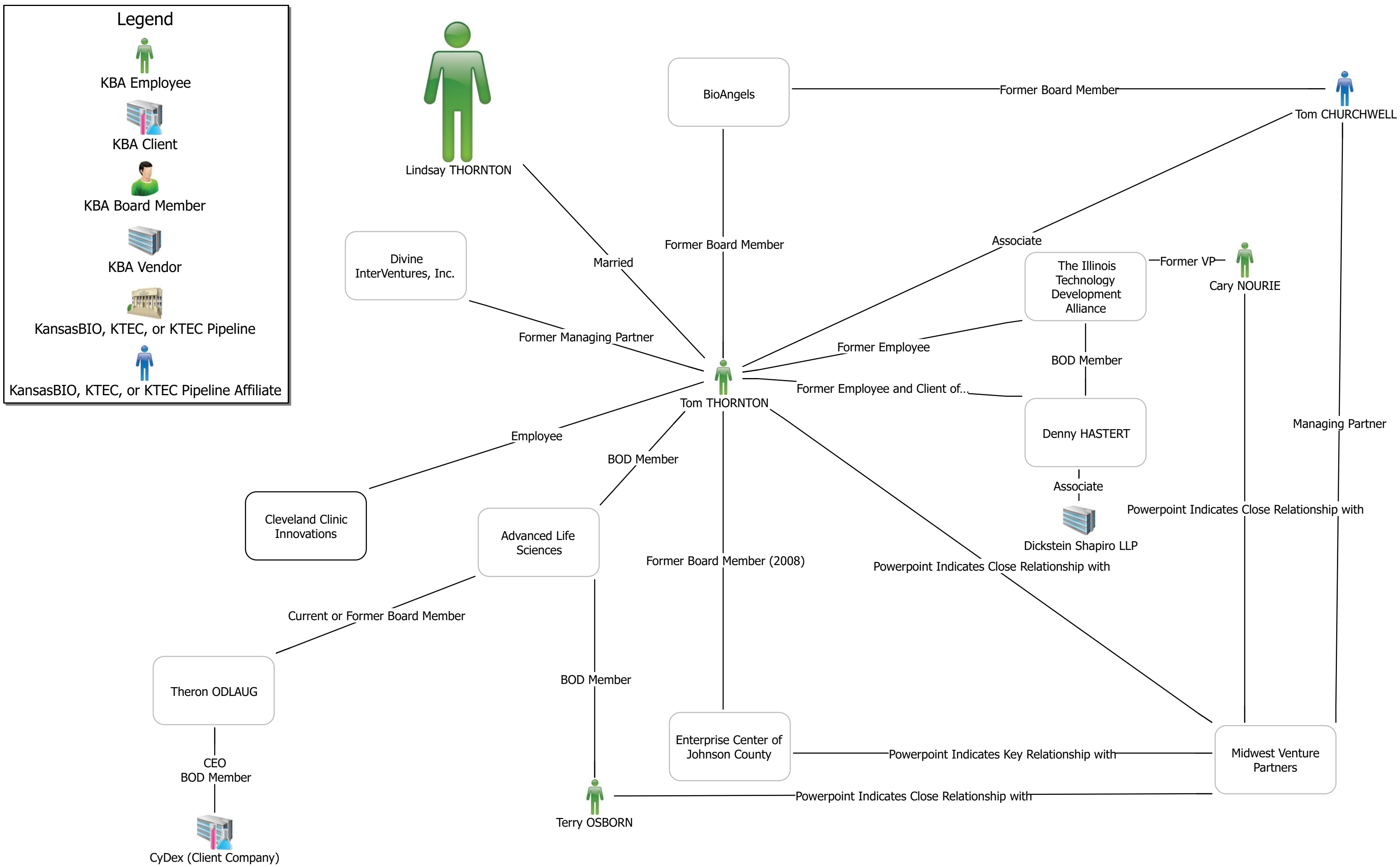

Jon WEFALD
Former President
John CARLIN
Representative of...
Kirk SCHULZ
Representative of...
KSU Research Foundation
Affiliate
Kansas Board of Regents
Governed by...
City of Manhattan, KS
Potentially benefits from grant issued to...
KSU
Eminent Scholar
Juergen RICHT
NanoScale Corporation
Potentially benefits from grant issued to...
Associate
Associate
Former Associate
Associate
Vice Provost and Dean/VP for Research
Ron TREWYN
Dan RICHARDSON
Dan TREWYN
Forrest CHUMLEY
Robert KRAUSE
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



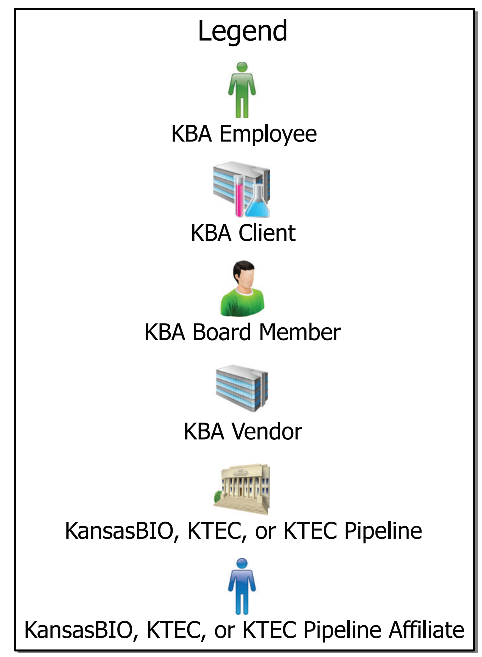
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Midwest Venture Partners
Lawrence-Douglas County BioScience Authority
SCF Technologies, LLC
CritiTech, Inc.
Center for Animal Health Innovation
Associate
Founder and BOD Member
BOD Member
Open Prarie Ventures II
Bala SUBRAMANIAM
Associate
Former Associate
Tony SIMPSON
Reference
Tom RANALLO
Innovia Medical LLC
Current Board Member (since 2007)
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Associate
Archer Daniels Midland
Former Employee
Former Associate
Broin (POET) Management
Associate
Potentially benefits from grant issued to...
Associate
Reference
Orbis
Powerpoint Indicates Close Relationship with
Advisory Board Member
KU
Has ownership interest in...
Greg KRISSEK
Director of Governmental Affairs
ICM
Debtholder of...
Advisor to...
Affiliate
KTEC
Don SULLINS
Director of R&D
Former Associate
VasoGenix
VP for Research and Graduate Studies
Affiliate
Current BOD Member
KTEC Pipeline
BOD Member
BOD Member
Former SVP/minority Owner
Has ownership interest in...
Steve WARREN
KU Cancer Center
Doug RIVERS
Associate
EnalaPed LLC
Managing Executive (uncompensated)
Michael BECKLOFF
Associate
Affiliate
Associate
Jeff ROSKAM
Associate
ImmunoGenetix
Affiliate
Carey NOVAK
BOD Member
President
Associate
President & CEO
BOD Member
Associate
Douglas RIVERS
Has ownership interest in...
BOD Member
Associate
BOD Member
CEO
Steven WARREN
Associate
Associate
BOD Member
Beckloff Associates
KU Center for Research, Inc.
Michael POWELL
Associate
BOD Member
BOD Member
Former BOD Member
BOD Member
KU School of Pharmacy
Mary REZAC
BOD Member
Client
Associate
Thomas ROBB
Kansas Alliance for Biorefining and Bioenergy Inc.
CFO
BOD Member
Advisor
NanoScale Corporation
Former Assocaite
Ronald MADL
Roy JENSEN
Associate
Associate
BOD Member
Associate
COB and President
BOD Member
Kathy Mayhew
Matt SPILLMAN
Genentech
Associate
Wayne MAYHEW
David DISBERGER
Ron TREWYN
Associate
Jon ERICKSON
Associate
Potentially benefits from grant issued to...
Phillip SMITH
Associate
Edenspace
BOD Member
Associate
Vice Provost and Dean/VP for Research
AGCO Corporation
BOD Member
NISTAC
Black & Veatch
CyDex
KSU
Associate
Tom ROBB
Legend
KBA Vendor
KBA Employee
KBA Client
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Alfred BOTCHWAY
Former Associate
Tony PATTERSON
Associate
Quintiles
Former Assocaite
Scott WEIR
Former IT Manager
Former Supervisor
Former Associate
Birch Telecom
Former IT Director/Program Manager
Keith HARRINGTON
Marion Labs
Former Associate
Reference
Former Associate
Institution of Advanced Medical Innovation
Advisory Board Member
David VRANICAR
BOD Member
KansasBIO
Consultant
Former Associate
Former Associate
KU Medical Center
Chemidex
Sprint
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Kirk SCHULZ
John CARLIN
KSU Research Foundation
Kansas Board of Regents
Representative of...
Representative of...
Affiliate
Governed by...
City of Manhattan, KS
Potentially benefits from grant issued to...
KSU
Eminent Scholar
Juergen RICHT
Potentially benefits from grant issued to...
Vice Provost and Dean/VP for Research
NanoScale Corporation
Associate
Associate
Former Associate
Associate
Ron TREWYN
Dan RICHARDSON
Dan TREWYN
Forrest CHUMLEY
Robert KRAUSE
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate
Lindsay THORNTON
BioAngels
Former Board Member
Tom CHURCHWELL
Married
Former Board Member
Associate
Divine InterVentures, Inc.
The Illinois Technology Development Alliance
Former VP
Cary NOURIE
Former Managing Partner
Former Employee
BOD Member
Former Employee and Client of...
Tom THORNTON
Denny HASTERT
Managing Partner
Employee
BOD Member
Associate
Powerpoint Indicates Close Relationship with
Dickstein Shapiro LLP
Cleveland Clinic Innovations
Advanced Life Sciences
Former Board Member (2008)
Powerpoint Indicates Close Relationship with
Current or Former Board Member
Theron ODLAUG
BOD Member
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Midwest Venture Partners
CEO
BOD Member
Terry OSBORN
Powerpoint Indicates Close Relationship with
CyDex (Client Company)


Melvin NEUFELD



Michael BORGMAN

Legend

KBA Employee

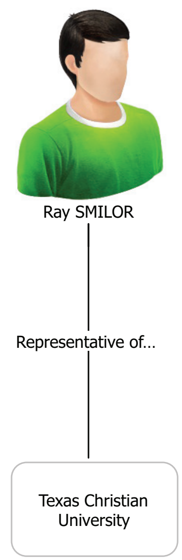
KBA Client

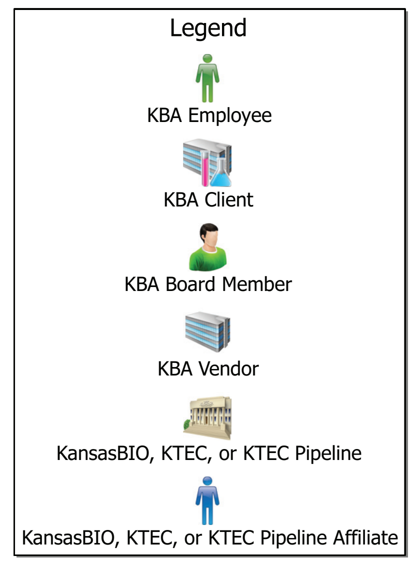
KBA Board Member

KBA Vendor

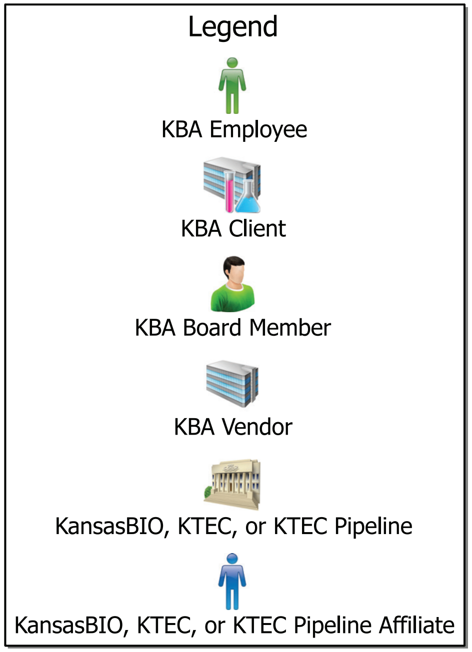
KansasBIO, KTEC, or KTEC Pipeline

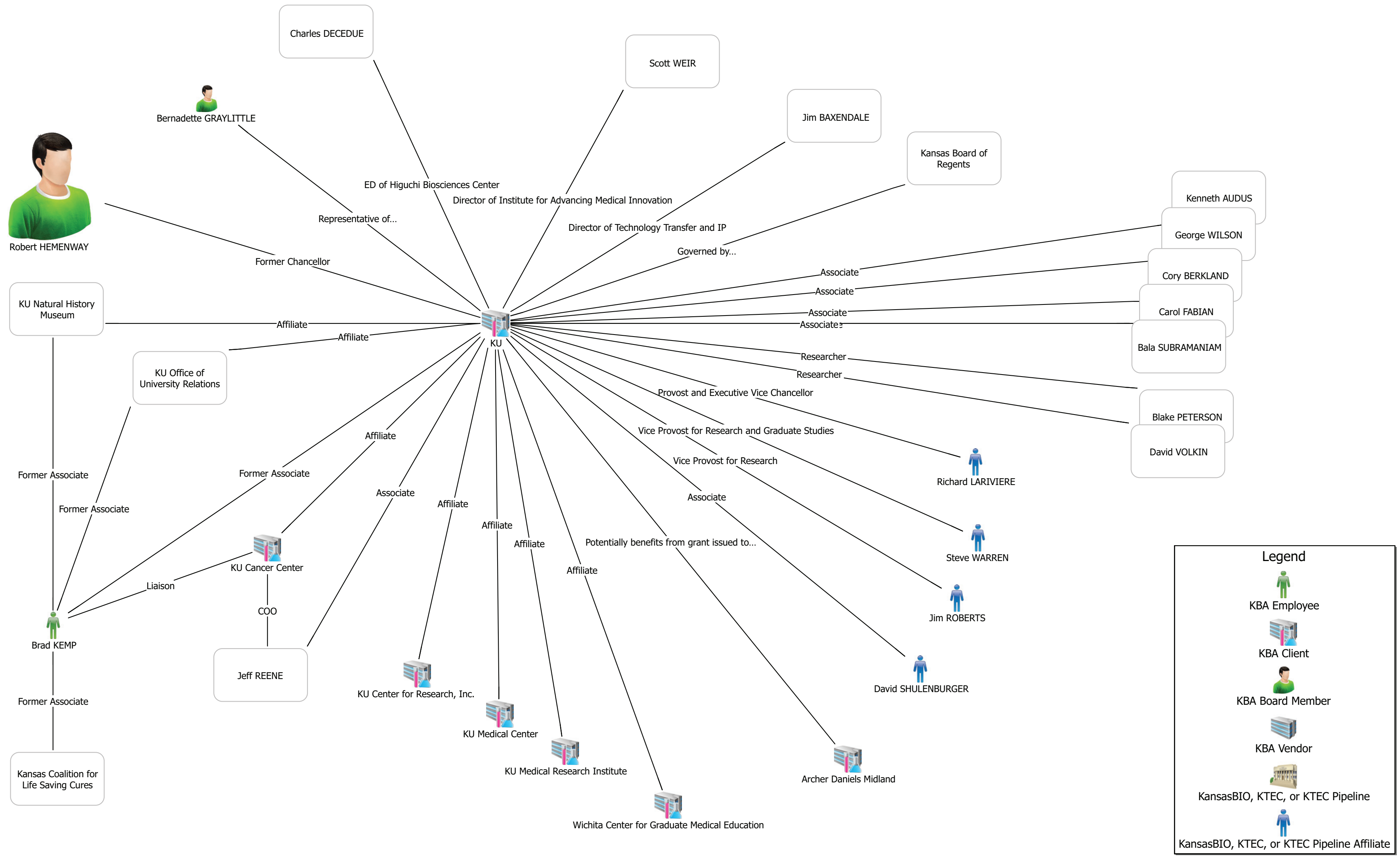
KansasBIO, KTEC, or KTEC Pipeline Affiliate

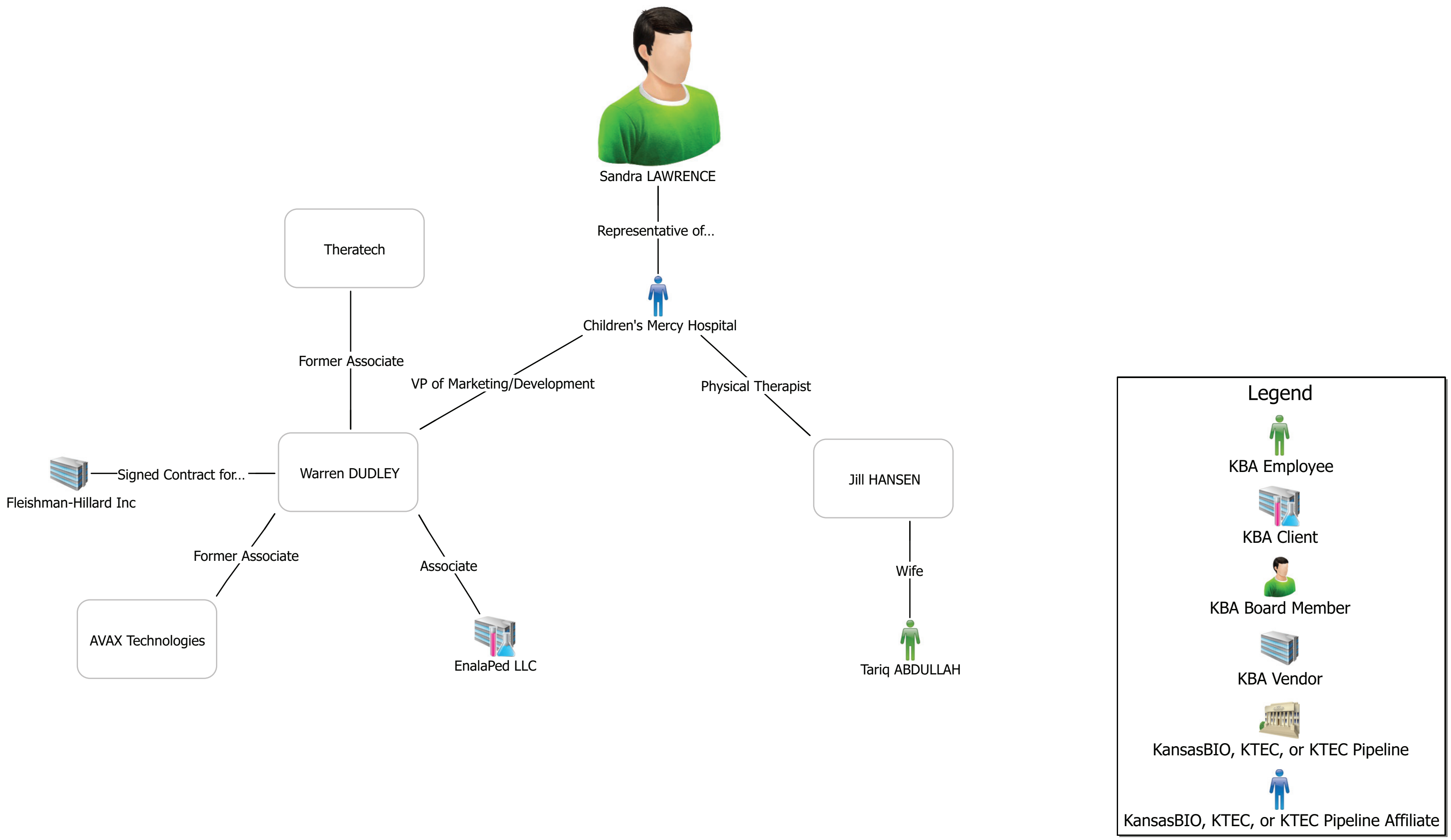

Ray SMILOR
Representative of...
Texas Christian University


Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

Reginald ROBINSON




Charles DECEDUE
Scott WEIR
Jim BAXENDALE
Kansas Board of Regents
Kenneth AUDUS
George WILSON
Cory BERKLAND
Carol FABIAN
Bala SUBRAMANIAM
Blake PETERSON
David VOLKIN
Bernadette GRAYLITTLE
Robert HEMENWAY
KU Natural History Museum
KU Office of University Relations
KU
ED of Higuchi Biosciences Center
Director of Institute for Advancing Medical Innovation
Director of Technology Transfer and IP
Governed by...
Representative of...
Former Chancellor
Affiliate
Affiliate
Associate
Associate
Associate
Associate
Researcher
Researcher
Provost and Executive Vice Chancellor
Vice Provost for Research and Graduate Studies
Vice Provost for Research
Associate
Richard LARIVIERE
Steve WARREN
Jim ROBERTS
David SHULENBURGER
Potentially benefits from grant issued to...
Affiliate
Affiliate
Affiliate
Affiliate
Associate
Former Associate
Affiliate
Former Associate
Former Associate
KU Cancer Center
Liaison
COO
Brad KEMP
Jeff REENE
Former Associate
Kansas Coalition for Life Saving Cures
KU Center for Research, Inc.
KU Medical Center
KU Medical Research Institute
Wichita Center for Graduate Medical Education
Archer Daniels Midland
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Sandra LAWRENCE
Representative of...
Children's Mercy Hospital
Theratech
Former Associate
VP of Marketing/Development
Physical Therapist
Warren DUDLEY
Signed Contract for...
Fleishman-Hillard Inc
Jill HANSEN
Former Associate
Associate
Wife
AVAX Technologies
EnalaPed LLC
Tariq ABDULLAH
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

Stephen OCONNOR

Legend

KBA Employee

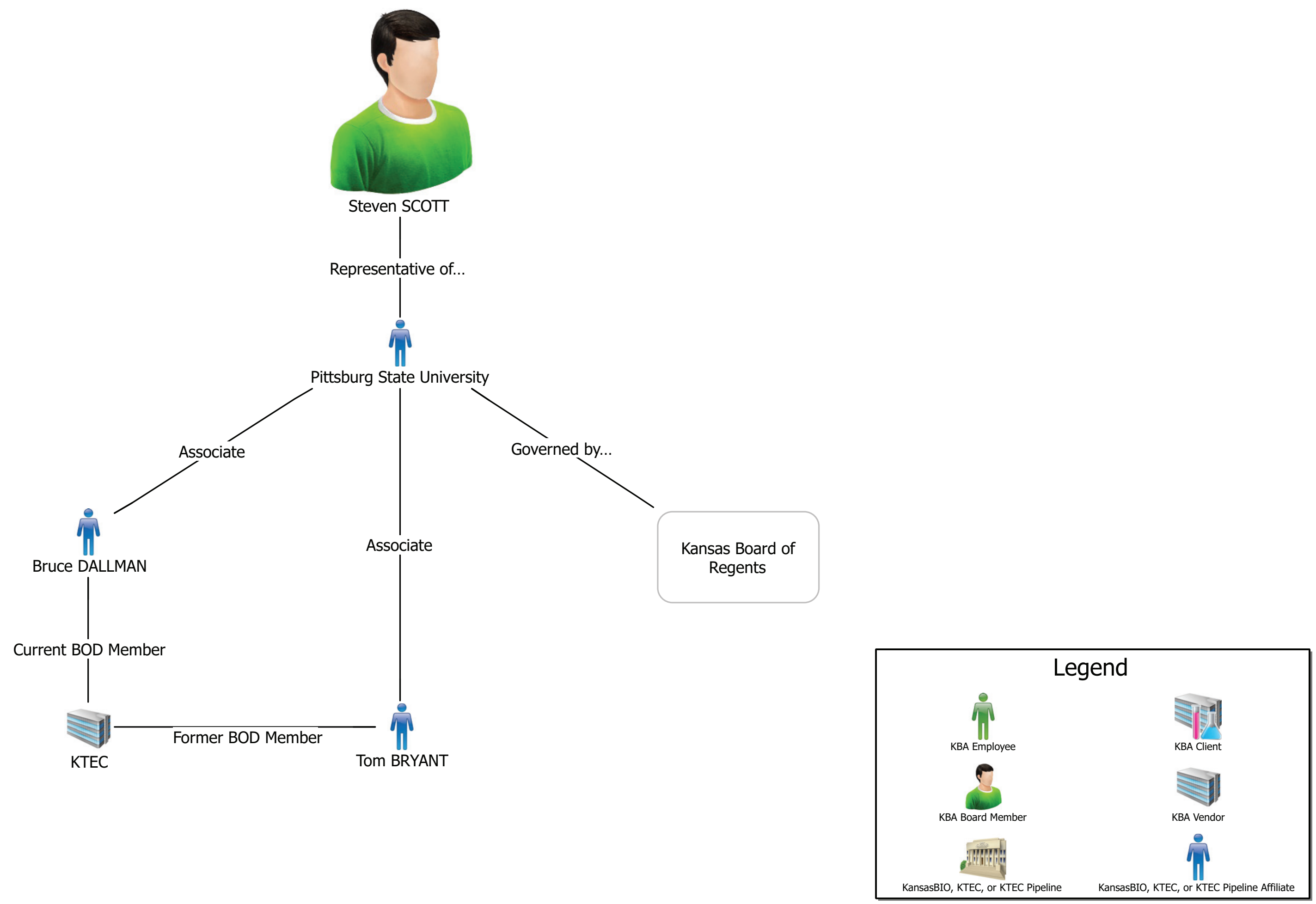
KBA Client

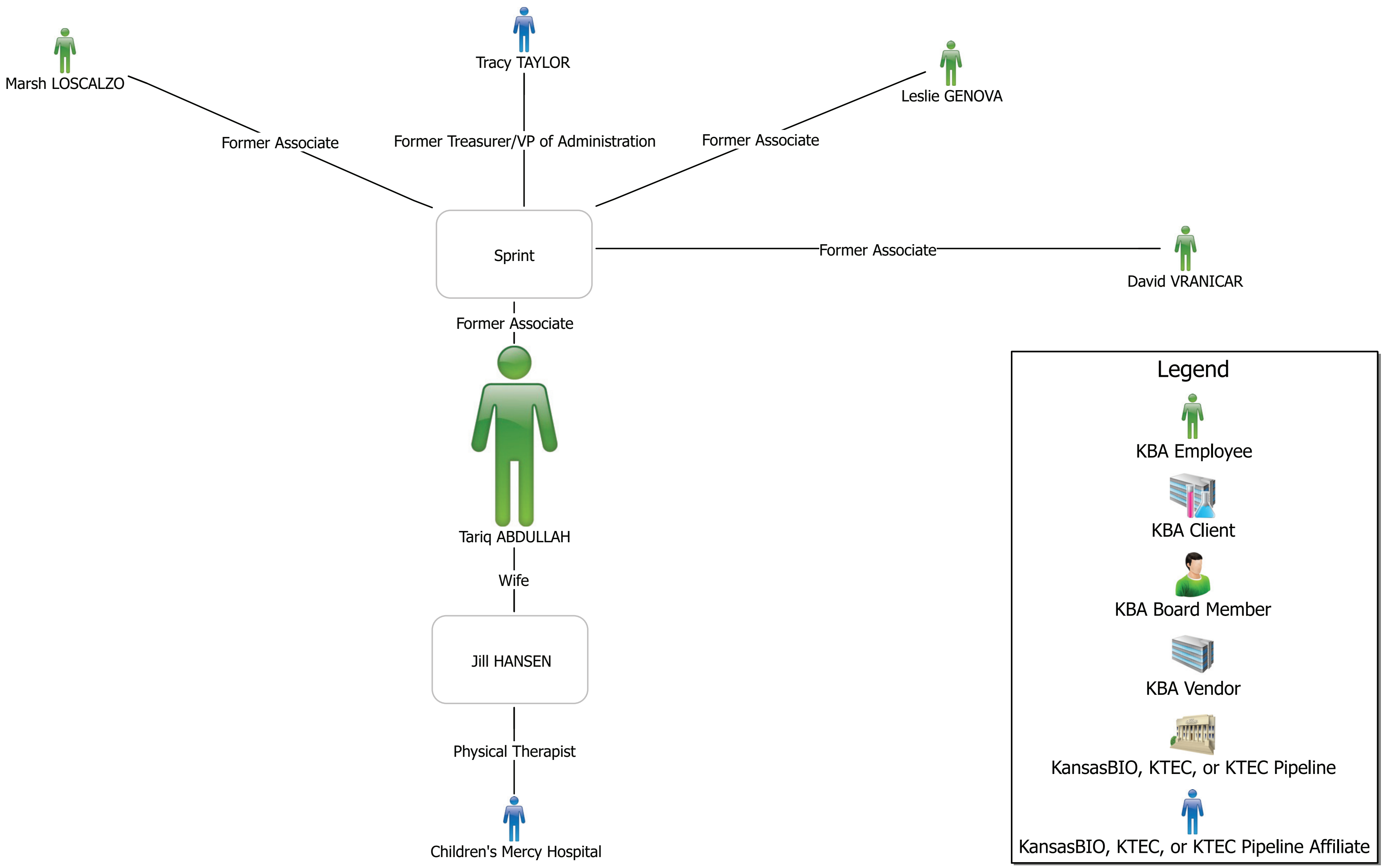
KBA Board Member

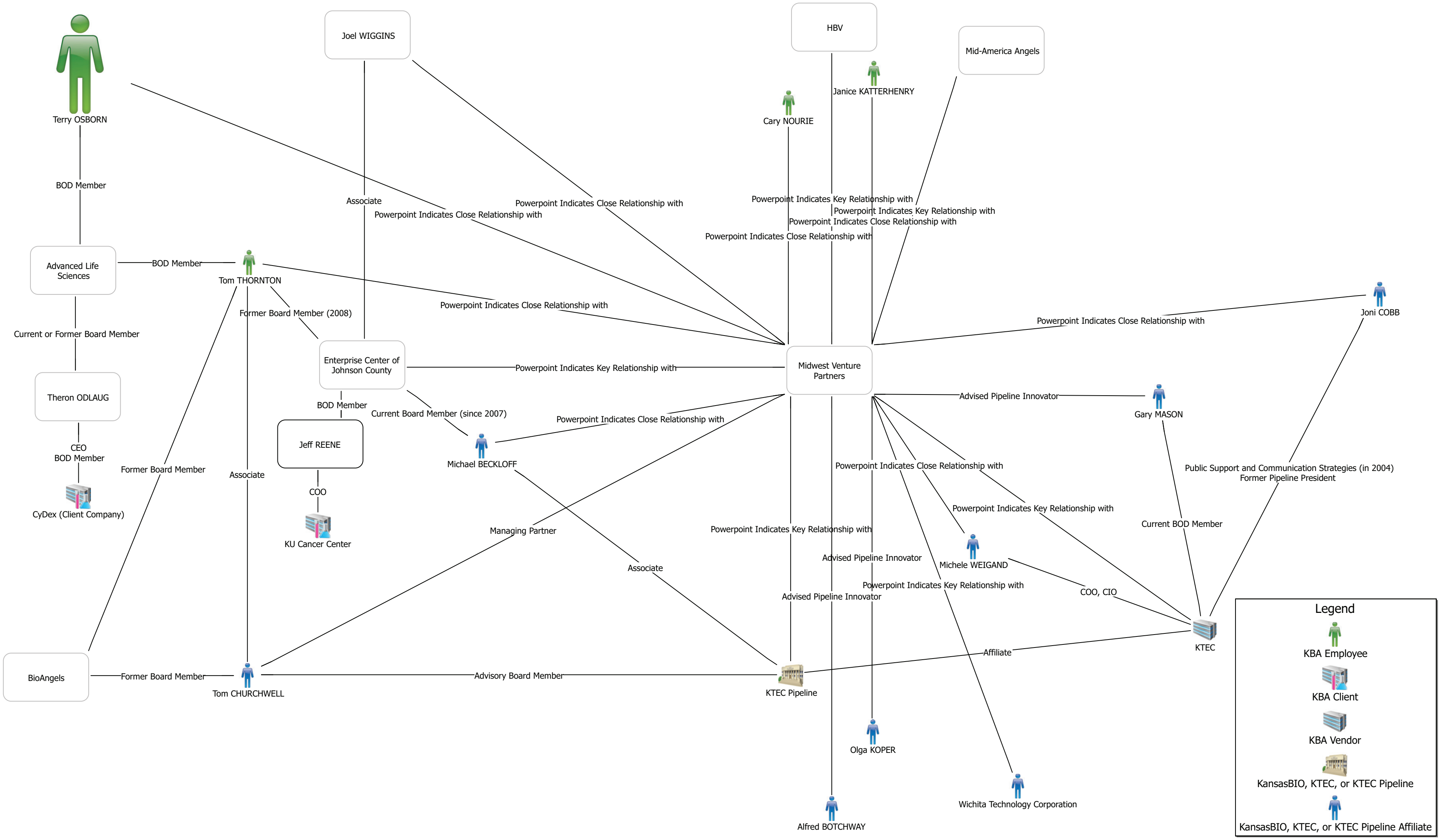
KBA Vendor

KansasBIO, KTEC, or KTEC Pipeline

KansasBIO, KTEC, or KTEC Pipeline Affiliate


Steven SCOTT
Representative of...
Pittsburg State University
Associate
Governed by...
Bruce DALLMAN
Associate
Kansas Board of Regents
Current BOD Member
KTEC
Former BOD Member
Tom BRYANT
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate


Marsh LOSCALZO
Tracy TAYLOR
Leslie GENOVA
Former Associate
Former Treasurer/VP of Administration
Former Associate
Sprint
Former Associate
David VRANICAR
Former Associate
Tariq ABDULLAH
Wife
Jill HANSEN
Physical Therapist
Children's Mercy Hospital
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate



Terry OSBORN
Joel WIGGINS
HBV
Mid-America Angels
Janice KATTERHENRY
Cary NOURIE
BOD Member
Associate
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Key Relationship with
Powerpoint Indicates Close Relationship with
Powerpoint Indicates Close Relationship with
Advanced Life Sciences
BOD Member
Tom THORNTON
Former Board Member (2008)
Powerpoint Indicates Close Relationship with
Joni COBB
Powerpoint Indicates Close Relationship with
Current or Former Board Member
Enterprise Center of Johnson County
Powerpoint Indicates Key Relationship with
Midwest Venture Partners
Theron ODLAUG
BOD Member
Current Board Member (since 2007)
Advised Pipeline Innovator
Gary MASON
Jeff REENE
Powerpoint Indicates Close Relationship with
CEO
BOD Member
Michael BECKLOFF
Former Board Member
Associate
Powerpoint Indicates Close Relationship with
Public Support and Communication Strategies (in 2004)
Former Pipeline President
CyDex (Client Company)
COO
KU Cancer Center
Powerpoint Indicates Key Relationship with
Managing Partner
Powerpoint Indicates Key Relationship with
Current BOD Member
Advised Pipeline Innovator
Associate
Michele WEIGAND
Powerpoint Indicates Key Relationship with
COO, CIO
Advised Pipeline Innovator
KTEC
Affiliate
BioAngels
Former Board Member
Tom CHURCHWELL
Advisory Board Member
KTEC Pipeline
Olga KOPER
Wichita Technology Corporation
Alfred BOTCHWAY
Legend
KBA Employee
KBA Client
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate

Tom CORCORAN

Legend

KBA Employee

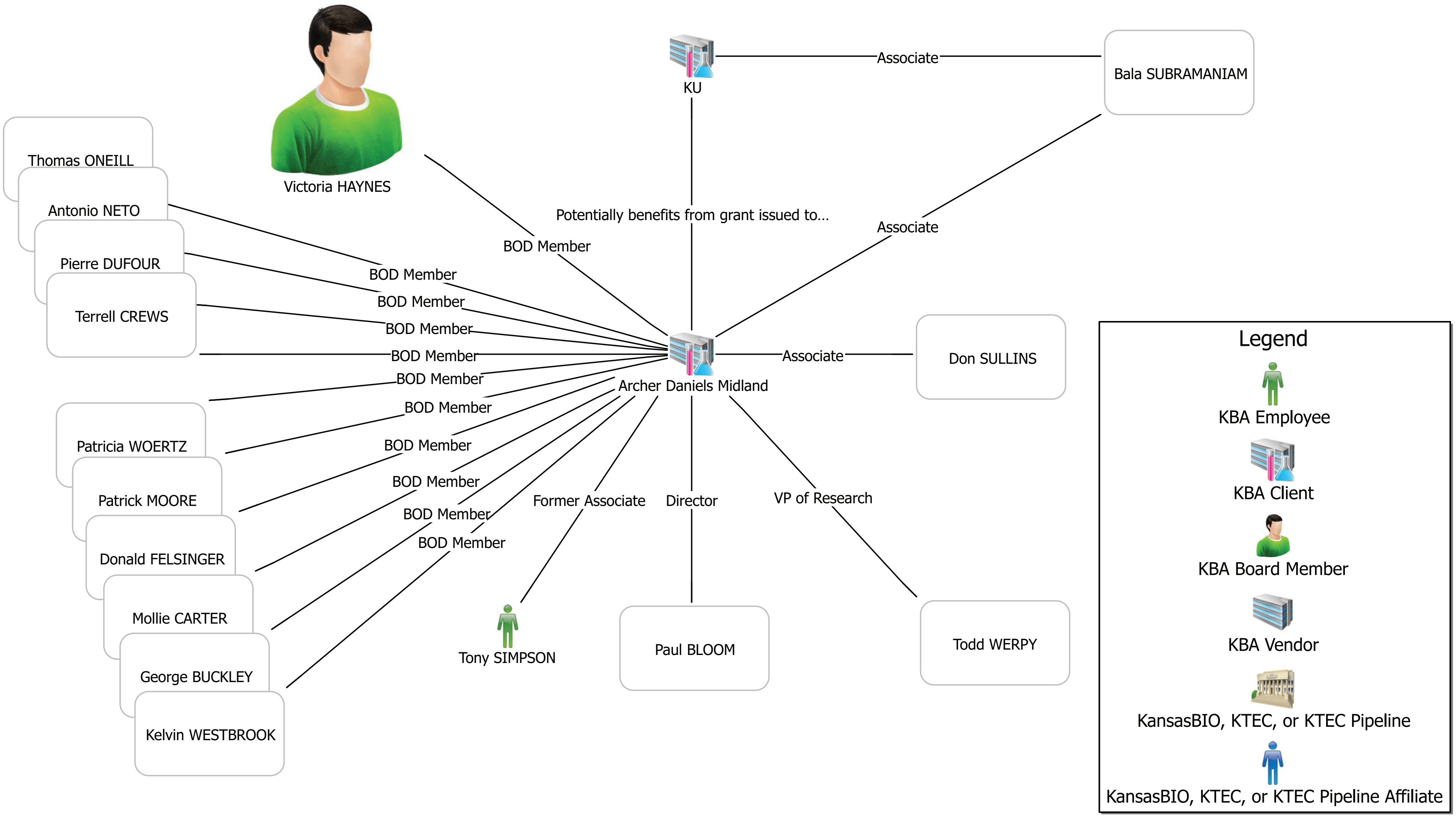
KBA Client

KBA Board Member

KBA Vendor

KansasBIO, KTEC, or KTEC Pipeline

KansasBIO, KTEC, or KTEC Pipeline Affiliate



Victoria HAYNES
KU
Associate
Bala SUBRAMANIAM
Potentially benefits from grant issued to...
Associate
BOD Member
Thomas ONEILL
Antonio NETO
Pierre DUFOUR
Terrell CREWS
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
BOD Member
Archer Daniels Midland
Associate
Don SULLINS
Patricia WOERTZ
Patrick MOORE
Donald FELSINGER
Mollie CARTER
George BUCKLEY
Kelvin WESTBROOK
Former Associate
Director
VP of Research
Tony SIMPSON
Paul BLOOM
Todd WERPY
Legend
KBA Employee
KBA Client
KBA Board Member
KBA Vendor
KansasBIO, KTEC, or KTEC Pipeline
KansasBIO, KTEC, or KTEC Pipeline Affiliate