DOING BUSINESS IN THE U.S.A.

FALL SEMESTER 2022

**Samarium Processing Corporation Case Study**

1. Samarium Processing Corporation – Delaware/NYSE Company. Samarium Processing Corporation (Samarium Processing) is a company incorporated under the laws of the State of Delaware and headquartered in Denver, Colorado, and registered to do business in most of the states of the United States of America. It is listed on the New York Stock Exchange and is widely held by individual and institutional investors. Its latest financial statements are attached.
2. Samarium Processing’s Business.
   1. Samarium Processing is engaged in the processing and manufacturing of samarium metal and supplying it to companies in the USA that use it in making samarium-cobalt magnets and other items that are used in the electronics, microwave devices, electric transmission equipment, and electric motors. Samarium Processing has developed methods for processing ore to extract samarium and other rare earth metals that result in recovery of those metals in concentrations that are many multiples higher than standard processing methods. Samarium Processing’s methods are protected by various patents and trade secrets. Presently in the USA, Samarium Processing is the only user of its proprietary methods and it controls over 60% of the market for the supply of samarium.
   2. Samarium Processing presently obtains ore from mining operations in the United States and Canada, and its proprietary methods are designed for those specific ores. Samarium Processing realizes that there are other countries in the world, such as China, that produce more ores containing higher concentrations of samarium and other rare earth metals than those of ores mined in Canada and the United States. It is in the process of developing proprietary methods that will extract much higher yields of such metal from those foreign ores.
   3. Samarium Processing has very favorable long-term contracts for the chemicals and equipment that it uses in its processing operations with many of its suppliers located in Canada and the United States. These contracts have a provision in them that allows the suppliers to terminate the contract in the event that Samarium Processing assigns or attempts to assign the contact.
   4. Samarium Processing manufacturing facilities use numerous hazardous chemicals in the processing operations. On various occasions, there have been spills of certain of these chemicals and Samarium Processing was obligated to report these spills to the United States Environmental Protection Agency under the Resource Conservation and Recovery Act and the Comprehensive Environmental Compensation and Liability Act. There are on-going proceedings with respect to these matters and the US EPA is investigating the extent of contamination of the soil and groundwater at these facilities.
   5. Samarium Processing hopes to become the leading supplier of not only samarium but also other rare earth metals in the United States as well as the other industrialized countries of the world. Recently, the Departments of Commerce and Defense in the USA have inquired of Samarium Processing about certain aspects of its processing methods as potentially needing to be controlled for export purposes and as having use in military applications.
   6. 60% of Samarium Processing’s workforce are members of the United Mine Workers (UMW). The UMW has traditionally opposed new ventures with foreign companies because they have assumed U.S. jobs will be lost to non-U.S. workers. Samarium Processing has a collective bargaining agreement with the UMW that requires that no employee be required to travel or work outside the U.S. It also requires arbitration of all disputes under the contract.
   7. Samarium Processing has invested heavily in mineral processing and extraction technologies and has an extensive research and development department. Samarium Processing owns numerous patents and patent applications on various aspects of its technologies in the US, Asia and Europe. Samarium Processing has not licensed its technology to anyone outside of the USA. Samarium Processing also maintains much of its technology as trade secrets which it has licensed to no one.
   8. Samarium Processing also is developing methods that will allow the extraction of samarium and other rare earth metals from products containing them that have reached the end of their useful life. Samarium Processing wants to be the lead company in recovering samarium and rare earth metals from discarded equipment and products.
   9. Samarium Processing’s financial statements are attached and have been prepared in accordance with U.S. Generally Accepted Accounting Principles (GAAP).
3. Samarium Processing Officers and Directors.
   1. The Chief Executive Officer (CEO) of Samarium Processing is Alexandra Mountain, better known in the industry as “Extraction Sandy,” a title she acquired by her business negotiation style of asking detailed questions and only accepting detailed answers. Her insistence on obtaining detailed information has kept attorneys for Samarium Processing very busy.
   2. Her management decisions have also been matters of concern for Samarium Processing’s Chief Financial Officer (CFO) Costus Cash, a timid man who tends to withhold his opinions.
   3. The Samarium Processing’s Board of Directors has nine members, including:

* Alexandra Mountain, her sister and brother-in-law
* Jim Acre, the CEO of a real estate company that leases space to Samarium Processing for its corporate headquarters
* Two childhood friends of Extraction Sandy, one of whom has a consulting contract with Samarium Processing for occasional marketing assignments and
* Three CEO’s from unrelated companies.
  1. Alexandra Mountain is Chairman of the Board and Chairman of the Board’s Executive Committee which also includes her sister and brother-in-law. The Board also has an Audit Committee whose members include Jim Acre and Sara’s two childhood friends, none of whom is a CPA or financial expert.

1. Rare Earth China Limited’s Business and President.
   1. Rare Earth China Limited (Rare Earth China) is the largest samarium and rare earth metals mining company in China. In fact, Rare Earth China has the most advanced technology for mining ore containing rare earth metals. However, it uses standard ore processing methods and as a result it extracts only a small percentage of these metals from the ore that it mines.
   2. Over 60% of the samarium used in China and India is supplied by Rare Earth China. Rare Earth China has not yet entered the US or European markets but has an interest in doing so.
   3. Rare Earth China also realizes that the supply of samarium is limited and will soon not be able to meet the worldwide demand for it. This is also true for other rare earth metals. As a result, Rare Earth China believes that there is a business opportunity for being able to efficiently reclaim samarium and other rare earth metals from products containing them that have reached the end of their useful life.
   4. Rare Earth China’s financial statements are attached. They have already been translated from RMBs into U.S. dollars in accordance with U.S. Generally Accepted Accounting Principles (GAAP).
   5. Rare Earth China’s President, Jun Xiaoyang, is a former Colonel Commandant in the People's Liberation Army of China. While a Colonel Commandant, she was responsible for the army’s research on using samarium and other rare earth metals in various military applications. Jun Xiaoyang has a reputation of being very careful and not making decision quickly. She also believes that Rare Earth China needs to expand its operations into Europe and United States. She knows that the US Government is concerned about foreign ownership of US technology and operations involving rare earth metals. However, she would like to gain access to US and European markets by acquiring or teaming with companies who have a strong position in those markets. She also believes that Rare Earth China needs to establish a research center in the USA to keep its position as a leading miner and processer of samarium and other rare earth metals.
   6. Rare Earth China, when it started, received certain grants from the Central Government of the People’s Republic of China that were used to design and purchase equipment used in the mining and processing of samarium. That funding lasted for several years but ended once Rare Earth China became profitable.
   7. None of the shares of Rare Earth China are owned by the Chinese government. The shares of Rare Earth China are traded on the Hong Kong Stock Exchange.
   8. Jun Xiaoyang is also the sister of the First Assistant to the Chairman of the Central Commission for Discipline Inspection.
2. The Proposed Transaction.
   1. Alexandra Mountain would like to use its processing methods to extract samarium and other rare earth metals from ores located in China and other countries in order to meet the increasing demand of these metals worldwide. She realizes that there has already been a lot of development of technology in China along these lines, particularly by Rare Earth China. Extraction Sandy believes that the market for samarium alone extends into every industrialized country in the world. Realizing that Rare Earth China is the largest processor of samarium metal in the world, she would like to enter into some type of cooperation agreement with Rare Earth China to use Samarium Processing’s technology to extract samarium from the ores mined by Rare Earth China. She would also like to develop recycling and reclaiming operations in the USA and China to increase the supply of samarium and other rare earth metals. She would also want Rare Earth China to invest significantly in this project.
   2. Extraction Sandy believes she can entice Jun Xiaoyang to enter into a business transaction with Samarium Processing by offering Rare Earth China with an entrance into the US market for its samarium and other rare earth metals.
   3. Concerned with mounting debt on Samarium Processing’s balance sheet, Alexandra Mountain advises her CFO, Costus Cash, that she wants him to set up an offshore entity, headed by Mr. Acres, to act as the holding company for the exclusive rights to license technology to Rare Earth China for use in processing ore in China. Extraction Sandy believes that royalties can be earned by that company and that the right to these royalties could be used to secure a loan. She thinks that this loan would not appear on Samarium Processing’s balance sheet as a debt, but that the ownership of this subsidiary would appear as an asset.
   4. If she can persuade Rare Earth China to enter into such a transaction, Extraction Sandy believes Samarium Processing, through this arrangement, will secure its position as the largest supplier of samarium in the U.S. and will be able to expand this position to other countries in the world. She is convinced that a public announcement of the Samarium Processing/Rare Earth China transaction will cause the price of Samarium Processing shares to rise significantly. She therefore phoned her stockbroker and directed that as soon as she notifies the broker that Samarium Processing has entered into a binding letter of intent with Rare Earth China, the broker is to buy 500,000 shares of Samarium Processing on the open market.
   5. Further in the back of her mind, Extraction Sandy wonders if Samarium Processing or its soon-to-be-formed offshore company can obtain favorable loans from Chinese banks or financial institutions to finance international projects. She believes that Jun Xiaoyang’s government contacts might be helpful in this regard.
3. Dinner and Advice.
   1. You are in your law office in Cleveland when you receive a call from Alexandra Mountain, stating that she would like you to represent Samarium Processing in her efforts to structure and enter into a business deal with Rare Earth China. Extraction Sandy says she would like to fly to Cleveland soon to have dinner with you to discuss the alternatives available to Samarium Processing. She says she is a little confused whether the transaction should be a supply agreement, a technology license, a joint venture, partnership or simply a teaming arrangement with Rare Earth China in some manner. On all of this, she would like your advice.
   2. Following Extraction Sandy’s call, you receive a call from Costus Cash. He states that he has heard you have been retained by Samarium Processing on the Rare Earth China project. Costus expresses concern about Sara’s directive that he set up an offshore subsidiary for possible use in this project and would like your advice as to how to proceed. He ends the call by asking you not to tell Extraction Sandy that he placed the call to you.
   3. You decide that it would be a good idea to prepare a letter to Alexandra Mountain as CEO of Samarium Processing that will explain the legal options available for a transaction involving Samarium Processing and Rare Earth China and that will also identify and explain some the major legal issues of concern that you have with respect to the structure of the transaction. You intend to provide this letter to Extraction Sandy at the end of your dinner with her. Get ready for your dinner with Extraction Sandy and GOOD LUCK.

[Documents to be Separately Provided]

Financial Statements of

Samarium Processing Corporation

And

Rare Earth China Limited