3 Ways to Position Yourself and Your Family for Future Success

William Battle McQueen, CPA, JD, LLM, CExP
Bill@LegacyProtectionLawyers.com

Legacy Protection Lawyers
http://LegacyProtectionLawyers.com
100 - 2nd Avenue South
Suite 900
St. Petersburg, FL 33701
(727) 471-5868

Many business owners support their families through their businesses. If something were to happen to you, such as a sudden death or permanent incapacitation, it may affect both your business and the lifestyles of the people who rely on you. Here are three things you should consider when planning for the future success of your business and your family.

Keep ownership agreements up to date

Many owners create ownership agreements early in the business' life. As your business has evolved, those agreements may have fallen out of date. The most common type of ownership agreement that doesn't evolve with the business is a Buy-Sell Agreement. Having an outdated Buy-Sell Agreement can be worse than having no agreement at all. Consider two examples about how outdated ownership agreements can harm a business and an owner's family.

Maurice Belcher was the sole owner of a successful construction company. Each year, he brought in a salary of $275,000 for his family, on top of health benefits and other perks. One day, Maurice had a heart attack and died.

Maurice had created a plan for his business 25 years ago through his estate plan, which named his wife, Dina, as the owner should something happen to him. Maurice was not a good candidate for a Buy-Sell Agreement because he did not have anyone (at that time) who would be able to buy him out if something happened to him. So, this was his best option. Dina had no experience running a business and immediately called Maurice's advisors, asking them to help her sell it for as much as they could.

When the company's key employees found out she was selling the business, they began looking for new jobs and left. Revenue crashed, and Maurice's bank began to call in the company's debts. Dina couldn't find a buyer for the business, so she liquidated it for $375,000. After repaying the company's bank debts, Dina was left with just $100,000, no health coverage, and no income.

In this example, a sole owner put his wife in an impossible situation. By failing to update his plans as the company grew, he left her stranded without direction.

Now, consider a co-owned business with outdated ownership agreements.

Janelle Black and Sierra White were co-owners of Black & White Distribution. Their business was appraised at $5 million. Each brought home $375,000 in salary. According to their Buy-Sell Agreement, which they created just five years earlier, if one of them were to die, the surviving owner would purchase the remainder of ownership.

While driving home from work one night, Sierra was killed in a car crash. As 50/50 owners, Janelle and Sierra had each taken out a life insurance policy on each other. After Sierra's untimely death, Janelle used the insurance funds to pay for Sierra's half of the business. The $2.5 million lump sum wasn't enough for Sierra's family to continue living their current lifestyle. Rather than the $375,000 annual salary, Sierra's family income fell to just $100,000 a year, based on their decision to follow the rule of thumb that one would withdraw just 4% of a critical asset's value each year.

In this case, the Buy-Sell Agreement worked as planned, yet Sierra's family still suffered. If your family relies on the business to maintain a lifestyle, you should consider the consequences of your untimely departure from the business and keep any ownership agreements up to date with the goal of protecting yourself against the unexpected.

Separate fairness and equality

If you have children, planning for future success becomes more complex. Consider a business owner, Joe.

Joe has three children: Doug, Glen, and Jania. Jania has worked in the business for 20 years, growing it from a $1 million enterprise to $15 million. As Joe approached retirement, he planned to transfer ownership to Jania and leave $1 million apiece to Doug and Glen after he died. When the brothers learned how much the business was worth, they demanded an equal amount in cash from their father. They didn't think it was fair for Jania to receive what they considered to be more money, even though the company's value was largely illiquid and they had nothing to do with its success.

To mitigate situations like this, you should have a plan to communicate your goals to your children. Consider how you'll determine what's *fair* in terms of how each child contributed to the business' success and how any ownership or monetary transfers can reflect those contributions. Equality and fairness aren't the same, and only you can determine what's fair.

Have a backup plan

It's important to have a backup plan when planning for a successful future. The surest way to do so is to install Value Drivers in your business. Regardless of whom you want your successor to be, all potential buyers/recipients of ownership will want Value Drivers to be present in the business.

Another way is to determine whether your chosen successor can continue to grow the business. Implementing strong incentive plans is a way for you to determine this and reward high-performing potential successors.

If you'd like help thinking through the ways in which you might be able to plan for a more successful future for your family, please contact us today.