

# Business Succession Planning

→ ENSURE YOUR LEGACY LIVES ON FOR GENERATIONS

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One of the wonderful aspects of living in the Cumberland County area is the exposure to the various entrepreneurs and business owners in the community.

In a time that is very critical and stressful, similar operations will flock like vultures to poach customers, employees and any other asset that contains value.

As a corporate and business attorney, it is a privilege representing business owners, and I thoroughly enjoy conversing with individuals on various strategies to improve the efficiency and functionality of each business. However, one of the most important decisions involving a business is oftentimes overlooked and that is “what will happen to my business when I am gone?” Although this topic is never a preferred subject matter, it is essential for the continuation of a successful business after the exit of an owner. This article will hopefully provide some worthwhile guidance.

## “Why do I need a succession plan for my business?”

The most obvious answer to this question is that no matter how hard we may try, no one lives forever. Even if planned retirement is decades down the road, accidents and illnesses happen every day and cannot be avoided. Another reason is that very few individuals want to work until the day we pass away. In regards to these situations, without a plan for the day you exit the

business, the blood, sweat and tears you poured into the business may not be enough to keep it afloat and operational.

Studies show that 80 to 90 percent of all business enterprises in America are family owned and operated. However, less than 33 percent of these businesses succeed into the second generation with only 10 percent lasting to the third generation. There may be a multitude of reasons that businesses fail after the first generation,

but not having a succession plan for the business upon the departure of the owner can only complicate matters for business continuation. Nevertheless, when an owner leaves, the employees, customers, suppliers, minority owners and competitors will focus all their attention on the outgoing leader and whether the necessary precautions were taken to ensure company success. In a time that is very critical and stressful, similar operations will flock like vultures to poach customers, employees and any other asset that contains value. All of which cannot be avoided, but they can be addressed before it becomes too late.

## “I have no idea where to even start a plan. How do I begin?”

The proper time to address the situation is while the owner is healthy and the company is operating at a high level. First and foremost, owners should contemplate what exactly it is that he/she does and whether someone else could do the job tomorrow. The CEO of a company wears many different hats on a daily basis

and it is very easy to overlook the minute details that make one an invaluable owner and boss. Prepare a job description that includes the day-to-day details of operating the business from the boss's perspective as if your successor has never set foot in the business. It is essential to document the most important responsibilities of business ownership, such as which accountant the business uses, who manages the payroll, how the business tracks accounts payable and receivable, who are the company's vendors, etc.

children's business knowledge and skills. Other complications arise with sibling rivalries and whether one child "assumes" he or she will become the next owner of the company. As such, business owners should follow the age-old advice when it comes to appointing a successor – choose the best person for the job. Additionally, addressing these issues via a properly designed business succession plan will minimize family disputes among ownership and profit sharing, especially if they are addressed prior to transi-

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The next owner should have enough details and knowledge to transition into ownership and control interests as smoothly as possible.

Once an owner accepts the concept of business succession, the next step, which can be daunting, is to decide whether control should stay within the family. The family owned business embodies the American dream of capitalism. Most business owners envision the day when the keys to the operation may be handed off to the children. Unfortunately, although appointing a child as the business successor may be the most obvious choice, it may not be the most logical. Parents may be blind to their

tion. Whether or not control passes to a family member, a formal training plan should be implemented if at all possible to teach the intricacies of the business to the successor.

### *Capital and Control, and We are Not Talking About Washington*

Other complications may arise if there are multiple owners of the business, a business succession plan is not in place, and one or more of the owners pass away, become disabled, file for bankruptcy, etc. If a partner or shareholder passes away, ownership interests would vest in the deceased's heirs (whether a will exists or

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