BUSINESS

Exit strategy should entail careful planning

Save and invest. Get some insurance. Make a will. This trinity is commonly advertised as the three-legged stool of responsible estate and retirement planning — and rightfully so. But the retirement plan for a small business owner requires an additional consideration — business transition.

Business transition planning is a fundamental concern for a number of reasons, illustrated in part by the questions that likely interrupt the sleep of the founder of a small business from time to time:

How much money or reliable income will my family and I need before I hang-up the spurs? How much gas is left in the tank? If I unexpectedly die, how much business value will melt into the ether? Could the business sustain itself? Who are my natural successors? Could they be groomed to take over the business and encouraged to stay? How can employees or children buy me out when they don't have any money? Would it be better to sell the business to an outsider? Is there a market?

Obviously, a business founder will want to support a particular lifestyle and provide for family in the event of death, disability or retirement, but a founder may also want to preserve a legacy, ensure that longtime clients are properly served, or setup loyal employees or children with a sustainable livelihood.

My goal today is to suggest that, if business founders want to accomplish these goals, they have a responsibility to themselves and their families, customers, and employees to assemble and carry out a thoughtfully considered business transition plan.

Matthew Trinidad
Pro Bono Publico

A CASE STUDY

Consider, for example, the founder of a construction company with a sturdy book of clients, significant assets (which are encumbered by long-term debt), a substantial line of credit, and onerous bonding requirements. The founder is the face of the business. He's capable and hard-working, and he's accustomed to keeping a tight hold of the reins.

He's also exhausted, experiencing health problems, and is otherwise in desperate need to step on the breaks. Under the duress of these compelling mental and physical conditions, he sells the company to a group of management-level employees for a relatively small down payment and a promissory note.

These employees are capable in many respects, but they've never "run the business," and they've never been on the escalation path with the clients. Also, because of their station in life, the down payment they just made, their lack of first-chair experience, and their limited income, the new owners cannot, alone, guaranty the line of credit or satisfy the bonding requirements. Business begins to falter. The debt and other overhead become difficult to service.

One false step under these conditions and all could be lost, so the founder finds himself in the position of having to step back into the fray. He'll need to guaranty the line of credit and the bond, all for a business he no longer owns or controls. He'll also have to devote substantial time and effort to rebuilding the relationship with the firm's clientele and otherwise bring the new owners up to speed.

Thoughtful legal, financial, and business planning undertaken far in advance of the transition event would have reduced these risks or eliminated them entirely. Thus, my advice to the business founder is simple.

Start planning early, long before you expect to go. A fire sale when the business founder wants to call it quits (or after the founder unexpectedly dies or becomes disabled) is inferior in many respects to a carefully executed transition plan.

Assemble a team of professionals to assist you in developing the transition plan; keep an open mind so that you may maximize the benefit of your advisors' expertise.

No one discipline encompasses all of the expertise needed to successfully transition a business, so a team of professionals, including your CPA, your business attorney, and other financial and insurance professionals qualified to spot issues from numerous perspectives will be invaluable.

Finally, hedge your bets. "The best laid plans of mice and men often go astray," so every well-thought-out transition plan should ideally include mechanisms to reverse the process if necessary and to insure against calamity.

Matthew Laurel Trinidad is a transactional attorney at Karp Neu Hanlon PC. His practice emphasizes business law, estate planning and probate. Contact him at mlt@mountainlawfirm.com, (970) 945-2261, or visit www.mountainlawfirm.com.

BUSINESS BRIEFS

Encana grants $10K for kindergarten program

Encana Oil and Gas, Inc. has given Garfield County School District 16 a $10,000 grant toward establishing a full day kindergarten program, according to a company statement.

"The goal of the program is for students to be successfully prepared for life, in a safe and nurturing environment," said Dr. Ken Haptonstall, superintendent of Garfield County school district.

"Encana supports this program because it gives children the tools they need to learn, which in turn gives them an opportunity to pursue their dreams," said Sandy Kent, community relations advisor for Encana.

Fitness festival coming to New Castle Oct. 22

New Castle Family Fitness and Un-Wind Therapies present their annual Fall Fitness Festival on Tuesday, Oct. 22 from 5:30-7:30 p.m. Complimentary day-passes will be awarded all day, along with chair massage, great food, and free personal training and massage giveaways. Call for details, 970-984-3200.