

**SUCCESSION PLANNING WITH A CAPITAL “S”**

Follow up responses for submitted questions from the December 2, 2015 Insights for Business Owners webcast. Speakers: Paul C. Darley, Chairman, CEO & President of W.S. Darley & Co., and Charlie Mueller, Northern Trust's Trust and Advisory Services Practice Executive.



**1. WE ARE AWARE THAT WE WILL NEED A TEAM TO PUT TOGETHER OUR SUCCESSION PLAN. WHO SHOULD WE CONTACT FIRST TO PUT TOGETHER THIS TEAM? ACCOUNTANT, ATTORNEY, SUCCESSION PLANNING/HR EXPERT, ETC.?**

Charlie – I don't think there's one go-to advisor in every situation. Your attorney is a key player, but all of these professionals are important. One area you might consider is family education and governance consulting to business-owning families. Start with the family values and mission and where each generation is at in terms of their views and perspectives on the business, and where they see their futures. Open family communication is important. Articulate the family's mission, vision and values. That's a great place to start, and that may mean starting with your attorney or a family education and governance professional.

**2. WHAT MANAGEMENT SUCCESSION PLANNING ADVICE CAN YOU PROVIDE TO A FAMILY-OWNED BUSINESS THAT HAS NO FAMILY MEMBERS EMPLOYED IN THE BUSINESS? (PRESUMABLY A NON-FAMILY MEMBER IS MANAGING THE BUSINESS.)**

Charlie – Identify the best candidate, whether they're in the business now or from the outside and set up a plan to help that person succeed in the CEO role.

Paul – I don't have much more to add to that, but I have a number of family business friends with family offices that own multiple companies. One is a 6<sup>th</sup> or 7<sup>th</sup> generation family business from India that won't let any family members work in any of the businesses other than in the family office in a holding position. It's interesting to see those types of businesses when they get to that point because the dynamics are completely different. I'd have to agree with Charlie that it's finding the best person to run the business, whether family or not.

**3. DOES W.S. DARLEY & CO. HAVE A FAMILY CONSTITUTION THAT DEFINES WHO IS A FAMILY MEMBER, WHO CAN BE A SHAREHOLDER AND HOW CONFLICTS ARE RESOLVED?**



Paul – Yes, W.S. Darley & Co. does have a family constitution. It covers the mission, the vision and family participation plan, but doesn't specifically define how family conflicts are resolved.

A shareholder has to be a direct descendant of W.S. Darley, and we will accept adopted children. Most family members hold their stock ownership in trust. If there's a blood relative who dies the stock can go to a spouse, held within a trust.

**4. DOES W.S. DARLEY & CO. HAVE ANY STEPCHILDREN WORKING IN THE BUSINESS? HOW IS SHARE OWNERSHIP ESTABLISHED FOR STEPCHILDREN? ARE THESE VOTING OR NON-VOTING SHARES?**

Paul – We do not exclude stepchildren or in-laws, but we haven't hired any, and none have ownership because of the blood line rules. There are enough Darleys so we're not looking to hire in-laws! But we would take a look at stepchildren - we just haven't been faced with that yet.

**5. WE ARE A 5TH GENERATION BUSINESS AND SOME OF OUR BOARD MEMBERS THINK WE CAN FIGURE OUT OUR SUCCESSION PLAN TO THE NEXT GENERATION BY OURSELVES. HOW CAN WE CONVINCE THEM TO GO WITH AN OUTSIDE FACILITATOR?**

Charlie – I can't emphasize enough starting with the family, the values and expectations, needs, goals and aspirations of the family members and the business. It sets the stage for a transparent and highly effective succession planning process. In our experience you can't do that alone - you need an expert to facilitate and guide the family through the process.

Paul – I would start out by getting them Family Business magazine and making sure they're educated as to the process. Family Business magazine also offers transition conferences with great speakers. The Family Business Center at Loyola University is a great resource, and there are other great consultants in the Chicago area. In my particular case the board, and I have an exceptional board, is encouraging me to step up the succession planning process. I find it unusual that you would be faced with that position because ultimately that's the most important role of the board – to continue to grow the company and make sure it gets passed on to the next generation.

**6. IS IT COMMON OR RECOMMENDED TO TREAT ALL SUCCESSORS EQUALLY, WHETHER OR NOT THEY'RE ACTIVELY INVOLVED IN THE BUSINESS? WHAT ARE COMMON WAYS TO REWARD AND/OR INCENT THOSE WHO STAY ACTIVE IN THE BUSINESS AND ARE RESPONSIBLE**



## FOR RUNNING AND GROWING THE BUSINESS VS. THOSE WHO BECOME PASSIVE SHAREHOLDERS?

Paul – Our #1 core value is our family. Our family constitution is written to ensure that we treat people fairly and with respect, both stockholders and family members, whether they're in the business or not. We're very transparent in relation to where we're going with our business, and where we are with our financials, our succession planning and our strategic planning. Is there an obligation to treat family members differently or give them a hook because they work in the business? I would say no. I've known people in family businesses who think they deserve more stock, but I would caution anyone in taking that approach. In our family business that's a taboo subject. There are certain other vehicles that we've opted not to use that can be put into place such as different types of insurance programs, different types of incentives, and long-term incentives for family members to compensate them. In our case we've said you're lucky enough to be a Darley, lucky enough to be management and that's what you get. Congratulations!

## 7. A LARGE PART OF NORTHERN TRUST'S BUSINESS INVOLVES SERVING AS A CORPORATE FIDUCIARY. CAN YOU SPEAK TO THE USE OF TRUSTS IN SUCCESSION PLANNING FOR FAMILY-OWNED BUSINESSES?

Charlie – Northern Trust's fiduciary heritage dates back to the early days of the bank over 100 years ago. Northern Trust at that point was a family-owned business and many of its customers were Chicago's early business-owning families. Services to those early clients included settling estates holding family business interests and serving as trustee of trusts which held such interests. Our fiduciary heritage provides the foundation for our current service offering to family-owned businesses. While the use of a corporate fiduciary may not fit in every family business succession plan, we do feel that the structure is especially relevant when you have either a high likelihood for potential conflict between family member shareholders, or it is the grantor's intent to keep the ownership in the family for a very long time - a legacy. In these cases a corporate trustee does have certain advantages which should be given serious consideration:

- a. The corporate fiduciary is independent and can make decisions based on the intent of the trust settlor without being unduly pressured by family relationships
- b. A corporate fiduciary provides continuity and consistency unlike individual trustees which must change over time



- c. A corporate trustee is able to take advantage of certain trust-friendly jurisdictions to provide flexible trust structures to meet the specific needs/desires of family business owners

**8. COULD YOU ALSO PROVIDE PERSPECTIVE ON THE USE OF AN ADVISORY BOARD OR A FIDUCIARY BOARD OF DIRECTORS FOR FAMILY-OWNED BUSINESSES?**

Charlie – Northern Trust certainly advocates the use of a fiduciary board or an advisory board. Many times an advisory board vs. a fiduciary board is preferred for founder-owned businesses. However, over time it is preferable to move toward a fiduciary board. We feel a formal board structure provides a number of benefits:

- a. Independent board members are able to bring an outsider’s perspective to the business and ask the difficult questions
- b. Outside board members are able to provide an independent and an objective viewpoint free of family ties
- c. The board provides a longer-term strategic focus
- d. The board helps hold management accountable
- e. Independent board members provide a greater diversity of knowledge and possible business connections

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