

FAMILY BUSINESS NEWS

DO YOU KNOW THE VALUE OF YOUR FAMILY BUSINESS?

SHAREHOLDER VALUE IS A PHRASE WHICH IS OFTEN MENTIONED IN DISCUSSIONS INVOLVING BUSINESS MANAGEMENT ISSUES.



At one end of the spectrum, listed public companies consume tremendous resources focussing on recording, explaining and improving value to shareholders; such value is displayed for all to see each day in the company's share price. A public company director's fortunes can depend on how successful the company is, or is not, in its attempts to add to that value.

On the other hand, it's not uncommon for a family-owned business to go about the day to day operations with little or no regard to the value of the business, let alone what could be done to improve that value. One reason for this is that there is no perceived need to know what the value is. This occurs particularly when the current owners plan to pass ownership to the next generation of the family; that is, no external sale is being contemplated. Unfortunately, on many occasions such a transfer never eventuates, often due to family disputes, many of which actually occur over valuation issues.

Even where the family business owners are open-minded about the possibility of selling

to a third party, they are typically under-prepared when such offers come along; the best price will only be obtained if prospective buyers can clearly see an established pattern of performance, and that appropriate management and systems have been in place for a reasonable period of time, before the due diligence begins. These issues need to be addressed for a significant period beforehand, ideally three years or more, in order to get the business sale-ready.

A number of the issues that family businesses commonly struggle with can have a negative impact on value, for example:

- Lack of succession planning for directors and CEO
- Lack of independent Board members
- Family members inappropriately employed in senior positions
- Systems and procedures not properly documented
- Lack of robust financial reporting
- Inadequate family/business governance, such as a family council and family constitution.

Another relevant aspect is that directors of family businesses have a legal duty to act responsibly and protect the company's assets, which would include a duty to ensure that the value of a business is not allowed to dissipate due to the director's inaction. At the very least, directors are charged with the obligation to ensure that shareholder value is not damaged, and is preserved and enhanced as much as possible for the benefit of the current shareholders, and where those family shareholders regard themselves as custodians, the next generation of owners.

How is value arrived at?

While there are many different valuation methodologies available, for profitable businesses with a reasonable track record, the capitalisation of maintainable earnings is a commonly used methodology.



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“What lies before us, what lies behind us, is nothing compared to what lies within us.”

RALPH WALDO EMERSON

This is a three step process involving:

1. Calculation of a dollar amount of future maintainable earnings (FME), which is normally an average of current and anticipated net profits, adjusted for abnormal and non-recurring items
2. Identifying an appropriate capitalisation rate, i.e. a multiple
3. These two factors are multiplied to obtain the dollar value of the business.

While calculation of FME is rarely straight forward and can involve some degree of subjectiveness for a valuer, the selection of an appropriate multiple generally tends to be more problematic, and in the case of family businesses, some common deficiencies tend to crop up which can suppress the multiple and therefore, suppress value. The multiple arrived at will have an inverse relationship to the perceived risk of investing in the business; that is, the higher the risk, the lower the multiple, and vice versa. The aim of a family business owner should therefore be to identify as clearly as possible those factors which can be improved enough to reduce the risk to a potential investor. Factors which influence the multiple can be classified into four broad categories:

1. Products and distribution – does the business have time-tested products? Is the business reliant on one or two major customers or suppliers? Do contractual arrangements exist with key customers and suppliers? Is the business operating at full capacity or does a 'blue sky' element exist?
2. Management – is there an effective Board of Directors? Does the Board and management team include non-family members where appropriate? Is there a succession plan for key management positions? Are job descriptions properly documented?
3. Market position – how much of the market does the business control, and what is the scope to increase? Can a separate (saleable) value be attributed to existing brands? How susceptible is the business to factors beyond its control e.g. exchange rate movements? Is there a threat of offshore competition? Are there merger or takeover opportunities?
4. Systems – does the management information system produce relevant, accurate and timely reports? Are the financial statements audited? Are all relevant systems properly documented and regularly reviewed and updated? Is there a properly documented strategic plan? Is there a properly documented business recovery plan?

The two areas which family businesses tend to struggle with the most are management and systems. A 2009 survey conducted by Family Business

Australia found that over two-thirds of family-owned businesses do not have a formal board of directors; only four per cent of family-owned businesses have a non-family director; and only three per cent of family-owned businesses have a non-family CEO. In addition, less than 20 per cent of family-owned businesses have a succession plan for the CEO, and only 11 per cent have a succession plan for other senior management positions. In relation to planning, the survey reported that 66 per cent of family-owned businesses do not have a business recovery (including disaster recover) plan. These are the areas which family business owners would be well advised to invest their initial efforts to improving, in order to have the most immediate positive impact on value.

Directors of family businesses should conduct a valuation exercise internally or engage the assistance of a business valuation specialist if required. This could identify which of the key factors have the most potential impact on the valuation multiple. This valuation should then be periodically revisited, if not by way of a full re-calculation, then by assessment of whether improvement of the relevant key factors has been achieved. The process of examining the key factors would necessarily focus attention on those weaknesses which the business should be addressing in any case, and the directors would be able to sleep more soundly at night, having gone further down the path to satisfying their legal and moral obligations to the company's shareholders.

ARTICLE SUMMARY

- Directors have a legal and moral obligation to ensure that shareholder value is not damaged and is preserved and enhanced as much as possible
- The capitalisation of maintainable earnings is a commonly used methodology in calculating business value
- Two areas in which family businesses struggle include management (formal board) and systems (business plan)
- Need to identify improvement opportunities to reduce risk to a potential investor.

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**FAMILY BUSINESS PROFILE****LYALL BEAR**

Director, Tax & Advisory, Private & Entrepreneurial Clients

Lyall has nearly 30 years experience in providing practical business solutions to clients.

He joined the practice in 1983 and was admitted to the Partnership in 1988. Lyall has been actively involved in businesses at varying stages of growth, from start-up organisations to mature businesses. He also has considerable experience with wine businesses, including vineyard and branded wine operations.

Lyall's experience also includes working closely with a number of successful (usually family owned) businesses to develop succession and exit plans as part of a broader estate planning strategy.

Specialist areas

- Family business consulting
- Succession and retirement advice
- Business and ownership structures
- Restructuring, trusts and asset protection strategies
- Working capital management
- Superannuation fund establishment and advice

- Property development structuring and tax issues
- Implementation of financial management
- Cash flow, budgets and financial projection systems
- Debt funding advice
- GST advice
- Small business CGT concessions
- Estate planning advice and assistance
- Business growth and financial performance advice
- Wine industry advisory services
- Business health check reviews
- Primary production businesses.

Qualifications

- Bachelor of Business, Accounting major
- Registered Tax Agent
- Accredited Family Business Advisor.

Professional memberships/contributions

- Associate, Institute of Chartered Accountants in Australia
- Member, Australian Society of Certified Practising Accountants
- Fellow, Taxation Institute of Australia
- Member, BDO National BAS Group
- Member, Family Business Australia.

TRUST – THE BASIS OF FAMILY BUSINESS ADVANTAGE

OUR EXPERIENCE AND RESEARCH SUGGESTS THAT FAMILY BUSINESSES HAVE SEVERAL COMPETITIVE ADVANTAGES.



You've read about the patience that permits long-term strategies, the 'family effect' that reduces capital costs, commitment to quality and service, loyalty among employees and other factors which seem to be more frequently found in family businesses that have survived into second, third or fourth generations than in other businesses.

Frequently we are challenged to summarise exactly what makes family businesses different from other businesses – what makes them special? Obviously, family and business goals, though such goals frequently seem contradictory. A family's passion, commitment and stewardship in relationship to its business can be greater than that of those who toil for anonymous shareholders. But if we had to boil the differences down to a single concept, a single word, the one thing that underlies all the competitive advantages and distinctiveness of family businesses, the word would have to be 'trust.' Trust is the source of long-term perspectives, the 'family effect,' loyalty, commitment, stewardship and much more.

That trust can provide such a powerful advantage to family businesses is well established by behavioral scientists who have studied the phenomenon. Max Weber, the great German sociologist/economist, maintained that the exchange of goods "is possible only on the basis of far-reaching personal confidence and trust." The distinguished modern sociologist, Peter Blau, found trust to be "essential for stable social relationships." Researchers Golembiewski and McConkie in the field of organisational development have found

"There is no single variable which so thoroughly influences interpersonal and group behaviour as does trust."

Trust, or lack thereof, can be found in all relationships. Its importance in business environments – among executive teams, between superiors and subordinates, with suppliers or customers – is obvious. Relationships reinforced by both business and family bonds are often characterised by greater levels of trust than mere business associates. And the values that a family may bring to the business it owns can establish trust as a more meaningful and viable dimension of the business's culture.

Unfortunately, too many family business leaders take trust for granted. When questions arise, when strategies go awry, when performance slips, they are quick to say 'trust me. I'll set things right.' Under such circumstances, family business leaders use trust rather than build trust. Sometimes, there is no other choice.

But family business leaders would be wise to view trust much as they view capital. Like capital, trust can be accumulated or depleted. And as with capital, the extent of trust available is directly related to risk. An action that is acceptable under conditions of high trust would not be tolerable when trust is low. Obviously, not every family business is characterised by trust. The kinds of family businesses that make juicy reading in the popular press are usually of the trust-depleted kind. Indeed, the competitive advantages that we see in family businesses are available only to those who consciously cultivate and nurture trust among family business constituents. How is trust nurtured in a family business? Behavioural scientists offer a useful road-map toward accumulating trust. They identify five components of trust:

- Integrity – having a reputation for honesty and truthfulness
- Competence – possessing the technical

knowledge and interpersonal skills required to get the job done

- Consistency – acting with reliability, predictability and good judgement
- Loyalty – willingness to protect, support and encourage
- Openness – freely sharing ideas and information, freely allowing others access to one's thoughts.

When actions and behaviours are consistent with these components, trust is enhanced. When those components are contradicted, trust is depleted. Business cultures that stress these values reinforce trust. Business cultures that ignore them lose the competitive advantages that trust engenders.

A family business leader who rejects accountability, refuses to share information, and defines loyalty as obedience by others, is unlikely to create a legacy to future generations. The fundamental advantage of trust will have been destroyed – and with it, the basis for successful business and family relations.

We have known many entrepreneurs whose way of working was not too different than that just described. Ultimately, however, they or their children determined their goal to be multigenerational family business success. Behaviour changes. Accountability for honesty and truthfulness becomes accepted. Competence becomes the prime criteria for rewards, promotion and success selection. Arbitrariness is driven from decisions and actions. Loyalty becomes a two-way street. Information and patterns of thought become routinely shared with family and appropriate others.

Trust becomes the new basis of the family business. A new generation with reinvigorated values and relationships can then build even greater successes on the foundations provided by the generations that went before.

ARTICLE SUMMARY

- Five components of trust: Integrity, Competence, Consistency, Loyalty and Openness
- Trust is enhanced when behaviours are consistent with these components.

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SUCCESSION

HOW TO START PREPARING FOR YOUR RETIREMENT



First things first. The owner needs to develop a financial plan that would incorporate what he/she needs to live on and provide a satisfactory lifestyle for the future. In addition to this, the owner should review all his/her assets and determine whether some can be cashed out or used to provide an income stream for the future.

The next step would be to consider his/her succession plan. Is there a ready-made successor in the business? Could a family member be the obvious successor? If the successor is a family member then the owner should ensure that he/she has the necessary skills, respect and commitment to succeed in the business.

As the business is normally a significant asset in the total assets of the founder/family, the owner should consider whether the family member could afford to buy the business. The owner may assist his/her child to acquire the business by offering vendor finance.

It may be appropriate to dilute the equity in the business slowly, for example, in parcels of five-ten per cent at full market value. This way, the owner retains control whilst the successor learns to manage the business and a period of time passes during which the owner is satisfied of both their personal and financial commitment.

There should be an element of flexibility of the plan and the owner should not relinquish control until he/she is comfortable with the successor or they sell and receive full market value for the business.

If there is no obvious successor within the family or the business, then the owner should prepare the business for sale at the appropriate time. He/she should professionalise the business by ensuring there are good documents, systems and clear processes.

He/she should ensure that the business has well trained staff and that they have experience

in the business. He/she should ensure that the business is well presented and that his/her intellectual property is identified and documented properly. For example databases, contacts, and techniques that the business and its staff use to achieve sales, software programs that they may have developed to make the business more efficient. In the case of the property, if its position is critical to doing business, he/she should ensure that it has a long and certain lease that can be transferred.

Most importantly the owner should seek expert advice to consider the taxation and legal issues. Remember there may be considerable savings by selling the shares in the private company that runs the business rather than the business itself. It would also be advisable to seek an independent valuation of the business in order to get a feel for its potential selling price. There are always 'rules of thumb' valuations passed around but you should seek professional advice to ensure that you are able to ask a fair and reasonable price for your business.

ARTICLE SUMMARY

- Preparation for retirement includes development of a financial plan, a succession plan and the development of well trained staff and review of taxation and legal implications
- Seek independent advice on the valuation of your business and ensure you receive a fair and reasonable price.

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RECOMMENDED READING

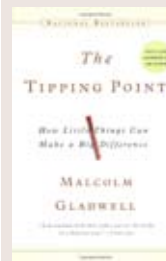


I WANT WHAT SHE'S HAVING. The experience of creating a pleasurable business

Naomi Simpson –
Founder of RedBalloon Days

This is the story of the journey of a successful entrepreneur from start up to a rapidly growing business. Naomi gives a refreshingly honest look at what worked, what didn't and the lessons along the way. It will resonate with entrepreneurial founders on the trials and tribulations of starting a business. She covers the essentials of creating a great business and inspires people from all walks of life to follow their dreams with passion and persistence.

Related books



The Tipping Point
Malcolm Gladwell



Built to Last
Jim Collins



Purple Cow
Seth Godin



Mastering the Rockefeller Habits
Verne Harnish

CASE STUDY: HELPING PROTECT THE \$20MILLION FAMILY BUSINESS FOR JUST \$5,500

EASING OF ECONOMIC CONDITIONS IN THE LAST 12 MONTHS HAS GIVEN MANY OF US THE BREATHING SPACE WE NEED TO REASSESS OUR FINANCIAL POSITION AND CONDUCT A FINANCIAL HEALTH CHECK.



Some people are feeling cautious and considering a move to more conservative strategies. Others are feeling optimistic and have become emboldened by improvements in their financial situations.

Whichever camp they fall into, people the world over are looking at risk – understanding the possible impact and severity of risks facing them and how risk can be minimised in the future.

Often, it's something much closer to home that makes us take stock and reassess our situations. Illness or death in the family is often the motivation for people to make changes. Improving our health, stopping smoking, or putting our finances in order, all become more urgent when faced with the prospect of losing someone close to us.

Recently, two brothers in their early 40's came to us for advice. Their father had fallen ill, was no longer able to run the family business and they would be taking over. The business generates annual revenue of \$60million and the net worth of the family is \$20million.

In addition to their father's poor health and the prospect of taking up the reins of the family business, the brothers had become very aware that should one of them die or become unable to work, everything the family had worked for could be lost and the wellbeing of their own families placed in jeopardy.

They sought our assistance to ensure that should the worst eventuate, the business and their families would be protected.

We were able to help them with the implementation of insurances which would ensure that if either brother died or was unable to work, the business would be able to continue and their family's way of life would be protected. In this particular scenario, to protect the family's net worth of \$20million, our advice cost the clients \$5,500.

Inability to work

In the event that either of the brothers was unable to work, due to illness or injury, they were protected by an income protection policy which would pay an income stream to the individual and his family.

A lump sum payment would also be made under a trauma policy in the event of diagnosis of a serious medical condition, to help the brother meet medical and rehabilitation costs. This policy would also pay a lump sum to the business to compensate for the loss of income caused by the brother's absence.

A further lump sum would be received should one of the brothers become totally and permanently disabled. This lump sum would be paid to the remaining brother and then be used to buy out the business interests of the injured brother. This payment would provide for the brother and his family going forward.

Death

Should one of the brothers pass away, a life insurance policy would provide a lump sum payout to the remaining brother who would use it to buy out the deceased's business interests and provide for his family in the future.

A family group will often have a number of advisers. In this situation, we were able to work with the brother's accountants, in the valuation of the business, and their solicitor to tie the insurances to the buy/sell option deed for the business to ensure all elements have been provided for.

Insurance issues are one of those things that people put off resolving. Sometimes it's because it's morbid and we don't like to face our own mortality. Sometimes it's because our circumstances seem so complicated that resolution seems just too difficult or because all we have encountered are sales people who tell us their 'one-size-fits all' solution will remedy our situation. It could be like the 1,001 other things left undone in busy people's lives – we struggle to find the time.

But the reality is that if you don't do something about this and you were no longer able to work, all of your potential and everything you have worked to achieve could disappear. The relief that our clients feel when these issues are resolved and they can put them out of their minds is enormous.

ARTICLE SUMMARY

- Need to review risk, understand the impact and severity of risks facing your business and how to minimise risk
- Illness or death in the family is often the motivation for people to make change and reassess their risk
- Income protection and life insurance provide a good cover particularly in the case of illness or death
- Protection is crucial to ensure that your potential and everything you have worked to achieve doesn't disappear.

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SO YOU WANT TO ESTABLISH A SELF MANAGED SUPERANNUATION FUND (SMSF)?

THE FIRST STEP IS TO DETERMINE IF A SMSF IS RIGHT FOR YOU.



A SMSF (sometimes referred to as a DIY fund) is just like any other superannuation fund which, as its sole and primary purpose, is to provide retirement benefits to members or death benefits to member's beneficiaries upon that member's death.

The distinction of a SMSF is that it is usually a small family or private fund and is defined as a super fund under superannuation legislation (Superannuation Industry (Supervision) Act 1993) where:

- There are less than five members
- All the members are trustees and there are no other trustees
- All the trustees are members and there are no other members
- No members are employees of another member unless they are relatives
- No trustee receives any remuneration for their trustee services.

Generally speaking, a SMSF is established by individuals who wish to make their own investment decisions and have a direct hands-on role in managing their retirement savings.

A SMSF, as the name implies, is effectively a Do-It-Yourself arrangement. However, you are not precluded from engaging service professionals to assist you in your role as trustee of your superannuation fund, e.g. a financial planner, accountant or lawyer.

Some of the duties required of a trustee of a SMSF include, but are not limited to:

- Acting within the superannuation and taxation laws
- Adhering to the rules set out in the fund's trust deed
- Formulating and documenting an investment strategy (NB: the

strategy should be reviewed at least annually and updated if necessary)

- Preparing minutes of trustee meetings and decisions
- Keeping accurate accounting records, including recording income, contributions, expenses and investment transactions throughout the year
- Preparing the annual financial reports, including operating statement, statement of financial position and member statements
- Arranging for the annual audit of the fund's financial statements
- Preparing and lodging the fund's annual taxation return, which includes the regulatory return and member contribution statement with the ATO
- If applicable- paying income streams.

Advantages of a SMSF

- Members have absolute discretion with respect to the choice and style of assets of the SMSF (within the law)
- Maximum of 15 per cent rate of tax on taxable income if the fund is a complying fund
- Concessional treatment on capital gains for assets held longer than 12 months
- Active participation in the management and decision making process of the SMSF
- Complete knowledge and control of the investment decisions and asset mix either directly or via a professional adviser or fund manager
- Greater investment freedom

- Flexibility to change investments
- Being in control of your retirement funds
- Saving in costs (total costs may be less than retail superannuation funds)
- A SMSF can be a powerful tool for family groups wanting to take advantage of estate planning opportunities that are available by using the SMSF along side the family's overall wealth management and succession strategy.

Disadvantages of SMSF

- Members may find that they spend additional time signing documents and managing the SMSFs investments. However, this may be reduced by engaging specialist administration and investment services.
- Ongoing administration and compliance costs may be prohibitive for members with small balances. The ATO guidelines suggest a SMSF can be more cost effective compared to other super arrangements when a member's assets reach \$250,000 - \$300,000.
- A SMSF must be established for the sole purpose of providing benefits to members on retirement or to their beneficiaries in the event of the member's death. A SMSF cannot be used to provide benefits outside these parameters such as loans to members or other ancillary benefits.

Process of setting up a SMSF

The starting point, if you are intending to set up your own SMSF, is to decide who will be members of the fund.

- A SMSF may have one to four members. All members of the SMSF must be trustees of the SMSF and all trustees must be members. (NB: individuals less than 18 years of age or disqualified persons cannot be trustees of a SMSF.)
- The next step is to execute a superannuation trust deed. The trust deed is the document that records the governing rules of a superannuation fund and sets out how the SMSF will operate in conjunction with the Superannuation Industry (Supervision) Act 1993 and regulations.
- The trustee of a SMSF is required to lodge an election with the ATO to confirm that it intends for the SMSF to become a regulated complying Australian superannuation fund.
- A SMSF must also obtain an Australian Business Number and Tax File Number from the ATO.
- Once the SMSF receives confirmation from the ATO that it is a complying superannuation fund, the trustee may:
 - Establish a bank account for the SMSF
 - Ratify the SMSF's investment strategy
 - Receive existing member's superannuation, rolled-over from existing complying superannuation funds
 - Receive superannuation contributions into the SMSF
 - Make investments on behalf of the SMSF.

NB: all of the SMSF's investments must be held in the full and correct name of the trustee and SMSF e.g. David and Jennifer Smith as Trustee for Smith Family Superannuation Fund or in the case of a corporate trustee Smith Family Super Pty Ltd as Trustee for Smith Family Superannuation Fund

The fund establishment can be outsourced to a specialist SMSF administrator such as BDO (QLD) Pty Ltd or a lawyer.

Once you have your SMSF up and running, the rules are relatively straight forward.

Sole purpose test

This test requires that a regulated superannuation fund operates for the sole purpose of providing benefits for members on their retirement or death benefits to a member's beneficiaries upon the death of the member.

A contravention of the sole purpose test is likely to be raised by the SMSF's auditor or the ATO if there does not appear to be any retirement purpose behind the SMSF's investments or operations.

The trustee of a SMSF must ensure that they keep money, and other assets, of the SMSF separate from their own personal assets.

The trustee of a SMSF must also ensure that no preserved benefits are paid before a condition of release is met.

Investment strategy in place

SMSFs are required to have a documented investment strategy.

The strategy must reflect the purpose and circumstances of the SMSF and take into account:

- The balance between maximising member returns while having regard to the risk
- The appropriate level of diversification
- The ability of the SMSF to pay benefits as members reach retirement, and other costs incurred by the SMSF.

Trustees must make sure all investment decisions are made in accordance with the documented investment strategy of the SMSF.

Arms length investments

Investments by a SMSF must be made and maintained on a strict commercial basis. This means that the purchase and sale price of fund assets reflect a true market value for the asset, and the income from assets held by the SMSF reflect a true market rate of return.

In-house asset rule

The trustee of a SMSF is generally prohibited from acquiring assets from members and related persons.

'In-house asset' is a loan to, an investment in, or lease with a member or related persons or associates.

There are exceptions to the prohibitions where the assets are acquired at market value and:

- The acquisition by the SMSF would not result in the level of in-house assets of the SMSF exceeding five per cent of the SMSF's total assets
- The asset is a listed security (shares, units or bonds listed on an approved exchange)
- The asset is business real property (land and buildings used wholly and exclusively in a business).

Borrowings

The trustees of a SMSF must not borrow money, except in limited circumstances.

Further, the trustee of the SMSF must not give a charge over, or in relation to, an asset of the SMSF.

ARTICLE SUMMARY

- SMSFs provide retirement benefits to members or death benefits to member's beneficiaries upon the member's death
- Established by individuals who wish to make their own investment decisions and a direct involvement in managing their retirement savings
- Trustees need to make all investment decisions in accordance with the documented investment strategy of the SMSF

PAUL RAFTON

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Q&A PROFESSIONALISING THE FAMILY BUSINESS

Q I am a sibling who has worked in a second-generation family business for approximately ten years. After I graduated from University with an engineering degree I travelled overseas to gain practical civil engineering experience in an industry where my family's company were prominent in Australia.

After working in England for three years my father invited me into the family business with the promise that one day this would all be mine. Whilst I was away, a cousin with a financial management background joined the business and has recently been promoted to Chief Financial Officer. I feel that I am being underpaid and expected to work excessive hours but I have no idea when I am going to be promoted to a senior management role or indeed when I shall be offered the equity that was promised.

Could you please tell me how I should address these issues, as we do not have a Board of Directors or Family Council?

A It is frustrating to have been promised both management and equity positions within the company to entice you to join the family business, and after ten years you still seem to be in the dark. There are a number of key issues that need addressing here.

Firstly, the business should be professionalised. That is, a considerable amount of time and effort should be spent on Human Relations issues. For example, providing all staff with job descriptions, contracts of employment and ensuring performance appraisals are completed twice a year. During this process, your future prospects should be identified and documented. Regular feedback from your manager is essential whether you are family or not.

Secondly, a Board of Directors should be formalised and I would strongly recommend the appointment of at least one independent non-executive director. The appointed director would then nominate a Chairman and each

meeting should be controlled by a carefully planned agenda. The composition of the Board should include a number of family members.

Finally, a Family Constitution should be developed and Family Council formed. A Family Council comprises of family members and establishes rules by which the family will conduct itself in relation to the business. All family members must be involved in its design and each family member should sign the document to show that they will abide by what they have agreed on. Some consideration should also be given to the inclusion of sanctions should breaches of the Family Constitution occur.

Whilst the Family Constitution is not a legally binding document, it may be modified by a solicitor to ensure that it has the full force of the law to support it. The Family Council should meet as often as required but usually about two to four times a year. The position of Chair of this Council could be on a rotational basis, however if there is too much emotion involved at the early stages it might be worth considering the appointment of a non-family Chairman.

As you are in a difficult position here and as there are a number of problems I would recommend that you consult a Family Business specialist to assist you in moving forward with the above-mentioned process. Much information needs to be gathered and it may be necessary for all family members to attend a Family Retreat during the process. This retreat should be hosted in a quiet, neutral location, away from the business. All issues discussed and decisions made should be documented and implemented within a reasonable time frame.

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DIARY DATES

FBA NATIONAL CONFERENCE: 2, 3 & 4 SEPTEMBER 2010 SANCTUARY COVE, QLD

Sustaining the Competitive Edge

What is unique about family businesses and how do they sustain their competitive edge?

Learn how to discover and harness a unique competitive advantage.

Conference highlights

- Next generation targeted sessions and events
- New Directors course
- World's longest lunch
- Awards dinner
- Partner program/kids club
- Pre/post touring.



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