# Passing the Torch Without Getting Scorched

*Preserving Your Legacy With Smart Succession Planning*

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*Lawrence M. Gold*
*August 13, 2013*

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# Introduction

I started thinking about writing a book on the subject of succession planning some time ago as I was advising several clients about it. I realized it was an uncomfortable subject for most of them, and I started to wonder why. After all, this is a topic that any business owner should care deeply about. It affects the very survivability and continuity of the enterprise. Ownership of a business is typically the largest and most valuable asset any person can have. Yet, succession planning is shunted off to no man's land.

How often have you heard it said that a business owner treats his company like one of his or her own children?[1] Yet, when it comes to dealing with the critical issues of transferring ownership, much less management succession, it becomes a topic that virtually all business owners shy away from—almost as if they are afraid they will become infected with a deadly virus. Why is that so?

As I mulled this over, I concluded that the primary reason most business owners don't want to talk about succession planning—much less actually deal with the subject—is *fear*. To some extent, owners fear dealing with succession planning because they think it requires them to confront their own mortality. However true that may be, it doesn't fully answer the question. Another facet of the succession-planning

[1] This is the only footnote, so don't worry that you will be inundated with citations or cross-references. For ease of reading and writing, I will adopt the convention of using the masculine pronoun to refer to both genders. This is not out of any desire to discriminate in favor of or against the opposite gender. It's just easier. So, if this offends you, please accept my apologies and I hope you will read on.

conundrum involves the fact that succession planning appears to be so complex and multi-faceted, business owners just don't want to take the time to grapple with it. Since they see it as too complex, they avoid it, often precipitating the very complexities that careful planning could have avoided.

My purpose in writing this book is to dispel the many myths and fears that surround succession planning and to offer guidance and a more holistic approach to the subject—so that more business owners will realize that this just another set of strategic decisions they need to make and that they can do so with confidence and optimism.

This book is primarily designed for owners of family-owned or privately-owned businesses. These are the people who are most directly impacted by the need for, and the lack of, effective succession planning and who are most vulnerable if succession planning is not part of a solid business strategy. Part I is aimed at this audience and it attempts to whet the reader's appetite for more information and discussion about some of the specifics of succession planning.

Another part of this audience is senior management of these same businesses. While senior managers do not generally bring up the subject of succession planning, they are the ones whose lives and livelihoods will be impacted by it and who should therefore play a significant role in the formation and implementation of a succession plan. If they are truly part of a management team, then the lessons in this book will hopefully allow them to discuss the topic and deal with the subject with the owner.

Part II is designed to provide more details about the range of topics that fall within the ambit of succession planning. It is intended not only for business owners, but also for business advisors, financial planners, and others who may be more familiar with the basic concepts of succession planning but may not have thought about the topic in a comprehensive way.

Publicly-owned companies or institutionally-managed companies will typically have already dealt with succession planning—some more successfully than others. Board members and senior management of publicly-owned companies may benefit from the concepts described in this book, but they are not the primary audience for which it is intended.

I make a distinction in this book between succession planning and *effective* succession planning. If this book succeeds at all, I hope it's because I have placed more emphasis on the effectiveness of a succession plan rather than simply describing something that sits on a shelf in some office and never sees the light of day. In today's vernacular, such a plan is a "vampire" plan that functions, if at all, only in the dark—and can suck the blood out of any business.

If a business owner thinks in terms of leaving a lasting legacy rather than simply concocting some complicated plan, then I think he will better appreciate the importance and value of the effort to create an effective succession plan. That's what this book is all about. In the last analysis, the only true measure of success for an effective succession plan is the creation of a strong foundation for an owner's lasting legacy—whether for his family, his employees (or both), or for his community and his constituents who have been such a large part of his own success—his vendors, customers, and suppliers.

Also, permit me one disclaimer that any lawyer writing a book will appreciate. The components of an effective succession plan involve significant legal, tax, and accounting issues that no one book can cover in detail. This book is designed to give an owner or his management an overview of succession planning and some of its more important elements. This book is not a "how to" book, nor is it *Business Succession Planning for Dummies* [add copyright]. So, if you find that this book is helpful, please discuss it with your families and your advisors. Ultimately, they will be your best sources for information and guidance.

# Part I
# The Basics of Succession Planning

*The universe is full of magic things, patiently waiting for our senses to grow sharper.*
*—Eden Phillpotts—A Shadow Passes*

Simple terms often defy simple explanations. So it is with *succession planning.* While the subject of succession planning may appear self-evident on the surface—how to plan for succession in a business—it is not quite as easy as that to explain. The primary reason for this is that the subject of succession planning involves many disparate facets and many (if not all) of them are interrelated. Dealing with succession planning effectively is like peeling an artichoke. As one strips away each piece, one finds another piece underneath, and on and on until one arrives at the heart of the artichoke. The heart of our artichoke will be a structure for the elements of an effective succession plan, but before I get to the specifics of that plan, some basic overview is necessary.

Initially, I want to give you, the reader, not only an overview of succession planning with a taste of each layer, but also some tastes of the more basic concepts. In Part II, I describe many of these layers in greater detail and—hopefully, by the end—I tie them together so the reader will appreciate and understand the holistic approach that I so strongly advocate.

Whoever said that a picture is worth a thousand words knew what he was talking about. So to begin our journey, let's start with some examples of when and how a business owner might want to start thinking about succession planning.

# Chapter 1

# Two People Walk into a Conference Room

*The moment you doubt whether you can fly, you cease for ever to be able to do it.*
—J.M. Barrie, *Peter Pan*

*The stage is set. Dim the lights. Cue the actors.*

Scenario One:

John W. Owner calls his prospective son-in-law, Albert, into the conference room at his company's headquarters for a chat. General Equipment Manufacturing (GEM) makes and sells conveyor systems and was established by John's great-grandfather in 1897. It has been family-owned and family-managed ever since, but now John is getting older. He's sixty-seven and in good health. He and his wife, Marissa, have one child, Rebecca, who is twenty-two and is engaged to Albert. Their wedding is three weeks away.

Albert is a fine young man who recently graduated with an MBA from a nationally known business school, but he has no business experience. His father and grandfather are lawyers and his mother is a social worker.

John has already offered Albert a job with GEM as a sales assistant.

Albert thinks that John wants to go over some of the wedding plans. But John looks very serious and his brow is knitted with concern. The big smile on Albert's face suddenly disappears as John begins to talk.

## Scenario Two:

In a variation of the first scenario, we still have GEM and John, but in this version there is no Albert. John wants to talk to Rebecca about her future. Rebecca is in her senior year at a well-known liberal arts college and is considering taking a year off after college to tour the world with her friend, Emily. She is majoring in philosophy.

Rebecca sits down in the conference room across from John and looks expectantly at her father as he begins to speak.

## Scenario Three:

This time we still have GEM and John, but there is no Rebecca. John has had a very successful career in building GEM, but he and Marissa were not blessed with children of their own. The company has been John's surrogate child. He has raised it, nurtured it, and presided over its growth. GEM today is double the size it was when John took over as CEO from his father, Jeremy, twenty years ago. John is getting restless and wants other challenges in his life.

John has worked very hard to build a strong management team. He has a CFO, Elliott Spencer, who has been with him for fifteen years. His national sales manager, William First, has been with GEM for ten years. The VP of Manufacturing, Paul Burke, has been with GEM for seven years. Jillian Stewart, VP of Marketing, has been with GEM for five years. In addition to these four senior officers, John has brought in strong middle management. He has assembled a team of seven additional key personnel who are in sales, human relations, marketing, and manufacturing.

John has called for a meeting with his senior management team. They usually meet every Monday morning to go over plans for the week ahead. But this is Friday afternoon and they are all curious what's on John's mind. They begin to fidget and squirm as John starts to talk.

## Scenario Four:

In yet another version, John still runs GEM and has the same management team. Rebecca is once more engaged to Albert. But this time John isn't the one who initiates a discussion about succession. Elliott Spencer, CFO, and Paul Burke, VP of Manufacturing, are having a cup of coffee one Thursday afternoon. They've worked closely together over the years and trust each other implicitly. Lately, they've seen hints that John is starting to slow down, and from offhand comments they've heard him make, they think he may be considering stepping down or even selling GEM. They have no idea about what role Albert may play. Elliott and Paul start to think about what might happen if John decides to leave, much less sell the company. "Paul," Elliott says, as he looks down into his coffee cup, "Let me ask you something."

## Scenario Five:

John and Marissa have three wonderful children who all graduated from college, and John is considering offering two of them, Biff and Bob, positions in the business. The third child, Adriana, is going to law school. John is mulling over what he should do about inserting Biff and Bob into jobs at the company and whether he should make provisions now for them to own stock. If so, what does he do about Adriana? So he calls a family conference for Sunday afternoon. He's not sure how to begin, so he starts to talk about his great-grandfather and how the business got started. Biff and Bob look bored, and Adriana could care less. John stops giving the family history and stands up, puts down his glass of wine, and starts to speak from his heart.

## Scenario Six:

John has been building GEM over the years and is proud of his success. He's built a strong management team and has rewarded them generously with annual cash bonuses for their performance. He's been thinking about starting to make gifts of stock to his children—Rebecca, Biff, and Bob—but he just hasn't gotten around to meeting with his lawyer and his CPA. This morning John got a phone call from Charles Morrison, CEO of one of his competitors, Giganticom.com. Charles tells John that he's prepared to buy GEM for a price that John never thought he would ever get for his company. The amount staggers him. *Gosh*, he thinks. *This is great. Now I can get some equity to my family and my key employees and they can all share in this great opportunity.* Suddenly, he begins to wonder if he has time to do that now. He picks up the phone to call his lawyer.

## Stage Manager's Notes

These scenarios, or versions of them, play out every day in America. For every Facebook, Google, or General Electric, there are literally thousands of privately-owned businesses that are constantly wrestling with the issues of transferring wealth, finding and retaining qualified personnel, and looking to forge an exit strategy for existing owners. All of these issues are part of the fabric of *succession planning*. As we will see, succession planning involves a great deal more than simply designating an heir apparent for the business. For a succession plan to have any true merit and to really be effective, it must incorporate solutions for all of these subjects.

You should also note that although each of these scenarios is different, there are a number of common threads that run through all of them.

First, John has not created or implemented any kind of succession plan. His legacy, such as it is, lies firmly (or not so firmly) in his mind. Nothing has been translated into action. As it stands, no one but John has any clue yet as to what type of ownership or management transition John may have in mind.

Second, in all of these scenarios, there is an undercurrent of uncertainty and anxiety among the people who have a stake in the business about what the future may hold for them.

Third, whatever John is about to say to Albert, Rebecca, his management team, or his family, it's going to be something that will change their lives and their relationship with John.

Fourth, while it may seem obvious that the people to whom John is about to speak are nervous, it may not seem as obvious (but it is no less true) that John is nervous, too.

Fifth, John is not operating in a vacuum, and just as he is having thoughts about succession, so are his key people.

Sixth, time is not John's best friend right now. The longer he procrastinates—something tells him—the harder this is going to get.

We won't go further with these examples right now, but we will come back to them later to see how these meetings might have fared and how different the circumstances might have been had John created an effective succession plan.

One question should immediately come to mind as you begin to think about these scenarios or others that may have popped into your head. Why would any successful businessman not do something about this? Why would someone who has navigated the shoals of treacherous competitors, endured volatile markets, and experienced the highs and lows of business *not* prepare his family, his company, his employees and his customers for what will be an inevitable event—later if not sooner? By *inevitable* I don't just mean death or some other catastrophic event. By inevitable, I mean the evolutionary arc of any enterprise as it develops from an entrepreneurial start-up to an institutionally managed, if not owned, business.

If these scenarios paint a fairly typical picture of different ways that the need for succession planning becomes apparent, and if they are prototypical of life in the privately-owned company world, then—to ask the question we did before but somewhat differently—*why on earth are business owners so loath to come to grips with it?*

There are many reasons that otherwise sane and rational people avoid this topic like the plague.

First, for an owner to be willing to consider succession, he must confront his own mortality. While death may not be the only reason a successor is needed, it is the reason that first comes to most people's minds. Let's face it; death is a scary subject. It's the same reason that many people put off writing their wills or purchasing life insurance. One likes to think (even if he knows otherwise) that he will live to a ripe old age, surrounded by doting family members who wait patiently and breathlessly for the patriarch to award the birthright to a loyal and devoted child as he prepares to shuffle off this mortal coil. Others may take a more cynical and stoic attitude and feel that, since they came up the hard way, let their survivors deal with the problem. It won't matter to the current owner, who will by then be beyond caring.

It is not easy for someone to contemplate what will happen after he is gone, much less deal with the issues that this unhappy event will precipitate. And so one procrastinates and delays and delays and delays. Perhaps the owner thinks that natural selection will occur and a successor will emerge from the current lot of contenders. Perhaps a white knight will come along—someone who embodies all the fine qualities that the owner finds so sorely lacking in his current crop of descendants or managers. Perhaps a buyer for the company will surface and rescue him from these difficult decisions. There are so many possibilities to hope for. But, as one wise man once said, "Hope is not a strategy."

There are more reasons, though, why owners avoid the subject of succession planning. A successful and dynamic owner typically believes with all his heart that he can still run his business better than anyone else. He's not ready to retire or transfer control to anyone else. He's not even willing to think about grooming someone for that task.

Moreover, whether or not he has been blessed with children of his own, he has treated his business as his child, in some cases like a lover. He has devoted his energy and mental and physical strengths to nurturing and supporting this enterprise and he has sacrificed many things—particularly *time*—so that his business would grow and prosper. To even think about letting that go and surrendering his beloved company to someone else—much less to a stranger—is more than unsettling; it's downright unthinkable.

There's more. Given the dynamics of human relationships, an owner believes that if he brings up the subject of succession—and actually does something about it—he is bound to alienate one or more of his trusted family members or key employees. How can he anoint a successor, much less plan for that eventuality, without running the serious risk of losing some key people on whom he has depended—or alienating one or more members of his family? He may also think: *since retirement is so far off and I'm in excellent health, why stir the pot now?*

Finally, if an owner begins to think about succession, he soon realizes that it is a multifaceted, complex subject. There are so many variables and issues to consider. How does one even know where to start? Also, he may need to contend with certain pressing issues on a daily basis: disgruntled employees, unhappy customers, recalcitrant suppliers, fierce competitors, a new kitchen, or a nasty slice in his golf game. Why tackle something as difficult, daunting, and seemingly unpleasant as succession planning?

The truth is that the subject of succession planning is more often than not left untouched and ignored until it is too late. Succession planning is avoided like the plague because a business owner often feels (even if he won't say so) that if he starts to deal with it, he will catch some dreaded disease (not necessarily the plague) and bring about sooner rather than later the very consequence that a succession plan prescribes—his own demise.

From the employee's perspective, while there may be a sense of urgency or discomfort over the lack of a succession plan, there is also the ambivalent sense that—as long as no succession plan exists—every employee still has a chance to catch the brass ring. However, the lack of a plan fosters (unintentionally or not), a competitive environment which, to some owners, may seem productive. However, if one examines this more closely, one sees how corrosive this internal competition can be. It doesn't take a psychologist or human resources expert to understand that when two or more people are vying for attention—if not for the highest rung on the ladder—competition will inevitably dampen or destroy any sense of collaboration or common purpose. It will also set good people against each other, often with unintended and awful consequences.

So, let's take a look at this subject and examine what makes an effective succession plan. In doing so, perhaps I can remove the mystery and the myths about it and let sunshine in on this virtually unexplored corner of the business world.

First, I will describe some of the more common myths and mysteries that persist about succession planning.