

BUSINESS SUCCESSION

Don C. Sihota, K.C.



Options for Business Owners 2023 – VOL 5

As a Business and M&A lawyer, I help business owners transition out of their businesses so they can move on to the next stage in their lives. In this report, I will summarize some of the options for business owners who are looking at business succession.

A typical business owner will have worked for twenty, thirty or forty years building a business that now has substantial value. As a business owner, you have built a significant asset, having provided employment for many people and provided a service or product the community needs. One would think that such an accomplished person would take the leadership role in business succession planning. Unfortunately, the typical case is there is no planning, with the business owner expecting family to take over. Then, an unexpected event happens, creating a crisis that puts the business and its value at risk.

For an owner wishing to step back from the business there are really only a few options. One option is to sell the business to a third party, hopefully realizing enough cash to form a retirement fund. This can be a desirable method of retiring, but it is by no means certain a buyer will be found for the business at an acceptable price. To implement this plan successfully, you need a team of professionals to help you get the highest price and to ensure you not only receive the money, but you keep it. Using an M&A advisor, an M&A lawyer and an accountant/tax advisor is key. While there are risks, this is often the best option for business owners looking to retire.

“The livelihood of the owners and their employees will depend on whether the business owner makes a business succession plan.”

A second option for the owner is to pass the business on to the children. However, a big problem with this scenario is the children don't have sufficient money to buy the business. Furthermore, where there is more than one child, the business owner has to determine who will be in control of the business. I have seen many difficult situations arise where children fight for control of a family business and place the parents in the uncomfortable position of having to choose sides. As a parent, you know that all children are not created equal, and each child is an individual with his or her own interests, desires and goals. Just how does the business owner allocate the business to children who have different interests and abilities? For example, if one daughter is now in management, one son is employed but not in management and the third child has decided to become a marine biologist, should the daughter be given absolute control?

How does the owner/parent allocate some of the value of the asset to the other children? These are just some of the issues I help business owners grapple with when this option is chosen.

A third option arises where there is no obvious buyer for the business and the children are either not interested or not capable. In that case, the owner may decide to pass the business on to a favoured manager, or perhaps all the managers. However, in my experience, the managers never have the funds to pay for the business, so that means the business owner has to help finance them and often means a lower price. I've completed many management buy outs over the years. As a result, I know this option requires special knowledge and experience to ensure the business owner is fully protected.

As you can see, there are a number of scenarios to consider if you are a business owner and are looking at ways to transition the business. With over 30 years of deep knowledge in business succession planning, I am able to use that experience to help business owners wishing to step back from day-to-day management, or sell the business outright. Every situation brings its own challenges and requires creative thinking. While the issues and problems noted above are common, there are solutions available. Advice from a lawyer experienced in the field of business succession planning will assist in developing and implementing solutions for your business succession plan.



For further information contact:

Don C. Sihota, K.C.

Partner

Tel: 604.643.3123

Fax: 604.687.6314

dsihota@cwilson.com

Clark Wilson LLP

800 - 885 West Georgia Street

Vancouver, BC V6C 3H1

CLARK WILSON