



NEWSLETTER

ASPEN FAMILY BUSINESS GROUP

International Consultants to Family Business

David Bork · Leslie Dashew · Sam H. Lane · Joe Paul · Darrell Beck · Bill Roberts serve as a resource to help families create an environment in which members are open and willing to learn and grow. Our goal is to maximize the success of family-owned enterprises through the development of harmonious, healthy, constructive interpersonal relationships.

The resource for your family business...to be the best you can be!

Spring 2009 Issue

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www.aspenfamilybusiness.com

FINDING CERTAINTY IN UNCERTAIN TIMES

Most people are reeling right now from the drop in the Stock Market, rising unemployment, and an economic slow-down. We feel that the politicians who are supposed to look out for the public interest haven't done that. Rather, they have spent billions of ours and our children's money, and now want to spend trillions without knowing if the spending will help or hurt. Regulators and regulations have failed us—from protections of our financial investments to the food we eat. Many of our trusted advisors have fallen mightily from their pedestals.

The climate of anger, frustration, confusion, and fear is as bad as it's been since the Great Depression. And, all projections are that things will get worse before they get better. What snug harbor can we sail for in these stormy seas? What, if anything, can be counted on in this time of great uncertainty?

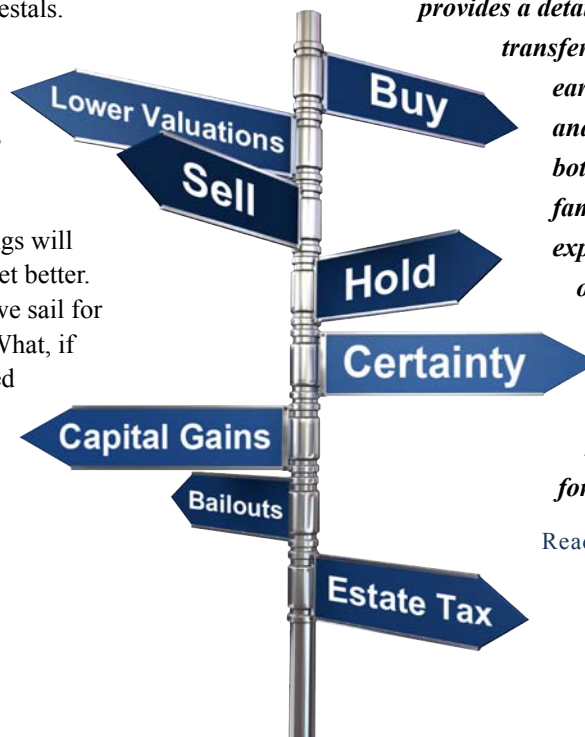
This is a time to count on the love, support

and connection of your family. If you have a Family Business, the one thing you **must** count on now is your family. Family Businesses have a unique opportunity during this difficult period to bring their family members even closer together. Times like these build character and strengthen bonds when you know how to bring people together and rally them behind a common goal.

In this edition of the Aspen Family Business Group's Newsletter, Bill Roberts outlines estate planning in challenging times, including information on upcoming tax laws and how to create opportunity. Darrell Beck provides a detailed description of the

transfer of power, what has to be earned, what can be given, and how to effectively use both. Leslie Dashew shares families' AFBG Gathering experiences. In the families' own words, learn how attending the Gathering strengthened bonds, brought family members closer, and fortified the family business.

Read on...



ESTATE PLANNING IN UNCERTAIN TIMES



WILLIAM ROBERTS

The economy is a mess. Speculation is running rampant in the estate planning community that the new administration is about to make major changes in the estate and gift tax law that will negatively impact passing family businesses to the next generation. However, all is not lost. These troubled times offer historic opportunities for families to transfer wealth to the next generation in a very tax efficient manner.

An unusual convergence of lower enterprise valuations due to economic conditions and interest rates at historic lows (February's Applicable Federal Rate for mid-term loans of 4-9 years is 1.65%) provides a strategic opportunity to transfer interest in the family business to the next generation of owners while potentially avoiding significant transfer taxes.

One method for conserving family wealth is a strategy of discounting business's interests when gifting or selling minority interests to the next generation. Discounts are possible because of a lack of marketability of a minority interest. Since the mid-1990s, tax court decisions have upheld valuation discounts for partnership interests, limited liability companies and equity interest in non-publicly traded entities even though those interests were solely owned by family members.

The IRS has taken a dim view of these discounting methods and has successfully litigated several cases that were permeated with "bad facts" for the taxpayer. The cases *Estate of Harper v. Commissioners* and *Estate of Strangi v. Commissioners* are two classic cases lost by tax payers who were too "piggy" in their approach and design.

On January 9, 2009, H.R. 436 was introduced, which will eliminate discounts for gift and estate tax purposes except in the case of an active trade or business if enacted. A more recent version has added a provision that would eliminate discounts for non-publicly traded equity interests. This

would materially affect family owned business transfers. If this provision survives, it would legislatively accomplish what the IRS has targeted and would substantially increase the difficulty and expense in passing family interests intergenerationally.

HR 436 is not law yet and no "grandfathering" date is set. Taking action before this date would allow owners to leverage with discounts of 25%-40% to pass along and assist in accomplishing family business preservation objectives. For example, if an enterprise has a \$20M value and mom and dad wish to gift or sell half of the business to their operating children, with discounting of 40%, mom and dad

could gift or sell the stock at \$6.0M instead of its \$10M value. At a 45% tax rate, that would save \$1.8M of the family's capital.

A number of estate planning strategies involving gifting, sales, or remainder interest trusts will lose much of their tax leverage, making it more difficult to pass assets within the family. While your estate planning should always be driven by your family values and your objectives, if you

as an owner have already planned to transfer your business interest to the next generation but have not "pulled the trigger," now would be an excellent time to visit with your advisors and consider the action steps necessary to complete the transaction.

The sweeping changes in estate tax law are not likely to be enacted with a window of time to allow owners to accomplish significant planning under current law. In today's economy and with tax laws about to change, sooner is better than later for succession planning.



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DARRELL BECK

We like the metaphor of the relay race for family business succession. One leader has run his portion of the race and hands off the baton to the next runner, who must now run her part of the race. The baton is passed. A part of what the baton represents is power. But what exactly is power? What kinds of power can be handed off and what kinds must be earned? Understanding and using power wisely determines both the speed and effectiveness of family leadership transition.

The first category of power:

- 🌱 Reward—the carrot
- 🌱 Coercive—the stick
- 🌱 Legitimate—recognized by law, society, or contract.
Parents can set rules for their children. A manager can delegate and evaluate the work of a subordinate.

The first category of power includes positional (a part of the role you occupy), conferred (given or taken away by superiors), and tangible (can be seen as a part of the organization chart or job description). These, like the baton, are passed off in the relay handoff of succession. But these three kinds of power can only elicit compliance behavior, what one has to do, not commitment behavior, doing fully what one is capable of doing. The new family business leader who has only this kind of power is off to a very poor start.

The second category of power:

- 🌱 Expert—recognized as knowledgeable in a specific area, the “go to” person for information
- 🌱 Referent—regarded as a sounding board, advisor, wise counsel or role model by others; respected, admired, viewed as a standard of conduct or a valued source of approval
- 🌱 Network—connected in terms of communication (access to others, knows and can get to the experts) and trust (can get others to be open and vulnerable about the real state of affairs)
- 🌱 Persuasive—possesses the communication skills, the character and the emotional intelligence to influence others’ attitudes and actions

HANDING OFF TAKING HOLD THE PASSING OF POWER

- 🌱 The second category is personal (a part of the individual), earned (one’s boss can’t give or take these away) and intangible (they can’t be seen on the organization chart or job description). This category is not and cannot be handed off from one leader to the successor. It must be earned by the successor and the earlier the better.

Two kinds of problems often occur in the family business handoff. Both pose dangers to the new leader’s success but both can be prevented.

The Halting Handoff

Imagine a relay race where the handing off runner continued to hold on to the baton well after the taking hold runner had a firm grasp on it. This alone would ensure loss of the relay race, and that’s why it never happens in relay races. But it *does* happen in family succession. If the handing off is not clear and decisive it reduces the legitimacy of the successor. The retiring leader, board members, other advisors can provide mentoring and coaching for the new leader long after the handoff, but they need to do it behind the scenes so as not to undercut the sometimes fragile legitimacy of newly acquired power.

The Flat-Footed Runner

Imagine too a relay race in which the taking hold runner stood dead still, flat footed, until he or she got the baton. This too would doom the race, and is why all receiving runners



Continued from previous page...

get a running start. In family succession, getting a running start means acquiring the personal, earned and intangible kinds of power well in advance of succession.

This takes a long time. The handing off successor, others in the family business and in the family itself can help the successor. They can do so by creating mentoring and development opportunities for the successor to acquire the personal, earned and intangible parts of power well in advance of formal succession. Mentoring, family councils, internships, jobs in companies other than the family business can all be helpful mechanisms. Thus will the new leader be able to elicit the full commitment and the just consent of the governed. If your family business is facing succession, help the successor get a running start—the longer the better.

Darrell Beck, Ph.D., CMC

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NUTS & BOLTS OF ESTATE PLANNING FOR FAMILY BUSINESSES Monograph Series #16



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Go to www.aspenfamilybusiness.com to get your copy today!

THE GATHERING: CHANGING FAMILY LIVES

The Gathering has had a significant impact in the lives of the hundreds of families who have come to the Gathering over the last 20 years. In this article, Leslie Dashew, Aspen Family Business Group Partner, shares stories from families who have attended.

The Higa family came from Hawaii with one of our bigger groups of participants: 12 members! The group represented three generations of two branches along with two board members. Jason Higa, second generation President and CEO shared some of his thoughts with us.

"We had started consulting with Leslie in April, so we had some context for understanding the issues that other family businesses faced from what she had shared. However, coming to the Gathering gave us great opportunities to actually speak with members of other families and hear about their challenges. We each had face time with individual members of other families and learned from them."

Jason also mentioned that the family appreciated the opportunity to talk with each other in a very different way: "We were all focused on the same issues at the same time by sharing this experience together. The level of openness in the group helped us to be even more open with each other since other families were facing the same dilemmas we were."

The family also learned how important it is for family members to follow their dreams and not to feel compelled to work in the family business. This lesson helped one family member to decide to leave the family business and pursue philanthropic dreams. While the conversation between parents and this young person was difficult, the safety of the Gathering and the support of staff made it possible.

The Higas brought two key non-family members to the Gathering. These individuals were members of their board and one serves as CFO. Jason commented that he could not imagine what it would have been like if they had not come. The shared experience, the lessons they learned became very important as the family moved ahead with new plans for the business and structure for ownership. In addition, the younger family members bonded with the board members and felt greater openness with them afterwards.

When asked about other reactions to the Gathering, Jason added: "I was prepared for an emotional experience because of what had been happening in the family. I found it a truly



LESLIE DASHEW

powerful experience for everyone. I wish we had allowed a little more time before the first evening, so we could be more relaxed for the opening session.” This is good advice for those coming in the future. Allow plenty of time to get to Snowmass so that the opening session is fully appreciated.

Bob Wiener has come to the Gathering twice, once with his wife and eldest son, the next time with all 5 of his adult children, spouses and some youngsters in the next generation. While the children were too young to participate (the youngest participants in the program are 13 or 14), they enjoyed attending the activities offered in Snowmass for kids.

Bob noted that the Gathering gave him great perspective on his family. “We saw families with even greater problems than ours. We got to know families that had done some great things that we decided later to do.” Ideas such as a family employment policies, family councils, and family engagement in philanthropy were among the tools the Wieners later pursued. “Gaining comfort being more direct with each other is something we worked on at the Gathering,” Bob noted.

Most of the participants comment on the accessibility of staff for informal consultation. Not only does the faculty present at plenary sessions and in small workshops, but they also are available for one-on-one conversation during the unstructured time in the afternoons and during social times. One father and son team organized their time to visit with every single one of the faculty members. “We want to capitalize on all the expertise here,” they noted; “Where else can we talk to five experts in one place and have them address our issues.”

Leslie Dashew, M.S.W.

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Dear Aspen Family Business Group:

It's been over five years now since first meeting Leslie Dashew and David Bork at the Aspen Family Business Group Gathering in the mountain majesty of Snowmass, Colorado. Under their customized tutelage, we have given our fourth generation family owned and operated business the best chance of survival for future generations.

At the onset of the Gathering, we were comforted by the casual atmosphere and openness from the participants who had varied businesses and backgrounds, but all were connected by the privilege of a family business. We learned from each other and shared experiences of success, and the inevitable travails associated with families in business together.

During our first seventy years in business, the focus was on growing the company. Now, we have the resources and time to focus on the sustainability of our long term goals for the company as well.

With Leslie and David we have explored the visions and goals for the company, and for our own lives away from the company. We have set a roadmap, created governance, learned about boundaries, created a culture of accountability, and most importantly, created open and honest dialogue which allows everyone in the family (working in the business, or not) to interact in a healthy way. The work hasn't always been easy, but the fruits of our labor cannot be denied. There is a science in creating a successful legacy in any business, especially in a family business where the odds are staggeringly stacked against its survival. In America, only 3% of family businesses make it to the third generation. For us, the investment to increase our odds of survival has been well worth it, and like anything worthwhile, there is still work to be done.

Sincerely,

Rick Wiener

YOU BUILT A BUSINESS. YOU RAISED A FAMILY. YOU HAVE A FAMILY BUSINESS.

In our current economic crisis a common preoccupation of all businesses is managing the tangibles of money—debt, cash flow, etc. We clearly understand this. Yet many family businesses falter or fail because they don't manage the intangibles—trust, shared values, transparency, inter-generational differences, perceptions of fairness. The cost of not managing the intangibles of your family business is threateningly high. **Do any of these sound familiar?**

“
**THE ASPEN FAMILY BUSINESS
GROUP SAVED MY BUSINESS.**
”

R. GABE REITTER, II

Typical Family Business Issues	Typical Causes of These Issues	How These Issues Affect the Business
☛ Sibling rivalry	☛ Unfinished family business	☛ Successor will not be supported
☛ Dad won't let go	☛ Fear of letting go	☛ Business can't transition
☛ Low trust in the family— pulling apart, not together	☛ Few mechanisms, processes to build trust	☛ Little openness, much politics, no repair mechanisms
☛ Weak successors or no successors	☛ Successor search too narrow, or begun too late	☛ Business vulnerable to transition, little preparation, no plan
☛ No governing principles, plan	☛ Power and personality are dominant	☛ No principles, strategy to guide next leader

In a Family Business, most decisions have at least some ripple effect on family members. Sometimes the lines get blurred, and family problems are attempted to be solved in the business, and vice versa. Often, family relationships are damaged, sometimes irreparably. All too often, the business is damaged. Large numbers of family businesses fail in the hands of future generations as a result of inadequate succession planning and training.

At the 2009 Gathering, we'll help you manage both the tangibles and intangibles of succession.

At The Gathering 2009, AFBG Partners will help you...

- ☛ Plan for successful succession
- ☛ Uncover unfinished business and create productive, non-threatening methods to resolve differences
- ☛ Create a process that reassures and alleviates fear
- ☛ Create mechanisms to build trust
- ☛ Create and apply governing principles

Were you wondering if you could afford to attend The Gathering this year? Can you afford not to?

With Early Registration discounts, rates have never been lower. First family member \$1,175, all others half price.

Early Registration Ends May 15. Register online at www.aspenfamilybusiness.com/conferences.htm or call (866) 442-7736.



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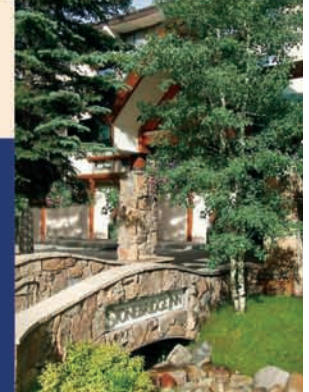
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For more information on Stonebridge Inn or activities in Snowmass please visit www.destinationssnowmass.com

TO RESERVE YOUR PLACE AT "THE GATHERING 2009" GO TO WWW.ASPENFAMILYBUSINESS.COM

Books, Monographs & Assessments

BOOKS

- A. **Working With Family Business** by David Bork, Dennis T. Jaffe, Sam H. Lane, Leslie Dashew, and Quentin G. Heisler
- B. **Working With the Ones You Love** by Dennis T. Jaffe
- C. **Family Business, Risky Business** by David Bork
- D. **Health, Wealth and Families: How to Assure Your Wealth Helps, Not Hurts, Your Family** by Leslie Dashew

Individual: \$29.00 Set of 4: \$100.00

MONOGRAPHS

- 1. **It Ain't Easy Being Rich** by David Bork
- 2. **Let's Celebrate the Good News for Family Business** by David Bork
- 3. **Consulting to the Family Business** by Dennis Jaffe
- 4. **Family Boards: How to Make Them Work** by Sam H. Lane
- 5. **Joining the Family Business** by Leslie Dashew
- 6. **The Challenge of Families Who Work Together** by Leslie Dashew
- 7. **Transferring Authority in Family Business** by Joe Paul
- 8. **The Challenges of Downsizing a Family Business** by Sam H. Lane
- 9. **Succession Planning** by Sam H. Lane

- 10. **Exploring Differences in a Hierarchy** by Elizabeth McGrath and Nick Bizony
- 11. **Getting Along With Family Members** by Sam H. Lane
- 12. **The Family Business Employment Policy** by David Bork
- 13. **Principles for Success in Family Business** by Leslie Dashew, Joe Paul, & Sam H. Lane
- 14. **The Trapeze Act of Family Succession** by Darrell Beck
- 15. **Family Business Ownership Education** by Leslie Dashew, Joe Paul, & Sam H. Lane
- 16. **Nuts & Bolts of Estate Planning for Family Businesses** by Bill Roberts

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Full Set: \$125.00

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