



ASPEN FAMILY BUSINESS GROUP, LLC

DEEP RELATIONSHIPS. ENDURING LEGACIES.

What You Are Governed

By By Joe Paul

It took 12 men and a crane to place the long slab of granite in Sam's 4th floor conference room. He loved his Swedish granite table-- At least it used to be his table.

Today, on both sides of that cold expanse of stone, sat the other owners of 50% of the company. That 50% was equally divided among his three sons and two daughters who were staring at the patterns of quartz in the table, or looking out the window. Occasionally they would glance at each other, or at their father with furtive, side long eyes.

Sam had never dreamed that he would be sitting with his own children at an impasse over how to proceed with the company he had created and nurtured for 30 years. They were just about to take a vote that would trigger the transfer authority to the two trustees of the voting trust for selling off part of the company.

And at the far end of the table were three more sets of eyes steadily fixed on Sam. They didn't waver.

Sam was not accustomed to having his decisions challenged regarding the business he had created and sustained. Seven years ago, when he had told his children he wanted them to become the Board of Directors he did not intend for them to have any authority over him. He certainly didn't foresee that they would ever try to veto any of his decisions. All five were happy in their chosen professions and not interested in working in the business.

But since they were all interested in being owners, Sam decided that he would use the Board meetings as the venue to teach them what they needed to know about the business. Because his kids insisted, Sam also grudgingly created an Advisory Board. They were the three sets of eyes at the other end of the table. At first he had resented them, but eventually he grew to appreciate their wisdom. Their job was to groom the successor generation as individuals, and as a group, to be effective owners. Each advisor knew something about the journey

of the founder letting go. In fact, one of the reasons they had been selected was that they had each passed on the responsibility for the company they had created to their children.

The Advisory Board's experience in this regard had lead them to help the family draft a Shareholder's Agreement that anticipated the naturally diverging attitudes about issues like the allocation of assets. And, since they recognized that during the years when the stock was being transferred to the successor generation, there would be a period when the distribution of stock among family members would create the possibility of a tied vote on an issue. Their astute anticipation of the risks at such a juncture was the reason that the family Board was suspended in anticipation of what Sam was about to do.

If he called for a vote it would trigger a tie with Sam on one side and his kids on the other.

This impasse would activate the use of the voting trust to make the decision about the sale of the Division. Everyone was worried about what the emotional and financial consequences of using the voting trust would be in the family, among its employees, or in the marketplace.

All 5 children were bracing themselves for their father's aggressive reaction to his Board. It would not surprise them at all to hear that Sam had already "lawyered-up". He was well known for his ability to wear down his opponents with legal maneuvers and his successors had wondered if that kind of battle was in store for them.

But they all were indeed their father's children, and they had made a pact with one another to stick to what they thought was right. They were convinced that the products of the Division in question were going to become a liability when the Chinese entered the market. They estimated that the window of opportunity to sell to the competitors, who had made an offer, would close in 8 or 9 months. It startled everyone when Sam cleared his throat to speak. With a tone of voice that was somehow different, Sam looked up from his notes and said, "I want to begin by thanking you all for coming to a meeting a week before we normally meet. I wanted to see you now because the tension in our family has been difficult and because I am concerned that some of our senior executives are worried about our family becoming a liability to the company. Apparently the word is out that we are in disagreement. I hope we will leave this room speaking with one voice so the rumor mill will be quiet for a while."

He paused for effect.

"I have decided to go along with you to sell the part of the company for which we have received the offer. But I want to start the negotiations in baby steps be-

cause I have reason to believe that we can get a better offer elsewhere. But for now the most important issue is that I am with you.”

With a flurry of raised eyebrows and squeaking chairs the tension in the room drained away like water.

Sam was enjoying this moment, “ This doesn’t mean that I agree with you. I decided that you will have to live with the results of the decision a lot longer than I will so I will let you make your own bed. ”

He looked at each of them.

“I have learned a few things about governance watching you guys in the past few weeks. It dawned on me that, **it is not so much a question of whether you are governed, it is a question of what you are governed by.** I have seen many businesses fail because of founders like me. We’re good at running the business but not so good at letting go of control when the time comes. I realized that this company had been governed by my personality until you all decided to go toe to toe with me over this sale issue. It dawned on me that you have used the Advisors well and I guess I just haven’t been paying attention.

But I am now.”

The meeting soon came to an end and everyone was headed to the elevator both happy and sobered by what had happened. Sam went back to turn out the light in the conference room. As he flipped the switch and as the table faded into darkness Sam listened to the voices of his children.

And with a new confidence he hadn’t felt before he whispered to himself, “This is going to last”.

TAKE AWAYS

1. It is not so much a question of whether you are governed, it is a question of what you are governed by.
2. The transition from governance by personality to governance by principle causes many businesses to stumble.
3. The right Advisory Board can be used to groom the next generation for fiduciary responsibilities.
4. Governance systems can manage naturally diverging personal and organizational self-interests.
5. Governance structures and processes are best created before they are needed.

6. A governance system that evolved around a founders control will probably need to be modified by the successors.
7. Siblings who are changed into business partners by their parent's Estate plan need support and guidance to become effective partners.