

## Best business succession plan gets its start early

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By Len Boselovic, Pittsburgh Post-Gazette

Daniel Henderson already knew the importance of planning for a change of ownership in small, closely held firms last month when he attended the conference Charles Schwab hosts each year for its biggest, and presumably savviest, advisers.

Mr. Henderson is president of CooksonPeirce, a Downtown investment manager with a staff of 10 who oversee \$380 million in assets. At the time of Schwab's conference, CooksonPeirce was days away from completing the decade-long process of transferring ownership from its founders to Mr. Henderson, CEO Nancy Santory and chief investment officer Bruce Miller.

Nearing the end of the long, complicated process, Mr. Henderson was stunned to learn that 80 percent of Schwab's top investment advisers don't have a formal plan for what happens to their firm -- or their clients -- if they were no longer around.

"I equate it with not having a will," the ex-Marine said.

Just as many individuals don't plan for their ultimate demise, many business owners don't plan what will happen to their company when they are not around.

"It's one of those things many people know they should do but don't necessarily get around to doing in a timely fashion," said Donna DeFilippi, a tax partner with Sisterson & Co., Downtown. "Any closely held business owner should try to set aside the time to think about these things."

A lot is at stake, particularly for services firms, where the sudden death or retirement of a principal could result in the loss of clients. If tax issues aren't handled properly, the owners or their heirs could end up with substantially less money. If the buyers are insiders, the transition could fail if they are not groomed for their expanded responsibilities.

Finally, well-conceived succession plans aren't developed or implemented overnight, said Don A. Linzer of Schneider Downs & Co.

"They can take a couple of months to forever," said Mr. Linzer, who heads the Downtown firm's corporate finance unit.

At CooksonPeirce, the process began in 1999. Mr. Miller, who had left the company a few years earlier after a 10-year stint, had a conversation with Robert Peirce, one of three co-founders. Mr. Miller was seeking advice on a job change. Mr. Peirce asked him to come back. Mr. Miller said he would if he could be an owner.

A little more than a year later, Mr. Peirce and Donald and Jane Cookson, the other co-founders, presented a draft sale agreement to Mr. Miller and Ms. Santory, senior vice presidents of the firm at the time. A year of negotiations ensued, as lawyers for the sellers and the buyers negotiated terms both sides could live with.

What they ended up with in December 2001 was an "earnout," a plan that allowed Mr. Miller and Ms. Santory to use a portion of their share of the company's profits to purchase the co-founders' stock. Profits were apportioned based on how many days a week each of the three co-owners and the two buyers worked.

The co-owners agreed to cut their work week by a day every two years. That gave a greater share of the profits to the buyers, enabling them to invest more in shares. The stock was repriced each year based on the firm's market value at the time.

Mr. Henderson joined CooksonPeirce in 2002 but didn't become part of the new ownership group until 2004. That gave him time to decide if he wanted to be a co-owner and the sellers time to decide whether Mr. Henderson would make CooksonPeirce survive and prosper.

"For an earnout to work, the firm must grow beyond what the founders would accomplish on their own," Mr. Henderson said.

The importance of planning for unforeseen events was driven home by the unexpected death of Mr. Cookson in November 2008. The new owners would have been unable to purchase his remaining stock immediately. Fortunately, the agreement gave them five years to pay off his estate.

Mr. Henderson, Ms. Santory and Mr. Miller completed the purchase June 30, about a year and a half ahead of schedule. Capital gains tax cuts that expire at the end of the year were one of the motivations for accelerating the sale.

Planning allowed CooksonPeirce to take advantage of the tax benefit. Mr. Linzer is seeing a similar interest among Schneider Downs' clients who have a long-term plan.

"We have a bunch of sell-side work because people are motivated to get their transactions closed in 2010," he said.

But taxes are not the only consideration in drafting a succession plan, Mr. Linzer said. Owners also need the expertise of lawyers familiar with finance and mergers and acquisitions, a specialist who can fairly value the business, and an insurance firm that can provide funding.

There are other issues including dealing with the emotional attachment owners have to the company they founded and reassuring clients. All of these issues take time to address, which is why planning should begin long before business owners think their time will come.

"You need to think about it early on," Mr. Linzer said.

Mr. Miller, whose talk with Mr. Peirce more than a decade ago resulted in the sale of the firm last month, said CooksonPeirce already had begun planning for the day when he, Ms. Santory and Mr. Henderson retire.

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