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Features

3/1/2020

The Rest of the Story

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Author’s note: Retailers who shared their experiences asked not to be identified to maintain as good of relations with their seller as possible. We have honored their requests by allowing them to remain anonymous while sharing the lessons they wished they had learned before completing the transaction.

“It’s not over until it’s over” refers to any business succession or transfer. Often price negotiation is the simplest part of transactions. This month we explore different real situations you can avoid/duplicate as the circumstances require. Frustrated buyers and sellers spoke anonymously lest their post-sale relationships would deteriorate further.

Personality Matters 1

Potential stress is reduced in an all-cash deal when the seller turns over the key and leaves town after the closing. However, the buyer loses institutional knowledge, contacts and connections which could propel the business forward, lessening the buyer’s steep learning curve. Some sellers are better educators/mentors than others. While meeting with the seller, buyers should evaluate the person as they would a potential employee. “Will this person support me or dispute every change?”

One seller told the buyer, “This has been my office for 30+ years. Could I keep a small desk here to use when I come to work with you as we agreed?” The buyer thought this would help long-term employees transition to a new owner.

The day after the deal closed the buyer got a call at 10 p.m. “I’m locked out. You changed the locks on my store!” There was a huge disconnect between the seller’s vision that nothing would change and the buyer’s belief of who now owned the store.

The seller found fault everywhere and tried to turn his old staff against the buyer. The staff was conflicted. Most thought the new boss was making long-overdue changes but liked the old boss. One day key employees asked the buyer, “Is it true you bought the center to close it and sell the land?”

Because their deal had a contingent payment giving the seller a significant bonus if the garden center hit targeted sales, the buyer expected the seller to be an ally not an enemy. After much wrangling and attorney interventions, the seller was told “to neither visit the property nor call any employees.” It might have ended better if the buyer had asked difficult, direct and open-ended questions such as:

How do you envision using your former office?

How can you help me transition into ownership?

How do you see your role when I take over and it’s no longer your business?”

Workouts (bonus for prior owners when new owner reaches goal) can be beneficial. They motivate the seller to help the buyer succeed. A multi-year workout for senior employees, paying part in cash with part vested after three-to-five years on the job, are “golden handcuffs,” often keeping employees committed. If you choose this option, each party’s responsibilities and obligations must be clearly documented.

Personality Matters–Scene 2

Another garden center had a similar-but-different situation. The buyer wanted an easy transition for customers and employees during the ownership change. The buyer agreed to pay funds above and beyond the selling price if the seller stayed around the garden center for consultation and customer glad-handing—an excellent concept. In this case the execution was terrible. The buyer’s new manager, needing to establish authority, didn’t involve the seller in any policy discussions. The old boss wanted both staff and vendors to stop regarding the seller as being in charge. The seller tried to help sales by talking to key customers about large landscape plans, only to find the new management had reduced the inventory commitment to trees, one of the seller’s passions.

The friction continues, sales have slumped. The buyer wants seller support. The seller has zero incentive to be blindsided again with long-term customers. Feeling disrespected, the seller stays away. Clear expectations up-front might have helped. Both the seller and his manager came from backgrounds where they operated autonomously. The seller regrets the sale, the buyer is frustrated. The buyer- seller relationship depends on human interaction. Both parties must be prepared for success.

What’s Included in the Business?

An embarrassed West Coast buyer discovered they hadn’t itemized the seller’s intellectual property. The company’s logo was owned by the seller’s former wife. She designed it early in their marriage and was paid an annual licensing fee, which rose dramatically for the new owner. Two lessons:

(1) Itemize what you’re buying if you aren’t purchasing the entire corporation or business entity. Perhaps include a video tour of the facilities while the seller verbalizes what would be included or excluded from the sale.

(2) Have an attorney you can trust. After our conversation, the buyer returned to his attorney, seeking recourse for the missed intellectual property. Buyers should be given names and full contact information for all vendors, customers, past/current employees, and any entity critical to the business, like insurance, bankers, governmental regulators, etc. The agreement should state the seller cannot use these contacts to compete with the buyer’s business.

A Midwest garden center seller came in a month after the deal closed. “Where are the keys to the pickup?” Asked why he needed them, he said, “I’ve decided I’m keeping the truck. It’s no longer part of the sale.” The disillusioned new owner believes if the vehicle’s keys hadn’t been in a lockbox the seller would have just driven off with it.

When You Don’t Know What You Don’t Know

Another Midwest garden center buyer told the seller they would incorporate their existing POS system after buying the garden center. The seller didn’t mention a $7,500 cancellation fee on the seller’s POS system. The buyer didn’t ask. The expensive oversight continues to strain the relationship between former and current owners. Buyers should require access to all contracts and read them carefully before finalizing the deal.

When the Owner Dies?

Every situation is different. Hastings Garden Center, which relocated to Peachtree Corners, Georgia, in 2012, traced its roots back to 1889. Due to the owner’s death the store closed. In 2014, Sonya Harrison, a Certified Landscape

Designer, was hired for her sales and design skills to liquidate the store's inventory. She accomplished it ahead of schedule and above estimated values.

The heirs had no interest in operating an Atlanta-area garden center. The landlord, who rented the land, had a problem. The bank owned the building plus the business assets. The landlord and the bank could litigate forever or negotiate a solution. The final agreement gave the landlord control over the store's building and operating assets. Sonya was offered a deal to occupy the premises and start an all-new garden center in the Hasting's space.

Pictured: Certified Landscape Designer Sonya Harrison fixed up the old Hastings Garden Center in Peachtree, Georgia, and reopened it under the new name My Secret Garden.

With financial support from the landlord, which included deferred rent, she started My Secret Garden with a $30,000 family investment. Today Sonya has seven employees and consistent supportive traffic from the upscale neighborhood surrounding her location. Opening day, the only green goods she had were 80 flats of pansies. Customers came based solely on the marquee, "Now Open Under New Management." The first day two customers told her, "We need a garden center." They both made purchases to show their support.

There are two significant lessons here:

• The heirs lost substantial money because they couldn't continue operating. Outsiders didn't want to invest in a closed location that needed upgrading.

• Sonya stepped up when the landlord made enough concessions; she could see a clear path to payback for the family's investment, plus her time and energy.

The landlord was the driving force. He cleared the legal hurdles to rent his property. He offered the fixed assets on-site, plus rent abatement, to entice Sonya's commitment. Sometimes when buying/selling a business there are others, beyond the principals, who have an economic interest in seeing the deal done.

Do Vendors Have An Interest In Your Success?

Our next example occurred when the garden center closed after the owner "quit in place." A supplier knew the location had great potential and provided inventory to a new operator on consignment. Based on a verbal agreement the store was stocked with merchandise and prospered. After three years the vendor sent the garden center a bill for all the remaining inventory, based on the vendor's recollections. The garden center said, "No, we'll return the merchandise for credit—that was the deal." With no written record both sides felt they had been wronged. The supplier in fact did help create a garden center (and therefore a customer) where there would not have been one without the support. The downfall was no written understanding of how the relationship would eventually be unwound. Great idea, poor execution.

No, You Can't Buy Employees

Transitioning employees from one owner to another is challenging. No employee wants to feel they've been sold like cattle. One buyer confided in us that the prior owner was too laid back and didn't require the employees to be super productive. Half the employees separated the first year. Some are still border-line to keep. To prevent this, have the seller terminate everyone, paying in cash everything owed to employees (vacation pay, etc.). This puts a clean break between the new and old owner. Caution: be sure benefits such as health insurance can transition. This buyer strongly recommends interviewing each "prospective employee" looking for a common understanding of how the "new company" will be different from the "old company." Setting clear expectations facilitates easier transitions and may identify those who won't enjoy working at a different tempo.

If you're anticipating buying or selling a business, take time with people you trust and "role-play" what it'll be like when the deal is done. Consider everything you're "assuming"—then confirm your assumptions in the real world. If the parties to the transaction have different visions, you must work through those concerns before the deal closes. **GP**

Bill would love to hear from you with questions, comments or ideas for future stories. He is a Green Profit *columnist and owner of the consulting firm McCurry Associates Inc. Please contact him at wmccurry@mccurryassoc.com or (609) 688-1169.*