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CASE STUDY

EXPECT CHALLENGES IN THE BUSINESS SALE PROCESS

Expect challenges to be a part of the business sale process. The subject line on the email simply read “Plane Crash”. I stepped away from my desk not wanting to open the email as there was no scenario I could envision with that subject line that could be good. After a walk around the block I returned to my desk and opened the email. It was worse than I anticipated. We had been negotiating with an acquirer for over six months on a multi-million dollar acquisition and had just completed due diligence and were headed to closing. The owner of the acquirer, an aviation enthusiast, had crashed his experimental plane that morning and there were no survivors.

Well... that was about as unexpected a circumstance as one could imagine and, of course, with the acquirer’s company now mourning the loss of their leader, the acquisition of my client’s business understandably was not going to happen. It took us a bit of time to regroup on the seller’s side as a tremendous amount of energy had gone into our negotiations as well as the management and oversight of the due diligence process and for all of that to go by the wayside was a bitter pill to swallow. The good news is we did regroup, went back aggressively to market and sold our client’s business for actually a bit more than the prior contract.

Now this is obviously an extreme example of a challenge that we have encountered in the business sale process. But, the reality is we have never sold a business that during the sale process we did not face a challenge; many challenges in fact. Your intermediary should be heavily involved in contract negotiations, due diligence and the closing process with an experienced eye at identifying obstacles to the sale and managing those challenges before they arise if at all possible. There will be challenges. It is simply the way it is.

What do you do when the South Carolina Department of Revenue erroneously will not issue a Certificate of Tax Compliance for your client which is always a condition of closing? What do you do when the acquirer’s attorney throws in an 11th hour Asset Purchase Agreement change that is simply not a term your client will agree to? What do you do when a key employee critical to the transaction suddenly attempts to directly insert themselves in negotiations presumably for their sole benefit?

LESSON LEARNED

Challenges are a part of the process. Despite all efforts from your experienced intermediary in managing the sale process, identifying possible obstacles, managing relationships and interactions and setting expectations, challenges will arise. Experience and diplomacy in dealing with these challenges will always be needed to get to closing. And, unfortunately, despite everyone's efforts sometimes, as with the plane crash, it simply was just not meant to be with a particular acquirer. In those circumstances regroup, pick yourself up, find the right acquirer and get the deal done.

TIP (THOUGHTFUL IN PREPARATION)

Planning and preparation are critical to selling your business. Your intermediary should examine all aspects of your business prior to taking your business to market. And the seller must be open and honest with the intermediary in identifying aspects of the business that could be problematic for an acquirer. And no business is without a wart or two. The rule of thumb here is that if these potential obstacles are presented up front along with well-thought-out solutions then an acquirer will evaluate the obstacle and move forward. However, if these obstacles are uncovered in the due diligence period then all trust that has been built with the acquirer will be destroyed. Unfortunately, I have heard from acquirer's before when surprised by a client's non-disclosure; "If you didn't tell me this then what else are you hiding from me." Don't put yourself in that position. Full disclosure is the order of the day. There are enough challenges in the business sale process already so minimize them by not creating challenges of your own making.



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Established 2000. Experience matters.. especially when you are entrusting the sale of your most valuable asset, your company, to a third party intermediary. Expect twists and turns in the business sale process and hold your intermediary to the highest standards of professionalism and communication. Experience in dealing with the complexities of the business sale process really do matter. Receive the results you deserve by starting with the right intermediary. Call us at (843)601-5030; Email us at info@charlestonbusinessbrokers.com; or visit us on the web at www.charlestonbusinessbrokers.com.