Preparing for sale of business just as important as opening plan

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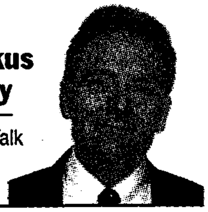
Law Talk



A few months ago I wrote an article on preparing to buy a business. This article provides some general advice for the business owner who is preparing to sell a business.

A good time to begin preparing for the sale of a business is three to five years before the sale. At this time, the seller should begin thinking about what buyers want. Buyers like to see honest, profitable businesses that are easy to evaluate, understand and operate. Therefore, financial statements should accurately reflect business operations. Owners should stop paying for "perks" and run a streamlined business. This increases cash flow and makes the business more profitable, which results in a higher selling price.

The owner is often an indispensable part of the business and intricately involved in client relationships. Most owners think this is a good thing and will talk about how important they are to the business. However, from a purchaser perspective, it is better if the owner is not important. When a buyer looks at purchasing a business, the buyer wants to be able to run the business without needing to keep the owner in place. Therefore, it is important for an owner to begin training a management team and hiring sales people and other employees to take over critical business functions. This all takes time and cannot be performed properly a week or two before the closing.

The seller also needs to make sure all the assets are ready for sale. Many people think of assets only as tangible items such as inventory and equipment. It is important to make sure inventory is current and the equipment is all in working order.

However, assets also include intangible items such as contracts, patents, trademarks, copyrights, computer software, advertising, artwork, etc. It is important to make sure the intangible assets are actually owned by the company.

Further, it is important to make sure contracts and leases are assignable to a potential purchaser. The buyer will want to assume all beneficial contracts that contribute to the success of the business. Therefore, when negotiating contracts, it is important for the business owner or lawyer to plan for the future sale of the business. I have seen issues arise during a sale process because the lease was not assignable. In such an instance, the landlord may decide to increase the rent in a new lease, and the buyer will demand a lower purchase price for the business.

It is also important for the business owner to begin assembling experienced advisers who can help prepare for the eventual sale as well as help with the sale. These advisers could include financial advisers, accountants, lawyers, lenders, valuation specialists, and business brokers or intermediaries. They should help the owner and business examine what needs to be done to maximize the sales price. With a little forethought and planning, the eventual business sale will hopefully lead to a beach, golf course or mission field, and the successful conclusion to a business owner's dreams.