Emergency Succession Planning During COVID-19
for Closely Held Businesses

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Purpose

The purpose is to create a plan to ensure the viability of a closely-held business during the COVID-19 Pandemic that has an owner/operator and lacks an independent board of directors. Common characteristics of this type of business are often a few key employees but few or no executives within the employees. The result is a business that is highly dependent on the owner/operator for its continued viability. The temporary or permanent loss of the owner/operator puts the business at risk. The goal of this plan is to preserve the business when facing the disability of the owner/operator.

Building the Plan – 10 Steps

Below are ten steps to building an Emergency Succession Plan for a Closely Held Business.

One--Determine Whether a Plan is Needed.

This determination is based on this question: Is the company dependent on the owner/operator in the short to medium term? That is, does the owner play a significant role in business operations? If yes, then the business is imperiled by the death or disability of the owner.

Two—What Functions Does the Owner/Operator Perform?

The functions performed by the business owner/operator need to be listed. Essentially, this is a job description for the owner/operator.

Three—Which of These Functions Can be Delegated to Existing Staff?

Existing employees should be assigned various tasks that they are capable of assuming from the owner/operator. This can be discussed with these employees or not at the owner's discretion. More importantly, this is an opportunity to delegate tasks to employees proactively and reduce reliance on the owner/operator. Why wait for an emergency?

Four—Which Functions Remain that Can't be Delegated to Staff?

If the business does not have an executive team, it is likely that there are duties that cannot be delegated to staff. These are the truly "CEO level" functions. In the event of the death or disability of the owner/operator, someone will need to be found to perform these duties.

Five—What are the Owner's Intentions?

One of the most important steps in building an Emergency Succession Plan is learning what the intentions are in the case of their own death or disability. These intentions are probably different if the owner is temporarily disabled or permanently disabled or deceased. Both cases need to be considered.

In the case of a temporary disability, the Interim CEO will likely be charged with maintaining the status quo until the owner is able to return. In the case of a permanent disability or death of the owner, the Interim CEO will likely be a transitional person until the business finds a new CEO or the business is sold or liquidated. Knowing the owner's intentions is critical.

Six--Who will be the Interim CEO?

This is the biggest question. Without the owner/operator of the business, who will run the company? It may need to be an outside party but that person will need to be familiar with the company. Potential candidates are a contract CFO, the CPA, the lawyer or some other trusted advisor. Part of the Emergency Succession Plan will be an agreement on the amount of time commitment and the compensation to the Interim CEO.

Seven—Discuss the Plan with the Company's Trusted Advisors

This is a bit tricky as many owners will want to keep any Emergency Succession Plan under wraps. After all, they are rarely needed. Of course, the whole point is to be prepared for the rare time when the business owner is disabled or dies. The company's lawyer is a key part of making the plan. The company's banker should probably be informed and hopefully will be reassured that there is a plan in place. Other trusted advisors, such as the insurance broker, wealth manager or other business consultants could or should be involved and informed, at the discretion of the owner.

Eight—Put the Legal Documents in Place

Another critical part of the Emergency Succession Plan is having the legal documents in place to facilitate implementation of the plan. The Interim CEO needs the legal authority to become the company's CEO in order to fulfill this function.

1. Power of Attorney including a definition of what constitutes a temporary or permanent disability.
2. Resolutions allowing the Interim CEO to sign checks, borrow money, make business decisions and generally do what they need to do. And restrictions, if any, on what they can't do.

Nine—Have a Communication Plan

Should the Emergency Succession Plan be implemented, it is important to communicate the plan to stakeholders, including:

1. Employees—to ensure they know there is someone in charge and that their jobs are secure.
2. Banks—so that they know there is a well thought-out plan and that they know who is in charge.
3. Customers—who may have developed a personal relationship with the owner and may need assurance that it will be 'business as usual.'
4. Vendors—who have similar concerns to customer.

Ten—Review and Update the Plan Annually

It is a good idea to revisit and update the Emergency Succession Plan annually, perhaps as part of the annual budgeting process. By its very nature, an Emergency Succession Plan will only be need in, well, an emergency. This is why it needs to be ready-to-go, on the shelf and up-to-date at all times.