

Closed Case Files

Perpetuation Chronicles™

EXCLUSIVE. THIS BUSINESS DOCUMENT HAS BEEN PREPARED FOR ENTREPRENEURS, BUSINESS OWNERS AND MANAGERS.

The Chronicles come from the exclusive files of Private Capital Corporation (PCC).

The case stories are true. Only the names and places have been changed to protect the privacy and confidentiality of PCC clients.

CLOSED CASE 93

CASE BACKGROUND

The Southwest never was a place for wimps. Harvey Wister couldn't think of a better place to get into the HVAC business. Blistering heat, numbing cold and ever present wind created the perfect climate—a built-in, breezy demand. He began his business the old fashioned way—with himself, a used truck and a healthy work ethic. In the three decades that followed, Harvey was a poster child for living the American dream. He married his childhood sweetheart, sired a son and daughter, bought a small house, leased another truck, hired two technicians, leased a building, leased more trucks, bought a bigger house, expanded into a nearby town, added more people and rolled along faster than gale-driven tumbleweed. Year by year, he grew until he operated in a dozen cities. Tall, distinguished and genuine, Wister was revered by his managers; and he in turn acknowledged and respected their contributions to his success. In fact, always the consummate planner, he wanted his son to benefit from their experience. He brought Harvey Jr. into the business to apprentice under the leadership of the General Manager, and not long after, stood proudly to see his daughter Helen graduate from law school. As the business moved through its fourth decade and Wister approached 70, he systematically relinquished control to his managers and seriously began to explore succession options. He had to admit—he always had banked on Harvey Jr. stepping into his shoes. But now he realized, the sooner the better. Unexpectedly, health concerns cropped up, not only limiting his activity but also causing bank officials to have serious reservations about the company's future. They understood Wister retained good people, but they also knew he was the patriarch who called the shots. Who would step up?

CASE CHALLENGE Wister faced a stark reality. If something happened to him, the company stood in jeopardy. His son had promise, but wasn't qualified to take charge. His key people were qualified but could easily jump ship for the promise of a new business. He had to act and act decisively. His serious heart condition and age left him uninsurable, pressuring the bank to restrict company credit. Selling out threatened his legacy. Plus he had non-employee company shareholders to consider. He had to find a way to perpetuate without passing over his son or allowing a rivalry to develop between him and his sister or between the family and company employees.

PCC RECOMMENDED ACTION

- 1 Create a dialogue between Harvey Jr. and the GM. Persuade the son to work under the GM who agrees to mentor this aspiring CEO.
- 2 Design a tender offer to buy back outstanding stock at fair market value.
- 3 The key company managers to buy half this stock, collateralized by home mortgages, with options to buy the other half at the same price over a 10-year period.
- 4 After installing this MSOP, Wister agrees to sell some of his shares to an ESOP to be established after assuring the company will survive.
- 5 Transfer ownership of existing life insurance and remaining stock to a family trust.
- 6 Arrange buy-sell between siblings, allowing son to give up cash for daughter's share of company stock.
- 7 Make provisions in later years for other managers to participate in the MSOP.

EPILOGUE The company prospers to this day with 18 branches and over 300 employees. It owns life insurance on the key people. The cash values provide backup reserves to fund repurchase liability for both the ESOP and MSOP. Wister and his trusted GM have since passed away. To avoid petty politics among the growing number of shareholders, there is a voting trust, co-chaired by Harvey Jr. and the company COO. Harvey Jr. is chairman and CEO. Helen has a thriving law practice and no company stock.

PCC IS AN INVESTMENT BANKING FIRM, SPECIALIZING IN COMPREHENSIVE PERPETUATION PLANNING. FOR MORE INFORMATION, CONTACT US AT WWW.PRIVATECAPITALCORP.COM OR MMURRAY@PRIVATECAPITALCORP.COM.

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