

Family Constitutions

The survival rate of family owned businesses beyond the first generation has been historically poor. It becomes increasingly disappointing as businesses transition from one generation to the next.

Although many business owners may blame the economy or other business related causes, the reality is that many family business failures occur because of family related issues, not business issues. As our businesses grow and prosper, our capacity to provide for our family members also grows. And with each successive generation, there could be an increasing number of family members wanting a piece of the pie. If left unmanaged, this can become a major burden on the business.

Here's a real life example. I was meeting with a client several years ago when his brother, who didn't work for the company, popped his head in the door and announced that he just hired his son to work in the warehouse. The client's family had a history of employing family members who needed work, regardless of whether or not the company had a need. So the company constantly struggled with the burden of a large payroll and the resulting challenge to profitability and cash flow.

Fortunately family business owners can take actions that will help them improve their ability to manage many of these types of issues. A good strategy is to adopt family and business policies that govern the relationships between family members and the business. These policies are collectively referred to as a family's constitution.

A suggested outline of these policies is listed below. This list is by no means all inclusive. You might consider this as a starting point which your family can build upon. The underlying theme behind these policies is that they should be formulated to help the owners manage the family's relationship with the business. Because, if you don't take care of the business, you won't be able to take care of the family.

There is no 'perfect' policy. There are suggested policies that can be used to guide your thinking and discussion with other family members. But in the end, what matters most is what works for your family and for your business.

I can still remember an old car repair commercial with a mechanic leering into the camera with a cigar butt sticking out from the corner of his mouth as he says, "... you can pay me now, or you can pay me later" This is one of those situations where action today will reduce the heart ache and problems that might occur later.



Components of a Family Constitution

Mission & Purpose

- Strategic Objectives of the Business – Stating the Mission and Vision for the family enterprise; it's all about everyone being aligned in purpose and thought.
- Long term and short term goals – developing a shared Vision for the business.

Values

- Core Values of the Family - teaching ethical values through positive business experiences.
- Market Value vs Family Value - the possible financial value to be gained by selling the business vs what the business means to the family; recognizing what the business has enabled the family to benefit from over the years and could, moving forward.
- Support for Personal Development - regardless of whether you're in the business or not.
- Develop a family business culture - encourage the next generation to take a closer look at the family business, consider career paths with the business as well as following their own interests.
- Developing a participative family business culture - everyone's opinions are important.

Ownership & Expectations

- Ownership, Inheritance, & Succession - that ownership is not just a right of birth but a privilege and responsibility. And how ownership is passed from generation to generation is important.
- Responsibility of Family Members - stating the family's expectations for personal conduct, everyone's relationship with others, and having mutual respect and consideration.
- Rights, responsibilities & obligations of family members not working in the business - as opposed to those who work in the business, are just as important.
- Ownership by non-family members – whether this is something that the family would consider and under what conditions.



Family Council

- Structure - what does the Family Council do? What family and business needs does it fulfill? What subject matters does it undertake? How often does it meet?
- Entry for family members - who gets to become a member, how is it decided, what happens if members step out of line?
- Leadership - who leads the council and how is that leader determined? What are the roles and responsibilities of other family members?
- Treat conflict as an opportunity - conflict comes from contrary points of view. Is it possible that someone may have a better idea? Conflict can be healthy if handled properly.
- Communications and disclosures – between the business and family members.

Family & Business Agreements

- Create a Family Business Plan - so that everyone knows where we are headed.
- Marriage & Divorce - how these events could impact everyone's ownership interests and the family's business enterprise. And how these events could impact the business.
- Family Employment Policy - if family members want to work in the business, under what conditions would it be advantageous to do so? How will their performance be managed?
- Retirement policies – at what age will owners retire? How will compensation and benefits be affected?
- Compensation Policy - for family members, should be market place driven and equitable, and consider the impact on non-family employees.
- Stock Agreements - repurchase, voting, ownership limitations, stock redemption policies.
- Conflict of Interest policy
- Estate Planning matters - wills, trusts, gifting of shares.
- Non-family board, management & employees; recognizing their value to the company.