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Selecting Independent, Experienced Company Managers: One of The Most Important Decisions for Majority Owners

Article By:

Ladd Hirsch

> *"Uneasy is the head that wears a crown," from Shakespeare's Henry IV, Part 2, is often mistranslated in modern times as "Heavy is the head that wears the crown."*

Majority owners of private companies have many important decisions to make, but one of their most impactful will be selecting the people to serve as the company's managers (for LLCs) or as directors on its board (for corporations). We refer to all of these governing persons here as managers. Although most majority owners retain the final say over all significant management decisions, the company's managers often play a vital role in determining whether the business is successful on both a short- and long-term basis. This post reviews key attributes that majority owners will want to consider in the process of selecting their company managers.

Experience Counts

It may be tempting for the majority owner to select trusted friends to serve as managers, and their loyalty to the owner may make them hard to resist. But, if they have not had previous experience serving as managers at other companies, their ability to make contributions to the business may be limited. That is even more likely the case if they have not had any managerial experience in the specific industry in which the company does business. Loyalty is valuable, but it cannot substitute for the experience and knowledge of a manager who has worked with other successful private companies in the same space.

The candidate's experience should be carefully reviewed and considered as part of a thorough screening process, because it will make them valuable to the business. Experienced managers will open doors to their business contacts, which may include bankers who can provide financing on favorable terms, insurance companies that can provide coverage at lower rates, and other vendors who can support the company. These experienced managers will also be familiar with mistakes that have been made by other businesses in the past, which will enable them to offer guidance that allows the company to steer clear of expensive pitfalls. By suggesting these more efficient paths, managers can make an important difference in the company's profitability. Finally, experienced managers will be attuned to what competitors are doing, and their access to this type of information will help the company remain competitive in the marketplace.

Independence Brings Value to the Business

The attribute of independence runs a close second to experience in the selection process for company managers. Majority owners should resist the temptation to retain friends who will be “yes men” or “yes women” and applaud all of the owner’s decisions. This type of approval may feel reassuring to the owner, but it is not what is best for the business. Independent managers can provide an objective approach that allows them to challenge the status quo. Companies (and owners) become more successful when their managers ask hard questions, when they push for the company to engage in innovation, and when they cause the company to think outside the box because it will fall behind if it becomes stagnant in its approach to the business.

Another important reason to appoint independent managers is that their independence will provide the majority owner with support in defense of future claims that may be made by the company’s minority investors against the owner. Specifically, if a minority investor accuses the majority owner of engaging in self-dealing transactions in breach of his or her fiduciary duties that are allegedly harmful to the company, this claim may require the owner to demonstrate that the transactions challenged by the minority investor were fair to the business. This majority owner’s response to this claim will be substantially bolstered if the owner can show that each of the challenged transactions was considered and approved by the vote of one or more independent managers, who also owe a fiduciary duty to the company.

It should also be emphasized that the majority owner does not have to make an either/or decision when appointing managers, i.e., the owner is not required to appoint only managers who are either loyalists or fully independent. Instead, the owner can choose to appoint both types, because the owner controls the size of the management team. Therefore, the owner can appoint managers whose loyalty is prized, but also appoint managers who are independent, objective and more experienced, and this combination of managers best positions the company for success.

Commitment Is Critical

Serving as a private company manager is not typically a full-time job, but it does require a significant level of commitment by the manager. There is no point in bringing a manager on board who is capable, but who is so busy that he or she just goes through the motions in providing input. Being an effective manager requires the investment of time to provide both oversight and guidance regarding the operations of the business. Managers need to spend a reasonable amount of time focusing on what is working well at the company, evaluating the specific challenges that the company is facing, and considering the options available to enhance the company’s growth.

During the interview process, the majority owner needs to clearly express the desired level of commitment from the manager, and the candidates will need to affirm they are fully on board. Independent managers will have a track record that can be reviewed along with personal references that can be checked. Securing the required commitment from managers is generally not a problem, but it needs to be a formal part of the recruitment/interview process.

Conclusion

Majority owners often believe the company’s success is dependent on their decisions. And while the majority owner is generally the most important decision-maker in the company, that does not mean the owner cannot receive support from others. This includes other officers who are working at the company, but importantly, it also includes the other managers. When these other managers are carefully vetted and then chosen to serve in a governance role based on their experience, track record and industry knowledge, they are able to provide valuable input to the entire management team. That is why majority owners are advised to look outside the group of their loyal colleagues to include truly independent, experienced managers as part of the company’s governance structure.

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