ESCAPE family conflicts and preserve family wealth

ONCE family businesses pass the second and third generations, internal family conflicts are almost inevitable – and, if badly handled, could lead to their demise.

Once shared visions can become a little blurred with time and with each succeeding generation. And areas of potential conflict include leadership succession, growing sibling rivalry based on their perceived value to the business – and even unresolved issues between forefathers that have been left to fester over the generations.

Yeo Hiap Seng, Lam Soon and the Jamaboy Group are cases in point where family disputes were played out in the court room and the media because one or more members of the family saw no other way of resolution than litigation.

Business family strategist Cheong Wing Kiat says conflicts such as those can be prevented using what he calls ESCAPE.

Cheong, a third generation successor and former leader of the successful Singapore-based family group, Wen Ken, says all family companies have their fair share of disagreements.

“At Wen Ken, we weren’t any different but we managed to ESCAPE conflicts that could have distracted us from the job at hand, which was, and is, to build and add value to our business“, he says.

ESCAPE is based on six principles:

- Education: a constant process of educating and training our talent and adopting best practice in all facets of our business, and matters relating to family, marriage, parenting, ageing and the like. Indeed, education here also includes education on wealth management, covering investments and trusts, the psychology of wealth, family sociology and family history and cultural heritage.
- Structure: building the best legal and operational structure for the Business, the Family and the Wealth.
- Communication: ensuring everyone is on the same page on the issues of the family and business matters.
- Allocation: (power and wealth - family business and other assets),
- Parenting: the inculcation of family values in the up-coming generations; and
- Endurance: with empathy and patience to see things through to the very end).

Says Cheong: “In looking at conflict prevention, it is important to look at the usual life cycles of a typical family business. It gives us an idea as to how we should plan to handle conflicts that might arise at each point.

“The family business driver must have, at the top of his or her mind, safeguarding and perpetuating the business, apart from the business of manufacturing, selling and making profits.”

Key considerations include:

- Keeping the business in family hands from one generation to the next is seen as an effective way of protecting the family's wealth and long-term security.
- The company may be seen as the glue that keeps the family together and prevents one or two members from going their own way.
- Safeguarding the jobs of loyal workers. Often family members vote against selling their businesses because they refuse to risk the livelihoods of the key employees who have worked loyally with them 'through thick and thin".
- The business is a monument to the founder or the family – an enduring commemoration of the effort and achievement it represents, and something to be passed on and preserved by succeeding generations.

"The family business becomes more complex with the passing of the baton from one generation to the next and it is true that with each succeeding generation, the emotional attachment to the businesses increases, " says Cheong.

Emotional factors intensify and this 'emotional baggage', suppressed with each transitionary phase, can explode to the firm's detriment if not nipped in the bud.

One example: if one brother believes he has been disadvantaged by a sibling, and if this feeling is left to fester without resolution, subsequent generations will habour this resentment.

Succeeding children will remember it, colouring their behavior towards each other and the business. This can, and often does, lead to responses based on emotion rather than facts and can be quite disruptive to the business and its bottom line.

"I see this all the time when I'm asked to advise families who recognise the damage internal family conflicts are doping to their businesses and, indeed, their family wealth," says Cheong.

"What is worse, depending on the maturity of the business concerned, non-family senior staff get drawn into these disputes and are often forced to take sides – surely the death knell of any family business."

The answer? Get it right first up.

To describe the genesis of a family business is to describe the genesis of any business.

In the beginning, there was a person with a dream to establish his or her own business. He or she may have left a well paying job to pursue this dream. Or precipitated into it after being made redundant. Whatever the circumstances, a new business is born.

The newly-minted entrepreneur throws himself into the business, relying largely on his own resources, energy and business acumen and total commitment to make sure the business becomes safely established.

Once past this survival phase, the challenge changes.

New talent is introduced into the business, along perhaps with new systems and equipment. Now there is some more strategic planning needed. The company marches on and assumes an identity of its own.

This is where *Education* and *Structure* come in.

Gradually, as the company grows in revenue and in staff it adopts a more formal structure, with additional skill sets, management staff, decision-making procedures and quality controls.

Here is where clear lines of *Communication* need to be in place.

Meanwhile, the owner's children are growing up. The owner, to perpetuate the family firm, counts on his children coming into the business and eventually taking it over when he is ready to 'retire'.

"In this day and age, of course, children often choose to stay out of the family business to strike out on their own in areas and disciplines different from the 'family business'. In such cases, outsiders must be brought in to run the company," says Cheong.

"But let's assume the children jump at the chance to be involved in Dad's business.

"This could bring in a new set of issues to clarify:

- What role are they to play?
- What will they be paid?
- How will their employment affect loyal, non-family employees? Or even family members such as cousins and in-laws who have been with the business for some time?
- How will their performance be evaluated? And, as importantly, by whom?
- How should the eventual successor be selected from among them – assuming they are up to the task?
- The issue of share allocation will also need to be addressed.

This is where *Allocation* and *Parenting* come in.

"Laying down the law in respect to resolving family disputes within the business is a complex issue but it is one that must be addressed at the outset. By careful advanced planning and consensus building, most disputes can be avoided," says Cheong.

"By having family members reach an understanding in advance of how certain decisions are to be made, they are guided by a code of conduct that provides for the concerns of other members."

But it is impossible for one agreement to be able to take into account all issues that might lead to future conflict. In that event, there needs to be a mechanism established to deal with these.

Dispute resolution isn't simply about applying the right 'resolution technique' or legal mechanism but a process that:

- Begins with good communication
- Continues by providing family members with an opportunity to resolve issues at a meeting of the family council
- Continues by requiring certain decisions to be made by a pre-approved level – that is, a decision either needs a majority vote or a unanimous vote to hold sway.

- Continues by providing family members with an opportunity to resolve certain business disputes by the vote of disinterested parties (for instance, advisers or non-family directors0
- Continues perhaps by seeking resolution through a more formal mechanism such as mediation or arbitration.

“Only after all these have failed should you look to solutions that include the buying and selling of ownership interests. That’s the drastic end of disputes.”

If families cannot trust and work together, they aren’t likely to feel comfortable accepting decisions made by outsiders – and often resort to threats of receivership, court-ordered liquidation or sale.

To prevent such a tragedy – because it is a tragedy – it is imperative your business planning includes laying down:

1. A Stage One dispute resolution process – an informal dispute resolution process or processes.
2. A Stage Two dispute resolution process – more formal processes, which may include respected independent professionals.

As part of this planning, perhaps you should consider establishing a Family Council to provide a forum in which members can discuss their views and concerns, and which allows them to take part in key policy making.

It should also include a written Statement of the Family’s Values and Policies – in short, the family’s constitution.

“A family business has greater chance of survival and continued prosperity if the family can plan its future together, establishing clear policies governing its collective and individual relationship with the business, and defining the responsibilities of family members.

“By going through the process of developing a strategic plan, family members will approach their business in a unified way. Because the end result is the result if this collaboration and cooperation, the chances of misunderstandings and disputes are reduced.”

Clear rules, framed and agreed to by the family members themselves, improve the chances of continued harmony.