

MINDING YOUR BUSINESS

Broker can be key to sale's success

Finding right buyer is job for professional

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Before Mark O'Halloran and Paul Gilbert put their Melrose Park manufacturing company on the market last year their advisers warned them not to get distracted or the business would decline.

"In the process of selling, they said the business would go to pot," said O'Halloran, former co-owner of Park Industries, a \$3 million manufacturer of technical springs for electrical products. "In contrast to that, we had our best year ever."

O'Halloran attributes the successful year, which culminated in the March sale of the company, in part to carefully choosing a broker. Instead of being distracted by the selling process the owners never took their eyes off the business, trusting their broker to find and screen candidates, help negotiate the deal and even put together a dry-run closing to prevent last-minute surprises.

To find the best broker O'Halloran asked people he knew for referrals, then screened 24 brokers before settling on the one his banker recommended, Eric Lundstrom, president of Focus Capital Advisors, who is also president of Midwest Business Brokers and Intermediaries, a professional association.

But O'Halloran's comprehensive upfront search is unusual. Most small-business owners do not screen 24 brokers. In fact, while selling a business is the largest financial transaction many will ever complete, most do not do enough advance planning of any kind, experts say.

"Ideally, the day they start the business they should be planning to sell it and therefore running it to impress a buyer someday," Lundstrom said. But that rarely happens.

Instead, owners often decide to sell when a life event, health issue or business problem emerges, making the sale necessary, said Joe McCaul, president of Joseph Associates International, Naperville business brokers.

Often, the business needs some attention in order to fetch top dollar, but the owners want to sell now, McCaul said.

In their haste, some sellers make the mistake of signing with a broker without fully investigating whether he or she is the best one for the job, and without realizing exactly what they are agreeing to. It's a particular problem for those selling businesses for less than \$1 million, who often do not have attorneys or financial officers on staff to guide them.

That's why the Illinois Business Brokers Act requires brokers who represent those sellers to get their signature on a disclosure statement that should in bold lettering encourage them to see an attorney before they sign it, McCaul said. No one should sign without showing the document to a lawyer who understands transactions, he said.

The idea is to prevent the type of dispute that Dan McCauley, owner of A Taste of Heaven bakery-cafe in Andersonville, now faces. About the same time that O'Halloran and Gilbert started working with their broker, McCauley signed with a small business broker whose ad in the Reader had caught his eye.

The deal as McCauley understood it, and as posted on the broker's Web site, was no fees charged until the sale closed, he said.

McCauley, who suffered a heart attack at the age of 43 during the summer of 2004, decided after the health scare to sell the bakery-cafe he had built from the ground up 14 years ago. The place was full of his personality, from his baking-from-scratch philosophy to the sign he taped to his door last fall alerting parents, "Children of all ages have to behave and use their indoor voices when coming to A Taste of Heaven."

The sign spurred a controversy that garnered attention in the media and helped to triple the restaurant's sales temporarily. But it didn't simplify McCauley's life, and he proceeded with attempting to sell the business, even dropping the price.

O'Halloran's broker produced four bidders for Park Industries but McCauley's broker came up with only one, whose qualifications were questionable, McCauley said. And before negotiations could be completed the restaurant's landlord became terminally ill and died.

Now McCauley has hired an attorney who specializes in litigation because he was hit with a bill from the broker, who wants to be paid commission for presenting a "ready, willing and able buyer," even though the transaction never closed, McCauley said.

McCauley is prepared to go to court over the matter, he said. "We could settle, but the point is, I think we're right. There's no way the deal could have been completed," he said.

Two companies with two different experiences while on the market and opposite endings point to the importance of selecting the right broker and backing it up with a knowledgeable transactions attorney, experts said.

Sellers must be able to nix a deal if they are not comfortable with the buyer, said Cliff Deremo, principal with Stevenson & Co., an Evanston-based intermediary firm. In general, between 10 percent and 20 percent of sellers "back out of the process" and decide not to sell, he said. In such cases, his firm does not receive commission, he said.

When O'Halloran screened two dozen brokers and intermediaries he found all were commission-based, with their fee contingent on the deal closing. What's more, he said, a good broker understands that selling a company involves more than finding just any buyer. It has to be one the owners are comfortable selling to.

As it turned out, O'Halloran and Gilbert did not go with the top bidder. They wanted to be sure their 13 employees and existing customers would be well taken of by a new owner with the expertise to grow the business.

New owner Larry Warren has an engineering background that has been a hit with customers, O'Halloran said. His broker, he said, had found the perfect match. "He reiterated the point during the process that we are looking for an excellent outcome for all sides," O'Halloran said, "not just a good one."