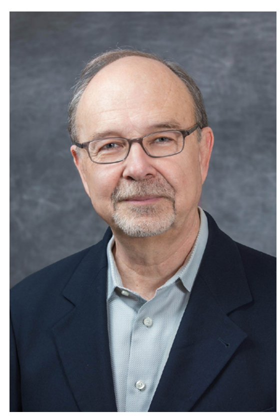
THE BUSINESS OWNER'S MINEFIELD GUIDE

The Seven Hidden Dangers Most Business Owners Miss And How To Avoid Them

CORLISS
A LAW CORPORATION

Presented By:

Donald Corliss Jr.
don@corliss-law.com
(949) 305 9499



THE BUSINESS MINEFIELD

Business planning is about protection, of you, your family, your business and your business assets. The time to plan? It is when the skies are sunny and the days long, in other words when times are good. The time when most people think about planning? When the ominous storm clouds are rolling in. There are still protective measures that can be taken, but the options are much more limited. The most successful planning happens well ahead of the storm.

There is often a misconception. Business planning is not just about business taxes. While it includes minimizing business taxes, it is as much about protecting the short-term and long-term goals of your business while limiting your exposure to internal and external liabilities.
In this report you'll learn:

- Why you need a formal written plan, and how often to review and revise that plan to ensure the security of you and your business
- The three general time periods when business owners face their most critical decisions, and how to identify which stage your business is in.
- How to identify hidden risk that can be significantly reduced with careful planning, as detailed below.

What Could Happen to Your Business If a Catastrophe Hit?

In good economic times we often justify not addressing risk because it seems too remote and we develop a false sense of security. In bad economic times addressing risk is just too expensive. In either case, lack of action is dangerous.. Many businesses don't think of risk planning as a core business function, and that can lead to costly mistakes. Look at any sporting event. It is often the team that makes the most mistakes that loses the game. Preparation is the key to success and preparation involves planning and risk assessment.

Many businesses are formed by two friends. Twenty years later they are quite successful and yet they still have no Buy-Sell Agreement. If one of them dies, the survivor just became partners with the deceased friend's wife. Worse yet, if they decide to split up, there is no mechanism in place to deal with value, and who gets what. A Buy Sell Agreement is a simple way to eliminate this risk and protect both families.

A company has 20 delivery trucks on the road and One Million Dollars of auto coverage. A driver is driving too fast and takes out a young father of three. The judgment is Five Million Dollars.

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[1] This White Paper is intended to provide business owners and business managers with information about assessing and preparing for risk. It is not intended as legal advice and should not be relied on. It is instructional only. You should see the advice and assistance of an attorney or other professional in assessing and protecting from risk.

There isn't enough insurance to cover the risk and the Company has to find an additional four million dollars to resolve the issue. A simple insurance review would have identified the problem and resulted in a recommendation for more insurance.

"But Isn't Business Planning for Big, Fortune 500 Type Companies?"

Definitely not! Hidden dangers (or risks) are often the result of not recognizing a potential problem until it is too late. Once a risk is recognized, planning can often remove or significantly reduce the exposure. Risk often has little to do with the size of your company and most businesses can significantly benefit from planning. In fact, smaller companies are often less able to handle the costs of liabilities once they arise.

The Seven Most Common Hidden Dangers

In my experience, most risk and liability can be significantly reduced with careful planning; however to do that it is necessary to first recognize the risk. Hidden risk is the most insidious. We don't even know it's there until it ignites. But if we uncover it, we can substantially reduce or entirely eliminate the risk.

1. What Kind of House Do You Live In?

Does it really matter what kind of house you live in?

For a business…Absolutely!

The structure your choose for you business is the first potential mine. That was an answer we all learned at an early age following the exploits of the Three Little Pigs. The choice of their house, like the choice of a business structure (i.e., corporation, partnership, a limited liability company) can have a significant impact on you as a business owner and the risks you face. The wrong choice can personally cost you thousands, if not hundreds of thousands of dollars and even bring your house crashing down around you.

There are two types of liability, those that relate to the business (inside risk) and those that are outside the business. It is the first, the Business Related Risks, that are impacted by what form of business entity you choose. While we cannot avoid responsibility for our own negligence, the form of the entity we operate in can determine whether business risks (those risks that relate to the business we run) will pass beyond the business and reach into our personal property. Holding property as a tenant in common or running a business as a general partnership, needlessly exposes you to the actions of your co-tenants or other general partners.

The business entity should be a shield for your family and the personal assets you own; it should protect you from the actions of your partners and employees and the contracts your business enters into. It should also wall off risky assets from the rest of your wealth.

But the decision is not that easy. It is not just about providing a business liability shield. Business entity selection involves tax treatment and the dangers inherent in paying too much in taxes or not being able to fully use tax deductions and benefits where they are needed. That is a planning issue that must be re-evaluated every year, with adjustments made to reduce tax risks. It also involves the best jurisdiction to create your entity. The laws of California are not very business owner friendly.

Flexibility, ability to easily raise capital, and forum shopping benefits are just a few of the critical issues affecting businesses that are impacted by the choice of business entities.

2. Who Is In Your Business Family?

When a business owner thinks of risk, it is the big lawsuit by a competitor or customer that everyone thinks about. Fortunately, those do not happen that frequently. A more probable risk is actually sitting in the office right next to you.

Businesses need key people to help manage the business and ensure it continues to be profitable. Partners need contingency plans in case of death, retirement or dissolution. Even beyond that, all of your A or B level employees are a very important part of your business capital. Understanding who those folks are is a critical first step in keeping a huge landmine from exploding. Remember, it is because we don't see a land mine that makes it so dangerous.

Failing to identify who the key players in your business are is the second mine facing business owners. So the first task is to recognize who the key players are in your business. Partners are easy, but key employees and A and B performing employees can be more difficult to recognize. They can often be identified through an employee assessment, which you should be doing on a regular basis to evaluate the performance of your employees.

You have got to recognize who is essential to your business and who is contributing to your success, or as Jim Collins might say, "you need to know who you need to have on the bus," before you can even start to plan for how to keep or provide for them.

3. Are All the Business Family Members Provided For?

Identifying your key Business Family Members is just the first step; assessing their impact under different scenarios and determining how to address the risks is the second and most important step. Remember, it does you no good to lead the entire race and then stop short of the finish line.

Failing to lock in key business relationships is the third mine. Partner planning is one of the most neglected areas of risk minimization, yet it should be a foundational element of every Risk Minimization Plan. Nothing can be more devastating to a business and its owners than a "divorce" between the principals. The risk is huge, including the loss of everything that has been built up in the business, the permanent loss of friendships and relationships that may have been built over decades, and protracted litigation to sort out all of the issues.

With no plan and no map, a dispute between partners can be devastating. It's a lot like surviving a plane crash to then find you are ill prepared to survive being lost on an unchartered island. The goal is to cross the finish line intact. The costs of trying to sort everything out after the death of the business relationship can be cataclysmic for those involved.

This is another one of those areas where planning and taking the proper precautions can make all the difference. It does not mean there will not be pain, but the business, its owners and their families should be provided with the best tools to minimize the costs and impact of a potential separation. You need a process to identify, sort, evaluate and address all of the issues and players involved. You then need a well designed plan and predetermined course of action to follow.

It's not just about separation of partners. Keeping partners, key employees and well performing staff happy and productive is an even more essential part of your plan. When someone becomes unhappy or does not believe they are being treated fairly, productivity drops, dissatisfaction and dissension builds. This is another silent killer that slowly sneaks up and strikes when your business can least afford it. The good news is that most of this danger can be addressed and treated with an ongoing assessment and maintenance plan. Such risks can often be significantly reduced through a Formal Business Maintenance and Update Program. Remember, the goal is to uncover risk and then provide a process and a plan to attack the causes of the risk. So ask yourself, are you covered? Do you have a plan?

4. What Are Your Operating Risks?

The next hidden danger involves operating risks. The operation of a business, with so many moving parts, naturally creates a lot of risk. What are the moving parts? Employees, manufacturing processes, raw materials and resources, processes for delivering services, customer services, intellectual property, critical data and data storage systems, and all of the other internal processes that are necessary for the business to operate.

Failing to identify and eliminate key operating risks is the fourth mine. It is easy to ignore the risk inherent in all of these moving parts. You as the business owner often have a much different focus when you look at your operations, than, say, an attorney that is focused on risk assessment. Here is what a business attorney focused on risk assessment will want to discuss with you:

- Is it easy to carry off copies of the company's intellectual property?
- Are employees that deal with customers trained in how to respond to disputes or dissatisfaction?
- Are warranties in contracts overly broad?
- Are relationships that involve a lot of risk properly handled and documented where appropriate?
- Are labor laws understood and followed?
- Are there systems in place to deal with workplace injury, OSHA compliance, claims of harassment and the like?

- If the department of labor shows up to audit your employee procedures, are you prepared?
- Do your employees drive your vehicles or their own vehicles on business?
- Do you have an appropriate amount of insurance to offset your most common or potentially catastrophic risks?

If you are not completely certain that these issues are taken care of, you have a list of hidden dangers that need to be addressed as soon as possible.

Businesses build and grow, often organically and without a process for re-evaluation. Problems and missteps often develop and expand over a period of time with no bright line event to send up warning flags. It is critical to periodically step back and assess what is happening and if can lead to any unnecessary risk.

You can conduct such a review yourself, but it is often very helpful to have an experienced, trusted advisor outside your business conduct such a process audit. In any event, don't delay conducting a Business System Risk Audit.

5. What Are Your Business Risks?

It's pretty surprising that the first four most common danger areas faced by a business don't even involve the product or service provided, but obviously that product or service is a very large and potentially dangerous risk area as well. Some businesses are much more risky than others. A flower retail shop is naturally a lot less risky than a new construction plumbing contractor business. Professionals are held to a higher standard of care than others, and a physician's risk is greater than a software developer's. Among physicians, a surgeon is exposed to a lot more risk than a general practitioner.

The fifth mine is failing to identify and reduce your product or service risks. The first task is to identify possible risks. Craft warranties to specifically describe what you want to warrant. Don't blindly assume risk. Create a process to evaluate risk in a quantitative way so that you can evaluate whether you are being properly compensated for the level of risk. We have developed a Quantitative Contract Risk Underwriting model which can be adapted to most businesses who are involved in a highly negotiated, repetitive contract process to allow a business owner to compare value between different jobs. Ask us whether this model might help in your situation.

6. Does Your Business Provide For You and Your Family?

The cobbler often did not have time for his or her own shoes. The business owner often does not take the time to make sure that the value of the business is protected for his or her family outside of the business structure.

Failing to protect the value of the business for yourself and your family is the sixth mine. That is huge risk for the very group that all this work is intended to benefit – your family. It is about keeping what you have built and making sure that value is passed outside of the business to you and your family.

This really is the example of stopping just before the finish line. There are a lot of levels of meaning in the story of the tortoise and the hare. The hare is quick, busy all the time, rushed, doing ten things at once, running topsy-turvy unfocused from one task to the next. The tortoise is rather boring in contrast; slow and methodical, constant and plodding, without any flash or panache, and rather unnoticed in its journey. The winning traits of the tortoise are much harder to observe: focused, unrelenting, unwavering, never loosing site of the goal and never stopping until the finish line is crossed.

The business owner has got to model her or himself after the tortoise in two very important aspects. Understanding what the end goal is and following a course of action that is most likely to lead to that finish line. In most cases, our business efforts are not an end to themselves. They are a means to an end and that end is to provide for ourselves and our families. Risks can be very different. Some are dangerous, because although not large, they are likely to happen over and over again and their cumulative effect can be very large. Others are not that likely to happen, however, if they do, the results are likely to be catastrophic.

The danger in not keeping the end goal in sight and taking the action necessary to cross that finish line presents you, the business owner, and your family with one of those potentially catastrophic risks. Careful review of the goal and then creating the path to reaching that goal is a prudent way to avoid this risk.

7. Is the Business of Your Family In Order?

Planning for the business and transitioning business value out to you and your family is a big step and gets you very close, but is still not complete and does not get you across the final finish line. **The last of the seven mines is failing to create a business plan outside of the business, for yourself and your family.** The final finish line for a business owner is to make sure that care taken is applied to the needs of the family, during health, during disability and after the death of the business owner. This is the realm of estate planning. It is the last common hidden risk.

A business can become all consuming. We as business owners often define our lives around the business we work so hard to create. The boundaries of the business often become the boundaries of the life of the owner. That is too narrow a definition. Those boundaries need to be pushed back to the family and providing for the family during the life of the business owner and beyond. That is the final goal. Missing that goal perhaps presents the greatest hidden danger to the business owner.

When Should I Take Action?

NOW! Too much is at risk to not proactively address these avoidable danger zones. If you're about to start a company, now is the perfect time to protect yourself from choosing the wrong entity. However, if you are part of a company that's been around for decades and you're looking for an exit, now might be the perfect time for you as well. In fact, implementing a business plan or reviewing an existing business plan can happen at any stage during the life of a company. But what stage are you in? Businesses can be staged into three general time periods: (1) start up and formation; (2) growth and expansion; and (3) your transition and exit from the business you have worked so hard to create.

Regardless of the stage you find yourself, time-tested and company-specific business strategies can effectively protect you from known and hidden risks and limit your liability to internal and external forces.

Identifying these seven hidden dangers is just the first step towards protecting yourself. Once identified, however, it is important you set a documented plan towards protecting yourself in the unfortunate event these dangers may occur.

By working with a Legal Advisor who specializes in Business Planning strategies to protect your assets and preserve your wealth you will have the peace of mind knowing everything is done correctly and accordingly.

While this white paper will guide you through the dangerous minefield that is business risk you must understand that each business is different. The bests way to understand your particular business needs and unique challenges is to work with a dedicated and experienced business attorney.

Next Step

If you're ready to get started you can book a professional 45-minute introductory session with me. Normally, these sessions run for $400, but as a thank you for taking this first step in planning for your future, and reviewing this guide, I'd like to offer you this strategy session free of charge. To schedule your complimentrary introductory session click on the link below or contact me directly at don@corliss-law.com and mention this special offer.

Schedule My
Introductory Call Today

