

THE FAMILY BUSINESS OWNER

DECISION GUIDE

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Family Business Continuity Attorneys

“In this age of massive disruption, if you, your leadership team and your successors are not Business Pioneers, the odds that you and your Company will continue to be successful are remote.”

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Dear Family Business Leaders and Trusted Advisors -

Hundreds of Family Business Leaders (and their Trusted Advisors) have trusted us to “look into the future” with them for a very specific reason.

Whether they are a startup or already well into many years with their business, they want to achieve remarkable success in all “four quarters” of their life as a business leader and owner.

And they want to avoid the “Fourth Quarter” Train Wrecks which derail even the best Business Leaders.

None of us want to let down those who depend on us. We all want to keep the promises we have made to ourselves, to our families, to our colleagues, to our stakeholders, to our customers and to our communities.

The Family Business Leaders we work with deploy a Pioneer Mindset. In this age of massive disruption, they know that if they and their team are not amongst today’s pioneers, the odds of continuing their family business success are remote.

These Leaders are today’s Pioneers. You are eager to explore and create new opportunities. You look for new ways to advance the lives of your colleagues, customers and families. You begin with a specific, thoughtful end in mind in everything you do. And you set a course for winning all of your “Four Quarters”.

You know your plan so far has worked well, may not be perfect and is subject to change. You are proceeding every day with your end objectives in mind. You have a very good idea of where you want to head, how to get there, and who you won’t let down.

Our Family Business Continuity Team has worked with over 1,200 Business Leaders/Pioneers on achieving real world “Fourth Quarter” results. We are working together with today’s Family Business Leaders/Pioneers to grow, develop and strengthen family companies throughout the U. S.

This all begins with understanding what you value most. And then moving ahead with speed, clarity and purpose to deploy what’s needed to stay successful throughout the whole game.

You were successful before we showed up. We invite you to learn more about the 4 Powerful Playbooks which we are deploying with Family Business Leaders/Pioneers who want your hard work and efforts to continue to pay off by seeing and starting with your “Fourth Quarter First.”

Sincerely,

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Next Step

To learn more about the 24 “Train Wrecks” that are destroying the success of family businesses or to check availability to design and deploy a “Fourth Quarter” Game Plan with you, your spouse, your CEO, your President, your partners, your colleague, your mentor, your parents or your client, please contact us at the phone numbers or email addresses above.

“Why is this Fourth Quarter Game Plan Program so effective?”

Because we follow the same Pioneer Mindset approach we’ve learned from Family Business Pioneers, such as:

- **“Fourth Quarter First”.** Begin all thinking with the end in mind.
- **Firm But Flexible.** All plans are firm...until changed.
- **Great Enough.** Don’t let a fruitless quest for perfection delay getting the great done now.
- **Focus.** Only begin everything that should be started now.
- **Simplify.** Take the simplest route possible. Add complexity only to the extent necessary.
- **Course Correction.** Be quick to fully recognize when the situation has changed.
- **Unlearn.** Face the need to unlearn much of what you learned that just isn’t so (or is no longer so).
- **Sanity Check.** Make sure you have a capable someone to sanity-check your “great” ideas.
- **Bench Strength.** Only God knows when your time is up. Have your successor ready now.
- **Step Back.** Always step back away from the detail to make sure you are catching the big picture, the big issues and the big opportunities.
- **The Lighthouse Effect.** Determine the probable, almost certain, future outcome of your present course if left unchanged. Then find what’s missing, the presence of which will produce a substantially better outcome.

“Are We A Family Business?” Yes—if Any Of These Apply

- | | |
|--|--|
| <input type="checkbox"/> Presently family owned with a family CEO or President | <input type="checkbox"/> In our Company Culture, we see all of our colleagues as family |
| <input type="checkbox"/> Family owned with a non-family CEO or President | <input type="checkbox"/> Presently owned by more than one family |
| <input type="checkbox"/> Already multi-generation | <input type="checkbox"/> More than one family member involved in Company Leadership |
| <input type="checkbox"/> Developing a possible family successor | <input type="checkbox"/> Intend to become multi-generation |
| <input type="checkbox"/> Intend for my family to own in the future | <input type="checkbox"/> Family owned now, but could eventually sell to ESOP, outside buyer or employees |

Family Businesses = 90% of All U.S. Businesses

(U.S. Bureau of the Census)

FAMILY BUSINESS CONTINUITY = AVOID THE 24 "TRAIN" = "FOURTH QUARTER" PLANNING

"Begin with the end in mind."

Stephen Covey
Best Selling Author of *The 7 Habits of Highly Effective People*

Fourth Quarter Planning Is More Than Just Succession And Exit Planning

"Fourth Quarter" Planning is a mindshift which Family Business Leaders/Pioneers have been asking us to deploy with them. It is a belief in the need to "begin with the end in mind" if you really intend to be and stay successful.

It is a combination of strategic, continuity, protection, succession, estate and exit planning. It is the deliberate, adaptable and customized process for working with business owners and your families and colleagues to continue to profitably build your business. And to deploy early on what's needed to achieve a successful future transition and eventual exit from your Company. It addresses how to protect what you're building and how to take control of your legacy.

It's About Seeing And Starting With Your "Fourth Quarter First"

For this reason, "Fourth Quarter" Planning addresses your planned, foreseeable growth and future exit. Ideally, your future Fourth Quarter will occur on your terms and timetable. However, sometimes unforeseen events (such as unexpected death or disability or the loss of key employees) will frustrate the best laid plans. So, "Fourth Quarter" Planning comes with back up plans in case of an unexpected owner, partner or key employee death, disability, departure, dispute, divorce or business downturn.

To Be And To Stay Successful For The Whole Game

Many Family Business Leaders/Pioneers have heard us say that our job is to "look into the future" with you. And then work together on what is needed to avoid foreseeable pitfalls and to achieve the outcome you want.

That is the essence of "Fourth Quarter" Planning. To look ahead. To see it coming. To avoid Train Wrecks. To deploy what's needed to keep the promises you've made to yourself, your family, your colleagues, your stakeholders, your customers and your communities.

By Deploying Some Very Powerful, Yet Simple, Concepts

"Fourth Quarter First" thinking is a very simple concept. Yet, in practice, it's often overlooked. Too many business owners are on the journey, but have no clear destination in mind (or they are missing the steps needed to get there).

Together we simply focus on both the journey and the destinations you want for yourself, your family, your colleagues and your Company. We then address what's needed to actually get there. We "Begin with the end in mind" (i.e. "Fourth Quarter First"). And we live by the flexibility principle that "All plans are firm...until changed."

What We Do

We "look into the future" with Family Business Leaders to design and deploy what's really needed for you, your family and your colleagues to win the whole game.

Why We Do It

Because we believe in the greatness of the family business dream.

So... What do you want to see?

Family Business Leaders tell us they most want to **achieve:**

- **Profitable Growth** for our business
- **Wealth Protection** for what we're building
- **Lifestyle Continuity** for us and our family
- **Personal Freedom** on our terms

Family Business Leaders tell us they most want to **avoid:**

- **Train Wrecks**

The Essence Of "Fourth Quarter" Planning For Family Business Leaders

"Fourth Quarter" Planning, at its core, is designed to work with Family Business Leaders/Pioneers to achieve the following:

- | | | |
|--|---|---|
| ✓ Peace of mind rather than confusion | ✓ Family accord rather than family discord | ✓ Leaving a legacy rather than leaving a mess |
| ✓ Maintaining control rather than being out of control | ✓ Accomplishing hopes and dreams rather than living through a nightmare | ✓ Charting your own routes rather than going where the wind blows you |
| ✓ Navigating your specific, charted course rather than running blindly through a maze of dead ends | ✓ Creating leaders rather than simply creating managers who will run the train off the tracks | ✓ Creating your own seller's market for your business rather than settling for whatever comes along |
| ✓ Reaching for the stars rather than being amongst the fallen stars | ✓ Achieving future financial security rather than ending up in financial uncertainty | ✓ Overcoming your transition and exit roadblocks rather than being steamrolled |



Overall Question: "What do I want to achieve in my lifetime for myself, my family and my colleagues and how can our business help us get there?"

THE PROFIT PLAYBOOK

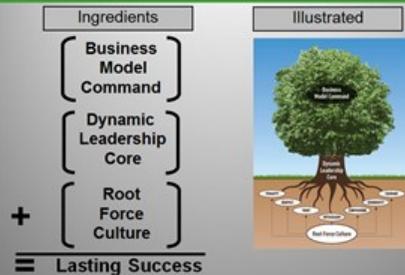
(The Main Plays Which Should Be Carefully Tailored To Your Specific Situation And Then Deployed In Your 1st, 2nd, 3rd, or 4th Quarter)

PROFITABLE GROWTH

“Train Wrecks” Which Derail Profitable Growth

- 1. **No Profit Strategy Team.** Your leadership team doesn't effectively deal with business innovation roadblocks
- 2. **No Pioneer Mindset.** A “fear of change” mindset is overtaken by today's massive Business Model disruptions
- 3. **Declining Business Model!** Your Business Model misfires, declines or fails
- 4. **Poor Company Culture.** Poor Company culture deflates your team performance and customer loyalty
- 5. **No Strategic Thinking.** External forces (competitors, insurgents, economy, technology, government) start to beat you
- 6. **Business Static.** Business expansion opportunities start to be lost or ignored

The Pioneer Success Formula



Goodnight Irene: Not The Result She Had Expected

Irene* had inherited a great import/export business which had been started by her grandfather over fifty years ago. In fact, she had turned this into a small fortune. However, as the old joke goes, the problem was she had started with a large fortune which was becoming a small fortune. What had at one time been a leading edge business was now wilting into irrelevance.

Irene had always expected this would never happen to her. She had what we call the “Wishes Are Horses” Game Plan. As the saying goes, “If wishes were horses, then beggars would ride.” In fact, a successful retirement (or company sale) won't occur just by wishing it to be so.

Irene didn't see the deterioration occurring in her customer base, the lack of systems for addressing product and Business Model innovation, the changes needed to her customer channels, or the impact of the failure to bring in new key partners.

And the changes her competitors had been making were starting to make sense to her.

She wished it was otherwise. However, the likelihood of a profitable outlook or a successful sale or retirement anytime soon was remote.

What happens when you let yourself get stuck in a Business Model that will no longer be profitable? What could Irene have done to keep the promises she had made to herself and her colleagues?

* While this example is real, we've changed the actual names, type of business and other details so that no specific person or business can be identified.

WHAT IS IMPORTANT TO YOU?

1. Profit Strategy

Develop an internal, dynamic Profit Strategy Team that knows how to take on precisely what we need to do to profitably grow our business and beat the disruptors.

Main Play: The Profit Strategy Team

2. Pioneer Mindset

Make sure our leadership team deploys the “Pioneer Mindset” absolutely needed today for addressing business innovation opportunities, decisions and issues.

Main Play: The “Pioneer Mindset” Initiative

3. Business Model

Overcome the disruptive Business Model, Technology and Demographic realities threatening all companies today.

Main Play: The “Business Model Command” Initiative

4. Company Culture

Make sure we have the right positive company culture that drives our team and builds lasting customer relationships.

Main Play: The “Root Force Culture” Initiative

5. Strategic Thinking

Make sure our team is trained to use the strategic thinking tools which companies around the world are using to achieve remarkable growth and to stay successful.

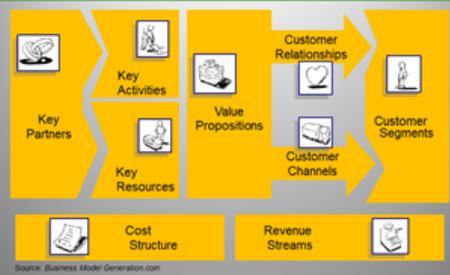
Main Play: The “We Refuse To Be Netflixed” Initiative

6. Business Expansion

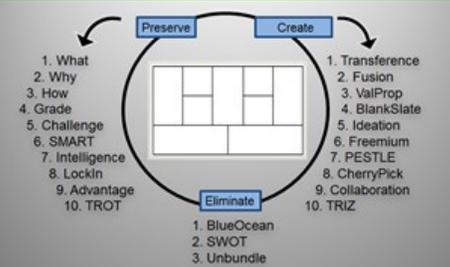
Keep seeking growth opportunities to acquire other businesses, expansion sites and new technology rights and to joint venture with others.

Main Play: The “Find It” Expansion Protocol

The 9 Business Model Building Blocks



The Business Model Strategy Tool Room





THE PROTECTION PLAYBOOK



(The Main Plays Which Should Be Carefully Tailored To Your Specific Situation And Then Deployed In Your 1st, 2nd, 3rd, or 4th Quarter)

Eric's Game Plan: "Ticking Time Bombs"

Eric* and his partner Joe had a very profitable 25 year run with their industrial supply company, although the past couple years had been difficult. They had just adopted some well-considered strategic innovations to the "Customer Channel" and "Revenue Stream" components of their Business Model which they felt were keys to sustaining their competitive advantages. Both were hoping to sell the Company in 10 years or so and enjoy a comfortable retirement.

So the news that Joe's colon cancer had come back and spread to his liver was devastating. The letter from Joe's attorney shortly after Joe's death demanding \$5 million cash for Joe's 50% share of the Company was even more unexpected. It seems that Eric and Joe were overly optimistic when they set the formula price in the mandatory death buy-out section of their Buy-Sell Agreement when they signed it 12 years earlier. Eric and Joe hadn't looked at their Buy-Sell Agreement since the date they put it in the drawer 12 years ago.

They had also failed to implement the life insurance funding for their Buy-Sell. And the Company's creditors were getting nervous and talking about "piercing the corporate veil".

These three ticking time bombs had just exploded. There was no way Eric or the Company could cash flow the price, which Eric estimated now overstated the realistic value significantly in today's marketplace. And any buy-out would hit the company balance sheet and jeopardize future banking and also prompt a creditor push for personal liability to Eric.

What happens when you have an outdated Buy-Sell Agreement that misprices the Company or which doesn't include the funding to implement it? What could Eric and Joe have done to keep the promises they had made to each other, their families and their colleagues?

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"Train Wrecks" Which Derail Wealth Protection

- 1. **Business Not Protected.** Business disputes and litigation losses deplete your business resources
- 2. **Ownership Not Protected.** Company ownership is not correctly controlled or funded with the right buy-sell-hold options
- 3. **Continuity Not Protected.** Avoidable co-owner disputes crush you
- 4. **Team Not Protected.** Leadership team members leave to find better opportunities elsewhere
- 5. **Stability Not Protected.** Company hits the skids if CEO/President is lost unexpectedly by illness, accident or death
- 6. **Wealth Not Protected.** Personal risk exposures deplete your personal resources

Protecting Your World

- Business
- Ownership
- Continuity
- Team
- Stability
- Wealth

Personal Liability For Corporate Debts

Common ways business owners will lose limited liability protection

- Not following corporate Minute Book formalities.
- Not following proper dividend and compensation protocols.
- Not adequately capitalizing the company.
- Existence of fraud, wrongdoing, or injustice to third parties.
- Not respecting separate identities of the company and its owners.
- Personal guaranties
- Cross Collateralization

Pioneer Mindset

Risky Business. Don't "take" risks. Manage and profit from risks. Protect what you're building.

WHAT IS IMPORTANT TO YOU?

1. **Business Protected**
Protect our business expertise, intellectual property, proprietary data and customer relationships from being wrongfully taken by competitors or by former colleagues.

Main Play: The Business Asset Protection Protocol

2. **Ownership Protected**
Clear guidelines and funding for the future purchase and sale of co-owner's shares when life's events happen (e.g. retirement, death, disability, disputes, divorce).

Main Play: The Company Buy-Sell Agreement

3. **Continuity Protected**
Avoid disputes between our present and future co-owners by addressing potential conflicts before they develop or erupt.

Main Play: The Business Continuity Agreement

4. **Team Protected**
Incent and reward the loyalty of our leadership team who we want to keep working to build their careers with us.

Main Play: The Leadership Recognition and Reward Program

5. **Stability Protected**
If I "get hit by the beer truck", I want a capable successor immediately pre-appointed so our team can move ahead without missing a beat.

Main Play: The Emergency Succession Plan

6. **Wealth Protected**
Deal with the reality that the personal wealth of business leaders is subject to more risks than those not in business.

Main Play: The Personal Limited Liability Company



THE ESTATE PLAYBOOK

(The Main Plays Which Should Be Carefully Tailored To Your Specific Situation And Then Deployed In Your 1st, 2nd, 3rd, or 4th Quarter)



“Train Wrecks” Which Derail Lifestyle Continuity

- 1. **No Lifestyle Continuity.** Inadequate Estate Plan controls damage your Company and deplete family wealth
- 2. **Bloodline Failure.** Bloodline wealth opportunities wasted
- 3. **Family Ownership Misallocated.** Wrong family members become Company owners or receive control
- 4. **Family Disputes.** Business and estate disputes damage your family
- 5. **Family Ownership Not Controlled.** Wrong family members remain Company owners or remain in control
- 6. **Estate Taxes.** Estate tax hit

What Is The #1 Tool For Accomplishing All Of This?



Think Of A **Trust** As A **Bucket**

What Do We Put In The Bucket?

Instructions

- Who
- What
- When

Selected Assets

Many Different Kinds of Trust



Charlie’s Game Plan Legacy: “Let My Spouse Deal With It”

With a Master Brewer qualification from the Institute of Brewing and Distilling in London and an MBA from Notre Dame, Charlie* had no problem working his way quickly up the chain of command at one of the country’s leading brewing companies. He was set to become the next CEO at age 45 when the Board unexpectedly passed him over. Unfazed, he set out on his own, combining his brewmaster skills, his business acumen, and his life savings to start his own microbrewery business. In twenty years he had grown Silver Bay Brewing Company to six highly successful locations in major cities throughout the country.

At 65, Charlie figured he was just getting started. Teaming up with a new partner and engineering expert, Frank, they had recently created and patented the “Silver Bay Personal Brewery” – the world’s first all-in-one brewing appliance for home use. Now they just needed to design and implement the right Business Model to capture its value.

I had never met Charlie. When Charlie’s widow, Carol, came to see me shortly after his unfortunate death, she was distraught. He had a Will and a Living Trust prepared by his regular Estate Planning attorney. But he had failed to address essential Business Owner Estate Planning strategies. And their two sons were starting to fight, because they each felt Dad wanted them to own and run the Company if something happened to him. Carol said Charlie figured he had many years left. He had no way of knowing that, ironically, a drunk driver would alter his legacy forever.

What happens when you haven’t considered that your personal Fourth Quarter could come unexpectedly? What could Charlie have done to keep the promises he made to his family and his colleagues?

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WHAT IS IMPORTANT TO YOU?

1. **Lifestyle Continuity**

To have clear direction and controls as to who receives my Estate (and when) and who is in charge of my Company and Estate when I can’t be.

Main Play: The Business Owner Estate Plan

2. **Bloodline Success**

To preserve our family business and wealth for our family’s bloodline opportunities (such as business continuity, “family bank”, health, entrepreneurship, charitable, and education).

Main Play: The Family Bloodline Opportunities Trust

3. **Family Ownership**

To allocate future Company ownership (value and control) to the right family members (either by sale, bonus, gift or inheritance).

Main Play: The Family Ownership Matrix

4. **Family Peace**

To avoid family business and estate disputes (such as regarding careers, family employment, compensation, control and opportunities).

Main Play: The Family Peacekeeper Protocol

5. **Family Business**

To be able to buy out Company ownership in the future from family members who shouldn’t (or don’t want to) remain owners.

Main Play: The Family Buy-Sell Agreement

6. **No Estate Taxes**

To avoid Estate Taxes by timely deploying the tax planning strategies permitted by law to reduce or eliminate Estate Taxes.

Main Play: The Estate Tax Reduction Strategy



THE SUCCESSION PLAYBOOK

(The Main Plays Which Should Be Carefully Tailored To Your Specific Situation And Then Deployed By Your 4th Quarter)



Art's Dilemma: Leaders With Conflicting Objectives

I wasn't surprised by our meeting with Art.* We had seen it many times before. Art had founded and built a very successful retail business. He had operations across the region which were consistently producing significant year-to-year profitable net cash flow. Pete, his second-in-command, had been working with him for the past twenty years. Art had decided recently that he was ready to transition from the Company, and he wanted to get this done soon.

However, as we began to visit, it became obvious Art and Pete clearly had very different views about the future.

Art had assumed Pete would purchase the business from him at a full fair price. Pete thought much of the ownership should be bonused to him based on his two decades of dedicated services. However, they had never really discussed this in any detail.

Pete also believed the Company's Business Model had become the victim of Art's recent short term thinking. If he was to be Art's successor, Pete wanted to know the Company would be primed to endure for a long time. In addition, Pete had recently been approached by a competitor to take a key position and ownership with his Company, which Pete was giving strong consideration to. Art had also been talking to possible outside buyers but so far no one was interested.

What happens when you and your possible successor haven't dealt with each others vision soon enough? And when the great business you thought you had built just isn't of interest to potential buyers? What could they have done to be in a better position to keep the promises they had made to themselves and each other?

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"Train Wrecks" Which Derail Personal Freedom

- 1. **Business Value Insufficient.** Insufficient cash-in-pocket to meet your business and personal needs or objectives
- 2. **No Capable Successor.** Wrong successor, no successor, or great successor leaves (to go help your competitor)
- 3. **Not Always Ready.** Company not always in prime condition to be operated, transferred or sold
- 4. **Income Taxes.** Income tax hit
- 5. **No Viable Internal Transfer.** No effective inside route exit
- 6. **No Viable External Sale.** No effective outside route exit

Your "Fourth Quarter First" Desired Outcomes

- Who
- When
- What
- Why
- Where
- How Much

Possible Transition and Exit Routes

- Family
- Strategic Buyer
- ESOP
- Partners
- Financial Buyer
- Franchise
- Key Employees
- Synergistic Buyer
- Liquidate
- Liquidity Recap Dividend
- Roll Up Buyer
- Death - Heirs
- Become Retired Owner
- Private Equity Group
- Hybrid/Combo of These

Business Owner Survey

- 79% of Business Owners want to exit within 10 years
- 57% of Business Owners want to exit within 5 years
- 80% believe their exits will occur because of planning and actions they implement
- Owners are looking at multiple possible Exit Routes

Source: Business Enterprise Institute
www.ExitPlanning.com

WHAT IS IMPORTANT TO YOU?

1. **Business Value**

Enough cash (at the right time) from Company value, cash flow, insurance, recap dividend and sale options to fund our business and family objectives.

Main Play: The "Rubber Meets The Road" Report

3. **Always Ready**

To have our Company always in prime condition and structure to be transferred or sold for when we decide to transfer or sell.

Main Play: The "House-In-Order" Checkup

5. **Internal Transfer**

To have one or more key persons, partners, ESOP or family who can acquire our Company and take it forward with great success.

Main Play: The Inside Route Exit Plan

2. **Capable Successor**

A leadership transition to a successor who is fully capable of leading and sticking with our Company into the future.

Main Play: The Leadership Development Program

4. **Minimize Taxes**

To timely deploy the tax planning strategies being used by others to minimize our income taxes if we sell the Company.

Main Play: The Income Tax Reduction Strategy

6. **External Sale**

To be positioned to sell our Company at full fair market value to an acceptable outside buyer on very favorable terms.

Main Play: The Outside Route Exit Plan

FAMILY BUSINESS LEADERS

**Results Not
Wanted**



**Results
Wanted**



**Results
Achieved By**



**What Is The Financial + Personal Cost
of Being Too Late or Out of Time?**

**What Is The Financial + Personal Value
of Each Great Play Deployed In Time?**

Inspired By Excellence. Committed To Your Success.

When we work with Family Business Leaders, we ask about your story and the story of your family business. We get to see the heart and soul of America's family entrepreneurs, that is, America's new breed of Family Business Pioneers.

We get to see your passion and your excellence. We get to see the grit and determination which drive you. We get to see the love and respect you have for your colleagues and for those you serve. In short, we get to see the pioneer spirit which drives you and your team. Just as it has driven me and our team.

For over 60 years we have been working with our nation's food companies, restaurants, farmers and ranchers to feed people better. We have been working with contractors and companies to build better and more affordable homes and new business facilities.

We have been working with technology companies to develop new ideas that improve lives. We have been working with inventors, startup companies and health care providers to develop patented medical devices, leadership teams and joint ventures that save lives. We have been working with energy companies to help fuel our homes and the businesses we all rely on.

We have been working with bankers, key partners, manufacturers,

distributors, retailers and transportation companies to finance, produce and deliver better products and services to communities around the world. We have been working with family business pioneers and their other trusted advisors to transform, grow, carry on and transition the family business dream, the backbone of our great country.

We have been working with our community leaders to improve our cities and our schools. We have been working with our elected leaders to improve the business climate to create and attract new and better jobs for families.

For over 60 years, this has been the McGrath North Law Firm.

Working quietly behind the scenes closely with the talented leaders of great organizations around the world to make lives better.

Working together. Working stronger. Working faster. Working better. Overcoming Roadblocks. Avoiding Train Wrecks.

Inspired by excellence. Committed to your success.

Our diverse team isn't waiting for the future. We are helping to produce new, incredible, sustainable results right now.

We invite you to join us as we move quickly ahead towards the next 60 years.



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Exit Planning Institute
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Omaha Estate Planning Council