

### **The Pitfalls of Taking Back Paper on the Sale of Your Business**

By Olivia G. Robinson

Interested in retiring, you sold your company two years ago to an investor group whose attractive offer included a provision that you did not have to cash out immediately, which was a tax advantage to you at the time.

You have been concerned for the last year that the new investor-managers are not well-suited to your business, as illustrated by both operational and financial declines. Some of your old customers have been calling you to complain about customer service and product support, even though they know you have not been active in day-to-day operations. In fact, your only ties to the company are financial – the investor group still has most of your money.

Now you are cursing yourself for ever selling to a group of financial people with little operating experience; for believing that the tax advantages of a phased cash-out were better than making a clean break with a lump sum payment; and for believing that the projected earnings were realistic. You yourself could not achieve that level of growth,



yet you believed that someone who didn't know the business the way you did, could step in and make it happen.

**Today, your options are:**

- To admit that in all likelihood you will not get any more money from the sale due to the company's unanticipated poor performance;
- To come out of retirement to salvage the business by running things day-to-day; or
- To close things down in the realization that you have made a costly, life-altering mistake.

As you consider what to do, you wonder more and more about the investor group:

- Did you do adequate due diligence on the group? And on the individuals who would be running your business?
- Did you look at their track record, beyond the examples they presented to you?

You wonder about the investors' buyout history and whether they have destroyed other companies after making a minimal investment.

It dawns on you that you can never know too much about any transaction, particularly when it involves the sale of a business that you've built over decades. Obviously, you didn't know enough.

Background Intelligence, Inc. provides insight into people and businesses, including their reputations, track record, licensing and regulatory concerns, and legal troubles.

We have seen companies on the brink of demise because too much power and authority were given to the wrong person, on the assumption that this new player had the skills, understanding, experience and ethics to lead a business taken over from a seasoned owner.

In one case, we stepped in with a team of private investigators, forensic accountants, computer forensics specialists and a criminal attorney to assess the depth of the destruction and fraud perpetrated on the seller and his company. In less than a year, the buyer had established phony books, enabling him to write checks to himself in the name of bogus companies. He

had signed contracts and made financial commitments that exceeded the company's ability to honor them. And, he had alienated most legitimate, long-standing vendors by not paying them.

Had the seller vetted this buyer diligently, he quickly would have discovered the buyer's history of taking over companies using the same scandalous means.

As part of our investigation on this case, we had conversations with other sellers, all duped by this person. All of the sellers were very angry. Many had filed legal actions against the buyer, and a couple had judgments against him for millions of dollars. All of their efforts came to nothing when the buyer filed for bankruptcy, and got rid of all of the financial obligations resulting from his misdeeds.

The sellers were rightly incensed at the buyer, but also at themselves. Seasoned though they were, they had been so swept up in his beguiling manner and seductive promises that they had never paused to arm themselves with the facts.

If you find yourself in this predicament, it is not enough to be angry. Now, more than ever, the facts matter. Only when you know the full scope of the circumstances and the details involved, will you be able to settle on a course of action and, potentially, a satisfying outcome.

**We can help you get the information that can give you the best options for salvaging your situation.**

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