

THE MONTHLY CEO ADVISORY™

revenue

A close-up photograph of a person's hand in a white dress shirt, holding a white marker and drawing a thick red arrow that curves upwards and to the right. The background is a blurred office setting with windows.

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Dear Friends,

This month marks the supposed end to the COVID-19 crisis.

In the wake of the pandemic, businesses were forced to close, many losing years of effort to comply with government edicts.

As we try to return to what used to be normal, understand that entire industries have been decimated and may never return. Try renting a car, for example.

I am pleased to provide you with the June 2021 issue of ***The Monthly CEO Advisory***[™].

This periodical is all about you working “on” and not “in” your business.

Enjoy the articles that follow. The Trusted Advisors that contribute to this publication are the best in their respective fields. If you need help, please reach out to them.

Thank you for allowing us to be part of your continuing business education, growth and success.

Continue to stay safe.

Sincerely,



Ken Keller
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Business Growth Opportunities to Consider in 2021

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The Monthly CEO Advisory is a publication for business leaders. Please enjoy the articles, send us any suggestions of topics you would like to see covered and pass this on to others so that they might benefit. Thank you. Ken Keller

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BUSINESS GROWTH & PROFITS

ARE YOU A BUILDER OR A PROTECTOR?

As the CEO, you are faced with making critical decisions every day. It doesn't matter if you are a solo-preneur or if you have 550 employees. Those decisions can make you or they can break you.

For instance, you know in your head that you should be watching your cash, tracking it weekly, knowing what your cash flow cycle looks like, being aware of when cash is leaving your company or entering your company.

But when faced with the decision to pay more attention to that very critical challenge, you defer. You procrastinate. You hesitate. You do track it, roughly, in your head. That one decision, that single decision, to not fully engage in this critical financial indicator could mean your company may never have enough money to grow.

Or, let's say you know you need to be better at sales. But you hate selling! You love talking about your product or your service; you just can't pull the trigger with prospects and

ask for the order. After all, you know what it feels like to be "sold to" and you never want to come across that way to someone else.

The decision to not improve your cash flow because you won't make more sales, could well lead to the demise of your company.

In every company, there is a hidden agent called the Builder/Protector Ratio. Every company has Builders – people who love risk, who look for opportunities, aren't afraid of change and love facing the challenges of growing a business.

And there are Protectors – people who feel the need to slow things down, who are risk averse, aren't happy with change and tend to spend most of their time worrying about what could happen.

A "hidden agent" lies beneath the surface of a company and because these "hidden agents" are not visible, the impact is hard to diagnose, hard to recognize and as CEO, we sometimes address the surface issue and not the root cause of an issue. The hidden agent we call the Builder/Protector Ratio, is also referred to as

the Confidence/Caution ratio and here's why it's an important concept for you to address as the leader.

If we can identify a problem, put a name to that problem, we can solve it. Think about when you are the Builder in your company. How does that look? What do you get done? How do you feel when you know you have aggressively taken steps to grow your business? On the flip side, when does your Protector show up? Is it when you are managing your cash? Determining when you can spend or when you should save your money? Bottom line, as CEO, you need to be both a Builder and a Protector. The challenge is making sure the right one is showing up at the right time.

Too much Protector when you are determining how to land that next client and you will find all kinds of excuses to not make that phone call or send that email. Too much Builder when you are looking at buying that next computer or that next online software program and you could out-spend what you are earning.

Be aware of your Builder/Protector Ratio and know when each one is showing up and why.



Ken Keller

Ken Keller facilitates Strategic Advisory Boards, bringing small & midsize company CEOs together to improve planning, performance and growth to increase revenue, execute plans, and grow profits. SABs meet via Zoom and clients are worldwide, in just about any industry.

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TAX NEWS

1937 TAX LOOPHOLES . . .



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More generically, Morgenthau attacked percentage depletion as “perhaps the best example of legalized theft from the United States Treasury which the revenue laws still permit.” Washington still hasn’t seen fit to repeal it — just drive through Houston’s stately River Oaks neighborhood to see what it’s done for the oil business. And he marveled that “lawyers of high standing at the bar are advising their clients to utilize devious tax avoidance devices, and they are actually using them themselves.” (No! Lawyers being clever? Say it ain’t so!)

So, what’s the answer? Garlic? Wolfsbane? Witchcraft? We’ll see what they end up choosing this time. Regardless, our job remains the same: to navigate the new rules to help you pay less, legally, morally, and ethically. While you probably won’t be able to rent your yacht from your company, we can be sure the new rules will include new “green lights” you can use to go without paying.

The Biden administration has rolled out an ambitious set of tax hikes to support new spending on infrastructure, families, and other priorities. While the plan includes raising rates, much of the action focuses on closing loopholes, especially for corporations. But if you’ve ever had front-row seats to that particular horror show, you know that closing loopholes is like killing a vampire — much easier said than done!

Back in 1937, FDR launched a campaign against loopholes for the rich. Henry Morgenthau, his Treasury Secretary, prepared an 11-page memo, exposing strategies that the Depression-era 1% employed to pay less. It’s a classic howl of righteous indignation, with sentiment straight out of the Occupy Wall Street movement. (We’re waiting for a Ken Burns documentary.) So, what outrages did he find?

“The investigation of the income tax returns for each successive year reveals the increasingly stubborn fight of wealthy individuals and corporations against the payment of their fair share of the expenses of their Government But we still have too many cases of what I may call moral fraud — that is, the defeat of taxes through doubtful legal devices which have no real business purpose nor utility, and to which a downright honest man would not resort to reduce his taxes.”

Morgenthau didn’t just reveal how, he revealed who, in a way that would land today’s Wiki-leakers in jail:

- Charles Merrill and Edwin Lynch had 40 trust funds and 23 personal holding companies. “They operate a great many numbered brokerage accounts and only at the end of the year identify for whose benefit the account has been operated. In this way innumerable transactions are carried on between the different corporations and trusts which have no effect upon the beneficial interests of Merrill and Lynch, but which are designed to reduce their tax liability very greatly.
- George Westinghouse, Jr. “has a \$3 million Bahamas corporation and in an attempt to prevent the Bureau of Internal Revenue from catching up with him, moves his home address from one small hamlet to another each year.”
- “Alfred P. Sloan’s yacht is owned by Rene Corporation, one of his personal holding companies, along with \$3 million in securities. He rents the yacht from his company and the company uses its income from securities to pay depreciation on the yacht, the wages of the captain and crew, and the expenses of operating the yacht.”

COMMERCIAL INSURANCE

WHAT IF THERE WAS AN ACCIDENT?

Business travelers usually rent vehicles and return them without incident. When an employee damages a rental car, most business owners believe their Commercial Automobile coverage will protect them. However, depending on the circumstances of the loss and the way coverage was set up, this may not always be the case. The best way to avoid a bad outcome later, is to set things up correctly today.

The first step to proper and comprehensive rental car risk management is the addition of a Hired & Non-Owned Automobile endorsement to the company's Commercial Automobile policy. (Or the General Liability policy if the company owns no vehicles.) The "Employee Hired Autos" endorsement, which broadens the coverage to include vehicles that are rented by an employee in their name, and the "Optional Limits – Loss of Use Expenses" endorsement should also be added. The later endorsement increasing the Loss of Use limit, usually to \$70 per-day.

Another critical component of managing rental car risk is to have the rental agreement set up in the company's name, not in the employee's name. This can be accomplished by setting up a "corporate account" with two or three national car rental agencies. Be certain the corpo-

rate account is set up using the same entity name that appears as the Named Insured on the Commercial Auto policy. That way, the name on all future rental contracts will automatically be the same as the Named Insured on the Auto policy, which is where the coverage for Hired & Non-Owner vehicles resides. Listing employees who frequently rent vehicles on the Corporate Account will allow them to take possession of the vehicle.

Employees should be instructed to purchase only the "Loss Damage Waiver", then decline all the other high-priced coverage offered in the rental agreement. The Loss Damage Waiver covers repairs needed for a partial loss no matter who is at fault, and in the event of a total loss, provides Replacement Cost coverage instead of Actual Cash Value. Purchasing the Loss Damage Waiver will also serve to avoid having your employee's credit card changed in the event of an accident.

If you or your employees travel for business frequently, a further step to manage rental car risk would be to issue the employee a corporate credit card in the company's name, that can be used when renting vehicles. In addition to reimbursing any deductibles, this measure assures that the name on the credit card will be the same as the one on the rental agency's corporate account, which should be the same as the Named Insured on your Auto policy. Thus, your employee will be free and clear of any personal financial responsibility in the event of a loss.

Establishing a sophisticated rental car risk management program is easily accomplished. Yet, I find very few companies have taken the time to put all these measures in place. It is worth the effort.



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HUMAN RESOURCES COMPLIANCE

EMPLOYERS MAY NOT BE ABLE TO SCRAP MASKS YET

The announcement from the CDC that fully vaccinated people no longer need to wear a mask or physically distance was a welcome relief for all Americans and a hopeful sign. The guidance did not overrule federal law, workplace guidance, local business restrictions, or state, local, or other similar regulations. If you an employer the following information is critical for you to understand.

For employers considering relaxing or eliminating your mask mandates and social distancing protocols for those who are fully vaccinated, there are at least seven considerations to take into account before proceeding:

1. Local laws and regulations may still require you to enforce such rules regardless of vaccines.
 2. The federal Occupational Safety and Health Administration (OSHA) has not yet relaxed its COVID- 19 standards for workplaces.
 3. States with their own OSHA equivalents may also have different standards to consider.
 4. If you choose to mandate the vaccine, there remains an outside risk of a lawsuit from someone hesitant to get inoculated.
 5. If you do not mandate the vaccine, you would need to inquire about and probably track the vaccine status of your workers to determine whether someone is fully vaccinated, which could raise privacy and disability discrimination concerns.
 6. Some of your workers may have legitimate medical or religious reasons for abstaining from the vaccine, requiring you to take their accommodation status into account.
 7. Workers who are unvaccinated and thus required to continue wearing masks and maintain social distancing could have a claim for retaliation if they are harassed or discriminated against.
4. If You Mandate the Vaccine, Bear the (Slight) Risk of a Lawsuit
 5. Tracking Vaccine Status Raises Privacy and Other Concerns
 6. Offer Religious and Medical Accommodations
 7. Protect Masked Workers from Mistreatment

What about guests and visitors? There is no easy answer at this time. Asking your guests for information about their vaccine status or proof of vaccinations is a risky proposition fraught with legal peril. You should coordinate with your legal counsel if you want to pursue such a course of action, but there are critical discrimination and privacy concerns to overcome.

For those employers that want to chart the most conservative course and maintain the status quo, there remains virtually no legal risk at this time. You could choose to sit and wait for more clarity to emerge from the EEOC, OSHA, and state and local authorities before implementing any changes.

The CDC announcement expressly states that employers and business can continue to maintain a mask mandate and social distancing policy. Based on CA, county and city laws and regulations maintaining masks may be a legal requirement as is having a Return-to-Work written policy.

If you need assistance with your Return-to-Work policy or guidance with COVID vaccinations, mask requirements, please reach out to JorgensenHR.

Thank you Nicole Kamm Fisher Phillips nkamm@fisherphillips.com for this great information.

Here is a seven-step blueprint if you want to eliminate mask mandates and social distancing rules at your workplace.

1. Get a Gauge on Your State and Local Regulations.
2. Understand the Risk You Face From OSHA
3. Understand Your State OSHA Plan Requirements



Barry Cohn, CEO

JorgensenHR

I work with Top Executives of companies with 20-2000 employees, providing HR solutions in compliance, Affirmative Action Plans, technology, policies & procedures, handbooks, workplace investigations and harassment hotlines.

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MANUFACTURING EXCELLENCE

WHAT IS WORLD CLASS MANUFACTURING?

We often hear the term “world class manufacturing.” But what is it? Is it some mystical metric which once achieved, we can declare we are a world class manufacturer? Is it a set of benchmarks (set by “experts”) that tell us we have arrived?

Becoming a world class manufacturer is not about the destination, but a profound personal and organizational commitment to the journey. A journey of relentlessly pursuing continuous improvement. All of the leading manufacturing methodologies such as Lean Manufacturing, Six Sigma, Baldrige, Shingo, the Toyota Production System (TPS), etc. have one common theme of excellence: continuous improvement.

It is the sustainable, continuous improvement of all aspects of the business which results in world class performance. When every employee in your organization is committed to finding a better way. When your organization has the determination and means to capture those ideas and translate them into sustainable ways of doing business, your organization is firmly on the path to becoming a world class manufacturer.

Every employee is actively looking to eliminate waste. Idle time. Indecision. Lack of training. Hesitancy. Poor judgement.

Broken, old school, inefficient ways of doing things.

Every employee is aware of variation. Why is this process different from last time? What changed? Is that a good or bad change? Does this process need to be stabilized? Is there inadequate training, documentation or failure in execution?

Every employee is aware of velocity. Why are these parts or documents not moving? What are we waiting for? What obstacles need to be removed? How can we get around obstacles and keep the process moving?

This is not about mere “window dressing.” We can have classes on production control, Lean, Six Sigma and all of the other essential methodologies, but until those processes have sunk into the hearts and minds of every employee, world class performance will remain elusive. This is not a top down process. Managers impose rules on staff. Leaders capture the hearts and imaginations of their team.

When employees take ownership of their machines and workplace, this is when the miracles begin to happen. When employees are pushing management to implement change, rather than the other way around, your organization is on its way to world class performance. When employees are defining how processes and success should be measured and collaborating with management

on working out the details, this is a company which will leave the competition in the dust.

All of this requires transparency. Are you able to have open conversations with staff about the opportunities and challenges the company is facing? Do you trust your employees with that information? When walking through the office and manufacturing spaces, are desired conditions and best practices posted with words and pictures? Is a messy desk or workstation the desired state? Or should a level of organization be maintained? Are these the correct products, tools and documents assigned to this work area? What are the goals? Are metrics posted in the work area indicating past performance, current status and future targets? Are these standards employee driven (bottom up) rather than management mandated (top down)?

It is possible to create the artificial impression of a world class manufacturer. Management can dress up the plant to impress customers and visitors. But this is fantasy. Not world class performance.

The key to world class management is not what is visible, but what is invisible. What is in the hearts and minds of every employee? Is there buried in the soul of every employee a relentless, driving desire to continually improve as an individual and team member? Or a broken spirit of capitulation to the relentless demands of management?

As leaders we have the opportunity and privilege to choose to be world class. It is a choice and passion for excellence that begins with you. You cannot fake this. World class manufacturing is not a pastime. It is who we are.



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INFORMATION TECHNOLOGY

WHAT'S IN THE BIDEN ADMINISTRATION'S CYBERSECURITY EXECUTIVE ORDER

On May 12th, the Biden Administration issued a much-anticipated "Improving the Nation's Cybersecurity" Executive Order (EO), setting standards and requirements to prevent cyberattacks for government agencies, federal contractors, and others.

The EO was in the works prior to the recent cyberattack on the Colonial Pipeline that slowed and snarled the flow of gas on the East Coast for days. Reportedly, it was a ransomware incident. While ransomware attacks are not new, they are becoming more prevalent as well as more severe. The SolarWinds breach in 2020, named Sunburst, was a massive compromise of government agencies, including the Department of Energy. In February 2021, weak cybersecurity controls allowed hackers to access a Florida wastewater treatment plant's computer system.

THE EXECUTIVE ORDER STATES:

"The United States faces persistent and increasingly sophisticated malicious cyber campaigns that threaten the public sector, the private sector, and ultimately the American people's security and privacy." The Federal Government must improve its efforts to identify, deter, protect against, detect, and respond to these actions and actors. Protecting our Nation from malicious cyber actors requires the Federal Government to partner with the private sector. The private sector must adapt to the continuously changing threat environment, ensure its products are built and operate securely, and partner with the Federal Government to foster a more secure cyberspace.

KEY PROVISIONS

Generally, the EO will affect the federal government and its agencies. However, some requirements will reach certain federal contractors as well as influence entities in the private sector.

Among other requirements, the EO directs the following:

- **Remove contractual barriers in contracts between the federal government and its information technology (IT) and operational technology service providers.** The goal is to

increase information sharing about threats, incidents, and risks to accelerate incident deterrence, prevention, and response efforts and to enable more effective defense of government systems and information.

- **Modernize the approach to cybersecurity.**

Some of the technical controls called for in the EO include the following:

- ✦ adopting security best practices
- ✦ advancing to Zero Trust Architecture
- ✦ moving to secure cloud services, including Software as a Service (SaaS)
- ✦ centralizing and streamlining access to cybersecurity data to drive analytics for identifying and managing cybersecurity risks
- ✦ adopting multi-factor authentication
- ✦ adopting encryption for data at rest and in transit (to the maximum extent consistent with federal records laws and other applicable laws)

- **Improve software supply chain security.** Driven by the effect of the SolarWinds incident, the EO points to the lack of transparency in software development and calls for guidance to be developed that will strengthen this supply chain. This will include potential new standards, procedures, and criteria, such as securing development environments and attesting to conformity with secure software development practices.

- **Establish a Cyber Safety Review Board.** Among the new Board's duties are reviewing and assessing certain significant cyber incidents affecting Federal Civilian Executive Branch Information Systems or non-federal systems, threat activity, vulnerabilities, mitigation activities, and agency responses.

- **Standardize incident response.** Standardize the federal government's response to cybersecurity vulnerabilities and incidents to ensure a more coordinated and centralized cataloging of incidents and tracking of agencies' progress toward successful responses.

- **Improve detection.** The EO seeks to improve detection of cybersecurity vulnerabilities and incidents on federal government networks.



Craig Pollack

FOUNDER & CEO

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- **Improve investigative and remediation capabilities.** Recognizing it's essential that agencies and their IT service providers collect and maintain network and system logs in order to address a cyber incident, the EO seeks recommendations on the types of logs to be maintained, the time periods to retain the logs and other relevant data, the time periods for agencies to enable recommended logging and security requirements, and how to protect logs.

IN CONCLUSION

The U.S. government is expected to ramp up efforts to strengthen its cybersecurity, and states likely will continue to legislate and regulate in this area. All businesses, especially federal contractors, can expect pressure to evaluate their data privacy and security threats and vulnerabilities and adopt measures to address their risk and improve compliance.

While the EO is directed towards Federal agencies as well as government contractors, it would be a good practice for all businesses to model their cybersecurity processes, policies, and protocols on these new standards. While it's not a mandate (yet), it's only a matter of time until these become more than just recommendations but rather the standards we should all adhere to.

COMPANY BENEFITS

ARE YOU PROVIDING THE REQUIRED HEALTH INSURANCE NOTICES TO YOUR EMPLOYEES?

When I meet potential clients, I ask if they provide the 12 required government health insurance notices or documents and I receive a blank stare or the owners say yes. When I review each notice with them, they are missing at least 80% of them. Businesses that do not provide the notices are risking major fines from governmental agencies that could reach \$1.5 million from the Office of Civil Rights for HIPAA privacy violations. The Department of Labor's (DOL) fines start at \$5,000 and can reach over \$250,000.

The following is a list of notices that must be provided to all benefits eligible employees who enroll on your health plans. In addition, notices 1 & 3 have to go to all employees that are not benefits eligible.

1. Health Insurance Exchange Notice
 - With the passage of the Affordable Care Act 10 years ago, this is an annual required notice.
2. Notice of Special Enrollment Rights
 - Employees that enroll on your health plans must receive this notice each year that states that employees cannot change plans until open enrollment unless they is an IRS qualifying event.
3. Notice of Privacy Practices
 - Since employees provide confidential non-public private information (NPPI) and protected health, information (PHI) employers must outline their privacy practices with this notice annually.
4. Mental Health Parity and Addiction Equity Act (MHPAEA) Disclosure (for companies with 50 or more employees)
 - Since 2008, the MHPAEA must be given to employees that states mental health benefits cannot be more restrictive than all medical/surgical benefits.
5. Employer's Children's Health Insurance Program (CHIP) Notice
 - The CHIP notice states that children may be eligible for Medicaid/Medi-Cal with links to websites and phone numbers in participating states
6. Newborns' and Mothers' Health Protection Act Notice
 - Group health plans may not restrict benefits for childbirth or newborn childcare and this notice outlines timelines for hospitals for normal and C-section deliveries.
7. Medicare Part D Creditable Coverage Notice
 - This notice that must be provided before October 15 each year states whether the drug coverage the employee has is equal to or better than Medicare Part D coverage.

- Employers also have to log into the CMS website and report the information.
8. Genetic Information Nondiscrimination Act (GINA) Disclosures (for companies with 15 or more employees?)
 - This act protects employees against discrimination based on genetic information and employers may not request or require any genetic information from employees or family members.
 9. General Notice of COBRA Rights (for companies with 20 or more employees)
 - The COBRA Rights notice outlines continuation health coverage if the employee leaves an employer.
 - If an employer uses a third party to administer COBRA those services may not include this notice that is required when an employee enrolls in a company's health plan.
 10. USERRA Notice
 - USERRA protects the job rights of employees who leave for military service and governs employer provided health insurance
 11. FMLA Notice (for companies with 50 or more employees)
 - Provides employees with their family & medical leave rights
 12. Summary Plan Description (SPD)
 - If the DOL conducts a benefits audit, the first thing they ask for is your SPD.
 - My experience is that 80% of companies do not provide SPDs to their employees.
 - The SPD is not provided by insurance carriers and is the employer's responsibility.

If you are not providing these notices you are with the wrong health insurance agent or broker.



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CONSTRUCTION FACTORING

CASH FLOW STRUGGLES PLAGUE INDUSTRY

Construction is the #1 industry in the world where owners struggle to pay bills, fund new projects, and have enough cash on hand to make payroll and take care of other necessary daily business expenses. Last October, construction finance platform Rabbet found that late payments cost general contractors and subcontractors about [\\$64 billion a year](#), up \$24 billion from a similar study Rabbet conducted the previous year. More than 60% of contractors surveyed told Rabbet that they would not bid on projects if the general contractor was known for paying bills late. What are the margins on that business?

Only 39% said they had the available cash to cover operations until they were paid. The pain of having to scrape by until payday is so great for subcontractors that more than 70% said they would discount their invoices by 1% to 5% if it meant their invoices would see a quicker turnaround.

Add the COVID-19 pandemic into the mix, and cash-strapped contractors are at their wit's end. Some say they are exploring as many ways as possible to get through to the next project. Construction has typically been a restricted or less than desirable industry for many traditional banks so the options for contractors are limited. This is where factoring enters the picture.

INVOICE FINANCING OPTION

When a business needs cash but doesn't want to borrow money, they can turn to Invoice Factoring.

When your business delivers goods or services to a customer on terms an invoice is created. The average customer may wait 20, 30, or even more days, before paying the invoice.

Rather than wait for payment, your business can receive an immediate advance on the face amount of the invoice from a factoring company.

The factor issues the advance and keeps back a portion

in reserve. When the invoice is paid the reserve is released, less the factoring fee. There is no interest or loan fee charged as the process involves the assignment of an invoice rather than the creation of debt.

Selling or factoring invoices is very straight forward with 5 main steps:

STEP 1 – Invoice your customer for goods sold or services completed.

STEP 2 – Submit the invoice to the Factoring Company or Factor.

STEP 3 – Factor provides an immediate advance on approved customers.

STEP 4 – Factor receives payment on the invoice directly from your customer.

STEP 5 – Factor releases the reserve balance to your business less the factoring fee.

The amount of the advance, reserve, and factoring fee can vary by industry, customer strength, and how long it takes the customer to pay the invoice.

HOW FACTORING HELPS

Factoring provides immediate access to cash so your business can pay bills, meet payroll, purchase inventory or equipment, manage overhead, fund expansion, and increase profits. Over the years many Fortune 500 companies have enhanced their growth using accounts receivable financing. Factoring provides an option even when banks say no since it is based on the credit worthiness of the customers paying the invoices. This means new companies in a wide range of industries may qualify and strong financials are not required.

WE CAN DO BETTER ONE YEAR LATER ...



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On March 25, 2020, George Floyd was killed for all the world to see.

This started my quest to start speaking to my calling, "A Life in Black and White." It also led to the video I sent out last month to ask for support in rebuilding the broken neighborhoods of Minneapolis.

So, what has happened since then in our country?

In an article I recently read in the New York Times, two subjects were highlighted: a renewed focus on addressing racism in business and a hopeful change in public opinion.

A FOCUS ON RACISM

In response to the death of Mr. Floyd, many companies and institutions have promised to act. The National Football League apologized for past behavior. NASCAR banned the Confederate flag from its events. McDonald's, Amazon and other companies pledged to hire more diverse workforces.

"Non-Black employees joined with their Black colleagues to demand the hiring of more Black people," The Washington Post's Perry Bacon Jr. wrote. "So companies and institutions stopped whining about supposedly bad pipelines and started looking beyond them."

The stated refrain of being able to hire "qualified" black employees, at least for the largest of companies, was replaced by a commitment to reach out and find black employees and provide opportunities to meet them where they are, acknowledging years of not only failing to reach out, but passing over black candidates over when they did emerge in search of jobs and career opportunities.

On this, there hasn't been a lot of movement but there has been a start.

CHANGES IN PUBLIC OPINION

On this topic the New York Times stated "It's still unclear how much has changed and how much of the corporate response was public relations." Initially, public sympathy for the Black Lives

Matter movement soared. But as with most high-profile political subjects in the 21st-century U.S., opinion soon polarized along partisan lines.

Today, Republican voters are less sympathetic to Black Lives Matter than they were a year ago, political scientists Jennifer Chudy and Hakeem Jefferson have shown.

Support among Democrats remains higher than it was before Floyd's death but is lower than immediately afterward. Yet there are a few broad areas of agreement.

Most Americans say they have a high degree of trust in law enforcement—even more than did last June, FiveThirtyEight's Alex Samuels notes. Most also disagree with calls to "defund" or abolish police departments. Yet most back changes to policing, such as banning chokeholds.

So, what must happen to move the needle in a truly systemic way? Historically there is a lot of action after something like George Floyd's death as there was following Dr. King's death in 1968, and then people become polarized again.

I am hoping that we can keep communicating as we have tried to do, educate those who want to hear, and ask for empathy and compassion to see how damaging this has been to our country. I write this not just for blacks who have carried the heavy burden of this injustice, but to everyone who has been so set in their ways that they fail to realize that we are more alike than we are different.

Progress comes in small doses. I hope we finally start to understand it takes all of us to make this happen.

CFO Insights

WHO SHOULD I SELL MY BUSINESS TO? – PART 2

Selling Your Business. A series of articles providing information to business owners who are starting to think about exiting their business.

In the May 2021 issue, I discussed selling your business to Internal Buyers. In this issue, I will discuss selling to External Buyers.

EXTERNAL BUYER

External buyers include strategic buyers, financial buyers, and private equity groups. The common thread is they do not know your business. As such, a thorough due diligence process should be



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expected. You will provide an extensive amount of information to the potential buyer, so they become fully informed on what they are buying.

STRATEGIC BUYERS

Strategic buyer's motivation includes entering new product lines, geographic expansion, IP acquisition, etc. Their expectation is that 1+1=3. That this acquisition will allow them to achieve their objectives more efficiently than building it. For this reason, strategic buyers may pay more than other types of buyers. They are the preferred buyer for business owners having low financial readiness and high mental readiness.

FINANCIAL BUYERS

The financial buyer's motivation is to acquire companies they operate for five years, grow revenues, reduce expenses, and sell for a profit. They have a financial return objective that establishes the maximum price they will pay. Financial buyers are skilled at acquiring businesses. They negotiate hard on price. They are efficient and thorough in due diligence. They are less flexible with contract negotiations. They are most likely to walk away from a deal not meeting their expectations.

Because the financial buyer does not necessarily have a strong background in your business, s/he may ask the business owner to continue with the company. This may be an appropriate buyer for a business owner that has reasonable financial readiness but lower mental readiness.

PRIVATE EQUITY GROUPS

Private equity groups can be strategic or financial buyers, acting similarly as discussed above. In addition, there is a strategy to partner with private equity groups to recapitalize the business, or a PE Recap. A typical PE Recap entails selling 80% of the business to the PE firm. The PE firm funds the purchase price with debt which they push down to the company. Like a financial buyer, the PE firm has an exit strategy. The business owner is expected to stay on with the Company as an employee until the PE firm's exit strategy is executed.

This strategy works for business owners with a monetization objective but has a low mental readiness to exit. Additionally, there are two bites of the apple. The first when selling to the PE firm and second when the PE firm sells the business.

In my February 2021 article, "Beginning with the End in Mind" I told you about Greg who after buying the business, implemented a strategic operating and exit plan. Greg sold two years later to a Strategic Buyer who was looking for a platform to service a new client segment. This strategic buyer paid a multiple at the top of the range of what businesses were being sold for at the time.

Are you ready to sell your business? Would you like to learn more about which buyers may be most appropriate for your business? If you are ready to start planning your exit now or would just like to know more about what exit planning is all about, please call me.



SOCIAL MEDIA

WHICH SOCIAL MEDIA PLATFORMS SHOULD YOUR BUSINESS BE USING?

What social media platforms should your business be using? The answer to this question is different for every company. A company's social media marketing plan should be specific to the audience they are trying to reach. Before deciding on a social media marketing strategy, companies must first establish who the target audience is and where the target audience is the most accessible and actively engaged.

BOTH BUSINESS-TO-BUSINESS (B2B) AND BUSINESS-TO-CONSUMER (B2C)

If your target audience consists of both consumers and businesses, Facebook and Twitter are likely the best platforms to use.

Facebook is the most popular social media platform, with a total of [2.7 billion active users](#) worldwide. Facebook has an advanced ad targeting feature that allows businesses to hone in on [specific audiences](#) based on location, demographics, interests, behavior, or connections. Your company can even choose to target a custom audience, where you can connect your contacts or email lists for retargeting or set up a Facebook pixel to automatically focus on those who visit your website.

Twitter is another platform that supports paid ads and promoted content. Twitter is a good way to build brand awareness by using hashtags

as a way of attracting users who are looking for products or services similar to those that your company may offer.

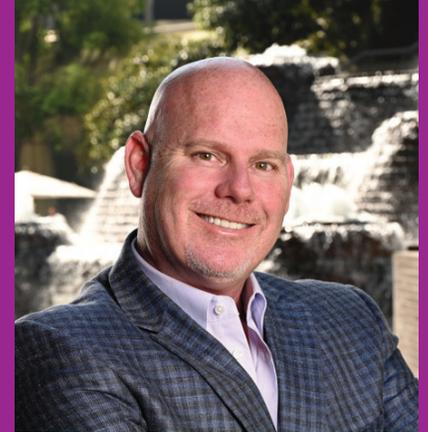
BUSINESS-TO-BUSINESS (B2B) TARGETING

For those looking to market solely to other businesses, LinkedIn is a good platform to use. [50% of U.S. adults](#) who use LinkedIn make more than 75K annually, and 51% of LinkedIn users are college graduates. LinkedIn is useful for companies who are looking to expand their network and build professional relationships with potential clients, or for companies that are looking for lead generation or looking to hire (employment searches).

BUSINESS-TO-CONSUMER (B2C) TARGETING

Instagram is one of the best platforms to use for companies targeting individual consumers. 71% of individuals ages 18-29 use the app, making it the perfect platform to advertise on if this is your targeted demographic. Instagram has one of the highest audience engagement rates, with [six in ten users](#) saying that they visit the site at least once a day.

Working with a digital marketing agency can help your company stay up to date on the most recent policies and regulations. Another key benefit of working with a digital marketing



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agency is their ability to work within your budget to maximize the efficiency of ad spending.

Social media marketing agencies like [Social Spice Media](#) can create a custom strategy to determine which digital platforms would be the most effective for your business. In addition, they can help with designing ads to engage and connect with your targeted audience. Social Spice Media can assist your company in developing a digital presence through [content creation](#), measuring data analytics across social media sites, and implementing a [Search Engine Optimization \(SEO\) framework](#) for your websites. Our team is available to answer any questions you may have regarding digital marketing!

You can contact us by calling
(805) 482 – 8312
or emailing
info@socialspicemedia.com.

INSOLVENCY ADVISING

A PRIMER ON INSOLVENCY – OPTIONS RELATED BANKRUPTCY CODE CHAPTER 7 AND CHAPTER 11

You've got to know when to hold 'em
Know when to fold 'em
Know when to walk away
And know when to run
You never count your money
When you're sittin' at the table
There'll be time enough for countin'
When the dealin's done

-Kenny Rogers

One of my mentors emphasized a successful approach to consulting is to ask the question to a client "What keeps you up at night? One of the top responses I get from the client is running out of working capital. In other words, is my business solvent? The simple definition of when a company is insolvent is If the company currently, or will it in the future, be unable to pay its debts as and when they fall due for payment?

When is it time to deal with the situation? Fortunately, there are warning signs that illuminate potential business distress. Below are some key potential pain points:

- Breaches of key performance covenants
- Failure to meet business plan
- Significant declines in cash flow
- Increases in days payables
- Loss of key customer or vendor
- Layoffs
- High turnover at officer level
- Late filing of financial statements/other information
- Tightening of availability/taking more reserves
- Vendors tightening terms
- Significant litigation
- Capital infusion by owner

Once a problem is identified, the next step is to obtain a realistic understanding of the company's liabilities. In addition,

one should evaluate alternatives from an operational standpoint. Is there room to remediate operational issues? Can the burn rate be reduced? Are there possibilities to raise funds through equity or debt. Perhaps marketing the company for a sale is the approach to take. These are complicated decisions that should not be approached alone.

If insolvency is the route to take, it is important to know that there are personal liabilities that are not shielded in a bankruptcy or other types of insolvency proceedings. There are five key categories to consider.

- Wages , PTO and Severance
- Trust Fund Taxes (payroll taxes)
- Pension Obligations
- Environmental Issues
- "Catch All" (ie. Credit cards & Personal guarantees)

There are several options to insolvency. Many factors weigh into what option is right for the situation. If one is truly ready to **fold and walk away**, then Chapter 7 of the US Bankruptcy code might be the direction to take. Chapter 7 is a liquidation process where an independent person randomly selected from a group of panel chapter 7 trustees is appointed to take complete control of the company and all of its assets. The Trustee may choose to operate business for a short time, but would likely do so only if operating cash was available and secured creditor consented.

Alternatively, one might want to **hold on** and reorganize. In that case, the Chapter 11 process may be a viable approach. It is a reorganization process where the company retains control of the assets.

Any litigation and all pre-bankruptcy liabilities are "stayed" during the bankruptcy unless they obtain relief from the



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automatic stay from the bankruptcy court. The company is authorized to use its cash to continue to operate the business if the secured creditor or the bankruptcy court authorizes that use of cash and if company can demonstrate that the secured creditor is "adequately protected." It is important to note that the company must be prepared to operate at break even. This process gives the company time to come up with a reorganization plan. A Chapter 11 may also be used to seek a sale or liquidate while continuing to operate the company.

TOP TAKEAWAYS

- Be vigilant of warning signs of distress
- Take matters to ameliorate distress
- Evaluate all options to maximize benefits for constituents
- Obtain an understanding of personal liability not shielded by bankruptcy

Bear in mind that bankruptcy provisions provide substantial tools, but bankruptcy is not the only option. Alternatives, such as Assignment for the Benefit of Creditors, Foreclosures and Managed wind-downs may be appropriate in some instances. The key is that you should not be **sittin at the table alone**.

ESTATE PLANNING

FATHER'S DAY IS UPON US AND IT ALWAYS GETS US THINKING...

We celebrate Father's Day by appreciating our dads. But it can also be a day to prepare for the future, whether you are talking to your dad or you invite your kids to the conversation about you.

- What happens if dad gets ill or has an accident?
- Does he have an [estate plan](#)?
- Is our family prepared to make the decisions that come with aging, illness or the end of life?

Estate planning should be a family affair. We've seen what happens when families don't make these plans; fights ensue, last wishes go unfulfilled, money is lost and time is wasted.

After the celebration, have "the talk" with dad. Ease into the conversation and use this article as your guide.

[ESTATE PLANNING 101 – LEARN THE FACTS FIRST!](#)

As you may know, every adult (those over 18) needs an [Advance Health Care Directive](#) to make medical decisions and [Durable Power of Attorney for Finance](#). Who will pay dad's bills, have the power to speak with an attorney, insurance company, the IRS, Social Security, etc. on his behalf?

If he loses capacity without these documents, a judge will decide who can make decisions for dad. [Conservatorship](#) is very

invasive and expensive.

Remember you CANNOT create these documents once you lose mental capacity and need them so they should be created now! Accidents and acute illnesses happen every day which is sad and difficult for families but it is more devastating without an [estate plan](#).

[Trusts](#) govern who gets your stuff when you die. Done correctly, it avoids [probate](#) (which is SUPER expensive and protracted in CA) and seamlessly allows the trustee to honor your wishes. It should be very customized to the needs of your family. Because [Wills](#) generally trigger probate, most of our [estate plans](#) include a [Trust](#).

CONVERSATION WITH DAD

If you are inviting your kids to discuss your [estate plan](#), it's fairly straight forward. Tell them about your wishes and share as much about the details of your estate as you are comfortable.

If you are trying to broach the subject with your dad, how will you bring it up so he doesn't feel like you are overstepping your bounds? The answer depends upon your relationship, his age and your experience. Generally, we find a compassionate discussion that recognizes this is a difficult topic for everyone is best. Below are some bullet points that may help.

- You read this article and began



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thinking about your own [estate plan](#) and you're wondering about his;

- You love him and want to honor his wishes when he needs you;
- If something happens to him tomorrow ... would it be seamless for you make medical decisions, pay his bills, coordinate rehabilitation after a hospital visit, check his email, deal with social security or the IRS at tax time; and
- Is his [Trust](#) complete with the right trustee and properly funded to make it easy?

If your dad hasn't done much planning, or is reluctant to engage in the conversation, he's not alone. **Most American's would rather get a root canal than talk about their [estate plan](#).** It doesn't have to be that hard. [Our process](#) will discover and document his wishes to create the ultimate peace of mind for your entire family.