

2005 Private Companies: Tools to Make Them Thrive

January 13-14, 2005 • Four Seasons Hotel • Austin, TX

Thursday Morning, Jan. 13, 2005

Presiding Officer:

Denise Voigt Crawford, Texas State Securities Board - Austin, TX

10:00 am 0.50 hr	Interpersonal Dynamics of Private Companies Private companies come in a variety of shapes and sizes; frequently family relations pervade the organization. What are the most effective organizational structures for companies of various sizes? Internal controls? The most effective leadership or management strategies? Implications for particular contracts they enter? What are the best strategies for an organization to grow from a small group to a much larger one? What are the particular problems and potential solutions when organizations are growing rapidly? J. William Boyar, Boyar & Miller - Houston, TX
10:30 am 1.00 hr	Anatomy of a Contract The contract is the vehicle through which most of business gets done, whether it is a purchase order or invoice, an end user license agreement or a more specific and tailored document. What are the key provisions in any contract? What does all that standard language about indemnification, insurance obligations, representations and warranties, choice of law, arbitration, etc. mean in Texas contracts? Do you recognize strategies to insure enforceable contracts or deliberately make an unenforceable one? War stories about why a good, clear writing style, deliberate choice of words, and use of specific language matters. The session closes with a discussion of contracts from a litigation perspective. Carol Bavousett Mattick, MSSTC Program, IC2 Institute - San Antonio, TX David S. Sokolow, Univ Of Texas School Of Law - Austin, TX
11:30 am 0.50 hr	Why the Form of Business Matters A quick primer for lawyers, accountants, and business people, comparing and contrasting the features of different entities organized in both Texas and Delaware. A discussion of why and when to change the form of entity of an ongoing business, such as creation of tax benefits or in preparation for an acquisition. Dan G. Baucum, Law Office Of Daniel G Baucum - Plano, TX

Thursday Afternoon, Jan. 13, 2005

Presiding Officer:

Carol Bavousett Mattick, MSSTC Program, IC2 Institute - San Antonio, TX

1:15 pm 1.00 hr	<p>Smart Borrowing from Banks</p> <p>This session provides practical strategies for establishing and enhancing banking relationships, including discussion of currently available loan instruments and financing sources. This session also covers the role of bank financing as part of the company's overall financial management, including optimizing debt structures, dealing with lending covenants, managing personal guarantees by equity holders, and emerging trends in financing.</p> <p>Frank Goldberg, Briar Capital - Houston, TX Merriman Morton, Texas Capital Bank - Austin Region - Austin, TX Roy C. Snodgrass III, Graves Dougherty Hearn & Moody - Austin, TX</p>
2:15 pm 1.25 hrs	<p>Raising Private Equity</p> <p>Private companies often need equity capital to grow or to meet particular market opportunities. This segment will discuss what kind of deals qualify as equity financing, how to prepare a private placement offering, including preparation of the private placement memorandum and related disclosure issues, and technical securities compliance issues. The session also covers the economics of such financings from the investor and company perspective, including methods to returns to investors absent a public offering.</p> <p>Adrienne Randle Bond, Bond & Smyser - Houston, TX Denise Voigt Crawford, Texas State Securities Board - Austin, TX</p>
3:45 pm 1.50 hrs	<p>Employer-Employee Relationships: A Primer on Employee Compensation, Covenants and Benefits</p> <p>An organization's long-term success is accomplished through its employees. The quid pro quo between employer and employee is established by compensation programs and the legal agreements that support them. The warning signs of inadequate compensation programs and agreements often include an inability to attract the right people, missed bonus objectives, miscommunication and mistrust due to a lack of documentation and high turnover. Using a case study approach, a compensation consultant and a tax attorney will discuss developing a company's compensation program including incentive programs and employee benefit plans as retention devices.</p> <p>The presentation will include a discussion of handbooks and their coordination with HR policies and procedures; hiring practices ("at-will employment" in Texas); employee agreements (confidentiality, non-compete and employment agreements); and protecting intellectual property and employee work products.</p> <p>Constance G. Mullen, Compensation & Organizational Solutions, - Austin, TX Linda A. Wilkins, Locke, Liddell & Sapp, LLP - Dallas, TX</p>

Friday Morning, Jan. 14, 2005

Presiding Officer:

H. William Swanstrom, Houston, TX

9:00 am 0.75 hr	<p>Governance and Control Strategies for Private Companies</p> <p>How do you develop the best governance model for your company and insure that control is in the right hands? What are the respective powers and duties of owners, directors, officers and employees, how are they set, and when can they be modified? What are the basic documents required? What ethical issues arise? Written materials include a practice guide checklist.</p> <p>Bruce M. Mitchell, Oppenheimer, Blend, Harrison & Tate - San Antonio, TX</p>
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9:45 am 0.50 hr	<p>Minority Shareholder Issues</p> <p>What rights do minority shareholders have in closely held companies, i.e., can minority shareholders protect themselves from freeze outs, squeeze outs, and other “economic oppression”? What role does the business judgment rule play in this area? Can small companies prevent their business from being held hostage to a vocal, disgruntled minority shareholder? Litigation of these issues is increasing as this area of the law continues to develop in Texas. Learn about the relevant statutory provisions, the Texas cases that address these issues, and the emerging trends in minority shareholder litigation.</p> <p>Leonard A. Hirsch, Diamond McCarthy, LLP - Dallas, TX</p>
10:30 am 0.75 hr	<p>Business Valuation 101</p> <p>A valuation expert will take you through an overview and methodology of putting value to your company and give you a list of 10 things you can do to increase the value of your company.</p> <p>Lawrence Schumann, Corporate Investment - Austin, TX</p>
11:15 am 0.75 hr	<p>Implementation and Documentation of the Family Business Succession Plan</p> <p>A discussion of various family business succession plan options including the effective use of the family business mission statement, non-competition agreement, entity choices, IRC 355 actions, employment agreement (including non-family employee deferred benefit agreement), as well as the ethical issues facing the lawyer who works with the family in the succession process.</p> <p>Michael V. Bourland, Bourland, Wall & Wenzel, P.C. - Fort Worth, TX</p>

Friday Afternoon, Jan. 14, 2005

Presiding Officer:

Edward A. Cavazos, Fish & Richardson P.C. - Austin, TX

1:15 pm 1.00 hr	<p>Planning to Sell the Company: Doing It Right and Getting the Best Value</p> <p>This segment will discuss how to put your company into play, including the effective use of brokers as well as strategies such as courting competitors and potential strategic partners. What are the dynamics of the sale process? What are useful negotiation strategies and tactics, including how to get the best price and whether and how to use a letter of intent. What are useful due diligence strategies? What are the key provisions of the sales documents that provide protection of the seller in the sale process?</p> <p>Lawrence Schumann, Corporate Investment - Austin, TX H. William Swanstrom, Houston, TX</p>
2:15 pm 0.50 hr	<p>Hate Mail for Non-Lawyers and Non-Litigators</p> <p>The smoking “demand letter” arrives certified mail.... what should you do? This session provides examples of effective, ineffective and even counterproductive demand letters, and strategies for dealing with them.</p> <p>Christopher T. Brown, Baker Botts L.L.P. - Austin, TX</p>

2:45 pm
0.75 hr

Running on Empty: Managing and Dealing with Distressed Companies

Business lawyers, financial advisors and managers need to be alert for signs of financial distress. This topic will discuss the early warning signals for financial problems, what can be done to avert financial meltdown, how to distinguish fixable problems from fatal death blows, and what can be done in the crisis.

Thomas S. Henderson, Thomas S. Henderson, Attorney At Law - Houston, TX
William K. Snyder, Corporate Revitalization Partners, LLC - Dallas, TX