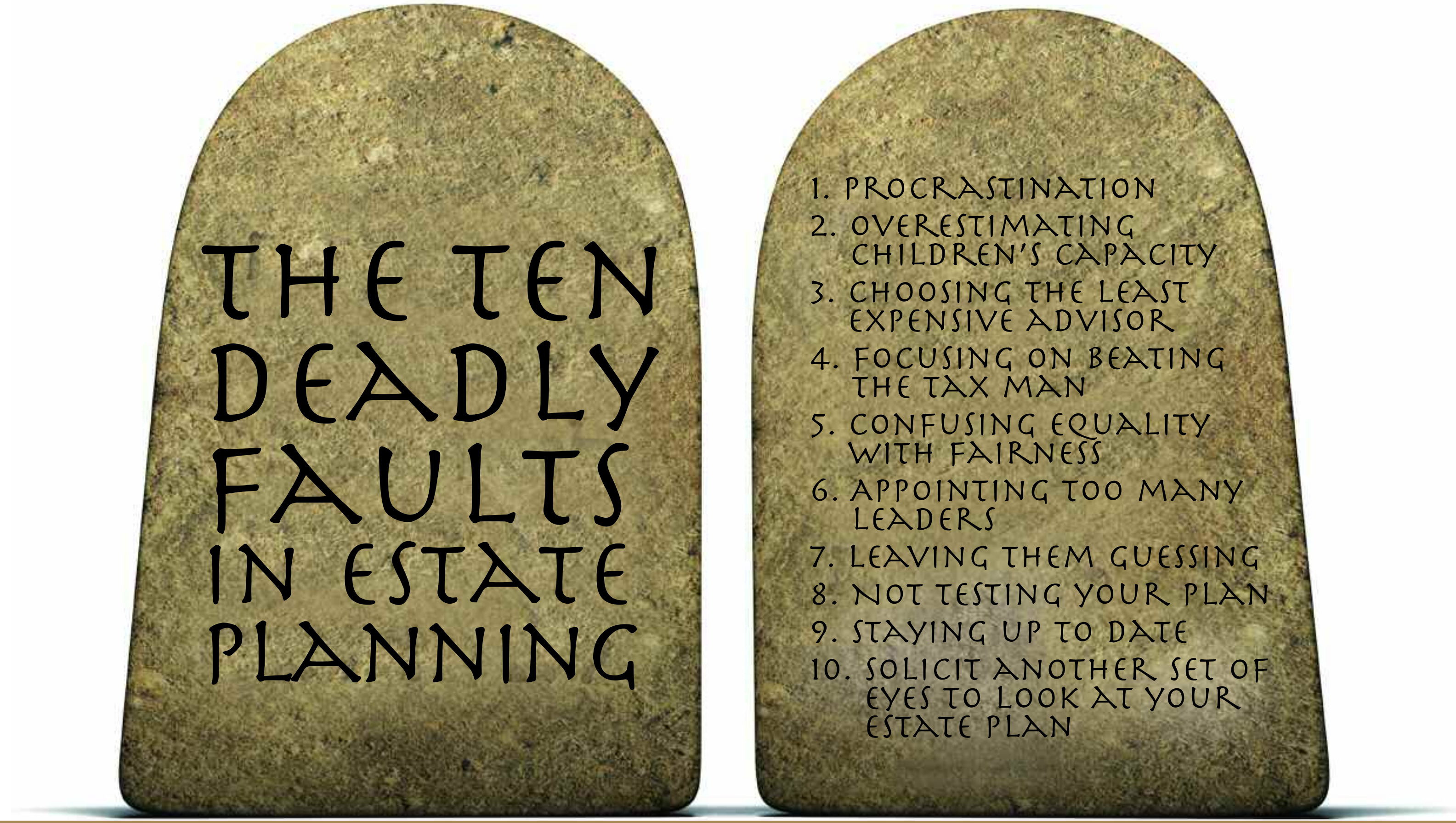
PROTECT YOUR BUSINESS

In my introductory article I promised that I would unpack useful tools and techniques to assist golf course owners in their estate and transition planning. Like Tom Watson, for 40 years I have been watching, playing and teaching, although my focus is on assisting business owners to win at the succession game as opposed to winning at golf. Tom Watson, in his excellent DVD "Lessons of a Lifetime," points out a number of faults he sees amateur golfers commit that wreak havoc on their golf game. As a golf course owner you too, may be committing fundamental "faults" with your estate and succession planning that can lead to the destruction of family harmony and your prized possession – your family business and the wealth you have spent a lifetime creating.

The following list is what I call the "Ten Deadly Faults" that I have uncovered over the decades that are consistently repeated during succession planning. Chapter 11 of my book "Drift Drown or Decide - Navigational Tools for Business Families in Transition" deals with these ten faults in greater detail.



(1) Procrastination
Don't succumb to the idea that you'll get around to it later. You don't have to focus on trying to be perfect but it is important to progress. If you shy away from doing this, you decrease the harmonious relationships of your loved ones who are involved in your estate after you're gone. What expands is the expense associated with settlement and the conflicts that were avoidable.

(2) Overestimating children's capacity
I recommend that you seriously assess the willingness and the capacity of the next generation to take over. What are their personal goals and aspirations? Do they support each other? If your answer is "let's wait and hope for the best," you may be deluding yourself.

If you have to wait and see, you may have already waited too long. It is important to initiate a plan so you at least have momentum and are headed in a positive direction. You can't steer a parked car. We all know that running a golf course takes talent and commitment and if your children don't possess this in some abundance it's better to discover that now than after you have exited the planet and the management team and your wealth disappears.

(3) Choosing the least expensive advisor
I find many owners rely on "the good old boys from the good old days" whose long suit is tenure and not competence. They may not have kept up, tax laws may have changed, or the tools of business may have changed. You may be sitting on multi-millions in assets so there is no substitute for sound advice. As they say in the golf world "amateurs learn from amateurs to play like amateurs" so when it comes to perpetuating your values and your valuables, you need the best advice possible.

Estate planning is a complex subject and it is important to consult an experienced advisor. It is also important to preview and review all the human factors, not just the financial issues. This requires looking at the family and the business concurrently to see if there is an alignment with your dreams and expectations. You need more than solely net worth statements. You need a comprehensive game plan and a process coordinator who really understand you and the process. Refer to the chart on page 48 to help you recognize true family business professionals who can be found at the Family Firm Institute, Canadian Association of Family Enterprise or at Predictable Futures Inc. – The Business Family Centre.

(4) Focusing on beating the tax man
I know it feels great when you succeed, especially in this tax environment where we all have a natural tendency to want to beat the system. It's important however, to be aware that the price of avoiding tax is sometimes even higher than the taxes themselves. You might end up relying on uncooperative heirs who suddenly become unfocused owners leading your golf course into liquidation. In essence, we should be focusing more on preparing those who will be receiving the assets rather than spending so much time preparing the assets to be transferred in the most tax efficient way.

(5) Confusing equality with fairness
Like you, I love all my children equally, so I'm hesitant to give one more than I give to the others but the reality is that fair isn't always equal and equal isn't often fair. I prefer the concept of being "equitable".

Your kids will always have different learning skills and motivations. When you bear in mind the needs of the golf course itself it doesn't make sense to give each sibling equal shares. I recommend leaving the course to those who are actively involved and who have helped build it. If you saddle the business with satisfying the demands of the inactive family members you may be creating a recipe for disaster because their priorities will be different than active owners and this can lead to conflict, stalemate and indecision. A healthy business can't afford these dilemmas.

In my experience many estates bestow other assets to the "non-active" children i.e.: parental home, an investment portfolio, life insurance, the cottage, etc., – but not the shares in the business! All of this can be handled amicably by the thoughtful drafting of a family shareholders agreement.

(6) Appointing too many leaders
Siblings who worked very well together when you were here may not always get along after you've gone. It's rare that a golf course can function very long when run by a committee of equals who each have their own self interests at heart. What good is a 50/50 partnership of siblings if they end up in constant stalemates? There must be one leader with the skill and power to make day-to-day decisions. If

the siblings can't make major decisions, the employees and management might start making decisions of their own—like leaving for other opportunities at someone else's golf course.

(7) Leaving them guessing

In most families, there is a natural reluctance to address death and inheritance because heirs are reluctant to do it on their own, without sounding greedy and impatient for your demise. It's very valuable to reveal your estate plan while you're still here and explain your thinking instead of leaving it to the family lawyer or a grieving widow. If family members are unhappy with your plan you can discuss it and make necessary changes so that there aren't any surprises.

(8) Not testing your plan

I suggest that you do some "crash testing" by setting up some trials to see if your estate plan works. There are many ways to do this. You can set up a family meeting, park yourself in the corner and pretend that you've departed and see how your heirs deal with the emergency next steps. This can be quite revealing—like going from the driving range to the golf course.

You can also give your perspective heirs greater responsibility in measurable and manageable amounts and see what mistakes they make. You might find they need more preparation, outside training or hands-on experience. You might conclude after some of these exercises that the next generation are better as owners and not as managers and adjust your plan accordingly.

(9) Staying up to date

Lots of things change with time. People get married. The son you hoped would take ownership has been divorced, lost interest or the economy has turned sour and thrown the golf course operations into jeopardy. Or maybe your daughter married an entrepreneur who would make an excellent owner and successor. Tax laws, insurance products, finances and cash flows change. It's important to review and revisit your plan at least every three years.

Recognizing Family Business Professionals

- Do they have experience working with family businesses?
- Are they abreast of literature on serving the family business? Do they subscribe to respected publications in the field?
- Are they respected by other family business professionals? Have they written or spoken publicly on serving family business?
- Can they provide references from successful family businesses?
- Do they network among other family business conferences?
- Are they familiar with the dynamics of families – known among professionals as "family systems theory?"
- Do they show interest and concern for family factors as they affect your business?

(10) Solicit another set of eyes to look at your estate plan

I recommend your Board of Directors or other advisors look at your plan because they may suddenly be a surrogate spouse to your widow or a surrogate parent to your kids. A good Board should understand the finer points of your estate plan and should have some input in designing it.

Your Board of Directors will likely be part of the implementation team when the estate plan is put in place and should be made aware of your intentions. They may become a temporary boss to your employees.

AVOID THE FAULTS

I trust this outline of Ten Deadly Faults will be helpful in getting your estate plan off the ground. You have created something that will outlive you and the results of your life work should not be left to a fluke circumstance. Good choices made now can result in a meaningful legacy, a profitable business, a harmonious family and the preservation of your wealth.

Your life has created something valuable, a foundation on which your family and community can build. It's important to design its future carefully or, as Dr. Leon Danco once told me, "it will be done for you, by your lawyer and accountant three cars back from your flowers." The issues may not get easier but a well thought-out estate plan is a great gift to leave your spouse and children. Ignorance is an involuntary misfortune. Start now – a well thought out estate plan is your final test of greatness! It's like building sound golf swings –"train it and trust it!"

GORDON WUSYK

Gordon has been coaching business families for over 30 years and is a graduate of the Family Firm Institute certificate program. His book "Drift, Drown or Decide" contains a wealth of knowledge for business families. Contact Gordon at 780-702-2499 or visit his website www.predictablefutures.com.