Volume 18 Print ISSN: 1087-8955
Online ISSN: 1939-4667

ENTREPRENEURIAL EXECUTIVE

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An official journal of the
Academy of Entrepreneurship®

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LETTER FROM THE EDITORS

Welcome to the *Entrepreneurial Executive*. We are confident that this volume continues our practice of bringing you interesting, insightful and useful articles by entrepreneurs and scholars.

The *EE* is an official journal of the Academy of Entrepreneurship®, a non-profit association of scholars and practitioners whose purpose is to advance the knowledge, understanding, and teaching of entrepreneurship throughout the world. It is our objective to expand the role of the EE, and to broaden its outreach. We are interested in publishing articles of practical interest to entrepreneurs and entrepreneurial scholars, alike. Consequently, we solicit manuscripts from both groups.

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The manuscripts contained in this issue were double blind reviewed by the Editorial Board members. Our acceptance rate in this issue conforms to our editorial policy of less than 25%.

M. Meral Anitsal
Tennessee Tech University

ENTREPRENEURIAL MARKETING: ACTIVATING THE FOUR P'S OF MARKETING STRATEGY IN ENTREPRENEURSHIP

J. K. Osiri, Washington State University-Pullman and Institute for the Advancement of Developing Economies

ABSTRACT

In this article, a novel two-sided dumbbell model of entrepreneurship presents both the viewpoints of founders and customers. Following similar viewpoints, I have developed a practical model for entrepreneurial marketing (EM) by considering the opportunity-obsessiveness of start-up founders as well as the customer-centeredness of marketing executives. The EM model consists of four phases: opportunity exploration, opportunity examination, opportunity exploitation and opportunity expansion. Each phase was linked to each of the four marketing strategies - product strategy, pricing strategy, placement strategy, and promotion strategy.

FOUNDER'S (OR ENTREPRENEUR'S) VIEWPOINT

The definition of entrepreneurship - the exploitation of opportunity without regard to resources - confers a level of sanguinity to the person who is engaged in entrepreneurship. This forward-looking personality is captured by the dimensions of entrepreneurial orientation which includes risk-taking, proactiveness, and innovativeness (Naldi, Nordqvist, Sjöberg, & Wiklund, 2007). Three elements are critical to the success of any start-up: (1) the opportunity, (2) resources and (3) the team. From the founder's point of view, entrepreneurship begins with "opportunity." This means that a founder must first identify an opportunity before it is then evaluated and exploited. Evaluating opportunities is a way of reducing risk. However, in order to exploit any opportunity, the venture must be imbued with the necessary resources required to ensure success.

Although entrepreneurs seek to take advantage of opportunities creatively, this does not imply that resources are not required to launch a new venture; generally, successful founders stretch limited resources without compromising the quality of their offering. Studies show that founders that took less venture capital in the start-up phase tend to outperform those that took more venture capital (Florin, 2005). Also, founders that resorted to venture capital funding before taking their company public generated significantly less wealth for themselves and were less likely to remain as CEOs of their ventures after the initial public offering (Florin, 2005). This further underscores the importance of creativity in driving the success of entrepreneurial firms and suggests that human capital might be the most important element in any start-up because it is people who think and act creatively to add value to a venture. No amount of resources can create value by itself because they are "static." People, on the other hand are "dynamic." They are the most important asset in any organization because, not only are they capable of improving their skills and gaining new knowledge, they are also primarily responsible for shaping an opportunity, stretching limited resources, and ultimately adding value to other assets. For these reasons, people are the link between opportunity and resources. It is a start-up's human capital that can generate resources and use them parsimoniously to fully exploit an opportunity. If a dumbbell were to represent the entrepreneurship concept, human capital is the handle that holds both ends of the weights, which separately represent opportunity and resources, respectively (See Figure 1).

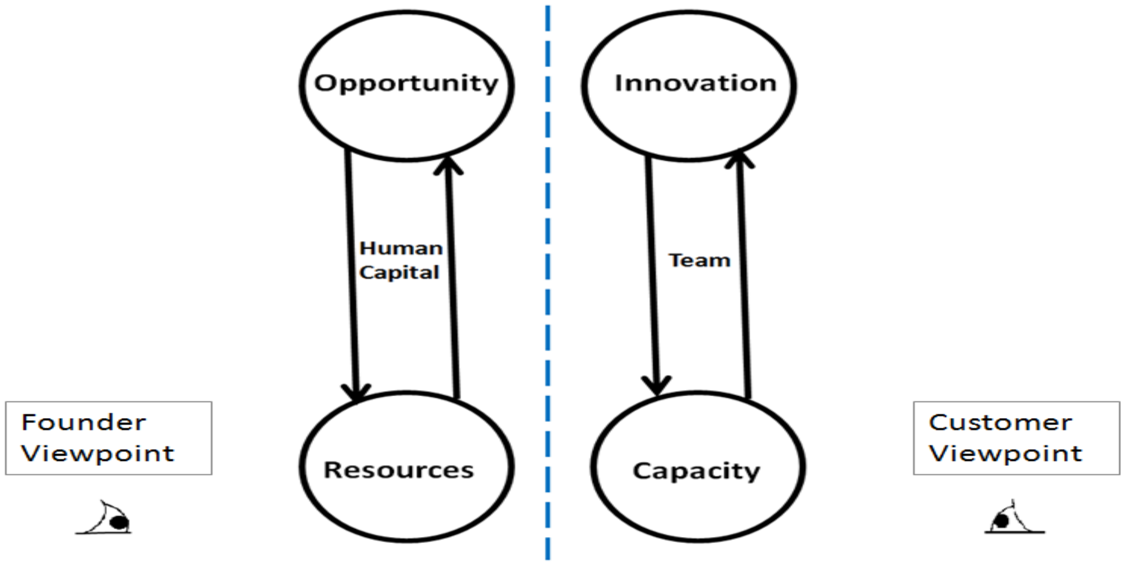
CUSTOMER'S VIEWPOINT

Entrepreneurship scholars have focused, and rightly so, on the founder's obsession: "opportunity." However, in practice focusing too much on the opportunity could be misleading. For example, novice entrepreneurs may misconstrue an idea to be an opportunity. A brilliant idea does not equal opportunity. The difference is simple - the latter can be exploited whereas the former may not be exploitable; opportunity is an idea that has a potential customer base (See the equation below). It is the underlying customer base that makes an opportunity exploitable.

Opportunity = Idea + Customer Base

In order to fill an existing need in the marketplace, entrepreneurs must be innovative. While entrepreneurs are obsessed with opportunities, customers care about the product, service, or process that solves their problem; therefore, from the customer's viewpoint, entrepreneurship begins with "innovation." In the same vein, while entrepreneurs focus on "resources," customers care about the start-up's capacity to deliver their offerings; therefore, entrepreneurs must use their limited resources to develop the capacity to deliver their offerings to their customers. Lastly, the role of human capital in driving entrepreneurial success is apparent; however, from the customer's point of view, the entrepreneurial team is a group of problem solvers. Figure 1 is a representation of the two-sided dumbbell entrepreneurship model from the founder's and customer's viewpoints.

Figure 1: A Two-sided Dumbbell Model of Entrepreneurship.



Left: From the founder's viewpoint, entrepreneurship is the exploitation of opportunity using limited resources and attracting the human capital to enable the process. ***Right:*** From the customer's viewpoint entrepreneurship is meeting the need in the marketplace through innovation by a team of problem solvers that have the capacity to do so.

ENTREPRENEURIAL MARKETING

How do a founder and the entrepreneurial team identify, shape, and take advantage of an opportunity? The short answer is "entrepreneurial marketing." Blank (2005) proposed four steps, dubbed "The Four Steps to Epiphany," to starting a new venture. These steps include customer discovery, customer validation, customer creation and company building (Blank, 2005). However, the author did not activate the 4 P's of marketing strategy in his work. In this paper, an entrepreneurial marketing (EM) model or process was developed and the place for each "P" of marketing strategy was highlighted. EM should combine the perspectives of the founder (opportunity-focused) and the customer (innovation-focused) in the new venture creation process. Based on the founder's viewpoint, EM is about building out and shaping the opportunity. To achieve this, entrepreneurs must *explore*, *examine*, *exploit*, and *expand* the opportunity, (i.e., the 4 E's of Entrepreneurial Marketing). The 4 E's of EM constitute an EM process. EM is indeed marketing for start-ups and so, the concept should activate the 4 P's of marketing strategy (product strategy, pricing strategy, placement strategy, and promotion strategy) while exploiting an opportunity. During each phase of the EM process (*exploration*, *examination*, *exploitation*, and *expansion*), all 4 P's of marketing strategy should be considered; however, one of the four should be focused upon.

Briefly, the *exploration* phase is the very first step of the EM process where the entrepreneur should be concerned with finding out whether or not there is a need for the proposed offering in the marketplace. Here, the entrepreneur and his team should get in front of potential customers to discuss their ideas with the sole purpose of listening for feedback. In this phase, the entrepreneurial team learns from potential customers. If they confirm there is a need or problem, then they should understand the nature of the product that will solve that problem from the customer's point of view. So, while the team should be attentive in gaining valuable information to develop all marketing strategies, their focus in the first stage should be to gather enough information to develop a product strategy. In the exploration stage, propositions about the customer problem, and the envisioned product that will solve the problem, are tested by directly interacting with potential customers.

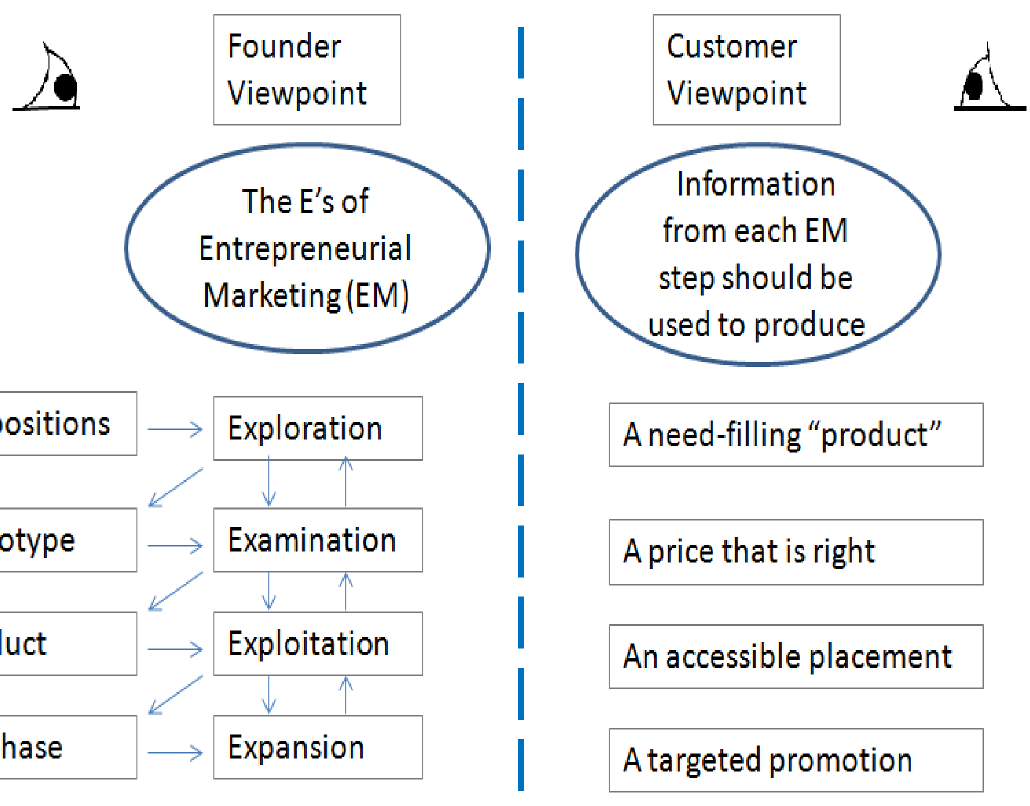
If consumers confirm there is a problem (or need) then a prototype, based upon the feedback received in the exploration stage, should be built. Further, they should take their prototypes to customers to obtain sales orders, or better yet, to make some initial sales. This phase where the team attempts to and actually makes some initial sales is the *examination* phase. If the team does not sell their prototypes during this phase, they should find out what they missed from customers; since in theory, if there is a need and if their offering is innovative, customers - particularly the early adopters - are expected to make a purchase in this phase. The marketing strategy that should be honed during this phase is the pricing strategy. If the prototypes sell, the team should still endeavor to get customer feedback, which should be used in developing the actual product. Now, what if the offering does not allow for sales to be made? For example, what if a not-for-profit web-based venture aims at simply bringing people together to exchange ideas on an electronic platform? Then, the entrepreneurial team should figure out a way to examine the opportunity. In this particular case, one way to examine the opportunity would be to track the number of people that actually uses the prototype website. If there is a need for the web platform, people will log on and use it. In the examination phase, prototypes are taken to the market for early adoption and sold when possible.

If the prototype sells, then the opportunity is good. Obviously, the entrepreneur that successfully examines the opportunity would make a better impression on angel investors and venture capitalists than entrepreneurs that try to raise money immediately after conceiving an idea or developing a prototype. Following the sales of the prototypes, the entrepreneur and her team should proceed to the exploitation phase of the opportunity. The exploitation phase is achieved by securing a physical location, if necessary, launching the new venture, producing the products, making the products accessible and delivering them to customers. In the exploitation phase, main stream customers are expected to purchase the products, so the placement strategy should be developed in this phase.

Following the exploitation phase of the opportunity is the opportunity *expansion* phase. This is different from venture expansion where new locations are created or where an existing location is expanded in size. The focus here is on the opportunity, and not the company as whole.

In other to *expand* the opportunity, the entrepreneurial team must activate the promotion strategy with the goal of effectively reaching and communicating with the target consumers outside the milieu of the initial buyers. In the opportunity expansion phase, the entrepreneur reaches out to new customers; that is, the company offering is promoted. The last two phases (exploitation and expansion) may be executed concurrently because they are intertwined. Figure 2 captures the 4E's of EM and how it related to the 4P's of marketing strategy.

Figure 2: A Model for Entrepreneurial Marketing (EM).



Left: The EM process shown with the various inputs and outputs associated with each step. ***Right:*** Information gathered from each EM phase should aid in the developing each "P" of marketing strategy.

CONCLUDING THOUGHTS

All ideas are not opportunities, whereas all opportunities are ideas with a clearly defined customer base. Opportunities are exploitable due to the underlying customer base that exists to potentially patronize the idea. However, to ascertain there is an opportunity, the entrepreneur should first *explore* the opportunity. This entails finding out from potential customers whether or not there is a need, and if a proposed product idea will meet that need. After this phase, it is still uncertain whether an idea can be converted into an opportunity. Unfortunately, some entrepreneurs are tempted to prematurely venture out in this phase by establishing their organizations, promoting a product that lacked customer input, seeking seed money from investors, or promoting the new venture, without evaluating the opportunity in the second phase. To evaluate or *examine* the opportunity, the entrepreneur and her team should rapidly develop a prototype and sell it. The purchase of prototypes by early adopters is a lucid signal that an opportunity exists. If an opportunity does indeed exist then entrepreneurs should proceed to *exploit* it by building their organization and establishing distribution channels to deliver their products to customers. The last step is to *expand* the opportunity which entails increasing the size of the opportunity by reaching out to and attracting new customers to sustain the venture.

This paper suggests that opportunity exploration, examination, exploitation, and expansion constitute the EM process or *the 4 E's of Entrepreneurial Marketing*. Information should be collected from the customer in each phase of the EM process to aid in developing effective marketing strategies. Entrepreneurs should focus on honing the product, pricing, placement, and promotion strategies during the opportunity exploration, examination, exploitation, and expansion phases, respectively. This EM process combines the opportunity-obsessiveness encouraged in entrepreneurship and the customer-centeredness taught in marketing. Entrepreneurs must learn to not only approach entrepreneurship from a founder's viewpoint, but to see things from the customer's viewpoint as well.

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THE ROLE OF LOGOS IN BUILDING BRAND AWARENESS AND PERFORMANCE: IMPLICATIONS FOR ENTREPRENEURS

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ABSTRACT

This conceptual paper develops a model that determines whether: (1) brand/logo awareness; (2) prior consumer shopping experience with a retailer; (3) consumer sentiments of logos, and (4) consumer shopping intentions significantly and positively associated with the performance of the top 100 US retailers. The performance measurements include retailer revenues, profits, number of stores, number of employees, sales per employee, and earnings per share. Brand awareness based on logo is measured by determining which of the top 100 US retailer logos are recalled by the respondents correctly without any aid. The significance and implications of this study for entrepreneurs are discussed.

INTRODUCTION

Entrepreneurial firms, organizations, and institutions use brand name, logos, slogans, jingles, brand characters/personalities, URL, signage, packaging, letterhead paperwork, and advertising to increase brand awareness as part of their external branding efforts. Brand logos are also seen on labels, promotion materials, trade dress and employee uniforms, distribution trucks, and business cards. These external branding strategies and tactics help firms build not only corporate identity and brand persona to differentiate themselves from the competition, but also brand loyalty. Entrepreneurs can develop their brand's persona throughout the years with guided and planned actions and in turn consumer responses to their brand. Herskovitz and Crystal (2010) state that brand persona is essential in driving the continuity of the overall brand message. They (2010, p. 21) add that brand persona is "what makes the difference in strong or weak brand associations." Consumers attach human like characteristics to brands based on their understanding of brand's values and behaviors. Logo is an important part of the brand as it signals brand character through a stylized treatment of the company or brand name. It is like a signature of a person. Its main function is to remind the brand and make sure that "it remains at the forefront of the audience's thoughts" (Herskovits and Crystal, 2010, p.21).

Schecter (1993, p.33) defines logos as "the official visual representation of a corporate or brand name, and the essential component of all corporate and brand identity programs." Due to the entrepreneurial importance of logos in consumer sentiments (positive or negative attitudes) and brand awareness, great amounts of "investments are made because management expects that logos can add value to the reputation of an organization" (van Riel and van den Ban 2001, p. 428). Indeed, in 1994 over 3,000 new companies in the United States spent an estimated total of \$120 million to create and implement a new logo (Anson, 1998). Timmons (1999), however, points out that entrepreneurs work with minimal resources.

Although the theoretical assumptions and evidence from practice underline the importance of logos in consumer perceptions of a company and its products (Schecter 1993) and their preference of brands, empirical research on the added value of logos are limited (Green and Lovelock, 1994). In fact, the impact of a logo's added value through its associations with brand awareness, consumer sentiments of a brand's logo, likelihood of brand purchase, and the entrepreneurial organization's performance has not been researched in the literature. Prior research did not pay much attention to logos. As the brands become more similar and struggle to gain unique associations in the presence of strong competitors, investigating the correlation of brand and logo associations become critical. As brand association researchers mentioned, brands are focusing on trivial attributes for unique brand associations and losing the core value of the brand. Logos may help brands to avoid lose focus. They may act as cues to elicit stronger associations than mere attributes and help differentiate in the presence of strong competitors. Boyle (2003) suggests that brand building efforts are more likely to succeed if associations are created based on personal identification rather than on abstract concepts. In support of this idea, Herskovits and Crystal (2010) suggests story-telling to build brand persona.

In this study, the authors develop a model that reflects the effectiveness of logos on organizations' performance. Specifically, the study examines the logo brand awareness level of the top 100 retailers, consumer sentiments of these retailers' logos, their prior shopping experience with the retailer, purchase intentions, and the relationship of these factors with the organizations' performance. The following sections provide a review of the relevant literature that substantiates the proposed model, the measurements and methodology to be used in a future empirical study, and discussions of the entrepreneurial significance of the findings from such research.

LITERATURE REVIEW

Brand Awareness, Prior Shopping Experiences, and Shopping Intentions

Aaker (1996, p. 10) defined *brand awareness* as the "strength of a brand's presence in the consumers' mind." Percy and Rossiter (1992, p. 264) deliberated the brand awareness as "a buyer's ability to identify a brand within a category in sufficient detail to make a purchase."

Brand awareness has been measured with unaided recall of a brand and/or brand recognition (Aaker, 1991; Percy and Rossiter, 1992; Keller, 1993). Hence, brand awareness is the ability of a potential buyer to recognize or recall that a brand is a member of a certain product category (Aaker, 1991). Brand recognition usually happens at the point of purchase where a visual image such as a logo or package stimulates a response. After recognizing the brand, a buyer considers whether s/he needs to buy the category. Conversely, brand recall happens prior to purchase and customers have to remember brand name in sufficient detail when the brand is not present (Percy and Rossiter 1992). In situations where brand recall is necessary, consumers first pull category knowledge related to the recognized need (such as hunger) from their memories, then they make a selection among identified brands in their evoked set (such as which fast food restaurant they want to go).

Services generally, and retailers specifically elicit both very positive and very negative emotional responses. However, a gap exists in research exploring the nature of affective responses to brands and retail experiences, including the role of logo perceptions in triggering the retrieval of delightful and terrible experiences from memory (Arnold, Reynolds, Ponder, and Lueg, 2005). The interactions among service brand awareness, consumer sentiments of logo, and prior shopping experiences need further investigation. By definition, the logos of admired brands evoke trust and initial compliance by a customer to an offer. Starting with an interesting question "Would you take and taste a food sample offered to you by a stranger on the street (p.845)" Rafaeli, Sagy, and Derfler-Rozin (2008) find that presence of a known and relevant logo makes the offer legitimate and causes higher compliance rates especially in high-risk situations. They conclude that reduction in perceived risk may enhance consumer compliance in the presence of logos.

Among the relevant studies, Kanungo (1969) finds that in order to ensure that a consumer recalls the brand name and the product category it represents, marketers need to pay attention to meaningfulness (for response learning) and fittingness (for brand-product association learning) of the brand name. She concludes that highly meaningful names evoked a larger number of associations, and that a fitting brand name would be retained better than an ill-fitting brand name. In a 2007 study, Romaniuk and Gaillard examine the relationship between unique brand associations, brand usage, and brand performance of 94 brands across eight brand categories. They state that unique brand associations and brand knowledge are essential for consumer based brand equity; as such strong, favorable and unique brand associations act as cues to retrieve a brand name from memory. Unique brand associations and brand knowledge also should help in the brand evaluation process leading to choice and eventually purchase. However, these researchers find inconsistent results among customers and non-customers of brands of eight categories. They conclude that there is no strong positive relationship between the presence of unique associations and past usage of a brand or a brand preference. Apparently, the majority of a brand's current customer base cannot elicit any unique brand associations even though they regularly buy the brand. This result suggests that unique associations are not very different from shared associations in the choice process. Another finding of this study is that brands with larger market share have neither more nor less unique associations than brands with lower market share.

Romaniuk and Nenycz-Thiel (2011) extend consumer brand association research and examine buying frequency and share of category requirements as the antecedents of brand associations. They find behavioral differences between loyal and non-loyal consumers. According to their results, the higher the buying frequency is the higher the propensity to give brand associations. They also suggest that models of brand associations should include strength of competitors in memory as well as the strength of the brand itself.

In addition, Arnold, Reynolds, Ponder, and Lueg (2005) investigate delightful and terrible shopping experiences. They theorize that customers spend more emotional effort during negative experiences, and negative experiences may have more prominent consequences for the customers; therefore, the brand might be easily recalled from memory compared to neutral and slightly positive experiences. Outcomes of both types of experiences as stated by respondents had direct impact on brand awareness and customer shopping intentions for the brand. They conclude that while customers are "often fickle about brands they buy and stores they patronize, they are adamant about the ones they do not buy…" (p. 1142). Negative brand associations resulting from terrible shopping experiences seem to make more permanent mark and can be recalled easily from memory compared to positive brand associations. Therefore, the following hypotheses will be tested:

H1: *Consumer sentiments of logo will be positively associated with brand awareness and prior shopping experience.*

H2: *Shopping intentions will be positively associated with brand awareness and prior shopping experience.*

H3: *Brand awareness and prior shopping experience will be positively correlated.*

Consumer Sentiments of Logo, Shopping Intentions, and Performance

Henderson and Cote (1998) define logo as "graphic design that a company uses, with or without its name, to identify itself or its products" (p.14). They also provide a systematic topology to investigate multiple elements of logos, which include concepts such as naturalness, harmony, elaborateness, parallelism, repetition, proportion, and shape. They suggest that brand logos should be unique, transmit proper meaning and propose something about brand benefits (Kilic, Miller and Vollmers, 2011). Using a cross-sectional survey, Henderson, Giese, and Cote (2004) find that western consumers prefer abstract and asymmetric logo designs whereas eastern consumers prefer natural and harmonious logo designs with more rounded features. The driving design elements of logos are found to be elaborateness, naturalness and harmony.

Usually, brands that need revitalization start with logo redesigns. As brands get old, there are erosions in brand knowledge structures, and brand awareness. Consumers increasingly associate an aged brand with less desirable descriptions, and prefer more stylish and trendy alternatives (Keller 1999). The results are loss of market share, difficulties with channels of distribution and eviction from evoked set in consumers mind. Muller, Kocher, and Crettaz (2011) show that logo change has a positive effect on brand modernity, brand attitude and eventually brand loyalty in case of aging brands.

Conversely, logos as the signatures of the brand persona are so important that redesigns are risky, and sometimes may hurt the brand instead of helping. Although there is a trend towards designing more rounded logos, entrepreneurs attempting to change their logos should be aware of potential negative impacts of the change on loyal consumer base. Walsh, Winterich and Mittal (2010) find that strongly committed customers of brand react more negatively to rounded logo redesigns. They also have a lower brand attitude as they may see this change as a threat to their long nurtured relationship with their brand.

Van Riel and Van den Ban (2001) explain the intrinsic and extrinsic properties for logo designs. Intrinsic properties of logos are the degree of representativeness of the logo, in other words, a perception of the graphical representation of logo. Hynes (2009) provides empirical evidence that color and design of the logos are directly related with representativeness. Color and meaning of the logo are closely linked for implicitly illustrative or pictorial logos. Consumers can elicit strong associations among designs and meanings for abstract logos, however, color choices can vary widely. In short, consumers can drive meaning from color as well as designs.

Extrinsic properties of logos, on the other hand, originate from associations with the company or brand. Accumulation of perceptions about past actions of the brand and intensity of communications of values of brand to internal and external audiences define brand associations. In one of the few studies about logo - brand associations, van Riel and van den Ban (2001) draw attention to the fact that organizations should be careful about choosing or redesigning their logos, as they are symbolizing desired characteristics of organization. They find that logos of organizations with positive reputations appear to evoke more positive and desired attributes than organizations with negative or less positive reputations. This finding provides evidence that logos have added value in the creation and maintenance of a favorable corporate reputation.

Another study regarding NASCAR sponsorship (Levin, Joiner and Cameron, 2001) indicate that logos generate higher level of recall for corresponding brands than recalls generated by traditional ads, especially for consumers with higher level of involvement. Researchers draw attention to the fact that there is a lack of underlying theory and conceptual foundation on how to link sponsorship activities to desirable consumer responses. The role logos played in sponsorships need to be investigated further.

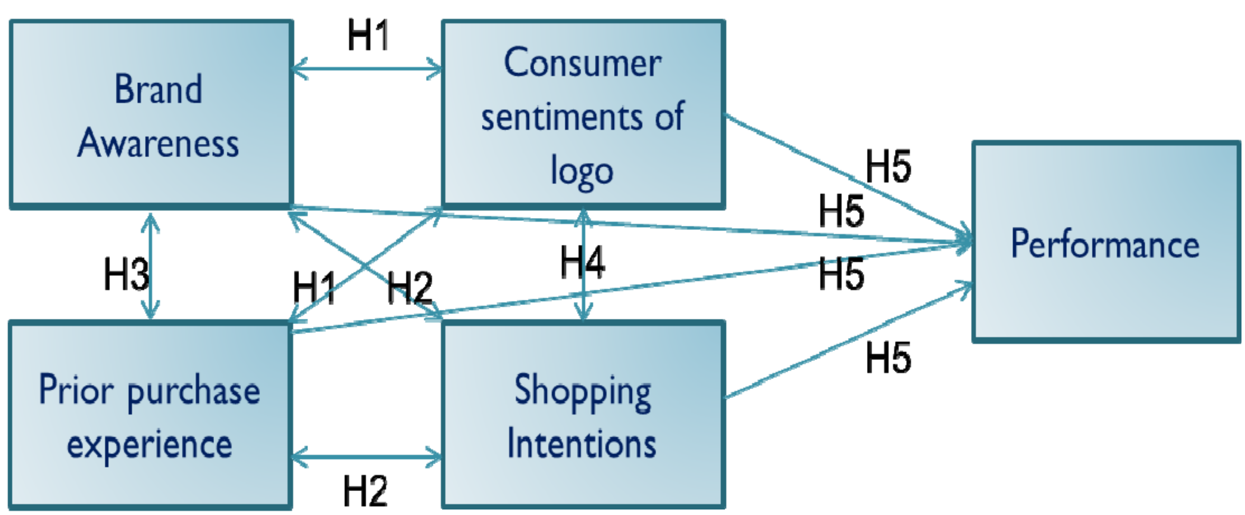
Kilic et. al (2011) summarize that the development of brand identity is essential for strong, well known and trusted brands. The brand identity depends on a set of brand associations that consumers perceived as unique promises of the brand. These associations are related to the brand awareness and ultimately brand choice in purchase decisions. Brand logo serve as the visual cue in consumer choice and purchase decisions.

Given the importance of the role of logos on brand identity and performance, most literature on logos have focused on how to design effective logos and associations made based on the design. Most of them are nonacademic articles. Similar to brand associations, logo associations may be product attribute, service quality, and experience related (John, Loken, Kim and Monga 2006). Although research on the relationships of consumer sentiments of logos with shopping intentions and in turn performance does not exist, extant research imply a positive relationship between brand awareness and consumer sentiments of logos (Levin et al., 2001), prior experience and consumer sentiments of logos (van Riel and van den Ban, (2001), consumer sentiments of logos and performance (Keller, 1999), consumer sentiments of logos and shopping intentions (Muller, Kocher, and Crettaz, 2011). Therefore, the following hypotheses will be tested:

H4: *Consumer sentiments of logo and shopping intentions will be positively correlated.*

H5: *Performance will be positively associated with brand awareness, prior shopping experience, consumer sentiments of logo, and shopping intentions.*

FIGURE 1: CONCEPTUAL MODEL



METHODOLOGY

Sample

To achieve the objectives of this research, a total of 400 participants from diverse demographics groups will comprise the sample. Business students at two universities will be trained to obtain a snowball sample. For example, each student will distribute a paper and pencil survey to three to five adult nonstudent participants. As an incentive, an extra credit/bonus point will be offered to the students. Students' identity will be captured to give the bonus point. In addition, identity and contact information of the participants will also be captured to verify the interviews via a 20 percent call back or email method.

Measurements

To measure *brand awareness* based on logos, the participants will be shown the top 100 retailers' logos one at a time and asked if they recall the name of the brand. Frequency distribution of open ended answers (name of the logo) will be coded as: 1=recalled correctly; 0= not recalled. The brand awareness for a logo will be classified as 3=high if 66 to 100 percent of the participants recall the logo correctly; 2=medium if 34 to 65 percent recall the logo correctly, and 1=low if 1 to 33 percent recall the logo correctly.
Using the URL link for slideshare.net, an online PowerPoint slide show with 100 logos downloaded from the web sites of 100 top retailers will be played sequentially. Participants will fill out a paper survey with an open ended question for each numbered corresponding logo.

To measure *consumer sentiments of logos*, the participants will be asked whether logo represents (-100)=negative, 0=neutral, (+100)=positive associations to them on a sliding scale. The participants will be asked about how many and types of prior shopping experiences (e.g., number of purchase, visit, seeing an ad, return, and inquiry for product/service information) they had with the specific company using the ratio scale: 0=none, 1=one to two, 3=three or more times in the past 12 months. If there is any, then the nature of the experience will be asked using the scale: (-100)=very dissatisfied, 0=neutral, (+100)=very satisfied on a sliding scale. Shopping intentions will be measured by asking the likelihood of shopping with the retailer on a 100 percent probability scale (Girard and Dion, 2010).

The annual performance data of each top 100 retailer will be obtained from www.stores.org. The performance variables include revenue, profit, number of stores, number of employees, sales revenue per employee, and earnings per share. Demographics questions (i.e., age, income categories, occupation type, education categories, gender, and zip code) will be asked at the end of the survey after the participants complete answering the questions in order to describe the sample and assure a diverse demographic profile representative to the general population.

To test the hypotheses in the proposed model in Figure 1, MANOVA or Canonical Correlations test will be performed. The dependent variables include each of the performance variable of each retailer and the independent variables include brand awareness, prior shopping experience including number of experience and satisfaction level (average score per retailer), consumer sentiments of logo (average score per retailer), and shopping intentions.

Model: $Y_1 + Y_2 + \ldots + Y_N = X_1 + X_2 + \ldots + X_N$

IMPLICATIONS FOR ENTREPRENEURS AND CONCLUDING REMARKS

Traditional manufacture-based consumer brand equity model (Aaker 1991) overlooked experiential nature of services, including prior shopping experiences of consumers with retailers and consumer brand awareness. Furthermore, logo associations of retailers are different than product logo associations, as the logos of retailers usually represent corporations as brands. Retailers occupy extended media space in daily life of consumers through print, broadcasted, and online advertising. Even if consumers have no shopping experience with a specific retailer, they may have negative or positive logo associations based on external communications of that retailer. This model will allow both researchers and entrepreneurs to assess relative weight of service brand awareness, prior shopping experiences on logo associations, and purchase intentions in leading to overall performance of retailers.

This study aims to examine the role logos play in building brand awareness that leads to the performance of the top 100 retailers based on the consumer sentiments of these retailers' logos, their prior shopping experience with the retailers and in turn shopping intentions in a theoretical model. Prior research suggests that entrepreneurs can establish consumer trust by building brand persona that affect consumer sentiments positively through designing their logos to carry unique and positive associations (Green and Lovelock, 1994). Because entrepreneurs have limited resources (Timmons 1999), by creating favorable unique brand associations attached to logos and delivering positive consumer shopping experiences, entrepreneurs can create strong customer preferences for their brands.

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SUSTAINABILITY AND INTEGRATED REPORTING: OPPORTUNITIES AND STRATEGIES FOR SMALL AND MIDSIZE COMPANIES

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ABSTRACT

Sustainability, the responsible utilization and preservation of resources, represents a trend embraced by companies of all sizes. Sustainability practices include a multitude of efforts with the goal of preserving resources for future generations while satisfying current needs. Many organizations communicate their sustainability efforts to stakeholders via company websites, promotional materials, and as part of product packaging. In addition, increasingly, companies formally report their sustainability efforts to stakeholders. However, reporting typically is voluntary and the level and quality of the disclosures vary significantly among companies.

To support this globally growing trend, guidelines for reporting sustainability efforts to stakeholder have been developed, with the Global Reporting Initiative (GRI) providing the most frequently utilized reporting guidelines. Companies typically report on sustainability separately from their financial results; this may change in the future. Efforts to develop a framework for reporting companies' sustainability efforts with their financial results have emerged. This is referred to as "integrated reporting" or the integrated "triple bottom line," which stands for "profit, people, and planet."

Integrated reporting may provide significant benefits for small and midsize companies and may, in the long-run, enhance a company's economic success. This study provides insights regarding the current trend toward sustainability reporting and the current status of global sustainability and integrated reporting guidelines; it also explores opportunities that arise for small and midsize entities considering adopting an integrated reporting approach, and provides strategies for successfully integrating sustainability reporting with companies' financial results.

INTRODUCTION

Companies of all sizes continue to expand their efforts to achieve sustainability and to preserve resources for future generations. Many of these efforts are geared towards reducing a company's environmental foot print, efficiently utilizing and preserving resources, and interacting responsibly with stakeholders. For example, many organizations practice and encourage recycling, voluntarily reduce packaging, invest in renewable energy sources; invest in green technology; encourage their employees, suppliers, and customers to embrace responsible practices; and support sustainability-oriented community projects. Some organizations even require that their vendors adhere to minimum sustainability practices. For example, Apple Computer Company requires that its suppliers adhere to a code of conduct that not only addresses employee safety, but also requires adherence to environmentally responsible manufacturing processes (Apple, 2012).

Most companies communicate information about their sustainability efforts to stakeholders, as part of advertisements, product packaging, public relations announcements, and promotion on company websites; some may even publicize them on business vehicles. In addition, formal reporting has increased significantly, especially among larger organizations. However, a new trend toward integrated reporting, which incorporates information about a company's financial, social, and environmental performance, is emerging. This may lead to long-term advantages not only for large, but especially for small and midsize companies, many of which issue annual financial reports to their stakeholders.

Integrated reporting will help small and midsize companies consider the joint impact of their actions on the economic, natural, and social environment. This will help managers develop strategies and business models that support sustainability efforts and focus on the long-term creation of value. Integrated reporting will provide useful information for company executives to assist them in planning, budgeting, and implementing strategies that lead to the efficient and effective utilization of resources, which will tend to help control or reduce costs. Integrated reporting will also improve a company's ability to effectively communicate with external stakeholders (especially customers, investors, lenders, and vendors), who increasingly expect companies to implement and enhance sustainable and overall responsible actions; it will enhance customer and employee loyalty; and potentially lead to additional financing opportunities. Furthermore, integrated reporting may improve a company's ability to take advantage of sustainability-oriented incentives, such as grants and tax incentives, by providing the necessary reporting support.

BACKGROUND

In 1987, the World Commission on Environment and Development (the Brundtland Commission), defined sustainability development as a "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." (United Nations, 1987). Thus, sustainability is a broad term that incorporates many aspects and includes the responsible utilization and preservation of natural resource, such as air, water, minerals, oil, gas, etc. Many companies also interpret the term to include the effect of a company's actions on its stakeholders; and especially its employees, customers, and the community in which the company operates. Many companies' sustainability reports address all or most of these aspects.

Sustainability - A Growing Trend and Its Causes

During the past few decades, individuals, business organizations, and governments have increasingly recognized that sustainable practices are extremely important to the wellbeing of current and future generations. Examples of sustainable practices are numerous, from reducing packaging and recycling to reduce waste; to manufacturing and purchasing products that preserve natural resources such as water, air, and minerals; to carpooling to reduce harmful emissions; to product design that incorporates efficient use of resources and minimizes the impact on the environment.

Many companies continually strive to reduce the overall environmental impact of their business activities and to use scarce resources in a continually more efficient manner. For example, NextEra Energy Company, a large U.S. utility company, has continually decreased its harmful emission during the last two decades, while significantly increasing its power generation. Specifically, between 1990 and 2010, the company increased its power generation by 249%, while decreasing is CO_2 emission rate by 34% (NextEra, 2011).

The scarcity of resources will continue to affect companies of all sizes, their business strategies, and their stakeholders. A recent article in Fortune entitled "What will the global 500 look like in 2021?" refers to the scarcity of natural resources as the "new normal" and envisions opportunities for companies that know how to utilize natural recourses efficiently (Fortune, 2012). While the article focused on global entities, this is also true for domestic companies of all sizes.

Demand for socially responsible and sustainable business practices has increased significantly during the past few decades. Complementing this trend, demand for corporate responsibility investing also has risen steadily. The US SIF (also referred to as the Forum of Sustainable and Responsible Investment) reports that more than $3 trillion dollars are currently invested in sustainability and corporate responsibility funds (US SIF, 2012). This trend is closely related to stakeholder expectations. Investors tend to expect, support, and reward responsible corporate behavior. To illustrate, in 2012, an estimated 45% of shareholder-initiated proposals is expected to involve environmental and social issues (Ernst &Young, 2012).

Shareholders appear to react positively to news about responsible corporate behavior. A recent article in Forbes summarizes the finding of research that tracked the performance of hundreds of companies receiving press coverage for responsible environmental actions and companies receiving press coverage for irresponsible environmental behavior. The research findings linked abnormal increases in the stock prices with reports of environmentally responsible behavior and abnormal decreases in stock prices with reports of environmentally irresponsible behavior (Flammer, 2011).

The reasons why companies implement sustainability projects vary from company to company. Multiple factors likely will inspire a company to adopt, continue, or expand sustainable practices. A desire to preserve precious resources and to act responsibly and ethically may certainly motivate an organization's behavior. In addition, managers tend to consider the effects of sustainable practices on profitability, as well as shareholder expectations. According to a survey co-sponsored by Ernst and Young and GreenBiz Group, of the 274 large companies that responded to their survey, 74% indicated that cutting costs and 68% indicated that shareholder expectations were among the factors determining their sustainability agenda during the next two years. In addition, 53% of the respondents anticipated that their investments in sustainability-related projects would increase during the next three years (Ernst & Young, 2011). Thus, sustainability projects are closely linked with long-term financial performance and shareholder expectations.

SUSTAINABILITY REPORTING

Traditionally, companies and their financial statement users have focused on financial results. However, during the past few decades, sustainability reporting, also referred to as corporate social responsibility (CSR) reporting, has become an important aspect of external reporting by many companies. Overall, CSR reporting is more prevalent in Europe, but has gained momentum in the U.S. and other nations during recent years, especially in light of companies' commitment to sustainable practices. For example, an extensive survey by KPMG found that in 2011, 100% of the surveyed U.K.-based companies and 83% of the surveyed U.S.-based companies reported on their sustainability/CSR efforts (KPMG, 2011).

Sustainability reporting typically is associated with reporting on an organization's use of scarce resources and its impact on the environment. However, many companies also include in their sustainability reports information about human resource management and their relationship with and impact on the community, suppliers, customers, and other stakeholders. For example, Bayer's 2011 sustainability report includes information that is presented under the subheadings: Strategies, management and corporate governance, innovation and stewardship, employees, ecology, and social commitment (Bayer, 2012).

Even though investors, customers, suppliers, and other stakeholders tend to expect companies to implement stainable practices and most companies publicize their efforts, in many countries (including the U.S.) formal sustainability reporting is largely voluntary. This leads to a lack of comparability among companies.

The Global Reporting Initiative

Guidelines for sustainability reporting exist and continue to evolve. The currently most widely used guidelines are those developed by the Global Reporting Initiative (GRI), a global organization that was founded in 1997 by two U.S.-based not-for-profit organizations (Doupnik & Perera, 2012). The GRI "promotes economic, environmental, and social sustainability" (GRI, 2012a) and its reporting guidelines are currently in their third generation. The most recent update (referred to as G3.1) was released in March 2011. In addition, the GRI is currently developing the fourth generation of the guidelines, referred to as G4 (GRI, 2012a).

The G3 and the recently issued G3.1 guidelines consist of two parts. Part I addresses principles and guidelines, which include materiality, comparability, timeliness, accuracy, stakeholder inclusiveness, and reliability; and also provides guidance on reporting boundaries. Part II addresses disclosure and deals with companies' strategy and profile, management approach, and performance indicators (GRI, 2012b). Companies can chose from three levels of GRI sustainability reporting – A, B, and C - with A representing the highest level. All three reporting levels require disclosure of performance indicators pertaining to economic, social and environmental aspects. In addition, levels A and B also require disclosure of companies' actions affecting labor practices, human rights, and product responsibility and require reporting on additional performance indicators (Doupnik & Perera, 2012). External assurance on sustainability reports prepared consistent with the GRI guidelines is necessary to earn a "+" for any reporting level.

Most companies currently report consistent with level "B" and the majority of reports do not include external assurance (Ernst &Young, 2012). However, some companies such as United Parcel Service (UPS) and Bayer report consistent with level "A" and have also earned an "A+" based on the external assurance of their reports.

Although a few companies integrate their financial results with CSR/sustainability reporting, most companies issue separate reports. This tends to lead to reports that may not reflect the significant interdependence between an organization's governance and strategies and its financial and non-financial results (IIRC, 2011).

This may change in the future. Concerted efforts to develop a framework for integrated financial reporting are under way. This may lead to increased reporting of sustainability efforts linked with company's profitability and financial results, and to more comparable and useful reports.

INTEGRATED REPORTING

Integrated reporting is often referred to as the integrated version of the "triple bottom line" (a term originally attributed to John Elkington) [The Economist, 2009] because it combines information about companies' profit, and their effect on people and our planet. To encourage companies to adopt an integrated reporting approach and to facilitate the preparation of reports that are useful to multiple stakeholders and comparable among companies, a common framework for reporting is needed. Recent developments suggest that a common global integrated reporting framework will become available during the next few years.

The International Integrated Reporting Council

In 2010, the International Integrated Reporting Council (IIRC) was created by the Prince of Wales' "Accounting for Sustainability Project" and the Global Reporting Initiative. The purpose of the new council is to create a "globally acceptable framework for Accounting for Sustainability" (Prince of Wales, 2010) "…which brings together financial, environmental, social and governance information in a clear, consistent and comparable format – put briefly, in an "integrated" format." (Prince of Wales, 2010). The IIRC is comprised of professionals and leaders representing academia, private industry, accounting firms, regulators, and standard-setters.

In 2011, the IIRC issued a discussion paper entitled, "Towards Integrated Reporting Communicating Value in the 21st Century." The IIRC's goal is to develop a framework that will help organizations prepare integrated reports that demonstrate their "ability to create value now and in the future" (IIRC, 2011, p. 2). The IIRC views an integrated report as an organization's "primary reporting vehicle" and describes it as bringing together "material information about an organization's strategy, governance, performance and prospects in a way that reflects the commercial, social, and environmental context within which it operates" (IIRC, 2011, p. 2). Stewardship and creating and sustaining value are seen as the primary objectives of integrated reporting (IIRC, 2011).

Organizations and their stakeholders will tend to benefit from integrated reporting. Integrated reporting may help companies and their stakeholders focus on the comprehensive impact of an organization's strategies, governance, and operations. Doing so may help organizations achieve effectiveness, efficiency, and enhance their value and success in the long-run.

While the IIRC's immediate focus is on large companies, small and midsize entities may also greatly benefit from sustainability and especially integrated reporting. In fact, when asked whether integrated reporting concepts would also be applicable to small and midsize companies, 56% of the respondents to the IIRC's discussion paper 'agreed,' and another 16% 'agreed with some qualifications' (IIRC, 2012).

SMALL AND MIDSIZE COMPANIES

Many small and midsize companies implement and benefit from sustainable practices. For example, Clif Bar Company, a California-based company best known for its energy bars, first implemented sustainability practices in April of 2001. Since then, the company's efforts led to the planting of 13,000 trees and the operation of 13 wind turbines (Clif Bar Company, 2010). The company also rewards recycling of its wrappers and has completely eliminated shrink-wrapping of its energy bars. According to its periodic newsletters, the company views sustainability as a continuous process. Its four focal areas are (1) sustainable food and agriculture, (2) eliminating waste, (3) achieving a climate neutral state, and (4) conserving natural resources (Clif Bar Company, 2010). In 2010, the company moved into a new "green building" and continually strives to expand its sustainability efforts (Clif Bar Company, 2010).

Another company, Laser Plus, a Pennsylvania-based company that sells and services refurbished printers and toners operates in a business niche that supports the sustainability efforts of its customers. Its mission is to help its customers preserve resources, reduce waste, and reduce costs (Laser Plus, 2012). In recognition of its dedication to sustainable practices, the company earned the 2011 small business "Green Plus North American Sustainable Enterprise Award" (Green Plus, 2012).

Benefits of Sustainable Practices for Small and Midsize Companies

The benefits derived from sustainability efforts include the efficient utilization and preservation of scarce resources, cost savings, employee commitment and loyalty, customer following, investor goodwill, and supply-chain opportunities. In addition, governmental grants frequently are available to help off-set the initial costs associated with many types of sustainability efforts. Additional benefits also arise for companies that service and support sustainable efforts by providing sustainable products or services, or by providing consulting and review services.

Efforts that preserve precious resources, reduce the impact on the environment, and consider the needs and wellbeing of current and future generations tend to lead to cost savings, sustainable growth, and the long-term creation of value. Sometimes relatively simple changes that protect the environment may also lead to immediate cost savings. For example, UPS utilizes a system that optimizes delivery routes and reduces the number of left-hand turns that its delivery trucks must make, which tends to shorten delivery time, lowers greenhouse gas emissions, and leads to fuel cost savings. Small and midsize companies can also implement and benefit from actions that preserve precious resources and minimize the impact on the environment. For example, many small and midsize companies routinely purchase energy efficient equipment, which helps preserve energy and reduces costs; properly recycle equipment that is not longer in use; and invest in renewable energy sources.

Customers and investors tend to expect and reward companies for successfully implementing actions that preserve and protect resources. This is true for companies of all sizes. Since smaller companies may have a more direct and highly visible relationship with their clients, customers, creditors and investors, responsible behavior that sustains resources may have an even greater positive impact on the perceptions, loyalty and goodwill of those stakeholders toward the company. Furthermore, some companies require or prefer suppliers that have implemented sustainable practices (for example, Apple and Wal-Mart). Thus, business opportunities may arise from the implementation of sustainable practices. In addition, federal incentives that reduce the net cost of investments in energy efficient and sustainable energy projects may be available.

Customers continue to expect that companies act responsibly. Thus, reporting of sustainability-related activities tends to a significant degree target customers. For example, a survey of 274 business executives found that customers were the most important stakeholders and audience for companies' reports on sustainability-related efforts (Ernst & Young, 2011). Since customer loyalty is essential to the long-term survival and success of any company and especially small organizations, reporting on sustainability efforts is very important.

Many small and midsize companies publicize their sustainable efforts, but unlike larger companies usually do not issue formal reports. Small and midsize companies may believe that formal reporting of sustainability efforts is too costly and will not yield a significant benefit. However, formal reporting of sustainability-related activities and results can lead to significant benefits for small and midsize companies if integrated with reporting of the companies' financial results.

Benefits of Integrated Reporting for Small and Midsize Companies

According to the IIRC, "Integrated Reporting results in a broader explanation of performance than traditional reporting" (IIRC, 2011, 2). It emphasizes an entity's access to, utilization of, and dependence on various resources (e.g., financial, human, natural, social, etc.) and its impact on those resources. Integrated reporting is expected to be imperative to the evaluation of a company's business model and its strategies' long-run viability (IIRC, 2011).

Most small and many midsize companies are not legally required to issue annual reports. However, many small and midsize companies nonetheless prepare financial statements for lenders and other stakeholders. Reporting that combines financial and non-financial performance indicators may provide important advantages for those companies; proactively adopting an integrated approach may benefit those companies and their stakeholders.

Integrated reporting will tend to be beneficial for small and midsize entities both internally and externally. Integrating reporting will help focus internal and external stakeholders' attention on the comprehensive impact of the company's actions on the financial/economic, environmental/ecological and social environment. Internally, this will help owners, managers, and other employees develop and support strategies that in the short and long-term leads to the efficient utilization and preservation of resources, increased employee satisfaction and commitment, improved and sustainable products and services, and the maximum creation of value.

Integrated reporting will assist internal stakeholders with budgeting, planning, and implementing actions that supports those strategies and help them control and report the results. It also may provide information needed for reporting to organizations (including governmental entities) that provide financial incentives for sustainability projects. For example, under the

American Recovery and Reinvestment Act (ARRA), companies are partially reimbursed for eligible investments in renewable energy projects; funding so far has reached $13 billion dollars (PricewaterhouseCoopers, 2012). Grant programs of this type typically require careful documentation and reporting; an integrated reporting approach would help supply this type of information and thus make it easier for companies to take advantage of available grants.

External stakeholders such as investors, lenders, and supply-chain business associates increasingly expect companies to implement sustainability projects. Formal reporting on sustainability efforts lends credibility to the information, which tends to enhance customers' and investors' confidence. Formal reporting that integrates information about these projects with the company's financial results will create confidence in the company's long-term success, and its ability to create value in the long-run.

Integrated reporting may better enable small and midsize companies to obtain funding for expansion projects, gain new investors, or even provide opportunities for acquisition by another company. Funding of major projects by outside lenders or investors typically requires the preparation of financial statements. Companies that integrate their financial results with reporting of their efforts to sustain and support the natural, ecological and social environment will provide information that helps lenders and investor assess the long-term profitability, solvency and growth potential of the company. Thus, integrated reports will tend to provide more useful information to stakeholders and enhance stakeholders' confidence.

Strategies for Small and Midsize Companies

Proactively adopting an integrated reporting approach will benefit companies in the long-run. Before implementing an integrated reporting strategy, executives and managers should clearly communicate their goals to employees and gain their support. Commitment by all employees will help maximize the benefits derived from developing and implementing an integrated reporting approach and lead to the most efficient and effective approach. With the participation of key employees and with reference to the company's short, intermediate, and long-term financial, social, and ecological goals, managers should develop strategies that incorporate these objectives and then communicate them to all employees. Managers should establish realistic milestones and provide for periodic progress reviews. Small and midsize companies may want to consider the following steps in implementing an integrated reporting approach:

1. Gain the support and commitment of employees.
2. Review and assess the opportunities, risks, and constraints faced by the company, including those related to market conditions, the company's operations, sources of financing, ecological and resource environments, human resources, social environment, economic and regulatory environments.

3. Clearly formulize and assess short, intermediate, and long-term goals in terms of financial, ecological, and social goals and objectives, taking in consideration opportunities, risks and constraints.
4. Develop multiple performance indicators relating to the company's financial, ecological, and social goals.
5. Incorporate goals/objectives and performance indicators into the planning, budgeting, and control processes and integrate with the accounting information system.
6. Develop a reporting system that incorporates and interrelates the performance measures associated with the company's financial, ecological, and social objectives.
7. Plan for periodic reassessment of goals and performance indicators and adapt as necessary.

The process of developing an integrated approach will, in itself, provide executives and employees with the opportunity to enhance the company's ability to achieve its goals and objectives and support the long-term creation of value. Careful choice of meaningful, relevant and reliable performance indicators is essential. For example, quantitative performance indicators associated with financial objectives could include several measures of profitability; indicators for social objectives could include measures associated with employee development, longevity, and community involvement; ecological objectives could include quantitative information about waste reduction, natural resource usage, and information about investments in renewable energy sources. Employee participation in this process tends to be valuable, enhance employees' commitment, and motivate them to help achieve the company's goals. The company's integrated report should, whenever possible, link its ecological, financial, and social objectives and its strategies for addressing them with its results. Depending on the industry in which the company operates, the company could even link its products and services with solutions to ecological and social issues.

In addition, managers should investigate opportunities for financial incentives and grants and the reporting requirements of each. This will help companies tailor their reporting approach in a manner that incorporates these requirements. Companies can also engage the advice of professionals, such as accounting and consulting firms that specialize in integrated reporting, seek advice from business and professional associations, and keep informed about the results of the IIRC's work. In addition, companies may also consider reviewing integrated reports issued by other companies. For example, the fully integrated report issued by BASF is publically available and provides an excellent example of a company reporting the comprehensive impact of its operations on profit, people, and our planet. Small and midsize companies may gain some important insights from reviewing the result of a successful adoption of integrated reporting.

CONCLUSION

Companies of all sizes continue to strive for sustainable solutions that enhance profitability, minimize the negative impact on the environment, and preserve precious resources.

Globally, large public companies increasingly issue reports on their sustainability efforts. Currently, sustainability reporting is largely voluntary, separated from financial reporting, and varies considerably among companies. Most companies that issue sustainability reports tend to utilize the continually evolving guidelines provided by the GRI. During the last few years, a trend toward integrated reporting has emerged.

Small and midsize companies and their stakeholders may benefit significantly by proactively adopting an integrated reporting approach. Detailed assessment of a company's goals, risks, and opportunities; careful choice of closely linked performance indicators; periodic review; and commitment by employees represent some of the most important aspects of a successful integration.

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FOREIGN (OFFSHORE) ASSET-PROTECTION TRUSTS: CONSIDERATIONS FOR THE ENTREPRENEURIAL EXECUTIVE

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ABSTRACT

This article examines issues pertaining to the use of foreign (offshore) trusts designed to protect and preserve assets for current and future use by affluent executives. A discussion of why such planning is needed and what distinguishes a foreign (offshore) trust from its domestic alternatives is presented. Equally as important as to why an offshore trust is beneficial, the article also explains when such trusts should not be established. Administrative issues such as selecting a favorable offshore jurisdiction, determining federal tax consequences, and ascertaining federal reporting requirements are also examined. The article further explains certain criminal aspects that could be associated with a foreign trust if the person establishing the trust is either misinformed or intends to use the trust for fraudulent or illegal purposes (e.g., tax evasion). Lastly, ethical considerations for the professional advisor are also discussed.

INTRODUCTION AND OVERVIEW OF FOREIGN (OFFSHORE) ASSET-PROTECTION TRUSTS

The use of offshore trusts to legitimately maximize the protection of an entrepreneurial executive's personal wealth has gained new recognition and acceptance in today's litigious society. Now, more than ever, any business or estate plan requires an examination of the risks associated with the executive's activities and business holdings. Attorneys and other professionals must consider the benefits, goals, issues, and risks involved in establishing an offshore trust as part of a comprehensive asset-preservation plan for the affluent client, business owner, or executive with significant business holdings, liquid assets, or investments. The benefits of the offshore trust are all too obvious in those situations when an executive without an offshore trust who has substantial assets at risk becomes a defendant in a lawsuit. If the affluent executive has not already protected his or her assets with an offshore trust, then he/she could face financial ruin while making a plaintiff and the plaintiff's attorney happy and wealthy because of the executive's lack of asset-protection planning.

Unfortunately, many executives and their attorneys never consider the benefits of an offshore asset-protection trust until it is too late. Attorneys should be prepared to adequately advise the at-risk executive about the benefits of an offshore trust. The entrepreneurial executive turned defendant by a major lawsuit is unlikely to question the wisdom, merits, or moral significance of legally protecting one's assets (assets that are oftentimes irreplaceable by any amount of liability insurance) with an offshore trust when those assets represent one's life's savings that were intended to be relied upon for providing for the executive and the executive's family for the remainder of their lives.

This article focuses primarily on the proper use of a foreign offshore trust for legitimate asset-protection purposes.

VALID REASONS FOR ESTABLISHING AN OFFSHORE ASSET-PROTECTION TRUST

Professional advisors such as attorneys, CPAs, financial advisors, and others should be aware of the ethical standards their profession has established with regard to how to advise a client concerning issues of asset-protection planning.

Reasonable and lawful reasons to establish an offshore asset-protection trust might include:

1. economic diversification;
2. presentation of a low profile to disguise great wealth;
3. tax planning, including general estate planning;
4. avoidance of forced-heirship laws;
5. planned expatriation;
6. marital planning (in lieu of or in conjunction with a pre-nuptial or ante-nuptial agreement concerning assets and the potential disposition of assets if a divorce were to occur in the future);
7. asset protection from potential future creditors;
8. privacy and confidentiality (e.g., avoiding laws requiring disclosure of trust/estate assets, who the beneficiaries are, who receives what from the trust upon the death of the settlor(s), and when such assets are to be transferred).

Care should be taken by the professional to not aid or abet any unlawful, fraudulent, or unethical activity or actions while assisting a client in protecting his/her assets.

Why should an executive consider a trust with a foreign situs (location) outside the United States?

Assume that a person worth $3 million has been successfully sued and the plaintiff (judgment creditor) has obtained a judgment for $5 million. The defendant (judgment debtor) will have some marginal protections from being homeless under state laws that provide that certain types of property are exempt from creditor seizure and/or a certain dollar amount of property is exempt. As an example, in the state of Texas a married couple can exempt up to $60,000 worth of property, can exempt certain retirement accounts (including certain "qualified" retirement plans under the ERISA [Employee Retirement Income Security Act] federal law), and can exempt their home via a generous homestead exemption not limited to any specific dollar amount. Note, however, that $60,000 is not going to "go very far" and that the homestead exemption may last only as long as the judgment debtor (and/or surviving spouse) is alive. The million-dollar home may become subject to seizure when the property no longer qualifies as a homestead (e.g., when it is left to a grandchild or to a charity in a Last Will and Testament, etc.). Additionally, assets held in a self-settled *domestic* trust (a trust created in the United States that a person, referred to as the settlor, establishes for him/herself and for his/her own benefit) are generally *not* exempt from creditor seizure. Remember, the judge who will determine if the defendant is entitled to keep his/her assets away from the plaintiff will probably be the same judge who signed the court order awarding the plaintiff millions of dollars – and judges detest seeing their own judgments ignored!

The simplest answer to the question of why one should use a *foreign* asset-protection trust (versus domestic asset-protection measures) can be stated in one word – jurisdiction. First, remember that a judgment can only be executed upon the *property a_person owns*. Only property that *you* own may be used to satisfy a judgment rendered against you. Technically, since the offshore trust (and not you) owns the property held in the trust, such property cannot be seized to satisfy a judgment against you. Property held in trust is not owned by the person who settles (establishes) the trust, but rather is controlled by the trustee of the trust (who must act as a fiduciary in managing the trust assets for the benefit of the beneficiary(ies) of the trust in accordance with the terms of the trust). In most states, one cannot achieve asset protection from one's own creditors in a self-settled *domestic* trust as a matter of state law. Even in states that do provide asset protection from creditors in self-settled domestic trusts, such states are subject to the U.S. Constitution and its "full faith and credit" clause [the clause in the U.S. Constitution (Article IV, Section 1) which provides that the various states must recognize legislative acts, public records, and judicial decisions of the other states within the United States], which may serve to preempt and defeat the asset-protection provisions provided under any state law that would otherwise apply to an out-of-state judgment creditor.

Many foreign countries, however, do allow assets to be protected in self-settled trusts. In fact, many countries have strict secrecy and asset-protection laws that serve to encourage wealthy individuals to choose their financial institutions for self-settled trusts for the express purposes of asset protection. The property held in a properly drafted offshore trust *is not owned by the client (settlor)* and, therefore, is not subject to creditor seizure. Secondly, a court in the United States (state or federal) has no jurisdiction outside the United States; and, moreover, the judgments rendered by courts in the U.S. are not honored or considered valid in most foreign countries. The concept of jurisdiction is analogous to receiving a speeding ticket in Houston, Texas, written by an Alabama State Trooper – the ticket is unenforceable in Texas because Texas does not recognize or give any authority to Alabama police officers in Texas. A civil judgment signed by a judge in the U.S. is "not worth the paper it is written on" in the Cook Islands. *Therefore, neither the foreign trustee nor the courts in the foreign country will honor any civil judgment or other court order rendered in the United States.* An individual's money and other property stay in the foreign trust, and both the principal and the interest will be available to support the trust beneficiaries *notwithstanding any judgments rendered by any courts "outside" the jurisdiction where the trust is located*. Many offshore jurisdictions have adopted legislation that is specifically designed to offer the maximum amount of protection to the settlor and the assets transferred to a trust by the settlor. Such asset protection occurs even when the settlor is the primary (even only) beneficiary of the trust, which is an option that is generally not available within the United States. *Once the assets are offshore, they are available to the settlor (and any other beneficiaries) regardless of any U.S. court order or judgment to the contrary*. This concept may be especially valuable if, for example, an executive establishes and funds an offshore trust in 2011; and later, in 2014, this executive, who was a partner in a large accounting firm, is charged with a crime (e.g., vehicular homicide DWI), and the government (and/or civil litigants via a pre-judgment sequestration order in a related civil suit) seizes all the executive's domestic assets pending the outcome of the trial. In such an instance, the executive would have access to the offshore trust funds with which to pay for a top-dollar criminal defense team to fight the charges levied against him/her (and with which to keep the family in a comfortable lifestyle regardless of the outcome of the criminal case). Except for the existence of the offshore trust, the executive may not be able to pay for a good legal defense, which can mean the difference between an acquittal or a conviction and spending a decade or more in prison, as well as whether the family maintains a comfortable lifestyle or becomes impoverished.

For maximum financial control, security, and peace of mind, one should consider an offshore asset-protection trust as a part of any asset-protection plan, in addition to more routine risk-management measures such as insurance, use of business entities (corporations, limited partnerships, LLCs, etc.), as well as considering other state and federal laws (such as ERISA). Implementing an offshore trust is especially prudent for individuals in high-risk professions such as attorneys, doctors, engineers, architects, and business executives (especially business executives who are affiliated with publicly traded companies). Litigation in these professions is a fact of life that must be anticipated and planned for. One should bear in mind that domestic business entities, such as a corporation or LLC, provide only the level of asset protection a local judge decides to permit. There are several "pierce the veil" types of attacks that a creditor can employ to seize assets belonging to a domestic business entity. No such legal or equitable remedies are available to a creditor suing the trustee of an offshore asset-protection trust. For obvious reasons, the trustee of an offshore asset-protection trust should be a reputable *corporate* trustee who is fully insured and who has many years of experience providing fiduciary services.

Even the very best and largest law firms do not win all the lawsuits they are hired to defend (truly, "you can't win them all"), and even the worst and most inept plaintiff's attorney cannot lose them all either – especially thanks to juries that are all too often biased or easily confused or that allow sympathy toward a plaintiff to trump good legal reasoning and analysis. It is not unusual to hear a courtroom referred to as a "palace of perjury." Eliminating or mitigating litigation risks are a principal goal of using an offshore trust to protect one's assets. As will be discussed later in this article, such asset-protection planning should be performed and should be done by an attorney who is an expert in the areas of taxation as well as estate planning. Such asset-protection planning is not for the "country lawyer" who has a trust-form book, as both client and attorney could end up incarcerated if such planning is done improperly – not to mention the potential horrendous federal tax consequences of transferring large amounts of assets to an improperly drafted trust.

When should a person NOT establish and transfer assets to an offshore trust?

An asset-protection trust is not an excuse to defraud *existing* creditors or one's spouse. The protection of an offshore trust should be for *future* creditors. Transferring assets to a foreign trust in the face of a current judgment or other court order could land the transferor in jail under any number of possibilities, including criminal fraud, wire fraud, money laundering, tax evasion, and the ever-popular contempt of court. Critical to the attorney's helping a client establish an offshore trust is the fact that the attorney may find him/herself "in the same boat" with the client, being accused of conspiring with the client to commit a crime or civil fraud (see IRC § 7212). The embittered ex-wife of the client might not be able to get any of her ex-husband's assets in the Cook Islands, but she will gladly sue the ex-husband's attorney who drafted the trust for civil fraud, and the attorney can also expect to have a complaint filed against his/her license to practice law if the offshore trust was not established long before divorce proceedings were initiated, but rather was established and funded after someone filed for divorce.

Clearly, asset-protection planning should focus on *future* creditors and should not be used to defraud current creditors and most certainly should not be used to hide proceeds of criminal activity. The drafting attorney should take steps to perform due-diligence research to ensure (to the extent possible) that the client is establishing an offshore trust for legitimate asset-protection purposes in order to protect what is legally the client's own property. However, simply because a client has an outstanding judgment or is facing litigation does not preclude the use of offshore trusts, since the client always has the legal right to protect his assets from future creditors – but the drafting attorney needs to carefully advise the client concerning transferring assets to a foreign trust in such an instance in order to ensure that such transfer does not render the client insolvent so as to create a presumption that such transfer was done fraudulently. One also needs to be aware of the differences between a transfer made to a foreign trust that is made in open defiance of an existing court order (e.g., a Temporary Restraining Order) mandating that the client not make certain transfers or "spend" more than a certain amount of money without prior court approval. Such a transfer could result in criminal contempt of court charges being brought against the client rather than merely a transfer that would be considered a part of normal estate-planning or business-planning activity.

BENEFITS OF AN OFFSHORE ASSET-PROTECTION TRUST

Most offshore jurisdictions will permit a person to establish a self-settled trust whereby the settlor retains beneficial enjoyment or control over the trust assets and/or the administration of the trust, something, as has been noted, that is generally not possible in the United States. Great care must be taken to ensure that the settlor is only a mere beneficiary of the offshore trust and does not have any legal title or power over the trust assets (such as being a co-trustee in addition to being a beneficiary) in order to avoid a U.S. court from ordering the settlor to deliver funds to the creditor (known as a repatriation order) and being able to hold the settlor in *contempt of court* if the settlor fails to turn over the assets. At the same time, this offshore trust should give the settlor "control" in the real world to an extent that enables him/her to enjoy the trust assets, including being able to hire and fire portfolio managers as well as corporate trustees and to direct trust-fund investments. Such arrangements are possible, but they take very careful and knowledgeable planning on the part of the drafting attorney.

Even if a plaintiff were to obtain a judgment against a defendant, most offshore jurisdictions (and certainly one used by a well-advised defendant) will not recognize or otherwise give any legal effect to any judgment obtained outside that foreign country. Under the law of most such offshore jurisdictions, a creditor's attorney must file suit in the jurisdiction in which the trust is located under the laws of that jurisdiction (which are extremely favorable to the settlor, local trustee, and/or trust company, etc.) and succeed in litigating the creditor's case and obtain a favorable judgment in order to have any legal ability to gain access to the trust. Oftentimes such lawsuits are only allowed for causes of action that arose *in that foreign jurisdiction* or for causes of action that involve crimes that are recognized in that foreign jurisdiction (e.g., bank robbery, criminal fraud, embezzlement, securities fraud, etc.). Note that most foreign jurisdictions do not allow civil suits that relate to causes of action that arose out of principles of equity for actions that occurred outside the offshore jurisdiction or for any cause of action that arises from the dissolution of marriage. No judgment rendered by a U.S. court due to a lawsuit for personal injury, professional malpractice, divorce property division, or breach of contract would ever be recognized in an offshore jurisdiction.

While the offshore jurisdictions (at least jurisdictions an ethical estate-planning attorney would use) do not cater to criminals or con artists, the jurisdictions do make it virtually impossible for a creditor to reach the assets of a trust located in that jurisdiction via civil litigation. This result is not by accident, but rather reflects the public policy and laws of the offshore jurisdiction and the subsequent desire of the foreign jurisdiction to effectively compete in the worldwide marketplace for such asset-protection business, as foreign countries levy fees on asset-protection trusts, which can be a steady source of revenue in addition to revenues from tourism and other sources.

The existence of a properly drafted and well-funded offshore trust has an extreme chilling effect on litigation, as it removes nearly all hope of collection on the judgment, even if a favorable judgment can be obtained against a defendant. It also makes such litigation being pursued on a contingency-fee basis an unwise and undesirable prospect from a plaintiff's lawyer's viewpoint. This chilling effect tends to lead to either the litigation being dropped for lack of prosecution (in cases where there is no insurance and all assets are offshore or where a plaintiff who cannot or will not pursue the case because of having to pay his/her attorney on an hourly basis), or at a minimum, the litigation tends to settle quickly within the policy limits of any available liability insurance. Not being involved in a protracted and time-consuming lawsuit is a major benefit to the settlor of an offshore trust, almost as much of a benefit as the legal protection of the trust assets themselves.

Confidentiality is another benefit of foreign trusts. Every estate planner knows that a client's Last Will and Testament will become a matter of public record once the will is filed for probate. Although domestic trusts do provide somewhat more privacy than does a Last Will and Testament in that they are not generally available for public viewing as wills are, many states do have laws that require that all beneficiaries of a domestic trust be provided a copy of the trust. While such a domestic trust may not be as overtly public as a Last Will and Testament, which allows the local newspaper reporter or nosy neighbor to discover the provisions contained in a will, such domestic trusts are hardly confidential in nature. In a domestic trust it may be possible for all beneficiaries to discover the full extent of the trust assets and "who gets what" of the trust assets following the settlor's death. In an offshore trust, however, it is possible for the settlor to direct the trustee to dispose of trust assets upon the settlor's death and to only inform a beneficiary of his or her inheritance alone and keep confidential all other facts relating to the amount of the trust assets and the amounts to be distributed to other beneficiaries. Of course, it is also possible for such distributions to beneficiaries to remain in trust for the benefit of the beneficiary and for such distributions to be made in strict compliance with the declared wishes of the settlor (notwithstanding the desires of the beneficiary).

Another offshore trust benefit to the settlor is the laws within the offshore jurisdiction being unambiguous concerning fraudulent conveyances and statutes of limitations. Extremely few offshore jurisdictions condone true fraudulent conveyances, as virtually all offshore jurisdictions have clarified the issue of fraudulent conveyance by drafting clearly defined fraudulent-conveyance definitions and legislation. This modern legislation has attempted to eliminate many of the ambiguities and unpredictable results that have caused past uncertainty for both debtors and creditors alike, both in the United States and the United Kingdom. Likewise, most offshore jurisdictions have acted to narrow what is considered "fraudulent" as well as shorten the statute of limitation periods applicable to fraudulent conveyances. Most jurisdictions have a one- or two-year statute of limitations period for civil suits against trustees of asset-protection trusts.

Beyond asset protection from third-party judgment creditors, offshore trusts may accurately be called the "ultimate pre-marital agreement" and, in fact, are oftentimes used in lieu of any pre-nuptial agreement. It is not uncommon for a U.S. attorney to have a client who is engaged in his third or fourth marriage. Neither is it uncommon for a male client to be planning to marry a woman who is decades younger than he is. This type of situation can raise interesting issues in the estate-planning process when the client's new bride is younger than the client's children. If the client has begun to accumulate wealth, notwithstanding prior divorces, future marriages can continue to be problematic when planning the client's estate. While an offshore trust will not alleviate the burden of a court ordering the client to pay alimony from current domestic earnings to an ex-spouse, the assets held in the offshore trust cannot be touched by the ex-spouse or be divided by a family court judge, as such assets are absolutely protected. Another benefit in this area is that with an offshore trust, the client never has to worry about having her/his assets become subject to creditor (ex-spouse) attack because the client accidentally "commingled" her/his trust assets, or having years of interest and dividend income from her/his pre-marriage separate property being declared marital property subject to division by a family court judge, etc. Once placed in an offshore trust, the assets and all income derived from those assets are properties of the trust for the benefit of the settlor and designated beneficiaries and cannot be diminished because of litigation in divorce court.

Regarding pre-marital planning, unlike most pre-marital agreements governed by state laws in the U.S., offshore trusts require no accounting or disclosure to anyone to be effective. In fact, the future spouse does not even have to know about the existence of the offshore trust. Upon divorce, the assets of the trust are safely and legally outside the jurisdiction of a divorce court. Such assets are also not exposed to the risk of an angry soon-to-be ex-spouse who may decide to "take everything and run," thereby leaving the client with bills to pay and all the bank accounts "cleaned out." Note that some angry ex-spouses have been known to forge signatures, forge powers of attorney, and/or engage in other such adverse (even illegal) conduct on the eve of divorce or during the divorce-litigation process. An offshore trust protects the client's assets from such risks.

Forced heirship can also be a problem in some jurisdictions within the United States and other countries. An individual may be surprised to learn that he or she may not be able to freely dispose of his or her property through a Last Will and Testament. Some states (such as Louisiana) have forced-heirship laws that grant spouses and children of a decedent certain heirship rights in the decedent's estate. These problems can be properly addressed through the use of an offshore trust in a jurisdiction that ignores such forced-heirship laws. With such a trust, the decedent's wishes are carried out in accordance with the terms of the trust – period.

SELECTING A FAVORABLE OFFSHORE JURISDICTION

Great care should be used in selecting the location of an offshore trust. The availability of the components that must be included in an offshore trust should be specifically identified in the governing legislation of any jurisdiction being considered for the location of an offshore trust. Among the factors that should be used in evaluating a particular jurisdiction are the following:

1. non-recognition of foreign (U.S.) judgments;
2. recognition and protection of self-settled trusts;
3. recognition and protection of trusts where the settlor has retained significant control over trust assets or administration;
4. confidentiality (mostly as between beneficiaries or other non-governmental parties);
5. unambiguous fraudulent conveyance laws and favorable short statute of limitation periods;
6. recognition of trust provisions that override any forced-heirship laws or marital-property laws of the settlor's home jurisdiction;
7. favorable tax laws (nearly all offshore jurisdictions exempt foreign trusts from taxation in the offshore jurisdiction);
8. the availability of competent and financially strong corporate trustees;
9. the availability of local professional services such as legal counsel and financial advisors who are familiar with the financial products the settlor wishes to have in the trust, including U.S. and foreign stocks, bonds, mutual funds, annuities, etc.;
10. the proximity of the offshore jurisdiction to the United States and the availability, quality, and safety of commercial airline service between the U.S. and the foreign jurisdiction (e.g., the Cook Islands in the South Pacific have terrific asset-protection laws but are located halfway around the world and are not a "quick and easy" weekend trip away from the U.S.);
11. the availability of modern telecommunications, including reliable telephone and cellular service;
12. the compatibility of the offshore jurisdiction to the settlor's language and expectations, as not all offshore jurisdictions are English-speaking;

13. the existence of a modern and stable government where there is little or no "political risk" of a government being taken over by a dictator (such as Mr. Noreiga in Panama), rebels, or an unfriendly neighboring country (such as Argentina's invasion of the Falkland Islands);
14. the availability of modern tourist amenities or attractions that the settlor will enjoy and be able to utilize when visiting the jurisdiction to occasionally (probably annually or biennially) meet with the corporate trustee and other financial advisors;
15. the minimum amount required to fund and to be maintained in the trust account;
16. the initial and ongoing costs of maintaining the trust in the form of taxes and/or fees charged by the foreign government and/or the corporate trustee, as some jurisdictions are much more expensive than others (note that trustee fees are usually set and mandated by local law and not subject to discounts, etc.);
17. the existence of a much higher burden of proof in civil litigation occurring in the foreign jurisdiction (e.g., a "clear and convincing evidence" standard) as compared to the mere "preponderance of the evidence" burden of proof standard that is applicable in both state and federal civil courts in the United States; and
18. the availability of a limited number of possible causes of action recognized in the foreign jurisdiction that would enable a creditor to seize trust assets (and the non-recognition of many causes of actions commonly used domestically).

While an offshore asset-protection trust may be located in one country (e.g., the Cook Islands), the trust's assets may be located in a Swiss bank (or *any other* foreign country) where extensive financial services are securely available. Of course, one can also make arrangements for the trust's funds (that are located in a foreign bank) to be managed by a professional domestic firm that specializes in managing U.S. tax-compliant foreign trusts and accounts. However, care should be taken to ensure that any domestic financial manager only has trading authority over the assets and does not have any legal right or authority to bring the trust's assets back into the United States. Only the trust's corporate trustee should have the ability to make distributions to beneficiaries from the trust and only then in accordance with the trust's terms, which should disallow any distribution of funds to any creditor (including any judgment creditor) of a trust beneficiary.

U.S. FEDERAL TAX CONSIDERATIONS

Perhaps the biggest myth associated with the use of an offshore trust is that its income escapes taxation in the United States because the foreign jurisdiction is a "tax haven" or otherwise does not have any income, estate, or other personal taxes of its own. While many foreign countries do not impose any taxes on individuals, trusts, or international business corporations (IBCs), such tax-free status does not mean the income is not taxable in the United States. As a general rule, if one is a U.S. citizen or resident alien, s/he must report all worldwide income to the IRS and pay federal income tax. Failure of a U.S. citizen or resident alien to report and pay taxes due and owing to the United States may result in that person being convicted of one or more tax crimes and spending several years in a federal prison. Simply stated, just because the offshore jurisdiction does not impose a tax does not mean that the U.S. federal government does not impose a tax, regardless of where in the world the income was generated.

As a general rule, nearly all foreign asset-protection trusts are "tax neutral" in that they will neither save the grantor money on his/her tax bill nor will the foreign trust cause any increase in taxes due. IRC § 679 provides that the typical offshore trust will be considered a "grantor trust" for income tax purposes. Such classification means that the taxpayer who establishes and funds an offshore trust will report the same gains or losses as would otherwise be reported had the trust's investments been kept in the United States.

The major administrative difference between a domestic trust and a foreign trust involves reporting. Any U.S. citizen or resident alien who establishes or receives (directly or indirectly) any distribution from a foreign trust is required to file a tax return to report the name of the trust, the aggregate amount of the distributions received, and other information that the Secretary of the Treasury may prescribe. In cases where the foreign trust has not designated a U.S. agent (such as an attorney or tax accountant) for the purpose of reporting the interest income applicable to a trust distribution, the *entire* distribution will be includable in the gross income of the U.S. distributee and will be treated as an accumulation distribution from the foreign trust. The information required to be filed by the "responsible party" has been incorporated into IRS Form 3520, "Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts." Form 3520 is due on the date that the responsible party's income tax return is due, including extensions. A copy of Form 3520 is attached to the responsible party's income tax return.

ANNUAL FOREIGN TRUST REPORT: FORM 3520-A

A U.S. citizen or resident alien who is treated as the owner of any portion of a foreign trust is required to ensure that *the trust* files an annual return to provide a full accounting of all the trust activities for the taxable year, the name of the U.S. agent for the trust (whom the IRS will contact to get information such as the income, capital gains, etc.), and other information as prescribed by the Secretary of the Treasury. In addition, unless a U.S. citizen or resident alien is authorized to accept legal notices as the trust's limited agent with respect to any request by the Treasury Department (government requests only – not for general civil litigation) to examine records or take testimony, and any summons for such records or testimony in connection with the tax treatment of any items related to the trust, the Secretary is entitled to determine the tax consequences of amounts to be taken into account under the grantor tax rules (IRC §§ 671-679). These reporting requirements are not a problem for the honest person who has no desire to evade taxes but is using the offshore trust for legitimate asset-protection purposes. Such an honest individual would merely keep all trust statements that are as detailed as any financial statement from a commercial bank, financial investment firm, or any other domestic financial institution (Bank of America, Vanguard, Fidelity, etc.). However, if a person decides to cheat on his/her taxes, then s/he will obviously not be honestly complying with reporting requirements or other tax laws and can expect serious criminal charges to be filed against him/her.

The annual information-reporting requirement is satisfied for foreign trusts by filing IRS Form 3520-A by the 15th day of the *third month* after the end of the trust's tax year (usually a calendar year by default, as most offshore jurisdictions do not have a "tax year" since these jurisdictions do not have any income tax on individuals or trusts). Extensions of time to file Form 3520-A are available on Form 2758. Normally, in order to authorize a U.S. citizen or resident alien to act as a limited agent under IRC § 6048(B), the trust and the agent must enter into a written agreement that is attached to Form 3520-A. It is normal for an individual's tax attorney drafting the offshore trust or the individual's accountant to act as the agent.

BANKRUPTCY AND FRAUDULENT-CONVEYANCE ISSUES

The asset-protection planning strategies referenced in this paper assume that the attorney and the client (settlor) are both satisfied their activities do not involve any attempts to hinder, delay, or defraud any existing creditor of the client. However, if the client has been less than honest with his/her attorney, or if the attorney has totally failed to dissuade the client from engaging in fraudulent transfers, a multitude of tools are available to both a creditor and a bankruptcy trustee (if the client files for bankruptcy relief) to set aside an alleged fraudulent conveyance or to file a motion to the bankruptcy court to deny the client any discharge of the debt through bankruptcy.

Bankruptcy and Fraudulent-Transfer Provisions

It is possible that a client who transfers millions of dollars to an offshore trust and more than ten years later suffers a business failure will not be able to obtain a discharge of debts in a bankruptcy court, as a judge may be sympathetic to a creditor's objection to any discharge of debt due to an allegation of fraud when the debtor has millions of dollars stashed away offshore (see 11 U.S.C. § 548). Technically, however, absent proof of an *actual intent* to defraud creditors when the trust was established or when a subsequent transfer was made to the trust, a debtor should still qualify for relief and a discharge of debt, with the assets that are offshore not being includable in the bankruptcy estate. However, a bankruptcy court would likely consider the ability of the offshore trust to generate income to the debtor and use that income to calculate the payments the debtor must make for up to five years to fulfill the Chapter 13 personal bankruptcy plan. While many bankruptcy courts would not disallow granting a discharge of debt merely because the debtor transferred assets to an offshore trust more than ten years before filing for relief, there can be no certainty that all bankruptcy judges would so agree.

Fraudulent Conveyances

Every state has laws concerning fraudulent conveyances. These statutes generally make it unlawful to take certain actions that serve only to defraud, hinder, or delay a known creditor. For example, most states' family codes also address situations where one spouse causes financial harm to the other spouse. Although these laws are civil and not criminal in nature, one should be careful to avoid using a foreign trust to defraud an existing creditor. Any such unlawful acts will adversely affect the property still remaining within a domestic jurisdiction. Additionally, any such fraudulent actions could subject the actor to possible criminal sanctions (e.g., bankruptcy fraud, perjury, etc.).

CONCLUSIONS

The goal of estate/financial planning is to maximize an individual's current and future lifestyle and to transfer wealth to his/her chosen beneficiaries in accordance with his/her wishes to the fullest extent allowed by law. One of the ways estate planners and other advisors accomplish this goal is to minimize the impact of taxation on the client and the client's estate, which can serve to greatly increase the wealth that is transferred to the client's family and others. One often-overlooked aspect in the estate-planning and financial-planning process is the preservation of the client's wealth during his or her lifetime to the fullest extent possible so that there is a maximum amount of assets in the client's estate to be enjoyed and later transferred. While common risk-management measures such as insurance and the usual establishment of entities that help shelter the client from creditors (such as domestic limited partnerships, corporations, and limited liability companies) are performed by estate-planning attorneys every day, much more can be done to legally protect the client's wealth than these routine measures alone can provide.

The uncertainties of the U.S. judicial system coupled with the increased exposure to seemingly uncontrollable jury awards have resulted in attorneys and other professional advisors re-examining the benefits associated with the establishment of foreign (offshore) asset-protection trusts for their clients. While such trusts can provide a multitude of benefits, they should be used cautiously, and the attorney must be aware of when *not* to use foreign trusts for the sake of both the client and the attorney as well. Great care must be taken in implementing an offshore asset-protection trust in order to avoid violation of any domestic or foreign laws, especially criminal laws, in order to avoid being punished for a violation of a criminal statute. The ongoing administration and use of the trust must also be carefully performed for the same reasons.

Provisions must be made by the professional advisor to know the client and to perform a thorough due-diligence investigation in order to ensure that the client is not a criminal or otherwise considered to be undesirable for purposes of establishing an offshore trust. Of significant concern to both client and advisor is the issue of taxation from the standpoint of avoiding the commission of any tax crimes upon implementing the trust or during its use in the future. While no legal asset-protection technique is impervious to all legitimate creditor attacks, the properly planned and executed offshore asset-protection trust located in a foreign jurisdiction with favorable laws pertaining to such trusts will serve to increase to the fullest extent possible the levels of protection for a client's assets.

Such maximized levels of asset protection provide tremendous security for the client, the client's family, and the client's assets in the face of potential civil litigation and the enormous judgments that can result from such civil litigation. With careful planning, the offshore trust will provide the client with significant asset protection not available domestically and will provide the client increased peace of mind in today's litigious society.

REFERENCES AND RECOMMENDED READINGS

United States Constitution

Article IV, Section 1

U.S. Statutes: Federal

11 U.S.C. § 548

11 U.S.C. § 1328(e)

Public Law 109-8 (May 2005) (amending title 11)

The Money Laundering Control Act of 1986 (citing 18 U.S.C §§ 1956-1957)

Racketeer Influenced and Corrupt Organizations Act (RICO)

Travel Act (1961) 18 U.S.C. § 1952

IRC §§ 671-678

IRC § 679(a)

IRC § 679(b)

IRC § 6048(B)

IRC § 7212

29 U.S.C. § 1056(d)(1)[ERISA]

Small Business Job Protection Act of 1996

Taxpayer Relief Act of 1997

U.S. Forms

IRS Form SS-4, Application for Employer Identification Number

IRS Form 56, Notice of Fiduciary Relationship

IRS Form 706, U.S. Estate Tax Return

IRS Form 709, U.S. Gift and Generation-Skipping Transfer Tax Return

IRS Form 926, Return by a Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership

IRS Form 1040, U.S. Individual Income Tax Return (and any applicable state tax return); and more specifically, Form 1040, Schedule B – Interest and Dividend Income, Part III Foreign Accounts and Trusts

IRS Form 1040NR, Nonresident Alien Income Tax Return

IRS Form 1041, U.S. Income Tax Return for Trusts and Estates

IRS Form 1041NR, Nonresident Fiduciary Income Tax Return

IRS Form 1042S, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons

IRS Form 1099

IRS Form 3520: Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts

IRS Form 3520-A, Annual Return of Foreign Trust with U.S. Beneficiaries

IRS Form 4789, Report of International Transportation of Currency or Monetary Instruments

IRS Form 4970, Accumulation Distribution

IRS Form 8828, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests

IRS Form 8828-A, Statement of Withholding on Disposition by Foreign Persons of U.S. Real Property Interests

Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts [a.k.a Foreign Bank Account Report or FBAR]

FINCEN Form 104, Currency Transaction Report [reports currency transactions of more than $10,000 – usually automatically reported by the bank or financial institution as required by law]

Foreign Laws: Cook Islands

Companies Act 1970-1971

International Companies Act 1981-1982 (as amended in 1996)

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www.irs.gov

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INNOVATION PURCHASE DECISION FORCES: FROM MICRO TO MACRO AND BACK AGAIN

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ABSTRACT

This research examines an emerging software company and attempts to provide explanations for its lack of sales which has led to its lack of growth. Based on interviews with prospective purchasers who did not purchase the software and the small number of customers that did say yes, the product had merit and a strong financial incentive; two reasons that usually provide impetus to purchase. However, the reality is that purchasers have been few and far between. The following article will examine various theoretical explanations for the lack of customers, concluding that there is a strong mix of macro and micro forces that combined to create a perfect storm of non-customers.

INTRODUCTION

Adoption of a new product has been widely studied (for example, Abrahamson, 1991; Daft, 1978; Damanpour, 1991; Meyer & Goes, 1988), while non-adoption has understandably not been as researched, with only fifty-nine articles returned on a search of non-adoption (Search completed in Business Source Complete on June 30th, 2012). Non-adoption has direct impacts, most directly on the lack of growth or the failure of the company selling the product. In this case study, the product's non-adoption in the marketplace is examined from multiple perspectives in an attempt to gain insight on the forces behind the limited sales. Based on marketplace feedback, the product was interesting and had value, the founders knowledgeable and respected, and return on the investment studies showed a quick and strong return; so what could be the reason?

Both macro and micro forces will be examined, as they are relevant in any research involving a decision. At the macro level, isomorphism and the potential lack of legitimacy will be explored as this theory may be relevant for a new company in a mature and highly structured industry. At the organizational level, strategic forces will be investigated to ascertain their level of influence on the adoption of a new innovation, and finally, individual decision–making forces will be examined. These three forces can act on any organizational decision and play significant roles in this case study.

OVERVIEW OF THE CASE STUDY

There are two key elements to this case study; the innovative product being offered to the marketplace and the potential customers who can make the decision regarding the innovative product. This article will examine these two elements in turn, applying relevant theories to explain the outcome and examining the interplay between them. After the theoretical discussion, research from the case study will endeavor to highlight where and when the theories were applicable.

The company at the heart of this case is a start-up software company founded by a team of seasoned executives, known and respected in their industry of point-of-sale software which is software aimed at retailers. Two of the key founders left a large established software company and the software was developed based on requests from customers of the established company. The business model was developed to reduce the up-front risk typically seen with a new software company by using a Software as a Service (SAAS) model, avoiding the up-front software and hardware expenses in exchange for recurring monthly fees.

The retail industry was the target of the case study company, and that may have set the stage for the outcome. The retail industry is not seen as a technology front-runner and frequently plays catch-up with other industries (Walsh, 1991). Furthermore, as the case study will illuminate, the opportunities to search for and locate new technology innovations are neither frequent nor common in the retail industry, leaving industry executives with fewer innovative options than may be found in other industries.

THEORETICAL OVERVIEW

In order to appropriately place this case study within the current stream of knowledge, a brief overview of the research on innovation, isomorphism, strategy and decision making will be conducted. These four streams will provide the framework used to examine the case study company and the decision makers involved.

Innovation

The goal to be innovative is driven by both internal survival mandates as well as organized pressures from governments around the world (for the United States of America's perspective, read National Economic Council, Council of Economic Advisers, & Office of Science and Technology Policy, 2011). It seems to be a given that innovation will be the key to future economic success, even if research has shown the opposite to be the case (Avlonitis, 2001; Gargeya & Brady, 2005; Massa & Testa, 2008). However, during this recent recession, more companies are reluctant to take a risk on a new innovation, perhaps highlighting that the research results have now trickled down into the practitioner community. Nonetheless, the push to be innovative in some form or fashion remains strong.

Technology has always been a key element in innovation, from the introduction of electricity to the recent push to use online media to reach more potential customers. Software has frequently provided the capability to incorporate and develop innovative practices. However, the stigma of start-up software companies that gloriously failed in the past (Li, Shang,

& Slaughter, 2010) can provide a prospective customer with a good reason to adopt a wait and see attitude, giving the incumbent and proven software companies further growth opportunities and larger market share.

A strong pro-innovation bias has been found in academic innovation research (Downs Jr & Mohr, 1976), leading to research taking for granted the positive benefits of innovative activities. However, this bias influences the questions asked as well as the questions not asked (Abrahamson, 1991) leading to a further propagation of the bias. An examination of innovation which does not automatically assume that innovation is beneficial to an organization may uncover the negative consequences of generating or adopting innovations. For example, research into the Y2K scare (Quiggin, 2005) has uncovered the enormous cost and the unrealized benefit of adopting and generating innovations to deal with a largely nonexistent threat.

The strong pro-innovation bias and normative slant is also evident in practitioner journals. These have numerous articles on innovation, indicated by a Harvard Business Review website search for innovation articles from July 2011 to June 2012 that resulted in just under fifty articles. These articles, and articles in other practitioner journals, have the unenviable task of depicting innovation as a manageable process that can be successfully achieved if organizations follow guidelines, processes and principles (Anthony, Johnson, Sinfield, & Altman, 2008).

Isomorphism

Multiple taxonomies regarding innovations may be utilized in research; nonetheless, analyzing generation or adoption of innovation typologies alone will not provide an understanding of the rationale behind an innovation decision. Organizational theory can provide multiple reference frames for analyzing and explaining organizational behaviors and actions (Astley & Van de Ven, 1983), of which innovation adoptions are but one.

Institutional theory analyses the institutional forces pressuring organizations to adopt common behaviors and structures in the goal to increase legitimacy (DiMaggio & Powell, 1983). These deterministic forces may be mimetic, coercive or normative. Mimetic isomorphism reduces the uncertainty facing organizations as they imitate the actions and behaviors of successful organizations. Coercive isomorphism is driven by both formal and informal channels, as regulatory and other legalized mechanisms in addition to the cultural, yet informal, rules and requirements drive commonality in structure and deeds. Normative isomorphism is seen as driven by professional organizations that aim to influence their members' conduct, yet can also include 'the tendency for executives to enact the ideas, norms, and language expected of members of their managerial class' (Hambrick, Finkeistein, Cho, & Jackson, 2005, p. 314).

These isomorphic forces may be due to the linkages between organizations, though social pressures can also exert pressures(Dacin, 1997). The goal of achieving social success drives isomorphic behavior, even when information is present that the behavior may not lead to positive consequences (Barreto & Baden-Fuller, 2006). The outcome of isomorphic forces is a sense of a pre-determined world where there is little room for the organization to choose their own path.

The connection between organization theory and innovation can be found in many locations. While innovations may be able to be examined as a discrete activity independent of external influences, organizations are complex and innovations are an element of that complexity. Thus, organizational theory can assist in providing context and explanations for innovation adoptions. For example, based on institutional theory, it could be argued that isomorphic influences propel innovativeness as organizations change and adapt based on their social success goals.

However, many decisions can be argued to have been made due to fear of losing legitimacy or the concern with falling behind other organizations (Abrahamson & Rosenkopf, 1993), and do not follow a rational decision-making process. These innovations may be driven by isomorphic concerns with internal drivers taking a secondary place. Strong external pressures could dissuade the organization from developing or adopting radical innovation products, but rather incrementally adjust existing products or processes.

Strategy

Contrary to DiMaggio and Powell's assertion that organizations are bound to develop in similar fashion due to the presence and influence of institutions, it has been argued that 'firm behavior in the context of an institutional framework is influenced, not prescribed' (Szyliowicz, Kennedy, & Nelson, 2004, p. 229). Strategic research has historically focused on descriptive and prescriptive studies of the formation of business strategies (e.g., Markides, 1998; Mintzberg, 1978; Porter, 1980). As organizations seek to become more successful, researchers have targeted prescriptive goals aimed at improving the success rate of strategies (Hutzschenreuter & Kleindienst, 2006). Nonetheless, while organizations may seek to employ a somewhat mechanistic approach to developing strategies, the concept of crafting may more clearly encompass the actual process (Mintzberg, 1987).

Even though there is a strong inference that strategies are developed and then implemented with relative ease and obvious success, Mintzberg (1978) explored the concept that many strategies evolve. He categorized strategies to distinguish those that are intended and those that are realized. Intended strategies that are realized are categorized as deliberate, while intended but not realized strategies are labeled unrealized, and the unintended but realized strategies are termed emergent. These categorizations are important to identify the reality of strategy development in an organization, as what may be considered a straight and well-defined path may be in actuality more of a back-woods hiking standard.

This freedom of differentiation can be seen though the lens of the strategic choice perspective which reduces the emphasis on external and isomorphic influences and instead defines individuals within organizations as self-determining actors (Child, 1997). In contradiction to the assumption of homogeneous tendencies of institutional theory, strategic choice begins from the premise that an ‘organization can purposely enact, define, and otherwise affect its domain’ (Hrebiniak & Joyce, 1985, p. 340). Thus, strategic choice locates the power of influence in the leaders of organizations, and ‘adopts a non-deterministic and potentially evolutionary position’ (Child, 1997, p. 44).

Astley and Van de Ven (1983) argue that these institutional theory and strategic choice theory do not need to be separated nor segregated, but may be discussed as part of a framework. This provides a broad playing field for discussions and research that may otherwise be deemed irreconcilable. By acknowledging the different assumptions that are placed within the theoretical paradigms, researchers can broaden their discussions and apply multiple theories to the discussions of complex organizational situations.

Business strategy can provide a strong driver for innovations, as the development and adoption of innovations can provide competitive advantages. Innovation may be utilized either through proactive action or reactively, “either as a response to changes in the external environment or as a pre-emptive action to influence the environment.” (Damanpour, 1996, p. 694).

Decision Making

There are many theories relating to decision making in organizations. These theories attempt to either explain how and why decisions occur in organizations or prescribe a method for making decisions that will increase the success of the results, as ‘decision making is an important organizational function’ (Huber & McDaniel, 1986, p. 586). However, examining decision making in an business setting can be a demanding process as ‘organizational environments are so complex, and human desires so varied, that each decision context becomes its own reality, with limited consistency across situations and goals. Therefore, the particularities of the context are the driving force for the decision, rather than the super-ordinate goals or comprehensive planning’ (Montalvo, 2006, p. 314).

Another perspective examines how organizations work within or outside of their limits (Farjoun & Starbuck, 2007). These limits are the result of historic decisions, and also provide parameters for future decisions. ‘Limits state that some goals or capabilities are out of reach, some processes impossible, so they frame potential actions and outcomes in realism (Farjoun & Starbuck, 2007, p. 562). Thus, limits may influence the potential options for decision makers by providing boundaries to the available choices.

However, no matter what the setting, each decision within an organization will have a degree of complexity as well as a degree of politicization, ‘the diverse and often conflicting views of the various interests which participate in the decision-making process’ (Astley, Axelsson, Butler, Hickson, & Wilson, 1982, p. 361). The conclusion for the organization is regards to developing a successful strategic decision making process is somewhat vague and imprecise.

Individual Decision Making

The Expected Utility Model (Schoemaker, 1982) provides an explanation for the selections made by decision makers. The model assumes that decision makers will examine the expected outcomes of all alternatives before making their choice. These choices are 'among risky prospects whose outcomes may be either single or multi-dimensional' (Schoemaker, 1982, p. 530). However, a critique of this model highlights 'its relative neglect of the limits of human problem-solving capabilities in the face of real-world complexity' (Simon et al., 1987, p. 29). Additionally, other studies have shown that while some decisions are made by examining the potential results of the options available, in many situations, 'people do not judge the likelihood of relevant events and instead base their decisions on intuitive rules of rationales that appear to fit the circumstances' (Rottenstreich & Kivetz, 2006, p. 74), especially in risky situations.

The role of opportunity and threat in regards to decision making has garnered great interest in researchers. "Both types of issues are major, high-priority issues that are difficult to resolve and involve direct competition with others" (Jackson & Dutton, 1988, p. 376). Based on a study of over 2,000 executives worldwide, 23% of decisions were motive by a perceived or real threat (Garbuio, Lovallo, & Viguerie, 2009). This discussion can also involved crisis and non-crisis decisions. Crisis issues can have more conflict than non-crisis issues (Dutton, 1986), and research has shown that the decision triggers were different, in that they were clearly defined for non-crisis issues, but more ambiguous or nebulous for crisis issues.

Recent research has focused on the decision making process involved in innovations, and uncovered a two-step phase in the structure of innovation decisions (Du, Love, & Roper, 2007). This two step process comprises a first decision of selecting whether to innovate or not, and a second decision establishing whether a process or product innovation will be chosen. This research highlights the complexities in understanding how organizations endeavor to deal with innovations, as well as highlighting the process of first selecting the option to innovate, and thereafter selecting how to innovate. This would lead to a determination that innovation is not solely economically driven, as a two-step decision could be seen as not required if there is an economic justification for the decision. Rather, this research highlights that first a decision as to whether to innovate comes first, followed by the how to innovate

THEORETICAL SUMMARY

Innovations are seen as a driver of economic growth; however, it cannot be assumed that all innovations are beneficial to an organization (Abrahamson, 1991). In line with the goal of providing normative guidelines for the most supportive organizational structure in regards to innovation, it may be possible to identify successful influences on organization, as well as recognize those factors that may result in unsuccessful innovations. Due to the range of innovations found in an organization, large or small, it is argued that the innovation is a valid unit of analysis (Downs Jr & Mohr, 1976), allowing the researcher to avoid the inconsistencies encountered when attempting to provide one label for all of an organization's innovations.

Organizational theory provides the ability to generate a spectrum of orientations ranging from following the established norms to proactively selecting an alternative course, indicating the response to institutional forces involved in an innovation. The theory can provide a backdrop to identify the influences behind innovation, adding to the understanding. Additionally, business goals can offer additional dimensions to the appreciation of the complexities of organizational innovations. The presence of internal or external goals may provide a broad range of research opportunities and perhaps provide a rationale for the unnecessary and unsuccessful innovations that are being adopted and generated.

Another method of phrasing this discussion can be found in Deephouse's research, analyzing how companies may struggle with the strategic balance of appearing unique, yet being similar. The corporate value in uniqueness can be found in the lack of competition. While acknowledging the need for the customers to be able to understand the value in an organization's offerings, uniqueness can be the key to locating and exploiting high profits. However, there are also economic gains found in being similar, both from the legitimacy gains as well as the opportunity to copy successful practices at reduced costs. Thus, Deephouse argues that companies need to find the strategic balance between differentiation and similarity to gain the most of both options.

While the competitive and business environment can play a strong role in providing forces leading to the generation and adoption of innovations, so to can the decision making. More specifically, this influence may be felt via the decision making process or the decision maker. Consequently, the structure of the organization can dictate the direction and potential result of a decision (Knudsen & Levinthal, 2007; Witte, 1972) and in consequence, researchers have argued that the organization should be designed with decision making in mind (Huber & McDaniel, 1986). However, the person making the decision must be acknowledged as a force as an individual can also influence the decision either consciously or subconsciously (Choo, 2008). Thus, for any examination on the forces behind the selection of innovations, decision making must be thoroughly examined.

METHODOLOGY

The case study involves a start-up software company, RetailSoft (fictitious name). Research was conducted from August, 2009 to July, 2010 and covered a variety of sources. Primary contact was with two of the company founders as well as the Vice President of Sales. The researcher was involved in meetings, sales opportunities and had frequent discussions with the three noted above. Additionally, research was conducted at the Annual NRF Retail Show in January of 2010. Finally, documentation was used that was provided by RetailSoft, including their original 2008 business plan, as well as documentation publicly available from NRF (National Retail Federation, 2010).

The key for this research was the access provided to both existing customers and the prospects who had decided not to go forward with the purchase of RetailSoft. Seven executives who had chosen not to purchase RetailSoft were interviewed over the phone, with calls lasting from 30 to 45 minutes. Five companies that had chosen RetailSoft were also researched in a combination of written communication, face to face meetings and telephone. While this was not extensive or broad research, the similarities in the responses can provide direction for future research.

A phenomenological approach to the data was utilized, as phenomenology aims to describe an experience common to the participants from which 'general or universal meanings are derived, in other words the essences or structures of the experience' (Moustakas, 1994, p. 13).

The Company and the Product

The company began in 2007 while two of the founders were still employed at a multi-national retail software vendor widely recognized as a leader in the retail software world. They had noticed that their retail customers were repeatedly requesting features that would enable them to easily communicate electronically with their stores with the ability to track and measure responses and therefore compliance with directives. While some of the larger software packages addressed this capability, none had the specific workflow that was being requested. Thus, the founders felt they could exploit this opportunity by creating a technological solution.

Their target market was mid-size retailers who had between 5 and 100 stores. While their software could handle larger store numbers, at that size there was usually an incumbent software vendor in place who could either somehow handle the functions offered by the new company or dissuade the retailer from purchasing another software package. Additionally, the smaller size retailers frequently had the specific issues that RetailSoft could address with their solution due to their comparatively less sophisticated internal processes.

The RetailSoft solution addressed the communication and workflow issues commonly found in retailers with multiple stores. An example of a situation is that the Head Office would develop a new sales and marketing activity, and would send out emails to the stores. Head Office may have targeted email lists, but due to the typical high levels of turnover at stores, email lists were frequently out of date, increasing the opportunity for a blast email to be sent out to all store employees. From the Head Office perspective, the message had been sent, but it was unknown whether the directives had been followed or even read without involving more personnel. From the stores' perspective, emails were sent to them in droves and there were many instances when store management was unclear as to their required involvement or responsibility. If the store contacted the Head Office via phone or email for clarification, it could take an extensive period of time before the correct person was reached to find an answer.

Thus, both Head Office and the stores would frequently find communication difficult to complete. Regional Store Managers were required to frequently visit the stores in person to check up on the stores' compliance with Head Office directives as well as clarify Head Office requests. As the goal for all retailers is to keep store staff on the floor in order to service customers and sell product, a solution that would decrease the store staff's administrative time, decrease their frustration with Head Office and also enable Head Office to know if the stores were compliant through a feedback loop seemed to be a sure winner.

By 2010, RetailSoft had hoped to have many, many customers and to have grown revenues to $14 million dollars (USD) and increased employee numbers (RetailSoft Investment document). However, in 2010 there were only 7 customers, limited revenues based on their deep discounting for new customers, and the employee numbers were stagnant at 5 full-time employees and a couple of part-time contractors. While many companies were interested in learning about the software, very few were actually signing a contract.

Customer and Prospect Feedback

In speaking with all customers and prospects, it would seem that the opportunities for locating new technological innovations are few and far between in the retail industry. All mentioned the National Retail Federation (NRF) Annual Show (National Retail Federation, 2012) as the key location for learning about and gathering information on new technologies, with two interviewees also mentioning peers as a source. RetailSoft's newness in the marketplace and their newness in their approach generated interest. Specifically, for RetailSoft's target market of small to medium sized retailers, SAAS provided a method of implementing an innovative product with much less risk than typically encountered with new software.

RetailSoft's return on investment was frequently mentioned by both customers and non-customers. Based on the low investment required by RetailSoft, all executives who were willing to answer the question stated that the return on investment would have been reached within months, a very short time frame for software. One executive went so far as to say that 'the price point was extremely compelling' (Phone interview A, August 24, 2009). Added to the standard price point that was compelling was that as a new company, RetailSoft needed customers to provide cash needed to continue their development, making them very amendable to discounting their already low product. One customer mentioned in an interview that the software had been virtually given to them in exchange for their feedback on the product and willingness to be a reference; for that customer, those factors were too good to pass.

If price was not the reason for the lack of purchases, what was the key factor? This question was frequently answered by executives by saying what RetailSoft did not have.

RetailSoft did not have the track record, the volume of customers, and in some cases, the breadth of solution desired. It is important to note that the lack of breadth of software was only noted by those prospects who were larger than RetailSoft's target market; that is, those prospects who were large enough to look for a solution that would work nationally and internationally in conjunction with other internal systems. RetailSoft's ultimate goal was to be purchased by a larger software company who would integrate thier solution; thus, there was no intention of linking to other softwares before then. However, as long as RetailSoft stayed within their target market, prospects and customers were not concerned with the breadth of software.

Nonetheless, the fact that RetailSoft was new to the market with a new product was used to the benefit of some prospects. RetailSoft was used during the decision making process to 'keep the other vendors honest' (Phone interview B, September 3, 2009) even though it was admitted that RetailSoft did not have a chance at the contract as the other vendors had products covering multiple business areas that RetailSoft did not. The RetailSoft executives felt that they had had a good shot at that particular company with their particular solution, not knowing that the vendor was using their competitive price point to drive the larger vendors' prices down. The lack of a lengthy resume made RetailSoft a non-contender with more than a few companies, with executives taking the opportunity to learn about a new approach to task management with very limited intentions of taking the innovation to a decision point.

Risk was also a factor in the decision making process of the retail executives. While there was limited financial risk, there was a risk found in the combination of the delivery model of SAAS and a new company. As the software would not be housed at the customer site, if RetailSoft went out of business, the customer would automatically not have access to their software. While there would be limited financial impact due to the monthly pricing model, there was a large risk to their communication process, which could seriously impact their business.

Another key element for RetailSoft was the problem they were trying to solve. While all executives interviewed agreed that task compliance and communication was an issue, it was not a burning issue. Therefore, as one executive stated 'it did not get prioritized' in relation to other strategic options. The pain that RetailSoft solved was not that large or did not provide other strategic opportunities that could be exploited.

Adding to the lack of strategic impact may be the nature of the retail industry. While there were executives who did mention strategy, there were also others who focused on the reactionary nature of the retail industry. 'We solve problems by throwing hours at it, throwing people at it, throwing time at it… we tend to be reactionary to technology.' (Phone Interview C, August 16, 2009) This reactionary nature of the retail industry may increase the reluctance to solve a lower-ranked issue, even though executives did desire the solution. When push came to shove, the risks and effort outweighed the return.

It is key to note that all of the customers and many of the prospects had relationships with at least one of the RetailSoft executives before the software was developed. That is, the RetailSoft executives used their past relationships to develop potential new customers. For all the customers, this was a key element in decision-making process, perhaps indicated that the knowledge of the person mitigated other unknowns of the company during the decision making process.

DISCUSSION

It is well known that organizational decisions are not made in a vacuum nor are they purely rational. However, this case study may have brought to light the multiple factors that weigh in an innovation decision and the interplay between them. Potential customers were influenced by the lack of RetailSoft's longevity, indicating of a perceived lack of legitimacy. Furthermore, while the product did address a known issue of retailers', this issue was frequently not seen strategic enough to warrant a decision. Finally, the SAAS technology model, though providing a strong financial argument, carried its own risks. Thus, from the potential customer perspective, the reduced financial risk of the SAAS model was counter-levered by the combination of the increased risk of not housing the software and the brevity of RetailSoft's track record.

It seems that strategy, the decision making process, and isomorphic pressures each played a role with potential RetailSoft customers. While a much larger study would be required to calculate the power of each of these pressures, this case study has brought to light the integrated nature of these three forces.

CONCLUSION

This case study provides an in-depth look at how decisions are made on an innovative software product. While these results cannot be generalizable, they may provide a basis for future research. This research may be examined from the perspective of the innovation chosen as this researcher chose, or may examine it from the decision maker's perspective without regard for the innovation chosen. However, when the two elements are aligned, the results may be more targeted and provide more clues as to the how these decisions are formed.

For this company, the future is not rosy, but not totally bleak. If the economy does open up and free up the purse strings of businesses, they may increase sales, assuming that is a major factor. If one of the other factors plays a more important role, then the economic conditions of their prospects will not change their sales volume. Nonetheless, it remains to be seen if this company will survive their current stalemate with prospective customers, no matter what the reason.

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A PROFILE OF SMALL BUSINESS OWNERS IN RURAL PENNSYLVANIA AND THEIR AWARENESS OF PUBLICALLY FUNDED BUSINESS ASSISTANCE PROGRAMS

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INTRODUCTION AND LITERATURE REVIEW

Small businesses represent 90% of all businesses and employ two-thirds of the population in rural communities of the United States (Velázquez, 2006). In Pennsylvania, small businesses play an even greater role, with 98% of all Pennsylvania businesses employing fewer than 100 workers, according to the Pennsylvania Department of Labor and Industry. These small businesses also represent the main source of entrepreneurial activity and employment growth in most rural communities. It is important to recognize that it is not the businesses themselves, but the entrepreneurs and small business owners who are the lifeblood of Pennsylvania's rural small businesses. An understanding of *who* rural Pennsylvania's typical small business owners are is an important step in assessing their needs and delivering business assistance services.

The research in this area is typically descriptive in nature and contains little more than basic statistical analysis. Moreover, the majority of the recent literature examines rural small businesses at the industry and business level but rarely at the owner level. Much of this research is narrow in scope, profiling only minority segments such as women or veteran owned business owners. A select few studies examine the broader group of all small business owners.

A 2004 study by the W. K. Kellogg Foundations looked at rural entrepreneurship and found that 10.5% of the U.S. adult population is engaged in some form of "entrepreneurial activity" (W. K. Kellogg & Corporation for Enterprise Development, 2004). Another study, the Kauffman Index of Entrepreneurial Activity (Fairlie, 2005), analyzed national data pertaining to small business owners and entrepreneurs, drawing conclusions about their typical age, gender, race, and regional location. While both of these reports reaffirm the importance of small businesses to rural regions, neither provides comprehensive profiles of the typical rural small business owners which is necessary to effectively create and target business assistance programs. This study presents a broad attempt at profiling Pennsylvania's small business owners.

A second topic of significant research pertains to the assessment of publicly funded financing and technical assistance programs (Goetz, Partridge, Deller & Fleming, 2010). A recent study by Forbes (2010) found that those organizations that take advantage of outside advice—whether professional or informal—have been more successful and experienced stronger turnover than their counterparts. The question of whether government has a role in stimulating entrepreneurship and, if so, how to evaluate whether policy makes a difference in rural small businesses is an important one (Atkinson, 2004; Forbes, 2010),

Most of the literature pertaining to rural small business owners, and the public policy that affects them, echoes Atkinson's position on the importance of rural policy to the nation's long term economic growth along with the fact that there are differences between policy as it relates to rural businesses (Dabson, 2011). Following the 2008/2009 recession, small businesses in their role as job generators are even more important along with choosing the right policies to put in place (Baily, M., Dynan, K., & Elliot, D., 2012). However, few studies delve deep enough to even begin to evaluate the public programs that are in place to assist rural small business owners. Although, some literature is available on federal, state, and local government policy in rural areas pertaining to economic development and business and entrepreneurial assistance, the majority of this literature is descriptive in nature and provides little in the way of in-depth statistical analysis on which to frame public policy.

Objectives

A team of Indiana University of Pennsylvania (IUP) faculty members were awarded a grant from the Center for Rural Pennsylvania to pursue five objectives:

- Create a profile of rural small business owners.
- Identify the federal, state, and local government providers of small business assistance services including university outreach programs.
- Determine small business owners' perception of access and availability of these services in rural areas.
- Assess which services provided by these publicly funded and some private small business assistance organizations were being used and if they were perceived as beneficial.
- Look at best practices and model programs currently in operation that are assisting rural small business owners with growth and expansion opportunities.

This paper presents the results of the first, second and part of the third objectives, developing a profile of rural Pennsylvania businesses and their owners and examining their awareness of publically funded assistance programs.

METHODOLOGY

A variety of pertinent methodologies were used to collect primary data. Two different surveys were developed and administered—one to small business owners and another survey was administered to service providers. Also, a focus group was held with a group of business people, policy makers, and service providers. This paper examines some of the results of the business owner survey.

The survey instrument was designed based on the objectives of the project. The researchers reviewed the literature pertaining to entrepreneurship and small business management, research methodology, survey development, and small business assistance programs to aid in drafting the survey. The survey was pilot-tested with 18 participants comprised of small business owners as well as professionals in small business management, economic development, survey design and analysis, graphic design, and market research. Fifteen participants returned the survey, most with just minor comments. These changes were and incorporated into the final survey.

Reference USA was used as the database to identify a stratified sample of 5,000 small businesses in rural Pennsylvania. The criteria used to create the stratified sample included the following:

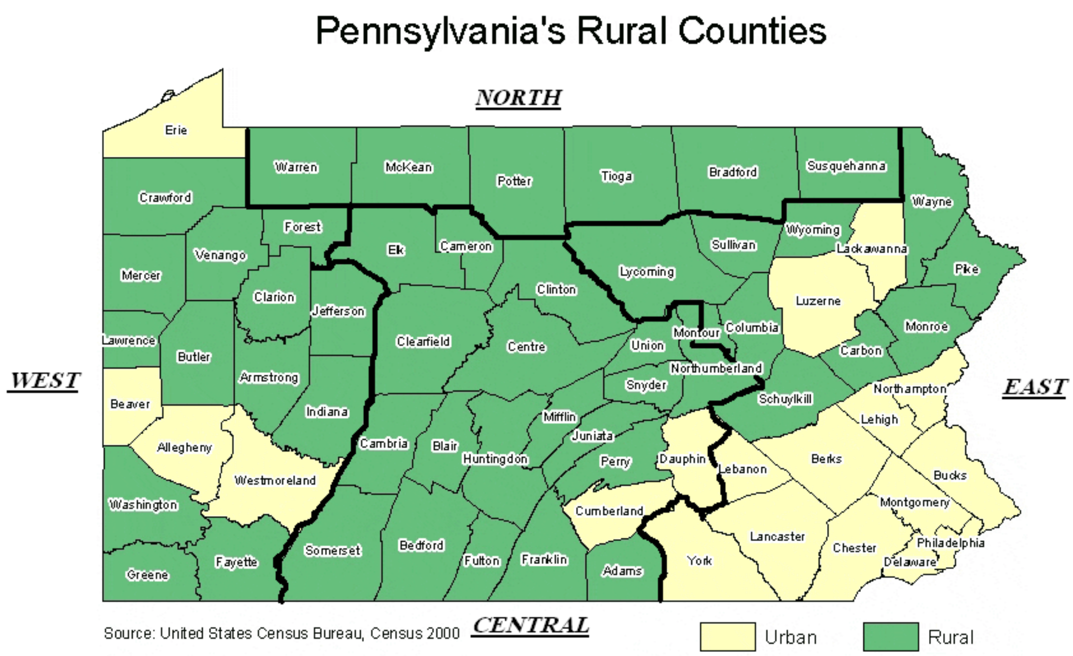
> The definition of a "small business" was based on a variety of guidelines, especially those of the U.S. Small Business Administration (SBA). These guidelines helped to determine the maximum revenues and/or workforce size for small businesses in each industry. In addition, the judgment of the project directors helped in determining a representative sample of the small businesses in rural Pennsylvania. For example, although manufacturing businesses with up to 500 employees are still considered to be small businesses by the U.S. SBA, the target sample in this survey did not include many such businesses. The sample based on the SBA and other criteria were manually scanned to minimize relatively large sized small businesses. The ten industry categories (listed below) were used based on the Reference USA database software's industry categories. These categories are themselves based on SIC codes. The final industry categories were as follows along with their small business criteria shown parenthetically.

- Agriculture/Forestry/Mining (max. $1 million in revenues)
- Construction (max. $10 million)
- Manufacturing (max. 250 employees)
- Legal Services (max. $5 million)
- Wholesale Trade (max. 100 employees)
- Retail Trade (max. $5 million)

- Transportation (max. $5 million)
- Health Services (max. $5 million)
- Business and Personal Services (max. $5 million)
- Finance, Insurance and Real Estate (max. $5 million)

In addition, geographic criteria were employed (48 rural counties and 4 regions).

Figure 1: Rural/Urban County Map of Pennsylvania with the Four Regions Used in the Study



County	Agric	Cons.	Mfg.	Leg.	Whole.	Retail	Transp.	Hlth .	Bus&Pers.	F.I.R.E.	Total
Adams	6	19	7	4	9	35	5	11	31	6	132
Armstrong	2	8	6	2	5	21	3	9	19	5	80
Bedford	2	8	4	1	5	19	3	7	18	4	70
Blair	5	19	10	7	16	51	8	29	44	13	203
Bradford	4	9	6	3	7	24	4	13	22	6	96
Butler	11	38	20	9	34	77	12	39	75	24	338
Cambria	4	15	11	7	15	53	7	30	42	14	196
Cameron	0	0	1	0	0	2	1	1	2	0	8
Carbon	2	8	3	3	4	20	4	11	18	6	79
Centre	6	16	11	6	13	47	7	31	46	16	200
Clarion	1	5	3	1	4	16	3	7	13	3	56
Clearfield	3	10	6	2	9	28	5	15	24	6	108
Clinton	1	4	2	1	3	12	2	6	11	3	46

Table 1: Stratified Sample of Small Business in Reference USA Database

Table 1: Stratified Sample of Small Business in Reference USA Database											
County	**Agric**	**Cons.**	**Mfg.**	**Leg.**	**Whole.**	**Retail**	**Transp.**	**Hlth .**	**Bus&Pers.**	**F.I.R.E.**	**Total**
Columbia	3	10	6	2	8	27	3	12	23	6	99
Crawford	3	13	15	4	11	31	5	16	30	8	136
Elk	2	6	6	1	4	13	2	5	13	2	54
Fayette	4	16	9	6	14	53	7	28	47	14	198
Forest	0	1	0	0	1	3	0	0	2	1	9
Franklin	6	23	10	6	13	46	7	24	45	13	194
Fulton	1	2	1	0	1	4	1	1	4	1	17
Greene	1	5	2	1	3	12	2	6	12	2	47
Huntingdon	2	5	2	1	3	14	2	5	12	3	50
Indiana	4	10	7	3	9	29	4	15	25	7	115
Jefferson	2	6	6	2	6	18	3	9	16	4	70
Juniata	1	3	2	1	3	7	1	2	7	2	29
Lawrence	4	17	10	6	14	37	5	19	32	10	154
Lycoming	4	17	12	7	14	46	6	21	41	14	180
McKean	2	5	3	2	5	15	3	9	14	4	62
Mercer	3	15	12	5	13	46	5	27	37	12	177
Mifflin	1	4	4	1	5	16	2	7	12	3	57
Monroe	8	35	10	8	16	65	9	27	63	22	262
Montour	1	2	1	0	2	6	1	14	6	2	35
Northumberland	2	10	6	3	10	30	4	11	28	6	111
Perry	3	8	2	1	3	16	2	4	14	3	55
Pike	2	9	2	2	3	13	3	5	13	4	55
Potter	1	2	2	1	2	7	1	3	8	1	28
Schuylkill	4	16	12	9	17	51	7	27	46	11	199
Snyder	2	5	3	1	4	17	2	6	13	3	57
Somerset	3	11	8	3	10	27	5	13	25	6	110
Sullivan	0	2	1	0	1	4	0	1	3	1	12
Susquehanna	3	8	4	1	5	17	2	5	14	4	63
Tioga	3	7	3	1	5	20	3	6	18	4	69
Union	3	8	3	2	4	17	1	10	15	4	67
Venango	2	7	5	2	6	18	4	10	16	5	75
Warren	2	5	4	2	5	15	2	8	12	3	57
Washington	9	38	19	12	27	73	11	48	69	22	327
Wayne	4	13	5	3	7	27	5	9	24	8	105
Wyoming	3	6	3	1	4	12	2	5	12	3	51
Total	142	510	290	145	383	1254	187	629	1134	327	5000

RESULTS

The business owner survey (Table 2) resulted in a response rate of 7.28% (n=364). Of the 364 small businesses that responded, 300 did so by mail while 64 completed the Internet survey.

Table 2: Business Owners—Survey Responses		
	Number	Percentage
Surveys Mailed	**5000**	**100%**
Usable Surveys Returned:		
By Mail	**300**	**6.00%**
By Internet	**64**	**1.28%**
Total Usable Surveys Returned	**364**	**7.28%**

Before discussing the results and analysis in detail, it is important to address the sample size and the response rate. The overall sample size is sufficient to make statistically significant conclusions. Specifically, the sample size in the current study is 364. Consequently, for all questions that result in percentages or proportions or scaled responses, there is a maximum of ± 5 percent margin of error at 95 percent confidence level.

The response rate of 7.3% in this study is comparable to those in similar studies. For example, the Napa Valley Economic Development Corporation conducted a survey of 4,000 businesses to collect economic data on future business needs and received 340 responses resulting in an 8.5% response rate (http://www.nvedc.org/napa/survey.htm). Another survey, conducted by the Women's Business Enterprise National Council (WBENC), reported a response rate of 9.9%. They reported that this is the expected response rate for mail surveys to businesses (http://www.wbenc.org/Top Corporations/bestpractices.asp). In another published empirical research in Decisions Sciences (Pflughoeft, Ramamurthy, Soofi, Yasai-Ardekani, & Zahedi, 2003), the authors "anticipated" the less than 5 percent response rate to their survey (n=297) due to "the length of survey."

Demographic Profile & Description of Small Businesses (*Based on Survey Responses)*

- Nearly 90% of the respondents were the actual owners of the businesses.
- Two-thirds of all business owners indicated their business was related to their previous work or occupation.
- 28% of the businesses are home-based.
- The respondents included 78% male and 22% female. The National Foundation of Women Business Owners reported that women accounted for 26% of business owners in Pennsylvania (Frear, 2007).
- The average age of entrepreneurs is 53 with the median age being 54. The age distribution is as follows and reflects the aging population of Pennsylvania (Table 3).

Table 3: Entrepreneur Respondents' Age		
Age	**Number**	**Percentage**
< 30 years	7	2.6
31-40	18	6.7
41-50	**81**	**30.1**
51-60	**98**	**36.4**
61-70	51	19.0
70+	14	5.2
Total	**269**	**100%**

- The distribution of the education level of the entrepreneurs shows that the education level of the entrepreneurs is quite high with over half of all the entrepreneurs possessing a college degree (Table 4). This is especially high compared to the statistic that 18% of rural Pennsylvanians possessed a college degree (*About Rural PA, http://www.ruralpa.org/about.html#7*).

Table 4: Education Levels of Entrepreneur Respondents		
Education	**Number**	**Percentage**
No High School	10	3.6
High School or Equivalent	52	18.8
Post HS, Voc/Tech Degree	23	8.3
Some College or Assoc. Degree	48	17.4
Bachelor's Degree	**65**	**23.6**
Graduate/Professional Degree	**78**	**28.3**
Total	**276**	**100%**

- 95.9% of all the entrepreneurs are Caucasian (Table 5), mirroring the Caucasian population of 95.2% in rural Pennsylvania (*About Rural PA, http://www.ruralpa.org/about.html#7*).

Table 5: Racial Distribution of Entrepreneur Respondents		
Race/Ethnicity	**Number**	**Percentage**
Caucasian (Non-Hispanic)	**256**	**95.9**
Latino/Hispanic	1	0.4
Black/African American	1	0.4
Native American	2	0.7
Asian American	1	0.4
Prefer not to indicate	6	2.2
Total	**267**	**100%**

- The mean and median ages of the respondents' current businesses were 25 and 21 years with the following distribution. There are a number businesses in the Commonwealth that have been in existence for a long time (Table 6):

Table 6: Distribution of Age of Respondents' Businesses		
Years in *Current* Business	**Number**	**Percentage**
1-5	34	11.5
6-15	69	**23.3**
16-25	78	**26.3**
26-35	53	18.0
36+	62	20.9
Total	**296**	**100%**

- The distribution of the surveyed business is a reflection of the percentages of businesses in each industry category in rural Pennsylvania according to the Reference USA database. Legal Services were included as part of Business and Personal Services. The percentages of respondents for most industries are not too far from that (Table 7). The computation of test statistic (□□) results in a value of 70.38, which is larger than the critical value with 0.01 significance and degree of freedom of 8 (□□.1□) of 20.0902. Clearly, this indicates that statistically the respondents do not truly match the original distribution of businesses across various industries in the Reference USA database. A closer look indicates that a few categories have larger variations (e.g., wholesale, retail, and agriculture), whereas some of the largest categories (e.g., professional service and construction) have very small over/under representation.

Table 7: Distribution of Respondents across Various Industries					
Industry	**Surveyed**		**Responded**		
	(%)	**Number**	**(%)**	**Number**	**Over/(Under) Representation**
Professional Service	25.58	**1279**	25.52	74	(0.06)
Retail	25.08	**1254**	19.31	56	(5.77)
Finance, Insurance, and Real Estate	6.54	327	10.69	31	4.15
Health Services	12.58	629	10.34	30	(2.24)
Construction	10.2	510	8.97	26	(1.23)
Manufacturing	5.8	290	8.97	26	3.17
Agriculture, Forestry, Mining	2.84	142	8.28	24	5.44

Table 7: Distribution of Respondents across Various Industries					
Industry	**Surveyed**		**Responded**		
	(%)	**Number**	**(%)**	**Number**	**Over/(Under) Representation**
Transportation	3.74	187	6.55	19	2.81
Wholesale	7.66	383	1.38	4	(6.28)
TOTAL	100%	5000	100%	290	

- The businesses had a stable average of 11 employees in each of the 3 years 2005, 2006, and 2007. The median number of employees was 4 in each of those years. About 6% of the businesses had more than 30 employees which shows the reason for the median employees to be as low as 4. The range was from 1 to 250 employees.
- Nearly half of all the small businesses are sole proprietorships but a significant percentage of the businesses are corporations (Table 8).

Table 8: Respondents by Types of Business Formation		
Form of Ownership	**Number**	**Percentage**
Sole Proprietorship	**133**	**44.6**
S-Corp	**64**	**21.5**
Corporation	47	15.8
LLP/LLC	27	9.1
Partnership	22	7.4
Other	5	1.7
Total	**298**	**100%**

- The small businesses in rural Pennsylvania are very local in nature: 90% of all the revenues were from sales within Pennsylvania. Less than 4% of the sales came from international sales. Online sales accounted for 2.2% of the sales.
- The sample included a wide range of businesses in terms of sales revenue. There were a number of fairly larger businesses with one fourth of the businesses grossing more than $1 million (Table 9). In addition, two-thirds of the businesses experienced a growth in the previous 3-year time period (Table 10).

Table 9: Distribution of Annual Sales of Respondents		
Annual Sales	**Number**	**Percent**
<$100,000	42	20.5
$100K-$500K	**82**	**40.0**
$501K-$1M	27	13.2
>$1M-$3M	28	13.6
$3M+	26	12.7
Total	**205**	**100%**

Table 10: 3-Year Growth/Decline as Reported by Respondents (2005-07)		
3-year Sales Growth	**Number**	**Percent**
Decline	45	18.8
Flat	33	13.8
1-10%	**94**	**39.4**
11-100%	61	25.5
>100%	6	2.5
Total	**239**	**100%**

- The following table indicate there are a number of experienced entrepreneurs (Table 11).

Table 11: Respondents Prior Entrepreneurial Experience (Businesses Owned)										
Businesses currently owned (#)	**#**	**(n= 286) Percent**		**Businesses owned in the past (#)**	**#**	**(n=279) Percent**		**Businesses that they deemed successful (#)**	**#**	**(N=192) Percent**
1	**201**	**70.3**		**1**	**149**	**53.4**		**1**	**68**	**35.4**
2	50	17.5		2	57	20.4		**2**	**54**	**28.1**
3	23	8.0		3	38	13.6		3	40	20.8
4+	12	4.2		4+	35	12.6		4+	30	15.6
Mean = 1.57 and Mode = 1				**Mean = 2 and Mode = 1**				**Mean = 2.43 and Mode = 2**		

- The following table (Table 12) shows the variety of reasons for an entrepreneur to become involved in his/her businesses (multiple responses allowed for each respondent):

Table 12: Respondents' Reasons for Starting Businesses *(<u>Multiple reasons possible</u> for individual entrepreneurs therefore percentages do not add up to 100*		
Reason for Starting Business	**N=365**	**%**
Wanted to be his/her own boss	**168**	**46**
Generate income	**101**	**28**
Lifelong ambition	75	21
Flexible work schedule	74	20
Dissatisfied with previous job	60	16
Joined family business	48	13
Create something for future generations	40	11
Had a product/service idea	36	10
Downsizing by previous employer	27	7
Other (random reasons):	34	9

Growth Plan Responses

- About 55% of the businesses have plans to expand, predominantly by growing sales in existing markets. Based on 365 respondents, the following table shows the number of businesses that have specific growth/expansion plans (Table 13):

Table 13: Respondents' Growth Plan			
Method Type	**Internal Growth**	**Acquisition/ Merger**	**Joint Venture**
Expand sales (in existing market)	**143**	18	7
New Market	71	12	5
New Product	81	4	10

Referring to Table 13, a total of 153 businesses had plans to expand sales in existing markets, some by multiple modes. 130 had plan to do so exclusively by Internal Growth, seven exclusively by Acquisition/Merger, three exclusively by Joint Venture, nine by both Internal Growth and Acquisition/merger, two by Internal Growth and Joint Venture, and two by doing all three. That makes it 143 businesses with Internal Growth plans, 18 with Acquisition/Merger plans and seven with Joint Venture plans.

Impact of External Factors on Businesses

- The survey also addressed the perception of the entrepreneurs and small business owners about the impact of several external factors on their businesses (Table 14).
- It was understandable that the economy was perceived to be a barrier (the survey was administered right at the beginning of the fall of 2008 when

the bad news pertaining to the economy was highlighted by the presidential campaign).

- It was also administered at a time when the energy prices had been at their peak.
- Infrastructure, international competition and availability of publicly funded assistance service providers are not deemed to be barriers.
- Business owners are most confident about the overall market for their products and services. The service providers have similar perceptions about these factors.

Table 14: Impact of External Factors as Perceived by Business Owners and Service Providers				
Factor:	Businesses (n=271 to 283)		Service Providers (n=60 to 62)	
	Mean*	*S.d*	Mean*	*S.d.*
Overall Economy	***1.92***	***0.99***	***1.80***	***1.01***
Regional Economy*	***1.94***	***0.96***	***2.34***	***1.29***
Overall Market for your product/service**	**3.05**	**1.25**	**3.40**	**1.15**
Availability of required workforce	2.64	0.94	2.60	1.17
Availability of financing	2.78	0.78	2.52	1.05
Technology/communication infrastructure	2.98	0.60	2.94	1.07
Transportation infrastructure	2.91	0.67	2.76	1.14
Environmental regulations	2.61	0.72	2.61	0.80
Competition within the U.S.	2.61	0.71	2.68	0.76
Competition—international**	**2.86**	**0.61**	**2.60**	**0.88**
Availability of publicly funded assistance providers	2.89	0.57	2.92	1.00

***Scaling:** 1-Major Barrier 2-Minor Barrier 3-Neither Barrier nor Opportunity 4-Minor Opportunity 5-Major Opportunity

***** At the 0.05 significance level, the perception of service providers and business owners were statistically different.***

Transition Planning

- A number of questions were asked pertaining to business transition/succession. Of the 259 respondents, 23% had a transition/succession plan while 77% did not have a plan (Table 15). The reasons for not having a plan are as follows (n=203):

Table 15: Reasons Why Businesses Don't Have Transition Plan		
Reasons:	**N**	**%**
I do not plan to transition my business' ownership	**79**	39%
Too early	**72**	35%
Too complex--I wouldn't know where to begin	16	8%
Other (Random reasons)	15	7%
Adequate advice/assistance not available	11	5%

Table 15: Reasons Why Businesses Don't Have Transition Plan		
Reasons:	**N**	**%**
Too time consuming	7	3%
Don't want to deal with family/employee issues	3	1%

- Only a small number of the owners (11) said that they do not have a transition plan because of the lack of adequate availability of advice and assistance.
- The following table (Table 16) shows how the 23% of the respondents plan to transition from their business:

Table 16: Transition Intention as Expressed by Respondents		
Transition Intention:	**N**	**%**
Specified in my will	**19**	**22%**
Gift to family members	**17**	**20%**
Sell to competitors or suppliers	11	13%
Sell to family members	10	12%
Sell to partners	10	12%
Sell to investors	7	8%
Sell to management/key employees	6	7%
Sell/liquidate assets and close business	5	6%
File for IPO—taking it public	0	0%

- It is important to note that *only 1 out of the 62* respondents on the question said that they would rely on "publicly funded service providers" for transition/succession planning while 52 would rely on private entities and the rest would rely on "no one."

Small Businesses' Awareness of Service Providers in Rural Pennsylvania

- It is clear that the general awareness is low (Table 17)
- Awareness is high only for Chambers, Pennsylvania CareerLink, Tourism Bureaus, Universities, and SBA (the first five items in the table as shaded).
- Awareness is low for others-- about 80% of businesses are not aware of several service providers; the bottom 7 service providers less than 10% of the business owners aware of their existence.
- A small percentage of respondents reported that certain service providers are not available in their area; but in reality, that is not the case

Table 17: Entrepreneur's Awareness of the Availability of Various Services							
Service Providers	**Available in your area?**						
	Yes %	**Yes #**	**No %**	**No #**	**Don't know %**	**Don't Know #**	**Total Responses**
Chambers of Commerce	**85%**	**222**	**6%**	**16**	**9%**	**24**	**262**
Pennsylvania CareerLink	**78**	**204**	**4**	**11**	**18**	**46**	**261**
Tourism Bureaus	**68**	**171**	**6**	**15**	**26**	**64**	**250**
Universities	**64**	**152**	**14**	**34**	**22**	**53**	**239**
SBA – Small Business Administration	**58**	**145**	**7**	**17**	**35**	**88**	**250**
DCED – www.newpa.com	30	75	9	24	**61**	153	252
SBDC – Small Business Development Center	26	64	9	22	**65**	160	246
SCORE – "Counselors to America's Small Bus."	25	62	8	21	**67**	165	249
State Loan Programs (MELF, PIDA, etc.)	22	55	8	19	**70**	172	246
USDA Rural Development	21	50	10	23	**69**	161	234
CJT – Customized Job Training programs	18	44	14	34	**68**	170	248
Ben Franklin Technology Centers	12	30	23	58	**65**	163	251
PennTAP – PA Tech. Assist. Prog.	12	29	10	25	**78**	189	243
Industrial Resource Centers	9	23	12	29	**79**	194	246
Business Retention and Expansion Program	7	17	15	38	**78**	191	246
Governor's Action Team	7	17	14	35	**79**	195	247
SEAP – Self Employment Assistance Program	7	16	11	28	**82**	199	243
GCAP – Government. Contracting Assistance Program	6	15	12	30	**82**	199	244
WEDNet's GFT Guaranteed Free Training Program	6	15	12	29	**82**	192	236
eBizITPA – Center for eBusiness and Advanced IT	5	11	15	37	**80**	197	245

CONCLUSIONS

Based on the primary research consisting of the administration of the as well as an extensive literature review, the following is a summary of the conclusions:

Demographic Profile of Businesses and their Owners in Pennsylvania

- ***Two-thirds*** of all businesses are ***related to the owners' previous work*** or occupation.
- ***28%*** of the businesses ***are home-based***.
- The ***male to female ratio is 78:22***.
- The ***average age of entrepreneurs is 53*** with the median age being 54. The age distribution reflects the aging population of rural Pennsylvania.
- The education level of the entrepreneurs is high with ***over half of all rural Pennsylvania's entrepreneurs possessing a college degree*** as compared to 28% of the nation's population over 25 years of age possessing bachelor's degree or higher.
- ***95.9% of all the entrepreneurs are Caucasian***, mirroring the Caucasian population composition of 95.2% in rural Pennsylvania

- The ***mean and the median ages of the businesses are 25 and 21 years***, respectively.
- The businesses had an ***average of 11 employees***, stable in each of the 3 years—2005, 2006, and 2007. The median number employee was 4 in each of those years. About 6% of the businesses had more than 30 employees.
- Nearly half ***(47%) of the businesses are in the stage of what is termed "pure service"***—professional service, healthcare, finance, insurance and real-estate; in addition, ***28% are in retail, wholesale and transportation***. The remaining one-fourth of the businesses is in the traditional industries of manufacturing, construction, agriculture, and mining.
- ***Nearly half*** of all the small businesses are ***sole proprietorships***, but a significant percentage of the businesses are corporations.

General Conclusions pertaining to the Small Businesses

- The small businesses in rural Pennsylvania are ***very "local" in nature. 90% of all the revenues were from sales within Pennsylvania***. Less than 4% of the sales came from international sales. Online sales accounted for 2.2% of the sales.
- There are a ***wide range of businesses in terms of sales revenue***, including a number of fairly large businesses (one fourth of the businesses grossing more than $ 1 million).
- ***Two-thirds of the businesses experienced growth*** in the previous 3-year time period (2005-2007).
- There are ***a number of experienced and serial entrepreneurs—30%*** of own more than one business currently, and 47% owned more than one business in the past.
- About ***55% of the businesses have plans to expand***, predominantly by growing sales in existing markets.
- The perception of ***the impact of several external factors*** on their businesses:
    - The ***regional economy, general economy and energy prices*** were perceived to be the ***greatest barriers*** (survey administered in September/October 2008)
    - Infrastructure and international competition are ***not*** deemed to be barriers and the availability of publicly funded assistance service providers is also ***not*** perceived to be an issue.

   - The business owners are most confident about the overall market for their products and services.
   - The service providers have similar perceptions about these factors.
- ***Small Businesses Awareness of Publically Funded Service Providers***
- The ***manufacturing industry has more awareness of the various service providers.*** That is statistically significant in the cases of Ben Franklin Technology Centers, eBizITPA, GCAP, Governor's Action Team, Industrial Resource Centers, State Loan Programs, and WEDNet/GFT Programs.
- There is ***no statistically significant difference in awareness of services between male and female owned businesses***.
- It was ***observed that small businesses with at least 20 employees had greater awareness levels of all service providers when compared to their smaller peers***. Specifically, at a confidence level of 90%, this was true with awareness and usage of Chambers of Commerce, DCED's www.newpa.com, Industrial Resource Centers, Pennsylvania Career Link, State Loan Programs, WEDNet, and GFT Program.
- The ***businesses with over five years or more had greater awareness levels of all service providers when compared to their "younger" business peers.*** Specifically, at a confidence level of 90%, this was true with awareness of Ben Franklin Technology Centers, DCED's www.newpa.org, Industrial Resource Centers, Pennsylvania Career Link, and WEDNet's GFT Program.
- A similar analysis was conducted between businesses where owner's had a college degree (bachelor or graduate/professional) and businesses where owners did not have a college degree. There was **<u>no</u> statistically significant difference in awareness of service providers related to education.**
- ***Home-based businesses had lower awareness than their non home-based counterparts.*** Specifically, at a confidence level of 90%, this was true with the awareness of Business Retention and Expansion Program, eBizITPA, Governor's Action Team, and SCORE.

The ***awareness of service providers is both higher among companies that have reported to have growth plans in the next three years.*** Specifically, at a confidence level of 90%, this was true with awareness of Ben Franklin Technology Centers, Business Retention and Expansion Program, CJT, DCED's www.newpa.org, eBizITPA, PennTAP, SBA, SBDC, and WEDNet's

GFT Program. The usage of DCED's web site, PennTAP, SBA, SBDC, and the WEDNet's GFT program is also higher with statistical significance.

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HUMAN RESOURCES MANAGEMENT: BIG PROBLEM FOR SMALL BUSINESS?

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ABSTRACT

In order for a growing small business to be successful it must have highly motivated, competent, and content employees. The employee's goals must be aligned with the business' goals in order for the employer to foster employee motivation. For employers to grow such a workforce they need to have human resource strategies that support the alignment of business and employee goals. The business must create a win-win situation.

Frequently, small business owners have excellent knowledge of their particular field or core competency. However, research has indicated that many small business owners-managers lack important knowledge related to labor law compliance and human resources (HR) management. In addition, those who may have an adequate knowledge in the HR field do not have the structure in place to effectively support HR initiatives.

This study focuses on four HR facets of small business companies to ascertain their level of knowledge and provide suggested areas where small business owners need training. A questionnaire survey was conducted with small business owners in the southern United States. The focus of this study includes: (1) Legal Compliance – Fair Labor Standards Act; (2) Recruiting, Screening, and Hiring Employees; (3) Employee Relations, Training, and Documentation; and (4) Miscellaneous HR Questions.

HRM: BIG PROBLEM FOR SMALL BUSINESS?

Are small business owners comfortable with their level of knowledge in employment legal compliance? Overall, do they have an adequate knowledge of human resources (HR) laws and standards? Do they feel confident when they recruit, interview, hire, motivate, discipline, and even discharge employees? To answer these questions, hundreds of small business owners and managers throughout the southern United States were surveyed.

It is worth noting that small businesses create most of the nation's new jobs, employ about half of the nation's private sector work force, and provide half of the nation's nonfarm, private real gross domestic product (GDP), as well as a significant share of innovations (SBA, 2009).

Small firms also make important contributions to the economy through innovations and the creation of jobs, enterprises, and entire new industries. Small firms are still struggling mightily from the recessionary economy of 2008—and if the past is an indication, they will likely help lead the economic recovery (SBA, 2009). It is widely understood that small firms are a vital part of our nation's economic engine. Therefore it is important that these firms operate their businesses in a legally compliant as well as profitable manner. This will improve their likelihood for success and foster lawsuit avoidance.

LITERATURE REVIEW AND RESEARCH RATIONALE

The focus of the study includes four parts: (1) Legal Compliance – Fair Labor Standards Act; (2) Recruiting, Screening, and Hiring Employees; (3) Employee Relations, Training, and Documentation; and (4) Miscellaneous HR Questions.

(1) Legal Compliance – Fair Labor Standards Act

Anne Field (1998) reported that from 1971 to 1991, the number of employment law disputes filed in federal court rose by 430%, a larger increase than for all other types of cases, according to a study by the Commission on the Future of Worker-Management Relations, an advisory body appointed by President Clinton. Steven Irwin (2007) explained that far too many small business owners wrongly assume the Fair Labor Standards Act (FLSA) does not apply to them or their employees. This mistake can be costly and often when an employer realizes the error, it is too late to avoid financial liability. Irwin (2007) also reported that the U.S. Department of Labor's Wage and Hour Division recovered more than $212 million in back wages, a 21 percent increase over the record-setting amount in 2002. The Wage and Hour Division undertook an investigation-based compliance survey of identified low-wage industries in fiscal year 2006. The initiative was designed to measure FLSA compliance in those industries most likely to have minimum wage and overtime violations.

Richard Acello (2010) asserted that, in 2008, sales associates sued AT&T Mobility in federal court in New York City for back pay and unpaid overtime spent responding to e-mails after work hours. Acello added, with workers seeking pay for such after-hours work, companies are wrestling with policies for smartphone use. Larger employers are bracing for an onslaught of class action suits.

According to another AT&T overtime class action lawsuit, managers "were illegally and grossly under-compensated for their work" and "routinely and consistently work alongside other employees, similarly situated, who are remunerated on a basis that includes payment for hours worked in excess of 40 hours per week." The AT&T managers are seeking three years of back pay with damages doubling that amount – a figure that could total tens of millions of dollars.

Two additional overtime class action lawsuits are currently pending against AT&T in Georgia and California. The telecom giant has settled eight overtime cases in the last four years for a combined total of $65 million, according to the plaintiff attorneys in the Connecticut case, *Sharon L. Perkins, et al. v. Southern New England Telephone Co*. (Mirando, 2011)

Although AT&T is obviously a large business, it would be logical that if large corporations with trained human resources professionals can make such errors then perhaps small businesses are making the same errors. These errors certainly could expose even small businesses to lawsuits.

According to the Department of Labor's Bureau of Labor Statistics, approximately 10.3 million workers, representing 7.4 percent of the American workforce, were treated as independent contractors in 2005. Many of these individuals may have been misclassified as independent contractors, either intentionally or as a matter of genuine confusion, by the employer about how to classify the particular worker. The classification issue is important to employers as well as the government, since independent contractors are not entitled to the protection of federal laws such as FLSA or Title VII of the 1964 Civil Rights Act, and other statutes.

(2) Recruiting, Screening, and Hiring Employees

Small businesses continue to face challenges in the current climate, including accessing capital in the midst of financial instability. Over the longer term, small firms face concerns about the cost and availability of health insurance, attracting a quality work force, meeting global competition, and perennial concerns about regulation, taxes, and government procurement opportunities (SBA, 2009). Small businesses must compete effectively for labor with their larger counterparts. This is more difficult in light of the disparity in total compensation, especially benefits. This disparity results in greater employee turnover. Firms that offer benefits have a 26.2 percent lower probability of having an employee leave in a given year (SBA, 2009).

Kotey & Slade (2005) reported that it is expected as firms grow, the skills and abilities required to perform various functions and activities no longer would be available from the familiar and informal recruitment sources preferred by the owner-manager. Thus, a greater variety of formal recruitment sources would be used to attract suitable candidates. As firms grow, multiple selection techniques would be used, in addition to interviews, to reduce errors in selecting employees recruited from sources unfamiliar to the owner-manager.

Heneman and Berkley (1999) studied the application practices and outcomes among small businesses. The content domain of attraction practices included ten areas: (1) methods to establish job requirements; (2) recruitment sources and methods; (3) recruitment communication; (4) selection methods; (5) who takes part in evaluation of applicants; (6) method of making job offers; (7) methods of determining starting pay; (8) special pay systems; (9) benefits; and (10) special inducements.

The above-mentioned application attraction practices and their linkages to four attraction outcomes (applicants/vacancy, days-to-fill, acceptance rate, and retention rate) were investigated. Use of previous practices as well as many others (special hiring inducements, for example) were found and these varied according to company size, industry, and presence of an HR department. Another example, using both past applications and newspaper ads as recruitment sources resulted in fewer days-to-fill vacancies providing promotion possibilities. New employee training programs resulted in higher acceptance rates.

Heneman and Berkley (1999) reported a major knowledge gap regarding the attraction practices actually used by small businesses and the effectiveness of those practices. At a time when small businesses need strong human resources management practices to manage their growth, the HR function is typically an underdeveloped functional area in the organization. This important void needs to be filled if small businesses are to learn how to effectively attract a more a qualified workforce, which is a key component of overall management of the firm's human resources.

Glenn McEvoy (1984) sought information about usage of HRM practices in HR policy and strategy, staffing, performance evaluation, motivation, compensation and benefits, job satisfaction, and turnover. McEvoy found that job advertisements and walk-ins were the most widely used (67 percent) recruitment methods, and that interviews and application blanks were the most widely used (90 percent) selection techniques. In addition, while most firms (90 percent) conducted performance appraisals, relatively few attempted to relate pay raises to appraisal results.

Hornsby and Kurato (1990) found that firms of all sizes used primarily informal and inexpensive recruitment and selection techniques with employee referrals and the interview process being the most highly used and rated of the recruitment and selection techniques. Deshpande and Golhar (1994) discovered that the results of nine recruitment sources yielded almost identical results for both small and large firms. Specifically, job posting was used most frequently, followed by promotion, employee referral, temporaries, transfers, advertisements, employment agencies, educational institutions, and previous applicants. Both large and small firms used interviews extensively (90 percent).

Demographic trends in the coming years may exacerbate the challenges for small businesses in employee recruitment and retention. The Baby Boom generation comprises 78.2 million Americans born between 1946 and 1964, and the first wave of this group has already begun to retire, a process that will accelerate over the next decade. These retirements pose two problems for businesses large and small. First, firms will see a mass exodus of institutional knowledge that will be hard to replace in certain fields. Second, the departure of this large generation from the work force could lead to labor shortages in some industries. Labor shortages mean that firms may need to compete for skilled workers, and small businesses are sometimes at a competitive disadvantage in outbidding larger firms (SBA, 2009).

(3) Employee Relations, Training, and Documentation

Many new employees come equipped with most of the KSAs (knowledge, skills, and abilities) needed to start work. Others require extensive training before they are ready to make much of a contribution to the organization. The term *training* is often used casually to describe almost any effort initiated by an organization to foster learning among its members. However, many experts distinguish between *training*, which tends to be more narrowly focused and oriented toward short-term performance concerns, and *development*, which tends to be oriented more toward broadening an individual's skills for future responsibilities. The two terms tend to be combined into a single phrase – training and development – to recognize the combination of activities organizations use to increase the knowledge and skills of employees. (Snell and Bohlander, 2010)

Training is time consuming, but an investment in training can result in increased worker competence and motivation. The business benefits through increased productivity and profitability. Training is not always the answer to a performance problem. There may be other causes such as poor management or conditions beyond the employee's control. For these reasons it is important to approach training as a systematic process. (Stetar, 2005)

Research shows that an organization's revenues and overall profitability are positively correlated to the amount of training it gives its employees. According to *Training* magazine's ongoing industry report, U.S. businesses spend about $50 billion annually to provide each of their employees with about 25 hours of training annually (Bohlander & Snell, 2010). By contrast, the 100 best U.S. companies to work for, as cited by *Fortune* magazine, provide their employees with approximately double that amount of training and sometimes even more. New employees hired by the Ritz Carlton hotel chain get over 200 hours of training (Bohlander & Snell, 2010).

King, Solomon, and Fernald Jr. (2001) stated that previous literature on family businesses suggests family businesses have difficulty managing their human resources, especially when it concerns a family member or the transition from the founder to the successor. Their study examined the correlation between the subjects' potential capability (PC) and the supervisors' assessment of the managers' performance, additional analyses were conducted to determine which subjects had a PC rating that did not align with the complexity of their assigned roles (King et al., 2001). With few exceptions, the borderline individuals are functioning at levels lower than or barely equal to the complexity level of their position. Thus it appears that the organization is not effectively managing its human resources. Specifically, managers are not placed in positions for which they qualify.

Terry Wager (1998) asserted that relatively little research has focused on human resource management practices in small firms. His study investigated the incidence of ten human resource management practices. Respondents were most likely to report sharing business information with employees and having an orientation program for new employees. The study also examined whether the presence of such practices was related to characteristics of the organization. The most dominant finding was the very strong relationship between human resource practices and progressive decision-making ideology.

Wager (1998) suggested firms that encouraged open communication, participation in management decisions, and a systematic search for opportunities were more likely to have implemented practices. The relationship between progressive decision-making ideology and each of the practices was highly significant. A conclusion was that firm size was an important predictor of human resource management practices. Very small firms were much less likely to have adopted most of the human resource management practices examined in this study. The presence of a formal performance appraisal system and an HRM department were significantly more likely to exist in firms with a minimum of 100 employees.

Kotey and Slade (2005) used data to demonstrate a move toward division of labor, hierarchical structures, increased documentation, and more administrative processes as the number of employees increase. The adoption of formal employment procedures at the managerial level will lag behind that at the operational level for small firms, as owner-managers prefer to employ the few managers required from family and friends. Few owner-managers have formal and professional policies on human resource-related issues such as promotions, incentives, and disciplinary action.

Carlson, Upton, and Seaman (2006) suggested that training and development, recruitment package, maintaining morale, use of performance appraisals, and competitive compensation were more important for high sales-growth performing firms than for low sales-growth performing firms. They found that these activities do in fact have a positive impact on performance. In addition, they suggested that high sales-growth performing firms used more cash incentive compensation at every level in the organization.

Heneman and Berkley (1999) found in their study of 117 small businesses that providing cost-of-living increases, promotion possibilities, and having the HR manager evaluate job applicants lead to higher retention rates. Desphande and Golhar (1994) asserted the ratings of importance of numerous HRM practices to the firms' operations revealed that the top five practices for both large and small firms were open communication, pay based on performance, competitive wages, training new employees, and job security.

(4) Miscellaneous Hr Questions

Deshpande and Golhar (1994) summarized to be successful in a global market, a small firm needs a highly motivated, skilled and satisfied workforce that can produce quality goods at low costs. However, to develop such a workforce, a firm has to implement an appropriate human resources management (HRM) strategy. In practice, other functional management areas such as finance, production, and marketing usually get preference over personnel management. This lack of understanding of HRM issues and their importance in the operation of a successful business has impacted many small firms. Desphpande and Golhar (1994) determined that HR managers of both types of firms preferred to fill vacancies from within the organization and used job posting and bidding extensively. While one-on-one interviews and written tests were popular among both large and small firms, small firms made more extensive use of job tryouts.

For the past course of four years, we have partnered with a Small Business & Technology Development Center to offer business owners HR and OSHA reviews. We have partnered with students in Human Resources Management courses to perform these small business reviews. The student group, along with one of authors as the facilitator, reviews the required HR labor law postings, potential safety or OSHA violations, fire protection, personal protective equipment, general work environment, walkways, stairs, exits, and power sources looking for opportunities for improvement for the small business owner. In addition, the student groups interview the business owner asking questions about staffing, equal employment opportunity, compensation, benefits, training, employee appraisal and development, safety, documentation, and labor relations. The students provide recommendations and supporting documentation of any applicable laws or standards supporting their recommendations.

Many students groups found that small business owners did not properly display the required labor law postings. Many small business owners did not have sufficient knowledge of the Fair Labor Standards Act. Many owners had little structure or documentation practices regarding recruiting, hiring, and training employees. In addition, many owners do not have a policy manual or handbook, employee files, or performance indicators for employees.

WHY CONDUCT THE SURVEY?

Through these HR reviews, we saw first-hand that many small business owners are lacking knowledge in various areas of the HR realm. Although many small business owners are superb in their particular craft or field, they could use additional training regarding HR best practices. The questionnaire survey was developed to target the particular facets of HR management that the small business owners need training in the most. In essence, the questionnaire survey allowed us to develop a needs assessment for small business owners related to HR in order to develop specific training to address those needs.

Secondary research was performed to determine what information was readily available to compare with the current findings on HR training needs. Primary research was conducted in the form of the questionnaire survey. Eighty small business owners in the southern United States that were emailed the survey anonymously responded. Local Chamber of Commerce organizations were supportive and emailed the questionnaire surveys from their area Chamber offices which provided additional credibility and they supported that there was a need to conduct the survey.

ANALYSIS OF RESULTS

The survey results allowed us to identify the HR training needs that small business owners' need. Additional HR management training programs were developed to offer regional small business owners. Of the 80 businesses that responded, 87 percent were the owner of the business, 7 percent were the manager, and 6 percent were an employee of the business other than an owner and manager.

Regarding Part One of the study (Legal Compliance – Fair Labor Standards Act), of the respondents asked to answer, "My employer/business is required to follow Family & Medical Leave Act (FMLA) standards," 39 answered TRUE and 41 answered false. Interestingly enough, on the next question, "My employer/business has fifty or more employees," only seven answered TRUE and 73 answered FALSE. This leaves a discrepancy of 32, or 40 percent, of respondents that believe their employer/business is required to follow FMLA standards that actually do not meet with requirement of a minimum of 50 employees. It is unknown whether the seven that answered TRUE to the prior question have 50 or more employees. The discrepancy could actually be greater than 40 percent.

When asked to answer, "My employer/business is required to post the Employee Polygraph Protection Act Notice in a conspicuous area for employees," 45 percent answered TRUE and 55 percent answered FALSE. This is a 55 percent error rate. All small businesses who have employees on payroll must post this notice in a conspicuous area. This question was intended to indicate whether or not the employer is aware of the labor law posting requirements of their business.

When asked to answer, "My employer/business is required to follow many of the regulations listed in the Fair Labor Standards Act," 85 percent answered TRUE and 15 percent answered FALSE. This is a 15 percent error rate. This error rate indicates that 15 percent of the respondents are either not aware of what the Fair Labor Standards Act encompasses, such as minimum wage and overtime pay legal requirements, or they are not aware that their business is required to follow the Fair Labor Standards Act. All employers are required to adhere to the Fair Labor Standards Act.

When questioned if employers were required to excuse an employee's absence while they are on military leave, 91 percent answered a correct TRUE response. This was a promising result. However, when asked the question regarding their hourly compensated workforce, "Employers are required to pay overtime (at 1 1/2 times the hourly rate) for employees who work more than 40 hours in a work week," only 79 percent answered TRUE. This result was truly alarming, indicating that 21 percent are not aware of this legal requirement. When asked, "Employers are required to pay overtime (at 1 1/2 times the hourly rate) for employees who work more than 8 hours in a one day," fourteen percent of the respondents answered this incorrectly with a TRUE response.

To further alarm us when asked, “The Fair Labor Standards Act states that employers must provide a lunch break for employees who work an eight hour shift,” almost all, 96 percent, of the respondents answered incorrectly with a TRUE response. However, although it is not required under the FLSA to provide breaks during an eight-hour shift, many would argue that providing periodic breaks to employees is a good employer policy and would typically result in reduced fatigue and associated affects such as a reduction in employee quality, efficiency, and safety due to fatigue.

Our conclusion to this section of the questionnaire is that a there is a sufficient need for small business employers to receive training on labor laws and the required labor law posters, with specific attention to training regarding what is, and is not, required under the FLSA.

Regarding Part Two of the study (Recruiting, Screening, and Hiring Employees), 77 percent of the respondents were aware that it was inappropriate to ask an applicant their age during an interview. It is appropriate to ask the applicant if they meet the age requirements for a particular position, such as serving alcoholic beverages. However, 89 percent of the respondents realized that an employer has a legal right to ask if the applicant meets the key physical requirements of the job. A disappointing 63 percent of the respondents actually utilized written job applications when screening and interviewing potential employees. Fifty-four percent use a prepared standard list of interview questions they ask during interviews; and 86 percent of respondents conduct reference checks.

Although a large percentage of small business employers seem not to utilize employment applications, they seem to have a relatively decent grasp of recruiting, hiring, and screening. Due to the poor response regarding application usage, a need is identified for training on the importance of employment applications. It must be explained that employment applications are critical to providing documented prior employment data and determining if the applicant has the needed knowledge, skills, and abilities, needed for the position. In addition, accepting applications is a good practice in regards to avoiding perceived or actual discriminatory practices in recruiting and hiring employees.

Let us now embark on Part Three of the study (Employee Relations, Training, and Documentation). Only 51 percent of respondents indicated having a policy booklet or handbook. However, a promising 81 percent of businesses maintained a personnel file for each employee. A meager 44 percent of respondents had a documented new-hire orientation process or new job training program. Furthermore, a dismal 30 percent of respondents shared performance measures with employees such as production, customer service, safety, quality, productivity, sales, or any other company goals. It is widely accepted that sharing company performance measurements and goals with employees is critical to success. When employees’ pay is based on their performance, being measured and tied to company goals, this is typically rewarding for both the employee and the company. This in turn aligns the goals of the employee and the employer creating a win-win scenario that all employers should seek.

In contrast to the documenting performance measures, 52 percent of respondents document when an employee is rewarded. Furthermore, 69 percent of those businesses who responded documented when performing disciplinary action. It is noteworthy to mention that 26 percent of respondents have a documented drug testing policy of any kind.

Finally, Part Four of the study (Miscellaneous HR Questions). This line of questioning indicated that the vast majority of respondents categorized themselves as having average or below average knowledge of HR laws and standards. When asked what aspects of HR training would provide their organization the most benefit, “Legal Compliance” (FLSA, EEOC, payroll, etc.) came in first place by several responses with “Employee Relations / Retention / Motivation / Discipline” coming in second place. “Recruiting, Interviewing, and Hiring Employees” trailed closely in third place.

A BIT ABOUT THE SBTDC

The Small Business and Technology Development Center (ASBTDC) is funded by the Small Business Administration (SBA) and a southern state. The SBTDC conducts several training seminars each year to assist small businesses with planning, implementing, and improving business operations. These seminars are designed to provide entrepreneurs with information that will assist in strengthening their businesses which are the backbone of the economy and provide jobs in increasing numbers each year. This study was undertaken for the purpose of improving the effectiveness of these seminars, which in turn should help to enhance the small business operations in the southern United States. In order to ensure that these training seminars meet the needs of small businesses in our state, we surveyed SBTDC entrepreneurs to gather information on HR topics about which we believe more training is needed.

CONCLUSIONS

This study focused on HR facets in small business in the southern United States by questionnaire. The focus of the study included four parts (1) Legal Compliance – Fair Labor Standards Act; (2) Recruiting, Screening, and Hiring Employees; (3) Employee Relations, Training, and Documentation; and (4) Miscellaneous HR Questions.

In order for a growing small business to be successful it must have highly motivated, competent, and content employees. The employee’s goals must be aligned with the business’s goals in order for the employer to foster employee motivation. In order for employers to foster such a workforce, employers need to have human resource strategies that support these initiatives. Frequently, small business owners have an excellent knowledge of their particular field or core competency. However, our research has indicated that many small business owners-managers lack important knowledge related to labor law compliance and human resources (HR) management. In addition, those who have an adequate knowledge in the HR field do not have the structure in place to effectively support HR initiatives.

RECOMMENDATIONS

The U.S. Department of Labor has an online reference service called eLaws Advisors which is designed to provide an easy-to-use reference tool to help employers and employees better understand federal labor laws. The free service offers help and information on complying with federal rules and regulations, including the Family and Medical Leave Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, Small Business Retirement Savings Programs and Poster Requirements.

Small businesses throughout the United States can contact their local Small Business Development Center to receive free consulting and low cost training on matters related to HR, or many other facets of small business management.

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FINANCING FOR SMALL BUSINESS IN A SLUGGISH ECONOMY VERSUS CONFLICTING IMPULSES OF THE ENTREPRENEUR

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ABSTRACT

The start of what is now termed the "Great Recession" began in December 2007 and statistically ended in June 2009, yet small businesses continue to struggle financially in 2012. Entrepreneurial activities for the most part are dependent upon the availability of financing. Access to capital remains a serious problem for entrepreneurs in this sluggish economy. Even when credit is available to qualified small businesses many avoid pursuing financing. This could be contrary to the wellbeing of the enterprise. In this regard common sense can take a backseat to the entrepreneur's stress and strain psyche.

The purpose of this research paper is to provide information to practicing entrepreneurs with regard to the impact economic contractions can have on businesses and how they cope and survive. Do small businesses by and large have access to capital? If capital is available for small business lending are entrepreneurs taking advantage of the opportunity to borrow? What steps have been taken by federal and state governments to make it conducive for small business to borrow? Does increasing the availability of financing for small businesses create a sufficient inducement for small businesses to borrow to grow their business during uncertain economic times? Is bootstrapping an option?

INTRODUCTION

Small businesses continue to face challenging times as the nation's economy struggles to improve. Even so optimism among small business owners is on the rise. More than half (56%, up from 48% last fall) have a positive outlook on business prospects over the next six months. In spite of the promising outlook, these signs of recovery do not translate into immediate plans for growth. The top priority of small business owners at this time is maintaining their current business and sources of revenue (31%) followed closely by growing their business (29%, down from 37% last spring) (The American Express OPEN® Small Business Monitor, 2012). The flat economy, reduced business equity values and the resulting impact to credit and collateral has made capital formation for small businesses through bank financing difficult to obtain. During this time of economic uncertainty many small businesses that would meet bank lending criteria and could use the additional capital chose not add additional debt to their balance sheet. Those entrepreneurs believe they have few options for their business and are just trying to maintain the status quo.

RESEARCH

In order to determine if access to capital was the predominant issue for small businesses during this current weak economy, Middle Tennessee State University's Tennessee Small Business Development Center (TSBDC) and Center for Organizational and Human Resource Effectiveness (COHRE) conducted a phone survey of small business in the state of Tennessee. The survey was developed to investigate which Tennessee small businesses are obtaining business financing, what differences exist between Tennessee small businesses that receive financing and are denied financing, and which banks are lending to small businesses in Tennessee.

METHODOLOGY

To conduct the survey, COHRE obtained a list of business contacts from Info USA. The contact list was restricted to small businesses operating in the state of Tennessee, which TSBDC defined as businesses with less than 500 employees that earned annual revenue of less than $10 million. The TSBDC and COHRE developed a 40-question survey, which inquired about a business's financing over the previous twelve months. The survey was developed using queries posed by TSBDC and questions from the U.S. Small Business Administration's (SBA) *2003 Survey of Small Business Finance*. The survey was piloted on a select few small business owners known to COHRE employees.

Over the course of the survey development and administration, five phone survey administrators were hired and received identical training on survey administration, small businesses and the history of TSBDC. While conducting the survey, phone survey administrators followed a branching script adapted from the script used in the SBA's *2003 Survey of Small Business Finance*.

RESULTS

Of the businesses contacted, 89 chose to participate in TSBDC's small business finance survey. Of these 89 participating businesses, only 14 businesses indicated they had applied for loans in the twelve months prior to being surveyed, and of these 14 loan applicants, 11 businesses were granted loans by 11 different banks. Business pessimism is driving borrowing decisions. In fact, 60% of the respondents indicated they did not want to apply for financing which is similar to the 56% of respondents in the American Express OPEN® Small Business

Monitor (2012) survey who have no immediate plans for growth. Businesses are taking a wait and see approach due stricter bank lending criteria coupled with the poor economy in general.

DEMAND FOR CREDIT VERSUS ACCESS TO CAPITAL

Reduced bank lending coupled with small business loan defaults sets the stage for tightened lending standards. As a result, small businesses have found it difficult to secure loans. At the same time, many bankers have reported weak demand from qualified small business borrowers. Businesses with weak sales or poor prospects are more likely to cut back rather than expand their business, thereby reducing demand for credit (Wilkinson & Christensson, 2011).

A National Federation of Independent Business (NFIB) survey showed that "weak sales" is the biggest concern for 27% of small business respondents, while only 3% of respondents report financing as the biggest problem (National Federation of Independent Business, 2011).

A broad lack of confidence in the economy has borrowers backing away from new debt (Thomson Reuters PayNet Small Business Lending Index 2012). According to the PayNet study lending to small businesses has recently slowed:

> The data definitively shows that demand for credit remains weak. This finding proves that business owners remain cautious about the economic recovery so much so, that they are forgoing expansion and hunkering down by placing more cash in the bank, rather than expanding property, plant and equipment.
>
> Application levels show that demand for credit remains tepid:
>
> - Credit applications peaked in October 2008, when they rose to all-time highs.
> - During the recession, applications fell 30% by January 2010.
> - Applications for credit remain weak, at about the same level as during the recession.
>
> Market share by lender type shows competition heating up for the little credit demand that exists:
>
> - Bank market share of lending grew most during 2007-2009.
> - In 2010 the captive finance companies started to get more aggressive and took a bigger share of the pie as new originations grew 5% overall in 2009-2010 but shrank 2% for banks.

- Now independent finance companies are stealing market share from banks as their originations grew 39% in 2011 while the overall growth was only 17%.

- "With 2012 business defaults projected to be lower than at any time since 2006, lenders are responding with easier credit terms to reflect this lower risk. The conundrum is that with risk and interest rates this low, small business is still cautious about taking on more credit" (Phelan, 2012).

According to the NFIB - Quarterly Survey, 1 in 4 business owners viewed the current economy as a bad time to expand with 60% indicating that political uncertainty being the main reason, second only to business concerns about the weak economy. Investing in jobs or plant and equipment will remain at maintenance levels until this is resolved. The survey shows that companies aren't confident enough to take on debt or new employees (NFIB, 2012).

The Federal Reserve Bank (FRB) of Atlanta conducts surveys of small business contacts in the Southeast to get their perspective on general business and credit conditions. According to their most recent survey of 293 small businesses, 110 applied for credit, leaving 183 firms who chose not to apply for credit. The study does not explain why these firms did not apply for credit but it can be reasoned that economic uncertainty was a contributing factor as much or more than credit worthiness (Federal Reserve Bank of Atlanta Small Business Survey, 2011).

Applying firms submitted three applications on average, and 37% had their overall financing needs met in full. A further 21% indicated they received most of the amount requested. In total of the 110 firms who applied for bank financing, 58% received funding at some level. Firms that were five years old or younger and firms in the construction and real estate industry were less likely to have their credit needs met (FRB, 2011).

THE EVOLUTION OF TARP AND GOVERNMENT FINANCING INITIATIVES FOR SMALL BUSINESS LENDING

The American Recovery and Reinvestment Act (ARRA) of 2009 was the signature post-Troubled Asset Relief Program (TARP) federal legislation designed to incentivize growth and development within the private sector. Prior to this landmark legislation TARP was the primary government incentive offered to the private sector during a time when the economy experienced tepid growth. According to the Government Accountability Office (GAO), TARP restored faith in banking institutions by investing federal dollars into programs designed to shore up losses of banking assets, while providing a foundation for private firms to access capital that was necessary for generating economic growth. The Department of the Treasury and the Federal Reserve System created this program in order to benefit consumers by increasing access to credit for small businesses (Government Accountability Office, 2009, p.39). According to the American Bankers Association (ABA), TARP has restored stability in the financial system and participating banking institutions have repaid $264 billion in principal and interest payments to the federal government. This represents a $19 billion positive return to the American taxpayer based on the initial $245 billion that was invested in TARP (American Bankers Association, 2012, p.1) TARP was designed to purchase troubled banking assets, thereby creating an environment where lenders would consider capital needs of small business owners who might have been on the bubble in receiving a traditional commercial financing product. Even after TARP funds were offered to large and small financial institutions, lending continued to be slow. Many of the financial institutions that received TARP funds did not initially increase the number of loans in their portfolio. In fact, the ABA reported that banks in local weak economies experienced slower repayment and investment of TARP funds than larger banks where the businesses were holding their own in a weak economy. In fact, the ABA reported that banks in weaker local economies experienced slower repayment of TARP funds than larger banks in urban areas where the economy realized modest improvements. Slower than expected economic growth combined with weakened loan portfolios stifled the ability of smaller rural community banks to make capital readily accessible to entrepreneurs.

After further examination results seem to suggest that the larger, urban financial institutions have been more effective using TARP funds to purchase troubled assets and improve access to capital to its business clientele than their rural counterparts in the smaller, regional community banks. This is due in part to the economic improvements in urban population centers compared to the slowly recovering, weaker rural economies (ABA, 2012).

Where TARP provided initial incentives to invest in large industries directly, or by providing stability to the struggling financial sector, ARRA was to become a catalyst for providing access to capital to small businesses through traditional lenders, SBA, and certified development companies. As stated by the GAO there were 8 primary requirements that established the basis for federal incentives to small firms in the private sector (GAO, 2009, p.7-8). Those provisions were:

1) Provision 501 – fee reductions. Permits the temporary reduction or elimination of fees for 7(a) and 504 loans until September 30, 2010, or until funds appropriated are expended ($375 million total for both sections 501 and 502).

2) Provision 502 – economic stimulus lending program. This permits SBA to guarantee up to 90% of qualifying 7(a) loans made by SBA lenders. This provision only applies to loans approved within 12 months of ARRA enactment or until all funds appropriated are expended.

3) Provision 503 – Establishment of SBA secondary market guarantee authority. Allows SBA to establish a secondary market guarantee for pools of first-lien 504 loans to sell to third-party investors. This provision terminates 2 years after the enactment of the ARRA.

4) Provision 504 – Stimulus for community development. Authorizes SBA to refinance a limited number of certain existing loans as new 504 loans. The criterion for the 504 loans has changes from creating one job for every $50,000 guaranteed to one job for every $65,000 guaranteed.

5) Provision 505 – Increasing small business investment. Increases the maximum amount of outstanding leverage available to a small business investment company (SBIC) to the lesser of 300% of the SBIC's private capital or $150 million.

6) Provision 506 – Business stabilization program. Creates a new program that allows SBA to guarantee loans of $35,000 or less to small businesses suffering immediate financial hardship and possess existing loans.

7) Provision 508 – Surety bonds. Increases the maximum contract amount for a SBA bond guarantee from $2 million to $5 million, in some cases as much as $10 million.

8) Provision 509 – Establishment of SBA secondary market lending authority. Primary requirements authorize broker-dealers that operate in the SBA 7(a) secondary market.

The incentives provided through these 8 provisions of ARRA do not represent the entire federal package of incentives provided to improve the economy. Other incentive programs address energy efficiency, defense contracting, and business & industry loan guarantees in other federal departments. ARRA's 8 provisions were the primary vehicle for promoting access to capital for small businesses, along with encouraging investment in the secondary loan markets. Each of these provisions offered an incentive to small firms in the private sector. All of the provisions provided a comprehensive menu of incentives that collectively, were designed to spur economic growth in the economy with access to capital as the vehicle for this process.

Data reported in the first quarter of 2010 suggests that the 7(a) and 504 loan markets had shown a recovery based on earlier numbers from the fourth quarter of 2008. The GAO report stated that 7(a) loans in the primary market doubled from an average of $650 million per month in the fourth quarter of 2008 to an average of about $1.4 billion per month in the third quarter of

2009 (GAO, 2010). These figures were higher than the average for the second and third quarters in 2008, and this suggests there is some evidence that the ARRA prescription for improving the markets for 7(a) and 504 loan products did improve. Sales for 7(a) loans on the secondary market tripled between the fourth quarter of 2008 and the third quarter for 2009.

According to the GAO there was a significant recovery in the markets for 7(a) and 504 loans throughout 2009 (GAO, 2010). The reasons for this recovery were attributed to the temporary elimination of fees on 7(a) and 504 loans. In addition, many participants in these programs referenced the credit market improvement as reasons for overall economic improvement. The Department of the Treasury cited the previous existence of TARP as a viable incentive as one reason for increased investor confidence in an already slow economy.

Another incentive the federal stimulus offered under the general provisions of ARRA was the America's Recovery Capital (ARC) loan program. Initially this loan program was off to a slow start. Many participants cited the small size of the loan amounts with a maximum of $35,000, the high costs associated with processing the loans, and SBA's stringent program requirements as the reason why this program did not get off to a great start. Others cited the confusion by bankers on the eligibility requirements and the definition of a viable business under the loan program provisions. However, most participants overcame these obstacles because by the end of the third quarter of 2009 approximately 2,904 ARC loans, totaling $94 million, were appropriated to address the new found demand for this loan product.

SBA's Small Loan Advantage (SLM) program provides access to capital for small businesses in underserved markets. The SLM is structured to encourage larger, existing SBA lenders to make lower-dollar loans, which often benefit businesses in underserved markets. Banks can finance loans up to $350,000 with an 85 % SBA loan guarantee on loans up to $150,000 and 75 % loan guarantee on loans greater than $150,000. SBA claims some loans can be approved in minutes while others can be approved in 5 to 10 days. The loan application is only two pages. SBA's loan guarantee programs have played a major role in sustaining and growing businesses during this period of economic stagnation. "SBA provided federal loan guarantees of more than $79 billion to more than 150,000 small businesses since 2009" (Butts, 2012).

Although SBA successfully incentivized small business lending under the federal stimulus plan by eliminating loan guarantee fees and increasing the loan guarantee amount to 90%, those incentives are no longer available. However, SBA has increased the 7(a) loan limit from $2 to $5 million, which went into effect with the Small Business Jobs Act of 2010 (the Jobs Act). The Jobs Act also directed the U.S. Department of the Treasury to make capital investments in eligible institutions to provide for increased access to credit for small business. An investment fund was created called the Small Business Lending Fund (SBLF). The SBLF provided $4 billion to qualified community banks, non-profit community development lenders, thrifts and bank holding companies with assets of less than $10 billion. According to the GAO, 332 banks with over 3,000 locations in 48 states have taken advantage of this stimulus program with 68% increasing their small business lending by 10% (GAO, 2011).

The SBLF funding to banks is incentivized through an interest rate payable on the SBLF capital from 7% to as low as 1% based on the level of a bank's participation in the program. For non-profit lenders capital cost is 2% as these banks play a vital role in small business financing in distressed communities.

The SBLF Treasury program has been successful to a point based on the amount on increased small business lending by SBLF banks in comparison to banks who either do not meet the eligibility criteria to participate in the SBLF program or banks that otherwise elected not to participate in this Treasury program. According to the SBLF Program Reports the overall increase in business lending through SBLF banks was 21.5% over previous year baseline levels as compared to non-SBLF banks whose business lending increased only 1.1%. Unfortunately of the $4 billion that was intended to be made available to banks for business lending only 1.8% was actually loaned out. The other $2.2 billion went to banks to pay off their Troubled Asset Relief Program (TARP) obligations (Maltby & Loten, 2012). SBLF banks make the case that paying off their TARP obligations freed up capital for lending. Nevertheless, the banks did not make the number of loans to businesses as was originally anticipated under the program.

Small businesses are also able to secure competitive financing indirectly through the U.S. Department of the Treasury's State Small Business Credit Initiative (SSBCI) funded by the Small Business Jobs Act of 2010. Under the SSBCI participating states will use the federal funds for programs that leverage private lending to help finance small businesses that are creditworthy, but are not getting the loans they need to expand and create jobs. States are required to demonstrate a minimum "bang for the buck" of $10 in new private lending for every $1 in federal funding. Accordingly, the $1.5 billion funding commitment that the federal government has made for this program is expected to support $15 billion in additional private lending (U.S. Department of the Treasury State Small Business Credit Initiative, 2011). For example the California Small Business Loan Guarantee Program's State Assistance Fund for Enterprise-Business and Industrial Development Corporation — SAFE-BIDCO offers lender flexibility and lower guarantee costs. This program differs from federal loan guarantee products by permitting lenders to negotiate interest rates and allows in-house underwriting, all while also reducing paperwork to make the loan guarantee (Gneckow 2012).

Small business owners whose business is located in a county of less than 50,000 population can take advantage of the U.S. Department of Agriculture's Business and Industry (B&I) Loan Program to finance fixed assets and working capital. The B&I program is similar to SBA's in that federal loan guarantees are provided to banks as an inducement to finance businesses. Total amount of B&I loan to any single borrower is $10 million with special exceptions requiring approval by the U.S. Department of Agriculture's administrator. Loans for real estate can go out to 30 years; machinery and equipment 15 years or the useful life whichever is the lesser; and working capital to 7 years. Interest rates are negotiated between the bank and borrower (U.S Department of Agriculture Business and Industry Loan, 2012).

BOOTSTRAPPING AS AN ALTERNATIVE TO CONVENTIONAL FINANCING

No longer can an entrepreneur go to their local bank and seek additional capital for their enterprise based on a handshake, family goodwill, and promise to do well in a struggling marketplace (Mount, 2012). Success in the business world is predicated on success in obtaining the financial resources necessary to establish and grow a solid business. The concept of "bootstrap financing" provides alternatives to accessing capital necessary to insure the business enjoys sustainable growth during times of prosperity and slow economic growth (Neeley & Van Auken, 2009, p.400). Timing is a key factor that can determine a business owner's level of success accessing needed capital. Obtaining financing is not done in real time. A business' internal management structure and strategies for retiring debt can cause some time challenges when it comes to accessing capital (Neeley & Van Auken, 2009, p.400). Lending institutions in the past could help with immediate capital needs or a simple line of credit to assist a business based on reputation. However, the stringent regulations tied to lending practices and usage of many federal incentive programs have caused business owners to consider "bootstrap" methods to access capital. Some of these "bootstrap" methods for financing are more expensive than traditional bank loans (Mount, 2012). However, business owners who need timely access to capital, in lieu of any federal incentives through guaranteed loans, have shown a willingness to take on additional debt service to access these loan products.

There are five basic forms of "bootstrap" financing that are used by small business owners and entrepreneurs to access capital. These basic methods are: 1) asset-based lending, 2) lease back, 3) cash advances, 4) nonbank loans, and 5) peer-to-peer loans.

Asset-based loans are one method where companies sell a considerable value of their receivables or invoices, as much as 80% to 90%, to a factoring company until these invoices are paid off. This allows a small business the opportunity to leverage financing by using purchase orders, contracts, or inventory as collateral to access the capital to sustain the business during times when quick turnaround on payment is absolutely necessary. Creditworthiness is the most important characteristic of a business that uses this type of financing method because a business' ability to leverage this product is determined by their ability to pay and not on the solvency of the lender (Mount, 2012).

Lease-back financing allows a venture to sell its real property and equipment at a healthy market price then lease it back from the purchaser for a significant length of time, usually between 10 and 25 years. This is a very healthy method for accessing capital for businesses that have a high investment in real property, warehousing, and equipment. Businesses will be responsible for a monthly lease payment in lieu of any loan payment that would be required to access this type of product.

A cash advance is a "bootstrap" method used by ventures that do not have wholesale invoices or real property they can leverage financing against. A cash lump sum is provided to the borrower to address capital needs. In turn the lender receives a percentage of daily receipts the business, plus a fee, until the debt on the cash advance is serviced (Mount, 2012).

Nonbank loans are offered by finance companies to seasonal-type businesses that do not have the financial wherewithal to meet a traditional lender's requirements. The method of financing helps small business ventures who get their loans called in during times when they need capital in a timely manner to maintain business operations. Usually the finance company received anywhere between 2% and 8% of the borrower's revenue. This can be costly because fees for nonbank loans can approach anywhere between 18% and 36% over a 12 month period.

Peer to peer loans are similar to angel investors. Small business owners provide financing to an upstart company based on the level of need and the creditworthiness of the borrower. Usually the money is used to purchase additional equipment or expand into new markets. This method too, can be an expensive proposition to an upstart business venture. Loans can range from 7% to 25% depending on the borrower's creditworthiness and the business' prospective growth (Mount, 2012).

Timeliness and creditworthiness impact a business owner's decision as to how they will access capital and which financing product they consider as they grow their business. Government loan guarantees and other incentives present a good intervention that encourages the flow of capital into small business ventures (Li, 1998). Whether it is a guaranteed loan or private financing, this enables the venture to increase its workforce, increase sales through higher production capacity, and make additional investments that will drive a recovering economy. Bootstrap methods of financing present some alternatives to accessing capital as well. There are significant costs differences between federal incentives and some of the bootstrap financing. These factor into consideration as a small business owner faces economic uncertainty during slow times. Whether through traditional commercial loan products, bootstrap methods of financing, or utilizing government incentives, it is certain that survival of small firms depends on the ability of a small venture to access capital in a timely and cost-effective manner (Neeley & Van Auken, 2009).

CONCLUSION

It is apparent that business pessimism about the state of the national economy is playing a bigger role in business decision making to avoid additional debt than is a lack of access to capital as the reason not to grow the business. Hints of patterns in the data emerged in this regard during analysis of the TSBDC - COHRE research discussed within.

There is ample evidence that federal incentives under the AARA generated economic growth through greater access to capital. The increase in SBA guarantee to lenders to 90% and the elimination of fees, generated interest in lending and business borrowing. Access to capital with very appealing terms and conditions did create demand for capital by the small business community. However, many of those stimulus initiatives have since ended and the credit markets with few exceptions have tightened for smaller firms. Businesses are again weighing the benefits of borrowing versus their pessimism over the state of the economy.

The National Small Business Association (NSBA) recently surveyed small business owners in an effort to understand why capital was harder to obtain. “Nearly one in three (29 %) of small-business respondents report that, in the last four years, their loans or lines of credit were reduced. Perhaps even more concerning - nearly one in 10 had their loans or lines of credit called in early by the bank” (National Small Business Association, 2012, p.2). The reason most cited by banking institutions for reducing credit lines of their small business customers was due to internal risk assessment. According a recent NSBA survey only 4% of those surveyed used SBA loan guarantees in the past 12 months (NSBA, 2012, p.4). SBA research also points to more stringent internal compliance issues involving the lender rather than low demand for loan funds. However, the recent reduction in demand for SBA loan guarantees is more likely than not attributable to the impact of the sunset of the AARA. The SBA loan guarantee program provisions under the AARA, which eliminated fees on SBA 7(a) and 504 loans as well as the decrease in the loan guarantee portion from 90% down to 75% created demand by small business for credit. Small business owners and lenders did not find it as appealing to seek SBA guaranteed loans once the stimulus provisions were no longer available.

Inconsistencies in the availability and duration of government stimulus related financing for small businesses has given entrepreneurs another reason to pull-back and reconsider growing their enterprise during a weak national economy. In order to have a sustainable positive economic impact on small business growth, stimulus programs must be available until improvements in the economy make such stimulus no longer necessary. Short term actions by government to buoy business growth during a long period of economic recession and slow recovery are counterproductive.

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