Build and Protect Your Business with Purpose: Lessons from Whole Foods

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One of the most visible examples of the rising power of short-term shareholder activism was that of Jana Partner's against Whole Foods Market last summer. What the storied grocer did right for over 30 years prior, and what its co-founder and CEO, John Mackey, wished he had done in advance of the activist siege provide three valuable lessons for business leaders: 1) Companies built on a higher purpose beyond just profit often become industry leaders; 2) be very careful choosing investors or risk losing your dream; and 3) ingraining that purpose into a company's legal structure, can potentially stave off even the most aggressive activist shareholders.

1. Build Your Business on Purpose

Ask any founder why she or he started a business. The answer rarely will have anything to do with money. You're most likely to hear: To solve a problem; to build a better mousetrap; to help a group of people; to make the world a better place. From Patagonia and Cotopaxi seeking to reconnect people with nature to Stonyfield and Happy Family Organics raising the bar on the quality of food we put in our bodies to Kickstarter and Amalgamated Bank helping us put our money to work for good, companies founded on a higher purpose beyond just profit are proving that the adage of "doing well by doing good" is just good business.

In fact, such purpose-driven companies often achieve extraordinary financial success. The book "Firms of

Endearment: How World-class Companies Profit from Passion and Purpose" spotlights the performance of companies like these that outperformed the S&P 500 by 14 times over a period of 15 years.

Similarly, Whole Foods' success stems from pursuing a higher purpose along with other tenets of a business philosophy outlined in Mackey's book "Conscious Capitalism: Liberating the Heroic Spirit of Business" (co-authored with "Firms of Endearment" author Raj Sisodia). Mackey's focus on creating value for all stakeholders impacted by his business—workers, suppliers, communities, and the environment, not just shareholders— helped turn his dream of bringing better food options to people into the world's largest natural and organic foods supermarket.

2. Be Conscious that Investors are typically Not Focused on Purpose

But even the noblest of businesses can fall prey to a diseased element in today's financial sector. It's called "short-termism," and its pervasiveness in our capital markets is proving to be cancerous. Among the culprits driving short-termism is the practice of financial shareholder activism; specifically, the amassing of equity in a publicly-traded company, often by a hedge fund or institutional investment firm, with the intent of forcing its sale to the highest bidder.

When Whole Foods began facing market challenges, it became the target of one such activist institutional shareholder determined to implement short-term profit measures and sell it to the highest bidder. Jana didn't care that its tactics would decimate the very corporate culture that made

Whole Foods a favored place to shop and work. Jana didn't care to whom it sold Whole Foods—competing chains that previously eschewed the organic movement were among its known targets—just as long as it maximized the return on its investment.

In the end, Mackey, was able to sell to a more strategic partner he believes will be more mission-aligned: Amazon. But while Mackey sees Amazon as preferable to the other buyers Jana pursued, finding one's company at the end of an activist shareholder's gun barrel is a scenario any CEO or business owner pursuing a higher purpose would prefer to avoid.

3. Build Your Purpose into Your Company's Legal DNA

What the Whole Foods' experience shows us is that even the most successful purpose-driven companies need protection. Unfortunately, creating long term value for all stakeholders doesn't hold cache with unconscious capitalists who possess a myopic mindset of strictly maximizing short term value for shareholders at any cost on people, communities, and the natural world. Luckily, there is a viable option for saving conscious businesses from such aggressive activist shareholders: B Corporations.

Unlike traditional businesses, B Corps have been inoculated against the virus of short-termism. B Corps make a simple yet powerful legal change to require their board of directors to consider the impact of their decisions on all their stakeholders. LLCs can do this with a simple amendment to their operating agreement; corporations can do this by adopting benefit corporation governance, now available in 35 US states, including Delaware where the vast majority of publicly-traded and venture-backed companies are incorporated. The B Corp legal framework helps companies protect mission through capital raises and leadership changes and gives entrepreneurs and directors more flexibility when evaluating potential sale and liquidity options.

Certified B Corporations (companies that not only adopt stakeholder governance, but also meet rigorous standards of third party verified overall social and environmental performance) include notable brands spanning virtually every industry, including Patagonia, Athleta, Cascade Engineering, KeHe, Eileen Fisher, Kickstarter, Natura, New Belgium Brewing, Method, Ben & Jerry's, Hootsuite and many more. And many companies with disruptive business models such as data.world, Cotopaxi, Lemonade, Ripple, and REBBL are finding B Corps to be an advantage in raising venture capital.

The value proposition for B Corps is straight forward. "If someone is looking to take shares in a corporation and work as an activist shareholder, then whether the company has adopted benefit corporation governance would likely factor into the decision," says Rick Alexander, former chair of the Corporations Law Section of both the Delaware and American Bar Associations and current head of legal policy at B Lab. "It's harder to wrestle with this company than one that hasn't declared its purpose outside of increasing share price. It should be a powerful deterrent; a CEO with a long-term plan to include sustainability would mean the legal argument an activist shareholder would be making wouldn't resonate. That has to carry some weight."

Would becoming a B Corp have prevented Jana's siege on Whole Foods? Unfortunately, we'll never know. What is known, however, are Mackey's thoughts on the matter as he stated at last year's B Corp Champions Retreat:

"I always thought B Corps were a good idea . . . I saw it as a fellow traveler with Conscious Capitalism, but I really didn't think it was necessary. You know, you have this stakeholder model, you take care of your stakeholders, what do you need this legal form for?" he said. "We had activists come into our stock. … They wanted to take over our company; they wanted to force us into a sale. … Boy oh boy oh boy, did I wish we were a B Corp. … I would have loved to have tested the idea of shareholder activists versus the legal form of a B Corp."

If such a lesson isn't enough to at least get you exploring the idea of becoming a B Corp, then maybe recent developments among the world's largest investors and most powerful players in the capital markets may nudge you to reconsider. From BlackRock's "Sense of Purpose" letter to CEOs earlier this year calling on businesses to create more social value to Goldman Sachs launching its new JUST Capital ETF this summer, purpose-driven capitalism is establishing itself as the way of the future.

That future will undoubtedly belong to leaders of companies who embrace the importance of pursuing profit not as an end in itself, rather as a means to an end toward achieving a higher, more noble purpose. Running a company on the principles of Conscious Capitalism and with the legal structure of a B Corp will prove to be the most optimal way to not only help your business thrive but to protect it from financial activist shareholders with unconscious motivations.

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