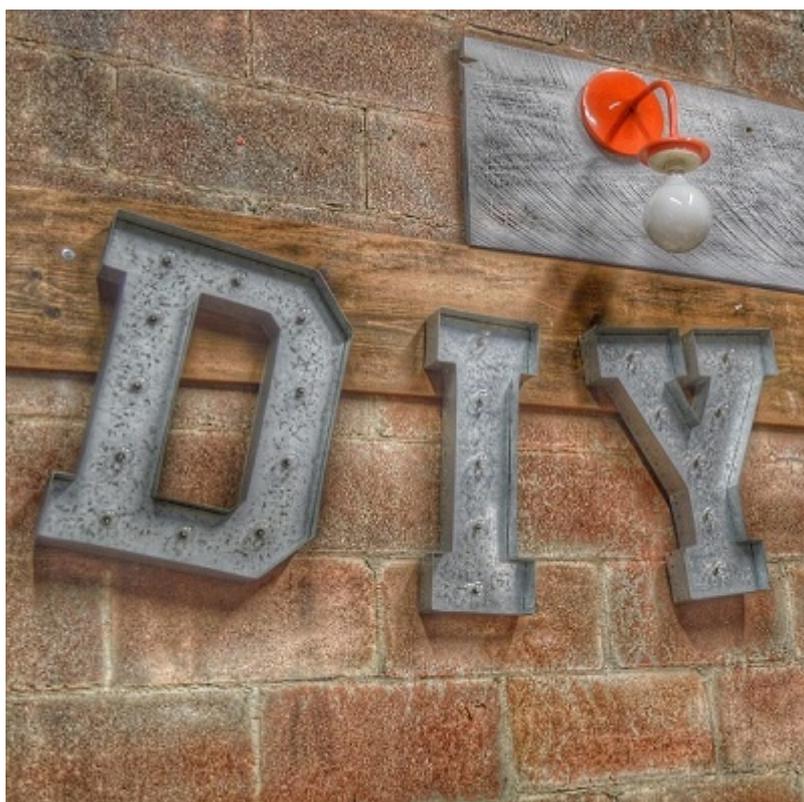


The Many Perils of a D.I.Y. Sale

Art Stevens, Managing Partner, The Stevens Group

Some things were inherently meant to be “Do-It-Yourself” projects, like repainting your spare bedroom, planting a new bed of hydrangeas, or updating the latest operating system software on your mobile device. However, the sale of your PR firm is definitely not one of those things.

With the arrival of 2021, we find that the U.S. economy thought tarred and feathered during the pandemic of 2020, is ready to grow again and the financial markets are continuing their unprecedented record-setting pace. In fact, as I write this, the bellwether Dow Jones Industrial Average has climbed above the 31,000 level for the first time in its 123-year history. All signs are pointing to a record year for merger & acquisition activity – including within the public relations industry.



With new buyers constantly emerging, potential sellers of PR firms should be especially sensitive right now to what they don't know about acquisition protocol. Understanding the many twists and turns of the negotiation process is an essential prerequisite to a successful transaction, and a rash decision to

“go it alone” can result in costly mishaps. Just as many major world seaports require all merchant ships to have a local harbor pilot at the helm for added safety, having a qualified, trusted advisor on board during the sale of your PR firm can truly help to avoid many potential disasters.

What's It Worth?

For starters, the proper valuation of a PR practice doesn't involve any rocket science. However, it does involve the application of a certain degree of common sense combined with a comprehensive understanding of the current marketplace. Just as many FSBO (For Sale By Owner) homeowners tend to overprice their offerings due to sheer naiveté, sellers of PR firms sometimes overvalue their practices and then find themselves wondering why they're having difficulty attracting interested buyers. In contrast, because buyers of PR firms tend to be experienced acquirers who are seeking bargains, without objective counsel to assist in a firm's valuation, a seller might be induced to hastily agree to a below-market purchase price.

The mechanics of a business sale can sometimes be necessarily complex, and having a trusted advisor on your side can help to ensure that all scenarios are properly evaluated in order to achieve the most favorable outcome. For example, an inexperienced seller may fixate on the potential personal income generated by a sale, rather than opting to negotiate a deal based on capital gains treatment. And even when electing for a long-term capital gains treatment, a portion of future contingent payments made as part of an earnout agreement may be taxable to the seller in later years as ordinary income. With recently-enacted federal tax law changes that impact corporate and individual returns, it has never been more important to consider all financial implications of your firm's sale before inking a deal.

Parsing The Fine Print

As a PR firm owner, you've read many contracts, and perhaps you've even authored a few. But if you've never been a party to a business sale agreement, you may be in for some unpleasant surprises. Take, for example, the imposition by a buyer of a "management fee" which automatically reduces the seller's profit margin. Or a buried clause that banishes all use of the seller's name at the buyer's firm. Or a non-compete clause that bars you from starting another PR firm for any number of years following the sale's closing date. In all business dealings, some fine print is unavoidable, but an experienced advisor can help you to evaluate which terms and conditions are *de rigueur* and which ones are simply onerous.

PR firm owners electing to become employed by the buyer after selling their firms – who constitute the vast majority of sellers these days – face a separate set of conundrums. Such deals invariably involve employment agreements that define the terms and conditions under which the seller can earn a full earnout. These agreements can occasionally contain pitfalls camouflaged in contorted legalese, including clauses that preserve a buyer's right to terminate the seller's employment at any time without cause, that tie payouts to unrealistic financial performance goals, or that force a seller to surrender the right to hire, retain or fire personnel.

Having thoroughly reviewed numerous employment agreements over the years, I can personally attest without hesitation that the devil is in the detail. These documents are binding contracts prepared by the buyer's attorney that become very difficult – if not impossible – to undo once executed. Therefore, it's absolutely essential for you to have the agreement reviewed by an objective third party who understands all of its implications.

Mitigating Risks With Sound Counsel

If you've been contemplating the sale of your PR firm in 2021 or beyond, take a moment to consider all that could possibly go wrong should you opt to handle the negotiations yourself. You may yearn to impress your friends with your best Frank Sinatra impression by crooning: "I did it My Way." But take note that in penning this famous song for Sinatra, Paul Anka conspicuously included the line: "Regrets, I've had a few."

Don't set yourself up to be on the short end of the stick by going it alone. There's simply too much at stake. And it's never too early to begin reaping the benefits of having sage counsel by your side throughout the entire process.



***About the Author:** Art Stevens is managing partner of The Stevens Group, comprised of consultants to the PR agency profession and focusing on mergers, acquisitions and management consulting.*