

OWNERS AT WORK

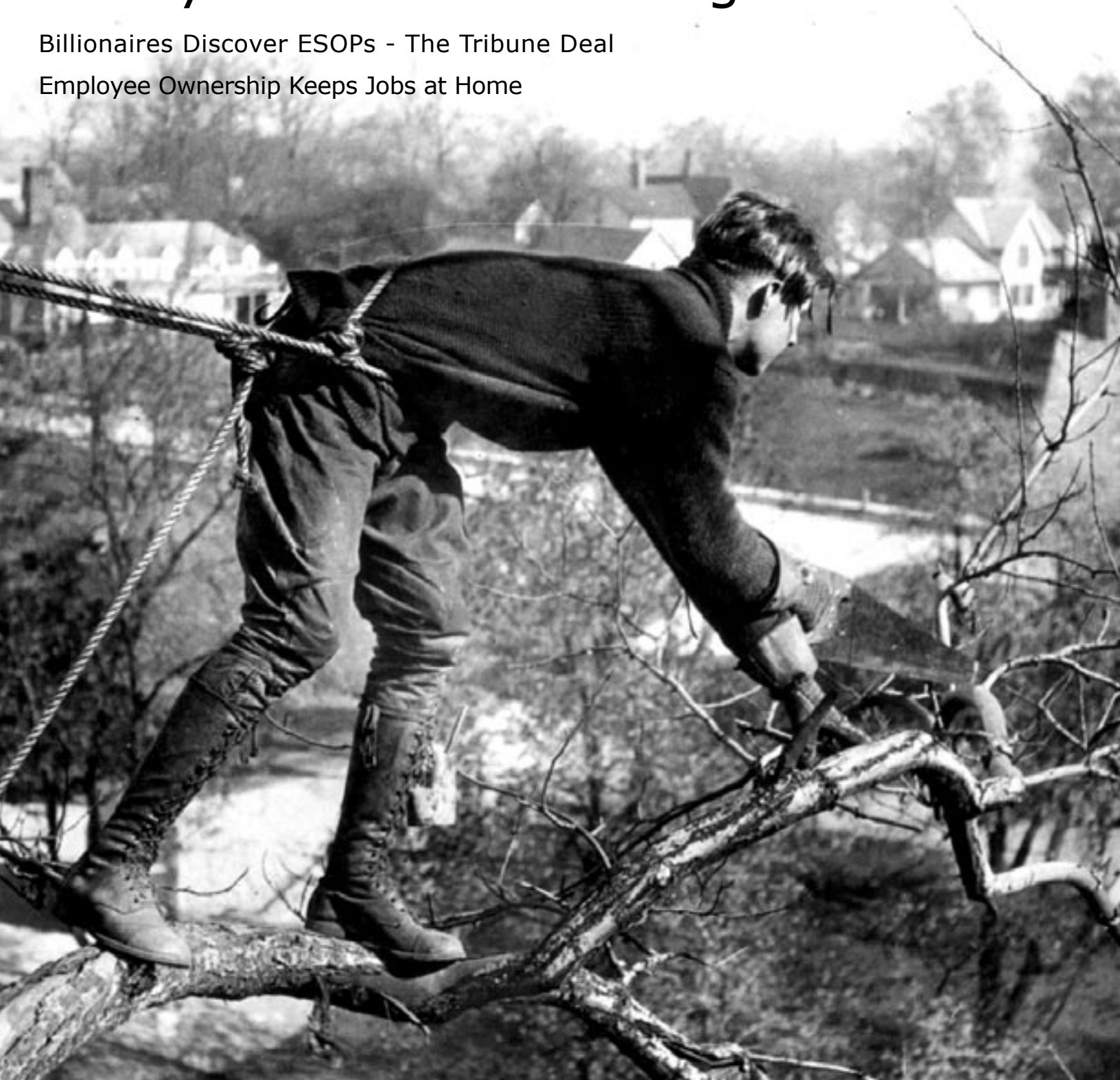
The Ohio Employee Ownership Center's
magazine of employee ownership

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Davey Tree Hits New Heights

Billionaires Discover ESOPs - The Tribune Deal

Employee Ownership Keeps Jobs at Home



OWNERS AT WORK

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Cover Photo: Davey Tree employee works high above what is believed to be the city of Kent, Ohio, ca. the 1930s. (photo courtesy of the Davey Tree Expert Company)

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The OHIO EMPLOYEE OWNERSHIP CENTER (OEOC) is a university-based program which provides information and technical assistance to retiring owners, buyout committees, labor unions, managers and community-development organizations interested in exploring employee ownership. Center staff can help locate competent and appropriate legal and financial advisors, and perform initial assessments to determine whether employee ownership is a viable option. The OEOC develops resource materials on employee ownership and participation systems, sponsors workshops and conferences for the general public, develops and delivers training programs for employee owners, facilitates cooperation among employee-owned firms, coordinates a comprehensive succession planning program, and assists international efforts to privatize businesses through employee ownership.

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Publisher's Note

Globalization isn't a figment of your imagination. Our "Employee Ownership News" includes two follow-up stories on Ohio companies employees tried to buy.

One is Hoover, where the winning bidder, Techtronic Industries of Hong Kong, shut the unionized North Canton plant, and moved the work to non-union plants in El Paso, Mexico, and, ultimately, probably China.

The other is Massillon Stainless. Employees tried to buy it before it shut in 2002. But Jindal Strip, the Indian company that bought the Massillon plant with a good bit of public assistance, shut it and moved the equipment to Asia. There's a photo on the opposite page of the buildings being scrapped out. That could still be a vibrant workplace employing hundreds, if the employees had bought it.

Isn't it time for legislation giving employees the right to buy plants instead of foreign companies being permitted (or encouraged with public subsidies) to buy our manufacturing plants, shut them, and move the equipment abroad?

On a brighter note on globalization, see the most recent Ohio ESOP survey. Ohio's employee-owned companies not only outperform their conventional competitors in retaining and growing jobs, they invest more, they outsource much less, and they are more profitable. They can and do compete successfully in the global economy.

Or read Doug Cowan's talk about Davey Tree on pp. 14-16 for a case study of an employee-owned company that has beaten the S&P 500 for 28 years. If you had done this with a mutual fund, you'd be worth your weight in gold. But for Davey's employee owners, it's all in a day's work. Then, of course, there's the big news item: Sam Zell's purchase of the Chicago Tribune and Los Angeles Times using an ESOP. A good deal for the employees? A better deal for Zell? Here are the facts that your newspaper didn't report on the transaction.

Letters to the Editor: Posner & Binary Economics

To the Editor:

Although I had advance notice that OWNERS AT WORK was planning to publish an article by Robert Ashford in its winter issue, I certainly had no idea that you would put Louis on the cover! That photo by Baron Wolman is one of the best of Louis ever taken.

Robert Ashford can always be depended on to present Louis' binary economics with scholarly fidelity, and I am delighted to see the ESOP reconnected with its theoretical roots.

Of course not all employees will be interested in how the ESOP fits into the big economic picture. But many will be, and many will be gratified to learn that the ESOP not only benefits them and their families, but also their communities and the U.S. economy, while strengthening political democracy. Instead of designing new and ever more complicated investment schemes to make the rich richer, our financial experts should be exploring the potential of Louis Kelso's binary economic

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Employee Ownership News

Chinese Purchaser Closes Hoover North Canton Plant

Last December, the Hoover Company was bought by Hong Kong-based Techtronic Industries. But the folks at the Hoover plant in North Canton, OH still had to wait a little longer to find out the fate of their plant.

When the company was purchased by Techtronic Industries, Jim Repace, President of IBEW Local 1985 expressed concern and said he would "ask them straight out if they're going to keep manufacturing in North Canton." Unfortunately, the answer, which didn't come until the first of April, was "No."

It wasn't an April Fools joke.

According to Techtronic Industries, it all boiled down to a facility that was just too big to maintain, given the business available. Even moving the Texas and Mexico production into the North Canton facility would have still left the building with a lot of unused space that would have to be heated, cooled and otherwise maintained.

Others suspected that the payment of union wages and benefits in the North Canton plant but not in the El Paso and Mexico plants might have something to do with Techtronic's decision.

IBEW Local 1985 led a valiant effort to gain an ownership stake in the company, but decided against urging members to invest pension money in buying the company. Without an employee equity commitment, the employees were reduced to relying on the good graces of private equity partners who failed them in the crunch.



"It is sad that soon there will be nothing left to remind future generations of the facility's contributions to our nation's steel industry..." Jindal Steel, which shut the Massillon plant, shipped the equipment to China. Massillon taxpayers had subsidized the Jindal purchase.

Sanders Reintroduces Employee Ownership Bank Bill

Four years ago, then Congressman Bernie Sanders from Vermont introduced a bill to establish a United States Employee Ownership Bank and to otherwise provide assistance and incentives to expanding employee ownership in the U.S. The idea didn't gain the necessary traction to get through the Congress. Sanders, now the junior Senator from Vermont, has resurrected his proposal. The Senate Banking Committee has agreed to hold a hearing on Sanders' proposal to create a \$100 million loan fund to help workers purchase businesses by establishing ESOPs or worker-owned cooperatives. The Senator believes that "Employee ownership can and should be one of the central strategies in combating the outsourcing of American jobs. Simply put, workers who are also owners will not move their own jobs to China." The proposal is being co-sponsored by Senators Patrick Leahy (D-VT), Max Baucus (D-MT), Jay Rockefeller (D-WV), and Blanche Lincoln (D-AR).

Four years ago, the House Committee on Financial Services held a hearing on an employee ownership bank.

Providing testimony to that panel was Dave McCune, a United Steelworkers member who headed the employee effort to buy Massillon Stainless in Massillon, Ohio. Four years ago, McCune told the Committee that he believed that if the Employee Ownership Bank had existed, they would have been able to save the plant. Instead, the plant closed. Below are pictures of what is left today of a once proud and historic manufacturing facility. Says McCune, "It is sad that soon there will be nothing left to remind future generations of the facility's contributions to our nation's steel industry, to our nation's armed forces, to famous landmarks such as the former World Trade Center, not to mention the contribution to the medical and the food service industries. It is truly sad what has been allowed to happen to our manufacturing sector."

New Transaction Model Used for 100% ESOP at ComDoc

On December 28, 2006, ComDoc, Inc., in Green, OH, became 100% employee-owned. The ESOP had owned 42% of the shares. However, in the transaction, the ESOP did not purchase any shares.

In traditional ESOP transactions, a lender loans money to the company, then the company lends those funds to the ESOP via an ESOP Note, and the ESOP then uses that cash to purchase shares from selling stockholders. Initially, those shares are put in a suspense account within the ESOP. Subsequently, those shares are allocated out of the suspense account to individual ESOP participants as the ESOP Note is paid off.

Instead of ComDoc's ESOP trust buying the 58% of shares owned by the selling stockholders, the company bought the shares and then retired them. As a result, the ESOP became the only shareholder, owning 100% of the shares remaining.

Why this type of transaction and what are its implications?

First, the CEO and CFO were sellers of shares, so both had conflicts of interest. Prior to the transaction, both were company officers and also ESOP fiduciaries. Consequently, both withdrew from their ESOP fiduciary responsibilities, and an outside ESOP trustee was hired.

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Second, the sellers cannot take advantage of the “1042 rollover” and defer the tax on their capital gains since they did not sell their shares to the ESOP. They paid a 15% capital gains tax on the transaction. ComDoc’s CFO, Steve Owen, explained, “1042 treatment was no longer available to selling shareholders due to the company’s conversion in 1999 to Subchapter S status. Thus, the overriding issue became our desire to structure a transaction that would be the most exciting and beneficial to our ESOP shareholders (the employees).”

Third, since the company bought the shares and not the ESOP, the ESOP trustee does not have to approve the stock price for the transaction. The ESOP trustee, as a minority owner of shares, merely needed to have an opinion that the transaction was “fair” to the ESOP. The trustee received such a “fairness opinion” from a valuation firm.

Fourth, since the leveraged shares in the suspense account from a 1999 transaction will be fully allocated in a few years, there will be an issue of how new participants receive shares of company stock in their ESOP accounts. ComDoc plans to solve this issue by contributing new shares to the ESOP annually. The number of shares contributed each year is planned to equal the approximate number of shares currently being released each year as established in the 1999 transaction, but the company can manage this on an annual basis to best fit its needs for that particular year.

Lastly, ComDoc, Inc. is now a 100% ESOP-owned S-Corporation, and not subject to federal income taxes. The participants will pay income taxes when they ultimately receive their ESOP benefits.

CFO Owen summed up the transaction saying, “By having the company purchase and retire the shares, we were able to become 100% employee-owned, show a 39% in share appreciation (due to having fewer shares outstanding), and position the ESOP participants for a future of accelerated share appreciation.” ComDoc is embarking on a growth strategy of acquisitions to bring additional companies under the expanding ComDoc ESOP umbrella.

ESOPs Spared in Tax Reform

Last year, the Presidential Panel on Federal Tax Reform proposed sweeping changes in retirement plan tax benefits, including proposals that would have eliminated ESOPs. The new Presidential budget makes it clear that the reform would not apply to ESOPs, stock bonus plans, or non-contributory profit sharing plans. Efforts by many people throughout the ESOP community no doubt aided the outcome.

The NCEO’s Email Bulletin reported that “the reform would apply only to savings arrangements, including 401(k), SIMPLE, 403(b), 457 and SARSEP plans. ESOPs that are combined with 401(k) plans could be affected, although [ESOP] plans run separately presumably would not be.”

Second 1042 Cooperative Launched

There’s now a second retiring owner who is selling his business to his employees through a cooperative that qualifies for the 1042 capital gains rollover.

Gary Plumley, who founded Grape & Grain in Aspen, Colorado, in 1975, is selling the business to three long-time employees through a co-op. The company is a niche retailer of fine wines and liquor, and Aspen’s only locally owned and operated store in this business.

“I didn’t really want to sell the store,” Plumley told *OaW*. “But I’m 68, and age eventually gets us all.

“I had worked with these three guys for years. We all enjoy the out-of-doors. Two of us are climbers. Two of us are what you might call extreme skiers. We get along well together. My wife had been reading about co-ops. She thought we ought to try it. It seemed like a really good idea, but it wasn’t as easy as you would think. There are a lot of lawyers in Aspen -- they all like to come up here -- but not one of them had any co-op experience.”

“What had your wife read?” *OaW* asked Plumley.

“It was in a business magazine on some little manufacturing outfit,” Plumley replied.

Sure enough, it was the *Business Week* article on the pathbreaking Select Machine transaction in Brimfield, Ohio. (See *OaW*, v. 17/2, Winter 2005/2006.)

Plumley finally found his co-op ex-

perts in Linda Phillips and Jim Dean of Dean, Dunn & Phillips LLC in Denver, a firm that specializes in agricultural and consumer co-ops. “Linda and I enjoy putting time into innovations like this,” Dean told *OaW*. “This is the first small retail business ever to become a co-op this way.”

Dean draws a couple of lessons from his Grape and Grain experience.

“First, if you are going to do something like this, you really have to educate people about what a co-op is. Aspen is a full day from Denver, so I only had one meeting with the employees. They could have used more education.”

“Second, you have to have an owner who is committed to the co-op idea, to understanding it, and who is willing to step back from being totally in charge. Gary still has the final vote, but he’s committed to giving the other guys full responsibility over time.”

Plumley has divided his management tasks into three general areas — marketing, bookkeeping, and purchasing and inventory — and is now rotating the new co-op members individually through each area for about six months each. “It is intended to provide a two-year management transition,” says Dean. “Then Gary can start taking some time off.”

The company, which was an S Corporation, revoked its S election and converted into a cooperative by amendments to its corporate documents. Each of the employees contributed \$10,000 to the cooperative to acquire one share of membership stock. The new co-op then purchased 30% of the stock in the company from Plumley and his wife. The cooperative will acquire another 10% from Plumley each year for the next seven. Monies to finance operations will be borrowed from the Timberline Bank in Aspen that also provided financing to the employees for their capital contributions to the cooperative.

“Equality in the co-op was a stretch for me,” says Plumley. “It’s a small store, and we have to work closely with each other. To think four of us could get along and run the business together equally seemed a bit dicey, but you have a take a chance. So we backpacked into a wilderness area, like we sometimes do, and tried to hash out what we were going to do with the co-

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op. No cell phones allowed. These retreats in the woods make us a bit more tolerant of each other."

"It has turned out pretty well so far," he reflected. "We all are still speaking to each other."

New Resources for Employee Ownership

New guide to employee cooperatives

The Northcountry Cooperative Fund (NCDF) in Minneapolis has published a succinct guide to worker cooperatives: *In Good Company: A Guide to Cooperative Employee Ownership* (2006, 73 pp.) in their toolbox series. It combines a good explanation of basic worker cooperative principles with nice case studies. It's a very balanced guide that assumes that the cooperative strives to be a successful democratic business, not a utopia of the ideologically saved.

If you are thinking about setting up an employee cooperative or converting an existing business to employee ownership through a cooperative, this is a good place to start. *In Good Company* can be obtained from NCDF by calling 612-3319103, emailing info@ncdf.coop, or downloading at www.ncdf.coop/toolboxes.html

Community economic development best practices.

Bill Schweke and Will Lambe of the Center for Enterprise Development (CFED) have written *Back on Track: 16 Promising Practices to Help Dislocated Workers, Businesses and Communities* (2006, 70 pp.) for the North Carolina Rural Economic Development Center. It provides analyses of best practices in preventive action against job loss, protecting living standards, innovative jobs and training programs, and successful efforts to promote entrepreneurial initiatives. These are dynamite innovations like the Massachusetts Economic Stabilization Trust which provides high risk financing and management assistance for viable small and medium sized companies in troubled circumstances, North Carolina's coordinated response to the Pillowtex shutdown, Pennsylvania's Steel Valley Authority's strategic early warning network, Maine's Coastal Enterprises' lending and equity programs, and the OEOC. We are delighted to be found in this company!

This volume is a "must read" for chamber of commerce, city, county and state economic development folks in every community impacted by the automotive job cuts. For a hard copy, call the Rural Center's communications office (919) 250-4314 (\$5 and postage) or find it at www.ncruralcenter.org in the publications catalogue.

What can we put in place to ameliorate this kind of massive economic dislocation in the future? And that brings us to our next new resource...

Fair Exchange

Deb Olson has many of the answers in her *magnum opus* "Fair Exchange: Providing Citizens with Equity Managed by a Community Trust, in Return for Government Subsidies or Tax Breaks to Businesses," *Cornell Journal of Law and Public Policy* (2006, v. 15, no. 2, pp. 231-367). It's the newest result of the Capital Ownership Group's research, supported by the Sloan Foundation. This article provides an encyclopedic account of innovative public sector efforts over the years to insure that business subsidies actually work for taxpayers.

Olson argues that business subsidies are community investment, and that communities shouldn't be second class citizens. She draws on federal level experience as varied as the Homestead Act of 1863, the Tennessee Valley Authority, Conrail, and the Chrysler Loan Guarantee. The last two required some employee ownership in return for worker sacrifice. At the state level are the Alaska Permanent Fund, the Alberta Heritage Fund, and the New York State investment funds. Olsen sees "fair exchange" as the next step in structuring community benefit agreements.

Copies can be obtained from the law office of Deborah Groban Olson, 1021 Nottingham Road, Grosse Pointe Park, MI 48230 for \$15 + postage.

Thoughtful appraisal of ESOPs

"A central irony of the ESOP, thirty years after its recognition in the Employee Retirement Income Security Act of 1974, is that it has succeeded best where it has been used in participatory ways for which it was never intended and is poorly designed," is the way Michael Murphy starts "The ESOP

at Thirty: A Democratic Perspective" (*Willamette Law Review*, v. 41, no. 4, Fall 2005, pp. 655-705). This sprightly historical and legal retrospective on ESOPs and cooperatives is a good read in addition to offering some thoughtful and realistic ideas for promoting participatory employee ownership in the future. Murphy's particular concern is whether ESOPs can be made more democratic (he concludes they can) and how that can be done.

Among the ideas he suggests are the employee-controlled "common stockholding account" and using the tax code to discourage nonparticipatory ESOPs and to promote more participatory practices. "A horticultural analogy may be helpful. Some gentle pruning sometimes may lead to more vigorous growth; deeper pruning may injure the plant."

Unfortunately, this piece is hard to get unless you subscribe to the *Willamette Law Review*. The publisher refused to let us post it to our website. (What's on their website is just a 6 page teaser.) It can be acquired, however, through your local law library or, better, requested as a photocopy through interlibrary loan at your local public library.



Will solar cells generate cost-effective electric power for your business?

IPESsol Inc., a subsidiary of 56% ESOP-owned EBO Group, recently published a handbook on solar power for non-technical readers who are interested in practical renewable energy for powering cars, homes and businesses. The book, *Exponential Solar: How Solar Cells Photovoltaic (PV) Power Will Transform World Energy and Solve Global Warming* is available for \$15, plus \$5 shipping on their website: www.exponentialsolar.com. **oaw**

The 2007 OH/KY Chapter Award Winners Patio Enclosures ROCs

Patio Enclosures' Troy Thompkins was on his honeymoon four years ago when he had a vision for how everyone could think like owners at his company, Patio Enclosures, based in Macedonia, specializes in enclosures for porches, patios, and sunrooms. Folks liked his idea which led to the formation of the company's first ROC Team (for "Reducing-Our-Costs"), which brought 16 people in manufacturing together to meet during lunch. Together they generated \$70,000 in yearly savings for the company. During the second year, 30 people joined five ROC teams and came up with \$161,000 more in savings. Now third year ROC teams are forming.

Patio Enclosures is Ohio's 2007 Employee-Owned Company of the Year. The firm has 750 employees in locations throughout the United States and established an ESOP in 1997. It became 100% employee-owned in December 2006 when it also celebrated its 40th anniversary in business.

Debbie McCourt is 2007 Ohio Employee-Owner of the Year

Debbie McCourt of Patio Enclosures won the 2007 Employee Owner of the Year for the OH/KY Chapter of The ESOP Association for her involvement with the ESOP Communication Commit-

tee at her firm's headquarters in Macedonia and for her mentorship of the firm's ESOP communication efforts at three branch locations. She is Patio's Payroll Coordinator.

National ESOP Champion Floyd Griffin Recognized

Floyd Griffin, Vice-President of Human Resources at Patio Enclosures was recognized in 2007 as a strong champion of ESOPs and a long-serving national leader. He served as President of the OH/KY Chapter of The ESOP Association in 2000 and 2001 and is an active past-president. From 2003-2006 he served as National Chair of the State and Regional Chapter Council of Committees and as a delegate to the National TEA Board of Directors. He was recognized with a 2007 Volunteer Service Award by the OH/KY Chapter of The ESOP Association. He has over 18 years of service at Patio Enclosures and is a member of The ESOP Administration Committee.

Prentke Romich Wins Communications Award

Prentke Romich Company's ESOP Education and Communication Committee reaches out to employees around the country to build awareness of employee ownership and the ESOP. "Our committee's mission is important, and



Prentke Romich Company of Wooster won The ESOP Association's 2007 AACE Award for Total Communications. Accepting the award in Washington DC are Linda Taylor and Deb Monaghan.

being high achievers, we initiate a variety of activities," explained Committee Chair Nancy Young. Using humor and fun, they provide ESOP lessons at monthly company meetings and send videos of the meetings to field staff. ESOP basics are reinforced by ESOP Eddie, a committee-created character who engages in ESOP Q&A via the web, email and appearances at events. They communicate the basics of ESOPs in diverse ways to reach their diverse workforce. The committee won the 2007 Award for Communication Excellence from The ESOP Association.

PRC is a world leader in the development and manufacture of assistive communication technology for people who are unable to speak and, since 1966, has developed products that help people with disabilities communicate and gain independence. Headquartered in Wooster, the firm is currently 16% employee-owned through an ESOP established in 2003. It has 110 employees in the U.S. and 25 in Europe.

Creativity Drives NPI's ESOP Committee

New Product Innovations, a 21% ESOP-owned firm in Powell, specializes in partnering with other firms to develop innovative, high quality products. Their consulting work combines creativity, flexibility and diligence. The seven members of NPI's ESOP Committee

2007 Ohio ESOP Company of the Year is Patio Enclosures, Inc. in Macedonia. Pam Kurilko, Debbie McCourt, Sherry Letzelter, Dave Holub, Monique Garrett, Troy Thompkins, and Floyd Griffin accept the award at the OH/KY Chapter of The ESOP Association conference in Columbus.



Ohio ESOP News



Doris Davis, Todd Henry, Chuck Chura, and Chad Spring, members of the ESOP Committee of New Product Innovations, Inc., Powell, OH, accepting the Ohio/Kentucky Chapter's 2007 Group Excellence Award.

bring much the same spirit to their task of educating ESOP participants as to how they can affect the company's success. The committee specializes in creating unconventional events that build teamwork among NPI's 42 employees and celebrate their firm's creative talents.

For last year's annual shareholders meeting in June, the committee developed a *Survivor*-themed offering of mentally and physically challenging team events. Getting people away from the office and still working together helped to build relationships. An ESOP trivia event, called ESOPoly, was developed for last October's Employee Ownership Month, and encouraged teams to pool their ESOP knowledge. In addition, the committee sponsors a series of three lunch sessions on the history of NPI, understanding the ESOP, and understanding financial information. NPI's ESOP Committee won the 2007 Group Excellence Award from the OH/KY Chapter of The ESOP Association. **oaw**

Letters to the Editor *Continued from page 2*

ics to make the middle class and the poor richer. I have not lost hope that the labor unions will play a role in that.

Also I was happy to see the objections raised by Judge Posner answered so fully by leaders of the ESOP community. Certainly the diversification issue needs to be addressed but Louis himself never doubted that good minds in the financial community would be well able to solve it. Again this is an area where the labor unions might provide leadership...

The ultimate answer to Judge Posner's objections is more and better ESOPs!

Patricia Hetter Kelso
The Kelso Institute

To the Editor:

Congratulations to OEOC for providing the discussion on the social and economic foundation of ESOPs in the Winter 2006/2007 issue of *Owners at Work*. Both the responses to Judge Posner and the article by Robert Ashford on "Binary Economics" are important contributions to the development of ESOPs as a credible business model. ...

During my tenure teaching economics at the University of Akron, I received a request from Greenwood Press to write a book on ESOPs ... Louis Kelso and Norman Kurland were among those I interviewed for the book and an examination of the underlying economic assumptions revealed a problem that was confirmed by some of the most notable economists of the day.

"Two Factor Theory" (aka, "Binary Economics") had little or no empirical basis in an area of economics known as the production function: factor productivity and the factor distribution of income. In essence, this discipline concerns the relative contribution to output by land, labor and capital (the factors of produc-

tion) and the resulting distribution of national income to each of the factors. Kelso maintained that conventional economics ascribed too much output and income to labor. However, the production function, in the economics community, was supported by substantial empirical information—both over time and over the economies of several industrialized countries.

Binary Economics had no such empirical base. Paul Samuelson called it "...an amateurish cranky fad..." and Milton Friedman dismissed it as "crackpot capitalism." Accordingly, it should not surprise us that Judge Posner, a significant member of the University of Chicago law and economics school, opined in *Summers v. State Street Bank* that the economic argument in support of ESOPs is "...weak and makes no theoretical sense."

Nevertheless, over the past three decades, an empirical body of evidence has developed to support ESOPs as a viable business model. This support is supporting in the work of Steven Freeman of the University of Pennsylvania and in the work of Joseph Blasi and Douglas Kruse of Rutgers University. In turn, over time, others will determine whether, and to what extent, ESOPs change business culture, productivity and the factor distribution of income.

The late Senator Russell Long had a more practical, and probably more effective, long-term perspective on ESOPs. Senator Long advocated and initiated tax incentives for ESOPs as the "sugar" to get the horse into the barn. He understood that the incentives would be necessary for the establishment of a sufficient number of ESOPs so that they could become a sustainable alternative business model. I do not recall any statement from him that, upon attaining such status, ESOPs would require extraordinary long-term tax subsidies to survive over and above the various tax subsidies enjoyed by conventional business entities.

Tim Jochim
Jochim Co., L.P.A.

The Tribune Company ESOP

BILLIONAIRES DISCOVER ESOPS

A Good Deal for Everyone?

Bill McIntyre

No recent ESOP transaction has garnered as much attention as the Tribune Company sale of the company to its employees via an ESOP with the heavy involvement of billionaire real estate entrepreneur Sam Zell. People are interested in this transaction because a billionaire stands to benefit by being involved in an ESOP transaction as a “purchaser” of the company, but the transaction is structured in such a way that the company will meet all requirements to be a 100% ESOP-owned S-Corporation and, thereby, not be subject to federal income taxes.

In an \$8.5 billion buyout, the Tribune ESOP will invest \$250 million, and the Tribune will become a 100% ESOP-owned S Corporation. Sam Zell will invest \$315 million and, after an additional investment of \$500-600 million, be able to exercise warrants to purchase 40% of the company. Zell will be chairman of the board and have the right to name one other person to the nine member board.

The Tribune Company is a media giant. It owns 23 TV stations including WGN in Chicago, WPIX in New York, KTLA in Los Angeles and KWGN in Denver; fifteen newspapers including the *Chicago Tribune*, *Los Angeles Times*, *Baltimore Sun*, *Newsday*, *Orlando Sentinel* and *Hartford Courant*; WGN radio station; and the Chicago Cubs baseball team. As part of the deal, the Cubs will be sold. Currently, the company has 23,000 employees.

ESOPs were intended to spread the benefits of corporate ownership broadly among company employees. If Zell benefits disproportionately, or is perceived to benefit disproportionately, compared to ESOP participants in the Tribune transaction, many people believe that Congress ultimately will react and move to eliminate the possibility of ESOPs becoming a tax sheltered investment program for billionaires.

Carl Grassi, ESOP attorney at McDonald Hopkins in Cleveland, OH, mentioned that he has already had some private equity firms approach him with a request to do a “Zell” transaction. So, with this transaction, we may be seeing the wave of the future.

However, other ESOP attorneys have expressed doubt that there will be many similar transactions because they do not believe that many other private investors will be willing to invest large sums and allow control to reside with an ESOP as Zell has agreed to do.

Risky, but Potentially Good for Zell AND the ESOP

The Tribune transaction is precedent-setting, and it is a risky transaction. There is no guarantee the company will succeed; but, if it does, as explained below, both Sam Zell and the ESOP participants will reap large benefits.

If such transactions don't benefit ESOP participants, then ESOP fiduciaries and service providers have a responsibility to assure that these types of transactions do not occur. If, on the

other hand, they are structured to benefit employees, then they should be encouraged.

Is the Tribune transaction good for its ESOP participants? How will Sam Zell benefit? What are the mechanics of the Tribune transaction? Let's answer those questions in reverse order.

The Tribune Transaction

Throughout the transaction, the interests of the Tribune Company's employees were represented by an independent ESOP trustee, GreatBanc Trust Company, a firm specializing in providing ESOP trustee services. The transaction is a multi-step transaction and the steps are complex. What follows is an attempt to simplify without glossing over any fundamental feature of the transaction.

1) The Tribune Company loaned \$250 million to the ESOP via an ESOP Note. This note is payable over a 30-year period with an interest rate of approximately 5% per year. As in typical ESOP notes, the ESOP's source of funds to repay the note will be contributions and/or dividends from the company to the ESOP.

2) The ESOP purchased 8,928,571 shares of Tribune common stock at \$28/share for \$250 million.

3) Zell (actually a limited liability corporation owned by a Zell family trust) invested \$250 million in the company with a \$50 million purchase of 1,470,588 shares of Tribune common stock at \$34/share and a \$200 million loan to the company. Zell paid \$34/share while the ESOP paid only \$28/share. The ESOP trustee negotiated a 17.6% discount for the ESOP shares.

4) The Tribune Company received a solvency opinion from a nationally recognized valuation firm that the company would have the ability to repay the debt about to be incurred and remain solvent as a business. Without the solvency opinion, the transaction would not have proceeded.

5) The Tribune Company borrowed \$7 billion from various lenders and used \$2.7 billion to refinance existing debt and \$4.3 billion to repurchase 126 million shares of common stock via a tender offer of \$34/share. The repurchased shares were retired.

6) After the 2007 baseball season, the Tribune will sell the Chicago Cubs and the company's interest in Comcast SportsNet Chicago. These sales should net the company about \$800 million.

7) After various government approvals are secured, the Tribune Company will borrow another \$4.2 billion to repurchase the rest of its outstanding common stock, other than the shares held by the ESOP, at \$34/share. Zell's 1,450,788 shares will be redeemed at this time, also at \$34/share. These repurchased shares will be retired. The Tribune Company will also repay Zell the \$200 million loan at this time. The share repurchase will occur as part of a merger between Tribune Company and Tesop Corporation, a newly-formed corporation wholly

owned by the Tribune ESOP. After this “cash merger,” the only outstanding shares of the Tribune Company will be the shares held by the ESOP.

8) The company will elect S-Corp status. As such, it will not be subject to federal income taxes. The ESOP participants will pay income tax when they ultimately receive their ESOP benefit distribution after they have terminated their employment at the company.

9) As part of the merger agreement, Zell will loan the company \$225 million on a subordinated basis. This loan is to be repaid in 11 years, after the company has paid off \$8.5 billion in other loans.

10) Also as part of the merger agreement, Zell will pay \$90 million for a warrant permitting him to purchase about 40% of the company if he pays another \$500 million. The price to execute the warrant increases by \$10 million per year with a maximum price of \$600 million after 10 years. The warrant expires after 15 years. My expectation is that Zell will not retain the stock purchased via the warrant but will immediately resell it to the company, take his money, and move on to his next deal. If he retained the stock, Zell would owe income taxes on the 40% of the company’s taxable income attributed to his ownership, and the company would likely be liable for reimbursing Zell for the amount of his additional tax liability. Thus, the advantage of being a 100% S-Corp ESOP would be gone.

11) Upon execution of the merger, 38 key Tribune managers will receive bonuses totaling about \$6.5 million for supporting the transaction and agree to remain at the company. Interestingly, Tribune’s President and CEO, Dennis FitzSimons, chose not to participate in the bonus program.

12) Key Tribune managers also will receive phantom stock via two programs equal to 5% and 3%, respectively, of the outstanding common stock. The 5% award program is payable on the 5th anniversary of the merger, and the 3% award program is payable one-third each on the 4th, 6th and 8th anniversary of the merger. The purpose of the phantom stock program is to retain current key managers and to provide an incentive for them to grow the value of the stock. Phantom stock does not provide voting rights and is not real common stock.

13) Upon the merger, Zell would become Chairman of the Board of the Tribune Company and would have the right to name one additional director. The company’s CEO will be a director. The other directors serving when the merger is executed will serve for three years. The Tribune Company website states that there are nine members of the board of directors; that would make six to be elected by the ESOP trustee. The investor rights agreement makes it clear that the ESOP shall not vote on matters of corporate governance other than the election of directors. ESOP participants will not vote their shares directly as the company will not be implementing pass-through voting. The ESOP trustee will represent the ESOP participants in all shareholder votes.

14) Zell and his representative on the board can effectively block some actions of the board since “majority board approval” is defined as a majority of independent directors plus one Zell director. Actions requiring such majority approval include, but are not limited to:

- amending the certificate of incorporation or the corporate bylaws;
- issuing additional shares of stock except shares to

the ESOP to maintain its ownership at 51% of the common stock;

- incurring any aggregate debt greater than \$250 million;
- acquiring any assets or securities in a transaction greater than \$250 million;
- selling any assets of the company for greater than \$250 million; or
- entering into any corporate strategic relationship involving payment of more than \$250 million.

Articles have been written about Zell having veto power over actions of the company. That is a misconception. If the Zell-appointed director agrees with the actions of a majority of the board, an action can proceed. However, since Zell has the power to remove the “Zell” director, any Zell director disagreeing with Zell would probably be promptly removed and replaced by someone voting with Zell.

15) Tribune Company would be at that point a 100% S-Corp ESOP with synthetic equity equal to 48% of outstanding shares – 40% from the Zell warrants and 8% from the management phantom stock; therefore, it complies with the S-Corp anti-abuse rules.

How Does Sam Zell Benefit?

First, we should mention that venture capitalists are amazed that Sam Zell is doing this deal. Venture capitalists traditionally require operational and voting control of any company in which they invest. Zell has some veto rights on big issues but would own at most only 40% of the company. Zell has said he is doing the deal because he expects to make a positive return on investment. Let’s look at his possible returns on investment.

As of May 2007, the Tribune Company had a market value of \$8.5 billion—the total cost of repurchasing all shares outstanding. We can assume that the fair market value of the company immediately after the merger would be only the \$340 million invested by the ESOP (\$250 million) and Zell (\$90 million). Presumably, the fair market value of \$8.5 billion prior to the transaction would be reduced by the \$8.5 billion debt necessary to accomplish the transaction.

At that point, Zell would have no incentive to exercise his warrants. Why would he pay \$500 million to purchase something with a value of 40% of \$340 million (\$136 million)? He wouldn’t.

The Tribune newspapers are in a tough industry. Newspapers are losing market share and advertising and circulation dollars to on-line sources of news and advertising. Zell has promised that he would not be involved in the editorial management of the newspapers, that he would be involved only in their business management. Such a position has pleased the Tribune newspaper management, but Zell has not promised “no layoffs.” Layoffs and other cost-cutting measures may be implemented to achieve Zell’s business management goals for the company. Will the Tribune will be able to compete as it transitions from hard copy to on-line? Having the ESOP is no guarantee of success.

Studies consistently show that an ESOP without a corresponding ownership culture results in no improvement in corporate performance, and nothing has been written about either the Tribune or Zell intending to establish an ownership culture

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"What we are talking about today is based upon a moral platform and a moral foundation."

Lee Fisher; Ohio Lt. Governor Keynote
21st Annual Ohio Employee Ownership Conference
Friday, April 20, 2007

For that kind introduction, I want to thank my colleague, State Representative Kathleen Chandler, who in many ways is the boss of Governor Strickland and me, because our budget right now is winding its way through the House of Representatives and the Senate and we need the support of Kathleen Chandler.

I also want to join in the tribute just given to Bill Burga. When he retires next Friday, it's the end of an era of distinguished labor leadership, the likes of which we're probably never going to see again. He's presided over some wonderful victories. The most recent one is the increase in the minimum wage. There are millions of Ohioans who do not know his name but owe him a debt of gratitude for empowering them and supporting their families.

John Logue, thank you for your outstanding leadership of the Ohio Employee Ownership Center. Governor Strickland and I want you to know that we will continue to support you in this effort. I also want to acknowledge Wendy Patton, who is Governor Strickland's executive assistant for Economic Development and also serves on the Leadership Team of the Department of Development. I think it's fair to say nobody knows more about this issue in our administration than Wendy Patton.

The other person I want to recognize is Karen Conrad, the state director of our nationally recognized Ohio Labor Management Cooperation Program, the only one in the nation to include an Employee Ownership Program.

I would like to share with you some thoughts about the importance of what you do and how it relates to what we are doing in the Strickland/Fisher administration and, particularly, at the Department of Development.

It is worth noting that the origin of what goes on at this conference dates back to the devastating shutdowns of the steel mills in the 1970s and early 1980s. What is most striking to me is that it was an ecumenical approach. It was a religious approach in that it was not just Steelworker Local Unions but churches and community organizations that promoted employee ownership. I mention this to you because the Governor and I have just introduced a \$52 billion budget that is more than just a strategic roadmap. It is a moral document.



What we are talking about today is based upon a moral platform and a moral foundation. I believe that if you strip away all of the policy jargon, this conference is all about human dignity and empowerment and that's a moral calling. I would suggest to you that this is the foundation of the moral document that we have introduced to Kathleen Chandler and Jay Goyal and their colleagues in the House and the Senate.

I would like to spend a moment on that because it is the framework for the next four years. We live in a time when we have scarce resources and infinite needs. So the mantra that Governor Strickland and I repeat every day is that we must live within our means and still invest in what matters. Over the next two-year span of the budget, spending will increase

a modest average of 2.2% annually. That is lower than any other budget introduced by any Governor in the last 42 years. Yet we are still able to make some strategic investments. We will provide access to affordable healthcare coverage for the first time to every single child in the State of Ohio.

We will have a compact with our brothers and sisters in higher education. We will increase their subsidy by 5% next year and 2% the following year. But, we want them to keep tuition increases much lower than the average 9% that it has been rising since 1996. In fact, we want to keep it next year to zero. That's the compact we are asking our friends in higher education to make. It's not an easy task because they are already tightening their belts, but we think it sends the right message.

Next, there is no tax that anybody believes is particularly fair, but there's one tax that Governor Strickland and I believe is particularly unfair and too high, and that's the property tax. One of the central features of this budget calls for Securitizing the Tobacco Settlement. That's a fancy way of saying that if you won the lottery you would have a choice to either take the money over twenty to thirty years or get it in a lump sum. We had a settlement with the tobacco companies because of the dangerous cancer effects of their product and each state got a sum of money. Instead of taking that over the next twenty years, we are going to take it in a lump sum. We are going to use this for three purposes. 1) To accelerate school construction, 2) to reduce the debt of this state and 3) we will use the savings from reducing that debt to provide property tax relief of 25% on average to every homeowner 65 years or older.

Let me move next to economic development. It is the rising tide that lifts all boats. If our economy grows and prospers then we all win. People ask me how I'm going to do this and I tell them this is going to be a partnership with labor and business, with private, public and nonprofit, with local and state and federal. It's the only idea that really works. If Ohio were a separate country, we would be the 26th largest economy on the planet. We have a labor workforce of 5.8 million people, larger than the total population of 35 states. We have a work ethic second to none.

I was talking to a CEO from California who is trying to decide whether to locate in Arizona or Ohio. Arizona has more money on the table, but we have tried to put together a customized workforce solution, customized to the needs of her company. We may not be able to match Arizona in loans, grants, subsidies, and abatements, but we can offer something Arizona can't—a labor force second to none, with a work ethic second to none, and a commitment by Governor Strickland and me to develop a workforce development system aligned with the needs of employees and employers and demand driven so we can anticipate the needs of the future. I will never forget what she said to me. She said "In California, we go to a dinner party and people ask us what kind of car do you drive or what kind of a house do you live in?" When she goes to the South, they ask, "Where's your family from?" When she goes to the Northeast the question is always, "What school did you go to?" When she goes to the

Midwest, she always gets asked, "Where do you work?" We have something special here that we take for granted. There is something about the Midwest and, particularly, something about Ohio, the heart of it all, that we need to harness and leverage and build upon and take advantage of. This is what Governor Strickland and I intend to do and there is no better example than drilling down to the concept of empowerment and employee ownership as part of building that workforce. You have our pledge that we will continue to provide assistance through the Ohio Employee Ownership Center and the Ohio Labor Management Cooperation Program, working with the Ohio Department of Jobs and Family Services, working with the Department of Development, working with the Jobs Strike Force. We will not just support it, we will make it one of the signatures of our administration and our Turn Around Ohio plan.

As you know, Ohio is just one of 28 states that has passed legislation encouraging the creation of employee-owned businesses and just one of three that has established a state supported center and the only one that has employee ownership in its labor management program. Companies like those represented here today, like Appleton Paper, The Antioch Company, ComDoc, Inc., The Davey Tree Expert Company, Patio Enclosures and Stow Glen Retirement Village, are examples to other companies that this is not some abstract concept. It actually can work. Where employees feel like they have some control over their destiny, their family's destiny and their community's destiny.

Stephen Covey, in his book *The Seven Habits of Highly Effective People*, talks about what makes people effective. I believe the single most important habit is the following: Seek first to understand; then, to be understood. It's the secret to negotiation, it's the secret to labor management relations, it's the secret to economic development, it's the secret to employee ownership. It's understanding someone else's needs before you want them to understand your needs. Employee ownership is the ultimate of that because what you're really saying is that this company is not numbers on a piece of paper, it's people with soul and hearts, and families and children, and generations to follow. This is not just a job to them, it's what they do, it's who they are. For too long, economic development in America and in Ohio has been viewed as some sort of landlord-tenant relationship where the government is the landlord and the business is the tenant. That doesn't work; it never has and it never will. We are talking about a risk sharing, collaborative partnership. These have to be lasting partnerships with the men and women who work with us, lasting partnerships with the businesses, lasting partnerships with the supply chain, lasting partnerships between labor and business, between public and private. This is the only way we can do it.

We are changing the model of how we do economic development in Ohio. Governor Strickland and I pledge to you our support for what you do. We believe it's the right thing. We believe it's the moral thing. We applaud you and we will be your partners for years to come. **oaw**

"We wish to remain independent and employee-owned forever."

Doug Cowan, Chairman of Davey Tree Expert Co.
Keynote 21st Annual Ohio Employee Ownership Conference
Friday, April 20, 2007

I'm going to tell you a story today about the Davey Tree Company. It is my passion as well as my job, although I did retire as CEO in January. I'm now simply the chairman.

I will go back to the mid-1800's to start the story. The first century of the Davey Company, from 1880 until 1979, the company was owned by the Davey family. The company was founded by John Davey, who was born in 1846 in Somersetshire, England. He immigrated to the U.S. in 1873 at the age of 27, and was appalled at America's disregard for trees.

In 1901, John published a book called *The Tree Doctor*. Interestingly, most of the things he wrote about in *The Tree Doctor* are today still relevant. He was known as the father of tree surgery. His book was the first scientific approach to tree care and tree surgery.

John was a naturalist and environmentalist before those terms became popular. He lectured throughout the Midwest and the East. His books and lectures started a new industry, which we currently call the Green Industry. He had no intention of going into business, but his lectures created an overwhelming demand for tree care. The Rockefeller family in Cleveland employed him. He really didn't want to do the work but he brought his kids into the business and decided he would provide the services to people who would pay for it.

At John's death in 1923 his son, Martin L. Davey, Sr., became the leader of the company at age 38. M.L. was a former mayor of the City of Kent. He was a U.S. Congressman for three terms and in 1934 was elected Governor of the State of Ohio for one term. We all have M.L. Davey, Sr. to thank for the Ohio sales tax. He died in 1945 and his son, Martin L. Davey Jr. became president of the company at age 28.

Sales at the company in 1945 were approximately \$3 million. The company steadily grew, weathered hardships, and by 1977 sales were up to \$43 million – a nice run.

In 1977, the family made two significant decisions. They called the management group into the conference room and said that they were going to sell the company and that Jack Joy was being named the first non-family President.

The family's dilemma at that time was that there was no fourth generation in the business to take over.

We formed an employee committee within three days and made an offer within three weeks to buy the company.

But it took us 18 months to conclude this, from November 1977 to March of 1979. We were bidding against Fortune 500 companies, some venture capitalists or vulture capitalists, if you will. There was an outside director on the board who had a friend who was vice-chair at one of the large investment banking houses. We would make an offer to the board and within a week they would come back with a counter offer slightly better than ours.

We all took on personal debts to buy the company. Some of us got second jobs. Some of us asked our spouses to get second jobs if they already had a job or get a first if they didn't have one. The company took on a lot of debt, or what we at the time thought was a lot of debt. About four years after the transition, the company was doing very well. We paid off all the initial debt and earnings were up substantially.

Last year, 2006, we had a record year as we have had in '05, '04, '03, and '02. Our revenues hit \$468 million last year. Our cash flow was slightly better than \$40 million. Our earnings were slightly better than \$14 million and the market value, based upon the market valuation for the stock, is a little more than \$250 million. I will tell you, though, that the company is not for sale. We wish to remain independent and employee-owned forever. If we were for sale, I think we would probably command a market value of, perhaps, \$500 million.

We are organized around our chief customer groups. We work with utility companies across the nation and Canada, keeping their lines cleared of vegetation, which is about 45% of our revenue. This is our commodity service. It is not a very profitable service, but it pays a lot of the overhead and it is year round.

Residential service is our speciality. It's what we were founded on and it's what we are known for. Our tree care and lawn care services represent about 40% of our revenue. We have more than 100 individual districts throughout the U.S. and Canada. We are the number one player in the residential tree care market nationally. We are really the only one that has a national footprint.

We have commercial grounds management. We are doing about 12% of our revenue in commercial services. This is relatively new to us and is not as profitable as residential, but it is a burgeoning business. We are probably the fifth biggest



company nationally in that.

Lastly, we have The Davey Resource Group, which is consulting services. We are probably regarded as the number one company in consulting services in the industry because most of our competition would be small "Mom and Pop's" locally.

We operate in 40 states, including Hawaii, five Canadian Provinces, excluding Quebec, and we have 6,000 employees, of which 3,200 are employee shareholders.

This is our 28th year of employee ownership. We think that it's possible to do it indefinitely, and I am hopeful that it can go on forever. It has been 27 years since we started this adventure. Does employee ownership work? Are employees capable of becoming capitalists?

Look at 1978 and 1979 versus 2006. You will see that revenues have gone from \$52 million to \$468 million. Income has gone from \$1 million to \$14 million. Cash flow from \$4 million to \$42 million.

Our long term debt back then to us was a staggering \$6.7 million. It is currently about \$32 million and we are not terribly concerned. Our treasurer could call any bank that we have in our system and borrow \$50 million with a phone call.

Our shareholder equity has gone from \$9 million to \$82 million. Total assets have grown from \$20 million to \$200 million.

Shares outstanding: We started with 15 million shares and we now have about 9 million shares. The market price per share back then, adjusted for splits, was \$0.47 per share. We just got our December 31 valuation and it was \$25.90 per share. The market value then was \$7.2 million and the current market value is \$225 million.

As for the ownership demographics at Davey, we have 4,500 shareholders of which 3,200 are active employee owners. No one shareholder holds more than 3% of the company and that is the way we want to keep it. No one has control-

ling interest in the Davey Company. The 401(k), which is an outgrowth of the original ESOP, owns about 32% of the company. The officer group owns 22% of the outstanding shares of the Davey Company. The better news of that is we only own 22%. We want to run the company like a public company. We actually are a public company in the sense that we have to comply with all the SEC regulations because we have very widespread ownership. We encourage every employee everywhere to become employee owners.

Does employee ownership work? It does at Davey and at companies like Davey. We are nationally managed, nationally structured, but we are run locally. Every single employee, in every municipality that has an operation, makes the decisions to keep the customers happy, and they're the people that have to be really plugged into what we are trying to do. In a decentralized company like us, employee ownership is the fabric that holds us all together.

We sell people hours. We are a service company. We don't have products. We don't manufacture anything. We don't have any patented products.

We sell people hours and the only way we can be successful and the only way we can grow is if our people are plugged in. If they share common values and

they perform daily in a proper way, then they will be happy. We feel that employee ownership is providing that culture and we feel it has done wonderful things for our company.

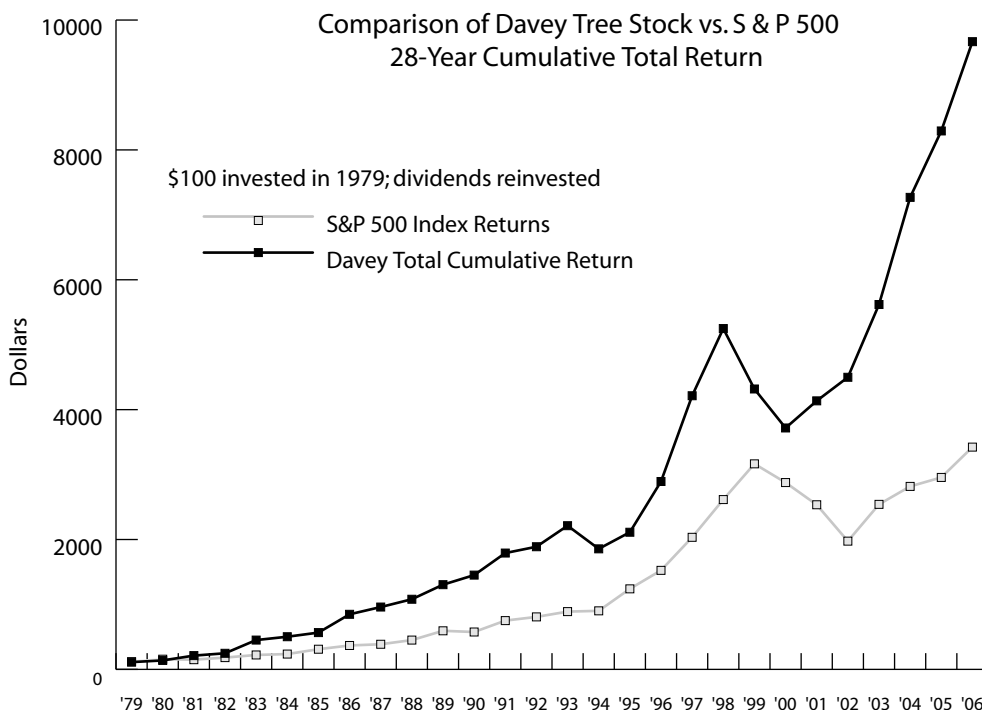
Employee ownership will not make a poor company good. It cannot be used as a rescue vehicle. But, it can make a good company great if everybody buys into it and if everyone from the top down shares the same goals. If it is done for the right reasons, employee ownership is absolutely terrific. Your management needs to have the right philosophy. The leaders must understand that we are all in this together. It is not to enrich just the guys at the top; it is to enrich everybody.

We are a little unusual in that we are entering our 28th year. A lot of employee-owned companies, if they can get through the 10th year, probably have a good shot at making it for a long time. The paradox is, the more successful you are, the higher the buy-out liability is going to become down the road.

We are the largest private employee-owned company in the State of Ohio and the 16th largest employee-owned company in the country. I don't have statistics on this but I believe we are in the top five in terms of longevity.

Employee ownership is certainly one of the important factors of Davey's success. It is absolutely responsible for the culture at Davey. We spend a lot of time on culture issues at Davey. We spend a lot of time communicating. We talk about employee ownership a

In a decentralized company like us, employee ownership is the fabric that holds us all together.



Continued on page 16

More Jobs, Less Outsourcing for Ohio ESOPs

Ohio employee-owned companies report that they are more effective than their competitors at creating jobs, are more likely to avoid outsourcing, reinvest more in their business, and are overall more profitable than other companies in their industries, according to recent OEOC survey research.

Ohio employee-owned firms say that they do better than their industries in creating jobs, even though the employment picture in the state has been poor. One third of 97 reporting said that employment had increased at their firm, compared to 41% in 1993. 45% reported that employment was stable, compared to 38% in 1993. Of 91 firms reporting, 7% reported their employment had declined faster than their industry, 55% said they had done about the same as their industry, and 36% said their employment picture was better than their industry's. In 1993, the same figures were 1%, 48%, and 50%.

Responding companies report far less outsourcing than their industries. No company reported outsourcing more than its industry. Of 105 firms, 52% reported outsourcing the same amount, and 48% reported outsourcing less than their industries. Fifty seven percent of 108 firms said that they never outsourced their production; 22% said they outsourced a little, 17% said they outsourced some, and 4% said they outsourced a great deal. This compares to their estimates of their industry in general, where 29% said the industry never outsourced, 20% said the industry outsourced a little, 33% said the industry outsourced some, and 18% said the industry outsourced a great deal.

One likely reason for the firms' success is their investment

rate. About one third of 101 firms reporting said that they invested more than other firms in their industry; 52% said they invested about the same, and just 17% reported that they invested less than their competitors.

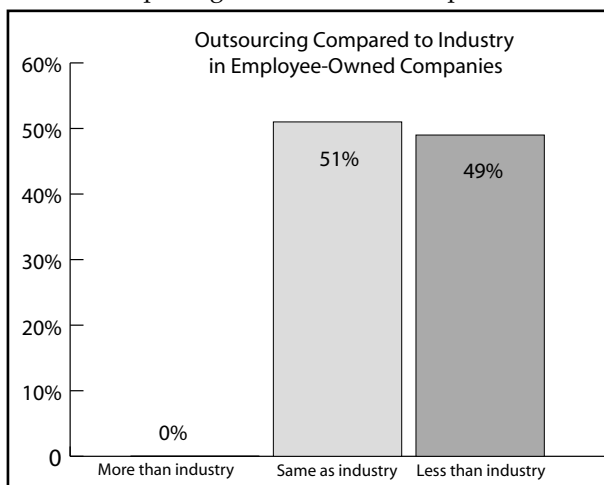
Despite their focus on producing goods and services in the United States with American workers, of 102 firms reporting on profits since the ESOP was established or in the last 10 years, 45% said profits were higher, 43% said they were the same, and

12% reported lower profits. The report was comparable to reports from a similar survey in 1993. Of 97 reporting on profits compared to other firms in their industry, 28% reported they were doing better than their industry in the last 10 years or since the ESOP was established, 58% reported no change in profit position compared to industry, 14% said they were worse off.

The survey of all Ohio ESOPs began in fall 2004 and continued through fall 2006. At least some usable data came in from 115 companies, or roughly a third of the 342 ESOPs reported by the IRS through Larkspur

Data Resources to exist in Ohio in 2003. Many different lines of business were represented in the survey, with the largest group (40%) in manufacturing. Next largest was banking, with 12%. The most successful companies that are most satisfied with their ESOPs are more likely to reply, so the reality of company success and success with employee ownership is probably somewhat less rosy than the picture presented in the data.

Additional results from the survey will appear in future issues of Owners At Work. **oaw**



Davey Tree *Continued from page 15*

lot, but we have other significant factors contributing to our success. We have an outside professional board of directors, and we have had since 1979. We currently have eight directors, two of us are insiders, six are outsiders and they bring a perspective to us that we can't bring ourselves.

We keep things at Davey literally down to earth. We are people who dig in dirt and climb trees for a living. People are our number one priority. There isn't a self-respecting CEO in the world who won't stand up here and tell you the same thing. The difference is, we mean it. We care for each other at Davey. The number one priority – employees. Number two priority – customers. Number three priority – shareholders. It helps that our shareholders are also our employees. But most companies, particularly public ones, have those things reversed. If they spent as much time on their employees as they do on the stock prices they would be further ahead. If you take care of your people, they'll take care of the customers and the customers will take care of the shareholders. If you want to improve shareholder value, it should be as a result of your activity not the pur-

pose of your activity. Quit worrying about stock price and short-term decisions and start worrying about taking care of your people for the long term.

Our top three future strategies at Davey are, perpetuate employee ownership, perpetuate employee ownership, perpetuate employee ownership. We have no desire to go public, although back in 1979 we thought that's what the ultimate end game was going to be; we'll do the employee ownership thing then take this thing public and we'll all make a lot of money. Bad philosophy, bad idea and I have no desire to see the Davey Company go public. As long as the next generation buys in the same way the former generation – the ones that are retiring – did, I think that we can perpetuate employee ownership, hopefully, indefinitely.

All and all, things at Davey are excellent and our future is bright. It's actually brighter than our past and our past has been really brilliant. Employee ownership is alive and well, at least here at Davey and at least here in Northeast Ohio. I wish all of you can enjoy the same kind of success that we have. I think you can, if everybody in management and the employee ranks are on the same page. **oaw**

at the company. It's reasonable to assume that the Tribune will perform neither better nor worse than it has in the past.

The solvency opinion must have stated that the Tribune Company will generate enough cash to pay off the acquisition loans. If it did not, then the transaction would not have proceeded.

Assuming the Tribune has paid off all of its acquisition loans in 10 years (including the assumption that Zell would be repaid his \$225 million loan plus interest in year 11), the Tribune's fair market value will be the same as it was before the transaction - \$8.5 billion [with apologies to professional valuers for greatly over-simplifying the process]. For \$600 million, Sam Zell can purchase 40% of the company, which is now worth \$3.4 billion. Thus, Zell's net proceeds would be \$2.8 billion, not a bad return on his \$90 million initial investment ten years earlier.

What happens to Sam Zell if the Tribune Company cannot compete in an internet world and goes bankrupt within the next 10 years? Zell would lose his \$90 million initial investment and would not be repaid his \$225 million loan. The possibility of losing \$315 million restricts the list of potential investors significantly. Only a billionaire could be interested in this deal.

But, Zell's \$600 million cost to exercise the warrants will never be at risk. The money he risks is the \$225 million loan and the \$90 million initial cost of the warrants. That's still a lot of money, but he will not pay the \$600 million unless he knows the value of 40% of the company exceeds \$600 million. He has no chance of losing the \$600 million. If 40% of the company is worth more than \$600 million, then he'll pay the \$600 million on day 1 and receive the proceeds from selling his stock on day 2. You do not have to be a billionaire to do that deal. Anyone could go to big lenders and say that s(he) needs \$600 million today in order to receive a known payoff of \$3.4 billion tomorrow, and the lenders would approve the loan.

What happens to Zell if the Tribune continues a slow decline but, because of its exemption from federal income taxes, is able to pay off its debt as scheduled and is worth 50% of its original \$8.5 billion value after 10 years? With a value of \$4.25 billion, Zell could still buy 40% (\$1.7 billion) for \$600 million and have net proceeds of \$1.1 billion on his \$90 million initial investment. So, even if the Tribune merely limps along and repays its loans, Zell will see a huge return on investment.

Articles have been written saying that they do not understand how Zell can say he's interested in this transaction solely for its return on investment. To me, it's no wonder he is saying that he is investing in the company purely for the return. He's seen the numbers. There is some risk, but it's likely that there will be at least a decent return.

What happens to Zell if the Tribune's value zooms up and it is worth double its current value after paying off the loans of \$17 billion? Zell's 40% would be worth \$6.8 billion. After paying \$600 million, Zell would receive \$6.2 billion. That's a very, very nice return on a \$90 million investment after 10 years.

Is it Good for Tribune ESOP Participants?

Two basic facts are that the Tribune employees/ESOP participants are not putting up one dime of their own money for this transaction; and that however much Sam Zell gets, the ESOP participants get 1.3 times as much (52% ESOP ownership on a fully diluted basis vs. 40% Zell ownership and 8% management ownership).

But it's important to remember that ESOPs are not a guarantee of employment. Even though they will be employee-owners of their company, Tribune employees can be laid off, if layoffs are deemed to be strategic for the company's success.

Because the ESOP participants are not investing their own money, even if the Tribune Company goes bankrupt, they have no investment to lose. The ESOP is intended as an add-on benefit to their other benefit programs, so they should not be any worse off than they were without the ESOP.

In determining the worth of the transaction for Tribune ESOP participants, I made some simplifying assumptions—primarily that employment stayed at 23,000 and that 1/3 of the ESOP stock had been allocated after 10 years (the ESOP note is a 30-year loan).

If the fair market value of Tribune stock after 10 years is the same as it was before taking on the transaction debt—\$8.5 billion—then the ESOP's share would be 52% or \$4.4 billion. Divide that amount by 23,000 participants and take 1/3 of the result (representing the portion of the stock that would have been allocated) and the average ESOP participant's account would be worth of \$64,000. Based on our experience at the OEOC, that's above average for an ESOP account after 10 years.

If after 10 years the company is limping along and the fair market value of Tribune stock is \$4.25 billion, then the ESOP's 52% would be worth \$2.2 billion and the average individual ESOP account would be \$32,000, about average for a 10-year ESOP.

In the case of the company hitting a "home run" and doubling in value to \$17 billion in 10 years, the ESOP's 52% would be worth \$8.8 billion in total and \$128,000 for the average ESOP participant. That's among the best we've seen for a 10-year old ESOP.

The Tribune ESOP should be good for the ESOP participants.

Why Did the Tribune Involve Sam Zell?

Also, why does Sam Zell get rights to 40% ownership of the company while putting up such a small amount of money?

The likely answer to both questions is that Sam Zell was better than the alternatives, and the transaction was the result of rigorous negotiations.

Otherwise it is likely that another private equity group would have purchased the company—a private equity group that would not have included an ESOP component in their purchase and would likely not have the employees' interests in mind at all as they reorganized and sold off parts of the company to maximize their return.

With the S-Corporation structure, the Tribune Company will incur significant tax liabilities for selling off any assets within the next 10 year period. This provides an incentive for Zell and others in executive management to refrain from a wholesale dismantling of the company to generate short-term cash for the owners.

My guess is that the Tribune Company did the best it could for the selling owners, for the company, and for its employees by structuring the transaction as a combination Zell and ESOP purchase.

With the deal structured as it is—with so little equity investment (4%) and such a large amount of debt (96%)—there is significant risk that the debt cannot be paid off; however, if the debt is paid off, then both Zell and ESOP will reap returns on their investment. **oaw**

Network News

Appleton Launches \$100 Million Ohio Expansion on 100th Anniversary

Appleton's 400 Ohio employee-owners have begun a \$100 million expansion of their production operations, which will add 35 jobs at their West Carrollton paper mill. The firm is a market leader in thermal media and makes carbonless and uncoated base paper at their Ohio operation. Appleton, the nation's 35th largest employee-owned company, has 3,100 employees. The firm became 100% ESOP-owned in 2001 when about 90% of the employees voted to contribute an average of nearly 75% of their retirement savings to buy company stock in the \$810 million buyout.

Appleton celebrates their 100th anniversary this year, launching festivities with a cookout in the parking lot of corporate headquarters in Appleton, WI. "Entering our second century, we share an additional motive for growth: ownership of the company," wrote CEO Mark Richards, in a letter to Appleton's employee-owners. "During our five years of employee ownership, the value of our stock has increased 236%, including a nearly 18% jump in 2006. I believe our founder would be pleased with how his company has developed. We should be confident that we are prepared to begin the next century of success."



Celebrants at Appleton's 100th anniversary event enjoy a cookout in the parking lot at company headquarters.

EBO Group's HBO Committee

Concerned with the escalating cost of health care, EBO Group Inc., in Sharon Center, has formed a committee to control health risks and costs. The committee, called "HBO" for Health By Owners, started with a survey to explore how employees feel about their own healthcare. This was followed by a flu shot clinic and the first annual health screening clinic, where nurses explained screening test results to employees and spouses and an online personal assessment gave feedback on the health screening and individual life styles. Based on the results of the surveys, tests, and assessments, the group outlined a strategy to address risk factors in the group.

The first activity offered is an 8-week program to increase activity by walking 10,000 steps a day. The committee expects to reap savings and healthier, happier, and more productive employees.

EBO Group, through its subsidiaries PT Tech Inc., TransMotion Medical and IPESsol provides products in the areas of brakes, clutches and torque limiters; medical chairs, and innovative power energy storage solutions.

Roush Hardware Offers Old-Fashioned Full Service

Need advice on your home or garden projects this summer? Visit the 60 employee-owners at Roush Hardware for problem-solving help. Roush Hardware is a 100% ESOP-owned business. "We offer quick-stop service on just about any kind of fix and repair situation," explained Rick Dye, company vice-president and Dublin store manager. Roush Hardware operates two full service hardware stores in Westerville and Dublin, including rental centers with tools and equipment for homeowners' weekend projects. In Worthington, the firm also sells



Repair Technician, Tony Molnar, describes Roush Hardware, "We're an old-fashioned store where everyone's like family."

and services heavy-duty residential and commercial lawn and garden equipment, including warranty work on Briggs and Stratton engines. The ESOP was established in 1991 when employees bought the business from the Roush family, who founded it in 1951.

ACRT's ESOP Fiesta Nationwide

"We had 14 picnics all across the U.S., all on the same day with the same theme, 'ESOP Fiesta - We All Stick Together'," explained Renee Bissett, the chair of ACRT's ESOP Committee. The committee gave a picnic blanket to each employee-owner's family. "We do two nationwide events like this a year," added Bissett. ACRT is 100% employee-owned with 400 employee-owners providing utility vegetation management consulting and urban forestry training services in various states.

Will-Burt Employee-Owners Go the Extra Mile

Three employee-owners at The Will-Burt Company in Orrville earned special recognition recently. Leading the pack is Marlin Nicol, WB's Director of Lighting Sales, who finished the Boston Marathon with a final standing of 8,091 out of 23,000 runners. Karen Boley, a customer service supervisor with 25 years of service, won the Employee of Distinction Award and top honors for all of Wayne

County in the regional recognition sponsored by Goodwill Industries of Wayne and Holmes counties. Mel Cindric, from the company's new "Service On the Spot" program, earned Will-Burt's Innovation Award for developing a more efficient system for washing masts.

The Will-Burt Company is 100% employee-owned through an ESOP established in 1985. The firm has 270 employees engaged in the design, manufacture and sales of pneumatic and mechanical telescoping masts and accessories and all phases of contract manufacturing. Will-Burt is an ISO 9001:2000 certified company.

Technology Imaging Services Committee Starts With Art

How small is too small for an ESOP Committee? Technology Imaging Services, a 100% ESOP with only 18 employee-owners, now has a two-person ESOP team leading owner education efforts. TIS, a medical supply reseller, is located in Poland, Ohio. "After attending the OEOC's April Conference, co-worker Kathy Musilli and I decided we were ready to educate about the ESOP," explained Kymberlie Stutz, Vice-President.

To start, TIS's ESOP team met with company president, Caryn Weinberg, to learn more about the features of their own plan. Though in the third year of employee ownership, many employees did not



Employee-owners at Technology Imaging Services in Poland, OH placed their handprints on a lobby banner, which symbolized their partnership with the slogan: "We All Have a Hand in Our Success." Pictured are (back row, l to r) Betse Rizzi, Jenette Garborz, Stephanie Abu Qadurah, Janet Romack, Kathy Musill, Caryn Weinberg, and Renee Matteo; (front row, l to r) Tom Sobinoyski, Carl George, Kym Stutz, and Andrea Menosky.

understand the ESOP and were skeptical. The team now brings ESOP education to the company's monthly lunch gatherings. It also launched an intranet ESOP site and developed a Q & A process. "We've upped the comfort level about the ESOP because everyone can ask us questions," added

Stutz. "We realize we are partners and are feeling pride in our accomplishments as owners." To symbolize their partnership, the team painted a banner with a tree with leaves formed by employees' handprints. Across the banner reads the slogan "We all have a hand in our success." **oaw**

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Book Review

Robert W. Smiley, et al., editors. *Employee Stock Ownership Plans: ESOP Planning, Financing, Implementation, Law and Taxation*. San Diego: Beyster Institute, 2007. ISBN 0-9664077-5-X. Two volumes. \$395.

Employee Stock Ownership Plans: ESOP Planning, Financing, Implementation, Law and Taxation is a big book. In fact, it is two big books. Two Volumes. More than 1,700 pages. 34 Chapters. 24 Appendices. Over 4,700 entries in a Statutory and Regulatory Reference Index. Summary and Detailed Table of Contents. Glossary. Index. Over 60 contributing authors who form a list of "who's who" in the ESOP world.

Wow! ... But the question that must be asked is: Is the book usable? Is the book so big and overwhelming that readers cannot locate the information they need?

The book is offered as a reference document. The Introduction and the section on "How To Use This Book" provide advice on obtaining maximum accessibility. So I tested it on three diverse topics: (1) the tax incentives available to a seller to an ESOP; (2) the fiduciary responsibility of ESOP trustees; and (3) age 55 diversification. How did the book do in answering my questions?

For tax incentives available to a seller to an ESOP, I first looked in the Summary Table of Contents. Chapter 4 on "ESOPs, Ownership Transition, and Multi-Investor Transactions" seemed like a good place to look. The Detailed Table of Contents for the chapter was very helpful. Section 4.2.3 was about the ESOP Advantage for Owners/Sellers. It explains the seller's deferral of capital gains taxes in very concise and understandable terms.

For fiduciary responsibility of ESOP trustees, the Summary Table of Contents included Chapter 10, "ESOP Trustee and Fiduciary Issues," which answered everything I would ever want to know about the fiduciary responsibility of ESOP trustees.

For age 55 diversification, no chapter had Age 55 Diversification as a heading, so I searched beyond the table of contents. Appendix 9 is entitled Sample ESOP Diversification Material and has helpful sample letters and notices, but it was not what I was looking for. Next, I checked the index. There was no category for "Age 55 Diversification" so I checked for "Diversification." I found it, but there was no subcategory for "Age 55 Diversification." However, there was the subcategory "In-Service Distributions," which I surmised should include Age 55 Diversifications, and it offered several references to Chapter 18. Checking the Detailed Table of Contents on the first page of Chapter 18 led me to Section 18.4 on "ESOP Diversification Rules." It explained fully the provisions regarding age 55 diversifications. Readers without my experience and knowledge of ESOPs would likely have had more difficulty locating this information, but they would have found it.

A convenient feature is that the Detailed Table of Contents for the whole book is included at the beginning of the book and each chapter's Detailed Table of Contents is also printed at the beginning of the chapter. In addition, the Detailed Table of Contents, general Index and Statutory and Regulatory Reference Index are in electronic, searchable, Adobe format, and hosted on the book's website, which is available to registered book owners.

A reference book can become obsolete unless it is updated regularly. ESOP laws and regulations are constantly changing. This is not a problem for this book, as timely updates will be

provided when needed at www.esopbook.org.

All areas relating to ESOPs are covered in the two volumes: history of ESOPs, benefit of ESOPs, selling to an ESOP, valuation, administration, communication, repurchase obligation, trustees, benefit distribution and termination. There is discussion of ownership culture as well as technical issues. In addition, the appendices include sample documents and checklists applicable for typical ESOP situations as well as the legislative history of ESOPs.

Who should read the book? Business people considering an ESOP. ESOP fiduciaries. Employee owners. ESOP service providers. University and Law Libraries. This is a book with a lot to offer.

In short, the authors have well achieved the seemingly impossible task of accumulating, aggregating, organizing, cataloging, indexing, and presenting ESOP information in a manner that is accessible and usable by readers.

— Bill McIntyre

Bill McIntyre is Interim Director of the Ohio Employee Ownership Center. He contributed Appendix 19.2, "ESOPs: the Legacy of Russell Long," to the book. oaw

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October 17, Kent

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Summer 2007

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