POST-CLOSING STRATEGY FOR THE INVESTOR AND FOUNDER

One of the most important steps to be taken after an investment has been made in a start-up company is to develop a leadership structure that will take the company to the next level. A new board of directors should be established and board governance policies implemented. Investors will want oversight and the opportunity to measure overall performance of the company. In addition, the directors will be responsible for addressing capitalization issues.

Taking the necessary steps is always challenging for the founders as their immediate focus is concentrating on product development, marketing and operational issues. However, a comprehensive management structure is critical to achieving company goals and builds positive relationships between the founders and investors, which impacts the company's performance and will be important in later rounds of financing.

The investor will be focused on following the progress of the company and measuring the competency of the management team. The entrepreneur should be reaching out to the investor for guidance and assistance in making connections as the investor will provide a perspective that is more expansive than the entrepreneur who will be super focused on immediate results. The investor may also be interested in participating in later rounds of raising capital if the company does well during the initial stages. The management team, board of directors and the investors comprise the major parties involved in a start-up company's future development. Often times the investors will insist on having a seat on the board so that they have an opportunity to view progress of the company in real time rather than having to react to any issues.

An interesting dynamic in a start-up company develops when the investors begin to influence how the company is operated which, prior to the investment, was totally controlled by the founders. Communication among management, investors and founders is critical to the overall success of the company. Understanding and respecting the roles of each player is crucial for development of an early stage company that will be seeking additional capital as it grows.

The new board is primarily responsible for acting on behalf of the shareholders and is expected to establish goals, develop strategy and measure the progress of the company. Striking a balance in the complement of the board is critical and depending upon the stage and growth of the company, may include management, investor representatives and/or independent directors who can provide a balance between the investors and founders.

The day-to-day operations of the company that are performed by management include selling products or services, dealing with partners and securing supplies, while the board of directors establish long term goals and identify additional sources of capital. Once an investment has been made in a start-up company, the founders no longer have total control of the decision-making process, which may become a challenge and cause of friction at times. Transparency and clear communication become the foundation for success and if taken seriously, will be a major reason to avoid dysfunction. Essentially, having the right management structure, an engaged board and investors, strong communications among all parties and measurable business goals are keys to success for the company and for future investment opportunities. To learn more management structures, governance policies, investor relations and other business matters, contact PLDO Managing Principal Gary R. Pannone at 401-824-5100 or email gpannone@pldolaw.com.

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