

By: Jack Garson, Esq.

Some company killers are obvious. Competition. Obsolescence. Too much debt. They're sexy problems ("business sexy" not Sophia Vergara sexy). They make the headlines and you're already aware of them. But there are hidden threats that you don't even know exist. They're the ones that could blindside you. It's like worrying about the big earthquake while the termites are already eating away at the foundation of your house. These hidden company killers aren't given the priority and attention they deserve, even though they can prove disastrous for your business.

Bad Customers

Here's a shocker. Some customers aren't worth having. This may sound like crazy-talk, but you are better off without certain clients. They come in all types. Some want miracles. Others are just so plain needy they'll suck up the time you should be devoting to good customers. My personal favorite wants your services at such reduced prices that you're destined to lose money. They'll take a fixed fee and treat it like an "all you can eat" buffet. Good luck making money off that customer.

Don't let desperation and a bad economy fool you either. Even when business is slow, a bad customer is still a bad customer. In fact, when times are tough, you can least afford to dig a deeper hole when you should be trying to climb out.

Employee Turnover

Businesses love to say that their employees remain their most valuable assets. They put it on their website and mention it in every press release and speech. But all too many employees feel like prisoners plotting an escape as soon as opportunity strikes. In a recent survey by Harris Interactive, thirty-three percent of employees said they plan to quit their job in 2013 and eighteen percent revealed that they will be looking for new employment in the next three months. That's a lot of assets strutting out the front door forever. If employees do quit, the costs are staggering, although not immediately obvious. You

lose productivity. You incur recruiting and training costs. You need months, maybe years before your new employee truly "replaces" your former employee. All of this hits bit by bit. But in the end, employee turnover costs you a fortune.

Instead, put your money into raises, benefits and creating opportunities for advancement within your company. Surprisingly, you can also increase employee retention dramatically by praising your employees and giving them the opportunity to choose at least some of their projects. Bottom line: your employees need to feel the love, not just hear the words.

"Supervision. We don't need no stinkin' supervision."

Without quality control, you're putting your company in jeopardy. You need to be vigilant. Supervise, test, inspect. A successful business can't just blindly sell products. Consider Lululemon's peekaboo pants and just about everything Carnival Cruise Lines does lately. The lack of supervision doesn't just hurt your business. It can kill your customers and your company.

In late 2012, the New England Compounding Center was linked to contaminated batches of steroid injections that reportedly caused multiple deaths and severe infections. By year's end, NECC had been slammed with over 400 lawsuits and filed for bankruptcy.

Consider the long-term consequences of a defective product compared to the modest hit to the bottom line for adequate oversight. Your brand, sales, perhaps even the survival of your company is at stake. Prioritize supervision the same way that you would sales.

Whoops! We Broke the Law

Face it. We live in a highly regulated world. There's a law for almost everything and many aren't common sense. Take unpaid intern programs. Most are illegal. Trust me. Or, better yet, talk to your attorney.



You can't wing it and hope for the best. At too many companies, sales-driven employees dream up new products, propose them to prospective customers and then race by their lawyer's office seeking a quick shout out of approval—like a high five from the bench after a slam dunk. If you like orange jumpsuits and supervised family visits, this is your system.

Recently, Pfizer paid \$60 million to settle allegations it violated U.S. anti-bribery laws. That's nothing. Siemens, the German engineering giant, broke a record a few years back when it paid \$1.6 billion to U.S. and foreign officials to settle similar bribery charges.

There's plenty you can do to avoid breaking the law. But the most important is adopting what I like to call a culture of compliance. Start with a novel new commandment: "Our company is not going to break the law." Learn the law. Educate your employees about what the law requires of your company. Now, comply. And when you do make a mistake and break the law, don't run and hide. Get a great lawyer to guide you, fix the problem, admit your failings and take your punishment. Too many companies super-size their problems when they try to cover-up mistakes.

Crashes: Plan for Disaster

Stuff crashes — stock markets, power grids, computers, even meteors. You need to be prepared for unexpected disasters. Think Hurricane Sandy.

So prepare. This requires careful consideration.

Consider insurance. Most companies spend plenty on insurance but fail to get critically needed coverage. For example, you don't need to be in a flood zone to be exposed to the risk of significant flood damage. If a sewer near your business backs up in a heavy storm, the overflow of water that ruins your company's property is considered flood damage. Standard insurance won't cover it. Even if you have flood insurance, you need to be careful. Recently, a tropical storm plowed up the Eastern Seaboard demolishing multiple facilities of a large company. All of the destruction was considered one "occurrence" under the flood policy and left the business uninsured for millions of dollars of damage.

Disaster planning presents a lot to consider. Some companies have inadequate computer back-up or rely on a sole supplier for a critical product. These businesses can't withstand a disaster. Plan for the worst and most likely it won't kill your company.

No business executive wants to wake up in the morning to an "invitation" to a Senate hearing or headlines about the failure of your product or another company killer that strikes like lightning on a sunny day. But every few weeks, another seemingly stable, even iconic, company collapses. With the discipline and effort to plan for the worst, and patience and foresight to address problems that aren't obvious, you can protect your company and prosper.

ABOUT JACK GARSON



Jack.garson@offitkurman.com | 240.507.1744

Jack Garson's practice focuses on Real Estate, Construction and Business law. He serves as a legal advisor for numerous local, regional and national companies. In his role as legal counsel, Jack also serves as a strategic advisor and lead negotiator. Further, Jack provides guidance on the structure of complex transactions, the resolution of business disputes, the growth and sale of companies, and the management of issues such as liability and risk reduction, employment practices, and enhancing profitability.

ABOUT OFFIT KURMAN

Offit Kurman is one of the fastest-growing full-service law firms in the United States. With offices in six states and the District of Columbia, Offit Kurman is well-positioned to meet the legal needs of dynamic businesses and the individuals who own and operate them. For over 30 years, we've represented privately held companies and families of wealth throughout their business life cycles

In the past two years, we've grown by 50% through expansions in New York City and, most recently, Charlotte, North Carolina. This growth has provided immense value to our clients and attorneys.

Wherever your industry, Offit Kurman is the better way to protect your business, preserve your family's wealth and resolve your most challenging legal conflicts. At Offit Kurman, we distinguish ourselves by our quality and breadth of legal services—as well as our unique operational structure, which encourages a culture of collaboration and entrepreneurialism. The same approach that makes our firm attractive to legal practitioners also gives clients access to experienced counsel in every area of the law.

Find out why Offit Kurman is The Better Way to protect your business, your assets and your family by connecting via our Blog, Facebook, Twitter, Instagram, YouTube, and LinkedIn pages. You can also sign up to receive LawMatters, Offit Kurman's monthly newsletter covering a diverse selection of legal and corporate thought leadership content.

This document and our website contains information that may be deemed or considered ATTORNEY ADVERTISING. PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. Any references to our attorneys' recognition and accomplishments contained in this document or our website are not intended to suggest that our attorneys are superior to other attorneys.

Offit | Kurman[®]
Attorneys At Law

Trust. Knowledge. Confidence.