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Business Law Lessons from the Tiger King

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[Spoiler alert – This article discusses events documented in the Netflix series and is based on the content of the shows.]

In this time of deep fear and heavy unrest about the novel coronavirus, COVID-19, the world has turned to an unlikely hero for comfort: Joseph Maldonado-Passage, a/k/a Joe Exotic. The Tiger King.

The top show on Netflix for several weeks during coronavirus quarantine has been *Tiger King: Murder, Mayhem, and Madness*. The story of The Tiger King is multi-faceted, and it is engaging television. Largely centered within the G.W. Animal Park in Oklahoma filled with large cats and other animals, the series' name comes from a title Joe Exotic gave himself. When his business was at its peak, Joe Exotic claimed to have more tigers and other large cats than anyone else in America. He dubbed himself, The Tiger King.

The story tracks The Tiger King's rise and fall. Joe Exotic is currently in federal prison on convictions for, among other things, a murder-for-hire scheme and violations of U.S. wildlife laws. He was sentenced to 22 years in prison.

Joe Exotic's tumble from his throne as The Tiger King ended with criminal charges, but it began with bad business decisions. While one can hope that most business leaders will never fall as far as Joe Exotic, business leaders should note these eight lessons that can be learned from the dethroning of The Tiger King.

1. Competition Can Go Too Far

A turning point happens in the series when Joe creates a new entity or trade name for his traveling tiger show similar to the name of his nemesis' entity, Big Cat Rescue, and then develops advertising that mirrors the look and images used by Big Cat Rescue. Joe's new name for his traveling show was "Big Cat Rescue Entertainment."

Intellectual property statutes and unfair business practices statutes prohibit unfair competition and unfair or deceptive acts in commerce. North Carolina's Unfair and Deceptive Trade Practices Act prohibits unfair or deceptive business conduct, and it may make violators liable not only for compensatory damages, but also for treble damages and attorneys' fees. Businesses must compete, but there are limits to competition. Business leaders need to be cautious not to cross the line into unfair or deceptive actions. Copying a competitor's name in a new line of business or a new competing entity carries a high risk that the public will become confused about the connection between the competitors, and the copycat competitor may be exposed to significant damages.

2. Intellectual Property Has Significant Value

Big Cat Rescue's owners sued Joe for trademark infringement. Big Cat Rescue had developed significant value and goodwill in its trademarks.

Business owners should appreciate the value that an intellectual property portfolio can bring to the business. If you do not understand the rights and benefits associated with intellectual property assets, you can start here.

3. I.P. Infringement Can Have Severe Consequences

Joe settled the trademark infringement action through a consent judgment for $1 million. This amount should clearly demonstrate the severity that an infringement action can have on a business' bottom line. The fact that Joe agreed to a consent judgment of $1 million reflects that Joe risked a judgment substantially above $1 million if the case had gone to trial.

Trademark owners must police their marks to protect their continued validity. If a trademark owner does not police its marks, the trademark may become diluted, such that the distinctiveness of the mark, and the company's brand, is weakened or lost. Failing to police a mark also can result in the mark becoming cancelled due to dilution or "genericide," which is when a mark has become so prevalent that it is the generic term for a product (e.g., aspirin or thermos).

When a business receives a cease-and-desist letter from a trademark owner demanding that it stop trademark infringement, business leaders need to take immediate action to evaluate the claim and address the purported infringement. For the reasons explained above, trademark owners must police their marks, so ignoring a cease-and-desist letter is not the answer. It is not likely to go away. Call an intellectual property litigator immediately.

4. Strategic Hiring Choices Need to Be Based on Company Interests

Joe hired people who had nowhere else to go. Many of his employees had substantial drug histories or criminal backgrounds. These individuals were not hired for their skills or the needs of the company. Rather, they were hired because Joe Exotic had a big heart and wanted to help them.

Hiring people who need a second chance is admirable, and companies should actively look for opportunities to help motivated individuals desiring to improve. But a company's structure cannot be based on a power dynamic where the founder perceives himself to be the savior of all the employees. A company's culture cannot be based on loyalties outside of the best interests of the company. Key hires should be based upon qualifications of the potential employees and the best interests of the company, and they should be made pursuant to written policies and procedures.

5. Take All Litigation Seriously

The television series gives the impression that Joe did not take the trademark infringement lawsuit seriously. His recorded deposition testimony shown in the series reflects a cavalier attitude about the case. This is further supported by the quotes Joe made immediately after the $1 million consent judgment was entered against him when he said all of the attention had made him a star.

Bet-the-company litigation (similar to the trademark infringement lawsuit) can be deadly serious for any business. The court system needs to be respected, and business leaders should devote appropriate resources towards protecting the business, or its executives, when litigation arises. Litigation should not be a tool for publicity or promotion. If you face litigation, contact a litigation attorney immediately.

6. Be Cautious Who Directs Your Business

Joe brought family members and old friends into leadership roles in his business. When those relationships soured, or when Joe found himself in trouble, the company floundered because the leadership of the company was still beholden to Joe, not to the company's mission and values.

Business leaders need to ensure the company is being directed by people motivated by the company's success, not by a personal agenda. Personal agendas can ruin a company.

7. Court Judgments Have Consequences and Are Not Easily Avoided

After the $1 million consent judgment was entered against him, Joe immediately declared that Big Cat Rescue would never get a dime from him. The television series then shows efforts by Joe to destroy assets to avoid collection by Big Cat Rescue.

But the television series also shows the negative consequences that followed Joe, his parents, and the G.W. Animal Park as a result of that judgment. Joe tried to avoid paying by moving assets and transferring title to the Animal Park to friends and family, thereby placing their assets at risk. Eventually, he had to surrender his interest in the business.

Before his downfall, Joe had other options. He could have implemented asset protection measures that would have protected a significant portion of his assets from attachment as a result of lawsuits. Asset protection can have value for company founders and business leaders, but it will not be successful after liabilities are incurred. Risk management is an important part of any business, and risk must be evaluated before a liability is incurred. Destroying or hiding assets to avoid a judgment is never the answer, and it will not be successful.

8. Be Cautious in Inviting New Owners into Your Business

Joe's decision to transfer ownership of G.W. Animal Park to friends and family, including Jeff Lowe, eventually led to Joe's removal from the Park. Jeff Lowe eventually seized control, and Joe was forever shut out from the company.

Ownership in a privately-held company gives even a minority owner significant rights, with the rights often dependent on the corporate structure of the business. Giving someone a small ownership stake can have major consequences, and many majority owners have been sued by minority owners at significant cost. Business leaders should navigate the process of bringing in new owners carefully, and each decision should be made after significant deliberation and consultation with a business lawyer about the consequences.

Conclusion

Caged in our homes due to the virus, we are naturally drawn to crazy distractions. But real-life stories can still teach us lessons. When things improve, and business returns to a new normal, business leaders will adapt as a result of everything they've learned during this time, regardless of the source. *Long live the King.*

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 For further information regarding the issues described above, please contact Alexander C. Dale.