

First 30 Days

Lecture 13
GSL Peru 2014

Housekeeping

- Please turn in work from this week
- Do not forget to interview 5 people that meet your persona
- Demo Day
 - computing resources?
 - other resources?
- No classes on holiday next Monday 28th and Tuesday 29th

US President gets 100 days...



You have 30 days!

“Success or Failure during the first month is a strong predictor of the overall success or failure of the company”



Team Forms Opinions of the CEO Quickly...

- Demonstrate credibility and you will gain momentum
- Demonstrate incompetence, and...



Founders' First Discussion

- Vision for Company. What is raison d'être?
- What do you each really want out of this?
- How much? How long?
- What role for each founder?
- What if?

Founders' Agreements

- Initial % ownership
- Rights of Founders' stock
- Vesting
- Buyback
- Board and Voting Rights
- Termination
- % of time to company
- Roles –Decision Making
- Non-compete
- Intellectual Property
- Money put in to date
- Mediation
- Salaries

Things to Keep in Mind

What are the..traps?

What will unbalance the Company?



Leaving your current job

- Need a tangible reason to leave
 - If you use your employer's resources to create it, you're in legal trouble
- Read your employee agreement carefully
 - Assignment of IP
 - Non-competes
- Invite your employer to participate!
 - And get a record of you doing so...
- Take 3-6 months off to do consulting...a clear break

Protect your startup

- Non-Competes/Non-disclosure for you and everyone else
- IP Assignments
- EMC's stance - sue when in doubt

Spend or Save?

Option #1:

“We’re building a company that’s going to get huge and have to withstand many investors, an IPO, press, demanding customers. We mustn’t cut corners on ‘x’ and try to do it on the cheap. We need professionals who are going to do it right.”



Spend or Save?

Option #2:

“These so-called professionals are thieves who overcharge big companies that have nothing to do but waste money. We’re a startup, dammit, we can get by without it.”



Get a lawyer

- General Corporate Counsel
 - Intellectual Property
 - Your own individual
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- Keep it “friendly” or be ready for investors?
 - It costs no more to go first-class...and you send a message!

Consider Your Exit

- IPO v. Acquisition?
- Prepare for litigation against hostile parties
- When will a Founder leave?
 - Consider extreme equity dilution if one leaves before later rounds

Your role

- Termination with or without cause
- “Substantial change” of control or responsibilities; acquisition
- Noncompete, vesting, severance pay, continuation of benefits
- Company’s right to repurchase stock
- Possible advisory capacity upon future shift

Incorporation

Delaware

- C-Corp, S-Corp, LLC
- Foreign Entity Registered in MA
- Federal Tax ID

You need to decide on

- President, Treasurer, Secretary
- Board members (odd number, no ties!)
- Initial capitalization
- By-Laws

Subchapter-S (S-Corp)

- Pre-venture-funding
- Must have a small number of employees, all US citizens
- Must have only one class of stock
- Allows stock-holders to pass-through gains(losses) to personal tax returns, pay no corporate taxes
- Ideal for
 - early venture that's going to lose money in the first year(s)
 - entity that's going to make money and distribute all of it to the owners
- Alternative is Subchapter-C: will happen when you get big or when VCs come in

LLC

Pros:

- No requirements for formal meetings, minutes, & resolutions
- Greatest flexibility
 - Can be treated as sole proprietorship or corporation for tax purposes
 - Can avoid “double taxation”
 - Can be run by a shareholder or elected officers
 - No limit on number of shareholders
 - Corporations can be shareholders
 - Income and loss allocations don't have to be proportional to investment

LLC

Cons:

- May be dissolved if member quits, retires, dies or declares bankruptcy
- May be complicated to operate in multiple states
- More paperwork than sole proprietorship

Board of Directors

Two ways Boards formulate decisions:

- Minutes of meetings/resolutions passed
- “Consent” forms in lieu of meeting

- Compensation Committee
- Audit Committee

Issuing Stock

When you create the company, you issue stock:

- maximum number of shares permitted
- total number of shares issued

You pay a fee for having a large number of shares



For Founders' Stocks

- Bill of Sale
- 83(b) election – individually file with the IRS
- Restricted Stock Agreement (vesting sched)
- Lock-up
- Company's right to repurchase
- Your right to sell
- Shareholders' agreement

Vesting

- 4-year is customary
- 25% after one year, nothing if you leave on day 364 (“cliff”)
- Get 1/36th of remaining 75% after each of 36 months
- 3-year is possible
- Look-back (credit) based on previous work
- No guarantee of future employment
- Acceleration upon acquisition –Single Trigger
- Acceleration upon termination –Double Trigger
- “Reverse” vesting...

ISO agreements for future employees

- ISO = Incentive Stock Option
- Exercise price
- Vesting
- Buyback on employment termination
- Right of first refusal on any sale
- Very hard to change this stuff later --get it right!
- Consider the Founder's terms carefully...employees want the same to align incentives

Other Stock Options

- NQO -Non Qualified Options for non-employees
- Outright stock grants (require a stock restriction agreement), rare because of possible tax issues

HR

- “PEO” (professional employer organization)
 - you & your employees actually work for them
 - pooling of people, larger group buying power
- Payroll services
- Benefits
 - Health
 - Retirement
 - Disability
 - Life insurance
- Vacation Policy
- Employee assistance, counseling
- Employee handbook...

Policy and Procedures

- Hiring discrimination based on x, y, and z.
- Sexual harassment
- Attendance
- Reviews (360°), correction procedures
 - paper trail in case of termination
 - rankings in case need to cut
- Travel
- Substance abuse
- Privacy (the employee's, before and after hiring)
- Confidentiality (the company's): press, use of name

Accounting

- Get an accountant to carefully review Shareholders Agreement, ISO Agreement and strike price, etc.
- Can get by at first with a small accounting firm, or a part-timer

Bank Account

- Will need certificate of incorporation and federal tax ID number
- Signers: how many, more for checks over a certain amount
- Simple checking for now, may consider a bank that offers an equipment lease line later
- If raising big VC early, investment banks will want your cash management business

Establishing Credit

- Terms for purchasing from vendors
- Have financial projections ready
- Credit cards
- Some begging with smaller vendors, C.O.D. with larger vendors
- Personal guarantee?
- Give stock?

Insurance

- General Liability (some customers will require this, especially if you're doing any work on their site)
- Property
- Directors and Officers
- Key Person Life

Offices/Rent

- Your home office
- Squatting with a friend/investor
- Your own space
 - Where to locate: who are you looking to attract?
 - Term
 - Sliding rent?
 - Security deposit

Office Supplies

- Telephone system
- Furniture
- Assorted equipment
 - Computers
 - Photocopy/fax
 - Kitchen
- Coffee/snacks!

IT

- Domain Registration
- E-Mail
- Website
- Business Cards

References

New Enterprises Lecture Notes - Bill Aulet

Disciplined Entrepreneur - Bill Aulet

Nuts and Bolts - MIT