ENTREPRENEURSHIP, LAW AND POLICY (6th Edition)

WORKBOOK

FOR PART II
OF BOOK BY

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Building Future Excellence: A Primer for Aspiring Entrepreneurs (pages 155-274 of the text). ©

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<u>WORK BOOK AND</u> <u>SYLLABUS/READING ASSIGNMENTS</u> ©

Part II: Building Future Excellence: A Primer for Aspiring Entrepreneurs

This work book/syllabus serves as both **a reading assignment** and **a resource manual**. Accordingly, this syllabus serves as a substantive guide for the course which you can use along with the book I wrote.

In utilizing this text, we shall *primarily* focus on Part II of Professor Rogers' text titled: **Building Future Excellence: A Primer for Aspiring Entrepreneurs** (pages 155-274 of the text.

Part II of the book is part of a book titled **The African American Entrepreneur Then and Now** by W. Sherman Rogers (Praeger/ABC-CLIO 2010). One of the goals underlying the book is to inspire persons to test their entrepreneurial mettle. The book attempts to do this by showing, for example, how even slaves were able to accumulate enough money from their part-time entrepreneurial endeavors to purchase their freedom (as well as the freedom of their families).

The most important portions of this workbook *are likely* the ones that deal with:

1. **the psychology of entrepreneurship** (p.3),

2. common **mistakes that people make in writing business plans** (p. 12),

3. the portion which corresponds to an explanation of **the reasons for** and **the basics of how to write a business** plan (p. 23),

4. the piece on **financial statements**—the Income Statement and the Balance Sheet (p. 17), Operating Margin of Profit (p.19), Cost as a Percentage of Sales (p. 19), Gross Margin(p. 19),

5. how **to price your product or service** (p.43),

6. the **difference between a subsidiary and a division** and reasons why you should know the difference (p. 47), and

7. **tips** for preparing your: **Concept Statement** (p. 53);**Feasibility Analysis** (pp. 54-56); your **Business Model** (pp. 56-57); and a piece on preparing **Pro Forma Financial Statements** (pp. 57-66).

AVOIDING PROCRASTINATION—THE PSYCHOLOGY OF ENTREPRENEURSHIP

DREAM-BELIEVE-PURSUE

To be a successful entrepreneur, you must have the ability to recognize an opportunity and the **courage** to seize it. **An opportunity is a favorable set of**

circumstances that creates a need for a new product, service or business. You must be more than a dreamer, you must be a doer. Therefore, you must actively pursue your dreams regardless of whether you have all of the economic resources in place.

You must **avoid the paralysis of over-analysis**. <u>Instead of having yet another committee meeting, perhaps you should attempt to sell at least one unit of your product or service</u>. It is for this reason that my book requires that you engage in both <u>Concept and Usability Testing</u> of your service or product as part of doing the Feasibility Analysis for your business idea. This will also help you to make a realistic projection of the likely revenues your business will generate.

One thing I recommend to people is to <u>do something each day</u>—<u>no matter how small</u>—in pursuit of your objective.

If it's a term paper, you should write at least one sentence per day. What you will find is that after you write that one sentence, you'll likely write another.

Similarly, if your objective is to work out more, then you need to do at least ten seconds of your exercise routine each day. If you commit yourself to ten seconds each day, it is likely that you will do more. The key is to overcome the barrier which prevents you from getting started. **Think in terms of doing one unit of activity a day and not the three hundred units that you probably need to do.**

It is in the Conclusion of the book (titled **TIME FOR ACTION**), that I attempt to drive home the point that you must take action each day in pursuit of your goals and objectives if you are to have any realistic chance of succeeding. Unfortunately, however, it is the belief of many people that everything needs to be perfect before they get started. This often undermines their ability to either start or finish a project. See generally the book at 273.

As I state in the book, "**You can dream all you want about that house you want to build but, at some point, you have to get a design down on paper and start hammering nails."** p. 156 and 274.

Additionally, I note that it is imperative that you "**take concrete steps toward achieving your objective. This may initially mean taking baby steps. But even baby steps represent a movement forward. Avoid the stranglehold of analysis paralysis and begin seeking customers and clients today." p. 273.**

SELECTED BOOK REFERENCES THAT DIRECTLY OR INDIRECTLY TREAT THE TOPIC OF PROCRASTINATION, A CHARACTERISTIC YOU WON'T FIND IN SUCCESSFUL ENTREPRENEURS

The Introduction

1. The success of the idea or innovation hinges on the entrepreneur's ability to recognize opportunity and **the courage to seize it**. See at first line on page xvi.

2. The very definition of entrepreneurship refers to "the process by which an individual **pursues opportunities**...without regard to resources he or she may currently control...." Page xvi of the Introduction.

3. Entrepreneurs **"establish their ventures regardless of whether they currently have the financing they need."** Page xvi of the Introduction.

Introduction to Part II

4. "**You can dream all you want about that house you want to build but, at some point, you have to get a design down on paper and start hammering nails".** p. 156.

The Conclusion

I titled the conclusion **TIME FOR ACTION. Here it is.**

"The primary goal in writing this book has been to present both historical and practical information to inspire and assist all entrepreneurs and prospective entrepreneurs in launching, growing, and, ultimately, transferring ownership in a business venture to future generations.

Part II of this book focuses on the practical side. It furnishes important information that readers can use to improve their chances of achieving entrepreneurial success. But **you must do more than merely read this book. Now is the time for you to begin your quest for business success.** Drive and determination, not perfect abilities, will largely determine your success. **Do not allow fear of failure or the belief that you need additional credentials to hinder pursuit of your entrepreneurial dreams.**

It is not enough to have an excellent business plan; **you must take concrete steps toward achieving your objective. This may initially mean taking baby steps. But even baby steps represent a movement forward. Avoid the stranglehold of analysis paralysis and begin seeking customers and clients today.**

There will never be a perfect time to begin any new venture. The need for perfection often undermines the ability of individuals to either start or finish a project. Remember that even a lack of adequate resources is no excuse for doing nothing. An entrepreneurial mindset is a way of thinking that relies on a process of creativity, innovation, opportunity discovery, and risk evaluation to add value to situations, projects, activities, and organizations. Entrepreneurs, by definition, pursue opportunities even though they don't have all the funds they need and lack a full support network.

As we stated at the outset of Part II, **you can dream all you want about the house you want to build but, at some point, you must get a design down on paper and start hammering nails. What better time to get started than now!"**

ABOUT THE COURSE ENTREPRENEURSHIP, LAW AND POLICY

There are six writing/drafting assignments for which you shall be responsible during the course of the semester. However, I shall determine your grade primarily by the quality of your Business Plan.

Pages 12-15 of this Workbook contain a piece I wrote titled: **COMMON MISTAKES IN BUSINESS PLANS WHICH CAN MAKE THEM PRACTICALY USELESS. Additionally, you may wish to take a quick look at pages 25-32 of this Workbook to get an overall idea of subjects that you must typically discuss in any business plan.**

You will receive various handout materials from newspaper articles and other sources during the semester which will serve as case studies for discussion. These articles will highlight the circumstances which caused various entrepreneurs to start their businesses and why their businesses have been successful or struggled. Some of your handout material will be in the form of excerpts from sources such as the first edition of the book by Bruce R. Barringer and R. Duane Ireland titled *Entrepreneurship* (Pearson/Prentice Hall 2006). Additionally, successful entrepreneurs will speak to the class as to the circumstances which caused them to launch their firms and provide tips on how to successfully manage and grow a business enterprise (whether it be a profit or nonprofit organization).

People become entrepreneurs to be their own boss, to pursue their own ideas, and to realize financial rewards. Usually, a triggering event prompts an individual to become an entrepreneur.

Some of the triggering events which cause persons to start a business include loss of a job, receipt of an inheritance which provides the money to start a business, and lifestyle issues, e.g., decision to start a business after a young child begins school. *See* Part II of Book at 155.

These prospective entrepreneurs usually seek to take advantage of some sort of money making **opportunity** which has come to their attention. But exactly what is the definition of an opportunity? **An opportunity is a favorable set of circumstances that creates a need for a new product, service or business.** An opportunity is an idea that has the qualities of being attractive, durable, and timely and is anchored in **a product or service that creates value for its buyers or end users.**

The most common definition of entrepreneurship states that **entrepreneurship is the pursuit of opportunities without regard to resources currently controlled**. It is the **process of <u>opportunity discovery</u>, <u>risk evaluation</u> and <u>adding value</u> to situations, projects, activities and organizations**. *See* The Howard University ELI (Entrepreneurship, Leadership, and Innovation) Institute definition of Entrepreneurship. There are two principal ways you can add value to existing things: (1) you can create a new product or a new service or (2) you can create a new process for delivering a product or service to the consuming public.

Entrepreneurship is all about adding value. And it applicable to virtually every discipline in the curriculum.

A start-up firm may be either an **<u>entrepreneurial firm</u>**, a **<u>salary substitute firms</u>** or a **<u>lifestyle firm</u>** (see book at pages xvi-xvii and 155-156). **Entrepreneurial firms** are those that bring **new products or services to market** by creating and seizing opportunities regardless of the resources they currently control. **Innovation** is the process of creating something new and is central to the entrepreneurial process. Innovation requires implementation, i.e., the successful introduction of new outcomes.

In contrast, **salary substitute firms and lifestyle firms** are not particularly innovative. Examples of salary substitute firms are dry cleaners, restaurants, hairstyling salons, accounting firms. Examples of lifestyle firms include ski instructors, golf pros, and tour guides.

The purpose of the course, **Entrepreneurship, Law and Policy**, is to teach law students (and, perhaps, students from other disciplines) how to practically apply the wide and varied body of legal principles involved in establishing and expanding a business venture. The course will primarily explore the role of law in the entrepreneurial process in the following legal areas: <u>corporate law</u>, <u>agency law</u>, <u>contract law</u>, <u>business organizations' law</u>**,** <u>intellectual property law</u>, <u>small business administration law</u>, <u>tax law</u>, <u>franchise law</u> and the <u>law which governs efforts to raise capital</u>. The course will also discuss related topics such as <u>how to write a business plan</u> and <u>how to finance and market</u> the emerging business. *See generally* Part II of Book at 165-274.

The Entrepreneurship course requires that students enrolled in the class submit the following **assignments**:

(1)a **Concept Statement** for the business (i.e., description of the product or service, the target market, the benefits of the product or service, and how the product will be sold and distributed)

(Due:) ;

(2) a **Feasibility Analysis** (e.g., organizational feasibility, financial feasibility, and an industry and competitor analysis; perhaps the most important task you will perform here is actually attempting to sell one unit of your product or service in the process of doing **Concept Testing** and **Usability Testing** for Your Product or Service)

(Due:);

(3) a **Business Model** for the enterprise (which is an extension of the Feasibility Analysis that shows how the business intends to compete—i.e., its core strategy (how the firm will compete), strategic resources (how the firm acquires and uses it resources), partnership networks (how the firm structures its relationship with suppliers, partners, and other key relationships, and customer interface), target market of customers, marketing and sales strategies, and pricing strategies;

(Due:)

(4) **Articles of Organization** for the business (e.g., articles of incorporation for a corporation; articles of organization for a GP, LP, LLLP, LLP, LLC, and other business formats);

(Due:)

(5) an **Agreement Among Owners** of the business (which contains such matters as restrictions on transfers of equity shares, buy-sell agreements, the percentage of ownership each owner will have in the business, the nature of the owner's initial investment in the business—cash, property, services rendered—those who will manage and make policy decisions for the business, and a host of other matters.

(Due:)

and

(6) a **<u>Business Plan</u>** (i.e., a written narrative that describes what the new business intends to accomplish and how it intends to achieve its goals.) ***See page 23 of this Workbook.***

(Due:)

<u>The Executive Summary of the Business Plan</u>. The prospective business owner **writes the executive summary last** even though it is the first section of the plan. It summarizes the essence of the business and the key decisions made by the entrepreneurial team. It serves as both an abbreviated business plan and an occasion to sell the reader on the business opportunity. The executive summary should, ideally, contain the following categories of information (unless a particular category is not relevant to the firm in question for one reason of another). The categories/subjects that the executive summary should contain are as follows:

Opportunity Statement:

- What is the nature of the opportunity or problem?
- Why is the opportunity now?

The Business Concept and Product or Service:

- How would you describe the business to a potential investor, team member, or customer if you had only a short elevator ride together?
- What is unique about the venture?
- Develop a brief concept statement for the product or service that can be shown to potential customers
- What are some of the unique features of the product or service? What existing problem(s) will you solve with your product or service? What are the primary benefits to customers? How does your solution improve or replace current offerings of the product or service?

Description of the Target Market:

- Briefly define your relevant market.
- What is the current size and expected growth of your target market?
- What segments of the market will you be targeting?
- What proof can you offer that your target customers will value your product or service?
- What do you need to do very well in order to win this market? What will your pricing strategy be relative to the rest of the industry? What is the level of potential sales of your product or service? How will these sales happen? Who will your first customer(s) be? What level of profits do you expect:

Competitive Advantage of the new firm:

- What special knowledge or technology do you possess and how will you protect it?
- What are the barriers to entry? Who will the competitors be?

- How will your service or product compare to those of your competitors in terms of usefulness, cost, styling, ergonomics, time-to-market, strategic alliances, technological innovations, compatibility with related products, etc.?

The Economics of the Business:

- What are the firm's margins and volumes?
- Is the cost structure more fixed or variable?

Technology and Operational Issues

- What technology will you employ?
- Where are you in terms of Research and Development on the products or services?
- Will production be handled by you or outsourced?
- What is unique about your approach to production or operations?

The Team which shall manage the new venture:

- Who are you and why can you do this?
- Briefly summarize your team's qualifications.

Financial Highlights of the firm **(**if any**).**

Financial Needs and How the Team Proposes to Raise the Money for the firm:

- How much money are you requesting?
- From what sources are you looking for money and in exchange for what (e.g., how much equity)?

Accordingly, the executive summary should provide information concerning the nature of the business opportunity which the new firm seeks to exploit, the business concept, the prospective owner's target market, the firm's business model for achieving success, and how the business will make money. It should also give the reader an overview of the highlights from the business plan for the new venture. *See* Part II of the Book at 204 (Building Your Business Plan).

The course will require that students choose a particular business they wish to establish, write a business plan for the proposed venture, determine <u>how they will market</u> the business, determine what must be done to <u>make the business financially viable</u>, <u>draft articles of organization</u> for the proposed business, determine <u>how they will finance</u> the particular business, obtain the necessary <u>forms to obtain financing</u>, evaluate whether they will need to obtain <u>trademarks, copyrights or patents</u> for the business, and determine who will be responsible for the preparation of such <u>items as taxes, income statements and balance sheets</u>.

The students may choose from several types of businesses they wish to start including a law firm, a title company, other personal service businesses (e.g., a cleaning business), a franchised business (Subway, Dunkin Donut, etc.), a retail outlet, or other types of businesses. Relevant guest speakers will discuss how they established, expanded and maintained their particular business enterprise throughout the years.

"An entrepreneur recognizes an opportunity to make a profit, raises the money to open a business, and eventually hires managers to run the business." See Steve Slavin, **ECONOMICS: A SELF TEACHING GUIDE** 35 (John Wiley & Sons, Inc., 2d Ed. 1999). Similarly, social entrepreneurs seek to transform opportunity into a community wide social benefit. Entrepreneurial ability is considered by economists to be one of the four scarce means of production toward the satisfaction of human wants (the others being land, labor and capital). Id. at 33-35. Why is this the case? The answer is simple. "Not everyone can set up a successful business. Proof of this lies in the fact that three out of every five new businesses in the United States fail within the first two years." Slavin at 35. Attorneys, in particular, should be exposed to the essential considerations necessary in establishing a viable business. Such exposure will facilitate attorneys (and prospective attorneys) in either establishing their own business enterprises or in assisting others in correctly establishing such ventures.

The grade for the course will be determined by the *quality of the student's business plan and other documents which the course requires the student to draft* as part of the process of starting a viable business. *The Workbook sets forth the documents which the student must draft and the deadline for delivering each document to the professor*.

COMMON MISTAKES IN BUSINESS PLANS WHICH CAN MAKE THEM PRACTICALY USELESS

Many entrepreneurs start successful businesses without a written business plan. And it is likely that some of you may have been able to launch a successful firm without first preparing a written business plan. However, I have yet to meet any successful entrepreneurs who did not state that their businesses experienced a lot of unnecessary difficulties and/or almost failed because of the lack of an initial, written business plan. **Business plans are meant to be tweaked and constantly changed as necessary. Accordingly, a business plan is not a static document. And yours will be no different.**

"A business plan is where imagination meets discipline." And "[i]t is the discipline of the plan that will help you see critical flaws in your idea, in how you plan to price, in your cost requirements, in your marketing methods and so forth." *See* W. Sherman Rogers, *The African American Entrepreneur Then and* Now, Part II, titled ***Building Future Excellence: A Primer for Aspiring Entrepreneurs***, at 199.

"The best [business] plans are almost always the ones where you gather the best information, do the most library and secondary research, do the most field research (talk to prospective competitors, customers and suppliers), and dig as deeply as possible for information....Most of the answers you seek are hard to find, do not exist in one place, and must be pieced together. The research for a great business plan is a 'scavenger hunt.'" *See* Syracuse Nuts and Bolts of Business Plans, pages 200-201 of Part II of the book titled *Building Future Excellence: A Primer for Aspiring Entrepreneurs*.

As you might imagine, not all of the business plans I receive for review are in the stellar regions. Some provide no meaningful guide for the prospective entrepreneur to ever launch the business—whether the launch date is next month or twenty years from now. Why is this the case for a few of the business plans submitted? Here's my assessment.

Typically, these business plans:

(1) were essentially extended concept statements which *failed to provide* any *specific*, *meaningful*, or *relevant* information for the prospective entrepreneur to realistically make the concept become a reality;

(2) were business plans which indicated that an insufficient amount of field work had been done (e.g., no idea of how much it would cost to rent space in the very area of town in which the business was to perform its business operations in a leased building);

(3) were business plans which provided no breakout of projected monthly expenses or projected income ***nor set forth any assumptions***—whether realistic or otherwise—from which such projections could have been made (see pages 223-224 of book);

(4) were business plans which ***failed to illustrate what a day in the life*** of actually producing the product or delivering the service would be like (i.e, the plan provided no operating model or operating cycle, see page 213-214 of the book);

(5) were business plans which **indicated that an insufficient amount of research had been done to prepare an *overall schedule* of events necessary to launch the business**—which the book makes clear is "an essential part of a business plan" (*See* page 222 of book, first sentence). In this regard, it is irrelevant that it may take you 10-15 years to launch the business based on conservative assumptions. The point is that you must obtain enough information to make the necessary assumptions. And ***the only way you can make these assumptions is by talking to prospective competitors, customers and suppliers, and digging as deeply as possible for information*.**

In any case, at a minimum, if prospective entrepreneurs can address these issues in their business plans, there is a greater chance that their business plans will provide an accurate roadmap for business success.

FOR PURPOSES OF THIS CLASS, IT IS NOT IMPORTANT THAT YOU DETERMINE THAT YOUR BUSINESS CONCEPT IS NOT CURRENTLY FEASIBLE

If you have learned even one new thing--no matter how small--about the realities of successfully turning your business concept into a profitable reality, then you have already obtained one of the primary benefits for enrolling in the course.

Additionally, if you determine it is not *presently* feasible for you to launch your business, simply tell me in your business plan *what it would take for you to be able to get the business up and running* and to become profitable.

Similarly, if you do not believe that your business concept is feasible after doing your primary and secondary research, you should come up with some ideas for ways you could still make money in the industry. For example, perhaps your business could become a contractor for existing firms in the industry.

Ultimately, it is not important to me whether your business concept is feasible. The whole purpose of the class is for you to tell me why your business concept is or is not feasible and **what you would need to happen in order for your business concept to become feasible.**

For those of you who cannot find hard figures for certain expenses, you need to talk to someone who has a good idea of the costs for that particular item and **"make up" a figure** based on an approximate dollar amount for that expense for purposes of this class. Sometimes, you may need to do this for purposes of turning in an assignment for the class. Indeed, you may need to engage in this type of extrapolation for your Business Plan too if you cannot find any hard figures by the time the deadline arrives when you must turn in your Business Plan.

DREAM-BELIEVE-PURSUE

AVOIDING PROCRASTINATION

As I state in the Conclusion to my book, **"The need for perfection often undermines the ability of individuals to either start or finish a project."** ***See Book at 273***. Perhaps, that is the greatest take away lesson from the entire course—that people should **Just Do It.**

It took one of our guest speakers approximately 6 months to roll out a brand new product/invention that is now for sale in the marketplace. This is the best example of the entrepreneurial spirit that I could have ever hoped to present to you. Whether these young entrepreneurs are wildly successful is totally irrelevant to me. What is important to me is that they have positioned themselves to make incredible things happen.

They saw opportunity where most would have seen obstacles. Indeed, my research indicates that most people (probably 99% of the population) would still be calling meetings to discuss the idea. I don't believe that the one percent are smarter than the ninety-nine percent. Not by a long shot. However, I do believe that they **"DREAM-BELIEVE-PURSUE. These [three words] are at the heart of the entrepreneurial mindset."** ***See book at 231 (The Concluding Lines of Chapter 13--Building Your Business Plan).***

Your business plan is **NOT** an "article" or a "thesis paper" that must meet a "publishable quality" standard. This is not some "nerdy" exercise for "scholarly" people who are writing on some complicated legal issue. Indeed, as strange as it might sound, you are actually writing your business plan for yourself, not me. The fact is that **most of you turned in enough information for at least a "rudimentary" business plan well over a month ago.** Indeed, all you needed to do at that point was to fill in the rest of the data that the syllabus, the book, and the business plan format *suggested* that you address.

The late great John Coltrane (and others) said that people should **Acknowledge, Resolve and Pursue.** In the context of this Workbook, that means that you should clearly understand (i.e., acknowledge) that you *must* turn in whatever you have done by the deadline (i.e., you must let it go) and move on to something else for all of the reasons I earlier stated in this correspondence.

IMPORTANCE OF THE FEASIBILITY ANALYSIS AND BUSINESS MODEL EXERCISES

I have come to believe that students learn very little about becoming successful entrepreneurs by listening to rich people relate their rags to riches stories. Preparing a good Feasibility Analysis—**utilizing concept testing and usability testing**—will let you know whether your business has a good chance of getting off the ground.

The Business Model is a continuation of the Feasibility Analysis. I believe that students learn more about becoming successful entrepreneurs by exploring case studies—especially current ones that are unfolding—of how once successful entrepreneurs and their companies end up going out of business (or going from being dominant players in their industries to minor players or worse) because they failed to keep their business models current in light of increased competition, customer preferences, and changes in technology.

In other words, what got you there won't necessarily keep you there. That's why Business Models constantly need to be reviewed and tweaked. It's also the reason you should never look at your overall Business Plan as some sort of completed research paper. Your Business Plan constantly changes because circumstances will often force you take different approaches to create and/or to maintain a successful business.

PREPARING YOUR INCOME STATEMENT AND BALANCE SHEET FOR YOUR BUSINESS PLAN

At the outset, I want to let each of you know that I read each student's Business Plan line by line, page by page. As I read, I take notes on a legal pad of my observations and impressions.

A.THE INCOME STATEMENT

You will find below samples of a simple income statement **in Word format** (i.e., a non-spread sheet document) which you can cut, paste, and manipulate as you wish.

With respect to your **Income Statement,** it is sufficient that you make a projection of income and expenses—**just as if you were doing your own monthly budget.** Not every student in past classes has submitted financial statements (i.e., a pro forma income statement and balance sheet). You won't fail the course if you don't include any financial statements. I will just make a notation in my notes that you did not provide any financial projections.

I encourage you to at least come up with an income statement no matter how crude it looks as it is no more than what you would do if you actually sat down and typed up a written monthly budget for yourself based on your likely income less expenses for a month.

The figures you extrapolate are the same figures you would have given to an accountant to create a professionally rendered **Pro Forma Income Statement**. Therefore, it's the figures you project, NOT the format (i.e., not the way it looks) that are really important here. And only you--not your accountant--can project your firm's likely revenues (i.e., Income) and expenses. The **Concept and Usability Testing of your service or product** during **the Feasibility Analysis** provides you with some basis for making a projection of anticipated revenues.

In any case, please scroll down to see some non-spread sheet forms that you can manipulate **that are in Word format** with respect to your Income Statement and your Balance Sheet. I have also included them in the electronic version of this Workbook.

B. THE BALANCE SHEET

As to your **Balance Sheet,** just make sure that the Asset side equals the combination of Liabilities and Equity on the other side. If your firm's projected Assets are higher than your firm's Liabilities, it indicates that your business has Net Worth (i.e., positive Equity). If your firm's projected Liabilities exceed its projected Assets, the business is insolvent in the bankruptcy sense. ***See book at 164-165.***

SAMPLE INCOME STATEMENT

Income Statement

For the Month Ended March 31, 2005

Revenues			
Rental Revenue			$65,000
Operating Expenses			
Advertising	$5,310		
Wages	$30,500		
Utilities	$1,080		
Depreciation	$800		
Repairs	$4,260		
Insurance	$600		
Interest	$100		
Supplies	$3,900		
Total Operating Expenses:		$46,550	
Net Income:			$18,450

You may wish to determine, among other things, the projected **OPERATING MARGIN OF PROFIT** for your business. This will show you the percentage of each sales dollar retained by your company after paying fixed and administrative expenses. **The formula** you use for this is to divide operating income by net sales.

You may also wish to determine your firm's **GROSS MARGIN** (the difference between the cost to produce a good or service and the price for which it sells). The formula you use is as follows—divide the direct cost to produce a good or service (e.g., $341, 885) by the total amount of sales (e.g., $1,544,519) =**Cost as a Percentage of Sales** of 22.135375% . Thereafter, you can determine **gross margin** by subtracting the earlier figure (22.135375%) from 100% which equals a gross margin of 77.86%). *See* Part II of Book at 162, 166.

Example Company
Balance Sheet
December 31, 2011

ASSETS		**LIABILITIES**	
Current Assets		**Current Liabilities**	
Cash	$ 2,100	Notes Payable	$ 5,000
Petty Cash	100	Accounts Payable	35,900
Temporary Investments	10,000	Wages Payable	8,500
Accounts Receivable - net	40,500	Interest Payable	2,900
Inventory	31,000	Taxes Payable	6,100
Supplies	3,800	Warranty Liability	1,100
Prepaid Insurance	1,500	Unearned Revenues	1,500
Total Current Assets	89,000	Total Current Liabilities	61,000
Investments	36,000	**Long-term Liabilities**	
		Notes Payable	20,000
Property, Plant & Equipment		Bonds Payable	400,000
Land	5,500	Total Long-term Liabilities	420,000
Land Improvements	6,500		
Buildings	180,000		
Equipment	201,000	**Total Liabilities**	481,000
Less: Accum Depreciation	(56,000)		
Prop, Plant & Equip – net	337,000		
Intangible Assets		**STOCKHOLDERS' EQUITY**	
Goodwill	105,000	Common Stock	110,000
Trade Names	200,000	Retained Earnings	229,000
Total Intangible Assets	305,000	Less: Treasury Stock	(50,000)
		Total Stockholders' Equity	289,000
Other Assets	3,000		
Total Assets	$770,000	**Total Liab. & Stockholders' Equity**	$770,000

The reading assignments for the course are as follows:

DATES OF COVERAGE: August 16, 18

THE DECISION TO BECOME AN ENTREPRENEUR

Preface (Significance of Entrepreneurship)…………………………xi-xii
Introduction (The Entrepreneurial Mindset)…………………………xv-xx
Innovative Programs That Foster Entrepreneurship…………………..14-16

What Is Entrepreneurship? Why Become an Entrepreneur?
Characteristics of Successful Entrepreneurs,

Types of Start-Up Firms, Entrepreneurship's Importance……xv-xvii, 155-56

PLEASE GO TO NEXT PAGE TO

DATES OF COVERAGE: August 22, 24, 29, 31—See Below)

DATES OF COVERAGE: September 5, 7, 12, 14, 15, 19, 21, 26, 28, and October 3-26

THE BUSINESS PLAN

Introduction

For most ventures, **the business plan is a dual-purpose document** used both inside and outside the firm. Inside the firm, it helps the company develop a road map to follow in executing its strategies. Outside the firm, it acquaints potential investors and other stakeholders with the business, with the business opportunity the firm is pursuing, and describes how the business will pursue that opportunity.

Writing a business plan can be as valuable as the plan itself. The work required to write a business plan forces the management team to think through every aspect of the business and to establish the most important priorities.

<u>A summary business plan</u> is 10 to 15 pages and works best for companies in the early stages of development. These companies don't have the information needed for a full business plan but may put together a summary business plan to see if potential investors are interested in their ideas.

<u>A full business plan</u>, typically 25 to 35 pages, spells out a company's operations and plans in much more detail than a summary business plan and is the usual format for a business plan prepared for an investor.

<u>An operational business plan</u> usually prepared for an internal audience. It is **40 to 100 pages** and **<u>provides a blueprint for a company's operations</u>**.

As earlier mentioned, I discuss some of the common mistakes that students (and others) make in drafting Business Plans. You can find this brief discussion on pages 12-15 of this Workbook.

These "common mistakes" tend to be omissions to perform basic things required to start a successful business. Examples include the failure to get out "in the field" and actually talk to competitors, potential customers, suppliers, etc. As you probably suspected, these are things that a business owner will eventually need to do at some point if the business is to have any chance of future success. Moreover, getting out in the field helps the prospective business owner to become familiar with the network of individuals who are actually engaged in the business.

There are a growing percentage of persons who are starting their own law practices. In some instances, persons who have no job will start a business or pursue "contracting opportunities" out of necessity.

There are also a growing number of individuals who are starting businesses totally unrelated to law. And many who are retiring from long-held jobs are increasingly becoming entrepreneurs in a variety of areas that they find interesting and stimulating.

A business plan is also an objective and fact-based document. It is not written in first person, so be sure to eliminate all use of 'I', 'We', 'Our', and 'Us'. Use your company name to refer to the business.

A logical approach is to break the overall plan down into **THREE STAGES**.

- **First,** attack four key sections: the Industry, the Company/Concept/Products, the Market, and Economics (think of this as **stage one**); These sections will lay out the nature of the opportunity and how you are going to capitalize on it;
- **Then**, go after the Marketing, Design and Development, Operations, and Management Team sections (**stage two**); These sections really get at the nitty-gritty of how you will make things operational;
- **Finally**, address the Risks and Assumptions, Timetable, Financials and the Offering or Deal (**stage three**). Here you focus on implementation, what can go wrong, how the business will perform, and how much money is needed.

Accordingly, let's begin our discussion of how to correctly build your business plan.

STAGE I

<u>THE NATURE OF THE OPPORTUNITY AND</u>
<u>HOW YOU ARE GOING TO CAPITALIZE ON IT</u>

The Industry, the Company/Concept/Products, the Market, and Economics

a. Summary of the Industry

b. Industry Size in Dollars

c. Trends in the Industry

d. Key Success Factors for the Industry

e. Standard Financial Ratios for the Industry

See End of Workbook at 35-42 for
Discussion of:

Porter's 5 Forces,
SWOT Analysis and
PEST Analysis

For Purposes of Analyzing the Industry in Which You are Entering

The Company, Concept, and Product(s) or Services……………………………207-208 (9-19)

a. Describe the Product or Service You Will Be Selling (What it is and Isn't)

b. Describe any Possible Drawbacks to Getting The Business Started and Maintaining Sales

c. How Will You Initially Enter the Market?

d. Share Your Vision for Where the Business Will be in Five Years

Market Research and Analysis (aka "The Market")……………………………208-211 (9-21)

a. The definition of the relevant market and customer overview.

b. Market size and trends: Estimated potential market size in dollars and units and the assumptions on which they are made.

c. Buyer behavior portion of the market analysis: Who buys the service or product, when, why, where, what and how.

d. Market segmentation and targeting: How the company's defined market can be broken down into specific market segments and the segments the owner will be prioritizing.

e. Competition and competitive edges

f. Estimated market share and sales

g. Ongoing market evaluation: How the owner will continue to evaluate the target markets to assess customer needs and service and guide product-improvement programs

The Economics of The Business……………………….211-213 (9-26)

a. Revenue sources and gross operating margins: how the business makes money

b. Fixed and variable costs;

c. Operating leverage and its implications

d. The overall economic model

e. Charting sales volume necessary to breakeven relative to projected total sales

STAGE II

THE NITTY-GRITTY OF HOW YOU WILL MAKE THINGS OPERATIONAL

The Marketing, Design and Development, Operations, and Management Team sections

The Marketing Plan………………..213-216 (9-28)

a. Overall marketing strategy

b. The pricing strategy for the product or service

c. The selling cycle (i.e., how the owner's overall use of personal selling, advertising, publicity, etc., moves the target customer through the buying process)

d. Sales tactics

e. Advertising and sales promotion

f. Publicity

g. Customer service

h. Warranty or guarantee policies

i. Method of distribution

Design and Development Plan…… 216-217 (10-3)

a. The present state of development of the product or service

b. Difficulties and risks

c. Product improvement and new products

d. Costs

e. Proprietary issues (i.e., any patent, trademark, copyright, or intellectual property rights the owner is seeking)

Operations Plan……………………….218-220 (10-5)

a. Operating Model and Cycle (a day in the life of actually producing your product or creating your service)

b. Geographic Location

c. Facilities, Equipment, and Improvement

d. Operations, Strategy, and Plans

e. Legal issues Affecting Operations

Management Team………………...220-221 (10-10)

a. Organizational structure of the venture

b. Description of the board of directors and key advisors

c. Description of the ownership position of any other investors

STAGE III

<u>IMPLEMENTATION, WHAT CAN GO WRONG, HOW THE BUSINESS WILL PERFORM, AND HOW MUCH MONEY IS NEEDED (PROPOSED COMPANY OFFERING)</u>

Timetable (Overall Schedule), Risks and Assumptions, Financials and the Offering or Deal

Overall Schedule…………………..222-223 (10-12)

a. Month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, production, and operations

b. Schedule of deadlines critical to the venture's success such as incorporation of the venture, rental of facilities, obtaining sales representatives, receiving the first payment on accounts receivable

c. Activities most likely to cause the projected schedule of events not to materialize as planned

Critical Risks, Problems, and Assumptions…………………..223-224 (10-17)

a. Revenue Forecast

b. Development Expenses (number of people, key salaries, sub-contracts)

c. Working Capital (accounts receivable, inventory, payables)

d. Ability to obtain key distribution channel

e. Licenses and Permits

f. Getting a patent, license, or permit

g. Discuss the Assumptions or Potential Problems and Risks Most Critical to the Success of the Venture and How You Plan to Minimize the Impact of Unfavorable Developments

Examples:

running out of cash before you secure orders

competitor risks (e.g., you are preempted in the market by a competitor

potential cost-cutting by competitors

potentially unfavorable industry wide trends

difficulties encountered in obtaining needed bank credit

Financial Plan……………………...224-227 (10-19)

a. pro forma income statements which project the company's income for the first 3-5 years (and which display this data monthly for at least the first 1-2 years)

b. pro forma balance sheets which project the company's assets, liabilities and net worth for the first 3-5 years

c. pro forma cash flow analysis which project the company's cash flow for the first 3-5 years (and which displays this data monthly at least for the first 1-2 years).

d. Months to Breakeven and to Positive Cash Flow

e. Cost Control

f. Highlights of the Financial Statements

Proposed Company Offering…….227-228 (10-24)

Amount of any money that the owner
is seeking raise, how the company will use the capital invested by the investors, the means by which the company will deliver the targeted investment return it projects for the investors in the business

a. Desired Financing (debt, equity, non-traditional financing?)

b. Structure of the Financial Deal (when doing an equity or other primary market offering using the company's securities; what type of security will you offer—**common stock**, **preferred stock**, **convertible debentures**, **debt securities with warrants**, **debt plus stock)**

c. Capitalization of the Business

d. Use of the Funds

e. Investor's Return and Exit Strategy

Checklist of 40 Important Issues to Include in a Business Plan………………..228-231(10-26)

DATES OF COVERAGE: October 31, November 7

RAISING CAPITAL FOR YOUR BUSINESS……………233-242

DATES OF COVERAGE: November 9, 14

DATES OF COVERAGE: November 16, 21,

CONTINUE TO WORK ON BUSINESS PLANS, GUEST SPEAKERS, ELEVATOR SPEECHES

Final Remarks

ADDITIONAL MATERIALS FOR USE IN CONNECTION WITH BUSINESS PLANS

1. **PORTER'S 5 FORCES IN CONNECTION WITH DOING YOUR INDUSTRY AND COMPETITOR ANALYSIS**

2. **SWOT ANALYSIS**

3. **PEST ANALYSIS**

PORTER'S FIVE FORCES

1. **Existing competitive rivalry between suppliers**
2. **Threat of new market entrants**
3. **Bargaining power of buyers**
4. **Power of suppliers**
5. **Threat of substitute products (including technology change)**

Typically this five forces model is shown as a series of five boxes in a cross formation, item 1 being central. Porter's Five Forces model can be used to good analytical effect alongside other models such as the SWOT and PEST analysis tools.

SWOT analysis is a strategic planning method used to evaluate the **S**trengths, **W**eaknesses, **O**pportunities, and **T**hreats involved in a project or in a business venture. It involves specifying the objective of the business venture or project and identifying the internal and external factors that are favorable and unfavorable to achieve that objective. The technique is credited to Albert Humphrey, who led a convention at Stanford University in the 1960s and 1970s using data from Fortune 500 companies.

A SWOT analysis must first start with defining a desired end state or objective. A SWOT analysis may be incorporated into the strategic planning model. Strategic Planning has been the subject of much research.

- **S**trengths: characteristics of the business or team that give it an advantage over others in the industry.
- **W**eaknesses: are characteristics that place the firm at a disadvantage relative to others.
- **O**pportunities: *external* chances to make greater sales or profits in the environment.

- **T**hreats: *external* elements in the environment that could cause trouble for the business.

Identification of SWOTs is essential because subsequent steps in the process of planning for achievement of the selected objective may be derived from the SWOTs.

PEST analysis stands for "**P**olitical, **E**conomic, **S**ocial, and **T**echnological analysis" and describes a framework of macro-environmental factors used in the environmental scanning component of strategic management. It is a part of the external analysis when conducting a strategic analysis or doing market research, and gives an overview of the different macro environmental factors that the company has to take into consideration. It is a useful strategic tool for understanding market growth or decline, business position, potential and direction for operations.

The growing importance of environmental or ecological factors in the first decade of the 21st century have given rise to green business and encouraged widespread use of an updated version of the PEST framework. STEER analysis systematically considers Socio-cultural, Technological, Economic, Ecological, and Regulatory factors. **Political** factors are how and to what degree a government intervenes in the economy. Specifically, political factors include areas such as tax policy, labor law, environmental law, trade restrictions, tariffs, and political stability. Political factors may also include goods and services which the government wants to provide or be provided (merit goods) and those that the government does not want to be provided (demerit goods or merit bads). Furthermore, governments have great influence on the health, education, and infrastructure of a nation.

- **Economic** factors include economic growth, interest rates, exchange rates and the inflation rate. These factors have major impacts on how businesses operate and make decisions. For example, interest rates affect a firm's cost of capital and therefore to what extent a business grows and expands. Exchange rates affect the costs of exporting goods and the supply and price of imported goods in an economy.

- **Social** factors include the cultural aspects and include health consciousness, population growth rate, age distribution, career attitudes and emphasis on safety. Trends in social factors affect the demand for a company's products and how that company operates. For example, an aging population may imply a smaller and less-willing workforce (thus increasing the cost of labor). Furthermore, companies may change various management strategies to adapt to these social trends (such as recruiting older workers).

- **Technological** factors include technological aspects such as R&D activity, automation, technology incentives and the rate of technological change. They can determine barriers to entry, minimum efficient production level and influence outsourcing decisions. Furthermore, technological shifts can affect costs, quality, and lead to innovation.

- **Environmental** factors include ecological and environmental aspects such as weather, climate, and climate change, which may especially affect industries such as tourism, farming, and insurance. Furthermore, growing awareness of the potential impacts of climate change is affecting how companies operate and the products they offer, both creating new markets and diminishing or destroying existing ones.

- **Legal** factors include discrimination law, consumer law, antitrust law, employment law, and health and safety law. These factors can affect how a company operates, its costs, and the demand for its products.

Porter's Five Forces Model (pages 36 and 40) provides suggested points under each main heading, by which you can develop a broad and sophisticated analysis of competitive position, as might be used when creating strategy, plans, or making investment decisions about a business or organization.

Porter is also known for his simple identification of five generic descriptions of industries:

1. **Fragmented** (e.g., shoe repairs, gift shops)
2. **Emerging** (e.g., space travel)
3. **Mature** (e.g., automotive)
4. **Declining** (e.g., solid fuels)
5. **Global** (e.g., micro-processors)

And Porter is also particularly recognized for his competitive “diamond” model, used for assessing relative competitive strength of nations, and by implication their industries:

1. **Factor Conditions:** production factors required for a given industry, e.g., skilled labor, logistics and infrastructure.
2. **Demand Conditions:** extent and nature of demand within the nation concerned for the product or service.
3. **Related Industries:** the existence, extent and international competitive strength of other industries in the nation concerned that support or assist the industry in question.
4. **Corporate Strategy, Structure and Rivalry:** the conditions in the home market that affect how corporations are created, managed and grown; the idea being that firms that have to fight hard in their home market are more likely to be able to succeed in international markets.

Michael Porter's key books:

Competitive Strategy: Techniques for Analyzing Industries and Competitors, 1980
Competitive Advantage: Creating and Sustaining Superior Performance, 1985
Competition in Global Industries, 1986
The Competitive Advantage of Nations, 1990

Why not take 5 minutes to learn how to use all five forces in the porter model to ensure you can analyze and understand the nature of competition in your industry.

- The Bargaining Power of Your Customers

- The Threat of New Entrants into your Industry
- The Bargaining Power of Suppliers
- Threat of Substitute Products
- Industry Rivalry

Porter's Five Forces - Competitive Analysis

And the Threat of Substitute Products

A free how to guide, Quick link to porter five forces

Introduction to the Threat of Substitute Products

An analysis of the threat of substitute products will identify the likelihood that customers to your industry will switch to purchasing an alternative product from outside your industry.

You will find that the impact on your industry will vary depending on the take up rate of the substitute products. A substitute product can decimate an industry overnight or may have little to no long term impact.

Analyzing the threat of Substitute Products

To analyze the threat of Substitute Products, you will need to consider the following factors,

Analysis Criteria	Description
The relative price performance of substitutes	Refers to the cost effectiveness of the substitute products, (Total supply chain costs) Alternative products that provide overall savings to your customers, without impacting the quality of your

	customer's products or services are more likely to be viewed favorably for adoption.
Switching costs	Refers to any cost incurred by your customers to switch to an alternative product Does your customer incur any costs to switch to a substitute product? These costs could be legal review of new contracts, change in spare parts and change in ordering systems. These may also be intangible costs such as risk.
Buyer propensity to substitute	Refers to your customers loyalty to your product or service How do your customers react to substitutes, do they try them or are they loyal to your industry? It would also pay to identify the things that need to change for your customers to change their propensity to try substitute products.

Analysis Criteria	Risk Rating		
	High	**Medium**	**Low**
The relative price performance of substitutes			
Switching Costs			
Buyer propensity to substitute			
Overall Risk Rating			

Scroll down for another sample template for Porter's Five Forces.

Alternative Template for the Threat of substitute products

The following free strategic planning template can be used to determine if each of the factors that affect the threat of substitute products has a positive or negative risk.

You can then give an overall rating for this force.

The threat of substitute products	Comments on the threat of substitute products	Rating
The relative price performance of substitutes		
Switching Costs		
Buyer propensity to substitute		
The threat of new entrants overall rating		

Porter Model Templates from What Makes a Good Leader

-

View and download our Porters Five Forces Template Here

-

After completing your Analysis

After completing your analysis you should transfer the key highlights to your SWOT analysis. Generally you only need to add high level commentary to your SWOT.

Given that Porters five forces is an industry analysis technique you will only need to update the opportunities and threats in your SWOT analysis.

Retail Pricing Strategies

Set the Right Price

By Shari Waters, About.com Guide

- Pricing
- Retail Merchandising Tips
- Retail Store Jobs
- Retail Business Inventory
- Retail

There are many outside influences that affect profitability and a retailer's bottom line. Setting the right price is a crucial step toward achieving that profit. Retailers are in business to make a profit, but figuring out what and how to price products may not come easily.

Before we can determine which retail pricing strategy to use in setting the right price, we must know the costs associated with the products. Two key elements in factoring product cost is the cost of goods and the amount of operating expense.

The **cost of goods** includes the amount paid for the product, plus any shipping or handling expenses. The **cost of operating the business, or operating expense**, includes overhead, payroll, marketing and office supplies.

Regardless of the pricing strategy used, **the retail price of the products should more than cover the cost of obtaining the goods plus the expenses related to operating the business**. A retailer simply cannot succeed in business if they continue to sell their products below cost.

Retail Pricing Strategies

Now that we understand what our products actually cost, we should look at how our competition is pricing their products. Retailers will also need to examine their channels of distribution and research what the market is willing to pay.

Many pricing strategies exist and each is used based on particular a set of circumstances. Here are a few of the more popular pricing strategies to consider:

Mark-up Pricing

Markup on cost can be calculated by adding a pre-set (often industry standard) profit margin, or percentage, to the cost of the merchandise.

Markup on retail is determined by dividing the dollar markup by retail.

Be sure to keep the initial mark-up high enough to cover price reductions, discounts, shrinkage and other anticipated expenses, and still achieve a satisfactory profit. Retailers with a varied product selection can use different mark-ups on each product line.

Vendor Pricing

Manufacturer suggested retail price (MSRP) is a common strategy used by the smaller retail shops to avoid price wars and still maintain a decent profit. Some suppliers have minimum advertised prices but also suggest the retail pricing. By pricing products with the suggested retail prices supplied by the vendor, the retailer is out of the decision-making process. Another issue with using pre-set prices is that it doesn't allow a retailer to have an advantage over the competition.

Competitive Pricing

Consumers have many choices and are generally willing to shop around to receive the best price. Retailers considering a competitive pricing strategy will need to provide outstanding customer service to stand above the competition.

Pricing below competition simply means pricing products lower than the competitor's price. This strategy works well if the retailer negotiates the best prices, reduces costs and develops a marketing strategy to focus on price specials.

Prestige pricing, or pricing above competition, may be considered when location, exclusivity or unique customer service can justify higher prices. Retailers that stock high-quality merchandise that isn't available at any other location may be quite successful in pricing their products above competitors.

Psychological Pricing

Psychological pricing is used when prices are set to a certain level where the consumer perceives the price to be fair. The most common method is odd-pricing using figures that end in 5, 7 or 9. It is believed that consumers tend to round down a price of $9.95 to $9, rather than $10.

Other Pricing Strategies

Keystone pricing is not used as often as it once was. Doubling the cost paid for merchandise was once the rule of pricing products, but very few products these days allow a retailer to keystone the product price.

Multiple pricing is a method which involves selling more than one product for one price, such as three items for $1.00. Not only is this strategy great for markdowns or sales events, but retailers have noticed consumers tend to purchase in larger amounts where the multiple pricing strategy is used.

Discount pricing and price reductions are a natural part of retailing. Discounting can include coupons, rebates, seasonal prices and other promotional markdowns.

Merchandise priced below cost is referred to as loss leaders. Although retailers make no profit on these discounted items, the hope is consumers will purchase other products at higher margins during their visit to the store.

As you develop the best pricing model for your retail business, understand the ideal pricing strategy will depend on more than costs. It also depends on good pricing practices.

It is difficult to say which component of pricing is more important than another. Just keep in mind, the right product price is the price the consumer is willing to pay, while providing a profit to the retailer.

Other Matters

The Difference Between a Subsidiary and a Division: Why You Need to Know the Difference

CORPORATE SUBSIDIARIES V. CORPORATE DIVISIONS PLUS AN ALTERNATIVE ARRANGMENT VIA LLCs CALLED A "SERIES LLC"

CORPORATE SUBSIDIARIES V. CORPORATE DIVISIONS

Subsidiary Corporation

"**A corporation may form another corporation and hold some or all of the shares in the other corporation** (i.e., a subsidiary or wholly owned subsidiary) as an individual investor might do**" if it decides it wishes to isolate the risks of a new line business in a separate entity.** *See* Robert W. Hamilton and Richard A. Booth, BUSINESS BASICS FOR LAW STDUDENTS 280 (Aspen 4th Ed.).

In such cases, the corporate stockholder is called the parent corporation. A corporation may also acquire another existing corporation by purchasing some or all of its shares with the same result. In either case, the parent corporation would own a separate entity know as a subsidiary.

The only way, as a general proposition, to avoid the *annual* franchise taxation *for each* corporation (or LLC) you form is to **create only one entity**. **Thereafter**, you can create trade names for each division of the corporation and make the single corporation the owner of the trade name that you have given to the division.

In California, for example, the annual franchise tax is nearly $800.00 per entity the last time I checked. In Maryland, it is $300.00 annually per entity.

On the other hand, the filing fee for the trade name recognition may be as little as $25.00 (e.g., Maryland) and may or may not ever need to be renewed. The liability of the division would simply be the liability of the corporation (or LLC). As stated earlier, you would not be personally liable for the debts and obligations of the division; rather your corporation would be liable. This is because the corporation (or LLC) owns the trade name utilized by the division.

The result is that any liability of the division will be the liability of the corporation (or LLC). In any case, you would not be personally liable for the debts and obligations of the division. Rather, your Corporation (or LLC) would be liable.

However, you may have additional options if your jurisdiction allows for a "Series" LLC. I discuss that a little later.

Please note, however, that there may be several legitimate reasons for doing things differently than what I have suggested. In any case, you will have to pay an annual fee for each entity you create which can be very expensive if you wish to form a bunch of subsidiaries.

Corporate Division

"Where a corporation (or other business) operates several lines of business without forming separate corporations, it is common for the various operations to be called divisions, though one should never rely on such casual designations. *Id*. at 280. ***However, a liability of a division results in a liability to the corporation*** *since the division is not a separate corporate entity* as is the case with a subsidiary.

"**A corporation that wants to sell or otherwise dispose of an operation that is not separately incorporated may do so by segregating the assets and liabilities attributable to the operation, which it then drops down into a newly formed corporation**, the shares of which may then be sold or distributed". The corporation distributes the shares as a dividend to existing shareholders of the corporation. Id. at 280. **This sort of reorganization is called a spin-off. Id. at 402.**

"One of the largest such deals involved the spin-off of Lucent Technologies (the former Bell Labs) from AT&T. Id. at 280 and 402. A spin-off is one of the few remaining ways to extract assets from the corporation without triggering a tax at the corporate level because the transaction is deemed a tax-free sale of assets by the corporation.

A sale of assets (e.g., the division) is generally considered tax-free if 80% of the consideration for the sale of the division's assets is stock of the former division which is now a separate corporation.

<u>Don't Depend Solely on the Corporate Veil, Get Insurance</u>

The structure of one corporation as a wholly owned subsidiary is precisely done to "isolate" the risks involved in a line of business in a separate corporation. There is a substantial body of law relating to circumstances in which courts will ignore the separate existence of a valid corporation and hold the stockholders personally liable.

This is true whether the stockholder is an individual, a parent corporation, or merely a corporation affiliated with the liable stockholder. This is what corporate lawyers refer to as piercing the corporate veil. As a practical matter, piercing is only applicable to closely held corporations such as Eden's Gold. THEREFORE,

ONE SHOULD ALWAYS PROTECT AGAINST RISKS OF LOSS THROUGH ADEQUATE INSURANCE AND NOT RELIANCE ON THE CORPORATE FORM OF DOING BUSINESS AS A REMEDY AGAINST LIABILITY.

My legal advice is simple. If the corporation doesn't have the proper liability insurance, perhaps it should not engage in the business. Therefore, it is my position that it makes no difference whether one line of business is organized as a wholly owned subsidiary or as a division. While courts do not like to pierce the corporate veil (it requires fairly egregious behavior on the part of shareholders), it will do so to prevent fraud and to achieve equity where necessary to prevent shareholders from being "unjustly enriched" at the ex
pense of creditors of the corporation.

THE SERIES LLC

ILLUSTRATION OF THE RATIONALE FOR SERIES LLC VIA ANALOGY TO CORPORATION SUBSIDIARIES

An Illinois brochure describing its Series LLC option states, "*such a company has the ability to create within itself a separate 'series' or 'cells' that have their own interests, liabilities and members*."

The brochure goes on to say "One example would be a company having multiple rental properties. A limited liability company with the ability to establish series ***could separate the various properties into separate series, thus segregating the liabilities*.**"

Accordingly, what a "Series LLC" seems to basically **allow a LLC to have independent subsidiaries which each provide limited liability to its members.**

It then goes on to provide that:

“To establish a Series LLC, the Articles of Organization on Form LLC-5.5(S) must be completed instead of the standard Form LLC-5.5. The filing fee for Form LLC-5.5(S) is $750, with payment required in guaranteed form. After such Articles of Organization have been filed with the Department of Business Services the company can then establish one or more individual series through the filing of a Certificate of Designation on Form LLC-37.40."

The filing of a separate Certificate of Designation is necessary for the creation of each series.

On Form LLC-5.5(S), Article 7 is used to designate the limited liability company as one that is authorized to establish series. After this variation, Articles 8, 9 and 10 on Form LLC-5.5(S) are the same as Articles 7, 8 and 9 of the standard Form LLC-5.5 and may be completed following the guidelines in this booklet.

Perhaps, the best way to illustrate the likely rationale for a Series LLC is to review the differences between corporate divisions and corporate subsidiaries.

Question:

What is a wholly owned indirect subsidiary?

Answer:

A **wholly owned indirect subsidiary is a wholly owned subsidiary (Company 3) that itself is owned by a wholly owned subsidiary (Company 2) of another company (Company 1).**

Accordingly, Company 3 is a "wholly owned indirect subsidiary" of Company 1.

GLOSSARY

5 C's of credit

The five key elements a borrower should have to obtain credit: character (integrity), capacity (sufficient cash flow to service the obligation), capital (net worth), collateral (assets to secure the debt), and conditions (of the borrower and the overall economy).

Learn more about this term

Usage Example

The **5 C's of credit** are essential to have before being able to borrow money or acquire credit.

Cost Of Goods Sold

Definition

COGS. An income statement figure which reflects the cost of obtaining raw materials and producing finished goods that are sold to consumers. Cost of Goods Sold = Beginning Merchandise Inventory + Net Purchases of Merchandise - Ending Merchandise Inventory.

For example:
Beginning Merchandise Inventory = $150,000
Net Purchases of Merchandise = $400,000
Ending Merchandise Inventory = $125,000
COGS = 150,000 + 400,000 - 125,000 = $425,000.

In standard accounting practices, gross margin can be calculated by subtracting the cost of goods sold from total sales.

SG&A

Selling, General and Administrative Expenses. Income statement item which combines salaries, commissions, and travel expenses for executives and sales people, advertising costs, and payroll expenses.

Learn more about this term

Usage Example

Advertising agencies have significant **SG&A** expenses because this expense encompasses commissions and travel expenses.

MISCELLANEOUS

TEMPLATE FOR WRITING A CONCEPT STATEMENT FOR A PROPOSED NEW BUSINESS

CONCEPT STATEMENT

Name of Business:

Description of the Product or Service:

Target Market Business Aims to Reach:

Benefits of the Product or Service:

How the Business Will Sell and/or Distribute the Product or Service:

TIPS FOR PREPARING YOUR FEASIBILITY ANALYSIS ALONG WITH A TEMPLATE

I decided to prepare this document to show you the relationship between preparing your Feasibility Analysis and your ultimate Business Plan. It is not necessary for you to use the template contained in this document. It is only a guide for assisting you in the preparing your Feasibility Analysis.

When you write your Feasibility Analysis, I would suggest that you use the subjects set forth in the book (at 157-158) as your Captions supplemented by the topics set forth in the Syllabus/Workbook at page 9. Thereafter, you should address each topic under the caption and/or Sub-caption.

What is the Feasibility Analysis? The Feasibility Analysis is research you perform that will tell you whether the idea underlying your business is worth pursuing. In other words, your Feasibility Analysis will help you to determine whether your business idea is viable and worth the investment of time, money, and effort.

I'm not too concerned about the length of your Feasibility Analysis. Indeed, it may be that your Feasibility Analysis is less than one page. Not a problem. However you should *try* to say something about each of the topics below.

In doing the Feasibility Analysis assignment, you are actually doing the leg work for a substantial portion of the subjects that you will discuss in your Business Plan.

Some of the topics that you will cover in your Feasibility Analysis which directly relate to subjects you will cover in your Business Plan are as follows:

The Industry—see pages 206-207
The Company, Concept, and Product(s) or Services(s)—pages 207-208
Market Research and Analysis (aka “The Market”)—pages 208-211
The Economics of the Business—pages 211-213
The Marketing Plan—pages 213-216
The Operations Plan—pages 218-220
The Management Team—pages 220-221, and
The Financial Plan—pages 224-227

Therefore, you should probably take a look at these portions of the book as you write your Feasibility Analysis.

FEASIBILITY ANALYSIS FOR_______________ (Name of Business)

Product or Service Feasibility Analysis

Assessment of the Overall Appeal of the Product or Service

Results of Concept and Usability Testing of the Product or Service

Findings From Primary Research Regarding The Overall Appeal of the Product or Service

Findings From Secondary Research Regarding The Overall Appeal of the Product or Service

Organizational Feasibility Analysis

Management, Organization, and Resources

Management Skills and Capabilities of Your Team Members

Description of the Organizational Structure That Will Deliver The Product or Service to the Consumer

Resources—i.e., Funds to Get The Business Going

Financial Feasibility

Why the Company Will Likely be Profitable

Why the Company Will Likely be Attractive to Potential Investors

Industry Analysis

Current Status of the Industry, Viability of the Industry as a Whole, and Prospects for Future Growth and Expansion

Supply Chain Matters—how are goods and services necessary for the production of the good or service moved within the industry

Target Market—customer base and the demographics and buying power of the target market the business is seeking to attract

Competitor Analysis

Direct, Indirect, and Potential Future Competitors

Strengths and Weaknesses of Competitors

Is the Market Strong Enough or Growing at a Rate That Will Supply Enough Customers for all Competitors?

TIPS FOR PREPARING YOUR BUSINESS MODEL ALONG WITH A TEMPLATE

When you write your Business Model, I would suggest that you use the subjects set forth in the book (at 160) as your Captions. Thereafter, you should address each topic under the caption and/or Sub-caption.

What is the Business Model? The Business Model is a detailed look at the structures and day-to-day functions of the company from top to bottom, inside and out. *The Business Model looks at both Internal and external factors*.

I'm not too concerned about the length of your Business Model. Indeed, it may be that your Business Model is less than one page. Not a problem. However you should *try* to say something about each of the topics below.

In doing your Business Model assignment, you are actually doing the leg work for a substantial portion of the following portions of your Business Plan:

The Operations Plan—see pages 218-220
The Marketing Plan—see pages 213-216
The Management Team—see pages 220-221, and
The Economics of the Business—see pages 211-213.

Therefore, you should probably take a look at these portions of the book as you write your Business Model.

BUSINESS MODEL FOR______________ (Name of Business)

INTERNAL FACTORS

Company structure of divisions and departments, including employee and executive responsibilities and accountability

Procedures, processes, and labor needs in manufacture of a product or delivery of a service

Expenses and revenue management

Operating strategies

EXTERNAL FACTORS:

Target market of customers

Marketing and sales strategies based on target market data

Pricing strategies based on target market data and current or emerging economic conditions

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Pro Forma Income Statements & Balance Sheets, A Firm's Operating Margin of Profits, Fixed and Variable Costs, Operating Leverage, The Rules of Supply and Demand and More

The Relationship Between Liabilities and Assets

Assets are the things a company owns, and they include tangible items such as buildings, machinery, and equipment as well as intangible items such as accounts receivable, patents or intellectual property. If a business subtracts its liabilities from its assets, the difference is its owner's or stockholders' equity. This relationship can be expressed as assets - liabilities = owner's equity. However, in most cases, this equation is commonly presented as liabilities + equity = assets.

What is the Difference Between an Expense and a Liability?

An expense is the cost of operations that a company incurs to generate revenue. Unlike assets and liabilities, expenses are related to revenue, and both are listed on a company's income statement. In short, expenses are used to calculate net income. The equation to calculate net income is revenues minus expenses. For example, if a company has more expenses than revenues for the past three years, it may signal weak financial stability because it has been losing money for those years.

Expenses and liabilities should not be confused with each other. One is listed on a company's balance sheet, and the other is listed on the company's income statement. Expenses are the costs of a company's operation, while liabilities are the obligations and debts a company owes.

The Balance Sheet and the Relationship Between Balance Sheet and Income Statement

- **All of the assets on the balance sheet have two sources**—outside sources (loans, i.e., liabilities, provided by creditors) and inside sources (assets put into the business by owners, i.e., equity). Thus, the total of assets on the balance sheet always equals the total of liabilities and equity on the balance sheet. See Eisenberg Casebook at 35 (11th Edition).

- **The income statement** shows the earnings of the business between successive balance sheets. If the business has net income during that period, the equity account called earned surplus (or retained earnings) on the balance sheet would show an increase by the amount of the profit. See Eisenberg Casebook at 36.

On the balance sheet which follows, you will be able to see how this works. On any balance sheet, if one subtracts total assets from total liabilities, it will always show the net worth (equity) belonging to the owners. **A corporation is insolvent in the bankruptcy sense if its liabilities exceed its assets. A corporation is insolvent in the equity sense if it cannot pay its bills as they come due. In any case, the corporation would be forbidden from declaring a shareholders' dividend under such circumstances.** See generally**,** Chapter 13, Distribution to Shareholders, pp. 854-75. See also at 863 (9th Edition).

OVER TO NEXT PAGE FOR SAMPLE BALANCE SHEET WHICH SHOWS THE RELATIONSHIP OF THE BALANCE SHEET TO THE INCOME STATEMENT

Sample Balance Sheet

XYZ Company
Income Statement
for the Year Ended December 31

REVENUES	
Sales to customers	$2,225
Interest Income	12
Royalty and Other Income	15
Total Revenues	$2,252
COSTS AND EXPENSES	
Cost of Products Sold	$1,100
Selling, General and Administrative Expenses	755
Depreciation	69
Other Expenses	18
TOTAL COSTS AND EXPENSES	$1,942
PROFIT BEFORE TAXES	
Less	$310
Federal, State, and Foreign Taxes	126
NET EARNINGS	$184

XYZ Company
Balance Sheet December 31

ASSETS	
Current Assets	
Cash	$ 38
Marketable Securities	200
Accounts Receivable	288
Inventories	397
Other Current Assets	23
Total Current Assets	$ 946
Long Term Assets	
Property, Plant, and Equipment	$ 528
Other Assets	77
Total Long Term Assets	605
TOTAL ASSETS	**$1,551**

LIABILITIES	
Current Liabilities	
Accounts Payable	$ 99
Loans and Notes Payable	88
Other Current Liabilities	129
Total Current Liabilities	316
Long Term Debt	85
Total Liabilities =	**401**
STOCKHOLDERS EQUITY	
Common Stock	$ 145
Retained Earnings	1,005
Total Stockholders' Equity	1,150
TOTAL LIABILITIES EQUITY	**$1,551**

Return on Equity

Net earnings divided by Stockholders' equity

Note: If you **subtract total liabilities ($401**) from **total assets ($1,551)** you will see that the difference reveals the **net worth** of the business **(equity = $1,150)**

This information will, hopefully, be helpful to you in preparing two parts of your Business Plan—**The Economics of the Business** (pages 211-213 of the book) and the **Financial Plan** (pages 224-227 of the book).

The Business Plan is the last assignment due and the culmination of everything that preceded it (see book at pages 199-231). Almost everything that will be in your Business Plan is based on things that you are doing now (see book at pages

157-167). And most of your ultimate grade for the course depends on the quality of your business plan.

Income statements and balance sheets must be prepared for both nonprofit and for profit organizations.

In doing your **feasibility analysis**, you may wish to prepare a pro forma income statement and a pro forma balance sheet. However, a pro forma income statement and a pro forma balance sheet is not required at this stage. Nevertheless, you'll need to, ideally, have both of these items included in your Business Plan.

Your income statement and balance sheet are called **called pro forma since the figures are just a forecast and not based on any "real" sales and expenses as most of you have not yet begun your businesses.** And for those of you who have already started your businesses, it could be that your revenues are so scanty that you will still need to project future earnings. **See book at 161-162, 225-226.**

In any event, an accountant can put the information you provide in the proper format on both a pro forma income statement and a pro forma balance sheet. Moreover, there are software packages and other ways to produce these forms. But the forms are less important than the basic data that you provide to an accounting professional concerning the monthly revenues and expenses of the business.

You do not need to be an accountant to run a successful business nor do you need to understand how to create an income statement and a balance sheet. That's why you hire an accountant. **But you do need to know what the information on an income statement and balance sheet is telling you. This information will provide you (and others) with financial data that will be useful in evaluating whether your business will likely be financially profitable**. *See generally*, book at bottom of 162- 166, 224-226.

As I mentioned earlier, there are software packages available for preparing income statements and balance sheets (pro forma or otherwise). Also, you can give your projected monthly revenue and expense figures to an accountant and have him/her work up some figures for you that fulfill the requirements of the class. Students with a CPA license or who have a general accounting background can also work up these projected figures for you with little difficulty. But you must supply the projected monthly revenue and expense figures to the accountant.

At this stage, you need to try and determine the likely monthly costs and expenses of running your business (see e.g., costs of goods sold and operating and fixed expense items on the Sample Monthly Income Statement at page 163, Table10.2; see also sample year end income statement at page 161, Table 10.1).

You need to subtract these expense items from your anticipated monthly revenues/sales from the business. It's the same financial process in attempting to sell anything in order to make a living. For example, you may decide you want to run a business selling T Shirts. Accordingly, you figure how much the T Shirts will cost, the price for which you will sell them, and what your likely profit will be after paying all expenses related to running your business. *See*, *e.g*., typical expenses in running a business at page 163, Table 10.2)

I don't believe there is very much information you can't find by doing a careful search on Google. This includes finding revenue and expense information about a wide variety of firms. However, it will likely **come down to asking a business owner who is running a business similar to the one you desire to establish or to expand to provide you with the following four things**:

(1) the successful business owner’s **monthly expenses in running his/her business** (see the common expense items listed in figure 10.2 under Operating and Fixed Expenses),

(2) the successful business owner’s **average monthly income/revenue produced by the firm**, and

(3) the successful business owner's **anticipated monthly net profit** after paying taxes, and

(4) the successful business owner's **Operating Margin of Profit** (see page 166 of book) (i.e., operating income ÷ net sales which indicates the percentage of each sales dollar retained after expenses)

A Note on Fixed and Variable Costs:

Microeconomics explains the concept of supply in the context of how firms operate in the ***short run*** (i.e., the length of time it takes all fixed costs to become variable costs) [Slavin at 221] and the ***long run*** (when all fixed cost obligations have ended and owners of a firm are free to decide what to do) [Slavin at 222].

A firm's fixed costs do not fluctuate with output while variable costs do. [Slavin at 222, Barron's Financial and Investment Handbook, 1987, at 524].

A firm's *fixed costs* [Slavin at 219] are costs such as **rent, salaries of contract workers, insurance premiums, depreciation on plant and equipment, and insurance on corporate bonds)**. Even if a firm's output should fall to zero, it would still have a legal obligation to meet these costs. [220] Accordingly, fixed costs remain constant. Therefore, a firm is still in the short run as long as it has any fixed costs.

On the other hand, **a firm's *variable costs***—which vary with output [Slavin at 219]—**consist of items such as wages of production workers, fuel, electricity, and the cost of materials used for production.** [220] If a firm decides to shut down and to produce nothing, these variable costs would fall to zero. In the long run, all of a firm's fixed cost obligations will have expired and the owners are free to decide what to do. That, in turn, will depend on whether the firm is making a profit. [Slavin at 222].

A Note on Items Listed Under The Category of Costs of Goods Sold
(Book at 256-257)

This deduction is generally for goods kept in stock for sale to customers.

The cost of goods sold also includes labor costs, overhead, materials and supplies, depreciation, and administration expenses **incurred in buying inventory or manufacturing inventory**.

When business owners are selling a product, wholesale or retail, the cost of the merchandise is captured and recorded as the cost of goods sold.

If the business involves putting on seminars, the cost of goods sold would include the fees to instructors or speakers, the cost of the facility, the cost of the refreshments the business provides, and the cost of handouts or books. **However,** some accountants feel that the proper way to account for these items would be to capture them as operating expenses. Additionally, to ease the recordkeeping burden for qualifying small taxpayers—that is, those with annual sales of \$1million or less—the IRS allows these qualifying taxpayers to use the cash basis of accounting and account for inventory as "incidental materials and supplies."[i]

A Note on Operating Leverage:

If your business has a high fixed cost structure, you have a high operating leverage which means it takes longer to reach breakeven. However, once there, much more of your firm's revenue flows straight to the bottom line. High operating leverage (i.e., high fixed costs), suggests a riskier venture, at least initially.

Please remember that an accountant can put the information you provide into the proper format on both an income statement and a balance sheet.

Since you don't know what these figures will actually be in operating your prospective business, you'll need to make an educated guess (i.e., a forecast of what these figures will likely be each month given your anticipated sales and expenses). Therefore, you'll need to come up with a financial forecast (see page 161 last full paragraph) for these figures **based on the expenses and revenues of firms similar to the ones on which you base your business model**.

Again, your income statement and balance sheet will be called pro forma since the figures are just a forecast and not based on any "real" sales and expenses as your firm has not yet begun.

Your balance sheet (see book at 162 bottom to 165 and Table 10.3) like your income statement will also be a fairly contrived document **unless** you have already started your business and have "real" figures (see page 161 last paragraph) from which to work.

If you can't find anyone (e.g., an accountant) or any software program to help you put together a sample income statement or a balance sheet for your business based on figures that you provide to the accountant, please let me know. I'll help you. The forms are just that, forms; you must supply the data to the accountant. You can also attempt to create your own version of an income statement and balance sheet and plug in the financial data you have determined to be **a realistic forecast** of your firm’s likely profitability.

Scroll down if you want to learn the **Rules of Supply and Demand.** An economy that allows the law of supply and demand to determine the price of goods and services is called a “free market” economy.

POST SCRIPT:

THE RULES OF SUPPLY AND DEMAND:

Here are the rules of Supply and Demand in case you don't know. They are as follows:

(a)**An *increase in the supply* *of a good*** will eventually *cause* ***the price*** *of the good to decrease* and ***quantity*** *of the good to increase*.

(b)**A *decrease in the supply* *of a good* will** eventually *cause the* ***price*** *of the good to increase* and the ***quantit****y of the good to decrease*.

(c)On the other hand, **an *increase in the demand* for a good** *will eventually cause both* ***price*** and ***quantity*** *of the good to increase*.

*(d)**A decrease in demand**,* **however,** *will eventually cause both the* ***price*** *and* ***quantity*** *of the good to decrease.*

to decrease.

(e)Eventually, the market will automatically determine an **equilibrium price** where the quantity of a good or service demanded will be equal to the quantity supplied. It is for these reasons that classical economists—believers in laissez faire economics—state that the government should do nothing to end a recession because the economy is self-regulating.

ADDITIONAL RESOURCES:

I *strongly recommend* that you consider buying my book titled **Winners and Losers in the American Capitalistic Economy: A Primer**. This book will help you to better understand how the American capitalistic economy actually works.

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[i] IRS Revenue Procedure -2001-10.