Will Brian Cashman Make the Right Calls for the Yankees— A Steinbrenner Family Business?

Running the Steinbrenner family business, also known as the New York Yankees, is not for the timid or the weak of heart. GM Brian Cashman has proven he has the moves.

By Bob Klapisch
Contributing Editor

IT SEEMED LIKE A LIFETIME AGO when the Yankees were bound by an outdated business model, collecting past-their-prime free agents in their 30s, on their way to statistical irrelevance. After winning a world championship in 2009, the Bronx Bombers began a slow, insidious decline, failing to make the playoffs between 2013-2016.

But one man turned the franchise around: General Manager Brian Cashman, whose Yankees are not only younger and more athletic on the field, but have become more financially disciplined, too. Rivals say the Bombers are poised for another dynasty.

The Yankees have evolved so quickly, in fact, they beat projections by two years in 2017, finishing just one victory short of the World Series. For his vision and corporate excellence, Cashman was named Executive of the Year in 2017 by *Baseball America*.

More significantly, Cashman was awarded a five-year, $25 million contract extension by the Steinbrenner family, which owns the Yankees. Cashman, age 50, is celebrating his 20-year anniversary in the GM's chair, having ascended to the job after predecessor Bob Watson abruptly quit due to health concerns.

Cashman is now regarded as one of the industry's most powerful executives, boldly firing manager Joe Girardi last winter and replacing him with Aaron Boone, a former player and television broadcaster who had no prior experience.

Here are Cashman's thoughts on leadership, risk-taking and the prospects of another championship season in the Bronx in 2018.

Managing a Winning Team. "I surround myself with people who are smarter than me. I want their input. I want their opinions. I want to be able to learn from them. Running a baseball team is no different than running a corporation. The most important thing is selecting the right personnel and empowering them to do their jobs."

Being GM of the New York Yankees. "I'm one of the easiest GMs to work for because we have a tremendous process in place that I learned from a lot of great people over time. We empower our personnel to do their job within the guidelines and be as effective as they possibly can be. All the departments are connected. I believe in the process instead of me looking over people's shoulders and telling them what to do."

Dealing with Pressure and Expectations. "It comes with the territory; it's something you have to accept when you work here. I've always tried to answer questions honestly, make myself accountable and not take criticism personally. If you do, then you're in the wrong market."

Hiring Aaron Boone as Yankees Manager. "We're evolving into a younger, more progressive franchise, and I thought it was time for someone who had better connectivity with our younger players. I'm grateful for the work Joe Girardi did for us, but we're not the same top-heavy team with mostly older players. We needed someone who was better equipped to keep the channels open with the kids. I wasn't seeing that, so it was my recommendation to ownership that we go in a different direction."

Weighing Boone's Lack of Prior Experience as a Manager. "Aaron brings a lot to the table. He's well-rounded, intelligent, a good communicator, gets along with everybody. He has a great way about him. He played the game (from 1997-2009) so he understands it from the players' perspective, but he understands the media as well (broadcasting for ESPN). Aaron is a hard worker and I believed he was ready for this job."

Making Winning Decisions. "The toughest part of my job is acquiring talent. That's the most vital aspect of a franchise's success—putting the best possible players on the field, so your manager can succeed. I had to make tough decisions last year whether to trade for Sonny Gray (from Oakland) and Didi Gregorius (in 2014 from Arizona.) Those are just two examples. If you make the wrong decisions, it won't matter who your manager is."

Dealing with the Marlins for National League MVP Giancarlo Stanton. "It wasn't our intention to trade for Stanton, but the situation presented itself and we decided to go for it. It's an exciting team that a lot of people will be paying attention to."

Turning Around the Yankees' Business Plan. "It became obvious from what

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other teams were doing—shifting towards younger players under contract control, de-emphasizing older players with bigger contracts—that we needed a change. The return on the investment just wasn't there. Unlike other teams, though, the Yankees couldn't have a fire sale and rebuild from scratch. We had to point the ship in a different direction while remaining competitive."

Winning the GM Job with the New York Yankees. "I never aspired to be a general manager; it was never on my radar. When I was the assistant GM in 1998, GMs were typically former players or scouts—Lou Piniella, Bobby Cox, Pat Gillick. So. when Bob (Watson) sat down in my office and said, 'I don't want to do this anymore,' I spent 30 minutes trying to change his mind. Finally, Bob said, 'Look, I think George is going to offer you the job.'"

Deciding to Lead the Steinbrenner Family Business. "I realized I was being presented with the opportunity of a lifetime. George called and asked, 'Did Bob talk to you?' I said yes. He said, 'Can you meet me at the Regency Hotel?' I went down there and the first thing he said was, 'There are plenty of (candidates) who I could've recycled for this job, but a lot of folks say you're the right person.' I was smart enough not to turn George down." ■

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While the New York Yankees are not a typical family business by any means, COMMERCE *asked some of New Jersey's top law firms to discuss protecting family businesses from divorce. We also asked some of New Jersey's leading accounting firms to address financial controls and compensation issues for family businesses. Here are their insights and observations.*

LAW

Capehart Scatchard, PA.
By Yasmeen S. Khaleel, Esq., Chair Business & Tax and Trusts & Estates Groups

We have worked with numerous closely held business owners over the years to facilitate the transition of ownership to the next generations with limited risk. By working as a team, the Business, Real Estate and Estates departments avail ourselves of tools designed to move wealth while maintaining control as necessary and avoiding the potential for creditor claims against the business resulting from failed marriages or existing family owner estates. These tools include recapitalizations, which separate corporate value from voting control; trusts, which separate beneficial ownership from actual control and inclusion in a marital estate; and multiple entities, which diffuse active and passive activities to allow for different levels of participation. The key to the longevity of any closely held business transitioning through generations is multi-disciplined strategic planning.

Chiesa Shahinian & Giantomasi PC
By Michelle Bergeron Spell, Esq., Member, Trusts & Estates Group

One strategy we routinely advise our clients to take advantage of involves the use of a trust to protect the family business. For example, a mother wishes to make a gift of stock in the family business to her son who is working in the family business. We would recommend that the gift be made to a trust for his benefit in order to protect the stock and its appreciation from an equitable distribution claim in a subsequent matrimonial proceeding. If the son marries and later divorces, any appreciation in value of the business would be subject to the claims of his spouse for equitable distribution purposes as marital property, because his personal involvement in the business contributed to the increase in value of the business. Alternatively, if the stock is owned by the trust, the appreciation in value is owned by the trust, and therefore, the stock and its appreciation is not part of the son's assets for equitable distribution purposes. Additionally, we recommend maintaining documentation related to any gifts and inheritance received during the course of the marriage. It is also critical to not commingle these moneys with marital assets. Having these safeguards in place can help ease the impact a divorce may have on a family business.

Genova Burns LLC
Judson M. Stein, Esq., Partner and Chair, Trusts & Estates Practice Group

When family business interests are passed by gift or inheritance to younger family members, an issue arises as to whether those family business interests are separate assets or marital assets. Marital assets are subject to equitable distribution in the event of divorce. As a general proposition, any such interests owned prior to the marriage, or received during marriage by gift or inheritance, are not marital assets and, consequently, are not subject to equitable distribution in the event of divorce. However, if the spouse who owns the interest in the family business also works in, or is actively involved with, the family business, the interest is likely to be considered an "active" asset for which the appreciation during the marriage will be considered a marital

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asset. Once an interest in a family business is considered to be an active asset for which the appreciation during marriage is subject to equitable distribution, not only does the divorcing spouse have a claim against the interest in the family business, but the value of the interest in the family business, as well as issues concerning the operation of the business itself, are likely to be matters of dispute and attention. It is important for those who own interests in family businesses to address those interests, and the protection of those interests, through proper trust planning and proper premarital agreements.

Greenbaum, Rowe, Smith & Davis LLP
By Senwan H. Akhtar, Esq., Counsel, Corporate Dept.

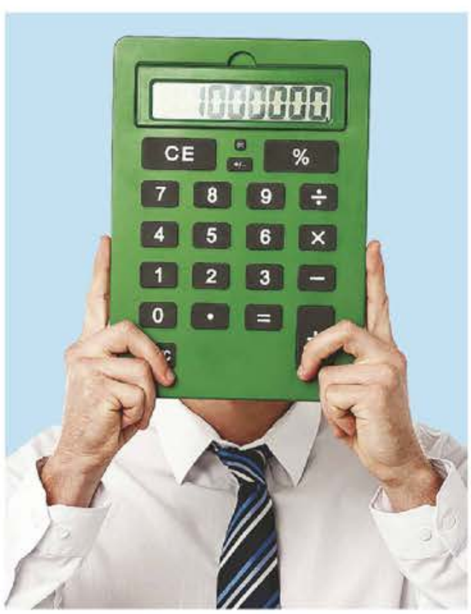
The firm represented a real estate developer with multiple properties in New Jersey. After he became engaged, and in order to protect his real estate assets from loss in the case of a divorce, we advised him to enter into a prenuptial agreement with his fiancée in which she waived claims to any interests in his real estate companies. In another matter, we represented a food distribution company owned by three siblings. To protect against any of the siblings' spouses asserting a claim to retain an interest in the company in the event of divorce, we prepared a shareholders' agreement providing that the company and the other owners would have the right to purchase any company interests awarded to an owner's former spouse. We also advised the company that the siblings' spouses should consent in writing to these provisions.

NPZ Law Group, P.C.
By David H. Nachman, Esq., U.S. Managing Attorney

NPZ Law Group, P.C., is an immigration and nationality law firm which counsels in corporate immigration matters. When two spouses jointly own a closely held corporation, there are special considerations at play to maintain either spouse's immigration status. One spouse may have L-1 (Intracompany Transferee), H-1 (Specialty Occupation), or E (Investment) visa status in the United States, while the other spouse is permitted in the United States as the derivative beneficiary. If one spouse seeks to divorce the other, then the derivative beneficiary loses his/her immigration status and must leave the United States. NPZ can work to protect the derivative beneficiary to change his/her status to become a B visa holder (Temporary Business/Visitor), allowing the spouse to remain in the United States to litigate and/or to get status under his/her own qualifying work visa. NPZ is prepared to address the sensitive and complex issues which arise occasionally in corporate and divorce-related immigration issues.

Riker Danzig Scherer Hyland & Perretti LLP
By Jason D. Navarino, Esq., Corporate and Tax Partner

Although prenuptial agreements can be useful in maintaining family ownership of a business, prenups are not always enforceable, and some family members (or their spouses-to-be) may refuse to sign one. To deal with this, I often draft call options into operating and shareholders' agreements, allowing for the buyout of a spouse who ends up with an ownership stake post-divorce. The purchase price is set at fair market value, to be determined by appraisers, so as not to deprive the spouse of value. But the price can be paid over several years (with minimum interest for tax purposes) to avoid a substantial and immediate cash hit. Moreover, if the call is necessary because a family member failed to procure a signed prenup, that family member has to bear all or a disproportionate amount of the acquisition expense—which can serve to discourage the avoidance of prenups in the first place.



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ACCOUNTING

EisnerAmper LLP
By Lisë Stewart, Director, Center for Family Business Excellence

Compensation in a family business isn't just about a market analysis or a compensation survey. It is about the emotion involved. Because many families arbitrarily offer high salaries to family members, this can set a difficult precedent to break. It is particularly difficult when a family member, who is grossly overpaid for his or her skills, has already become entrapped in a high-salary lifestyle that could never be replicated in another job. They may be unhappy and disconnected from their current role, but unable to move anywhere else. Recently, we have assisted families to actively re-structure these roles by identifying the gap between skills and compensation; providing the option of training and coaching to increase skills where possible; and offering alternative positions that more effectively utilize their skills and offer opportunities for true advancement—either inside or outside of the family business.

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Goldstein Lieberman & Company LLC
By Phillip E. Goldstein, CPA, Managing Partner

It wasn't a particularly close-knit family when the father, the founder of the business, was alive. With his passing, existing schisms deepened among siblings. Family members did not fully trust one another and that made working together difficult. Fortunately, we had worked with the father to develop a solid succession plan. The roles of the heirs were defined, but other issues needed to be resolved. The first had to do with compensation. How much was each position within the company actually worth? What method would ensure equitable compensation? We relied on our solid relationship with the company, as we sat down with each family member and carefully assessed each family member's role. We assisted as we gained approval for our suggested compensation plan. Next, we put in controls that could not be breached. We put a two-signature policy in place for every financial transaction. Today, the company is functioning well.

Mazars USA LLP
By Jason Pourakis, CPA, Partner, Practice Leader, Entrepreneurial Services Group

Mazars counseled a client that had four family members on the payroll, but at different levels of involvement. The two senior members were compensated with most of the payroll and bonus pool allocated to executives, while the two younger family members, who performed most of the day-to-day activities and future strategy of the company, were receiving significantly less. We discovered this was not being discussed by the shareholders, therefore it was decreasing the motivation of the younger members and threatening the future stability of the company. We impressed upon the family the importance of the company and how the long-term focus of the business should be driven by the younger family members, therefore continuing to grow the asset. This resulted in a readjustment of compensation to all four family members with little disagreement and a renewed focus on the long-term health of the company.

Sax LLP
By Robert Hopper, CPA, Partner

Recently, a very successful manufacturing client asked us to assist with a family compensation matter. The owner's two sons were involved in the business and were requesting increased compensation. The owner's issue and question boiled down to: "How do I justly reward them now and moving forward?" Based on our in-depth understanding of their family business and its needs, and the contributions of the owner's sons, Sax advisors built a comprehensive compensation/bonus structure that brought everyone on the same page and outlined what is expected for increased compensation. We built a model establishing a baseline with a tiered structure that tied additional profits to increased sales, maintained margins and ensured overall profitability. The two sons, in turn, naturally fell into different yet equally important roles—one overseeing production while the other oversaw sales and marketing. These two forces and the plan's incentive for productivity serve as a great impetus for future growth.

Sobel & Co., LLC
By Michael LaForge, CPA, CGMA, Member of the Firm

Convincing family members that compensation from the family business is not a right and should be commensurate with what you do is not an easy task. If you get past the point that you should get paid for what you do, you then need to get the family members to agree on what is fair. Fair does not always mean fair as compared to non-family members working someplace else, but rather fair as compared to brother or sister, both who are in the business, but both having very different positions and responsibilities. Fair in some cases means having a son or daughter underpaid because the patriarch does not understand the child's value to the business. We had a client with a daughter who held a significant managerial position and deserved significantly more compensation. We provided the patriarch with labor statistics to support what became a $60,000 raise. The result was a happy committed daughter.

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COMMERCE also asked some of New Jersey's top banks to discuss financing for their small, women-owned and veterans-owned clients and businesses. Here are their success stories.

BANKING

Bank of America
By Carl Haag, Small Business Banking Executive

Our client is a woman-owned small business that has been operating for roughly six years, importing chia seeds and selling them throughout the United States. From the start, the owner established a strong relationship with her Bank of America small business banker and as her business grew rapidly, our banker helped her secure lines of credit to purchase inventory. Over time, the business continued expanding and now needed an equipment loan to increase production and profitability. Because the banker worked closely with the owner, watching her aspirations become reality, they were able to help her secure the loan and continue increasing her line of credit. This year, they are even discussing the

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possibility of purchasing a facility to boost profitability. Successful businesses of all sizes start with an idea, passion and support to help them grow. In turn, these businesses contribute to their communities by creating jobs. Bank of America believes that by serving as a trusted advisor to help business owners plan for both the immediate and long-term future, we have the unique opportunity to improve the health of local economies.

Lakeland Bank

By John F. Rath III, Executive VP, Chief Lending Officer

We had an opportunity to help the partners of an engineering company after they amicably decided to split their flourishing firm into two separate business entities in order for them to continue to grow. One partner focused on his area of expertise, communications infrastructure, while the

Winning is the corporate culture and family legacy that drives the Yankees and their GM, Brian Cashman.

other focused on the transportation infrastructure. Once split, the partners attempted to secure a line of credit with their bank for the transportation infrastructure but were treated like a brand-new customer and told to come back in two years after they established some history. The owners contacted Lakeland on the recommendation of their accountant and realized at the initial meeting that they were forming a "partnership" with us. Our team took the time to get to know the owners, their businesses and learned how they operated. With this knowledge, Lakeland was able to extrapolate the revenue generated from the transportation sector versus the communications sector to determine independent revenue projections and was able to offer a line of credit. When the second business needed a line of credit, it was a simple process since we already had a strong understanding of the two entities and how they operated.

M&T Bank

By Shrini Rao, Dental Solutions Specialist and Senior Relationship Manager

Dr. Kishor Kulkarni has been serving the Central New Jersey community since 2002 and now owns three dental practices in the region. Dr. Kulkarni is an Iraq war veteran who served several front-

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line combat tours as a U.S. Army Captain and wartime dentist. As part of a recent expansion plan, he decided to move one of his locations to a more spacious and modern office building in Somerset. He approached M&T Bank for financing to not only cover the building purchase and practice relocation, but also state-of-the-art dental equipment. Having previously worked with Dr. "K," as he is known to his patients, I, along with the credit team at M&T, put together the right credit package to help this growing dental practice. The new location under construction, when fully complete, will have seven brand new dental treatment stations with modern, new equipment.

Provident Bank

By Matt Flannery, First Vice President, SBA Team Leader

Our client, Floorfolio is a nationwide, complete manufacturer of luxury vinyl tile flooring for commercial, multi-family and institutional applications. Floorfolio started in the height of the recession and worked directly with Provident Bank's SBA lending team on their first SBA loan, which was critical for the company. Upon meeting with Michael Freedman, Floorfolio's owner, we asked what his needs were, but more importantly, we wanted to understand his industry, marketplace and customer base, as well as the opportunity for growth. Michael had a vision to build a factory here in the United States. This was something he felt strongly about. When he presented his plan to Provident Bank, we listened and provided the funding Floorfolio needed to fit out the space and buy the equipment to make this possible. With Provident's help, Floorfolio was able to duplicate the facility they have overseas in Edison, New Jersey.

TD Bank

By Bradley Thomson, Regional Vice President

A respected accounting firm gave TD Bank a referral to finance a relatively new and rapidly growing company that sells tires and specializes in mobile tire installation and balancing from its fleet of service vehicles. Like so many small businesses, its early growth had been financed by personal funds of the two owners and high interest rate credit cards, but they needed better funding. The request was for a $250,000 line of credit to support

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future growth and repay existing debt at a much lower interest rate. As the borrower had only been in business for 14 months, this required some strategic solutions. TD is a Preferred SBA Lender and because of that was able to add an SBA guarantee to the request and close the deal, resulting in a very pleased new client that will be able to continue meeting the needs of its satisfied customers.

Valley National Bank

By Thomas Iadanza, Senior EVP, Chief Lending Officer

A woman business owner came to Valley with a particular need to get her electrical contracting business off the ground. To get started, she needed a line of credit for working capital to obtain a bonding line which would allow her to bid on potential contracts. Given that the company was newly established, she understood that this would be a challenging loan to approve. After consulting with a Valley Community Lending Officer, a mutually accepted financing structure was found, resulting in the bank approving a $300,000 line of credit for the company. This line was used to fulfill several large contracts from various municipal agencies, and the company continues to prosper as revenues have grown significantly.

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