Sustainability
Employee Ownership, Longevity, and Growth

You’ve Got an ESOP, Can You Keep It?
Employee Ownership and the 99%: Key to a Sustainable Society?
“Why Do We Keep Finding That Worker-Owned Firms Are More Productive?”
OEOC Implements Leadership Transition
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 Owners At Work
 Ohio Employee Ownership Center
 113 McGilvrey Hall
 Kent State University
 Kent OH 44242

 330-672-3028
 oeoc@kent.edu
 www.oeockent.org

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The OHIO EMPLOYEE OWNERSHIP CENTER (OEOC) is a university-based program which provides information and technical assistance to retiring owners, buyout committees, labor unions, managers and community-development organization interested in exploring employee ownership. Center staff can help locate competent and appropriate legal and financial advisors, and perform initial assessments to determine whether employee ownership is a viable option. The OEOC develops resource materials on employee ownership and participates in systems, sponsors workshops and conferences for the general public, develops and delivers training programs for employee owners, facilitates cooperation among employee-owned firms, coordinates a comprehensive succession planning program, and assists international efforts to privatize businesses through employee ownership.

The OEOC is funded by grants from the U.S. Department of Agriculture and private foundations, as well as contributions from service provider professional members, Friends of the Center, and the companies that comprise Ohio’s Employee-Owned Network.

**Editor’s Note**

Survivability and sustainability are two topics that have attracted interest in the ESOP world in recent years – both from the positive sense with the realization that ESOP companies seemed to survive the Great Recession more successfully than non-ESOP companies and from the negative sense that many long-term ESOP companies are no longer ESOP companies. Jacquelyn Yates’ article summarizing her research on the long-term survivability of Ohio ESOPs straightforwardly tackles this issue and highlights some of the factors that contribute to survivability and sustainability. Finally, in the “Keys to Successful Sustainable ESOPs,” comments from 25, 30, and 35-year ESOPs highlight what those companies believed to be vital aspects of their long-term success.

Our goal is for a majority of companies in the United States be owned by their employees. Such a society would be more productive and generate more wealth – wealth that would be widely spread throughout the population – than our current society. Joseph Blasi’s keynote address from our 25th Annual Employee Ownership Conference describes the history and benefits of the employee ownership system. My “Employee Ownership and the 99%” article connects the dots between employee ownership and the resurgence of our middle class and the generation of a more successful and sustainable society. Felicia Wetzig’s review of Marjorie Kelly’s most recent book Owning Our Future also examines these issues. Kelly highlights the importance of a generative economy designed to encourage sustainability and growth for all employees and communities.

The OEOC has also taken action to achieve sustainability for the future. After John Logue passed away in 2009, I stepped into the role of Director of the OEOC. While I had no ambition to be Director, I did so willingly because it was for the benefit of the OEOC. At our strategic planning meeting at that time, I committed to being Director for 2 ½ to 3 years, and the staff unanimously selected Roy Messing as the internal candidate to succeed me. On July 1, exactly in accordance with our original timetable, I stepped down as Director and Roy became Interim Director of the OEOC. Our article on page 7 explains the details, but suffice it to say that we are all confident that with Roy as Director, the OEOC is in good hands for long-term sustainability.

We hope that by reading this issue you gain some insight into ESOP survivability and sustainability. We welcome your feedback about any aspect of OAW.

Bill McIntyre
Yoder Industries Becomes 100% ESOP

Yoder Industries in Dayton, OH is a perfect example of the stars taking a while to become aligned before an ESOP transaction can occur. On May 7, 2012, the 100 employees used an ESOP to purchase 100% of the manufacturer of aluminum die castings for the automotive industry, but the journey to an ESOP took more than 4 years.

For more than 57 years, spanning three generations of family ownership, the company has served customers nationwide. Yoder Industries serves primarily second-tier automotive companies and specializes in high-technology castings, such as engine and transmission electronics and electronic power steering, as well as long-standing core business in the engine mount industry.

In February 2008, Tim and Pam Stewart, husband and wife and the two owners of the company, met with me to discuss the option of selling the company to the employees via an ESOP. The discussion was going extremely well as the ESOP structure would facilitate the Stewart’s achieving their objectives and allow them to give their employees the opportunity to share in the company’s success in the future. Unfortunately, at that time, Yoder Industries did not have the capacity to take on the additional debt for the ESOP transaction. As Pam told Tim, “Honey, I guess you’ll have to work 3 more years until we get the debt paid down.”

And that’s what Tim did. He worked 3 more years and concentrated on getting the debt paid down. Tim Stewart contacted the OEOC in Spring 2011 about an ESOP once again.

The complicating factor this time was that the Stewarts had an outside buyer interested in the company. The offer from the outside buyer was significantly higher than the fair market valuation that the ESOP could pay. Further, it was a cash offer, and the new buyers promised to maintain the same labor force. The Stewarts could walk away and feel comforted about the safety of their employees’ jobs. With the ESOP, they would be paid over a period of several years. Even though the OEOC’s mission is to encourage employee ownership, we try to be objective and recommend what is best for the selling owner and the employees. In this case, we recommended that the Stewarts accept the outside offer. Simply put, the outside offer was an offer they could not refuse.

However, as happens sometimes, the outside buyer’s financing fell through, and the sale to the outside buyer fell apart. By the Fall of 2011, the ESOP idea was once again alive.

Not only was the ESOP idea alive, it was alive and well! Yoder Industries had survived the Great Recession and was now recording record sales and profits. With the help of valuation and financial advisor Dave Gustafson of Apple Growth Partners and ESOP attorney Tim Jochim of Kegler Brown Hill & Ritter, the ESOP transaction moved forward and, on May 7, another 100 employees became employee owners of a 100% ESOP-owned company.

Company management believes the ESOP brings distinct advantages. They believe a stronger vested interest encourages employees to step forward with new ideas for improvement and also heightens employee involvement to seek solutions to manufacturing cost drivers. Vice President and board member Pam Stewart comments, “Yoder Industries, Inc. has been a family business for three generations, and I feel like we are keeping it in the family. We have dedicated employees and a strong management team in leadership. Sales are soaring, and the plant is all smiles. This was a good decision.”

CEO and Company Chairman Tim Stewart adds, “Our employees are our greatest asset. Their dedication has been the backbone of this company, and we are thankful to have the opportunity to give back.” With 2011 bringing record sales for Yoder, President Ron Veverka commented, “We have emerged out of the 2009 recession as a stronger and more profitable company. We are investing in our employees and continue our trademark focus on customer satisfaction.”

Tim Stewart commented about the OEOC’s involvement, “You were very helpful to us to get this done.” Rick Harden, Controller of Yoder, exulted, “We know we have a challenge in front of us, but we’re excited about being owners and are looking forward to the day when our ESOP Note is repaid and we’re debt free.”

O’Neil and Associates is 2012 Ohio ESOP Company of the Year

O’Neil and Associates Inc. located in Miamisburg has been named 2012 Ohio ESOP Company of the Year by The ESOP Association’s Ohio/Kentucky Chapter. The company was founded in 1947 as an engineering and development firm and is a global leader in the creation of product support documentation and services.
Damon Jones is Ohio Employee Owner of the Year

The ESOP Association’s Ohio/Kentucky Chapter honored Damon Jones as its 2012 Employee Owner of the Year. Damon is employed at Palmer-Donavin Manufacturing Company in Westerville. Damon was hired as a warehouse associate in 1998 when he was 20 years old. He quickly demonstrated a level of maturity and proved himself to be a valuable asset. Damon’s supervisor has remarked that Damon’s attitude and work ethic make him one of the most valuable employees on his shift. In July of 2011 Damon volunteered to join the ESOP Communications Committee to help spread the ESOP message to his co-workers. In December Damon’s supervisor and the Vice President of Operations awarded Damon the Warehouse Associate of the Year for the Cincinnati operations. The award is based on an employee’s willingness to cross-train, attitude, reliability, and safety record. This is the third time in his 13 year career that Damon has won that honor.

-Megan Koontz, President of the Ohio/Kentucky Chapter of The ESOP Association, with the Chapter’s 2012 Employee Owner of the Year, Damon Jones, Warehouse Associate at Palmer-Donavin.

Appleton Papers Lays Off 330 Workers, Then Is Sold ... Then Not

In February of this year, 100% ESOP-owned [Appleton Papers Inc.] with headquarters in Appleton, WI, and a 430-employee plant in Dayton, OH, laid off 330 workers at the Dayton plant after establishing an agreement with Montreal-based supplier, Domtar. This agreement would shift the focus of the company from paper production to “a company focused on coating formulations and applications, and specialty chemicals,” according to Appleton’s chairman, president and CEO, Mark Richards.

In May, Appleton, Inc, announced an agreement to merge with Hicks Acquisition Company II, Inc. to position Appleton for greater long-term growth and profitability, but the arrangement was terminated in July, citing a “volatile market.” According to Mark Richards’ volatile market conditions prevented a deal from being struck that was acceptable to both parties . . . Therefore, after consulting with Hicks’ management; we have decided to discontinue the transaction.” While Appleton will proceed with plans to rename the business Appvion as discussed in the merger agreement, it is unclear whether or not they still intend to become a publicly traded company.

In 2001, Owners at Work first mentioned Appleton when employees bought out 100% of Appleton Paper in an $810 million deal. The transaction, implemented by the company’s 2,600 employees, was one of the largest employee buyouts in history. Appleton Paper, founded in 1907 in Appleton, WI, has become a global leader in direct thermal, carbonless/security paper and Encapsys, a specialty chemical operation. When Appleton celebrated their 100 year anniversary, five years after the buyout, the company was the 35th largest employee-owned company in the US. Within these first five years of employee ownership, the stock value increased by 236%.

-Felicia Wetzig

Six ESOPs Honored with Leading EDGE Award

Each year Entrepreneur’s Edge and Crain’s Cleveland present the Leading EDGE Awards to recognize innovative mid-sized companies generating economic value for Northeast Ohio.

“Northeast Ohio is fortunate to have many outstanding middle-market companies that make up the vast majority of the growing portion of our economy,” D. Kirk Neiswander, President of The Entrepreneurs EDGE, said. “Our metrics measure the value mid-market companies are creating. The higher each company’s value, the more the enterprise is contributing to the region in terms of good jobs and thriving, sustainable business.” The winners from 101 companies were recognized at the Leading EDGE Dinner & Program held at The University of Akron on May 16, 2012.

Among the companies honored were six ESOP-owned firms. Having six of the 101 Leading EDGE winners be employee owned is remarkable as ESOPs represent much less than 6% of the total number of companies eligible for the awards. The ESOP companies recognized were:

The EBO (Excellence by Owners) Group in Sharon Center is the parent company of PT Tech, TransMotion Medical and IPESsol and provides products to the industrial, medical and renewable energy markets. The company adopted an ESOP in 1990 and became 100% employee owned in 2008.

Falcon Industries is a Medina-based company that provides custom helix flying. Falcon also owns a plant in Cosmos, MN, and both plants are fully equipped to produce, polish and finish
Libby Perszyk Kathman, Inc. Wins 2012 Employee Ownership Month Poster Contest

Libby Perszyk Kathman, Inc. (LPK), an employee-owned company located in Cincinnati, has been selected by The ESOP Association as its 2012 Employee Ownership Month Poster Contest Winner. The winning poster design was unveiled at the Association’s 35th Annual Conference in Washington, DC. According to the company’s website, LPK is the world’s largest employee-owned brand design agency. Founded in 1919, the company has remained true to its entrepreneurial roots: “excellence in our product, leadership in our profession, respect for all individuals and uncompromising integrity in all matters.” LPK strongly believes employee ownership is fundamental to the company’s success and that it creates a culture that attracts some of the industry’s best. LPK’s poster was chosen because of the idea it expressed: Succeed as One. LPK’s winning design featured a school of fish taking on the shape of a larger fish, with the slogan “Succeed as One.”

All 2012 entries can be viewed on The ESOP Association’s page. The poster will be used by The ESOP Association to promote Employee Ownership Month, which takes place every October and is a celebration of the incredible spirit of employee ownership.

Jay Simecek

Community Colors Co-op

A new worker-owned co-op, Community Colors Co-op in Youngstown, Ohio is hoping to revitalize the town, provide jobs for those who are re-entering the labor market and bring down the barriers of inequality in the Mahoning Valley.

“We are a ‘worker-owned’ business, specializing in house painting, with other residential services available—such as repairs, handy-man work, remodeling, landscaping,” proudly touted Franklin Bishop, co-op member. The Community Colors Co-op is involved with the Resettle Youngstown project, which has the objective of decreasing the carbon footprint of Youngstown neighborhoods. Currently, the CCC offices are being set up in a Resettle Youngstown “Work in Progress.”

“We want to help people re-enter the work force and be productive,” says Bishop. The CCC began work on their first painting contract the week of June 10.

Felicia Wetzig

Iowa Approves Legislation Encouraging Employee-Owned Companies

Back in January, Iowa Governor Terry Branstad, in his Condition of the State speech, listed encouraging employee ownership as one of his four top economic development priorities. On May 25, 2012, the Governor signed legislation that provided a tax incentive for a company to sell to its employees.

The new law states: “To the extent not already excluded, fifty percent of the net capital gain from the sale or exchange of employer securities of an Iowa corporation to a qualified Iowa employee stock ownership plan [will be excluded] when, upon completion of the transaction, the qualified Iowa employee stock ownership plan owns at least thirty percent of all outstanding

Felicia Wetzig

Four Ohio Employee Owners Receive Edmunson Scholarships

This year the Employee Ownership Foundation awarded 14 Edmunson Scholarships nationwide. Four of these recipients are from Ohio ESOP companies. – They are: Damon Jones and John Glover from The Palmer-Donavin Mfg Co., Westerville; along with Matt Williams and Steve Nolan from QG Holding Inc., Cincinnati. Charles R. Edmunson dedicated his life to the belief that all employees should be provided an opportunity to own a piece of the company where they work and that each employee owner should be offered the respect and dignity of an owner. Charles believed that education was the cornerstone of this vision. The Charles R. Edmunson Scholarship helps to fulfill his goal by offering non-management employees of employee-owned companies the opportunity to attend motivational and educational programs that promote employee ownership. The scholarship can be used at one of the Employee Ownership Retreats, The ESOP Association’s Annual Conference, or other employee ownership events. The scholarships are awarded to those companies that the Selection Committee deems could best benefit from the opportunity to attend an ESOP Association educational program. Note: The Ohio Employee Ownership Center facilitates the Employee Ownership Retreats and will be conducting the next event in August 2013 in Chicago Illinois.

Jay Simecek

American Roll Form in Painesville was incorporated in 1960 to provide full-service custom metal fabrication. Their experienced staff of 90 employees, who share in the ownership of the company, is considered to be essential to the quality of their product.

ESOP Association’s Annual Conference in Washington, DC.

L Rable Machine is a 100% employee owned precision machining company located in Mansfield. Their ESOP was established in 1992 and, in recent years, the company has grown an average of 20% per year while investing approximately $6.5 million in equipment and improvements.

American Roll Form

In 1919, the company has remained true of the company. According to the company’s website, Rable Machine has been selected by The ESOP Association to attend The ESOP Association’s Annual Conference, or other employee ownership events. The scholarships can be used at one of the Employee Ownership Retreats, The ESOP Association’s Annual Conference, or other employee ownership events. The scholarships are awarded to those companies that the Selection Committee deems could best benefit from the opportunity to attend an ESOP Association educational program. Note: The Ohio Employee Ownership Center facilitates the Employee Ownership Retreats and will be conducting the next event in August 2013 in Chicago Illinois.

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employer securities issued by the Iowa corporation."

Said Governor Branstad: The new legislation “will encourage those Iowa businesses looking for new owners with incentives to sell the business to their own employees. This will keep great jobs and careers in Iowa and give Iowa communities an additional tool to promote local economic development.”

According to the National Center for Employee Ownership (NCEO), there were 250 employee-owned firms in Iowa in 2011.

- Steve Clem

**WORK Act and Employee Ownership Bank Act Legislation Re-introduced**

The U.S. is still recovering from the worst economic crisis since the Great Depression. Nearly 23 million Americans are either unemployed or under-employed. Since January of 2000, more than 5.3 million decent-paying manufacturing jobs in this country have been lost. We now have fewer manufacturing jobs than we did in May of 1941 at the start of World War II. One way to reverse these economic trends is to provide employees with the tools they need to own their own businesses through employee stock ownership plans (ESOPs) or eligible worker-owned cooperatives. Employee ownership is often the necessary component that will keep a hard-pressed business from either shutting down or shipping its jobs overseas.

Numerous studies have shown that workers in employee-owned companies receive higher wages, better benefits, and are less likely to have their jobs sent off-shore. By expanding employee ownership and participation, these bills would create stronger American companies, prevent job loss, and improve working conditions for struggling employees.

With this scenario as a backdrop, Senator Bernie Sanders of Vermont has re-introduced two bills in the United States Senate to provide employees the resources they need to take control of their own livelihoods and improve their local communities. The bills were originally introduced in 2009.

Co-sponsors include Senator Sherrod Brown, Ohio; Senator Patrick Leahy, Vermont; Senator Richard Blumenthal, Connecticut; and Senator Daniel Akaka, Hawaii.

The first bill, the Worker Ownership, Readiness and Knowledge (WORK) Act, would promote employee ownership and participant in company decision making. Specifically, this bill would authorize the Department of Labor to provide education and outreach, training, grants, and technical support for local and state programs dedicated to the promotion of employee ownership and participation.

The second bill, the U.S. Employee Ownership Bank Act, would provide loans and loan guarantees to employees to purchase a business through an ESOP or a worker-owned cooperative. Providing federal loans and loan guarantees for the expansion of employee ownership would increase and retain jobs in the U.S. and strengthen the U.S. economy.

OAW readers might want to contact their Senators and ask them to seriously consider supporting these two bills.

- Steve Clem

**B Corp Update: Two More States Authorize Benefit Corporations**

In June, Louisiana and South Carolina became the 8th and 9th states in the country to pass Benefit Corporation legislation. Benefit Corporations and Certified B Corporations (a certification gained by achieving a minimum score on a questionnaire through nonprofit B Lab) are a new type of purpose-driven corporation that creates benefits for all stakeholders, not just shareholders.

Most corporations are legally obligated to optimize the profits of shareholders—putting their interest over the interest of workers, communities, and the environment. B Corporations, however, are required to make a positive impact on society and the environment and meet higher standards of accountability and transparency. This is particularly relevant for an ESOP because B Corporation status allows the board members and trustees to consider the interests of communities and employees when considering the impact of company decisions.

South Carolina Representative, Tommy Stringer (R – Greer) stated that, “By passing the South Carolina Benefit Corporation Act, we have joined the vanguard of states that are looking beyond government programs to solve our social problems. I appreciate both the strong bi-partisan support in the General Assembly and the support of Gov.
Nikki Haley that allowed this legislation to become a reality.”

When we wrote about Benefit Corporations in our summer 2011 issue of OAW, Maryland and Vermont had become the first states to legally recognize Benefit Corporations. By the spring 2012 issue, they were followed by five more states – California, Virginia, New Jersey, Hawaii and New York. Now, South Carolina and Louisiana join these seven states, and similar legislation is moving forward in Michigan, Pennsylvania, North Carolina, Illinois and Connecticut.

Similar legislation has also been passed in Washington State, amending the Washington Business Corporation Act to allow the use of Social Purpose Corporations. Under typical B Corporation legislation, directors and officers may be required to consider social benefits in each decision, but the Washington legislation merely permits the consideration of social benefits over the interests of shareholders. The Washington legislation also does not require shareholders to adopt third-party standards to judge the corporation’s commitment to social purposes, but it does require all Special Purpose Corporations to post annual progress reports publically on their websites detailing their efforts to promote social purposes.

Thus far, all passed legislation has experienced bi-partisan support. Louisiana and South Carolina both experienced unanimous floor votes. The legislation is 100% voluntary and costs the state nothing. Many businesses have come out in full support of the legislation, and it gives individual citizens and especially ESOP companies something to advocate for that will benefit their local community and environment.

For more information on Benefit corporations, visit the Benefit Corp Information Center website. For more information on becoming a certified B corporation (being a Benefit corporation is not a requirement for this certification), please see the B Lab website.

-Felicia Wetzig

Messing Steps into OEOC Director Role, McIntyre to Focus on Issues of Interest

Roy Messing, a 4-year veteran at the OEOC with primary responsibility for the development of worker-owned cooperatives and for administering the non-profit Common Wealth Revolving Loan Fund and with 20 years of commercial banking experience, stepped up to the role of Director of the OEOC effective July 1, 2012. On that same date, Bill McIntyre stepped down from the Director’s position. McIntyre will stay with the Center as a Program Coordinator and will be more able to concentrate on issues of interest to him.

McIntyre became Director upon the sudden passing of long-time OEOC Director [and founder] John Logue in December 2009. “I had no ambition to be the Center’s Director,” commented McIntyre, “but willingly stepped into the role to provide the best service I could to the Center and help it survive the trauma of John Logue’s death and continue to provide valuable services long into the future.”

At a strategic planning meeting shortly after Logue’s death, in discussing the issue of succession planning for the Director position, the OEOC staff unanimously approved Messing as the internal candidate to become the next Director within a 2 ½ to 3 year timeframe, the period for which McIntyre had agreed to serve as Director. The transition is occurring right on schedule.

Messing stated, “Bill has seized opportunities to train me regarding the Director’s responsibilities, and I feel confident I’m ready to continue his work of leading the Center to fulfill its, and John Logue’s, mission of increasing employee ownership. We will be offering updated and expanded programs on ESOPs and worker-owned cooperatives, and I look forward to becoming more involved with our ESOP programs and companies.” Messing’s position is interim until Kent State University approves the personnel changes.

In a nod to the former Executive Director of the National Center for Employee Ownership, McIntyre noted, “You might say I’ve pulled a ‘Rosen,’” referring to Corey Rosen stepping down to the position of Senior Staff Advisor at NCEO.

All OEOC staff members remain committed to the success of the OEOC and support Roy Messing as we work with him and he leads us forward as our new Director. OAW
At the end of June, the Supreme Court of the United States (the “Court”) ruled in a landmark decision that that the individual mandate under the Patient Protection and Affordable Care Act (the “ACA”) is constitutional. The Court, however, also declared that the U.S Congress overstepped its bounds with certain Medicaid expansion provisions contained within the ACA. The result of the decision was to retain the ACA’s coverage mandates, but to create some coverage gaps for those individuals finding themselves below 100% of the federal poverty level, which in 2012 is $23,050 in annual income for a family of four.

This elimination of the requirement that states provide governmental medical coverage for the poorest group of its citizens shifts the medical coverage burden back to employers for these individuals. Since, in the employee ownership community, the employer is often merely a collection of the current employees, a collective resolution to the insurance coverage mandates will be necessary.

Summary of the ACA

The ACA is designed to expand medical insurance coverage through a series of three interrelated obligations.

First, starting in 2014, all adults are required to have a creditable level of medical insurance coverage or they will be subject to a penalty tax (the “Individual Mandate”).

Second, also beginning in 2014, all employers with more than 50 employees are required to offer a creditable level of medical insurance coverage to their employees at an affordable price, or they will be subject to a penalty (the “Employer Mandate”).

Finally, the ACA attempted to expand Medicaid’s coverage by mandating that each state must cover nearly all non-disabled adults under age 65 with household incomes below 133% of the federal poverty line (the “Medicaid Expansion”). Medicaid Expansion represented a sea change as many states do not currently cover adults without dependent children and/or cover adults only at income levels far below 133% of the federal poverty line. While this expansion of Medicaid was unprecedented, 100% of the states’ increased cost through 2016 was to be paid by the federal government with that support to be cut to only 90% by 2020.

Background and Procedural History

Those challenging the constitutionality of the ACA, including 26 states, argued that Congress exceeded its authority when it established the Individual Mandate, and that the Medicaid Expansion provisions exceeded Congress’ delineated powers. The plaintiffs argued that the Constitution does not grant Congress the power to require individuals to buy insurance in the private market. Furthermore, the challengers asserted that the ACA unconstitutionally coerced states to comply with the Medicaid Expansion by threatening to withhold all federal Medicaid grants for non-compliance with the new expanded Medicaid obligations.

The Obama administration responded that Congress had the authority to establish the Individual Mandate under the power to regulate commerce (the “Commerce Clause”). It also argued, in the alternative and not as dramatically, that the Individual Mandate was permitted under the Commerce Clause, and that, therefore, the Individual Mandate was a proper exercise of the Congressional authority to “lay and collect taxes” (the “Tax and Spend Clause”). In response to the arguments against Medicaid Expansion, the administration countered that the ACA merely modified the existing Medicaid program that offered financial inducements to comply with the new law.

The Supreme Court’s Ruling

As noted previously, the Court upheld the ACA as a constitutionally valid exercise of Congressional powers with Chief Justice John Roberts writing the controlling decision of the Court. Justices Stephen Breyer, Ruth Bader Ginsburg, Elena Kagan and Sonia Sotomayor joined in the majority.

The Court upheld the Individual Mandate as constitutional on the basis that it is within Congressional authority under the Tax and Spend Clause. In so ruling, the Court explained: “The Federal Government does not

Guest Commentary

Impact on ESOPs of Supreme Court Decision re Affordable Care Act

David Whaley

Summary: Beginning in 2014, all companies, including ESOPs, with more than 50 employees will be required to provide creditable group health insurance to their employees at a cost to each employee of less than 9.5% of the employee’s adjusted gross income.
have the power to order people to buy health insurance. . . [but it] does have the power to impose a tax on those without health insurance.” The Chief Justice’s opinion, however, then pivoted and, despite finding that the ACA was a valid exercise of Congressional authority, held with the four other Justices that the ACA was not a valid exercise of legislative authority under the Commerce Clause. This extraneous opinion concluded that the Constitution does not authorize Congress to order individuals to engage in commercial activity. Justices Samuel Alito, Anthony Kennedy, Antonin Scalia and Clarence Thomas agreed with the Chief Justice on the Commerce Clause ruling.

Finally, the Court declared that the Medicaid Expansion exceeded Congressional authority. In doing such, the Court indicated that the Medicaid Expansion, in part, was unconstitutional because the government cannot coerce states to expand Medicaid by threatening to withhold existing federal Medicaid funds – declaring, in effect, even non-participating states must still receive existing Medicaid funding. The Court finally concluded that the unconstitutional portion of the ACA, the Medicaid Expansion provisions, could be severed and remedied, leaving the remainder of the statute fully operable. Chief Justice Roberts was joined by 6 other Justices consisting of the four conservative Justices, Alito, Kennedy, Scalia and Thomas, and two Justices from the liberal bloc of the Court, Justices Breyer and Kagan, in finding the Medicaid Expansion provisions of the ACA as unconstitutional.

Planning for the Employer Mandate - What the Supreme Court’s Ruling on Medicaid Eligibility Means

As noted above, the ACA called for an expansion of Medicaid eligibility from its current levels. Medicaid is a state run program and many states’ programs do not currently cover adults without dependent children and/or cover adults only at income levels far below 100% of the federal poverty line. Under the ACA, generally all adults with incomes below 133% of the federal poverty level would have been eligible for Medicaid.

Now, as a result of the Court’s ruling, states may decide to ignore the Medicaid Expansion provisions of the ACA. If states do not implement the ACA’s Medicaid Expansion provisions, individuals who would have been eligible for Medicaid will now potentially need to find creditable medical insurance coverage so as to avoid the application of the penalty imposed under the Individual Mandate. In addition, those individuals with household incomes above 100% but below 400% of the federal poverty line could be newly eligible for federal subsidies for exchange-based medical insurance coverage.

The impact of this on employers may be an increased exposure to penalties under the ACA’s “pay-or-play” mandate. Under the “pay-or-play” mandate, employers are subject to a penalty if the employer either fails to offer creditable group health plan coverage or offers coverage that fails to meet certain quality and affordability standards. In addition, the penalty is imposed only if an employee receives a federal subsidy for, and enrolls in, coverage through an insurance exchange. However, if an employee is offered affordable and creditable group health plan coverage, then that employee is not able to receive a federal subsidy for coverage under the insurance exchange, regardless of the employee’s household income.

Therefore, in states that do not implement the Medicaid Expansion, the affected employees will potentially be eligible for a federal premium subsidy to purchase medical insurance exchange coverage. For example, an individual whose income puts his or her household income between 100% and 133% of the federal poverty level may not be eligible for Medicaid if his or her state declines to comply with the ACA Medicaid Expansion provisions. Such an individual may put his or her employer at risk for penalty under the “pay-or-play” mandate if the employer’s plan fails certain quality and affordability standards. An employer can avoid this risk if it offers all of its full-time employees with creditable coverage which is affordable.

Coverage is “creditable” if it has at least a 60% “actuarial value.” For example, a plan with a $4,000 annual deductible and with a co-insurance coverage amount of 90% once a covered individual exceeds the deductible generally meets this 60% “actuarial value.” Coverage is affordable if the premium amount charged to a full-time employee for individual coverage does not exceed 9.5% of that employee’s household’s adjusted gross income.

Redesigning Your Medical Insurance Coverage to Comply with the ACA

In order to avoid the penalty under the Employer Mandate, all companies with at least 50 employees must evaluate whether they should expand coverage options, expand premium offerings or accept the payment of the penalty as a new company cost. In making this evaluation, the company should ask the following questions:

1) Does the employer currently exclude full-time employees under its medical plan?
2) If the answer is yes, how big is the affected population?
3) How much is the “employee share” if they elect individual coverage?
4) If the “employee share” for individual coverage exceeds 9.5% of the employee’s wages, can the portion of the premium paid by the company be increased to reduce the amount paid by the lowest paid employees to equal 9.5% of their wages?

If, in answering these questions, it appears that an employer would be unable to afford the expansion of coverage so as to avoid the penalty under the Employer Mandate, the quality of the coverage offered should be evaluated. Many employer provided medical insurance plans far exceed the minimum “60% actuarial value” threshold. Thus, an employer should evaluate whether it could decrease the “quality” of the medical insurance offered to its employees and utilize that savings to offset the additional cost of expanding coverage to more employees and increased premiums paid by the company so as to comply with the law.

David Whaley is an ESOP attorney in the Cincinnati office of the law firm of Dinsmore and Shohl, LLP.
Thank you very much. I am delighted to be here.

After the Revolutionary War, the U.S. wanted to rebuild the cod fishing industry which the British had tried to destroy. Secretary of State, Thomas Jefferson, came up with an incentive, paid by the federal government to fishermen, if they went out and fished in cod season, which meant that ship builders had an incentive to build ships and rebuild the whole industry.

For over a hundred years, there had been complete profit-sharing on the catch by cod ships. From the captain down to the lowest person, they shared. It was a form of shared rewards, shared capitalism—an ownership culture.

So Jefferson decided, in the end, that the bill—which subsequently became law when George Washington signed it—that the incentive paid to the cod-shipping industry would be distributed 60% to the workers and team leaders and 40% to the ship owners. And not only that—in one of the first pieces of legislation passed by the first Congress under the first president of the United States—it reads that before the ship goes out, the captain and the owners must sign a written agreement saying that they will continue the custom of complete profit-sharing on the catch, subject to judicial penalty.

So, you can see that the idea of a shared ownership in the results and profit sharing really goes back far into American history.

What I want to do today is take you through a little journey about what we’ve learned over about 30 years of research on worker ownership.

Let’s start out with this general overview. How much worker ownership and profit sharing is there in the United States? We’ve done a survey of the entire U.S. population, and you’d be surprised to know that about 18% of U.S. citizens own company stock. There is a thin layer of worker ownership in the U.S. population. About 9% receive stock options. That’s a lot of people who get stock options, workers and middle and lower level managers in firms in the United States. In employee-owned firms and cooperatives, about a third of workers receive a cash profit sharing or gain sharing. For worker ownership, the average amounts in individual employee’s accounts are fairly small, about $10,000, about 25% of one year’s average salary. You can compare the average amount of worker holdings in company stock with what you have in your companies.

Add it all up and the really interesting thing is that roughly one-half of private sector workers in the United States have either cash profit sharing, stock in their company, or stock options. It’s usually a small amount, but I’m simply pointing this out just to give you some overall numbers.

And employees owning stock in their companies is prevalent in many industries: 47% in communications and utilities, 31% in durable manufacturing, 24% in non-durable manufacturing, 24% in finance and insurance, 21% in computer services, and 21% in retail. This is based on a survey done every four years by the U.S. government called the General Social Survey. What is it? It’s a random sample of the whole U.S. working population. So if you find something from the General Social Survey, it probably is true. We receive most of the funding to do our research in the General Social Survey from the Employee Ownership Foundation sponsored by The ESOP Association.

There have been more than a hundred studies over a quarter of a century that show that there’s better economic performance and better worker attitudes on average in companies that have significant worker ownership. Today, I’m going to talk briefly about what we’ve learned from this General Social Survey.

The second study I’m going to talk about is the study...
our book, Shared Capitalism at Work, is based on. We looked at over 40,000 workers in 14 companies in over 300 work sites, and we gave them a really intensive 20-page survey about their attitudes, their behaviors, their views on the company, and how they work.

And in the third study, we’ve been challenged, people have asked us, “Why can’t you just look at really, really big companies that people are familiar with?” Many of you, I’m sure, are familiar with Fortune Magazine’s “100 Best Companies to Work For in America” issue. Every year, about 400 companies apply and there are 100 who win this contest, the 100 best companies in America. The Great Place to Work Institute that prepares the list for Fortune gave us access to the data. All the companies that apply do a random sample survey of their workers and management fills out a culture practice survey.

In all these studies, we use a lot of fancy statistical techniques to make sure that we’re really finding what we think we’re finding and make sure that we control and pull out the effect of gender and age and tenure and these kinds of issues.

Why would this kind of research be useful to managers and workers? Well, it’s a way to see if your ideas about how your organization works can be tested scientifically. It’s a way to get beyond your individual stories and see if some general things might be true and what those things are. It’s a way to benchmark your company and it’s a way to decide what changes and ideas you might want to pull forward in the future.

I will quickly go through some of the general things that we’ve learned. I’m not going to talk statistics. I’m going to talk about some general themes and ideas.

The first thing that we learn is that combinations are really common. Managers nationwide tend to combine short-term profit sharing and gain sharing with longer-term worker ownership and stock holding. In fact, according to the General Social Survey, about 40% of workers involved in worker ownership are involved in these kinds of combinations. Managers are using the short-term reward together with the long-term commitment to company ownership. I think managers are suggesting this may be something they think is optimal.

The second thing we learn is that participative culture is more common in companies that have worker ownership. Managers appear to be combining the right to share in the company performance with the ability to affect the company performance. Worker owners nationally are more likely to say they have a lot of say in their job, they have help in setting things up in their job, and they make decisions with others at their job. The notion that employee empowerment and participation is the best way to do worker ownership is borne out by this national survey, which shows that managers nationally understand the notion.

There is more employee empowerment when there is worker ownership taking place. About a third of the workers who have worker ownership in the country are actually in self-managed teams, and a third are in employee problem-solving groups. In the 14 companies that we really put the microscope on, worker owners tend to be in teams. They tend to have lower supervision, more involvement in their jobs and department decisions, more training and more job security.

What does this idea of lower supervision mean? What it means is that a lot of worker owners in the country report that they don’t have close-in supervision. They’re not overly monitored by supervisors. Supervisors tend to play more of a coaching role. It doesn’t mean employees don’t have supervisors. And it’s a really interesting idea because we’ve always wondered, “Why do we keep finding that worker-owned firms are more productive?” One of things we might be learning here is that they’re more productive because they may spend less on their managerial budget.

Fair pay and fair benefits are more common in worker-owned firms. Most worker owners report that they’re paid at or above the market rate for their region or job. This is a really important finding. It would be really depressing if we found that employee stock ownership was replacing fair wages. Also, in ESOPS, workers are more likely than workers not in ESOPS to have a second diversified defined contribution plan or even a defined benefit plan. That’s based on research that Rutgers has done on the Form 5500, the Labor Department’s record of ESOPs. So, it appears from all the studies we’ve done that worker-owned companies are more generous. Part of the reason for this may be that since they’re more productive, they can afford to be more generous.

Next, one of our big findings is that workers like some risk. We spent a lot of time coming up with a very
complicated instrument to measure whether these 40,000 workers in our big study were risk-averse or risk-loving—whether they hated risk or whether they loved it—and gave them a whole series of questions about their betting behavior and whether they play the stock market and all kinds of questions, and we came up with a pretty good idea of who the risk-averse workers were and who the risk-loving workers were.

We found that only 22% of workers among the 40,000 want all their compensation in fixed pay. The interesting thing is workers with different approaches on risk aversion still like a combination of worker ownership and profit sharing along with their fixed pay. Eighty-six percent of workers who like risk want that, 75% of workers who have medium risk aversion want that, and 66% of workers who hate risk still want some worker ownership and profit sharing mixed with their fixed pay. People have figured out that, in an economy where wages are pretty much flat—adjusted for inflation—they would prefer to have an opportunity for a share in the company.

Another thing we found is that employee owners monitor and help each other. Most workers can tell if their co-workers are working responsibly. The biggest objection by economists to the employee ownership idea and the profit sharing idea is shirkers, people who think, “I’ll let the other guy work and then I’ll collect my stock.”

What we have found is that when you increase the amount of worker ownership or profit sharing, workers monitor each other. Why do they do it? They tell us they do that because that person is messing up their share of ownership. This monitoring increases the more you have employee involvement teams, job security and formal training, and fair pay for employees. The more you have a worker-ownership culture, the more you get this natural monitoring and it’s this natural monitoring which partly accounts for the low level of supervision required, because it replaces the normal policing and monitoring performed by management in really hierarchical firms.

We find that culture matters a lot. What we find is that the bundle that really works well with worker ownership is high performance work practices, meaning a high amount of formal training for workers, job security, involvement in employee involvement teams and self-directed work teams. The impact of culture increases when workers are paid fairly. What we find is that the combination of worker ownership and this positive culture, this combination of training and high-performance work practices like job security and teams together, is what accounts for improved willingness of workers to work hard in these companies.

Ownership and culture reduce turnover. That’s one of the really big findings of this study. The intention of a worker to leave a firm is cut by half when you combine the right culture with significant worker ownership and profit sharing. We find that worker ownership improves workers’ attitudes and behaviors. They report that they’re more loyal to the firm, they have lower absenteeism, they’re more willing to work hard, they have a greater perception that their co-workers are working harder, they make more suggestions, and they are more willing to innovate.

You get all of these advantages only when you get the culture right. And what is the culture again? Fair pay, not too close supervision, and high performance work practices, which means the combination of formal training, job security and self-directed work, and employee-involvement work teams. We find that worker ownership alone drives all these positive results, but as I said, it’s the combination of worker ownership that does really well in terms of getting more productive behavior.

I want to ask the question. Could our study of 44,000 workers with intensive surveys, our study of a random sample of the U.S. population—could it be a delusion? Maybe we somehow messed up and didn’t find what we really thought we found. To test our conclusions, we came up with another study using the “100 Best Companies to Work For in America” list. We took data on about 800 companies that apply for the competition, and we really ramped it up. We had 400,000 worker and management surveys on about 800 companies. This was the largest assessment of worker ownership, profit sharing and company culture ever done by researchers in the United States. Basically, we came to the same conclusions that we found when we looked at a random sample of the U.S. population, and the same conclusions that we found when we studied the 40,000 workers really closely. So, this is a very serious test, and our results are not a delusion.

What do you do with this research? I think one looks at the issues in your own firm with an occasional employee survey and facilitator to figure out how to transfer some of these ideas to what you see as your experience.

I think it’s important to support research where you can by giving researchers access to your firm, and I think that it’s important to understand the impact of this kind of research on the national debate about employee ownership because these ideas will never get on the national agenda if serious research doesn’t prove that they are doable, practical and workable.

That’s why at Rutgers we are focusing on developing a fellowship program where we have scholars from all over the country who we are trying to mentor. That’s our special role.

I do want to take a moment to remember John Logue, my dear friend and person that you know contributed so much, and to remember the Ohio Employee Ownership Center. We do research, we work with young scholars, but I understand what it means to build a network of employee-owned companies like your network here in Ohio—the first in the nation, and probably the best in the world. You don’t know how lucky you are to have the OEOC and to have yourselves—the reality of what you’re doing here in such an intense way in the Midwest. So, congratulations to you, and thanks for inviting me. 

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More than 300 people registered for the 26th Annual Ohio Employee Ownership Conference April 20th at the Hilton in Fairlawn, Ohio, another good turnout despite the continuing slow economic recovery from the Great Recession. After words of welcome from Ohio State Representative Kathleen Clyde and introductory remarks by Bill McIntyre, OEOC Director, the Conference attendees watched videos from Senator Sherrod Brown and Senator Rob Portman with messages of support for employee ownership.

The opening session also included the presentation of the 2012 OEOC Employee Ownership Awards. Vistula Management Company, Toledo, won the 2012 award for Getting Your ESOP Off to a Good Start. Our highest honor, The John Logue Employee Ownership Excellence Award for the Largest Contribution to Employee Ownership in Ohio in the Past Year, went to Andrew Kulesza of R.E. Kramig & Company. Recognition awards were given to The Ruhlin Company for 35 Years of Employee Ownership; S.G. Morris Company for 30 Years of Employee Ownership; and CGB Corporation, Reuther Mold & Manufacturing Company, and Star Leasing Corporation for 25 Years of Employee Ownership.

Following the general session, the morning round of concurrent workshops gave folks a choice of seven panels to attend featuring employee owners as well as professional service providers. The panel on the ABCs of ESOPs for Employee Owners featured Brian Hector, Morgan Lewis & Bockius; Tom Clevenger, Bruner-Cox, and Tina Fisher.
The panel was moderated by Rob Felber, Felber Public Relations & Marketing. Folks attending the panel on Best Practices in Managing Succession for a Minority ESOP heard Bob Taylor and Brian Fitzgerald, Falcon Industries, share best practices that help ESOP companies survive a succession process. Jack Veale, PTCO Inc., served as panel moderator. Mary Bing, Prentke Romich Company, provided a Boatload of Ideas for Ongoing ESOP Communication along with moderator Cathy Ivancic, Workplace Development.

The ABCs of ESOP Stock Valuation was tackled by Mark Bober, Bober Markay Fedorovich & Company; Scott Miller, Enterprise Services, Inc.; and Nels Carlson, Alerus Financial. The panel was moderated by Kent Mann, Thompson Hine LLP. The technical panel titled Special Issues for S-Corp ESOPs was moderated by Neil Brozen, BTC ESOP Services/Bankers Trust Company and featured Mary Giganti, Waldheger Coyne LPA; Ken Serwinski, Prairie Capital Advisors, Inc.; Pete Shuler, Crowe Horwath LLP; and Andrew Kulesza, R.E. Kramig & Company, Inc. The panel of Chris Cooper, OEOC; Mary Donnell, Green City Growers; and Margaret Lund, Co-opera discussed Models for Worker-Owned Cooperatives: Union, Non-union, Multistakeholder. Serving as moderator was Roy Messing, OEOC. The panel on Selling Your Business to Your Employees: Employee Stock Ownership Plans featured Jim Steiker, SES Advisors; Pete Chudyk, Maloney & Novotny LLC; and Rick Schlueter, ComStock Advisors. Moderating the panel was Eric Burkland, Ohio Manufacturers’ Association.

Lunch featured the keynote address by Dr. Joseph Blasi, the J. Robert Beyster Professor of Employee Ownership, Rutgers University. Dr. Blasi, a world-leading authority on employee ownership, reviewed research pointing out the advantages of employee ownership thus confirming employee ownership as “Simply a Better Way of Doing Business.” You can read edited remarks elsewhere in this newsletter or you can view the speech on the OEOC’s website at www.oeockent.org.

The rest of the day featured panel discussions ranging from ESOP technical issues to issues of ownership culture to worker cooperatives.

Jim Ruhlin, The Ruhlin Company, and moderator Ben Wells, Dinsmore & Shohl LLP led a session on Involving Employees in Corporate Governance. The session on Leadership Opportunity: Building a High Performance Ownership Culture featured Keith Nichols, EBO Group and moderator Ginny Vanderslice, Praxis Consulting Group, Inc. The Conference theme panel on Employee Ownership Research was an opportunity for folks to learn more about employee ownership research in an interactive session with Dr. Blasi along with Jacquelyn Yates of the OEOC. The discussion was moderated by Karen Conrad, Ohio Department of Development.

An ESOP Legal & Fiduciary Update was moderated by Max Blachman from the staff of Senator Sherrod Brown and featured panelists Tim Jochim, Kegler, Brown, Hill & Ritter Company LPA; Kim Abello, JP Morgan Chase & Company; Van Olson, Van Olson Law Firm LLC; and Lance Studdard, Reliance Trust Company. Folks attending the session on Understanding Your ESOP Individual Account Statement got helpful guidelines from
Owners At Work Summer 2012

Barbara Clough, Blue Ridge ESOP Associates; Florence Zabarsky, Zabarsky & Associates, LLC, and Joel Davis, Principal Financial Group. The discussion was moderated by Brian Bornino, GBQ Consulting LLC. The panel on The Option of Selling to Employees via a Worker-Owned Cooperative was designed to help folks understand advantages and disadvantages of selling the business to a worker cooperative. Representatives on the panel included David Baird, Select Machine, Inc.; Jennie Scheinbach, Pattycake Bakery; and Leslie Schaller, ACENet The panel was moderated by Rod Kelsay, Mid America Cooperative Council. A panel on Practical Matters in Executing a Sale to an ESOP featured Carl Grassi, McDonald Hopkins; Dave Gustafson, Apple Growth Partners; Rob Ruszkowski, Verit Advisors LLC; and John Kiely, Vistula Management Company and was moderated by George Brown, Senator Rob Portman’s Staff.

Following an afternoon coffee break sponsored by Menke & Associates, Inc., the last round of concurrent panels began.

The interactive session Sharing Financial Information: Why Can’t Everyone See What I See, involved a discussion about sharing financial information in an ESOP company led by Kevin Martin, S.G. Morris and moderator Alex Freytag, Ownership Thinking. Folks interested in learning more about Using ESOPs as an Acquisition Strategy heard from Kim Abello, JP Morgan Chase & Company; Phil DeDominicis, Menke & Associates, Inc.; and Lynn Archer, Barnes Thornburg LLP. The discussion was moderated by Tim Regnitz, SES Advisors. A panel on Best Practices for Integrating Projected ESOP Repurchase Obligation with Company Financials featured Merri Ash, First Bankers Trust Services; Tina DiCroce, ESOP Economics, Inc.; and Mark Fournier, Stout, Risius Ross. The panel was moderated by Rob Brown, ESOP Plus: Schatz Brown Glassman Kossow. A panel on Communication Committees: If not Opening Pandora’s Box nor a Panacea, What is Effective Communication Among Employee Owners was moderated by Norman Jenter, Business Culture Solutions and featured John Benedetto, Reuther Mold & Manufacturing Company and Martin Gall, Columbia Chemical Corporation. The co-op track at the Conference was finished off with a panel on Worker-Owned Co-ops Role in Economic & Community Development that featured Jim Anderson, OEOC, Roy Messing, OEOC; and Steve Dubb, Democracy Collaborative. The panel was moderated by Jerry Good, Ohio Department of Development.

Following the formal program, at the closing reception, the discussion continued in a relaxed atmosphere. At the end of the day, our position as the best one-day ESOP conference in the country was maintained! We thank everyone who helped make the conference the largest employee ownership event in the region and we look forward to seeing even more folks next year as we celebrate the 27th Annual Ohio Employee Ownership Conference to be held Friday, April 19, 2013. Mark your calendar. OAW
Receiving The John Logue Employee Ownership Excellence Award: Andrew Kulesza, R.E. Kramig & Company (Cincinnati)

Thank you.

I would like to thank our president, Fritz Horne, of Kramig Insulation and the management group for empowering me, and allowing me to become so involved with ESOP ownership outside the realm of the company. It’s a great honor to be recognized with an award in John Logue’s name. If you haven’t done any looking to see all that John has done for ESOPs, I would recommend you do so. As a former teacher, I hold John in high regard for his research of the mid-1980’s. It was about that time that the company I work for now was saved by an ESOP instead of being sold to private equity. John’s vision for the Center has allowed me, personally, to attend educational seminars over the past eight years and meet with people like Bill McIntyre and deepen my understanding of ESOP professionals. If it weren’t for those conferences that the Center puts on, I never would have been able to meet Ben Wells over at Dinsmore, who’s played an integral part in making sure our company stays legal when it comes to ESOP. John’s findings also allow us to make ESOP culture and values an easy sell.

This award very much humbles me. I’d love to stand up here and tell you how much work I put into getting in contact with the politicians and pat myself on the back, but I’ll be honest with you, it really isn’t that much hard work. And any one of you can put a few extra minutes into contacting your congressman or congresswoman.

In your local community, join the Republican Club, the Democrat Club or the Tea Party and get on their mailing list. When you do that, you find out when the representatives are coming to town. When they come to town, it’s your chance to get right in front of them, and they will want to listen to you because you are then considered their base. Introduce yourself. Ask if, in the future, they or their staff would be able to talk about a program that’s helped you and your company. Then, you get their card, and you follow up with all the pro-ESOP data and research and information the Center provides you. You get an appointment and you’re on your way.

Most congress people, senators—regardless of political party—want job security for their local economic representation, and they want diversification between ethnic groups within companies, and that’s a lot of what we stand for, so, like I said, the message through the research of John and the Center is extremely clear, so it’s our moment to carry that ESOP torch in John’s memory and build democracy one company at a time. Thank you.

Getting Your ESOP Off to a Good Start Award: John Kiely, Vistula Management Company (Toledo)

At each Ohio Employee Ownership Conference, an award for Getting Your ESOP Off to a Good Start is presented. The 2012 award winner was Vistula Management Company in Toledo. Vistula Management Company is a property management company that has been serving the metropolitan Toledo and greater northwest Ohio community for over 30 years. Currently, the company manages over 1,600 low-income units for families, individuals, the elderly and disabled at a variety of locations in urban and suburban Toledo.

Utilizing an ESOP, the company’s 65 employees became 30% owners of the business in December 2011.

Accepting the award on behalf of the Company was John Kiely, President:

Well, I’ve been aiming for this moment for over ten years. I sat in this conference over six times and I’m thrilled to be up here. We provide housing for the very lowest members of the 99%. I’m very proud of how we do that. I’m very proud of the people who are up here with me. However, I’m also very grateful to Bill McIntyre of the OEOC. We could not have done this without his help, his guidance, and I highly recommend anyone who’s interested in doing an ESOP, don’t leave home without him. Thank you. OAW
At the 26th Annual Ohio Employee Ownership Conference, special recognition was given to 5 Ohio employee-owned companies that have been ESOPs for at least 25 years. In receiving their awards, representatives of those companies shared with the audience what they felt were the keys that allowed them to be successful and sustainable ESOPs over all those years:

**The Ruhlin Company (Sharon Center)---35 Years of Employee Ownership**  
**Jim Ruhlin**  
In 2015, our company will be celebrating 100 years of doing business. In that time period, we’ve had a storied history, but it is my true belief that the last 35 years for our company, the duration during which we’ve been an ESOP, have been the most prosperous for our company. The ESOP has given us that extra edge—the edge that you get when your employees learn the care and concern that comes with being an owner. And that extra edge over these years has helped us through our bad times, and I truly believe it has helped us have even better good times.

**S. G. Morris (Highland Heights)---30 Years of Employee Ownership**  
**George Blind**  
We’ve had some very impressive visionaries, who, back then, looked at an ESOP as a vehicle to sustain our employee ownership. We previously were employee-owned without a vehicle like the ESOP, but it really has helped us sustain our employee ownership mentality. It takes a village to raise an ESOP. I want to recognize the Ohio Employee Ownership Center and other associations who help us to succeed. I really don’t know any other business ownership structure where there’s such a community to help us succeed.

**GBS Corporation (North Canton)---25 Years of Employee Ownership**  
**Michelle Benson**  
Just last year, we celebrated our 40th anniversary as a company, and when we look back at the milestones that we’ve achieved over those years, certainly we’re most proud of having attained 100% employee ownership. We truly believe this exemplifies the meaning of employee ownership, employees gaining individual wealth through their hard work and dedication to the success of the company.

**Reuther Mold & Manufacturing Company (Cuyahoga Falls)---25 Years of Employee Ownership**  
**John Benedetto**  
Twenty-five years goes very quickly. I think there are two really key elements that helped us to become and continue to be a strong company and a strong ESOP. First has been our customer base. We have a good, loyal base of customers throughout the country that support us well. The second would be our employees. Without employees, there would be no ESOP. There’s absolutely no doubt that’s where our core lives, with our employees. We have employees that are willing to step up and take roles in ESOP and the management of our company, and that’s probably our strongest key.

**Star Leasing (Columbus)---25 Years of Employee Ownership**  
**Jeff Rosen**  
I think our key has been hiring good people. In addition, our key is in our planning. To get to 25 years as an ESOP, one thing you need to keep your eye on is the repurchase obligation, and I think we have developed a system for integrating that repurchase plan into our financial plan for the company. I can’t emphasize enough how important that is. Also, we are constantly modifying our distribution policy to make sure that we end up with no surprises. We have a great advantage over our competitors in that, as an ESOP, we have employees who really care about the company.

Employee ownership through Employee Stock Ownership Plans can create substantial wealth for the plan participants through growing the value of their company. But even with participative management, careful planning, and good business practice, building a company takes time. It might take 5 years before employees see notable value building in their individual accounts, and it might be a decade before the annual statement of accounts inspires smiling faces.

Many ESOP companies do not maintain their company as an ESOP for the long term. Typically, the company is still in business, but the ESOP has been terminated or converted into something else - something that is not necessarily tied to the performance of the company. Usually the reasons for a terminated ESOP are obscure, but comparison with those that survive may offer some lessons for those who want to keep their ESOPs for the long term.

Overall, in our study of 535 Ohio companies that had ESOPs in 1995, we learned that ESOP survival is less likely than termination as only 38% of them still had an ESOP as of 2009 (Table 1). Less than 10% fail in business, although those failures seem to attract about 95% of media coverage of ESOPs.

Completion of the ESOP transaction is a legal landmark for the seller(s) of a privately-held company, opening access to tax-deferred capital gains from the sale of part or all of the enterprise. For employees, establishment of the ESOP is a moment that marks the possibility of better retirements, more secure employment, and personal growth arising from participation in the management of the company. To an outside observer, a “win-win” outcome seems likely. The political jurisdictions where the company resides have a good chance to “win” as well, by retaining local enterprises and benefitting from tax income and the company’s “good citizen” community support.

If ESOP companies do create these “wins,” they are worth establishing and preserving. This research project attempts to identify characteristics of long-term ESOP survivors. Using data on Ohio ESOPs that were established prior to 1995, it compares ESOP plans that were terminated by their companies with those that were retained.

The year of 1994 was chosen because an OEOC survey was done at that time and because it was the first year for which the IRS Form 5500 company reports on ESOPs appeared in usable form for researchers. The Form 5500 reports provided a baseline of data for all companies with ESOPs in 1993 and 1994, whether they responded to the survey or not. There were 205 ESOP plans established before 1995 that were retained by their companies through 2009, while 272 were terminated. The finding was in line with early research by the General Accounting Office (GAO), which had found that ESOPs were more likely to be terminated than other retirement plans (GAO 1991).

About 10% of the ESOP companies lost their ESOP plans because the business failed. Most companies that terminated plans remained in business. Companies appear to terminate their ESOP plans for many reasons, including the intent to sell the company, to terminate unwanted ESOPs in companies that have been acquired, to replace retirement plans that have lost much of their value (as happened to some companies in the Great Recession), to avoid the trouble and expense of maintaining the ESOP, or disappointed expectations about its impact. Ohio’s ESOP “retainers” are compared with “terminators” to explore the question of why more than half of Ohio’s pre-1995 ESOPs were subsequently terminated.

### Table 1: ESOP Status of 1995 Ohio ESOPs as of 2009

<table>
<thead>
<tr>
<th>Status</th>
<th>n</th>
<th>Percent within group</th>
<th>Percent of all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retained ESOP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ESOP or other employee ownership, still in business</td>
<td>169</td>
<td>82.5%</td>
<td></td>
</tr>
<tr>
<td>Employer securities in other plan</td>
<td>6</td>
<td>2.9%</td>
<td></td>
</tr>
<tr>
<td>Moved out/sold, still ESOP</td>
<td>30</td>
<td>14.6%</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>205</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>Terminated ESOP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moved/sold out of state</td>
<td>8</td>
<td>2.9%</td>
<td></td>
</tr>
<tr>
<td>Sold</td>
<td>72</td>
<td>26.5%</td>
<td></td>
</tr>
<tr>
<td>ESOP terminated/converted, no employer securities, Still in business</td>
<td>192</td>
<td>70.6%</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>272</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>Business Failure</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sold/closed in distress</td>
<td>58</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>Total of known ESOPs established before 1995*</td>
<td>535</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

*All Ohio ESOPs listed in IRS Form 5500 Reports in 1993-94, plus all ESOPs responding to OEOC 1985-86 survey.
Terminations and Sale of the Company

There is one scenario for ESOP terminations that can be identified without much difficulty: when a company is acquired by another company, the event is typically announced in the business press. A sale is more likely to result in an ESOP termination than retention of the ESOP.

Terminations and Plan Wealth

Companies that retained their ESOPs were, simply, somewhat wealthier than companies that terminated their ESOPs. See Table 2. Procter and Gamble’s vast employee holdings greatly increased the 1994 mean net assets among companies retaining their ESOPs. But median net asset value (which minimizes the “P&G effect”) revealed that retained ESOP plans were still more than twice the median value of terminated plans in 1994, and the median of average value per participant was 18% higher in the firms that retained their ESOPs. Higher asset values may reflect stronger business models, better management, a greater commitment to the ESOP, or something else.

| Table 2. Net Assets and Value per Participant in 1994, 2004, and 2008 |
|-----------------|-----------------|-----------------|-----------------|
|                 | Terminators     | Retainers       |                 |
| 1994 Mean Net Assets | $15 million    | $55 million     |                 |
| 1994 Median Net Assets | $773,515      | $1,805,939      |                 |
| 1994 Total Net Assets (of which) | $3.2 million | $7.5 billion P&G = $5.9 billion |                 |
| 1994 Mean of average value per participant | $23,589       | $28,192         |                 |
| 1994 Median of average value per participant | $13,202       | $15,591         |                 |
| 2004 Median of average value per participant | $13,147 (73) | $43,892 (150)   |                 |
| 2009 Median of average value per participant | $23,867 (17) | $47,180 (138)  |                 |

Terminations and Loss of Plan Value

Data on plans that lost their value in the Great Recession is largely lacking because the Department of Labor imposes a two-year delay on the release of Form 5500 reports. The picture of lost value is further muddied by the long decline of Ohio’s manufacturing sector, a decline that seemed to worsen in Ohio in advance of the national mortgage derivative crisis of 2008. Nonetheless, the loss of plan value can be approximated by the difference in value of plans’ net assets in 2005 and 2007. About two-thirds of companies that kept their ESOPs reported growth in net assets between 2005 and 2007, but only 19% of those that terminated the ESOP, but were still around in 2007, reported positive growth.

About two-fifth (43%) of terminators, or nearly all of those with losses, reported losses in plan net assets of 1% or greater over the two-year period, compared to just 3% of those that retained their ESOPs. But even companies that retained their ESOPs were shaken by the Great Recession, although almost all losses were less than 1% over the two-year period.

| Table 3. Trend in Value of ESOPs 2005-2007 |
|-----------------|-----------------|-----------------|-----------------|
|                 | n               | Percent of all in "Retained" or "Terminated" | Percent with missing eliminated |
| Retained ESOP   |                 |                 |                 |
| Lost Value      | 43              | 21.0%           | 31.2%           |
| No change       | 5               | 2.4%            | 3.6%            |
| Added Value     | 90              | 43.9%           | 65.2%           |
| Missing (no data available) | 67          | 32.7%           |                 |
| Total           | 205             | 100.0%          | 100.0%          |
| Terminated ESOP |                 |                 |                 |
| Lost Value      | 31              | 11.4%           | 46.3%           |
| No change       | 25              | 9.2%            | 37.3%           |
| Added Value     | 11              | 4.0%            | 16.4%           |
| Missing (no data available) | 205       | 75.4%           |                 |
| Total           | 272             | 100.0%          | 100.0%          |

Terminations and the Cost of ESOP Administration

ESOPs require considerable professional resources to establish and to maintain. For some companies, these expenses might represent an unbearable cost, leading to termination of the ESOP. To investigate the cost of reporting on the ESOP, responses of retainers and terminators were compared on a survey question from 2005.

Not surprisingly, the percentage of terminators that found ESOP costs high was twice that of retainers, but few companies that terminated the ESOP remained to answer the question in 2004-06. More surprising was that most responding companies, both retainers and terminators, found ESOP costs to be moderate or low.

| Table 4. Question 40. How does management at your firm evaluate the costs of ESOP regulation and compliance? ( ) costs are low ( ) costs are moderate ( ) costs are high |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                 | n               | Percent of all in "Retained" or "Terminated" | Percent with missing eliminated |
| Retained ESOP   |                 |                 |                 |                 |                 |
| Low             | 20              | 9.8%            | 31.3%           |
| Moderate        | 36              | 17.6%           | 56.3%           |
| High            | 8               | 3.9%            | 12.5%           |
| Missing         | 141             | 68.8%           |                 |
| Total           | 205             | 100.0%          | 100.0%          |
| Terminated ESOP |                 |                 |                 |                 |                 |
| Low             | 1               | .4%             | 11.1%           |
| Moderate        | 6               | 2.2%            | 66.7%           |
| High            | 2               | .7%             | 22.2%           |
| Missing         | 263             | 96.7%           |                 |
| Total           | 272             | 100.0%          | 100.0%          |
Terminations and Disappointed Expectations

The managements of “retainers” and “terminators” took somewhat different views of the impact of the ESOP on the company. Through two OEOC surveys, management respondents where ESOPs were retained assessed the impact of the ESOP more favorably than in companies where the ESOP was eventually terminated (Table 5). This difference speaks to the extent of disappointed expectations, even as early as 1993-94, when the median ESOP was less than ten years old.

Two summary indices indicated disappointed expectations. These were constructed from a battery of 15 questions about the impact of the ESOP on the company. Seven of the questions addressed easily measurable aspects of impact. This was called the “quantitative index of ESOP impact.” Eight items addressed harder-to-measure issues. This became the “qualitative index of ESOP impact.” Where respondents indicated a “strong” impact on a specific item, these were scored as two, whereas “some” impact was scored as one, and “no” impact was scored as zero. “Some” negative impact or “strong negative impact” were -1 and -2. The item scores for each index were then summed.

The scores for retainers and terminators suggest managers at the companies that terminated their ESOPs were somewhat more disappointed with the ESOP in 1993-94, and possibly even more so in 2005, although there are far fewer companies that terminated responding to the 2004-06 survey.

<p>| Table 5. Mean and Median Qualitative and Quantitative Impact of ESOP Scores* for Retainers and Terminators |
|---------------------------------------------------------------|---------------------------------------------------------------|</p>
<table>
<thead>
<tr>
<th>Terminators</th>
<th>Retainers</th>
</tr>
</thead>
<tbody>
<tr>
<td>n=81</td>
<td>n=61</td>
</tr>
<tr>
<td>Mean Quantitative Impact Score 1993-94</td>
<td>3.74</td>
</tr>
<tr>
<td>Median Quantitative Impact Score 1993-94</td>
<td>4.0</td>
</tr>
<tr>
<td>Mean Qualitative Impact Score 1993-94</td>
<td>4.40</td>
</tr>
<tr>
<td>Median Qualitative Impact Score 1993-94</td>
<td>4.5</td>
</tr>
<tr>
<td>n=12</td>
<td>n=80</td>
</tr>
<tr>
<td>Mean Quantitative Impact Score 2005</td>
<td>2.75</td>
</tr>
<tr>
<td>Median Quantitative Impact Score 2005</td>
<td>0.5</td>
</tr>
<tr>
<td>Mean Qualitative Impact Score 2005</td>
<td>4.67</td>
</tr>
<tr>
<td>Median Qualitative Impact Score 2005</td>
<td>2.5</td>
</tr>
</tbody>
</table>

*The quantitative index included absenteeism, product quality, turnover, productivity, customer service, profitability and production costs. The qualitative index included manager-worker communication, on-the-job performance, worker job satisfaction, motivation, working conditions, employee participation, labor-management relations, and employee attitudes generally.

Terminations and Labor Unions

Labor unions are frequently cited (usually by managers) as sources of bad relations between employees and management, and when queried, managers’ complaints range from a perceived lack of respect from union leaders to procedural requirements in the bargaining agreement. In 1993-94, 32 companies reported the presence of a union. Of those, 19 retained the ESOP and 13 did not. Interestingly, of companies that retained their ESOPs, 30% reported the presence of a labor union in 1993, compared to 15.5% of those that terminated the ESOP.

When ESOPs are established, both union and management may choose to include the union in the ESOP. Eight percent of terminators included the union in the ESOP, compared to 11% of companies that retained the ESOP. Interestingly, two companies added a union between 1993 and 2004, but no unions were decertified during the same period, although one is known to have decertified later.

Did the labor unions help companies that retained their ESOPs? In both 1993 and 2005, companies with unions were asked how grievances had changed since the ESOP was established. Most companies did not respond to the query, but among those that did, there was no clear indication that grievance levels had changed, for better or for worse. For example, 79% of the “retainer” companies with unions responding in 2005 reported that grievances had not changed in 10 years or more. Nor did most companies in 1993 and 2005 use the local union for communicating with the employees, and the difference between “retainers” and “terminators” was negligible.
Terminations and percent of ownership

Companies that kept their ESOPs tended to have a higher percentage of employee ownership of the enterprise. In 1993-94, terminators owned an average 34% of their firms, just slightly more (on average) than the legal minimum for sellers to receive tax deferred benefits, while the employees in companies that retained their ESOPs owned an average of 44%. In fact, 40% of the retainers were already majority-owned (more than 50%) by their ESOPs in 1993, compared to just 17% of the terminators. By 2004-06, 60% of the retainers were majority owners, and a third were 100% owners. Astonishingly, five of the terminators were majority-owned as well, and terminated after the survey of 2004-06. Three of the five were sold after serious business reverses. Another, a housing construction firm, may have been wiped out by the housing crisis, which started early in Ohio. In contrast to these business failures, the fifth company sold its assets to a competitor, and the participants divided a rich ESOP.

Terminations and S Corp Status

The larger the share of a company owned by its ESOP, the greater the potential tax benefits, as there are no corporate income taxes on the ESOP-owned share of profits. Instead, taxes are paid by the individual employee owners when they receive cash benefits from the ESOP. Of 61 reporting ESOP retainers, over half (52.5%) were S Corps in 2004-06. Of just eight reporting ESOP terminators, only one (12.5%) was incorporated as an S Corp.

Terminations and employee involvement

The use of participatory management or employee involvement or other advanced human relations was expected to be associated with retaining the ESOP. But, surprisingly, companies that retained their ESOPs did not differ much from those that terminated them.

However, membership in Ohio’s Employee-owned Network, which offers low-cost training and peer-to-peer education on business, ESOPs, and participatory management to employees in various positions (from shop floor to CEO), was much more likely to be associated with retaining the ESOP. Fully three quarters of the companies that retained their ESOPs were Network members for at least one year through 2005, compared to less than a third of companies that terminated the ESOP.

Conclusions and Discussion

Companies that form ESOPs but do not retain them consume tax expenditures without fulfilling the goal of creating more capitalists over the long term. Employees’ benefits from the ESOP accrue annually as the ESOP notes are paid off. Typically, it is only after several years that employees’ accounts are allocated a majority of the stock purchased via the ESOP notes.

Over the longer term, employee ownership contributes to anchoring capital locally, maintaining a healthy and diverse small capitalist economic sector, and maintaining secure, well-paying jobs. On account of this, retaining ESOPs seems worthwhile, both for promoting capitalism and lessening income disparities, however modestly.

For those who value lessening income disparities but abhor entitlements, ESOP companies typically offer more secure jobs, with better pay and benefits. Most companies with ESOPs have an additional retirement plan, usually a 401(k) investment plan, sometimes with a company match. Employees in some conventional firms don’t have any retirement plan.

So, it appears that ESOPs do a lot a good, all within the energetic and creative context of capitalism. In some cases, terminating the ESOP may serve employees’ interests, but it is hard to believe that this was the case for the nearly 60% of ESOPs that were abolished. What choices can promote the survival of more ESOPs?

Both majority ownership and S Corp status are associated with retaining the ESOP. In the ESOPs that survive, it appears that the employee-owners want ownership and have taken advantage of opportunities to increase their share of ownership and benefit from that under the law.

Building the ESOP requires regular contributions to it. Reduced contributions to an ESOP may signal a management’s lack of commitment to it.

The flexibility allowed by ESOP retirement plan legislation has contributed to the successful propagation of employee ownership. The retirement trust allows the plan to be adapted to individual company conditions. However, that flexibility allows for plans where management, acting through the ESOP administration committee and the ESOP trustee, can legally terminate the plan before employees have the chance to build up substantial value, convert the plan to some other form, or sell the employees’ share of ownership at the risk of their job security (which ESOP trustees cannot by law consider). Employees might sue to recover the value they have lost in such transactions, but it is unlikely they will do so while their share of ownership and the value of their accounts are small. So, management risks little if it acts against the ESOP in the early years of its existence.

It is hard to make the case that unions contribute to the termination of ESOPs, although there may be some ESOPs that fail because of ingrained patterns of conflict between labor and management. There is some evidence that the presence of a union may even help an ESOP company to survive.

Membership in Ohio’s Employee-Owned Network seems to promote survival, too. Or Network membership simply identifies managers who see the advantages of employee ownership.

Good business leadership is hard to define in specifics, but it is essential to the survival and success of an ESOP. Even though company management where ESOPs were retained, and where they were not, had made similar efforts in the types of employee involvement techniques they had tried, the number of techniques attempted is not a measure of quality. The variable of high-quality HR has proved to be important for the success of employee-owned
And, finally, why did retainers respond to the 1993-94 surveys more often than terminators, even recent ones who were invited to participate in the survey? In no sensible world does answering surveys from the OEOC help to preserve ESOPs. But it is worth considering what it means for busy managers to take the time and trouble to complete the survey, which would have taken an hour or more. What it may show is that the managers in question cared enough about the ESOP in their company to respond, especially in view of the guaranteed reward for responding — free books about ESOPs. Clearly, such a reward could motivate only those already interested and committed. Caring about employee ownership doesn’t guarantee business success, of course, but it is likely to motivate constructive action more often than its opposite. By the same logic, willingness to pay for employees to participate in Network training and then train other employees also indicates a commitment to preserving the ESOP, as do the special benefits the company directs to its employee-owners, including better pay and benefits and better job security.

Data Collection and Methodology

ESOPs have existed as legal entities since 1974, although a few companies have stock plans that were established as much as 30 years earlier and later converted to ESOPs. Most ESOPs are small, closely-held companies, although one of the largest, Procter and Gamble, is headquartered in Ohio.

Since 1985, the OEOC has been periodically surveying all ESOP companies in Ohio for information about the structure of their ESOPs, employee involvement in the company, and management’s assessment of the impact of the ESOP and attitudes of the employees. Survey data is matched to the company’s IRS Form 5500 reports on the financial condition of the plans. The data is supplemented with (mostly) Internet research on the fate of the companies and their ESOPs through 2009. For the companies studied, banks and financial holding companies were notable as both sellers and buyers through the 1990s and 2000s, in what looks like a bank buying frenzy with terminated ESOPs as the collateral damage.

Business closings and distress sales are more often covered in the online business press. A backup source is court records of bankruptcy proceedings.

The 477 plans to be examined here include every plan surveyed by the OEOC in three waves: 1985-86, 1993-94, and 2004-2006, as well as every plan reported in the IRS Form 5500s in 1993-4. Comparison of a known subset of established ESOPs to the data used here suggests that these data underestimate the number of ESOPs in Ohio by 10%. Almost all companies have only one ESOP or broad-based stock bonus plan, and the data is reported by plan. A few larger companies have more than one ESOP plan. The Timken Company is exceptional for its seven plans that report having both value and participants.

| Miscellaneous Facts about Ohio’s Terminators and Retainers with ESOPs established before 1995 |
|-----------------------------------------------|---------------------|
| Terminators (n)                               | Retainers (n)       |
| Number of plans established before 1995       | 272                 | 205                 |
| Median year established                       | 1985                | 1986                |
| Number of companies that were Network members before 2005 | 83                  | 152                 |
| 1994 Mean number of participants             | 663.5               | 1140.5              |
| 1994 Median number of participants           | 61                  | 101                 |
| 1994 Total number of participants            | 136,018             | 156,247             |
| Network Member before 1992                   | 1.8%                | 5.4%                |
| S-Corp ESOP                                   | 12.5% (16)          | 52.5% (61)          |
| Nonmanagerial wages lower than industry      | 33.3% (9)           | 6.5% (62)           |
| Benefits package lower than industry         | 50% (8)             | 1.7% (59)           |

Works Cited


Employee Ownership and the 99%

Bill McIntyre

There has been considerable discussion this past year about the flaws of capitalism and the adoption of alternate economic models, the development of a third way or of a new economy.

Frankly, we in the employee ownership world are not interested in developing a third way or any alternate way. We are interested in employee ownership being THE way.

Louis Kelso, the philosophical founder of ESOPs, made the statement: “The only thing wrong with capitalism is that we need more capitalists.”

Employee Ownership Not a Magic Bullet

With employee ownership, we are all capitalists. We are all owners. We all share in the benefits of ownership. And that means we all share in the risks of ownership, too. Employee ownership is not a magic bullet that cures all corporate weaknesses. If the year is 1910 and you manufacture buggy whips, there’s this new invention called the automobile that is probably going to cause problems for your company. Employee ownership is not likely going to help.

Employee Ownership Improves Corporate Performance

Research studies consistently show that employee ownership combined with an ownership culture results in improved corporate performance. Employee owned companies are more successful than comparable non-ESOP companies.

All Share in the Success

With more success comes more wealth creation. And who shares in that success? In an employee owned company, the beauty is that everyone shares in the success. Everyone shares in the creation of wealth.

Prior to joining the OEOC, I worked at an employee-owned company for over 15 years. I lived employee ownership. I saw what it could do for people on a personal, professional and financial basis. Working together to serve your customers and having your stock price rise from $5 per share to $90 per share helps make for a lot of happy owners!

It’s more than just dollars, though. When you work with people who are co-owners of the company with you, your work is more enjoyable … because you know that everyone is doing their best, every day, to make sure that your customers are satisfied. You can go home each night with a feeling of accomplishment, that you “done good”, and that’s a good feeling.

Middle Class Wealth Increases

Look at what happens when this attitude becomes prevalent among most employees. More customers are satisfied. Satisfied customers increase their purchases of your goods and services. They also tell other people about your company, and you acquire new customers. Your business grows. As long as your costs are managed and your prices are set at a level so that your company can earn a profit, your company’s value grows, too. Your stock price increases. And all employee owners see their own personal wealth grow.

Community Wealth Increases

What do employee owners do with their wealth? Well, they tend to spend it locally. Thus, the wealth of their community tends to grow, too.

Let’s take a step back and look at what this means.

If we were to successfully increase dramatically the number of ESOP companies and worker-owned cooperatives in the United States, we would be increasing the wealth of the middle class and the wealth of the communities in which they live.

Employee Ownership, Help for the 99%

What are the Occupy Wall Street people demonstrating against? What statistics are alarming many economists? They’re demonstrating against and are alarmed about the concentration of wealth by the “1%” at the expense of the “99%” … and the corresponding reduction of wealth in
“Main Street”, where the 99% live.

Think about it. Employee ownership can help solve both of those problems. Employee ownership can help rebuild the American middle class and restore and build wealth in communities throughout the country.

Don’t you love it when a plan comes together?

It can happen. We live in a competitive world. A capitalist world. Employee-owned companies are more successful than non-employee-owned companies. Employee-owned companies are better at capitalism than are non-employee-owned companies. Employee-owned companies have been and will be the companies that survive and thrive. We can change society so that the majority of companies are employee-owned and a majority of Americans work for an employee-owned company.

And it’s all because, when you combine employee ownership with an ownership culture at a company, “employee ownership is simply a better way of doing business.”

Employee ownership can be THE way.

It’s Not Easy

But it’s not easy. If it were easy, we’d already have changed society and changed the world … and Occupy Wall Street would have no reason to exist.

Establishing and maintaining an ownership culture takes effort. Understanding and managing your company so that you comply with ESOP rules and regulations and so that you incorporate the financial demands of employee ownership into your company’s comprehensive financial plan takes effort. But there is help for you.

Help for You

Throughout the year, we provide educational programs for employee-owned companies through our Ohio Network of Employee-owned Companies, both in person and via live and archived webinars. It’s the best training bargain around.

Our OEOC staff serves as the faculty for the Employee Ownership Foundation’s Employee Owner Retreat, held annually in Chicago, IL.

In April, we host Ohio’s Annual Employee Ownership Conference in Akron. We’ve designed our Conference with tracks to help you establish and maintain an ownership culture at your company and to educate employee owners about the technical aspects of ESOPs and co-ops. Our 27th Annual Conference will be April 19, 2013, at the Akron/Fairlawn Hilton. Mark your calendars!

If you need professional assistance in a specific area, consult our website at www.oecokent.org and click on “Find a Professional” to access qualified service providers in a wide variety of specialties. Our professionals serve the entire nation.

The ESOP Association has state and regional chapters that each conduct conferences and programs throughout the year. The Ohio/Kentucky ESOP Chapter has spring and fall conferences in Columbus and an annual Tri-State conference with Indiana in Louisville, KY. The ESOP Association holds large annual conferences in Washington DC in May and in Las Vegas in November as well as smaller, more specialized conferences throughout the year.

The National Center for Employee Ownership (NCEO) is another excellent resource, holding a large annual employee ownership conference and smaller specialized conferences in rotating locations around the country. NCEO also has a particularly good line-up of webinars and Issue Briefs on specific topics.

Other resources include the Beyster Institute at the Rady School of Management at University of California, San Diego, the Vermont Employee Ownership Center, and the Rocky Mountain Employee Ownership Center.

Be sure to join us for the

2012 Southwest Ohio Employee Ownership Forum

Cincinnati, OH, September 18, 2012

For more information and registration instructions, click here!

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- Assessment of strategic alternatives
- Feasibility analysis and preliminary valuation
- Assisting with transaction structuring and negotiation
- Fairness and solvency opinions
- Litigation support and expert testimony
- Annual valuations
- ESOP loan restructuring
- Trustee advisory
- ESOP termination

Mark R. Fournier, CFA
+1.703.848.4946 = mfournier@srr.com = www.srr.com
Grand River Rubber and Plastics hosts CEO/CFO Dinner

On May 16, Ohio’s Employee Owned Network conducted a CEO/CFO dinner and company tour that was graciously hosted by Grand River Rubber and Plastics in Ashtabula. A group of ESOP company executives enjoyed the fascinating company tour of a local industry-leading supplier of rubber and plastic products. Following the company tour, we visited the close-by SPIRE Institute, which is a state of the art, world class athletic and recreation facility. We topped off the evening with a wonderful dinner at Ferrante Winery. And all the while, the group was networking, sharing ideas, and learning from each other about managing and leading ESOP companies. Don’t miss the next CEO/CFO Dinner and Tour on October 30 at Mills James in Columbus.

View Five Recorded 2012 Webinars

The following very informative webinars have been recorded and archived for easy viewing. The presenters are some of the most experienced professionals in the ESOP community:

- **Basic ESOP Administration Primer**
  Presented by Tom Roback and Kelly Almond of Blue Ridge ESOP Associates-ESOP administration is specialized and can be a complex process. This webcast lays out the ESOP administration process so plan sponsors can understand what is important and why their provider needs complete information.

- **Repurchase Obligations: Moving From Study to Strategy**
  Presented by Judith Kornfeld of ESOP Economics Inc. A simple repurchase obligation study will only go so far in helping you answer key questions, because these obligations affect earnings, cash flow, and potentially stock value. View this webinar to learn a different approach to long-term ESOP planning that will help you really answer your repurchase obligation questions.

- **Avoiding the Seven Deadly Sins in setting up an ESOP Communications Committee**
  Presented by Cathy Ivancic of Workplace Development Inc.—Whether you are establishing a new committee or revitalizing an old committee, this webinar will provide ideas about how to avoid common pitfalls in establishing an ESOP Communications Committee.

- **ESOP Benefit Distributions: a Critical Administrative Issue**
  Presented by Pete Shuler of Crowe Horwath LLP.-Distributions are, perhaps, the most confusing aspect that you will encounter with regard to your ESOP. This webinar provides a review of the legal framework for distributions, but it quickly gets into the mechanics of distributions.

- **Valuation-a Black Box Demystification: Understanding the ESOP Valuation Report**
  Presented by Scott Miller of Enterprise Services, Inc.—This webinar focuses on the fundamentals that are essential to reviewing and understanding the appraisal. It considers such things as defining the standard of value, considering the ownership attributes, reviewing defensible valuation theory, and unique ESOP attributes impacting value.

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In 2001, Marjorie Kelly proposed an alternative to the existing nature of ownership, corporations, and wealth in her book *The Divine Right of Capital.* In her most recent work, *Owning our Future,* she follows up on her examination of the role of ownership in the economy and advocates the move to a generative economy—an economy “whose fundamental architecture tends to create beneficial rather than harmful outcomes.” In other words, it is designed to “create the conditions for life” as opposed to our current economy which she describes as extractive—designed to extract maximum wealth.

According to Kelly, the financial collapse was ultimately caused by the instability and imbalance caused by extractive ownership. The extractive model has been particularly destructive in the mortgage and banking industry, causing an abnormally large amount of wealth to flow up the financial sphere leaving families and communities weakened. Kelly focuses on the struggle of a particular family, changing identifying information to protect their privacy, but the story she provides is a harrowing one. The family ultimately lost their house of thirteen years after a series of mortgages. The house stood empty for years thereafter, becoming overgrown until someone lined up the financing to buy it.

By this time, however, there was no owner to be located. Somewhere along the line, a financing company had gone bankrupt and even the trail of records and deeds went cold. In the quest to make money, the banks had been so quick to sell off the family’s mortgage the ownership of the house ended up “deconstructed beyond recognition.” Kelly claims that what happened to this family is ultimately the key reason in the collapse of the larger economy—it’s an unfair and thus unstable system. The banks put money before the wellbeing of the family—a type of behavior expected and encouraged across markets in an extractive system of economy.

Kelly suggests using ecological values as the basis of a generative economy, and encourages the creation of “living companies through five core elements of generative ownership design: living purpose, rooted membership, mission-controlled governance, stakeholder finance, and ethical networks.” The first step in redesigning our models of ownership is to look at the emerging concern with sustainability, community and sufficiency. An economy based on these values would turn the focus of business on community, sufficiency and sustaining life.

By creating “living companies” that focus on creating the conditions for life rather than generating a large profit for a handful of shareholders, a new economy would be created where “all life can flourish for generations to come.” (147) She provides examples of companies around the world—Organic Valley in Wisconsin, the John Lewis Partnership in the UK, Minwind in Minnesota—which she deemed positive models that will draw people in and plant the seeds.

The problem began, as Kelly says, with the belief that the economic explosion would go on forever, but now with less growth, businesses must look at how to balance the system, rather than try to grow the wealth of the wealthier by extracting money from the workers. Within this new system, happiness lies in the ability to “recognize that enough is enough. . . [that] wealth is in reality a kind of relentless, extractive demand laid on the shoulders of those least able to withstand it.”

Despite the complex economic concepts and ideas presented by Kelly, she explains them in a way that will be accessible to most general readers. Kelly shows that owning your future is feasible for any group from a housing development, or wind farm, to a multi-million dollar organization like the John Lewis Partnership, and her work provides a thought provoking foundation for changing the understanding of economics. Some have interpreted this generative economy as offering an alternative for capitalism; however, employee ownership can be understood as a better form of capitalism, in which everyone who participates shares in the profits.

-Felicia Wetzig

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