# Merging Nonprofit Organizations

## The Art and Science of the Deal

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# Strategic Alliance Project

The Mandel Center for Nonprofit Organizations, founded in 1984 at Case Western Reserve University, is a university-wide academic center and a partnership of the Mandel School of Applied Social Sciences, Weatherhead School of Management, School of Law, and the College of Arts and Sciences. Its mission is to enhance the effectiveness of nonprofit leaders and managers and the organizations they serve through education, research, and community service.

The Mandel Center is engaged in a four-year program (started in 1998)—supported by a grant from the W.K. Kellogg Foundation—to build bridges between the academy and the community. This program has enabled the Center to expand its scope and build its capacity in each of its three functional areas: education, research, and community services. The Strategic Alliance Project is one of the Center's success stories in accomplishing its bridge building objectives. Project-related activities have built new bridges between the Center and nonprofit leaders and managers, between the Center's three functional areas, and between the Center and the Mandel School of Applied Social Sciences.

The Mandel Center's Strategic Alliance Project is directed by Dr. John A. Yankey, the Leonard W. Mayo Professor at the Mandel School of Applied Social Sciences. He has been most ably assisted from its beginning by Barbara Wester Jacobus, who participated in designing project activities, provided day-to-day coordination of project work, and co-authored project publications. Amy McClellan has played a pivotal role in stimulating thinking about strategic alliances and planning project activities, as well as assuming major responsibility in developing a series of case studies on nonprofit strategic alliances. Other team members from the Mandel Center have included Ann Lucas, Susan Freimark, Martha Hatcher, Kate Kerwin, Amber Pritchard, Jenny Richland, and Fumi Sakamoto. All have been important contributors.

The Strategic Alliance Project has been greatly strengthened as a result of its close collaboration with colleagues at the Mandel School of Applied Social Sciences. Dean Darlyne Bailey and Kelly McNally Koney were studying strategic alliances among health and human service agencies as a part of a book they were co-authoring for Sage Publications. Their work also included the development of case studies. David Campbell, a student in the school's doctoral program, focused his dissertation on four case studies of strategic alliance formation. When approached to collaborate, these colleagues enthusiastically embraced the notion. Following completion of her work on the book for Sage Publications, Kelly McNally Koney became an important consultant to the Strategic Alliance Project. This collaboration between the Mandel Center and the Mandel School has served both partners well, adding significantly to the quality and quantity of productivity and learning.

During the past three years, the Strategic Alliance Project has:

- Conducted a comprehensive literature review of strategic alliance development in both the for-profit and nonprofit sectors;
- Carried out a national study of 65 nonprofit organizations' experiences in establishing strategic alliances;
- Developed in-depth case studies of selected strategic alliances;
- Provided current information to update and refine curricular offerings;
- Conducted a nonprofit leadership roundtable focusing on the similarities and differences between nonprofit and for-profit strategic alliances, and;
- Developed and offered workshops on strategic alliances to professional and lay nonprofit leadership in various cities throughout Ohio.

Much of the work of the Center's Strategic Alliance Project is reflected in the following three publications:

- *Nonprofit Leadership Roundtable on the Similarities and Differences Between Nonprofit and For-Profit Strategic Alliances*
- *Nonprofit Strategic Alliances Case Studies: Lessons From the Trenches*
- *Merging Nonprofit Organizations: The Art and Science of the Deal*

Additionally, *Strategic Alliances Among Health and Human Services Organizations: From Affiliations to Consolidations*, written by Dean Darlyne Bailey and Kelly McNally Koney, was published in 2000 by Sage Publications.

The Strategic Alliance Project staff is most grateful to all the people who, during the past three years, opened their organizations and shared their experiences about strategic alliance formation. It is hoped this collective body of work will prove useful to nonprofit leaders in the future as they consider the pursuit of strategic alliances.

# Acknowledgments

We would like to acknowledge and thank several people for their special and invaluable contributions to this workbook.

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- To Amy McClellan, a member of the Strategic Alliance Project team, we especially acknowledge your contributions. We cannot find words to adequately express the extent of our respect and appreciation for all you have done to strengthen this workbook and to provide continued support throughout the project.

*John A. Yankey, Barbara Wester Jacobus,*
*Kelly McNally Koney*

# About this Book

The number of mergers involving nonprofit organizations is increasing. So, too, is the need for concise, practical information to guide nonprofit leaders through the merger process. Historically, nonprofit leaders wanting to learn about mergers have relied primarily on information from the for-profit sector. For-profit merger and consolidation experiences have been more widely documented and many nonprofit trustees—often corporate executives themselves—also have knowledge of these efforts through their own business experiences.

Similarities exist between the two sectors, but the goals and experiences of for-profit organizations are not the same as those of most nonprofits. Relying on information about how for-profits plan and implement mergers is only somewhat useful to nonprofit leaders as they work through the processes in their own organizations. However, with more nonprofit organizations forming this type of strategic alliance, the literature documenting these experiences and presenting more relevant frameworks to guide other nonprofit organizations through similar processes has grown. Several books have begun to address this need (e.g., Arsenault, 1999; Bailey & Koney, 2000; McLaughlin, 1999).

Not surprisingly, merging two or more organizations is a complex process, regardless of the sector. In fact, the merger process combines science and art. It can be systematic and predictable in some ways. Almost all organizations go through certain basic steps when determining whether to merge. This is the science of it. But in many more ways, it is an unpredictable process. Mergers involve individuals and organizations with histories, personalities, and cultures that complicate the predictability of the transaction. The expectations and traditions of the nonprofit sector often add yet another layer of potential complications. Successfully dealing with these variables is the art of the deal. Therefore, it may be best to consider mergers as artful dances, partly choreographed and partly improvised by the particular organizational partners.

To guide nonprofit leaders through such a dance, this workbook presents real-life, practitioner-focused information about the merger process. Styled more as a workbook, it is designed to demystify nonprofit mergers and serve as a guide to planning and implementing them. Unlike much of the current literature, including other workbooks, it examines this subject through the highly personal perspectives of those involved.

This workbook is structured around the case of a merger between two nonprofit organizations—Waybright and Helping Hand – that are composites of several different organizations studied by the authors. The experiences of these two organizations' merger journey are presented through the eyes of the board president of one organization, the executive director of the second, and a nonprofit organizational consultant engaged to work with them both. Their stories validate and frame the thinking and feelings others have experienced as they danced this dance. Following Waybright's and Helping Hand's journey through their merger process helps to clarify not only the mechanics (science) of the merger transaction, but also its human elements (art).

After a brief introduction to the characters, their story begins as their deliberations are complete and an agreement to merge their organizations is in place. The next three chapters present a retrospective look at the process that led them to the formalization of the merger agreement. Chapters 5 through 8 revisit the characters a year after the completion of the merger and highlight the key lessons they learned in the process. Finally, the workbook features key questions and checklists for nonprofit leaders to use as they move through their own merger exploration.

# Table of Contents

# Context for a Merger

**Different Perspectives of a Merger**
**Merger Process Overview and Context**
**Mergers and Other Types of Strategic Alliances**

## Different Perspectives of a Merger

When two organizations join forces—or even consider joining forces—they must take into account a myriad of issues, each of which can be viewed from different perspectives. In the nonprofit sector, those perspectives are confusing, complicated, and sometimes contradictory. They include those of board and staff, of clients and supporters. This story of Waybright and Helping Hand will be told through the eyes of a board president, an executive director, and the nonprofit consultant who facilitated the merger process.

### Steve Walters, Waybright Board President

Steve Walters is the CEO of a Fortune 1000 corporation in Cleveland, Ohio. He is also the board president of Waybright, a Cleveland nonprofit organization. Waybright's mission is to serve developmentally disabled individuals and their families by providing high quality residential facilities, personalized assistance programs, transportation, and appropriate supportive services. Steve's daughter is a resident in one of Waybright's group homes, and he and his family are consumers of many of Waybright's family support services.

As Waybright's board president, Steve was a leader in the merger between Waybright and Helping Hand, a nonprofit organization offering complementary services in an adjacent county. In his for-profit CEO position, Steve had significant previous experience facilitating organizational mergers. The Waybright-Helping Hand merger, however, taught him that the dynamic processes in the nonprofit sector are different—there is much greater direct focus on the impact of the merger on the organizations' consumers and the employees who provide the services. From the beginning, Steve believed the merger was in the best strategic interest of Waybright, but he consistently had to weigh the administrative benefits against the potential service impacts on his daughter and other Waybright consumers.

When the merger idea was conceived, Waybright was a strong county-wide service provider in the field of developmental disabilities. It had experienced fairly consistent growth over its 15-year history. Waybright's executive director, Mike Scanlon, had been in his position for four years and was anxious to continue growing the organization. Its budget exceeded $7 million. Revenue sources included 30% from Medicaid reimbursements, 35% from special event fund-raising, 15% from foundation grants, and 20% from private contracts. Its physical plant was large and complex; the organization owned and leased substantial real estate, including its administrative headquarters, institutional living, educational, and recreational facilities, as well as 17 group homes.

Waybright employed 240 staff and provided resident services such as housing, food, and general care, as well as recreational programming, music and art therapy, family support, and transportation. The organization served more than 140 residents and provided support services to over 500 individuals and families annually. Its facilities had reached capacity, yet it received more than 50 requests a week for services it did not have the resources to provide.

### Robin Kent, Helping Hand Executive Director

Prior to the merger, Robin Kent was the executive director of Helping Hand, a 10-year-old nonprofit organization. Robin founded the organization after her husband's death and had been passionately involved in serving the developmentally disabled as a volunteer well before the birth of Helping Hand. She had been the organization's only executive director; but after more than three decades as a champion for the rights of the developmentally disabled, she was ready to retire. One of Robin's major concerns was finding the right successor to continue the work she had started. Her strong personal commitment to the mission and its consumers prompted her to consider merger as one of the options for assuring Helping Hand's future.

Helping Hand was a small, community-based organization in Lorain County, about 20 miles west of Cleveland. Its mission was to provide in-home care, transportation services, and advocacy for developmentally disabled individuals. The organization provided in-home care to individuals who chose to live in their own homes by assigning staff to assist community residents with their daily activities. If its consumers had jobs in the community, care providers assisted them with transportation to and from work as needed.

Helping Hand had a caseload of 47 individuals throughout the county that it assisted with in-home activities and operated six vans that provided transportation to adult day care programs, medical appointments, and recreational activities for nearly 100 community residents. In the year prior to the merger, Helping Hand's budget had reached $1 million, with 65% of its revenues from Medicaid contracts, 15% from special events fund-raising, 10% from foundation grants, and 10% from private contracts.

### Nonprofit Organizational Consultant

Once the leaders of Waybright and Helping Hand agreed to explore the feasibility of an alliance between their organizations, they jointly hired a consultant to assist them in the process. The leaders of both organizations felt they would benefit from a neutral third-party who could assist them in designing the process, keep them on track, and warn them in advance when they were approaching potential pitfalls. They also believed that the consultant would be instrumental in providing an objective perspective throughout the process. The consultant serves as the interpreter for the Waybright-Helping Hand merger story and provides analysis and commentary to emphasize and explain particular points, as well as to offer the appropriate context.

## Merger Process Overview and Context

### The Objective Outsider: Nonprofit Organizational Consultant

I met Steve Walters and Robin Kent when they decided to explore the feasibility of some alliance (partnering) between their respective organizations. Steve is board president of Waybright, a residential treatment facility for developmentally challenged children and adults in Cleveland. Robin is executive director of Helping Hand, an organization dedicated to providing ongoing services to support developmentally challenged clients living on the west side of Cleveland.

While working together, we realized that much of what they experienced was frequently encountered by leaders of other nonprofit organizations considering and implementing strategic alliances, especially mergers. I asked Steve and Robin if they would record not only the process they followed to explore merging their organizations, but also their thoughts and feelings about the experience. Having worked with other nonprofit organizations considering mergers and consolidations, I felt that documenting their experiences would serve as a useful tool for others. Thankfully, they agreed. This is how their story unfolds.

### Personal Commitment and Professional Expertise: Steve Walters, Waybright Board President

It was a nice party, a time of celebration and sharing. I feel a mix of exhaustion and jubilation as I drive home tonight, a good hour from downtown Cleveland. I appreciate the opportunity to reflect on the events of the past year, a year that has been trying for all of us. I have been asked to serve on a number of nonprofit boards. To many, I "lent" my name to their advisory list so that it could be referenced on stationery and promotional materials. But, for Waybright, I chose to become a very active board member.

My 20-year-old daughter, Lilly, is developmentally disabled and lives in one of Waybright's group homes. My wife and I can afford the private help necessary to keep Lilly in our home but, after a lot of research and consideration, we decided this was not the best choice for her and us. We strongly believe Lilly needs to live with others who share and understand her challenges. And, to be honest, her disabilities had become too great for the family to handle at home.

Waybright has 17 private homes around the city, all equipped to handle the special needs of children and adults like Lilly. She participates in music therapy, goes shopping with friends, assists in cooking meals,

***"I appreciate the opportunity to reflect on the events of the past year, a year that has been trying for all of us."***

and holds a part-time job. Waybright staff and residents value her individual identity and dignity, and they have created a community that invites her to share and participate at the highest level she can. This was an important consideration when my wife and I decided to look for alternative living situations for Lilly.

I could not refuse when Waybright's executive director asked me to serve on the board of trustees. I value this organization and what it offers my daughter. Two years later, I accepted the position of president of the board. Perhaps I could not help my daughter directly, but I could help ensure that the organization caring for her and the children of many other families around the city had the resources to maintain its level of quality services.

As the leader of a large corporation, I have made my share of difficult business decisions. I am accountable to my company's shareholders and, at times, have been forced to make unpopular choices, such as cutting jobs to reengineer operations and reduce overhead. In addition, I have led the company through numerous mergers and acquisitions. Reflecting on these experiences in my own company, I realized that I have a somewhat different view as a leader in the nonprofit merger of Waybright and Helping Hand. It has been interesting for me to document my thoughts and feelings regarding this merger.

This was, by no means, just a business decision; it was personal. I have come to believe that all nonprofit mergers become personal for those involved. Why would one agree to be on the board of an organization if he or she did not feel connected to its mission? As I think about it, I would go so far as to conclude that individual concern and passion about a particular issue or human predicament are important in making organizations in the nonprofit sector so uniquely different from organizations in the for-profit sector. This uniqueness certainly played out in my own experiences and observations. I have to admit that, even as a veteran of several corporate mergers, I learned a great deal in my first nonprofit merger.

### The Passion of a Founder: Robin Kent, Helping Hand Executive Director

It was a great party! Steve Walters went to great lengths to make it an all-inclusive celebration. It was wonderful to see that nearly all staff and board members from both organizations attended. Toasts were made to honor both organizations' histories and their future as one. I was touched to be acknowledged not only for my role in the merger, but also for all the work I have done for Helping Hand. It was a bittersweet time of celebration. Letting go of the past is difficult for me, but the future is bright for the organization. The merger might have been different had I waited much longer. As I look back on the last year, I realize that timing truly is everything and a part of being a leader is to know the right time to make a move.

I can hardly believe that it has been 10 years since I founded Helping Hand and became its director. Prior to that, I had been passionate about my volunteer work with organizations that assisted the developmentally challenged. Unfortunately, I had experienced substandard quality and demand that far surpassed supply. When my husband passed away, I decided to take matters into my own hands and form a nonprofit organization that would both provide services to the developmentally challenged and advocate on their behalf. My husband had been a prominent politician in the state, so I was well positioned to influence policy and, admittedly, had important contacts to raise the necessary funds. At the time, I felt the area most in need of service was Lorain County, the county just west of Cleveland. So, it was there that I opened Helping Hand.

The past 10 years have not always been easy. There were times when our cash flow was so uneven I thought I would have to close the doors, but "angels" kept Helping Hand afloat. I would have closed the doors, however, if one of those angels had ever asked me to compromise the organization's values. It has always been critically important that our consumers know we respect them as individuals who can and do make important contributions to the community.

The last three years have been stable for Helping Hand. Our programs and funding have become stronger. Unfortunately, it is well beyond the date I anticipated I would retire. Last year, I said this would be my last year and I meant it. So, I had begun preparing for my departure as executive director. Even with my impending retirement, I knew the merger of Waybright and Helping Hand would be difficult since the decision was as much personal as it was business. I founded the organization and spent a decade of my life promoting and advocating on behalf of its mission and for its consumers. I needed to leave it in the best possible position for long-term survival. I hope, in my final act as executive director, I have left a worthy legacy.

### Broaching the Subject of Strategic Alliances: Nonprofit Organizational Consultant

One of the fundamental roles for nonprofit executives and boards of trustees is identifying ways to make their organizations more viable and responsive to the communities they serve. Thus, leadership meetings often revolve in some way around addressing the question, "How can we do what we do better?"

The answer to the question, as reflected in the perspectives held by different stakeholders, may vary according to their backgrounds, experience levels, and exposure to their organizations. For example, in his role as a board member, Steve does not work at the organization from day to day, so he does not have the same intimate knowledge of Waybright as Robin has of Helping Hand. Robin has been involved in the nonprofit sector for a number of years, as both a volunteer and an executive director, so she has background and experience that provide a different perspective than Steve's. Steve is also the parent of a consumer, which brings yet another perspective to the complex picture. These many and varied perspectives must be recognized and acknowledged.

Discussions about doing better—efficiency and effectiveness—have led nonprofit leaders to place greater emphasis on the importance of strategic alliances in their planning and development efforts. There are many types of strategic alliances, and nonprofit organizations have a rich history of participating in alliances of all forms. However, mergers and consolidations are at the center of considerable attention in nonprofit circles today. Much recent strategic alliance activity indicates that leaders of a growing number of nonprofit organizations are exploring the benefits of mergers and consolidations as they seek to make their organizations, affiliated agencies, and local chapters larger, stronger, or otherwise more sustainable. In some instances, these plans are stimulated by funders and national administrative offices. In other cases, nonprofit boards and executives see mergers or consolidations as an essential means of thriving in an increasingly competitive environment.

For many nonprofit leaders, the idea of engaging in these types of strategic alliances—particularly mergers—is not always greeted with enthusiasm. The scenario can be frightening to those whose thoughts of mergers conjure up notions of large, controlling organizations taking over smaller, less powerful ones or when the results of mergers are interpreted from the perspective of losses, such as staff layoffs and program closures. Alternatively, those who believe mergers will never impact their organizations may approach discussions of these alliances with ambivalence. Resistance to mergers is often based on uncertainty about the future; however, mergers also can be a strategic avenue that nonprofit leaders can use to add value to the operations.

## Mergers and Other Types of Strategic Alliances

In a strategic alliance, two or more organizations come together to accomplish complementary goals. All partnering organizations benefit from the alliance, but to do so they must relinquish some level of autonomy. In this way, a strategic alliance involves much the same give-and-take, or compromise, that characterizes any successful relationship. Strategic alliances allow organizations to combine their resources to accomplish more than each could achieve on its own, making alliances important vehicles through which nonprofit organizations can better position themselves for ongoing success.

Strategic alliances can take a wide range of forms. One of the most common ways to conceptualize the various forms is to think of them as organized along a continuum of the amount of autonomy that potential partnering organizations are required to give up to create and implement the various types of alliances (See Exhibit 1). The types of alliances on this continuum range from affiliations to federations, coalitions, and joint ventures to mergers and consolidations. The degree of autonomy partnering organizations are willing to give up in a strategic alliance greatly influences the choice of an alliance structure.

**_Art_ or SCIENCE?**

### Types of Alliances

The *types* of alliances organizations enter into depend on the overall goals for these partnerships and, in large part, the degree of autonomy potential partners are willing to give up to achieve their goals. Balancing these aspects of the relationship requires a comprehensive understanding of the organizations involved as well as the ability to weigh the goals of the organizations with the long-term costs and benefits of the relationship. While no two strategic alliances are exactly the same, certain features and legal conventions help classify strategic alliance forms as more alike or more different. Understanding these classifications can be useful to organizational leaders in analyzing their strategic alliance options.

***Exhibit 1:***

**The Strategic Alliance Continuum**

| | | | |
|---|---|---|---|
| Co-Sponsorships | Federations | Joint Ventures | Mergers |
| | Coalitions | Networks | Consolidations |
| | Consortia | Parent-subsidiaries | |

**Low** — **High**

Amount of Autonomy Relinquished/Level of Risk

The more autonomy organizations give up, the greater the perceived risks related to identity, visibility, policy-setting, personnel, financial management and governance. To offset these increased risks, organizations frequently seek more clearly defined parameters for the relationship. Since partners in affiliations usually give up very little autonomy, they generally are considered the least formal alliance type. Mergers and consolidations, on the other hand, require organizations to relinquish considerable autonomy and are, therefore, the most formal.

Mergers and consolidations—as strategic alliance forms—are frequently referenced interchangeably. While they represent closely related types of strategic alliances that are easily differentiated from other alliance forms, they also are significantly different:

- **Mergers** involve the dissolution of one or more organizations and the absorption of the assets and liabilities of the dissolved organizations into the surviving partner organization.

- **Consolidations** involve the creation of a newly incorporated organization and the full dissolution of all the partnering organizations.

This distinction can be seen in Exhibit 2 of the model merger and consolidation structures.

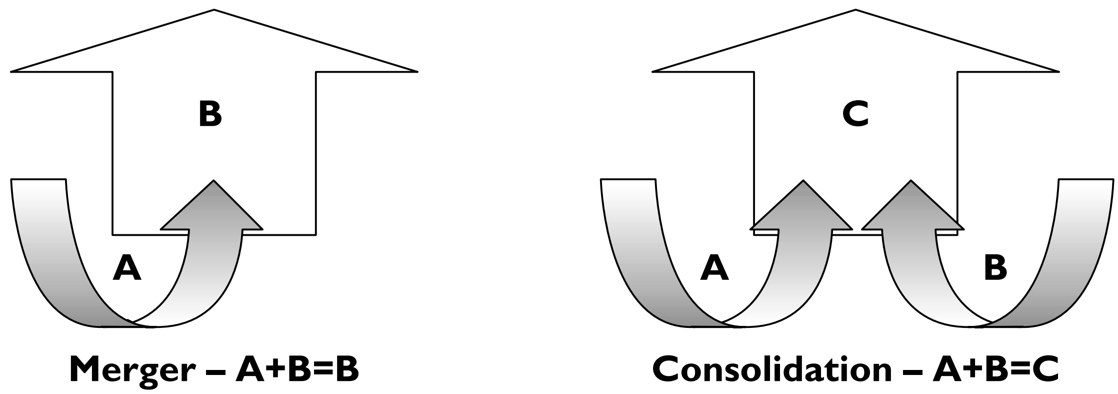
On the strategic alliance continuum, mergers and consolidations feature more defined operational guidelines than their less formal counterparts to offset some of the additional organizational risks associated with them. Both mergers and consolidations are legally sanctioned alliance types. They are alike in that at least one organization ceases to exist as a result of the alliance and the assets and liabilities of all partnering organizations are acquired or assumed by one organizational entity. In addition, because they result in one organization, mergers and consolidations must be planned, approached, and implemented differently than less formal alliances.

As forms of strategic alliances, mergers and consolidations are mutually beneficial relationships for the organizations involved, although in some instances they can be perceived as creating an unequal relationship. Generally, this perception results from the way these alliances are implemented, a way that obscures the mutuality of the partnership. While such perceptions may be accurate under some circumstances, they do not describe the majority of mergers and consolidations in which nonprofit organizations participate. Successful and effective mergers and consolidations are predicated on the achievement of benefits for each of the partnering organizations and their stakeholders.

Apprehension in considering mergers and consolidations is healthy. These alliances are permanent and mean substantial changes for partnering organizations. This is why some view these forms of strategic alliances as examples of

***Exhibit 2:***

**Structural Diagrams of Mergers and Consolidations**




"strategic restructuring" since the involved organizations engage in an "evolving form of structural change" (La Piana, 1997, p. 6). They should not be entered into hastily but, at the same time, they need not be avoided. Leaders contemplating an alliance need to consider not only the potential benefits and drawbacks, but also the investment required to undertake a merger or consolidation (See Exhibit 3). With a solid understanding of what they are and how they are implemented, nonprofit leaders can approach the idea of mergers and consolidations with a little more confidence and, ultimately, with a greater likelihood of success.

## *Art* or SCIENCE?

### How and When To Determine the Form of Alliance

The decision to merge or consolidate involves multiple factors, many of which are related to the nonprofit organizations' internal and external circumstances. Similarly, once this decision is reached, the choice of merger or consolidation depends on a variety of additional factors, such as the strengths and weaknesses of the partnering organizations, how much identity each organization wants to maintain, and how the organizations want to present the combined entity to their stakeholders. It is important to note, however, that the specific form of the alliance need *not* be determined before the exploration of a merger or consolidation begins. In fact, selecting the specific form the alliance will take is best saved until the partnering organizations have reached consensus on what they want to accomplish with the alliance.

***Exhibit 3:***

**Mergers and Consolidations – Considering the Pros and Cons**

| Pros | Cons |
|---|---|
| • Change can be good | • Change can be scary |
| • Organizational resources are combined | • Organizational liabilities are combined |
| • Organizational identities can be reshaped | • One or both partner(s) may lose its (their) identity |
| • Provides opportunities for increasing organizational efficiency and effectiveness | • Process of integrating organizations is time consuming and can be costly |
| • Promotes innovation through the integration of new perspectives | • Process of integrating organizations is complex and can be costly |
| • Provides opportunities to enhance organizational viability | • Process is risky with organizations losing considerable autonomy |
| • Provides potential for increased financial stability | • Cost savings usually do not occur in the short-term |
| • Promotes organizational growth | • May require staffing changes or layoffs |
| • Provides opportunities to broaden or deepen organizational capacities | • Requires attention to duplication of programs and services |
| • Provides opportunities to increase responsiveness to community needs | • May take considerable effort to keep community informed and supportive of process |
| • Decreases competition | • Decreases client choice |

# Types of Strategic Alliances

- ☐ **CO-SPONSORSHIP**

  An alliance in which two or more organizations share (although not always equally) in the offering of a particular program or service. The organizations share in the potential benefits and risks associated with sponsoring the program or service.

- ☐ **FEDERATION**

  An alliance of member organizations established to centralize common functions. This type alliance frequently coordinates fundraising, public relations, training, and lobbying for members. Members are independent, but the alliance often determines members' roles and resource allocation through policy development.

- ☐ **COALITION**

  An alliance of independent organizations which usually share a political or social change goal. This form of alliance is frequently established for a limited or specific purpose(s). Member organizations retain autonomy and make varying contributions to the alliance based on their resources and expertise. The alliance may have a central coordinating staff (volunteer or paid).

- ☐ **CONSORTIUM**

  An alliance of organizations and individuals representing customers, service providers, and other agencies who identify themselves with a specific community, neighborhood or domain. Members collectively apply their resources to implement a common strategy and achieve a common goal. The alliance frequently is sponsored by convening organizations that take responsibility for overall coordination.

- ☐ **NETWORK**

  An alliance of organizations which share resources for mutual benefit such as service provision. Formal, legal documents govern the sharing of resources, but organizations maintain their own identities, governance and core functions particularly for activities beyond the scope of the network.

- ☐ **JOINT VENTURE**

  A legally formed alliance in which member organizations maintain joint ownership (generally through a joint governance board) to carry out specific tasks or provide specific services. Member organizations retain individual identities and governance for activities outside the scope of the joint venture. If an organization withdraws from it, the joint venture dissolves or reconfigures. This type alliance frequently functions as an unincorporated business, with financial results flowing directly to the partners.

## Work Sheet — Context for a Merger

☐ **PARENT-SUBSIDIARY**

An alliance in which an organization acquires, creates or affiliates with another organization to better pursue its mission. The parent oversees the subsidiary, the range and power of oversight determined by the design of the parent corporation's by-laws. In many instances there is an interconnectedness between the parent's board and the subsidiary's board. This type alliance frequently is established by a parent corporation to avoid losing its tax-exempt status or to limit liability.

☐ **MERGER**

A statutorily defined alliance in which one organization is totally absorbed by another. The absorbed organization is completely dissolved and the surviving entity owns the assets and liabilities of both. A merger may be traditional, discretionary, or involuntary.

☐ **CONSOLIDATION**

An alliance in which two or more organizations come together to form a new organization. The member organizations are dissolved to create the alliance. The assets and liabilities of the former organizations are combined and a new governing board is created.

2

# Strategic Planning

**Strategic Planning Definition and Value**
**Environmental Assessment**
**Organizational Assessment**
**Forces Driving Strategic Alliance Formation**

## Strategic Planning Definition and Value

### Nonprofit Organizational Consultant

The nonprofit sector has been changing significantly over the past two decades. The size of the sector is growing and the number of for-profit organizations entering the service arenas historically dominated by nonprofit organizations—such as health care and social services—is increasing rapidly. While this may offer consumers of these programs more and potentially better services from which to choose, it also creates competitive pressures for some nonprofit organizations that, if not successfully negotiated, threatens their survival.

Traditional market forces, common influences in the for-profit sector, are beginning to exert substantial pressures on the operations of nonprofit organizations. Competition is growing among organizations for monetary and other resources; funders and third-party payors (such as the government and insurance companies) are demanding greater accountability and efficiency; organizational leaders (including board members) are looking at the lessons from the for-profit sector to help maximize organizational effectiveness, and there is an emerging breed of nonprofit professionals who are bringing more management background to the sector.

Given these kinds of challenges, nonprofit leaders are confronted with some key questions:

1. How can we make sense of our place, as nonprofit organizations, in the current business environment?
2. Do we have the capabilities to keep pace with current trends and respond to changes in the environment?
3. Who else, if anyone, offers the same, similar, or complementary programs and services?
4. How can we acquire capabilities required to continue delivering necessary, quality services for our consumers into the future?

These questions require focused consideration and strategic thinking. The answers to these and similar questions help define an organization's strategy. One way for organizational leaders to engage in the kind of strategic thinking necessary to answer these questions is through the process of strategic planning. **Strategic**

**planning** is a "disciplined effort to produce fundamental decisions and actions that shape and guide what the organization is, what it does, and why it does it" (Bryson, 1995 p. 5). Strategic planning requires broad-based information gathering, exploration of strategic alternatives, and a realization of the future implications of present decisions.

The fundamental principle underlying strategic planning is placing an organization in context within its larger environment relative to its current and future organizational activities. Strategic planning combines internal and external assessments that provide information about how the organization operates and makes projections for the future. Grounded in the values, vision, and mission of the organization, it includes a realistic assessment of the organization's strengths, weaknesses, opportunities, and threats to shape its planned strategy for the next three years. Strategic planning is a well-documented management tool that offers many benefits. It provides an explicit and shared understanding of the organization's purpose, business and values among staff, board, and external stakeholders. It establishes a blueprint for action that guides and supports the management and governance of the organization. Strategic planning can clarify future direction, define a coherent and defensible basis for decision-making, assist in establishing priorities, and improve organizational performance. It can help organizational leaders deal effectively with rapidly changing circumstances, and it sets the stage for meaningful change by stimulating thinking and focusing on what is important to the organization's long-term success. In addition, because the strategic planning process brings together multiple organizational stakeholders, it integrates input from multiple perspectives to pursue possibilities for better meeting the needs of consumers (Allison and Kaye, 1997; Bryson, 1995). It is through this comprehensive process of strategic planning that many organizational leaders identify merger as an option for achieving the organization's goal more effectively or efficiently.[1]

## Environmental Assessment

### Steve Walters, Waybright Board President

I had just been elected president of the board of Waybright when I spoke with the organization's executive director, Mike Scanlon, about strategic planning. It had been five years since the organization's last strategic plan. Strategic planning is not an easy process, but we both knew it was time to look toward the next five years. Shortly after our discussion, we formed a strategic planning team of staff and board members, and we hired a strategic planning consultant to guide us through the process. It took us six months to finish our assessment of the environment and draft the plan.

The **environmental assessment** uncovered a number of changes in the nonprofit sector as a whole, particularly in the human service subsector. These changes were more surprising for board members than for staff. Our external environment was changing and in order to survive and thrive, we had to respond to those changes.

One of the most important environmental factors we discovered had to do with the Olmstead Decision recently handed down in Federal court. The decision was based on the case of two women in Georgia who had been placed in a state psychiatric hospital. An interdisciplinary treatment team concluded the women could live in community housing rather than the institution. Hospital administrators, however, continued to house them in the institution rather than finding them private housing in the community. The women successfully brought a class action law suit against the hospital. As a result of the suit, states are now required to provide housing and support to developmentally disabled adults who, by meeting specific criteria, are found to be capable of living outside of an institutional environment. With this decision, states like ours began scrambling to comply with this unfunded mandate.

A second environmental factor with considerable potential to affect Waybright was the increasing need

[1] Bailey, D. and Koney, K. M. (2000). Strategic Alliances Among Health and Human Service Organizations: From Affiliations to Consolidations. Thousand Oaks, CA: Sage Publications.

for services in the community. At the time of our environmental scan, there were more than 7,000 people on the state waiting list for services and that was before the state mandate had taken full effect.

The **organizational assessment** was critical to the development of our strategic plan. It was this process that uncovered our internal strengths and weaknesses. The current headquarters did not have enough space for new staff. To say the current staff was overcrowded was an understatement. In the last five years, the staff had grown from 148 to 240 full-time employees. Administrative positions included the executive director; an executive assistant; directors of residential service, development, finance, programs, and management information systems; and supporting assistants. Significant funders, recognizing the quality of programs and services at Waybright, encouraged the organization to expand its number of homes and other services beyond the current service area.

The organizational assessment uncovered other significant strengths and weaknesses in the organization. While in a strong financial position, Waybright needed to maintain that momentum through community-based fund-raising and additional state contracts. Some contracts, however, required a broader continuum of care, such as respite and in-home community support services. Waybright also perceived it should become a greater advocate for its service population.

Using the information gathered through the environmental and organizational assessments, the strategic planning team developed the following broad strategic goals:

- To expand the geographical service area to increase visibility and obtain market share;
- To increase political accessibility and power at the state level in order to obtain new service contracts and better advocate on behalf of consumers;
- To position the organization for an influx of additional clients by increasing the number of facilities to nine or more additional group homes;

***"The environmental assessment uncovered a number of changes in the nonprofit sector as a whole, particularly in the human service subsector."***

- To acquire the necessary space to adequately house current and future staff;
- To develop sufficient financial resources to support immediate and significant growth;
- To build an efficient service delivery system, including respite care, in-home community support services and transportation; and
- To pursue strategic alliances that would assist in efficiently achieving the organization's other goals.

## Environmental and Organizational Assessments

### Robin Kent, Helping Hand Executive Director

In light of my impending retirement, I felt it was important to think about the future and what might be in store for Helping Hand. I applied for a grant from a local foundation and was funded to engage in a comprehensive strategic planning process. The board and staff took an active role in developing the plan. The consultant we hired was impressed with the energy surrounding the entire process. This energy was no surprise to me, as that level of commitment had always been given by the board and staff of Helping Hand.

The **environmental assessment** uncovered a variety of important issues affecting our organization. The impact of the Olmstead Decision on the states presented an immediate and growing need for alternatives to institutional housing. To address this need, leaders of nonprofit organizations like Helping Hand had to decide whether we were willing or able to obtain the capital, infrastructure, and staff necessary to compete for state contracts. In Ohio, the governor shared our philosophy of supporting self-determination and the individual right to choose where and how one lived. We, as an organization, had been very vocal in the need for state officials to maintain that position. The obvious challenge for Helping Hand was determining whether we could secure the resources to make us a viable service provider as the state began developing appropriate service plans in compliance with Olmstead.

Discussions regarding the Olmstead Decision brought to light the issue of increasing competition. In the next few years, the state would begin to redirect money from organizations to individuals, thereby empowering them to make choices. This would give individuals and their families more control and power than they had possessed historically. Nonprofit organizations serving these individuals would need to be more responsive than ever or risk their clients going elsewhere for service. This situation implied that not only would nonprofit organizations have to be increasingly conscious of quality control and public relations, but they would also have to be more diligent about building integrated delivery systems as part of "one-stop shopping" service models.

The issue of Medicaid cuts also arose. Home-based care is expensive. In the aggregate, independent living alternatives are more expensive than institutional living because they are tailored to the unique and specific needs of each individual. I had drawn on my relationships in the political arena to keep congressional representatives informed as to the benefits of the type of care organizations like Helping Hand provided and why such care justified the higher costs. With Medicaid programs exploring funding priorities for programs that could provide a full continuum of care, Helping Hand's reliance on Medicaid reimbursements as a primary funding source presented serious potential financial solvency challenges.

The most daunting of all the identified environmental issues were the shrinking pool of competent staff and the increasing costs of attracting and retaining them. An organization cannot address the changes in its environment without people to do the work. The environmental assessment confirmed our belief that the community had a growing need for respite services. Helping Hand had the space and the programmatic infrastructure to offer such services, but the challenge was securing funding to attract and retain the staff to provide them.

The **organizational assessment** phase of strategic planning was most enlightening for Helping Hand. It forced us to look at the organization through a critical lens. Rent was relatively inexpensive in Lorain County, and our facility was large. The organization had plenty of space for growth in personnel and programming. We had already anticipated the growing need for respite care. We had the space but had been unable to secure funding to develop the program.

Helping Hand had 35 full-time and five part-time staff. The administrative staff included the executive director, an administrative assistant, and two program managers. The organization was also a strong advocate on behalf of its clients. I regularly traveled to the state capitol to meet with legislators to educate them on the requirements for caring for the developmentally disabled. I regularly received calls from legislators asking my opinion on certain issues and, from time to time, was invited to provide expert testimony on the rights of the developmentally disabled.

While we identified several legitimate organizational strengths, we also noted some weaknesses. We were not in a solid position for future financial or programmatic growth. Because of our size, we did not have the capacity to ride the wave of the future and build alternative housing to meet the growing need. Many of the larger organizations in the region were better positioned to build integrated delivery systems and better able to capitalize on the upcoming funding trends.

Helping Hand had limited its service area to Lorain County. Thus, I personally spent a lot of my time expanding our donor base and cultivating relationships with foundations in the county. I worked hard to build these relationships over the years. One of my biggest fears was that our donor base was more loyal to me than to the organization; this situation could pose a considerable problem for the sustainability of the organization when I retired.

About two years ago, a larger organization—with a mission similar to Helping Hand's—approached me to discuss the possibility of a merger. This organization felt Helping Hand would make a positive contribution to its plans for growth. As soon as I heard the word merger, I immediately dismissed the idea as not relevant to our future. In defining our organization's goals and strategies in the context of this most recent strategic planning process, however, I could not help but think that a merger might be a way to sustain Helping Hand's mission. I mentioned that possibility in a strategy session that was, fortunately, facilitated by our consultant. Emotions of board and staff members ran high, and some vehement disagreements took place. With the assistance of our consultant, we were able to focus on the idea more calmly and rationally in light of what we had learned during our organizational assessment. Following this discussion, we agreed to make the *exploration* of such an alliance one goal of our strategic plan.

Using the information gathered through the environmental and organizational assessments, Helping Hand developed the following broad strategic goals:

- To create and implement a leadership succession plan;
- To diversify the funding base;
- To attract and retain qualified service staff;
- To expand services through the implementation of respite care; and
- To investigate the feasibility of merger as a means for long-term survival.

***"With the assistance of our consultant, we were able to focus on the idea more calmly and rationally in light of what we had learned during our organizational assessment."***

## Forces Driving Strategic Alliance Formation

### Nonprofit Organizational Consultant

Waybright's strategic planning team recognized that, in light of environmental change, there was an increasing need for alternative housing and supportive programs for developmentally disabled individuals throughout the state. The organization was in a strong position to address that need through geographic and program expansion. What it had not yet realized was that a merger or consolidation might be an efficient means to expand its service area and acquire new programming.

Waybright also realized it would like to be more involved in advocacy but did not have the capacity or relationships to do so easily. Would putting resources toward creating its own capacity for advocacy be efficient? Waybright's lack of administrative space constrained its potential future growth. Moreover, attracting and retaining service staff was a common problem among area service providers. Was purchasing or leasing new office space feasible? How would Waybright go about acquiring additional service staff to support the organization's anticipated growth?

Helping Hand's strategic planning team realized that, while the organization was currently in good shape, sustainability was not guaranteed. Too high a percentage of its budget came from state contracts that would soon require a range of services Helping Hand could not provide. Also, the organization's founding director hoped to retire the following year, a scenario that potentially could hurt local funding opportunities. With this in mind, Helping Hand's leaders acknowledged that a merger should be explored.

Ideally, organizations look at their internal and external environments as part of strategic planning to determine if they can better accomplish their missions and visions by partnering with one or more other organizations. For some nonprofit leaders, the initial consideration of a merger as a possible organizational alternative results from a more intuitive assessment of the overall organizational environment; a merger makes sense because it enables the organization to do more, to do it better, or to do it more efficiently. In such cases, however, nonprofit leaders should still verify their initial perceptions through strategic planning. For others, merger decisions are necessary because the organization finds itself in a desperate position, fighting for continued existence. A merger, for these organizations, is elevated beyond a strategic decision to one of survival, and the organization may no longer be able to negotiate from a position of strength. Robin Kent would soon find that much of what she perceived might be lost through a merger would, in fact, be retained because she acted while Helping Hand was still in a position of strength.

## *Art* or SCIENCE?

### Starting from a Position of Strength

Strategic planning engages an organization in looking at its internal strengths and weaknesses and external opportunities and threats. This information allows an organization to realistically determine its current strength and position relative to its environment and to identify what issues it is likely to face in the future. If the organization's future position appears to differ from its desired state, it can consider options, such as a merger or consolidation, to improve its future viability. Negotiating such arrangements while the organization is still operating from a position of strength puts it in a better bargaining position than it could achieve once the need for change became desperate.

Mergers are among the most formal, potentially risky, and complex strategic alliance forms to plan and implement. They are also particularly time-consuming, frequently taking nearly a year to negotiate. So, why then would currently stable organizations choose to pursue such a substantial organizational change strategy? There are many reasons why nonprofit organizations choose to consider or participate in mergers and consolidations. These driving forces involve current activities and projections about what will occur within and outside of the organization itself—and this information is a vital part of the strategic planning process.

Several authors have examined and classified the driving forces behind strategic alliances (Bailey and Koney, 2000; Gray, 1991; Oliver, 1990; Reitan, 1998; Yankey, Wester, and Campbell, 1999). In one such framework, the creation of strategic alliances can be attributed to any combination of the following six motivators:

- Resource Interdependence—maintaining and/or acquiring resources;
- Social Responsibility—addressing broad-based, community issues or expectations;
- Strategic Enhancement—achieving strategic advantage or preserving agency survival;
- Environmental Validity—increasing legitimacy with organizational stakeholders;
- Operational Efficiency—increasing economies of scale in service delivery or administration; and
- Domain Influence—increasing power and control.

Other authors categorize driving forces as environmental, programmatic, managerial, and financial (See Exhibit 4).

Identification of such driving factors flows out of the process of strategic planning. In conducting the internal assessment, organizational leaders frequently look at their organizations relative to these same four areas.

***Exhibit 4:***

**Driving Forces in a Strategic Alliance**

| Environmental Forces | Programmatic Forces | Managerial Forces | Financial Forces |
|---|---|---|---|
| • Rapid growth of the nonprofit sector<br>• Increasing competition for human and financial resources<br>• Increasing competition between for-profit and nonprofit organizations<br>• Real or perceived threat of being the target of a merger or consolidation<br>• Pressure from funders and/or third-party payors to partner with others<br>• Increasing need for advocacy around a certain cause | A desire to:<br>• Diversify or expand service mix<br>• Create a stronger service niche<br>• Gain geographical market share<br>• Improve the quality of service provision<br>• Improve organizational reputation<br>• Assure survival of an important community service | • Strengthening the administrative structure and/or leadership of the organization<br>• Utilizing human resources more effectively<br>• Obtaining intellectual capital<br>• Providing better opportunities for specialization<br>• Obtaining state of the art technological capabilities<br>• Establishing or strengthening the organization's strategic position<br>• Energizing the board of trustees<br>• Overcoming scandal<br>• Increasing organizational visibility | A desire to:<br>• Increase, stabilize or diversify funding streams<br>• Gain access to capital<br>• Improve the organization's bottom line<br>• Reduce costs and/or create economies of scale<br>• Maximize the organization's and/or the community's resources |

In order to strategically determine in what direction to take an organization, leaders must first diagnose how the organization got to where it is programmatically and financially. Next, they need to identify where the organization is going in the future. Conducting an organizational assessment can help nonprofit leaders find gaps in products and services, visibility, technology or human resources that need to be filled to accomplish the organization's vision. But a merger must also have a strategic rationale. To determine whether such an option is appropriate for an organization, leaders must fully consider whether this alternative best fits with their long-range vision and they must weigh the strategic reasons to pursue it given its risks.

# Driving Forces Contributing to the Development of Strategic Alliances

These driving forces are identified frequently by merger partners as having been the most important factors influencing them to consider such an alliance.

☐ **Environmental**

- Rapid growth of nonprofit sector
- Increased competition among nonprofits for human and financial resources
- Increased competition between the for-profit and nonprofit sectors
- Threat (real or perceived) of being acquired, merged or consolidated
- Pressure from funders

☐ **Programmatic**

- Diversify or expand "product" mix
- Gain geographical market share
- Improve the quality of programming and services
- Associate with a high quality organization
- Assure survival of an important community service

☐ **Managerial**

- Strengthen the administrative structure and/or leadership
- Utilize human resources more effectively
- Provide better opportunities for specialization
- Obtain state-of-the art technological capacities
- Establish the organization's strategic position

☐ **Financial**

- Gain access to increased or more reliable funding
- Gain access to capital funds
- Improve the organization's profit margin
- Reduce costs through economies of scale
- Maximize the organization's and/or community's resources

3

# Partner Selection

**Criteria for Selecting a Merger Partner**
**Creation of a Joint Feasibility Task Force**
**Building Trust with a Potential Partner**

## Criteria for Selecting a Merger Partner

### Robin Kent, Helping Hand Executive Director

Coming out of strategic planning, one of our priorities was to investigate opportunities for merger. The board decided the first step was to create a merger exploration task force that would establish criteria for considering a merger partner. We viewed this as an exploration process because we wanted to make certain potential partners shared the values that we believed made Helping Hand special. To be honest, I was not sure such a partner existed. The task force met several times before identifying five criteria for a potential merger partner:

- Similar mission and values;
- Consistent vision for the future;
- Sufficiently large size to predict long-term survival;
- Board and staff compatibility; and
- Staff job protection.

In determining what was most important to the organization in choosing a partner, I have to admit I was particularly concerned with maintaining Helping Hand's identity as an organization. I did not want a merger to erase all the hard work that we had done in establishing a well-recognized, high quality, caring provider.

Our discussions quickly turned to the structural specifications we felt necessary to allow us to sufficiently preserve Helping Hand's organizational identity. One of the task force members encouraged us to postpone resolution of this issue; doing so would keep us more open-minded to the range of available opportunities. The structural characteristics of a partnership arrangement could be better defined once a potential partner was engaged and we were clear on exactly what a merger would accomplish for both parties.

Once we were all comfortable with the partner selection criteria, I took on the task of determining whether any organizations in the area actually met them. I had been part of the service community long enough to know the players, so it was easy to narrow the field to two potential merger partners: New Hope and Waybright. I then did my homework. New Hope and Waybright were both large organizations, although Waybright was larger. Both were known for their high quality service and philosophical belief in client self-determination.

I was familiar with the executive directors, as we had attended many of the same funders' meetings and community workshops. I was particularly impressed with Mike Scanlon, executive director of Waybright. He had been passionately outspoken about encouraging consumer individuality and self-worth, and he actively supported the consumer's right to choose alternative housing. He seemed to have a good sense of the future opportunities and challenges for service providers like us and sought to keep Waybright at the forefront of meeting those challenges.

To assist me in the decision about which partner to approach, I obtained both organizations' annual reports and read them thoroughly. Financially, Waybright was stronger than New Hope and was seemingly well poised for growth; it was apparent that the organization was positioning itself to accommodate the growing need for in-home and respite care. Waybright's mission and values seemed in line with ours, although it appeared weak in advocacy. Programmatically, Waybright looked as if it complemented rather than competed with Helping Hand at this juncture.

I decided to talk to a number of people about both organizations. Without stating my intentions, I spoke to funders, administrators of some of the agencies with which we had referral agreements, and families of some of our consumers. My initial feeling about Waybright was validated by my findings. I went to the board with my conclusion that Waybright should be the first organization we approached. The board agreed. We decided I would call Mike Scanlon and ask for a meeting that would include both our board presidents, him, and me to discuss the future of service delivery for developmentally disabled citizens and their families in northeast Ohio. We hoped this exploratory meeting would lead to a discussion of possible alliance options.

I admit I was nervous about making this call. This was my first experience with a meeting of this nature, and, quite frankly, I was a little intimidated by the sheer size of Waybright. How would I present our position in a way that would be most likely to engage them? Would our organizational strategies and plans for the future coincide? What would we do if they were interested? What would we do if they were not interested? If we proceeded, could we establish and maintain a relationship as equals?

***"Waybright looked as if it complemented rather than competed with Helping Hand at this juncture."***

## Creation of a Joint Feasibility Task Force

### Steve Walters, Waybright Board President

When Mike Scanlon called to tell me Robin Kent had requested a meeting about the prospect of working together, I was intrigued. I recognized Robin as someone who, in spite of running a relatively small organization, was a respected powerhouse in advocating on behalf of the rights for developmentally disabled citizens. We scheduled a lunch date the following week. Within a few days after this telephone call, a messenger delivered a package of information about Helping Hand that Mike had compiled to help us prepare for the meeting. Apparently, he had been keeping an eye on Helping Hand for some time.

As I read through the various documents that described Helping Hand's mission, values, vision for the future, programs, and financial history, I saw a potential fit between our organizations. I began contemplating how an alliance with an organization like Helping Hand could help Waybright more aggressively pursue its long-term goals. Without fully realizing it, I started to focus on the benefits of Helping Hand as a merger partner. Through such a merger, Waybright could grow geographically without making the same level of financial commitment required to expand our own service delivery systems. In fact, by partnering with Helping Hand, Waybright would not only gain an existing service facility in Lorain County, but it likely would be more attractive to a number of new funders as well, especially the large corporate foundations based there. Programmatically, Helping Hand had well developed in-home care and transportation services that aligned with our goals for creating a more comprehensive integrated delivery system. Also, Helping Hand had the capacity to provide the additional office and programming space critically lacking at Waybright.

My enthusiasm about such a potential partnership, however, was tempered somewhat by my experiences in several corporate mergers. The financial responsibility of taking on another agency could be a drain on Waybright. Experience had taught me that if the merger went forward, it could be some time before the integration of the organizations was fully achieved and the synergies of the collective venture began to produce the desired returns. I was also concerned about controlled growth, which could strain the organization if we entered into such an alliance without the appropriate strategic fit. Waybright could become too big, too fast. If we were not careful, this expansion could come at the expense of our consumers. Personally, I did not want to see my daughter lose the individualized care under which she has thrived.

The meeting with Robin Kent and her board president the following week was even more productive than I had expected. They were passionately devoted to Helping Hand and its high quality of service. They explained that our discussion was part of an initial exploration of potential alliance partners. At this point, they were not certain that a merger was in the best interest of Helping Hand, but Robin wanted to retire. Before she did, she wanted to investigate a variety of opportunities to ensure that the vision and work of Helping Hand were sustained into the future.

We honestly discussed our mutual visions and recent experiences with strategic planning. We were pleased to find we shared similar views regarding services for the developmentally disabled and that our strategic goals were remarkably congruent. Caught up in my feelings of excitement at the seeming complementarity of our organizations, I did not want to leave the meeting without a next step. I proposed we discuss this meeting with our respective boards and meet again in a month for further conversations.

The meetings of our respective boards were positive, although they raised a number of important issues to be given attention in further exploration of an alliance between the two organizations. Sufficient support from both boards prompted us to establish a joint feasibility task force to explore our alliance options and, if appropriate, begin formal merger talks.

Mike and I placed the topic of this joint feasibility task force on the agenda of our next board meeting. I tried to temper my excitement about the benefits of an alliance with Helping Hand because the rest of our board members would need some time to get used to the idea. The board was cautious, but the majority voted to put the necessary resources toward further exploration of some type of partnership. They did not rule out the possibility of a merger, but our board felt we needed some time to investigate Helping Hand as an organization. Without this step, we would be unable to make an informed assessment about the impact of a merger on Waybright and its consumers. I identified board members willing to be on the joint feasibility task force and agreed to lead the task force on behalf of Waybright.

## Building Trust with a Potential Partner

### Nonprofit Organizational Consultant

Many nonprofit organizations include the investigation of some form of strategic alliances in their strategic plans. Others go even further by creating board level committees to investigate potential alliance opportunities on an ongoing basis. While neither Waybright nor Helping Hand had established such standing board committees, Robin's decision to convene a Helping Hand merger exploration task force accomplished a similar purpose. Alliances, especially mergers and consolidations, change the way organizations are structured and how they operate. Thus, it is important that the board, as the organization's governing body, be involved in the consideration of such alliances from the very beginning. In addition, the creation of a board task force or committee brings more resources to the process and supports the executive director in this exploratory work.

Organizational leaders frequently begin the partner identification process with a brainstorming session in which they create an initial list of likely alliance partners. Next, the committee works to create an analysis of the organization's strategic fit with each of the possible partner organizations it has identified. This analysis of strategic fit should prioritize the strategic fit of the potential partners in light of the organization's current and future strategic objectives.

Several characteristics suggested the initial compatibility of Waybright and Helping Hand:

- Similar mission and values;
- Similar vision;
- Retiring executive director (Helping Hand) and strong executive director (Waybright);
- Geographic complementarity;
- Compatible programs and services; and
- Different or complementary strengths (Helping Hand's capacity for advocacy; Waybright's money and size).

Other areas of emphasis for nonprofit organizations to consider in evaluating the appropriateness of an organization as an alliance partner can include:

- the potential for creating operational or cost synergies;
- access to technology;
- organizational accreditation; and
- political support.

In the decision to pursue a strategic partner, organizational leaders also need to consider how valuable the gains from this potential alliance are to the organization—that is, how much autonomy or identity might the organization be willing to give up in order to achieve these gains.

Once one or more potential partners are identified, the partner selection process usually moves forward in one of three ways: executive director to executive director, board president to board president, or through a third-party (such as a funder). Much like the initial lunch between Helping Hand and Waybright, the first meeting typically includes the executive directors and board representation, frequently taking place at a neutral location. Inclusion of the appropriate individuals and selection of the meeting site are important because this meeting

## *Art* or SCIENCE?

### A Critical Prerequisite in an Alliance

Trust is a crucial, yet often underemphasized, aspect of interorganizational development. Leaders of nonprofit organizations understand the importance of trust within their organizations. Trust can be a shared value—an implicit or explicit part of the organization's culture—that supports the overall health of an organization. Trust promotes productivity and is both a driver and by-product of key management strategies, such as open communication and employee motivation.

Likewise, trust is an important factor in decisions about alliance formation. Relationships, people, and personalities—all ingredients for establishing trust—are key factors in alliance consideration, planning, and implementation (Yankey, et al., 1999). The degree of trust between organizational leaders has an impact on which potential partners are approached and remains an essential factor in the final decision about whether to proceed with an alliance. An inability to develop a sufficient level of trust or a subsequent breach of trust can seriously impede the success of any alliance, especially the most complex types, like mergers and consolidations.

begins building trust—a critical element in a successful partnership—between the organizations.

One of the goals of this first interorganizational meeting is to discuss the possible strategic benefits of an alliance. The process should start by identifying the potential results of an alliance and determining if these outcomes are viewed similarly. Trust building develops in these discussions and, therefore, such conversations should not be rushed. For organizations less comfortable with the prospect of mergers or consolidations, the mere mention of these specific types of alliance at this stage can stop discussions with a potentially strong organizational partner—as it did for Helping Hand in a previous situation. Remaining focused on environmental trends and organizational strategies to respond to them helps keep these initial conversations "safe" for the participating organizational leaders. The process of exploring an alliance between the organizations can be most productive only after the leaders of each organization have reached a satisfactory level of compatibility and comfort with each other.

The partner selection process is not one-sided. One partner often takes the lead in raising the issue of a merger between two or more organizations, as Helping Hand did. However, even if someone approaches an organization about the possibility of a merger, that organization may not be the best partner. In fact, the organization being approached may not have given much thought to the possibility of an alliance, especially a merger. Therefore, it is equally important for organizational leaders that are approached to follow much the same process as the initiating organization to determine if an alliance is consistent with their strategic direction and if the approaching organization provides the best fit. In order to keep the process moving, this work may be conducted following the preliminary meeting of the organizations. It should be completed—at least in an abbreviated form—before moving ahead with a joint feasibility task force.

Creating a joint feasibility task force is another positive step toward building trust. In the case of Waybright and Helping Hand, establishing such a task force with an equal number of representatives from both organizations reinforced the notion of mutual respect, notwithstanding size differences of the two. This approach was important to both organizations because it helped alleviate some of the fears Helping Hand had about being "taken over" by the larger Waybright. Also, it gave Waybright's leaders more time to grow comfortable with the prospect of an alliance, in particular a merger, for their organization.

# Criteria for Evaluating Other Organizations' Attractiveness as Merger Partners

The following criteria can be used as a check list for a nonprofit organization to initially assess the "degree of fit" of potential merger partners. Each criterion can be placed on a five-point scale and considered in the order of priority deemed appropriate by the organization. The order of priority may change from one exploration to another.

- ☐ History of Previous Relationships
- ☐ Mission and Values Compatibility
- ☐ Consistency of Vision of Future Direction
- ☐ Receptivity to Giving Up Some Degree of Autonomy
- ☐ Program Strengths and Weaknesses
- ☐ Organizational Size
- ☐ Complementarity of Organizational Culture
- ☐ Board/Trustee Compatibility
- ☐ Organizational Management and Staff Leadership
- ☐ Human Resources Integration Complexities
- ☐ Potential for Operating Efficiencies
- ☐ Financial Status (Including Endowment/Cash Reserves)
- ☐ Predicted Long-Term Survival
- ☐ Funders' Support of Partnership
- ☐ Community and Stakeholder Perceptions of Merger
- ☐ Other "Special" Assets

# Building Trust: Perspectives from the Field

Board and staff leadership in merged nonprofit organizations cite the establishment of trust between the partners as pivotal to their success. Perspectives from the field about the importance of trust are summarized in the following key points.

☐ **When learning about your prospective partner, get to know the actual people involved to help develop trust early on and uncover personal or private agendas.**

- Create opportunities for early interaction, particularly between those in board and staff leadership positions, through work teams, team building exercises, and joint social gatherings.
- Establish trust building as an explicitly stated goal in the exploration process.
- Facilitate early discussions around motives and trust.
- Clarify—at the outset—the expectations each partner has regarding the merger exploration and its eventual outcome.
- Solidify a commitment by all partners to candor and honesty.
- Develop a shared vision.

☐ **Establish an ongoing merger exploration process that assures complete mutual disclosure of information and decision-making.**

- Assure equal representation for all organizations involved in the exploration process.
- Conduct meetings in the facilities of each participating organization and/or at mutually determined neutral sites.
- Establish clear roles and responsibilities for all participants in the process, including an agreement about making and communicating programmatic, financial, and human resource decisions.
- Disclose all information about each organization through full due diligence review.
- Deal with difficult issues early in the process—uncover and address potential "deal breakers."
- Establish strong communication channels through meetings (including joint meetings), status reports, and periodic updates to board, staff, clientele, and, as mutually determined, other key stakeholders (e.g., funders).
- Continue to build personal relationships among the potential partners. Even if some of the issues related to the merger can be addressed quickly, invest the time and energy to develop personal relationships.

# Side-by-Side Analysis

**Consultant Selection Process**
**Side-by-Side Analysis Process**
**Confronting the Challenging Issues**
**The Human Factors**
**Future Leadership Selection**
**Determining the Best Type of Alliance**
**Finalizing the Feasibility Task Force Report**
**The Value of Options**

## Consultant Selection Process

### Nonprofit Organizational Consultant

Because neither Helping Hand nor Waybright had been through comprehensive, formal alliance explorations previously, their leaders agreed that the process would be more effective if they used a consultant to structure the exploratory processes and guide them through it. I was selected—through an interview process—to serve as their consultant. I, along with three other consultants, had been recommended by several foundation program officers. I later learned that several board members of client organizations had recommended me to their board counterparts at Helping Hand and Waybright.

Four consultants were interviewed by the members of the joint feasibility task force. I assume the selection process was the same for all of us. Prior to my interview, I had submitted my resume, a list of consulting clientele, and a proposed plan for facilitating the feasibility work. I was queried in the interview about my proposed plan of work and the potential costs—both in terms of time and money—to complete the process outlined. Ultimately, we agreed that the work could be done over the course of six months and the cost would be between $15,000 and $20,000, depending on the final design of the process—especially the amount of work expected of me in carrying out the side-by-side analysis.

The interview revealed that members of the task force seemed to have a great deal of respect for each other. I sensed that a solid level of trust was in place. They suggested modifications to my proposed plan so the process would better fit the cultures of their respective organizations. All in all, it seemed to have been a very good meeting. I hoped I would be afforded the opportunity to work with Helping Hand and Waybright.

A week later Robin Kent called me. I had been chosen, but final approval would be given by the respective boards of the organizations. While the organizations had authorized their representatives on the joint feasibility task force to conduct interviews and indicate their preferred choice for a consultant, the boards wanted to hear about and give final approval for the feasibility study and the payment of consulting fees. As Robin indicated in her call to me, "This seems very consistent with your advice to us during the interview – to keep our boards apprised and up-to-date throughout the feasibility study process." Both boards were holding a special meeting to consider the recommendations of the feasibility task force. A final decision would be made within the next two weeks.

I thanked Robin for the task force's positive consideration of my experience, knowledge, and skills and expressed hope we would have a chance to work together to carry out the work we had developed in the interview process. Two weeks later, Robin called again to tell me both boards had enthusiastically endorsed the feasibility study and my engagement as their consultant to help plan and facilitate it. She confided that some of her board members and several at Waybright had heard from friends on other nonprofit boards that I had served their organizations well in both strategic planning and strategic alliance consultation. This information reinforced the recommendation coming from the joint feasibility task force and led to the strong support by the respective boards to move forward. I thanked her for this "vote of confidence" and indicated my eagerness to begin.

Robin and I agreed that, prior to the first meeting with the joint feasibility task force, I would meet with both boards in a joint meeting to present a more complete overview of the work plan and time table. To prepare for this meeting, the task force suggested I meet with the two executive directors to refine the work plan and time table. In this meeting, Robin and Mike explained that there was definite interest on both sides in considering a potential merger of the two organizations. Given some resistance to such a formal and permanent alliance, however, both organizations wanted to remain open to a variety of outcomes. I reiterated my thinking that leading the task force through a relatively comprehensive side-by-side analysis would be a good approach and consistent with their desire to explore different possibilities.

A **side-by-side analysis** is a structured comparison that can help to determine the fit between two or more organizations before proceeding with an alliance. This type of analysis provides a systematic approach for partnering organizations to determine if they can create together a strategic vision for a combined endeavor. Organizational leaders compare characteristics and activities of their organizations (such as governance, organizational culture, service mix, human resources, funding, etc.) to determine if, and how, they could be aligned to pursue their strategic vision. It gives organizations more detailed information by which to assess their compatibility, as well as the costs and benefits of an alliance.

A side-by-side analysis also allows partnering organizations to move beyond the review of organizational documents and conversations with third-parties (such as funders and referral agencies) to a more personal, in-depth exploration of each other's values, strategies, and operations. The joint feasibility task force functions as a temporary alliance through which partners, like Helping Hand and Waybright, can experience working together first hand.

## Side-by-Side Analysis Process

### Steve Walters, Waybright Board President

Once we had agreed to create the joint feasibility task force, I recommended we jointly hire a consultant to guide us through the exploration process. While a number of the task force members had experience with for-profit merger transactions, none of us had been involved with one between two nonprofit organizations. We decided it would be useful for an objective third-party to facilitate our exploration. Our boards resolved to divide the consultant's fee proportionately based on the size of our respective organizations. Mike and Robin joined me and three other members of the joint feasibility task force in interviewing four consultants. The task force selected a consultant who seemed to be a perfect fit. We then recommended the choice to our respective boards and gained strong support for moving the process forward. The joint feasibility task force began its work in earnest approximately six weeks later.

I found it different to work with a consultant who represented both organizations in the alliance talks. He made it clear that his primary role and responsibility would be to guide us through a process of mutual discovery, not to make the discoveries for us. The consultant began the process by facilitating a joint meeting of both boards to outline the work and schedule of the task force for the coming months. This meeting was uneventful in terms of any new issues emerging, but it served two vital functions. It got the boards involved at the outset of the feasibility study and, perhaps most importantly, it strengthened the trust between the governing leadership of both organizations.

Several weeks later, we had the initial working session of the joint feasibility task force. The president of Helping Hand's board and I were selected as co-chairpersons. Additionally, task force membership included four other members from each board and the executive director of each organization. Following an exchange among task force members about their respective backgrounds, the consultant reviewed the range of alliance options available to nonprofit organizations in developing collaborative relationships.

Since a number of task force members had already suggested a merger, he wanted to explore our thinking and feelings about this specific type of alliance. He recorded what we said on flip charts, and in two hours we had covered the walls with details of our concerns. Helping Hand leaders expressed their fears of losing their organizational identity and autonomy, while we discussed our fear of uncontrolled growth and related financial and human resource costs. During this process, however, we also confirmed our shared hope for expanded service provision resulting from competitive advantage, increased fund development opportunities, and a stronger voice in influencing policy. While we acknowledged each other's concerns, we strongly reaffirmed our desire to move forward with the alliance exploration process.

***"I found it different to work with a consultant who represented both organizations in the alliance talks."***

### Areas for Exploration in a Side-by-Side Analysis

The consultant then reviewed the plan to organize this phase of our explorations using a side-by-side analysis. He worked with us to define the areas we would explore:

- Mission, Vision, and Organizational Culture;
- Governance Structure and Operations;
- Programs and Services;
- Human Resources;
- Facilities and Technology;
- Financial Management;
- Funding and Fund Development; and
- Marketing and Communications.

He recommended we establish subcommittees around each of these to gather information and provide recommendations to the full joint feasibility task force. These exploratory subcommittees would involve staff as well as board members. I strongly supported this approach because it allowed staff of both organizations early involvement, provided an opportunity to build trust, and hopefully alleviated some of the fears associated with a possible merger. We agreed that each subcommittee would include at least one board member from each organization, although that meant some board members would have to participate on multiple subcommittees.

The consultant identified the types of information that needed to be analyzed in order to understand how our two organizations operate in the respective areas of analysis. The results of such analysis would deepen our understanding of and appreciation for our similarities and differences. Then, we would discuss if, and how, we might better meet our strategic objectives by combining our resources. He strongly encouraged us to clarify what we wanted to accomplish and how we might best accomplish this given our respective organizational strengths.

Most importantly, we were to conduct these discussions without "worrying" about a specific alliance type. Since not everyone on both boards was convinced that merger was the most reasonable option to consider, this method would allow each subcommittee to arrive at its own conclusion as to the alliance type that would best serve both organizations. Once the subcommittees completed their assignments, the joint feasibility task force would review all the comparative analyses and weigh the benefits and costs of the recommendations. Then, the task force could better determine if the two organizations should forge an alliance and, if so, the most appropriate structural configuration.

### Communications with Stakeholders during Side-by-Side Analysis

In the second meeting of the joint feasibility task force, the consultant engaged us in discussions about communicating with our various stakeholders regarding the work of the task force. He pointed out the exploration process is usually more open and that communication with stakeholders occurs earlier and more frequently in the nonprofit sector than in the for-profit world. Several of the members of the task force argued persuasively we should not communicate with any of the stakeholders until we had specific recommendations to offer.

Because of different opinions on the task force about communications with key stakeholders, the marketing and communications subcommittee was the first to report its recommendations. In addition to doing the usual analysis of comparing marketing and communications vehicles and systems of the two organizations, this subcommittee was charged with determining how and when we would communicate our merger exploration discussions to staff, consumers, funders, donors, and other stakeholders. Drawing on their corporate experience, many task force members suggested that merger considerations should not be announced to the public until the deal is finalized. But, in the nonprofit sector, such secrecy has serious drawbacks. Withholding information would likely fuel rumors, possibly alienate community stakeholders, and heighten anxiety for staff and consumers.

Since our boards were fully aware of what we were doing and some of our staff members were involved in the side-by-side analysis, word was already "leaking out" that we were exploring a merger. Consequently, we reconsidered the issue and decided to begin regular communication with both staffs to ensure that accurate information would be disseminated. Robin and Mike wrote a formal

## *Art* or SCIENCE?

**"Going Public"**

Determining the appropriate moment to engage organizational stakeholders, other than the executive directors and the boards, is often difficult to decide. The timing of this engagement will either promote or erode trust between the partnering organizations and these stakeholders. In making the decision, organizational leaders need to carefully weigh the costs and benefits of prematurely disclosing information against the potential for information leaking to stakeholders in an unplanned manner. Deciding how and when to discuss possible alliance, especially merger, plans with staff, consumers, funders, donors, and referral organizations is an important aspect of the feasibility study process that, if handled appropriately, increases the likelihood that these stakeholders will support the transaction and help contribute to its success.

announcement that presented the status of the work of the joint feasibility task force. The letter outlined the rationale for pursuing an alliance, possibly a merger, and it pinpointed the internal and external forces driving both organizations. They clearly communicated what might be accomplished as a single entity that would not be possible for either organization to achieve alone.

Robin, Mike, and the board presidents distributed this letter at meetings with our respective staffs. Mike and Robin followed these meetings with monthly updates that provided details on the latest news in the alliance talks. We all believed it was important to reassure staff that both organizations were committed to minimizing staff layoffs and major disruptions as a result of any alliance, especially a merger.

We began to hold meetings with our consumers to communicate the service benefits of a possible alliance between Helping Hand and Waybright. The board chairs and the two executive directors also began meeting privately with funders (especially government officials), donors, and other community stakeholders to share our rationale for exploring an alliance and to provide updates on the work of the joint feasibility task force. We used such meetings to gain assurances of their ongoing support prior to our making a broad public announcement about any formal alliance between the two organizations.

## Confronting the Challenging Issues

### Robin Kent, Helping Hand Executive Director

After outlining our hopes and fears at the first meeting of the joint feasibility task force, the consultant asked us to talk about our commitment to our respective organizations. I was struck by how many of Waybright's board had family members living in that organization's facilities. Steve Walters spoke with obvious sincerity about his daughter and what it meant to him as a father to know that his child was in the most capable hands. I knew then that if we merged with Waybright, it would not be about a bigger organization swallowing a smaller one in order to become more powerful. Under Steve's leadership, Waybright was going to base its decision on what was best for that organization's long-term health and, ultimately, what was best for its consumers. Waybright seemed to want to do the right thing for the people it served as much as we did. While I was not naive about the business element of the relationship, this was perhaps the most revealing exercise of the process for me and set the stage for all future deliberations.

At the first task force meeting, we also began structuring subcommittees to carry out our tasks and selected those on which we wanted to participate. The task force was so anxious to get started with the research and analyses that we initially underestimated the time it would take. We projected to have the work completed in two months, but the consultant cautioned us that, to do a thoughtful job, the process would require at least four months. The task at hand was challenging, but the consultant reaffirmed that this undertaking was well worth the extra time. Again, he emphasized that it would help us better understand each other and uncover major differences that would need to be addressed in any alliance.

At the initial meeting of the joint feasibility task force, the consultant identified two issues that are sometimes "deal breakers" in strategic alliances, especially mergers and consolidations. We weren't too surprised when he mentioned future leadership and organizational name. He suggested that we be alert to these issues as we moved forward in the feasibility study process, but that we not prematurely focus on them until we determine the type of alliance that might be the most effective in meeting our strategic objectives.

The joint feasibility task force established five strategic objectives that should exist for any partnership arrangement between Helping Hand and Waybright:

- To expand our service delivery capacity and geographic scope;
- To broaden the range of services offered;

- To strengthen our political influence on behalf of developmentally disabled individuals;
- To ensure strong and effective leadership for organizational sustainability; and
- To promote financial viability into the future.

We kept these strategic objectives at the forefront of all our discussions. As predicted, our deliberations took longer than anticipated. Honestly, though, since Steve, Mike, and I were in favor of a merger as the most effective means to accomplish these objectives, we focused many of our discussions on this type of alliance.

### Future Leadership: Board and Staff

Early in the discussions, I indicated my desire to retire. As our feasibility study process moved forward, I became increasingly impressed with Mike Scanlon and suggested he would be an excellent leader of the combined organization were we to merge. Steve Walters stated that while Waybright respected my wish to retire, he felt a merged organization would require my assistance in developing relationships for continued advocacy. According to Mike, Waybright perceived this as a significant and essential asset in a partnership with Helping Hand. After some debate, the joint feasibility task force recommended a scenario in which I would officially retire if our organizations merged. Mike Scanlon would serve as the merged organization's executive director and I would be available as a consultant for one year to work on advocacy issues and build political and community relationships.

While the issue of executive leadership was relatively easy for us to resolve, such was not the case for board leadership. Board members from both organizations expressed strong opinions about the composition of the new board. Actually, many were concerned about their own membership on the new board. They started talking among themselves and, at the joint feasibility task force meeting focusing on governance, feelings erupted. It was evident most board members were highly invested in their governance roles and strongly committed to their respective organizations. Once we worked through some of the emotions and heard the views of all members of the task force, we encouraged the governance subcommittee to be creative in examining possible governance structures and rotation of leadership.

### Identity: Organizational Name

The name issue presented an equally difficult challenge. When Helping Hand was just a dream, I had brought together a core group of people to talk about making it a reality. This group eventually served as the founding board. We spent many nights dreaming about what the organization could do until someone finally said, "We need to name this thing." Naming the dream was like breathing life into it. From that point on, the concept became real.

Consequently, none of us at Helping Hand was particularly receptive to the idea of changing our name to Waybright. Yet, Waybright made several good points in support of a merged organization assuming its name. First, it had a well-respected and established name that was recognizable to funders and the broader community. It also wanted to establish a presence in Lorain County. Thus, Waybright representatives argued, no one would know it was there without its name being used. We had reached an impasse. Still committed to forming an alliance, we decided to revisit this issue later in the feasibility study process after we had gained more information on our similarities and differences. I must say, the consultant earned his money as he helped to navigate us through these complex and emotional conversations.

## The Human Factors

### Steve Walters, Waybright Board President

At each task force meeting, we listened to a report from at least one subcommittee. We used the information presented as the basis on which to make preliminary decisions regarding a potential alliance. It became clear early on that, once subcommittee members began working together on how to most effectively partner to achieve our shared strategic objectives, most of the recommendations pointed to the merger. The consultant helped us to hone in on the most critical issues and made recommendations to assist us in structuring our decisions so that they did not become "deal breakers."

As task force work continued, I became convinced that meeting biweekly for four months was essential not only to the business side of the process, but also for dealing with the personal aspects of developing this partnership. To accommodate people's busy schedules, we met in the evening, usually over dinner. These shared meals really helped us get to know one another and further build the necessary resolve to carry us through during some difficult discussions. If we had hired consultants to do this preliminary analysis for us, we would have missed out on this crucial element of trust and relationship building.

### Human Resources

One of the most critical issues for Waybright emerged early in the process. Helping Hand's salaries and benefits for its employees were appreciably lower than Waybright's. I did not want to propose Helping Hand's employees be treated unfairly as a result of any alliance, but bringing their staff to an equitable level with Waybright's would be cost prohibitive in the short-term. At the same time, I acknowledged that qualified staff were hard to attract and retain, and I did not want to reduce the salaries and benefits for Waybright employees. The bottom line: No one wanted to allow the inequity to foster resentment between the two organizations' staffs. Had Helping Hand staff been generally less experienced, we may have justified salary differentials, but such was not the case. All task force members agreed that resolving this issue was vitally important to staff morale. We agreed that any recommendation to move forward with a merger would require pursuing implementation funding from several foundations to help achieve equity in salaries and benefits; we were not likely to obtain sufficient funding to achieve total equity immediately.

Our consultant reminded us that not all operational steps need to be fully implemented on the first day the alliance became effective. Some things would take more time. He explained unequal compensation is a common challenge for nonprofit organizations considering mergers or consolidations and helped us focus on this issue from the perspective of long-term returns. After a few meetings with our accountants, we proposed to Helping Hand representatives that if we were to merge, we would equalize the salary and benefit levels of all employees by the end of the second year of implementation. This solution would afford time for the merged organization to fiscally prepare for the cost increase and not take a potentially debilitating financial "hit" all at once. While not a perfect solution, it seemed as close as we could get without stopping the feasibility study process.

### Building One Board

A second critical issue that arose was the governance structure of a merged organization. Waybright had a 15-member board with by-laws providing for up to 16 members. Helping Hand's board numbered 14 and they felt strongly that they should be entitled to, at a minimum, 7 slots on the new board. The task force valued Helping Hand's board members' commitment to mission, and we agreed that they needed to feel their organization was appropriately represented on the new board. I did not want a merger to become all about Waybright subsuming Helping Hand.

I knew that both the substantive and symbolic relevance of this issue would contribute to the future tone of deliberations and negotiations. However, I also felt strongly that a merged organization should not deviate from the maximum board size defined in Waybright's by-laws. An increase in size could result in the board becoming too large and ineffective. For me, the question was two-fold: (1) How big should the new board be? and (2) Who should be on it? The consultant recommended that the two presidents meet individually with all current board members to determine their interest in serving on the new board. This process gave us a vehicle to determine who might choose this as the appropriate time to move on to other activities. The outcome was better than I expected. A few of our board members were looking for good reasons to leave the board, and a merger would help them make the transition more easily. Also, Waybright had implemented staggered board terms five years ago and several additional board seats would be available at the beginning of the year.

### Other Operational Issues

Other issues brought before the task force were less complex. Waybright's management information system (MIS) was superior to that of Helping Hand. We had an area wide network system that linked all our sites to the headquarters, as well as highly touted fund development software. Helping Hand's MIS was outdated and incompatible with ours. We agreed that if were to merge, we would budget for the necessary hardware and software to integrate our fund development databases and network Helping Hand to our system within the first six months of merger implementation.

## Future Leadership Selection

### Robin Kent, Helping Hand Executive Director

Conducting the side-by-side analysis proved helpful in building a mutual understanding of both organizations, on both an organizational and a personal level. This undertaking exposed the like-mindedness of board members and staff, and it affirmed our commitment and ability to work together. While our missions and visions were clearly compatible, differences in our cultures were apparent from the outset. Waybright was much more centralized and formal in its structure and procedures than Helping Hand. It had more management layers than we did. In part because of our size, Helping Hand had a more decentralized and collegial work environment, and I was very accessible to staff. The consultant advised us to pay close attention to these differences during the merger implementation in order to avoid a potential cultural clash.

Our board president met individually with all of Helping Hand's board members to solicit their interest in being one of the seven board members appointed to the merged board. This was a difficult process, as it revealed the level of loyalty of many board members. For the first time, self-interest was particularly evident and egos clearly came into play.

### Board Succession Planning

In dealing with the governance issue, our board president expressed his belief that fund-raising would likely be an increasingly important role of the new board. The side-by-side analysis showed that Medicaid reimbursement would continue as an important revenue source, but it was equally apparent that a merged organization would need to diversify its

## *Art* or SCIENCE?

### Organizational Cultures

The integration of organizational cultures is a complex area of merger transactions. While it is frequently discussed as part of merger negotiations, the success with which multiple organizations are able to merge their cultures into one is an important contributor to the overall success of the merger. Unfortunately, it is often underestimated. The process of blending organizational cultures depends so highly on personal attitudes and preferences that it is difficult to fully anticipate as part of the merger agreement.

That said, however, a few steps can help facilitate the blending of two organizational cultures. First, include representatives from all levels of the organization in conversations about this issue, and keep staff and other stakeholders informed about the merger process. Do not let rumors become their reality. Second, devote time during the planning process to identifying potential obstacles that might arise when the partner organizations begin operating as one. Try to anticipate the reactions of staff, consumers, and other stakeholders; where possible, brainstorm ways to prevent or minimize such stumbling blocks. Finally, be patient and slow down. Do not expect the new organization to feel like a cohesive entity on the day the merger becomes effective. Organizational leaders may still be addressing issues related to cultural integration more than a year later.

revenue streams. Philanthropic fund development, including an annual fund and a planned giving program, was a key component of that diversification. Task force members concluded that the heavy dependence of both organizations on special events must be changed, as this type of fund-raising is the least cost-effective approach. While the task force agreed that some special events should continue for "friend raising" purposes, strong disagreements broke out over which ones. Task force members also disagreed about the knowledge, skill, and experience required of board members in assuming greater philanthropic fund development responsibilities in the merged organization.

The joint feasibility task force perceived that its members were better poised to take on the challenge of philanthropic fund development than board members not participating in the feasibility study. They believed their leadership on the task force illustrated a significant commitment to the future and gave them a clearer understanding of the potential merger and its expectations. Although some members of both boards were unhappy about this position—especially those who did not initially embrace the idea of a merger—other board members found that the changing expectations for fund development participation provided a good rationale for leaving the boards and moving on to other volunteer opportunities. While the disagreements were difficult to handle, the task force accepted the fact that not everyone could serve on the new board and that the new organization might lose the support of those not asked to be on the board. We ultimately concluded that task force members would be recommended for whatever new board opportunity emerged.

The consultant advised us to explore establishing a fund development advisory group or other advisory groups to keep current board members involved. Embracing this idea, task force members quickly agreed to recommend this in their report to the respective boards. We were a little surprised at the strong feelings expressed by Waybright representatives about keeping our board members so connected. They especially liked the notion of creating an advisory committee that would be consulted on specific program-related issues, particularly expansion in Lorain County. This idea received overwhelming support by the task force and was sincerely appreciated by Helping Hand board members.

We unanimously agreed to recommend Steve Walters for a three-year term as president of the board should we merge. Task force members, as well as other members of the respective boards, had developed significant admiration and respect for Steve during the feasibility study process. There was a widely held belief that he had the ability to successfully move the merged organization into the future. The task force further agreed unanimously to recommend the president-elect be chosen from among Helping Hand board members who would be joining the new board. This would provide for leadership rotation over the first six years of the merged organization.

### Communication Strategies

Communicating the exploration of a possible merger in a timely and accurate manner was critical to Helping Hand. In reflecting on our process, perhaps we were late in that we had already formed the joint feasibility task force before formally communicating our intent and rationale to the staff and other key stakeholders. I quickly realized that the rumor mill had begun to grind.

One of the most important communications strategies our consultant encouraged was staff meetings. Both board presidents, Mike, and I met with the respective staffs of both organizations in separate staff meetings. We talked candidly about the process, plans for the future, and our desire to see minimal, if any, job restructuring or loss. We discussed our desire to achieve compensation and benefit equity over time. We left plenty of time to answer questions and assuage fears. I believe that these meetings helped staff members understand, begin to accept, and eventually support the merger.

Externally, communicating our intent further validated that what we were doing was good, not only for the two organizations but also for the community. The board presidents, Mike, and I met with major funders and selected important donors to gain assurances the two organizations would receive continued, possibly increased, financial support were they to choose to merge. We had heard stories that sometimes funders use the anticipated economies of scale resulting from a merger or consolidation as a basis for reducing the amount of funding previously provided the involved organizations. We were gratified and encouraged by our conversations. None of the funders or donors indicated their inclination to cut financial support were we to merge. To the contrary, they all—except one governmental official—applauded our efforts and expressed support for the strategic objectives we had established for any alliance the two organizations might form.

Although we anticipated that word of our merger exploration would continue to leak out, we chose not to issue a joint public statement to the media until we had reached a stage in our negotiations where we had committed to finalizing the deal. The communications subcommittee, with the assistance of our consultant, drafted a press release explaining the value of a merger and incorporating our strategic objectives. The press release was ready to go should the two boards mutually agreed to merge.

### Operational Compatibility: Programs, Services, and Facilities

In the area of programs and services, it became clear Waybright and Helping Hand complemented each other and, together, created a more integrated delivery system for consumers. Waybright was looking to implement in-home community support programming and Helping Hand provided the model for such services. The merged organization could expand on Helping Hand's current programming and infrastructure, eliminating the need for Waybright to start such a program from scratch. Both organizations had a vision for respite services; with Waybright's financial resources and Helping Hand's access to space, the merger could make the vision a reality. Waybright was thrilled with the prospect of obtaining additional transportation capacity. Transportation was a growing problem for them, and the capital necessary to expand their program would have been prohibitive. Helping Hand's vans were a desirable asset Waybright would acquire in a merger.

Discussion about facilities turned out to be one of the least challenging areas of analysis and deliberation. All facilities were in excellent condition. A capital fund existed at Waybright to allow for timely maintenance. The facilities subcommittee determined that Helping Hand had adequate space to house the present overflow of Waybright employees and accommodate starting a respite program. The move of personnel only required additional furniture and supplies.

## Determining the Best Type of Alliance

### Steve Walters, Waybright Board President

As we neared the end of the side-by-side analysis, the consultant encouraged us to discuss alliance types or options more thoroughly. It seemed that some (not all) of the subcommittees had considered different alliance types best suited to achieving our strategic objectives. Before we reached a final decision on the alliance type, our consultant practically insisted that he review several of the options he had highlighted at the outset of his work with us. I sensed he was somewhat frustrated. He had urged us not to conclude, early on, that a merger was the best end to our strategic objectives. Notwithstanding his efforts to dissuade us from that course, several of us clearly entered this exploration with merger in mind, and we conducted a number of our discussions with that presumption. We really didn't spend much time exploring other types of alliances. There was no doubt—at least in our minds—that the results of the side-by-side analysis confirmed merging as the most appropriate conclusion.

Nonetheless, task force members agreed with the consultant that it would be good to again consider the alliance options before compiling our report to the respective boards. Following this review, we all agreed that alliance types such as affiliation, consortium, network, and joint venture would probably not be the best choice for Helping Hand and Waybright. Rather, a merger or consolidation would better serve our consumers, the community, and our respective organizations.

Some task force members preferred the consolidation option. That would mean, however, that both Waybright and Helping Hand would go out of existence; their assets, liabilities, and operations would be integrated into a newly incorporated organization. While this structure would represent a new beginning, complete with a new name that would perhaps ease transition to a new corporate culture, leaders from both sides were reluctant to give up the organizational names each had worked so hard to establish. Both organizations were well known and respected among consumers, funders, other organizations, and the general public. Rebuilding our organizational identities would take a lot of time and might jeopardize some funding.

While the option had its benefits, it did not seem the right choice for Waybright and Helping Hand at this time.

In a merger, Helping Hand would be entirely absorbed into Waybright. The Helping Hand organizational structure would be dissolved, with its assets and liabilities transferred to Waybright. Since Robin was retiring and we had reached tentative agreement on integrating our boards, this option would not present a problem from a leadership standpoint. However, it did not manage our dilemma of preserving Helping Hand's identity, an issue about which they were unyielding.

Fortunately, we agreed that Helping Hand's identity and reputation were intangible assets on which we wanted to capitalize. The consultant recommended that we consider a merger in which Helping Hand would become part of Waybright, but structure the integration so that Helping Hand was run as one of its divisions. Helping Hand's corporate structure would be dissolved. We could achieve economies of scale by merging administrative functions, and

***"Following this review, we all agreed that alliance types such as affiliation, consortium, network, and joint venture would probably not be the best choice for Helping Hand and Waybright."***

Waybright could expand its programming and geographic scope with the addition of Helping Hand's services and other assets. In addition, this scenario called for keeping the Helping Hand name, while at the same time afforded Waybright the visibility it desired in Lorain County. Should the merger proceed, certain services would be offered by "Helping Hand—A Division of Waybright." This approach provided a win-win solution for both organizations.

## Finalizing the Feasibility Task Force Report

**Robin Kent, Helping Hand Executive Director**

After we resolved to recommend a merger, we began negotiating the specifics of this structure. What would the administrative infrastructure be? We agreed to combine the administrative functions (such as finance, information systems, and human resources) at Waybright's Cleveland headquarters. How would programs and service delivery be configured? We decided to reorganize the current service system whereby transportation and in-home care services provided by the merged organization would be coordinated from the Helping Hand facility. We felt this was a good decision because Helping Hand had more expertise in these areas. All other programs would be coordinated at Waybright's administrative office.

While we had decided to recommend Mike Scanlon as the executive director, we had not addressed other personnel issues. We needed to consolidate some management functions and hoped to do this in a way that would not require us to lay off many staff. Waybright had a more formal and complex organizational structure than Helping Hand. We felt these differences presented a real opportunity to rethink the entire organizational structure and, perhaps, assist us in building a new organizational culture. We formed a special ad hoc committee to begin drawing the new organizational chart; this committee would continue meeting while the task force moved on to the next steps.

We felt the merger was a go! We completed and submitted the Task Force Feasibility Study Report to our respective boards. Having been kept informed throughout the side-by-side analysis process, they found no surprises in the report. Both boards approved, with minimal resistance, our proposal to move closer to merging by proceeding with a due diligence review.

## The Value of Options

### Nonprofit Organizational Consultant

While the joint feasibility task force provides a vehicle to nurture trust building among partners, the side-by-side analysis forms the basis for determining whether a merger is "a go" or "a no go." It is characterized by investigation and negotiation. If the merger moves forward, the organizations' leaders have outlined its tentative structure and a number of its operational characteristics. At this point, the organizations proceed to due diligence to verify their assumptions before preparing a formal merger agreement. Conducting a comprehensive side-by-side analysis helps to minimize surprises that may be encountered during the due diligence process.

Many organizations enter into discussions about alliances with a specific structural outcome in mind. Approaching these explorations in such a targeted way may save the organizations time in their deliberations, but it frequently leads to a predetermined result whereby other, possibly more appropriate, alliance options are not considered. In the case of Waybright and Helping Hand, even if they were not explicitly stated, most of the committee's recommendations supported a merger or consolidation. However, since some of the board members not on the joint feasibility task force initially resisted the prospect of a merger, arriving at the recommendation as a systematic outgrowth of the side-by-side analysis helped these board members to better understand and support the conclusion. Some nonprofit organizations, in the midst of merger exploration, place those resistant to the notion on the joint feasibility task force. Helping Hand and Waybright leaders considered and rejected this approach as unproductive for their circumstances.

## *Art* or SCIENCE?

### Negotiation

Negotiation: Is it an art or is it science? Some say science. Some say art. Others say both. Regardless of the answer, some key strategies can help increase the chances of a successful resolution for both sides in a negotiation. Try to separate yourself and others from the problem. Do not let relationships become tangled up in the issue at hand. Try not to focus on positions; instead, focus on the underlying interests of those involved. Frequently, there appears to be no way to split the pie evenly because the search is for a single answer or the pie is assumed to be fixed in size; try to broaden options for mutual gain through brainstorming, while at the same time remaining mindful of the need to separate the act of developing options from the act of deciding on them. Know you will always face interests that conflict, so insist on using objective criteria instead of human will. The more you bring standards of fairness and efficiency into the equation, the more likely you are to end up with a win-win agreement.[2]

[2] For more information about effective negotiations, see Fisher, Ury, and Patton, 1991.

Organizations considering merger may also reach the end of a side-by-side analysis and choose not to merge. Research, discussion, and negotiations during the exploration may have demonstrated that they are not ready to merge or that the benefits of a merger do not outweigh the costs of creating such a complex and permanent alliance. Organizational leaders may have identified a less formal alliance structure (such as a consortium, a management service organization, or another form of joint venture) that better meets their strategic objectives. Or, they may have found that their strategic visions are not as compatible as they had hoped. In such cases, the lessons learned from these explorations can inform future alliance explorations.

The Waybright-Helping Hand joint feasibility task force learned enough about each other's organization to feel comfortable moving forward. Despite some intense negotiations, task force members determined that a merger would benefit both organizations, compiled a preliminary plan for how it might look, and recommended that a full due diligence review be conducted to ensure that legal, financial, and human resource issues were identified and addressed. Following a review of the recommendations put forFollo,ut ead.
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# Merger Feasibility Study Work Plan

While a merger feasibility study process must be tailored to fit the organizations involved, this example of a Merger Feasibility Study Work Plan provides an overview of the tasks that might be undertaken and how work flows throughout the exploration. This three-phased example offers insight regarding the specific areas in which side-by-side analysis will prove fruitful in determining the feasibility of the merger. If the respective boards determine to proceed with the merger in Phase III, they usually authorize a legal and financial due diligence review to be conducted by external experts.

## Phase I

**Prepare for Feasibility Study** **January 1 - January 31**

- Determine composition and functions of Merger
- Select feasibility study steering committee
- Refine feasibility study design
- Finalize data collection approaches and techniques
- Finalize timelines for conducting study

**Establish Preliminary Understanding of Key Issues** **January 1 - January 31**

- Define criteria to make feasibility decision
- Explore mission compatibility of two organizations
- Explore respective visions for merged organization
- Identify benefits accruing from merging

**Conduct Analysis of Key Stakeholder Perceptions** **February 1 - March 15**

- Conduct mail survey of Boards of Trustees
- Conduct mail survey of management and staff
- Conduct face-to-face or telephone interviews with 12 key funders
- Conduct two focus groups with clientele
- Prepare reports for Merger Feasibility Study Steering Committee
- Facilitate meeting(s) of Merger Feasibility Study Steering Committee

# Phase II

**Develop Organizational Profiles** **March 16 - May12**

- Conduct side-by-side organizational analysis
  - Governance
    - Board size, composition, and diversity
    - Board selection process
    - Board structure and functions
    - Board and staff relationships
    - Board performance evaluation
    - Perceived strengths and deficits of current boards
  - Organizational Culture
    - Core values
    - "Corporate" image
    - Dominant leadership style
    - Formality of work environment
    - Decision-making style
    - External stakeholder engagement
  - Programs & Services
    - Portfolio and numbers served
    - Mandated programming
    - Geographic coverage
    - Clientele demographics
    - Fee structures
    - Staffing patterns
    - Technology utilization
    - Cost per unit of service
  - Human Resources: Paid Personnel
    - Organizational structure
    - Management and staff tenure
    - Salary policies and practices
    - Benefits policies and practices
    - Expenses reimbursement
    - Professional development
    - Liability insurance
    - Personnel costs
    - Affirmative action
    - Performance evaluation system

- Human Resources: Volunteers
  - Volunteer program structure
  - Types of volunteer opportunities
  - Numbers of volunteers
  - Volunteer recruitment
  - Volunteer orientation and training
  - Volunteer placement and supervision
  - Volunteer evaluation
  - Volunteer recognition
- Facilities & Equipment
  - Service locations
  - Ownership, lease, or rental arrangements
  - Square footage
  - Costs
  - Utilities costs
  - Major equipment inventory
  - Maintenance contracts
  - Other maintenance costs
- Financial Management
  - Fiscal year period
  - Budget line item comparison
  - Budget philosophy
  - Accounting system
  - Payroll system
  - Financial management policies
  - Financial reporting
  - Technology utilization
  - External auditor and auditing
  - Vendor contracts
  - Overall assets
  - Existing debt covenants
  - Overall liabilities
- Fund Development
  - Types of fundraising activity (annual, major gifts, planned giving, etc.)

- Sources and amounts of gifts and grants received
- Endowment
- Role of CEO in fund development
- Other staff involved and their roles
- Role of board and other volunteers
- Technology utilization
- Overall fund development costs

• Communications (Public Relations, Marketing, and Community Relations)
  - Publics (constituencies, markets)
  - Communication vehicles
  - Board communications role(s)
  - CEO communications role(s)
  - Marketing research
  - Staffing
  - Costs

• Prepare reports of Merger Feasibility Study Steering Committee

• Facilitate meetings of Merger Feasibility Study Steering Committee to review side-by-side analysis reports

# Phase III

**Determine Feasibility of Merger** **May 15 - June 30**

• Prepare comprehensive report on feasibility
  • Background
  • Scope and approach
  • Findings
    - Organizational profiles
    - Compatibility of missions
    - Shared vision
  • Support for merger
    - Board
    - Management and staff
    - Clientele
    - Funders
    - Other key stakeholders
  • Issues associated with merger
  • Conclusions
  • Recommendations
• Present report to Merger Feasibility Study Committee
• Present report to joint meeting of Boards of Trustees

# 5

# Due Diligence

**Due Diligence Defined**
**Professional Assistance in Conducting Due Diligence**
**Good Faith Assumptions**
**Managing the Unexpected**
**The Value of Due Diligence**

## Due Diligence Defined

### Nonprofit Organizational Consultant

Due diligence is a detailed, rational approach to achieving an understanding of an organization's operations. The primary foci of due diligence review are:

- to verify all the financial assets of an organization;
- to fully understand its current or potential liabilities;
- to document the levels, capacities and compensation (including benefits) of staff;
- to assess the condition of physical facilities; and
- to identify any legal barriers or challenges to moving forward with a merger, consolidation, or other type of strategic alliance.

Due diligence can be thought of as an extension of the side-by-side analysis since it is a method of affirming the information exchanged by organizational leaders during the analysis. Even if potential partnering organizations have not engaged in a full-scale side-by-side analysis, organizational leaders pursuing a formal alliance need to systematically substantiate and, where possible, quantify the foreseen costs and benefits of such an alliance.

Attorneys, chief financial officers, human resource directors, and other technical experts typically conduct the due diligence review to interpret specialized organizational information. Because due diligence involves sharing much confidential information, it usually does not occur until potential partnering organizations have reached an agreement, pending the results of due diligence review, to pursue the alliance. The organizations involved may also want to sign a nondisclosure agreement that acknowledges the sensitivity of information to be exchanged and protects its confidentiality.

## Professional Assistance in Conducting Due Diligence

### Steve Walters, Waybright Board President

I was glad when our consultant encouraged us to undertake a formal due diligence process. This legal and financial review is a critical part of for-profit mergers as it serves to quantify financial well-being and uncover potential liabilities that might otherwise not be discovered until after the transaction is complete. I believed it would be equally important in the nonprofit context.

Some of the task force members felt that, once we completed the side-by-side analysis, we knew enough about each other's organizations to proceed with the merger without formal due diligence. They argued that we had established sufficient trust levels to assure that, if any potential problems existed, they had already been disclosed. But, I felt due diligence was necessary and did not see it as an issue of questioning either organization's credibility. As board members, we have fiduciary responsibility for our organizations and fulfilling that responsibility requires sound judgment in establishing policy and making decisions. The significance and permanence of a merger decision for our stakeholders, especially our consumers and staff, warranted the extra level of scrutiny provided by a thorough due diligence review.

Our consultant informed us there were two ways we could approach due diligence. The first option was to form a due diligence review team drawing upon expertise available to both organizations. This team would consist of attorneys, financial management professionals, and other experts who could interpret organizational documents relevant to the merger or consolidation of the two organizations. We could assemble the required expertise by engaging staff, board members, external advisors (such as auditors), as well as other experts on a pro bono basis. The due diligence review team would be responsible for conducting a detailed analysis of the due diligence items, identifying any conflicts or obstacles that might impact moving forward with the merger, and determining if and how such issues could be resolved. The team would then present its findings to the respective organization's boards.

The second option would be to employ legal and financial consultants who specialized in nonprofit mergers to conduct the due diligence review on behalf of our organizations. This would be a more objective and, possibly, more thorough approach, but it would also be a more expensive one.

After considering both options, Waybright concluded we had enough expertise available to us to undertake the due diligence process without hiring outside consultants. While our chief financial officer and in-house counsel would be important members of the due diligence review team, the team would be embellished by adding two external experts. A local firm that conducted our audits and provided legal advice on a contract basis offered the pro bono services of two staff members who specialized in nonprofit due diligence review. Helping Hand, a smaller organization, did not have the same level of expertise in the legal and finance areas available internally, but Robin used her strong community contacts to recruit an attorney and financial management professional on a pro bono basis to serve on the review team.

The due diligence review team developed a checklist to guide its work. The team reviewed much of the same information covered during the side-by-side analysis in order to verify its accuracy and, in some cases, review in greater detail the assumptions on which the recommendation to merge were based. The review team's checklist included analysis in eleven key areas:

- Corporate Documents
- Financial Statements and Related Materials
- Tax Materials
- The Organization
- Management
- Human Resources
- Properties and Leases
- Insurance
- Patents and Proprietary Information
- Litigation
- Contracts and Agreements
- Charitable Matters

Even though the process took more time than originally anticipated, once it was complete the Waybright board was happy we had conducted the due diligence review. It surfaced a significant issue that had not been disclosed during the side-by-side analysis. Helping Hand was in the process of negotiating a potential Medicaid reimbursement liability. Much of Helping Hand's revenue came from Medicaid reimbursement, and a recent state audit revealed that the organization had not adequately documented $500,000 worth of services rendered over the previous five years. If Helping Hand could not provide appropriate supporting documentation for these billed services, the state could ask for the money to be repaid. If the organizations merged, Waybright would assume responsibility for repayment of this liability.

Several Waybright board members were angered by this news. They felt that Helping Hand may have purposefully kept the information from us, fearing it would negatively impact our enthusiasm and willingness to pursue the merger. The trust level we had worked so hard to establish and cultivate with Helping Hand during the side-by-side analysis was seriously threatened.

## Good Faith Assumptions

### Robin Kent, Helping Hand Executive Director

Upon completing the side-by-side analysis, our consultant raised the issue of due diligence. I believed we had accomplished full disclosure during the analysis and did not need to spend money hiring lawyers and accountants to undertake a formal legal and financial review. Steve Walters felt otherwise. He believed it was important to undertake a formal due diligence review just to be certain no legal and financial issues had been overlooked. I felt they were undermining the trust we had built. "Why would Waybright think we would hide anything?" I asked our board president. Although Helping Hand had little enthusiasm for another review process, we agreed to support it to demonstrate our continued "good faith" in working on the merger.

***"If Helping Hand could not provide appropriate supporting documentation for these billed services, the state could ask for the money be repaid."***

I knew Waybright had sufficient expertise among its staff and board to comprise an internal due diligence review team. Also, Steve told me that an outside firm had offered, on a pro bono basis, the services of two nonprofit experts to assist in the review. While pleased to hear this, I also felt that the review team needed members appointed by Helping Hand. The attorney on our board, however, did not feel comfortable addressing all the due diligence areas on her own. Fortunately, an attorney who had worked with us to acquire our current building agreed to assist with due diligence on a pro bono basis. In addition, I convinced our auditor to provide some additional expertise, also on a pro bono basis.

The due diligence review surfaced the issue of Helping Hand's Medicaid reimbursement documentation. As the result of our state audit, completed only very recently, we needed to provide additional documentation for $500,000 in Medicaid reimbursed services. While we had not purposefully kept this development from Waybright, we had not brought it up because we believed it would be resolved quickly and without the need to repay any state money. We understood that Helping Hand needed to improve its documentation practices, but we felt confident that we could satisfactorily document these services and would do so before any final merger decision.

Unfortunately, some of the Waybright leadership felt betrayed, and the trust began to erode during our joint conversations regarding this issue. While Waybright leaders never directly accused us of deliberately withholding information, they were concerned that we had not voluntarily disclosed this issue during the side-by-side analysis.

Observing the diminishing trust between the two organizations, Steve Walters asked for a meeting with Mike Scanlon, Helping Hand's board president, and me to discuss this issue and determine how it might affect our potential merger. We explained the Medicaid development was new and that we were unaware of the potential problem when we approached them to merge. We spoke at length about our process for documentation, assured them the services were rendered, and emphasized that we were committed to proving it.

Steve clearly articulated his concerns about the financial ramifications of this unbudgeted liability. If repayment were necessary, that kind of potential debt could inhibit growth or, even worse, threaten the financial viability of the new entity. He proposed that a Waybright team comprised of its Medicaid specialists more carefully assess the situation and make recommendations regarding managing the financial liability. Since our board was now committed to merging with Waybright, we agreed to let them assist us in this way. In fact, we welcomed the expertise and hoped our willingness to do this would help restore some of the trust that may have been lost. The team was sent in immediately.

## Managing the Unexpected

### Steve Walters, Waybright Board President

Our team of Medicaid specialists discerned that Helping Hand's situation was not as grave as we had initially thought. While the documentation process clearly needed to be strengthened, an ample "paper trail" addressed the concerns raised by state auditors. Our Medicaid team presented its findings to both organizations' boards, explaining that Helping Hand should be able to satisfy the state's documentation requests. The team felt Waybright's liability exposure, were the two organizations to merge, would be minimal; and, they drafted an addendum to the agreement outlining its parameters and implications.

We were closing in on a board vote on the merger. But, a few board members, most of whom had not been strong advocates of the merger from the beginning, used this situation as a reason to vote against the merger. Those of us on the joint feasibility task force, however, contended that the financial risk was definitely not sufficient to preclude proceeding. If the merged organization had to repay even a small amount of the Medicaid reimbursement—which was highly unlikely—the state agreed to allow repayment to be spread over a ten-year period.

When all was said and done, Waybright's board decided that the risk was minimal and well worth taking to achieve the strategic objectives of the merger. Thus, based on the report from the due diligence review team and the addendum provided by Waybright's team of Medicaid specialists, both boards officially approved the merger of Helping Hand and Waybright. The joint feasibility task force reconvened to begin working with attorneys to draft a final merger agreement and develop a comprehensive merger implementation plan.

## The Value of Due Diligence

### Nonprofit Organizational Consultant

The tentative plan to merge that results from the side-by-side analysis is a commitment between the partners to continue pursuing the alliance based on their greater knowledge about both organizations. With this in place, organizational leaders usually feel sufficiently secure about the relationship to permit more detailed sharing of organizational information with each other. The due diligence review process gives partnering organizations the opportunity to confirm the expected costs and benefits associated with the proposed merger transaction.

Through due diligence, organizational leaders seek to quantify the value of the merger. Also, as in this instance, due diligence review may uncover previously undisclosed liabilities that could materially affect a merger plan. Such discoveries can lead the partnering organizations to amend or terminate plans to merge. The discovery of Helping Hand's Medicaid audit could have been significant enough to have caused Waybright's leaders to withdraw from the merger negotiations. While not the case, it still forced Waybright to reassess the value of the merger and how much it was willing to risk to finalize the transaction. If the partnering organizations agree to proceed with the merger after due diligence, as Waybright and Helping Hand did, a detailed merger agreement and implementation plan are developed.

***"When all was said and done, Waybright's board decided that the risk was minimal and well worth taking to achieve the strategic objectives of the merger."***

# Due Diligence Check List

Accounting and legal firms create their own check lists to conduct due diligence reviews. While there may be some differences among these firms' lists, the composite list that follows includes many of the items frequently incorporated in their due diligence work.

☐ **Corporate Documents**

- Copies of Articles of Incorporation
- Copies of by-laws
- Copies of meeting minutes of the Board of Trustees
- Descriptions of all mergers or other alliances within the last five years
- Descriptions of all plans for future purchase or disposition of assets
- List of all financial accounts and authorized signatures
- Copies of all legal opinions given to the organization from the date of incorporation

☐ **Financial Statements and Related Materials**

- Balance sheets, income statements, and cash flow statements for the last five years
- Name of accountant and length of relationship with the organization
- Description of contingent liabilities and contracts subject to renegotiation
- Description of accounts receivable and payable
- Description of bad debt reserve policy
- Description of fixed asset depreciation policy
- Forecasts of working capital and capital expenditure requirements, cash flow, debt service, and operating and net income
- List of all charitable pledges, pending gifts, and bequests
- Copies of all reports by accountants to the management of the organization in the last five years

☐ **Tax Materials**

- Copies of all federal, state, local, and payroll tax returns filed by the organization within the last five years
- Description of all pending or threatened disputes with regard to tax matters involving the organization
- Copies of IRS, state, and local determination letters concerning the tax-exempt status and private foundation status
- Amounts and sources of unrelated business income (if any)
- Current letters of certification concerning real estate tax exemption
- IRS tax-exempt letter granting tax-exempt status
- Charitable solicitation registrations
- Rulings requests made and rulings received in the last three years other than those concerning tax-exempt status

☐ **The Organization**

- Description of the organization's market size, geographical areas served, and other related information
- Description of programs and services
- List of competitors
- Description of the organization's properties, including an examination of title, title insurance policies, mortgages, tax and judgment liens, and financing statements
- Copy of all strategic plans

☐ **Management**

- List of all management personnel and trustees, including:
  - Compensation for the last five years
  - Age and education
  - Title, function, and responsibilities
  - Length of service and prior positions
- Copies of all employment, severance, bonus, or other unusual contracts
- Any suits, complaints, or criminal indictments involving an employee or trustee

☐ **Human Resources**

- Total number of employees
  - Full-time and part-time
  - Advanced degrees or special qualifications
  - Recent layoffs or planned reductions in human resources
- Names of unions or other collective bargaining organizations representing employees
  - Number of employees who belong to unions
  - Copies of all union contracts
  - General description of labor relations
- Description and current status of any pending or threatened charges, complaints, or grievances relating to past or present employees filed against the organization in the last five years
- All employee agreements, bonus or other incentive plans, whether cash deferred or deferred nonqualified cash, or any other program, payment of wages, or compensation over and above compensation
- Copies of all defined contribution and defined benefit plans, including a 403(b) plan, 401(k) plan, etc., retirement plans and explanatory booklets
- All IRS determination letters relating to plans
- Status of payment of contributions
- Employee handbook description of plans and benefits
- All primary and supplemental health and medical plans, including group and individual arrangements, and other plans including—but not limited to—hospitalization, medical reimbursement payments, major medical, dental, vision, etc.

- Any documents used for COBRA compliance, including operating policies and procedures
- All labor related plans such as unemployment benefits, severance benefits, vacation plans, maternity or paternity leave plans, etc.
- All group or individual life insurance plans or programs, including long-term and short-term disability

### ☐ Properties and Leases

- List and location of all real estate owned, leased, or utilized by the organization
- Copies of all deeds to owned real property and information with respect to:
  - Estimated present value of property
  - Title insurance policies, title opinions, or lawyers' abstract reports covering the property
  - Surveys of the property
  - Principal amount, rate of interest, payment schedule, and due date of all mortgages
  - Insurance coverage other than related to title
  - List of agreements, decrees, orders or judgments which in any way limit or restrict the organization's present use of the property
- Copies of all leases with respect to real property to determine:
  - Area or size of property
  - Rent payment schedule for the next five years
  - Terms of lease
  - Renewal options
  - Purchase options
  - Duty to make structural repairs
  - Insurance coverages
  - Default notices
  - Assignable without consent
- List of major items of equipment, including:
  - Original costs
  - Method of calculating depreciation and depreciation-to-date
  - Remaining depreciable life
- List of major equipment leases and their terms
- Copies of all material leases or security agreements not previously listed
- Copies of results of all lien searches
- List of assets of ownership evidenced by certificates of title and copies of such certificates
- List of real property or equipment leases involving any employee or trustee
- Lists of all sale and leaseback arrangements

### ☐ Insurance

- List and copies of all insurance policies currently in effect and in effect since date of incorporation, listing insurance company, policy number, property or risk covered, extent of coverage, and annual premiums

- Copies of all trustee indemnification insurance coverage
- Description of insurance claims and lawsuits pending with respect to the organization's insurance coverage
- Type of Workers Compensation insurance coverage

☐ **Patents and Proprietary Information**
- Copies of all patents, trademarks, trade names, copyrights, and patent licenses used by the organization or owned by it or any of its employees or trustees
- Description of any actual or threatened infringement proceedings against any patents, trademarks, or trade names

☐ **Litigation**
- List of all pending or threatened claims, lawsuits, arbitrations, investigations, or governmental proceedings related to the organization
- Description of any judgments, decrees, orders, or injunctions to which the organization currently is, or during the last five years has been, subject

☐ **Contracts and Agreements**
- Copies of all contracts or agreements (written or oral) that may not be cancelled within thirty days without penalty
- Copies of all contracts and agreements with governmental agencies
- Copies of all contracts and agreements with suppliers
- Description of facts or circumstances that may give rise to the cancellation or termination of, or claim for damages of loss under, any contract agreement, arrangement, or understanding
- Copies of any contracts or agreements restricting the ability of the organization to compete in any line of activity or permitting the organization to continue in any line of activity
- Copies of any joint venture or partnership agreements that relate to the organization
- Copies of all current organizational manuals outlining internal policies or operating procedures that pertain to the organization, e.g., employee manuals, purchasing policies, medical and fringe benefit programs, expense reimbursement, etc.
- List of all loans, leases, or other transactions with individuals or others at rates below market

☐ **Charitable Matters**
- Copies of charitable trusts, bequests, pooled income funds, restricted gifts, endowments, charitable gift annuities, etc.
- Evidence of Board of Trustees' action concerning board restricted funds for the last five years
- Fundraising brochures, capital campaign promotions, etc. for past five years
- Correspondence and agreements with auxiliary or donor organizations
- Copies of charter and by-laws of auxiliary, donor, or volunteer organizations

# Implementation and Evaluation

**The Merger Agreement**
**Implementation of the Merger**
**Staff Transitions During the Merger Implementation**
**Evaluation Considerations**

## The Merger Agreement

### Nonprofit Organizational Consultant

The merger agreement legally defines the parameters and conditions of the merger. It details aspects of organizational integration, including the new organization's name, changes in bylaws, articles of incorporation, and other organizational contracts and policies required prior to the merger. Because statutes governing nonprofit corporations vary among states and circumstances of every merger are different, no "standard boiler plate" can be easily adapted for general use. The organizations' legal counsel frequently negotiate and draft the agreement and any associated resolutions and legal documents necessary to complete the merger. Both organizations' boards must approve the agreement before the merger can be finalized. Once this process is complete, legal counsel file the corresponding documents with the necessary city, state, and federal regulatory and oversight agencies.

The effective date of the merger is typically two to four months after the completion of the merger agreement and frequently coincides with the newly merged organization's fiscal year. Once the merger agreement is ratified, the boards approve the appropriate resolutions specifying their intent to merge and append their board minutes with copies of the related documents. The next step is implementation.

The merger integration plan specifies the ways in which the merger agreement will be operationalized. It includes details regarding the choice of leadership, governance structure and operations, department-by-department changes necessary to merge the organizations, a detailed timetable for accomplishing implementation, an evaluation plan, and a budget for the merged organization. Executive directors and selected staff generally prepare this plan and, as appropriate, solicit board approval prior to implementation.

## *Art* or SCIENCE?

### Anticipation of the Integration

Not all the details of the integration plan need to be defined prior to the effective date of the merger. However, the more these decisions have been solidified before the organizations unite, the easier the integration should be. Flexibility is key in this process. Not all issues can be anticipated. The best made plans sometimes need to be set aside to deal with the realities of the current situation. Moreover, fully integrating organizational operations and cultures takes more than a few months. One of the most common pitfalls in planning the implementation of a merger is to underestimate the amount of time it takes to complete the merger.

In addition to a well conceived merger integration plan, the implementation phase needs one defined leader. If the executive directors of the partnering organizations remain with the new organization, they need to establish clear lines of responsibility to reduce role ambiguity. Staff need to know with whom they should interact and for what reasons. This minimizes the possibility of dissension at the top and helps keep the process moving forward in a unified manner.

Finally, evaluation is an integral, but often overlooked area of the merger process. While most organizational leaders who have engaged in mergers and consolidations have a sense of whether the alliance was a success, many do not actually conduct a formal evaluation. Rather, they frequently offer anecdotal responses to evaluation questions. Documenting the relative success of the alliance in terms of specific criteria strengthens the process and provides useful data to use for programmatic considerations and funding of future endeavors.

## Implementation of the Merger

### Steve Walters, Waybright Board President

The boards approved the merger nearly a year ago. The first steps in implementation were creating a merger agreement and an integration plan. Robin and Mike, along with other members of the joint feasibility task force, worked with our attorneys to draft the agreement. Since the results of due diligence review required no major modifications to the merger strategy developed during the side-by-side analysis, the recommendations in the Task Force Feasibility Study Report served as the basis of the final merger agreement.

We also formed a merger integration task force to begin outlining the implementation plan in more detail. This team consisted of Mike, Robin, and staff members responsible for key areas of the organization, such as finance, MIS, human resources, fund development, and the major program areas. They operationalized the recommendations put forward by the joint feasibility task force. Since we had involved staff from both organizations in the side-by-side analysis, the merger integration task force had a strong base from which to develop an action plan for integrating the day-to-day operations of the two organizations.

Our goal was to integrate the key areas of the organization over the twelve months following the effective date of the merger, which was set for January 1st to coincide with the organizations' fiscal years. This meant the team would have three months to create an implementation plan and finalize many of the operational decisions. The task force felt this was a realistic timetable, but we all knew it would likely take longer than 15 months to fully merge our organizations and their cultures. In fact, the action plan created by the task force has been revised several times throughout the year. But, we used the first three months to plan for some of the major activities of implementation:

- Establishing the overall structure for the organization;
- Developing the staffing plans for each department;
- Determining a workable plan to equalize staff compensation packages, with an initial adjustment on the effective date of the merger and additional adjustments over the next two years;

- Restructuring volunteer programs;
- Building the appropriate MIS network, including merging fund development databases;
- Creating a marketing and promotion plan for the merged entity;
- Restructuring facility utilization and coordinating the transfer of people and equipment; and
- Developing a detailed organizational budget and fund-raising plan.

We continue to encounter issues that have required changes in our plans. However, by being open and flexible in our thinking, soliciting input from staff, consumers and other stakeholders, and keeping our focus on making this new organization the best it can be, we have successfully negotiated most of them.

An ad hoc structure subcommittee worked diligently on the difficult task of developing an organizational structure that would be supported by the majority of employees. We expected some administrative positions would overlap and were prepared to hear that some lay-offs may be required. While we hoped to avoid that, our overall goal was to create a strong and viable organization that would best serve our consumers. Fortunately, we were able to limit lay-offs by moving staff into other positions based on their qualifications and professional goals. While some employees chose to leave, only two support staff were terminated and a third retired.

In one of our first acts, the new board asked the consultant—now working under a new contract with the merged organization—to facilitate another strategic session. We wanted to revisit the merged organization's mission, vision and core values that had been developed early in the merger exploration process. As part of this revisiting process, we made changes in our by-laws to reflect the structure and goals of the merged organization. Once we had accomplished this, we presented the newly affirmed mission, vision, and core values statements at an all-staff luncheon and emphasized their use as a priority in the life of the organization.

## Staff Transitions During the Merger Implementation

### Robin Kent, Consultant

I thought it would be difficult to give up my position as the executive director of Helping Hand, but I did not have too much time to mourn my loss. Mike Scanlon quickly put me to work in an advocacy-consulting role; he was determined to make full use of the year I had promised the new Waybright. I had feared that my continued involvement with the merged organization might result in former Helping Hand employees coming to me with their problems or complaints during the transition. However, Mike and I had a common understanding of the boundaries of our roles. I needed to support him as the executive director and clearly communicate this support to the staff. In retrospect, I would say my gradual transition from the organization helped alleviate fears and ease the implementation process for the former Helping Hand staff.

I believe the biggest fear for Waybright during the transition was the integration of human resources. I also believe that the potential for integration problems was lessened by initiatives we implemented prior to and after the merger. We purposefully included staff in the up-front planning and were conscious of the need for regular communication. We recognized the value of paying special attention to staff and employed a "buddy program" whereby staff members from Waybright teamed with staff members from Helping Hand to answer questions and assist in the transition. The integration committee planned several informal social gatherings at both sites to further encourage staff to get to know each other. Mike Scanlon and the new assistant executive director conducted regular visits to the Helping Hand facility in Lorain County to discuss the progress of our integration and address any issues or concerns. They held similar meetings at the other facilities as well. Mike consciously used these meetings to reinforce the benefits of merger for consumers.

While we were committed to minimizing staff losses, we would have been naive to assume that there would be no turnover as a result of the merger. As hard as we had tried to keep staff involved in the integration planning and to create comparable positions when we restructured, we anticipated some staff might resign. Since the merger only a year ago, ten did. I expected some of the Helping Hand staff to leave. For several of them, more comfortable working in a small, community-based organization, the transition to the larger, merged organization with a more formal culture was too difficult. For others, particularly Waybright staff, the merger appeared to be the impetus they had been looking for to make a change. Realistically, no matter how hard we tried to make the merger a win-win proposition, we could not please everyone.

## Evaluation Considerations

### Steve Walters, Waybright Board President

We had not initially given much attention to evaluation until our consultant encouraged us to consider two central questions:

How were we going to assess whether this merger and the process that led to it were a success?

How would we document the lessons we learned to help us with future strategic alliances?

For-profit mergers are usually evaluated against a financial bottom line. Did the organization achieve higher profits, accumulate greater market share, access new technology, or obtain needed expertise? The evaluation of nonprofit mergers is more complex. While profit considerations are often part of the program decisions, what matters more in the nonprofit context is whether we serve our consumers more effectively and do so as efficiently as possible. The answers to these questions are often difficult to quantify.

In the merger planning process, our consultant wisely suggested we establish criteria against which we could evaluate the success of the merger. We did so by refining and expanding on the five strategic objectives established for the partnership between Helping Hand and Waybright. Consequently, we developed objectives—each of which could have some quantifiable aspects—related to eight key areas of the merger:

- Improving staff retention;
- Expanding the geographic scope of service provision;
- Broadening our service mix by developing respite care programming;
- Expanding the capacity of our in-home care program;
- Acquiring adequate facilities to support program expansion;
- Strengthening our policy influence;
- Attracting additional funding; and
- Achieving financial and operating efficiencies.

We felt the merger would accomplish these goals, but we needed to base our success on more than feelings to satisfy funders, accrediting bodies, and other organizational stakeholders. We created an internal evaluation team to monitor our progress in these areas for three years. We also built questions into the evaluation approach that focused on the process of planning and implementing the merger. We believed evaluating the process would assist us in improving organizational integration and would provide valuable lessons on what might be done differently if we were to enter into alliance explorations with other organizations.

Having reached the end of our first year as a merged organization, we have documentation to demonstrate some initial success. We also have uncovered several areas where we need to work harder to reach our goals. The time spent undertaking the evaluation has definitely been worth it!

# Plan and Agreement of Merger of Helping Hand with Waybright

**THIS PLAN AND AGREEMENT OF MERGER,** by and between Helping Hand, Inc., an Ohio non-profit corporation, whose principal business address is 5432 Main Street, Lorain, OH 44332 (hereinafter the "Disappearing Corporation"), and Waybright, Inc., an Ohio nonprofit corporation, whose principal business office is 18000 Erie Avenue Suite 200, Cleveland, OH 44321 (hereinafter the "Surviving Corporation"), said corporations being together hereinafter sometimes called the "Constituent Corporations."

**WITNESSETH:**

**WHEREAS,** the Disappearing Corporation is an Ohio corporation duly organized, validly existing and in good standing as a non-profit corporation under the laws of the State of Ohio, having voting members of more than one class;

**WHEREAS,** the Surviving Corporation is an Ohio corporation duly organized, validly existing and in good standing as a non-profit corporation under the laws of the State of Ohio, having voting members of one class designated as Active Members and non-voting members designated as Associate Members and Honorary Members; and

**WHEREAS,** the Disappearing Corporation and the Surviving Corporation are both charitable corporations within the meaning of the laws of the State of Ohio relating to non-profit corporations; and

**WHEREAS,** the Board of Trustees of the Disappearing Corporation and Board of Trustees of the Surviving Corporation deem it advisable and for the best interest of the respective Constituent Corporations, and their respective voting members have by the requisite majority vote agreed, that the two corporations be merged in the manner and upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE,** for and in consideration of the premises and the mutual agreements set forth below, and for the purpose of effecting such a merger and prescribing the terms and conditions thereof in accordance with the applicable provisions of the Non-profit Corporation Law of the State of Ohio, the Constituent Corporations do hereby agree as follows:

**Section 1.** On the Effective Date (as defined in Section 2 hereof) the Disappearing Corporation shall be merged with the Surviving Corporation, and the surviving corporation shall be known as the Waybright, Inc., (the "Surviving Corporation"), and governed by the laws of the State of Ohio and shall be a charitable corporation.

**Section 2.** The merge of the Disappearing Corporation with the Surviving Corporation provided for in this Agreement shall become effective immediately upon the filing of the Certificate of Merger, to which an executed copy of this Agreement shall be attached, in the Office of the Secretary of State of Ohio November 30, 1999.

**Section 3.** The principal office of the Surviving Corporation shall be at 18000 Erie Avenue Suite 200, Cleveland, OH 44332. The Surviving Corporation shall be a charitable corporation existing for the purpose of serving developmentally disabled individuals and their families by providing high quality residential facilities, personalized assistance programs, transportation, and appropriate supportive services.

**Section 4.** On the Effective Date, the names and addresses of the Trustees of the Surviving Corporation, who shall hold office until their respective successors have been elected or appointed and qualified are:

**Board of Trustees**
**The Surviving Corporation, Inc., November 1999**

**Mr. Michael Baron**
36912 Essex St.
Cleveland, OH 44123

**Ms. Gail Fowler,** *Treasurer*
9852 Maple Dr.
Bedlamton, OH 44123

**David Gardner,** *Secretary*
9876 Cleveland Place Suite 200
Cleveland, OH 44123

**Gene Geary**
118 South Oak Dr.
Cleveland, OH 44123

**Brianna Green**
9632 Lakeview Road
Cleveland, OH 44123

**Steve Walters,** *President*
9874 Erieview Drive
Cleveland, OH 44123

**Section 5.** David Gardner, whose address is 9876 Cleveland Place Suite 200, Cleveland, OH 44123, is the statutory agent of the Surviving Corporation in the State of Ohio upon whom any process, notice or demand against the Disappearing Corporation or the Surviving Corporation may be served.

**Section 6.** The mode of carrying the merger into effect and the manner of providing for existing members and classes of members of the Constituent Corporation may be served.

(A) All members and classes of members of the Disappearing Corporation immediately prior to the Effective Date shall, from and after the Effective Date, become Active Members of the Surviving Corporation and shall be entitled to the rights and privileges and subject to the rules and regulations applicable to Active Members of the Surviving Corporation.

**Section 7.** The Constitution and By-Laws of the Surviving Corporation, as in effect on the day prior to the Effective Date, shall not be changed as a result of the merger becoming effective and shall remain as the Constitution and By-Laws of the Surviving Corporation.

**Section 8.** This Agreement of Merger shall be submitted to the members of the Disappearing Corporation and the Surviving Corporation as required by law and the By-Laws and Constitution of the Disappearing Corporation and the By-Laws and Constitution of the Surviving Corporation, and upon the adoption thereof by the requisite votes of the members of the Constituent Corporations, shall be filed with the Secretary of State of Ohio in accordance with the provisions of the Non-profit Corporation Law of the State of Ohio.

**Section 9.** Notwithstanding anything herein to the contrary, if the Board of Trustees of either the Disappearing Corporation or the Surviving Corporation should determine at any time prior to the Effective Date, and shall so notify the other in writing, that for any legal, financial, economic, or business reason deemed sufficient by such Board of Trustees it is not in the best interests of that Constituent Corporation and its members, or is otherwise inadvisable or impracticable, to consummate the merger, said Board of Trustees may terminate and abandon the merger, and thereupon this agreement shall be void and of no effect.

**Section 10.** At any time prior to the Effective Date, this Agreement may, by an instrument in writing, be amended by mutual consent of the Board of Trustees of the Disappearing Corporation and the Board of Trustees of the Surviving Corporation to the extent permitted by Ohio law. Prior to the Effective Date, the Constituent Corporations shall take, or cause to be taken, all such action as may be necessary or appropriate in order to effectuate the Merger. If at any time after the Effective Date any further action is necessary or desirable to carry out the purpose of this Agreement and to vest the Surviving Corporation with full title to all assets, properties, rights, privileges, powers, immunities or obligations of either of the Constituent Corporations, the Constituent Corporations shall take all such necessary and appropriate action as the Board of Trustees of such Constituent Corporation may determine.

**Section 11.** This Agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Ohio.

**IN WITNESS WHEREOF,** this Agreement of Merger has been duly executed by the President and Secretary of the Disappearing Corporation and the President and Secretary of the Surviving Corporation, thereunto duly authorized by resolutions of the Board of Trustees of the Disappearing Corporation adopted on 10/15/99, and the Board of Trustees of the Surviving Corporation adopted 10/23/99, each said resolution adopted by at least a majority vote of all the Trustees of each said Board, this 30th Day of November, 1999.

**SURVIVING CORPORATION:**
**Waybright, Inc**

By: Steve Walters
Steve Walters, President

**DISAPPEARING CORPORATION:**
**Helping Hand, Inc.**

By: Barbara Lynch
Barbara Lynch, President

**Prescribed by J. Kenneth Blackwell**

Please obtain fee amount and mailing instructions from the **Forms Inventory List** (using the 3 digit form # located at the bottom of this form). To obtain the **Forms Inventory List** or for assistance, please call Customer Service:
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Expedite this form
☑ Yes

# CERTIFICATE OF MERGER

In accordance with the requirements of Ohio law, the undersigned corporations, banks, savings banks, savings and loan, limited liability companies, limited partnerships and/or partnerships with limited liability, desiring to effect a merger, set forth the following facts:

## I. SURVIVING ENTITY

A. The name of the entity surviving the merger is:
Waybright, Inc.

B. Name Change: As a result of this merger, the name of the surviving entity has been changed to the following:

(Complete only if name of surviving entity is changing through the merger)

C. The surviving entity is a: **(Please check the appropriate box and fill in the appropriate blanks)**

- ☐ Domestic (Ohio) for-profit corporation, charter number ______
- ☑ Domestic (Ohio) non-profit corporation, charter number 123456
- ☐ Foreign (Non-Ohio) corporation incorporated under the laws of the state/country of ______ and licensed to transact business in the State of Ohio under license number ______
- ☐ Foreign (Non-Ohio) corporation incorporated under the laws of the state/country of ______ and **NOT** licensed to transact business in the state of Ohio,
- ☐ Domestic (Ohio) limited liability company, with registration number ______
- ☐ Foreign (Non-Ohio) limited liability company organized under the laws of the state/country of ______ and registered to do business in the State of Ohio under registration number ______
- ☐ Foreign (Non-Ohio) limited liability company organized under the laws of the state/country of ______ and **NOT** registered to do business in the State of Ohio.
- ☐ Domestic (Ohio) limited partnership, with registration number ______
- ☐ Foreign (Non-Ohio) limited partnership organized under the laws of the state/country of ______ and registered to do business in the state of Ohio under registration number ______
- ☐ Foreign (Non-Ohio) limited partnership organized under the laws of the state/country of ______ and **NOT** registered to do business in the state of Ohio.
- ☐ Domestic (Ohio) partnership having limited liability, with the registration number ______

# J. Kenneth Blackwell
**Secretary of State**

☐ Foreign (Non-Ohio) partnership having limited liability organized under the laws of the state/country of ____________ and registered to do business in the state of Ohio under registration number ____________

☐ Foreign (Non-Ohio) non-profit incorporation under the laws of the state/county of ____________ and licensed to transact business in the state of Ohio under license number ____________

☐ Foreign (Non-Ohio) non-profit incorporation under the laws of the state/county of ____________ and **not** licensed to transact business in the state of Ohio.

**II. MERGING ENTITY**

The name, charter/license/registration number, type of entity, state/country of incorporation or organization, respectively, of which is a party to the merger are as follows: **(If this is insufficient space to reflect all merging entities, please attach a separate sheet listing the merging entities)**

| Name | State/Country of Organization | Type of Entity |
|---|---|---|
| Waybright, Inc. | Ohio | Nonprofit Corp |
| Helping Hand, Inc. | Ohio | Nonprofit Corp |
| | | |
| | | |
| | | |

**III. MERGER AGREEMENT ON FILE**

The name and mailing address of the person or entity from whom/which eligible persons may obtain a copy of the agreement of merger upon written request:

David Gardner (name) — 9876 Cleveland Place Suite 200 (street and number)

Cleveland (city, village or township) — OH (state) — 44123 (zip code)

**IV. EFFECTIVE DATE OF MERGER**

This merger is to be effective on: 11/30/99 (if a date is specified, the date must be a date on or after the date of filing; the effective date of the merger cannot be earlier than the date of filing, if no date is specified, the date of filing will be the effective date of the merger).

**V. MERGER AUTHORIZED**

The laws of the state or country under which each constituent entity exists, permits this merger.
This merger was adopted, approved and authorized by each of the constituent entities in compliance with the laws of the state under which it is organized, and the persons signing this certificate on behalf of each of the constituent entities are duly authorized to do so.

**VI. STATUTORY AGENT**

The name and address of the surviving entity's statutory agent upon whom any process, notice or demand may be served is:

David Gardner (name) — 9876 Cleveland Place Suite 200 (street and number)

Cleveland (city, village or township), Ohio 44123 (zip code)

*(This item MUST be completed if the surviving entity is a foreign entity which is not licensed, registered or otherwise authorized to conduct business in the state of Ohio)*

**VII. ACCEPTANCE OF AGENT**

The undersigned, named herein as the statutory agent for the above referenced surviving entity, hereby acknowledges and accepts the appointment of statutory agent for said entity.

# J. Kenneth Blackwell
## Secretary of State

**Signature of Agent** ______________________________

*(The acceptance of agent must be completed by domestic surviving entities if through this merger the statutory agent for the surviving entity has changed, or the named agent differs in any way from the name currently on record with the Secretary of State.)*

**VIII. STATEMENT OF MERGER**

Upon filing, or upon such later date as specified herein, the merging entity/entities listed herein shall merge into the listed surviving entity

**IX. AMENDMENTS**

The articles of incorporation, articles of organization, certificate of limited partnership or registration of partnership having limited liability (circle appropriate term) of the surviving domestic entity have been amended. Please see attached "Exhibit A." (Please note, if there will be no change please state "no change")

**X. QUALIFICATION OR LICENSURE OF FOREIGN SURVIVING ENTITY**

A. The listed surviving foreign corporation, bank, savings bank, savings and loan, limited liability company, limited partnership, or partnership having limited liability desires to transact business in Ohio as a foreign corporation, bank, savings bank, savings and loan, limited liability company, limited partnership, or partnership having limited liability, and hereby appoints the following as its statutory agent upon whom process, notice or demand against the entity may be served in the state of Ohio. The name and complete address of the statutory agent is:

______________________________ ______________________________
(name) (street and number)

______________________________, Ohio ____________________
(city, village or township) (zip code)

The subject surviving foreign corporation, bank, savings bank, savings and loan, limited liability company, limited partnership, or partnership having limited liability irrevocably consents to service of process on the statutory agent listed above as long as the authority of the agent continues, and to service of process upon the Secretary of State of Ohio if the agent cannot be found, if the corporation, bank, savings bank, savings and loan, limited liability company, limited partnership, or partnership having limited liability fails to designate another agent when required to do so, or if the foreign corporation's, bank's, savings bank's, savings and loan's, limited liability company's, limited partnership's, or partnership having limited liability's license or registration to do business in Ohio expires or is canceled.

B. The qualifying entity also states as follows: (Complete only if applicable)

1. **Foreign Notice Under Section 1703.031**
(If the qualifying entity is a foreign bank, savings bank, or savings and loan, then the following information must be completed.)

(a.) The name of the Foreign Nationally/Federally chartered bank, savings bank, or savings and loan association is

______________________________

(b.) The name(s) of any Trade Name(s) under which the corporation will conduct business:

______________________________
______________________________
______________________________

(c.) The location of the main office (non-Ohio) shall be:

______________________________
(street address)

______________ ______________ ________ ________
(city, township, or village) (county) (state) (zip code)

# J. Kenneth Blackwell

## Secretary of State

(d.) The principal office location in the state of Ohio shall be:

(street address)

(city, township, or village) (county) (state) (zip code)

**(Please note, if there will not be an office in the state of Ohio, please list none.)**

(e.) The corporation will exercise the following purpose(s) in the state of Ohio:
(Please provide a brief summary of the business to be conducted; a general clause is not sufficient)

2. **Foreign Qualifying Limited Liability Company**
(If the qualifying entity is a foreign limited liability company, the following information must be completed.)
(a.) The name of the limited liability company in its state of organization/registration is

(b.) The name under which the limited liability company desires to transact business in Ohio is

(c.) The limited liability company was organized or registered on ______________
under the laws of the state/country of ______________________
(d.) The address to which interested persons may direct requests for copies of the articles of organization, operating agreement, bylaws, or other charter documents of the company is:

(street address)

(city, township, or village) (state) (zip code)

3. **Foreign Qualifying Limited Partnership**
(If the qualifying entity is a foreign limited partnership, the following information must be completed) .
(a.) The name of the limited partnership is

(b). The limited partnership was formed on ______________

(c.) The address of the office of the limited partnership in its state/country of organization is:

(street address)

(city, township, or village) (county) (state) (zip code)

(d. ) The limited partnership's principal office address is:

(street address)

(city, township, or village) (county) (state) (zip code)

(e.) The names and business or residence addresses of the General partners of the partnership are as follows:

Name Address

(If insufficient space to cover this item, please attach a separate sheet listing the general partners and their respective addresses)

# J. Kenneth Blackwell
## Secretary of State

(f .) The address of the office where a list of the names and business or residence addresses of the limited partners and their respective capital contributions is to be maintained is:

______________________________
(street address)

______________ ______________ ________ ________
(city, township, or village) (county) (state) (zip code)

The limited partnership hereby certifies that it shall maintain said records until the registration of the limited partnership in Ohio is canceled or withdrawn.

4. **Foreign Qualifying Partnership Having Limited Liability**

(a.) The name of the partnership shall be

______________________________

(b.) Please complete the following appropriate section (either item b(l) or b(2)):

(1.) The address of the partnership's principal office in Ohio is:

______________________________
(street name and number)

______________________________, Ohio ______________
(city, village or township) (zip code)

***(If the partnership does not have a principal office in Ohio, then items b2 and item c must be completed)***

(2.) The address of the partnership's principal office (Non-Ohio):

______________________________
(street address)

______________________________ ________ ________
(city, township, or village) (state) (zip code)

(c.) The name and address of a statutory agent for service of process in Ohio is as follows:

______________________________
(name) (street and number)

______________________________, Ohio ______________
(city, village or township) (zip code)

(d.) Please indicate the state or jurisdiction in which the Foreign Limited Liability Partnership has been formed

______________________________

(e.) The business which the partnership engages in is:

______________________________

______________________________

______________________________

______________________________

**The undersigned constituent entities have caused this certificate of merger to be signed by its duly authorized officers, partners and representatives on the date(s) stated below.**

| | |
|---|---|
| Waybright, Inc. | |
| (Exact name of entity) | (Exact name of entity) |
| **By:** Steve Walters | **By:** Barbara Lynch |
| **Its:** Steve Walters, President | **Its:** Barbara Lynch |
| **Date:** 11/30/99 | **Date:** 11/30/99 |

**J. Kenneth Blackwell**
**Secretary of State**

| | |
|---|---|
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |
| ______________________________ (Exact name of entity) | ______________________________ (Exact name of entity) |
| **By:** ______________________ | **By:** ______________________ |
| **Its:** ______________________ | **Its:** ______________________ |
| **Date:** __________ | **Date:** __________ |

7

# Lessons Learned

**The Personal Nature of Nonprofit Mergers**
**Shared Vision and Values**
**Resources Required for Successful Mergers**
**Stakeholder Involvement**
**Building Trust**
**Using a Consultant to Facilitate the Process**
**Communication**
**The Value of a Position of Strength**

## Steve Walters, Waybright Board President

### The Personal Nature of Nonprofit Mergers

I learned a number of lessons about nonprofit merger during the process. Probably the biggest difference between this merger and the for-profit mergers in which I have participated was the heightened personal feeling that accompanied each decision. This merger was more than just a good business arrangement. Always in the back of my mind were questions such as "Will this be a good decision for my daughter and others with similar needs?" and "Will we be able to serve even more individuals without compromising quality?" Clearly, programmatic considerations must be given as much attention as the financial viability of potential merger partners.

### Shared Vision and Values

I also learned to appreciate the imperative of establishing a shared vision and set of values among the participating organizations. It was critical to the process that we remained focused not only on the reasons we were merging, but also on the long-range vision of our goals. While we established this vision under the direction of our consultant, we reaffirmed the vision and what we valued about our organizations throughout the process, all the way through to the implementation plan. Our commitment to this activity motivated us to push the merger forward when it became difficult and, I believe, was the basis on which we built our mutual trust.

### Resources Required for Successful Mergers

Again, I underestimated the amount of time, energy and money it takes to make a merger a reality. It took more than twelve months from the initial conversations between the organizations to signing the merger agreement. In some respects, I think the process took too long. We had gotten unexpectedly side tracked by the Medicaid issue uncovered during due diligence. We could have just moved forward, but I felt it was critical to do a comprehensive assessment of the financial exposure this issue raised for Waybright. Retrospectively, I think that was a good decision, but it certainly set the time line back a few months. By drawing out the process, we risked losing momentum; but, because both organizations were committed to the process, it all worked out successfully.

I do not think anyone on the merger feasibility task force was prepared for the amount of time and resources it took to conduct this merger. All the countless meetings—of the joint feasibility task force, of and with the staff, for research by the subcommittees, and special meetings called to deal with difficult issues—required significant commitments of time beyond the day-to-day demands of our jobs.

Also, the merger was expensive. We were fortunate to have staff and board expertise to address many of the intricacies of the merger process. If we pursue another alliance, however, we will certainly seek grant funding to pay the consultants, attorneys, filing fees, and associated expenses.

### Stakeholder Involvement

One final lesson we all learned was the importance of involving an appropriate cross-section of stakeholders in the process. In retrospect, I believe it was a good choice to include staff at the subcommittee level, as it built momentum for the merger throughout the organization. Staff developed ownership of the process and its outcomes. It also was critical to keep the full boards informed at every stage. We expected considerable resistance and we got some, but we used this resistance to make the process stronger. These discussions were instrumental in shaping many of our decisions. Likewise, it was important to keep our consumers, referral agents, funders, and donors apprised of our progress throughout the process. Their support before, during, and after was essential to our success today.

## Robin Kent, Consultant

### Building Trust

The most significant lesson I learned during the merger was the importance of building trust. We spent a great deal of time up-front getting to know each other and our respective organizations. We participated in informal get-to-know-you dinners before meetings, we openly and honestly shared sensitive information about our organizations' strengths and weaknesses, and we took the necessary time to ask individual reactions and fears about potential decisions. We tried never to take anything for granted. I believe that the primary reason that we were able to build trust so effectively was the natural chemistry between the two organizations. While our cultures appeared to be different, the values that brought each person to work every day and motivated board members to serve were very much the same.

I learned one of the most noteworthy lessons after the process. My retirement was a critical component in how smoothly the two organizations were integrated. Granted, I did stay on as a consultant, but that was my choice. I was never forced out of my position as leader. If I had been, the transition may have been more difficult and more key staff would have been lost. Sure, I missed being the leader of Helping Hand, but the best gift I could have given it was to leave gracefully and give my full support to the new leader.

### Using a Consultant to Facilitate the Process

I also believe the process was relatively smooth because we planned so carefully under the guidance of a consultant hired early to help facilitate the process. He helped us define the necessary steps and develop a realistic timeline for completion. Since the consultant was perceived as neutral, he was an invaluable resource in steering us through difficult deliberations. With his understanding of the process, he was able to foresee potential challenges before we encountered them. For example, we would not have thought about openly describing and listing our hopes and fears early in the process, but this exercise was crucial as we worked to build trust between our organizations. We revisited those lists numerous times as we encountered obstacles in our exploration process.

### Communication

Another significant lesson had to do with communication. We adequately communicated with staff about what we were doing late in the process, but we did not do such a great job earlier in the process. As a result, rumors began spreading and it took us some time to dispel them. While no permanent damage was done because we were not open with the staff from the outset, it took them longer to invest in the process. In hindsight, we should have started meeting with the staff and asking for their input earlier.

### The Value of a Position of Strength

The final lesson I learned related directly to the reason we approached Waybright in the first place. As a result of our strategic plan, the Helping Hand board and I realized that while the organization was in a strong position, it might not remain so given the changes taking place around us. Instead of allowing the organization to weaken, we chose to use merger as the vehicle to preserve it. I believe because we acted while still strong, not only were we able to choose our partner, but we were better able to negotiate the terms of the agreement. Although we were a much smaller organization, Waybright treated the process as a merger of equals because we were still a viable agency. Because Helping Hand approached Waybright knowing what it wanted and confident about asking for it, the transaction did not become a take-over. The result was continued employment and a better compensation plan for Helping Hand employees, as well as the retention of the Helping Hand name.

Overall, it seems to me, the merger turned out to be a win-win situation for consumers and staff from both partner organizations!

# Key Lessons Learned: A View from the Field

In the national study on nonprofit strategic alliance development conducted by a team at the Mandel Center for Nonprofit Organizations, respondents from sixty-five organizations pinpointed a number of key lessons growing out of their experiences. The following are among these lessons.

**Lesson 1:** There is no such thing as a "zero defects" strategic alliance.

**Lesson 2:** The size of a nonprofit organization is not positively correlated to success.

**Lesson 3:** Organizations should proactively pursue strategic alliances rather than waiting to be pursued.

**Lesson 4:** Mutual trust is at the heart of successful strategic alliances.

**Lesson 5:** Success in developing and implementing strategic alliances frequently results from focusing on mission but leading with vision.

**Lesson 6:** An open, honest process—including ongoing communications with all involved—is critical to the successful development of strategic alliances.

**Lesson 7:** Board members and the CEO need to recognize that fear is a normal emotion when considering and/or developing certain strategic alliances.

**Lesson 8:** Strategic alliances usually should not be presented as an approach or strategy that will yield short-term cost savings.

**Lesson 9:** The criteria and process for evaluating the success of a strategic alliance should be established prior to its implementation.

**Lesson 10:** The lack of compatibility of organizations' missions, visions, and organizational culture ranks among the leading "deal breakers" in establishing strategic alliances.

**Lesson 11:** The average length of time required to explore, plan for, and implement a merger or consolidation is approximately eighteen months.

**Lesson 12:** A good time for exploring a merger or consolidation frequently is related to a change in leadership in one or more of the organizations.

**Lesson 13:** The challenges in creating a new corporate culture following a merger or consolidation can be more significant than the challenges presented in the exploring and planning phases of strategic alliance development.

**Lesson 14:** Merger and consolidation processes must include opportunities to grieve and to celebrate.

**Lesson 15:** Strategic alliances frequently are more successful when funders are partners and provide financial support for both planning and implementation of alliances.

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