

Case Study

Do I Need All Those Legal Documents? Ensuring Business Continuity and Succession

Overview

- **Business:** Independent LBM dealer with two owners
- **Challenge:** One owner has ongoing health issues, and the business operates without formal legal documents to address business continuity and succession.
- **Goal:** Develop a business continuity and succession strategy, and formalize it through appropriate legal documents.

The Opportunity

After 35 years of successful partnership, one owner's health began to deteriorate, raising concerns about the future of the business. Although the owners had a handshake agreement, there were no formal legal documents in place to address potential issues such as death, disability, or incapacity of one of the owners. The lack of a clear plan for business continuity and ownership transfer created uncertainty, and the owners and key employees were unsure how to proceed.

The Solution

To address the business continuity and succession concerns, we followed a structured approach:

1. **Understanding the Partnership:** We began by meeting with the two owners to discuss what had made their partnership successful and to explore hypothetical scenarios about the future of the business, including the possibility of one owner being unable to continue due to health issues. This helped both owners understand the potential risks and the need for formal legal documentation.
2. **Gathering Input from Key Employees:** We then engaged with key employees to gain a broader perspective on the concerns regarding business continuity. This ensured that the solution we developed was well-rounded and took into account the views of those who would be most affected by any ownership or leadership changes.
3. **Drafting Key Legal Documents:**
 - **Professional Will:** We drafted a Professional Will to outline how the business would operate if one of the owners or a key employee died or became incapacitated. This document was formally executed through a Directors' Resolution.
 - **Shareholder Agreement:** We also created a Shareholder Agreement that detailed the line of succession, payment strategy, and other contingencies (e.g., death, disability, or divorce). This document would be crucial for any future shareholders and would govern ownership transfer during critical events.



4. **Insurance Planning:** After formalizing the legal documents, we collaborated with an insurance advisor to ensure the business had proper coverage to facilitate a smooth buyout of an owner, without negatively impacting working capital.

The Result

- **Aligned Stakeholders:** By involving both owners and key employees in the process, we developed a strategy that was agreeable to all parties and addressed everyone's concerns.
- **Formalized Legal Protection:** With the Shareholder Agreement in place, the business now had a clear, legally binding structure for succession and continuity, providing peace of mind for both owners and employees.
- **Financial Security:** Working with insurance advisors, we ensured the business had the necessary financial protection to support ownership transitions without disrupting operations or depleting working capital.
- **Clear Succession Path:** With the foundational legal documents in place, the company was able to move forward with detailed succession planning, ensuring a smooth transition in the event of unexpected changes.

This case demonstrates the importance of formalizing business continuity and succession plans through legal documentation to safeguard the future of the business and ensure the interests of all stakeholders are protected.