

Partnerships and Pre-Nups: Gotta Work For That Happily Ever After

By Suzanne Barnett

Remember how you felt when you first became engaged to be married? The whole world was beautiful. Your intended was wonderful. The future seemed so perfect – full of hope and promise. You were on cloud nine and ready to live that fairytale Happily Ever After life.

However, we know that even in the best relationships, those feelings can fade. Worse yet, circumstances and personalities can clash and result in very bad situations. That's why many couples draft a prenuptial agreement.

Well, if happy couples in love find that necessary, then business partners discover that it is essential. Those same feelings of excitement, hope, and promise exist when two or more people decide to become partners in a new business venture. Optimism abounds. There is no negativity to be found. But things happen that can never be foreseen, and just like newly married couples soon learn, you never really know someone until you are in a partnership with them.

One of the best ways to protect the interests of each partner and to ensure smooth operation of the firm is to create a partnership agreement before the firm gets started. There are many areas to address that could impact an individual or the firm. Some include:

Death or Disability of a Partner: While this is a topic that everyone hopes never to have to deal with, it does happen. Planning ahead for this possibility will make a difficult time less stressful. Discuss with your partner and include

in your partnership agreement how the firm will continue to operate or will dissolve should this occur.

Legal and Financial Controls and Authority: This is a big one. Who has the authority to sign contracts, spend money, and make decisions regarding the legal and financial aspects of the business? Iron this out now in writing before a situation crops up that causes serious trouble.

Contributions to the Firm: One major source of conflict between partners happens when one partner injects cash or other assets and another partner brings expertise only. Spell out in your partnership agreement what the value of that expertise is. What will the percentage of ownership or other financial compensation be? How will you handle the divisions of profits and losses? It could save a lot of hurt feelings in the long run.

Dissolution: Let's face it, businesses close for a variety of reasons, most of which have nothing to do with whether or not it is successful. Sometimes, owners want to retire, become too ill to work, have family issues that take priority, and so on. Plan now for the day when one or more of the partners want to leave the firm. How will the partner be paid for his/her portion of the firm? One tip here is to include a clause in the partnership agreement requiring the firm to seek a valuation by an outside party at some time frame prior to dissolution.

These are just a few of the major issues that you can include in a partnership agreement. There are several other common ones such as policies on advance draws, expectations of partner performance, how and when to invoke arbitration to handle disputes, and methods for the release of debts. Talk to an attorney for advice on how to address specific issues for your firm as well as some of these routine concerns. Your lawyer can help you work through these as well as draft the agreement for you.

While the excitement and glow of the new business venture's possibilities are washing over you, don't forget to include the partnership agreement on your to-do list. Even the best relationships have to work for their Happily Ever After!



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