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“Tip of the Month”

Partnership Law

“A partnership is an association of two or more persons to carry on as co-owners of a business for profit.” This is the central rule of the Uniform Partnership Act (“UPA”), which New Hampshire adopted as RSA 304-A to govern general partnerships. Whenever two or more people are in business together without other formality, they are deemed to be a partnership governed by the UPA.

Unless otherwise specified, partners share equally in the profits and losses of the business. One of the dangers of a partnership is that partners are jointly and severally liable for the liabilities of the partnership, including business debts as well as civil liability for accidents and other claims. If a partnership suffers a huge loss and only one of the partners has any resources to cover the loss, that partner must pay, even if the loss is the other partners’ fault. This can be a big risk for partners.

The risky business of partnership law is why people form their businesses as corporations and limited liability companies (“LLC”). Both corporations and LLCs can shield their shareholders from personal liability. Both formats also allow the shareholders to specify percentages of ownership and profit/loss sharing.

Partners in a partnership can also specify each partner’s percentage of ownership by written agreement. Because a partnership can be formed without filing papers or other formalities, however, many partnerships are established informally with no written agreement. Among friends and family, what could possibly go wrong? This is where partnership law meets Murphy’s Law. Whatever can go wrong will go wrong, at the worst possible time.

Once a partnership is established, it is presumed to continue in operation until it is dissolved and its affairs are wound up. A partnership may be dissolved at any time by the express will of any partner. This requires actual notice to the other partners of intent to dissolve.

Every partner is accountable to the partnership and the other partners for any benefit or profits derived from any transaction connected with the partnership. Partners are considered fiduciaries to one another and to the business with a high standard of accountability.

Many of the rules of partnership law, such as the rule of fiduciary accountability among partners or shareholders, have carried over into the law of corporations and LLCs.

If you need help with partnership or other business law, please call us at 668-1971 or contact us by sending an email to mailbox @ biz-patlaw.com.

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