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Valuation Pulse

Buy Sell Agreements When Business Partners Separate

ONYX PARTNERS GROUP

When Business Partners Separate **Buy Sell Agreements**

Does this sound familiar:
10 years ago, you and your friend started a business in your basement. Over the first five years, you two both equally put in an enormous amount of time, energy and capital into making this business a success. You both attended trade shows, extensive marketing events and relied heavily on providing the absolute best customer service. In fact, your quality of customer service turned out to be the staple of your business and great source of referrals.

Five years in, the cash flow has been increasing. You have expanded your business by hiring new employees. The basement that you work from has now relocated into a state-of-the-art showroom. The business is turning a profit, and all is great, right? Well maybe not so much....

Over the last couple of years, the two partners have begun having significant disagreements about the direction of the business. Disagreements regarding the training of the employees. And even disagreements as far as who is the decision maker now.

For those of you that are in a partnership and the business has grown to a new revenue level, you may have experienced this type of anxiety and frustration. Even if you have not experienced this type of issue perhaps it is something different that has affected your partnership. Things such as, more involvement from a spouse or family members without your approval. Or perhaps your partner is having some financial issues and

considering a partial or full buyout from the partnership. How do you handle this type of conversation? What is the first thing to do?

When a partnership begins to hit these types of issues or misfortune happens, the breakup can become very messy. Long time relationships are strained and if an attorney must get involved, be prepared to open your wallet. Regardless of the outcome, far too often, it does not end pretty.

When in a partnership, in addition to the traditional things required when you start a business, operation agreement, etc. there is also one other important document that is often overlooked but when needed, could have saved both parties an enormous amount of time, heart ache and money. This documentation is a Buy-Sell Agreement.

A buy sell agreement, in this example, allows an owner in a closely held business to acquire the interest of another owner who withdraws from the business. The buy sell agreement will contain a price in which the remaining owner will pay for the departing partner's interest in the business. This type of agreement will help keep the business under the owners' control rather than having a portion of the business fall into the hands of someone whose interest in the business is not aligned with the current owner's interest as far as the future and growth of the business.

Buy Sell Agreements are designed to be a form of clarity. The agreement assists the business and outlines specific items that if a trigger event

happens, business owners can refer to the valuation for assistance as well as provide an understanding of the value of the interest in the business.

Most assume that buy sell agreements are triggered mostly by a death of a partner. When in fact, it is the least. Here is a list of items that can trigger a buy sell agreement:

- Business partner disputes
- Divorce
- Disability
- Liquidity
- Retirement

There is a lot of work that goes into establishing, running and growing a profitable business. With just as much fervor that you and your business partners put into the business, you should take a step back and discuss certain things that could in fact trigger an event. Understand the ramifications of what could happen if a triggered event took place. Would the business be able to survive? Would the remaining partner be able to fund the departing partners interest in the business? Do you even know the true value of your business?

It is not too late to have this type of discussion as business owners. Before you been this dialogue, there are some requirements that are required to have a successful implementation of a buy sell agreement.

First step organize a meeting of all partners/shareholders of the business. At this meeting, an agreement needs to be made that this is a necessary document. After you agree, a discussion should be had to consider all triggered events that could affect your business. Once you have identified potential triggered events, the

hardest part of establishing the buy sell agreement is to determine a price. This price will be used once a triggered event happens. This price can be a fixed price agreement, or a formula method agreement, multiple agreement or a single agreement.

The purpose of establishing the type of agreement to determine the price, is to assist with the funding of the agreement. Every business is different and has multiple complexities, legal counsel is a must (*refer to Valuation Pulse December 2017*). This person will assist in drafting the legal binding document and satisfy any additional legal requirements that your buy sell agreement may require.

There are several things to consider when running a business with multiple partners or shareholders. Establishing a buy sell agreement may be one of the most important decisions that you and the business will make, not for today but for the future of your business.

For more information on ways to construct a Buy Sell Agreement for your business, reach out to Onyx Partners Group for a valuation consultation at info@opgbv.com or call 973-902-7828 and speak with a valuation expert. 📞



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