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COMPANIES, PROPRIETORSHIPS, PARTNERSHIPS AND JOINT VENTURES

Introduction: I have written this report based on questions often asked of me while in private law practice in British Columbia and Alberta, Canada, since 1975. Although my first hand experience is limited to those jurisdictions, wherever possible I have written in non-legal terms and with general principles in mind.

Companies, Proprietorships, Partnerships, and Joint Ventures are all legal frameworks through which businesses can be run. Although the word “company” is often used in a non-legal fashion to describe any form of business, in legal terms, and in terms of this report, a “company” is a unique form of business organization.

COMPANIES

A company is created by paper and statute. Various statutes say that if you prepare and sign a prescribed list of documents, and send those documents to the government, with some money, a company is born. “Born” is an appropriate word, because once created, and unless there are some restrictions stated in the paper work, and except for things that are particularly human (like having feelings), a company can do anything a human can do. In other words, in the eyes of the law, a company is another person. The people who start a company, and own it, are called shareholders. Shareholders in turn appoint Directors who “direct” the company based on the wishes of the shareholders. Directors in turn appoint Officers (President, Secretary, Treasurer, etc.) who carry out the wishes of the Directors. Officers in turn, hire the staff. It is a chain of command, and the shareholders are on the top.

A company is usually identified by the word “Company”, “Ltd.”, “Limited”, “Incorporated”, or “Inc.” These words all mean the same thing. A significant feature of companies, and the source of “limited” referred to in the above words, is that the liability of the shareholders for the affairs of the company is generally limited to the amount the shareholders have agreed to pay for their shares.

To prevent a third party who has dealt with a company from claiming against the shareholders, the shareholders must be able to show that on a reasonable basis the third party was aware that a company was involved. To accomplish this, all company documents should have the full company name on them and should only be signed by a representative of the company on behalf of the company. A common way to do this is as follows:

Your Full Company Name: per: <u>signature of Company representative</u> Description of the capacity that the representative holds in the company ie: Smith & Sons Ltd. per: <u>S. Smith</u> President

If a company's legal name is different than the name it uses in the marketplace, the legal name should be disclosed in either of the following manners. You can de-emphasize the full company legal name, and emphasize the marketing name if you wish.

Your Full Company Legal Name, doing business as Your Company's Marketing Name, ie:

Smith & Sons Ltd., doing business as Smith Grocery

OR

Your Company's Marketing Name, owned and operated by Your Full Company Legal Name, ie:

Smith Grocery, owned and operated by Smith & Sons Ltd.

There are three important advantages to companies. The first is the limited liability discussed above. The second is that sometimes earning money through a company lowers your income taxes. The third is that sometimes a company is a convenient way to organize the relationship between several people in one business.

PROPRIETORSHIPS

Proprietorships, which are often called "sole" proprietorships, are one individual carrying on business.

PARTNERSHIPS

A partnership is a group of two or more people that have joined together for a business purpose and with the intent that they will each be responsible for the partnership business affairs of all others in the partnership.

JOINT VENTURES

A Joint Venture is a group of two or more people that have joined together for a specific business purpose and with the intent that they each will not be responsible for the joint venture business affairs of the others in the joint venture. The relationship between participants is usually described in a Joint Venture Contract.

WHICH ONE IS BEST?

With all of these choices, the obvious question becomes: "Which one should I use for my business?" The answer to that will depend on a number of factors, some of which are mentioned above. You should review this question with us.

You wouldn't expect to read anything "legal" without some kind of caution - so here it is: This report is general information only and not to be relied upon without legal advice. For legal advice, call us.

I hope this helped answer your questions.

For more answers to common legal questions, please visit our website: www.salmonarmlaw.com

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