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Business partnerships: What you need to look at before you leap

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By David M. Buddingh

So you have decided to finally go for it. You and your best friend are following your dreams and finally opening that business you have discussed for years. Visions of record profits, becoming leaders in your industry, and introducing the world to the next latest and greatest product or fad occupy your thoughts.

But there are still very important questions that need to be answered on your way to conquering the world. What are each partner's responsibilities to the partnership? What happens when your partner wants to leave the business? How do I keep my proprietary information confidential? How do I keep my new partner from defecting to a rival organization or starting a new competitor organization? What happens if the business is not the success you hoped?

David M. Buddingh, Gierach Law Firm

These questions are often overlooked in the excitement of founding a new business, but they are essential to ensure long-term success for your business. The answers to those important questions can be found in a properly drafted operating agreement or shareholder's agreement or partnership agreement.

In addition to the essential organizational documents to shield you from any personal liability associated with your new business, a new venture also will need an operating agreement or shareholder's agreement or partnership agreement.

The agreement is called by different names depending on what type of entity you used to structure your business. If you formed a corporation, you would have a shareholder's agreement. A limited liability company would use an operating agreement, and a regular partnership that is not incorporated would typically have a partnership agreement. While the names of the documents are different, the agreements contain very similar terms and issues. However, special issues exist for operating agreements and shareholders' agreements. You should consult your attorney for details.

Generally, the agreement you choose for your entity will describe the arrangements between you and your partner. Typically, these include buyout provisions, terms of distributions, use of proprietary information, management of the entity, shareholder or manager rights and responsibilities and, if appropriate, a noncompete clause. Many other provisions can be used to tailor your agreement to your particular arrangement.

Before you get swept away in the dream, take the time to execute a few simple documents that will protect your new business and your interests. As always consult your attorney before launching your new venture.

David M. Buddingh is a lawyer and an associate with the Gierach Law Firm in Naperville. He can be reached at 630-756-1160 or davidb@gierachlawfirm.com.