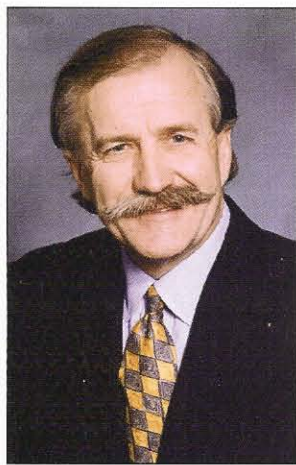


## about partnerships



By Mati Jarve  
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**A** LOT OF HORSE PEOPLE ENTER INTO BUSINESS RELATIONSHIPS WITH NOTHING more than a handshake and a vague notion that they intend to “split the profits.” What these people fail to realize however, is that under the “Uniform Partnership Act”, which has been adopted by virtually every state, they have formed a legal entity known as a partnership. As long as things go well, no problem. But when the relationship begins to go south they are shocked to find out that they may not be able to just walk away from the deal. Generally, all that is required to form a partnership is the intent of two or more parties to conduct a business venture for profit. It is not necessary to have anything in writing. Verbal agreements are sufficient to form a partnership. The following situations, commonly seen between horse people, would probably be considered a partnership:

- A trainer and a client decide to jointly purchase a horse. The client provides the financial backing and the trainer provides the professional expertise. The intention is to share the purses and expected profit when the horse is resold.
- A stallion owner and a broodmare owner agree to breed their horses and raise a foal to split the profits upon sale. The stallion owner provides the breeding at no cost and the mare owner will provide mare care through foaling and eventual sale.
- A number of horse people decide to syndicate a stallion. Each person is entitled to breed a certain number of their own mares to the stud and any profits from outside breedings will be shared with the owners.
- Two or more horse people decide to buy a “slot” at a major horse show and agree to purchase a horse to fill the slot and share the proceeds and ultimately the profits from the resale of the horse.

Probably the most misunderstood consequence of forming a partnership is liability. A partnership is a legal entity that can be bound by the actions of any of its partners. As such, if one of the partners enters into an agreement or otherwise conducts business with a third party, his actions will effectively bind the partnership as well as the individual partners. This is true even if the partner doesn't have the authority to do so. Of course if the third party knew that the partner did not have the authority to act on behalf of the partnership the partnership would not be bound. It is also important to know that the individual partner's personal liability is not limited to the financial interest that he has invested in the partnership. As a matter of fact, the liability could be unlimited. By way of example, if the trainer/partner of a slot horse decided that he needed to buy an expensive new show saddle to exhibit the horse, his actions, although unauthorized by the partnership, would jointly bind the partnership and the individual partners to the vendor of the saddle. An even more dramatic example would be if the horse were to hurt an innocent third party due to the negligence of one of the partners. The partnership and partners could be potentially liable for millions of dollars in damages.

In addition to liability concerns, the individual partners have legal obligations to the partnership itself. Each partner owes a fiduciary duty to the partnership. As such, the partners cannot individually profit from business opportunities at the expense of the partnership. Likewise, a partner cannot use partnership assets as his own. Moreover, partnership assets under the control of an individual partner must be preserved and maintained for the benefit of the partnership. Of course conflicts of interest between the individual partner and the partnership must be avoided.

As can be seen from the above examples, a partnership is easily formed. But the risks are great. A partner has potentially unlimited liability for the actions of the partnership as well as the individual partners, even if unauthorized. Obviously this is not good. In order to minimize personal liability a corporation or Limited Liability Company (LLC) would be a better choice as a business model. It is neither expensive nor difficult to set up an LLC and the benefits are certainly worth it.

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