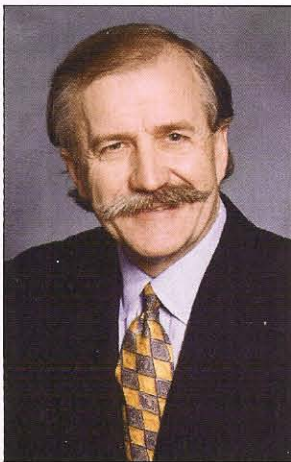


protecting assets



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IT IS PERHAPS STATING THE OBVIOUS THAT ANYONE WHO OPERATES A BUSINESS wants to make a profit. A corollary to that premise is “protect your assets.” One of the most important decisions a business person makes is how to structure the business. This decision will determine, in large measure, the level of protection the individual business person enjoys.

Many, if not most, horse related businesses are operated as sole proprietorships. However, operating any business, but especially a horse related business, as a sole proprietorship is truly risky business. As a sole proprietorship you have unlimited personal liability for business debts and liabilities. For example, if you are a trainer and one of your horses causes injury to another person, you may be sued individually and risk the loss of your home, farm and life savings.

An even worse situation arises when two or more individuals form an informal partnership. For example, sometimes one partner will purchase a horse and “partner” with a trainer, who will provide the time and expertise in campaigning the horse. The expectation, of course, is that eventually the horse will be sold for a profit and the proceeds will be divided between the partners. What most people fail to realize is that in a partnership, not only do you have unlimited personal liability for your own actions, but also for the actions of your partners. So, if the horse causes injury to another person, as in the previous example, all of the partners are potentially liable, both individually and jointly.

So, how do you protect your assets? The short answer is—incorporate. Although every state is different, most states provide an option to set up your business as a “Corporation” (often abbreviated as “Co.,” “Corp.” or “Inc.”), or as a “Limited Liability Company” (LLC). Although either form of business can accomplish the same desired result, namely insulate the individual owners of the business from personal liability, an LLC is very often the best choice because of its simplicity.

Operating as an LLC typically does not require all the formalities of operating as a corporation. Another benefit of operating as an LLC, especially for businesses owned by unrelated individuals is that the required operating agreement will spell out how the company will be run. The operating agreement may include such items as: percentages of ownership, who manages the company, allocation of profits and losses, dissolution of the company, and almost any other term desired to be included by the owners.

Even if your horse related business is not currently incorporated, it is not too late to do so. However, you should consult with an experienced business attorney to get the advice appropriate to your situation. In addition, it would be a good idea to consult with an accountant to make sure there will not be any unintended tax consequences. Finally, if you do decide to incorporate, it is critical that the business be run as a company/corporation. Most importantly, the books and accounts of the company should be kept separate from any personal accounts. Failure to do so may allow a potential creditor to “pierce the corporate veil” and subject you to personal liability.

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