

PARTNERSHIP DISPUTES

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The spirit of partnership was well expressed by Bobby Kennedy:

“No matter what talent an individual possesses, what energy he might have, no matter how much integrity and how much honesty he might have, if he is by himself ... he can accomplish very little. But if he is sustained [by others] dedicated to the same things that he was attempting to accomplish, he can accomplish a great deal.”¹

Unfortunately, as in most human endeavours, there are many forces in business which challenge that co-operative spirit. And nothing is more volatile than the combination of money and emotion. As a result, it has been my experience that:

- most business partnerships last less than five years
- it is rare to find a partnership that is making the most of its potential
- the breakup of a business partnership can be as intense as the breakup of a marriage

Why Partnership Disputes Arise

After assisting many clients manage partnership disputes, I have concluded that partnership disputes usually arise for one of two basic reasons:

- There is a perceived disparity between contribution and reward. Most of us are only willing to carry our partners for so long. Whether we are really carrying them or not is a different question. In this situation, perception truly is reality.
- There is a breakdown in trust and respect. Like any other relationship, trust and respect are the foundations of a business partnership. If they erode too far, the partnership breaks down.

The Role of Success in Partnership Disputes

Ironically, nothing stresses a partnership more than success. After all, there is really nothing to fight about if a business is not successful. There may be a lot of loud finger pointing. But at the end of the day no-one wants to spend money fighting about it, and everyone needs to get on with paying their mortgages. On the other hand, the more successful the business, then the more heated the dispute can become. There is more to fight about, and more financial resources to fund the fight.

¹ Kennedy, Robert F., *Address to the Democratic National Convention*, Atlantic City (August 27th, 1964).

Avoiding Partnership Disputes

There are some things you can do which will reduce the risk of a partnership dispute arising:

- Know why you are partners at all. After all, not every business runs as a partnership. Each partner should have a clear understanding of why each partner is in the partnership at all. This helps define roles, responsibilities and expectations, and can lead to constructive discussion as things change over time.
- Know your own strengths and weaknesses, and keep on top of them. Do not overestimate your strengths, and do not underestimate your weaknesses. Appreciate how your partners see your strengths and weaknesses. Work on your weaknesses.
- Appreciate your partners' strengths and weaknesses, everyone has some of both. Know what they are. Understand how they contribute to the business.
- As partners, be open about discussing your strengths and weaknesses, and do so regularly. Figure out how to make the dynamic work for the business. Be committed to working on your weaknesses and acknowledging each others strengths.
- Make sure you share a common vision, for both the business and the partnership. Do this going into the business, and revisit it regularly as the business proceeds. Document this vision, and make sure everyone agrees. Often a dispute arises out of nothing more than a different sense of where the business should go or what you are trying to accomplish.
- Do not make things personal or take things personally. You can criticize an idea, or a business practise, without attacking your partner on a personal level. And your business ideas and practises can be criticized without you perceiving it as a personal attack. Unless you or your partner has an integrity issue, odds are your business differences do not reflect deficiencies in character. Reasonable people will disagree. Work on business differences in a way that does not damage trust or respect.
- Beware of issues around control. The independence most owner managers value is often rooted in issues around control – the need to feel in control of their life, and the need to not feel controlled by others. Having several of those people in a partnership can easily lead to conflict. Ironically, these needs around control can often be the greatest impediment to successful business people getting to the next level. Targeting your partners over your own control issues can be the business equivalent of throwing the baby out with the bathwater.
- Make money for your partners, and make sure they know it.
- Keep an open and inclusive partnership. Be open to criticism, new ideas and listening. If there are issues, air them appropriately in a manner which includes all partners. Cliques within a partnership both reflect and cause a lack of trust. Without trust, a partnership can not succeed.

- Keep partnership issues within the partnership. Pulling staff, spouses and others into partnership problems also erodes trust and respect. There is, however, one exception – good professional advisors. Most of us who are active business advisors have seen more partnership problems than you ever will.
- Have good professional advisors or an advisory board, listen to them, and follow their advice. Make sure they are experienced, practical, caring and strong, without being adversarial. Getting help from the right advisor at the right time, especially if they know the partners and the business history, can be a good first step in nipping a problem in the bud.
- Have a partnership agreement. Putting the agreement together to begin with will help make sure you are in alignment. Having the agreement to fall back on will provide structure and direction to the partnership. But keep in mind – it does not matter what the agreement says if you all agree on what you want to do.

Managing Partnership Disputes

No two partnership disputes are the same. However, if a dispute flares up, there are some common things partners can do to try and manage it properly, whether the goal is to continue the partnership or separate some or all of the partners from the partnership:

- Get the right professional help. Find advisors who are experienced, practical, caring and strong, without being adversarial. The partners are likely to be generating more than enough emotion. You do not need advisors who will add to the problem by adding emotion of their own or encouraging emotion in any of the partners. Do not retain a “street fighter” right off the bat. Professional advisors who can treat each other with courtesy and respect will provide you with much better service in the long run.
- Manage your emotions as best you can. Emotion clouds judgment and perspective, and erodes trust and respect. Some trust and respect is always necessary in resolving these disputes, even if the outcome is separation.
- Revisit your core business vision, and reasons for being partners. Perhaps your initial goals and expectations have been realized, and new ones need to be set. Perhaps things have changed, or your expectations turned out to be wrong. Or maybe you are not far off track at all.
- Define your immediate goals for the relationship. In any partnership dispute, you have to decide early on if the relationship is one you want to fix, or one you want to unwind.
- Find out who has what rights and obligations, under your partnership agreement and the relevant law. But also find out how those rights are applied in practice. After all, there are laws of the book and laws of the street, and you need to know them both.
- Take the moral high ground. The only thing more important than being right is doing the right thing. And if you ever end up in court, giving the judge a reason to want to help you will be the most important thing you will have done. In court resolved partnership disputes,

the partner who has acted with the most integrity, fairness and common sense is most likely to get the court's assistance.

- Do not make it or take it personal. Focus on business issues and deal with them in a businesslike way. Do not attack your partners' integrity or motives unless you have a good reason to do so, and do not overreact to attacks made upon you.
- Do not act like you have anything to hide. Many partners try to control the situation by controlling information. This is counterproductive in the long run, and very transparent. The more forthcoming and open you can be, the more trust will be created. Without some level of trust, the situation will take longer and cost more to resolve, both financially and non-financially. You will also look better, if you ever end up in court.
- Communicate and keep communicating. Although it may seem hopeless at times, if both sides keep communicating progress will be made eventually. Often trust and respect are so far gone that it takes a lot of convincing to rebuild even the smallest amount.
- Be creative and supportive. The most obvious solutions are not always the best ones. Solutions built around the needs and fears of all the partners are most likely to be perceived as breakthroughs by everyone involved.
- Work toward a win-win. Emotion will trick you into thinking that a win-lose will be really satisfying. But in the long run, a win-win solution, to the extent possible, will be easier to live with. On the other hand, if that becomes impossible, know what you need and make sure you go for it.
- Do not propose a solution you can not accept if it is reversed upon you. This is critical. Even if you are not subject to a "shotgun" clause, good lawyers know how to set up that scenario. The true test of any partnership settlement proposal is whether or not you would be willing to take the same deal if the situation was reversed.
- Make a business decision. Mutually perceived fairness is an admirable goal in resolving a partnership dispute, although it often proves very elusive. Revenge is not an admirable goal and is even harder to get, although I find most of my clients can get "revenge" in the marketplace that they can never find in the boardroom or the courtroom. In the end, make a good business decision. That is the only test that really makes sense anyway.

A Closing Thought

There is more to life than making money, and there is more to business partnership than financial rewards. Therefore, whatever is going on, no matter what challenges you face, no matter how long your partnership lasts, and no matter how your partnership eventually ends, it should always be a place of integrity, honesty, trust and respect.