



In a business divorce, knowing what to do is the first step

Experts say you will need experts to help you through this



Peter Mahler



Mark Meinberg

Neil Sadaka said it best: “Breaking up is hard to do.”

It’s as true in love as it is in business, and when confronted with a business divorce, you have to be prepared, according to these Long Island experts.

“You need to know your end game; the last thing that you want to do is get out onto the field and ‘call an audible.’” Said Mark Meinberg, partner-in-charge of EisnerAmper’s Long Island Office.

“How do you want the pieces to land? You need to carefully build your plan. And you need to identify the people who can help you execute this plan,” Meinberg said. “It’s a major event in your life and in your business life. It takes a great deal of planning; you can’t go in blind.”

You need to go into the process asking questions.

“Step one for a business owner facing

a partnership breakup is to identify options and strategic goals,” said Peter Mahler, a partner at Farrell Fritz, who concentrates on business divorce cases involving dissolution and other disputes among co-owners of closely held business entities.

”Do I want to buy out my partner or be bought out? Do I want to sell the business at the highest possible price to an outside buyer? Is it a multi-property realty company whose assets can be divided in a tax-efficient manner? If I’m a majority owner who wants to maintain control, can I “cash out” my partner by merger? If I’m a minority owner who wants out, can I get fair value for my equity stake?”

Does my partnership agreement help or hinder my goals?” Mahler said. “Once the business owner determines where he or she wants to end up, the right professionals can assist in getting there.”

Business owners tend to make mistakes in the process, often sparked by emotional issues.

“Contentious business divorces usually arouse intense feelings of injustice, anger, and betrayal, even more so in the context of family-owned firms where longstanding, dysfunctional relationships may spill over into the workplace,” Mahler said. “The biggest mistake people make is letting those feelings get in the way of making rational business decisions and compromises that can avoid destructive litigation and best preserve value even in a liquidation scenario.”

Business owners can’t treat the process as simple: they need to execute a plan:

“Don’t be rushed: You have to identify what your new team is going to look like, where are you going to locate your next

business, and who’s coming with you.” Meinberg said. “There’s a process to the break up – make sure you give yourself the time and space you need to move forward.”

A close contender for biggest mistake is when business owners negotiate and sign their own buy-out agreements without consulting counsel and are unaware of the new disputes they’ve just created, Mahler said.

“Have someone you trust to listen, help, and counsel you through the process – it’s very easy to be ‘too close’ to the process,” Meinberg said.

When confronted with a business divorce, as so many aging Baby Boomers are, this is what experts say should be done immediately.

“First, a business owner must engage experienced legal counsel to explain the owner’s rights and options under the governing statutes and owner agreements, who can guide the owner to a negotiated split or restructure of the business or buy-out, and who can take the dispute to court, arbitration, or mediation if a negotiated resolution is out of reach,” Mahler said. “Second, most business divorces require the assistance of an accountant who also has forensic skills to ferret out any financial abuse by the other owners. Third, if the dispute leads to a buy-out, engagement of a highly qualified business appraiser (and a real estate appraiser if the company owns realty) is essential.”

“You need an experienced team that has executed plans from previous business breakups. You need to cover the legal side; you also need to address the many roles an accountant can help to play,” Meinberg said.

