

THE LEGAL AUDIT

Much like a CPA performs a financial audit of a company, a business law attorney can conduct a **legal audit** of any business entity to prevent legal problems before they arise. While the scope of a legal review depends upon the type and size of the business, a basic legal audit would include the following:

- 1. Organization Papers:** Confirm that the company was properly incorporated or organized, maintains good standing with the State, has filed any required annual reports, and retains rights to its company name. Make sure that corporate minutes, banking resolutions, and related papers are up to date.
- 2. Buy-Sell Agreements:** Confirm that appropriate buy-sell agreements are in place when there is more than one owner. Also known as "Shareholders Agreements" or "Cross-Purchase Agreements," the primary goal is to prevent sale by a shareholder without agreement from the other principals, and to set a purchase price in the event of retirement, death, disability, or other factors.
- 3. Key-Man Life Insurance:** Confirm that appropriate life insurance is in place to fund any buy-sell agreements and to assure that the company has insurance proceeds to compensate for the loss of a valued employee. Sometimes a split dollar policy is appropriate.
- 4. Employee Handbooks and Company Policies:** Confirm that the company has established appropriate written policies on a variety of issues including wages and hours, non-discrimination, rules against sexual harassment, employee benefits, any bonus plans, and a wide range of other matters. Often these policies need to be updated to conform with statutory and case law changes. A business law attorney will normally have templates to use for preparing a customized statement of company policy.
- 5. Company-Used Contracts:** Review of all written contracts regularly used by the company, including purchase orders, invoices, credit applications, service contracts, etc. Occasionally the company may have a recurring litigation problem that can be minimized with proper contract language. Insertion of a simple clause regarding attorneys fees can greatly aid the company in the event of litigation. Inclusion of a mediation or arbitration clause can minimize the chance of actual litigation.
- 6. Vendor Contracts:** Review of contracts submitted by vendors or suppliers of the company, especially to avoid unreasonable conditions imposed via boilerplate language. Often, the attorney learns that lower level employees of the client are regularly signing ill-advised contracts.
- 7. Accounts Receivable:** Review of status of accounts receivable for determination of whether a collection lawsuit or referral to a collection agency will be cost-beneficial.

8. Software Licensing: Review of client use of computer software to avoid penalties imposed by the "software police." In this area, the primary function of the attorney is to advise the client of the dangers of loose transfers or duplication of software products such as word processing, spreadsheets, virus scans, and other programs which seem to be freely traded in violation of licensing agreements.

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