



# Common Business Mistakes: Avoiding Legal Pitfalls

According to:  
Paul Miller Law Office

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## Goal For Today:

Today you will learn how to identify and avoid common legal mistakes that can lead to significant business risks and liabilities.

# Choosing the Correct Entity



- Choices: Sole Proprietor, Partnership, Limited Liability Company (LLC), Corporation
- Entity choice depends on number of owners, management style, lender requirements, franchise requirements
- Protect personal assets with the right entity
- Consider flexibility for ownership changes
- Consult a lawyer **and** accountant
- Long-term growth considerations
- Hierarchy of liability protection

# No Commingling



- Separate personal and business finances completely
- Use business account for all business transactions
- Do not use personal funds for business (unless capital contribution)
- Record all capital contributions clearly
- Maintain accurate records for audits
- Protect your personal assets from business liabilities

# Not Using Proper Contracts



- Avoid verbal agreements; No Handshake deals
- Maintain a collection of frequently used contracts
- Contracts define expectations and obligations clearly
- Protect your interests in every deal (if not don't sign)
- Prevent misunderstandings and future disputes
- Clarify roles, responsibilities, and payment terms
- Sign as manager of business (*Joe Smith* as Manager for XYZ, LLC)
- Contracts strengthen business partnerships and help grow your business

# Not Maintaining Business Formalities



- File annual period reports and other required documents
- Annual meetings (?)
- Separate business and personal financial records
- Necessary documents (operating agreement, bylaws, SH agreement)
- Was the business properly capitalized
- Who are the members and managers?
- Formalities help preserve liability protections

# Acting on Non-Legal Advice



- Internet advice lacks qualified legal expertise
- Friends, family provide incorrect/inaccurate advice
- Non-legal professionals lack business law expertise
- Lawyers know the law and understand the law
- Incorrect advice can lead to more \$\$ down the road
- Is it a legal, insurance, banking, tax, regulatory matter
- Advice not protected by privilege

*“One of the great challenges in life is knowing enough about a subject to think you’re right, but not enough about the subject to know you’re wrong.”*

~ Neil deGrasse Tyson ~

a.k.a. Dunning-Kruger effect



# Not Preparing for the End



Two ways a business ends: **Voluntary** and **Involuntary**

- Voluntary:
  - sell outright
  - transfer ownership shares/units
  - dissolution
- Involuntary
  - illness
  - death
  - bankruptcy
- Plan for both types of dissolutions (at the beginning)
- Designate beneficiaries to avoid probate
- Succession planning for smooth continuation of business
- Prepare operating and shareholder agreements for business exits

# Understanding S-Corp for LLCs



- S-Corp election increases formal business requirements
- Requires an updated operating agreement
- Pro-rata distributions necessary for all members
- Restrictions on ownership
- Reasonable salary requirements
- LLCs have charging order protection
- Weigh the pros and cons of making the S-Corp declaration

# LLC Member-Managed vs. Manager-Managed



- Limits minority member control over decisions
- Manager handles complex business management tasks
- Avoid unskilled members making operational decisions
- Member-managed inhibits growth
- Manager-managed ensures smoother daily operations
- Choose based on size and business complexity

# Registered Agent with Home Address



- Using home address reduces personal privacy
- Business details become part of public record
- Consider hiring a registered agent service
- Protect home address from public databases
- Prevent unsolicited mail and security risks
- Privacy safeguards for business and family

# Registering in Another State

- Registering as a foreign company costs more
- Claim taxes where you actually live (you still have to pay Colorado taxes)
- State-specific taxes could apply to business
- Site of dispute impacts legal jurisdiction
- Double compliance with both states.
- Colorado has privacy protections
- Access to justice in an out of state jurisdiction

# Thank you!

Paul Miller Law Office  
3900 E Mexico Ave. Suite 300  
Denver, CO 80210

[paul@pmillerlawoffice.com](mailto:paul@pmillerlawoffice.com)  
303.900.2529  
[www.pmillerlawoffice.com](http://www.pmillerlawoffice.com)

Website:

