Good Fences Make Good Neighbours

Remember when you spent all night talking, laughing, and thinking about the future? Remember when you looked into your partner's eyes and all you could think about was how well you get along and how this will last the rest of your lives (or at least a couple of years)? Remember when you knew that this was IT – that this was the ONE?

And then it all came crashing down.

The arguments. The spiteful snide comments. The dirty looks in the hallway and then.. finally.. the realization that you two were on completely different paths. Followed, inevitably, by the painful breakup. Undisguised disgust. More arguments and – snowballing into further arguments – the division of assets. At the end, nobody felt like they received even half of what they put in. Everyone felt robbed.

Sound familiar? We're not talking about your ex-spouse. We're talking about your ex-business partner.

Long Term Planning

Going into business with a partner or two shares a strong number of similarities with entering a long term romantic commitment (or starting a band, but that's a different story). You are tied to this person by a combined vision for the future, complementary skill sets, personality traits and a whole bunch of money. The money may be investment capital, income, or future revenue. Regardless of where it is in the timeline, it's all money. It's why you're in business.

You may be good friends now and it's entirely possible that you'll be good friends later. Want to stay that way? Good fences make good neighbours because everyone knows where the lines are drawn. It may be hard to convince your romantic partner to sign a pre-nuptial agreement but any good business partner will see the wisdom in a shareholders' agreement. Setting boundaries and agreed options protects your interests – and respects the interest of your partner(s) – if anything from the very worst to the very best should occur.

The Very Worst

Just to scare you a little: what would happen if you didn't have a shareholders' agreement in place, written, SIGNED (it's no good without signatures) and witnessed?

- Your business partner decides to make changes to the business or his contribution to the business. You disagree but you have no way to settle the disagreement. *Example:* Bob decides he wants to sell pickles instead of Nerf guns. Joe disagrees. Pickle-filled Nerf gun fight ensues, with no resolution in sight.
- Your business partner becomes disabled and cannot work in the business any longer. She still receives income from the business. You offer to buy her out. She says no. Now what?
- Your business partner decides he wants to sell his share in the corporation to his daughter, who happens to run a daycare. You run a sports retail store. There may be some differences in abilities and contributions. You don't have a choice.
- Your business partner dies and leaves all her shares to her spouse. You've never liked each other much and, now, you're in business together. The spouse trades your iPad for a bowl of pho at the nearest Vietnamese restaurant and vows to ruin your business like it ruined her marriage. Lucky you.
- You die, and the insurance policy you bought pays out to the company. You wanted your business partner to use the funds to buy out your spouse, but instead your partner devalues the company on paper and leaves your spouse with nothing.

The Very Best

The best case is, of course, that you and your business partner(s) sit down and discuss:

1. **Expectations and Obligations**: Who is responsible for what activities, contributions (monetary or otherwise) and what the long-term vision is for the future.
2. **Dispute Resolution:** How will you resolve disputes over future direction and endeavours?
3. **Share ownership & control:** Who owns what kind of shares, and how much? How do you determine that? Who will own shares in the future and who has the right of first refusal if someone wants out of the business?
4. **Decision Making & Voting:** How will decisions be made? Will percentage ownership carry weight? Will individuals with knowledge in specific arenas be responsible for certain types of decision making?
5. **Share valuation formula:** Should there be a purchase or sale of shares within the corporation, how will those shares be valued? What formula will be used, or will you engage a business valuator?
6. **Death:** Will your shares be distributed to your partners at death or will your family own them? How will your loss affect the company financially?
7. **Disability:** Will you be able to continue working if you become disabled? How will you cover a loss of income and how will the business protect itself against loss of productivity? Will you sell your shares if you become disabled? To whom, how, and when?
8. **Illness:** Will a long-term illness take you out of the business? How will you support yourself? How will the business manage the loss of you? Will you sell your shares? To whom, how and when?
9. **Retirement:** Do you want to sell your shares to your partner(s) when you retire? Do they want to buy them? Create a succession plan with your advisors to determine your best course of action.

Once you've had a conversation, discussed with your various advisors, it's time to bring in your lawyer to draft the agreement. Don't try to draw up an agreement on your own to save money. Save heartache later and improve your chances of living happily ever after by getting the best advice.