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NEWSLETTER

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SHAREHOLDERS AGREEMENT - WHY HAVE ONE?

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There are a myriad of reasons why you should have a Shareholders Agreement. For the purposes of this newsletter I am going to cover just one.

Steve Morrison and Bob Ford operated a small trucking company called Ford Morrison Haulage Limited. Steve and Bob each owned 50 shares in Ford Morrison Haulage Limited.

This gave them equal rights in relation to voting. For 20 years it had worked fine as they never had any real disagreements.

Bob had invested well and had another source of income from property investments and his health was starting to deteriorate so he decided he wanted to get out of the business. He discussed matters with Steve. He was not happy with the news.

Bob suggested that Steve buy him out however Steve said he couldn't really afford it but would give it some consideration.

After some time Bob stopped coming into the office because of his illness and Steve simply carried on running the company.

Eventually Bob approached Steve again and asked him to purchase his shares, however Steve said that the only amount of money he could raise was $50,000.00.

Bob had taken advice from an accountant who advised him that his shareholding was worth $550,000.00 so he was never going to accept Steve's offer.

Steve wouldn't move on his price because he said that is all he could afford. He said he had a high mortgage and no other assets.

This position was now affecting their life long friendship as Bob wanted to get what he believed was his value out of the business and Steve simply couldn't afford it. Bob then suggested that the business be placed on the market for sale so they can each recover the value of their shares. However Steve said he didn't want to sell the business because it was his only source of income and he wasn't interested in working for anyone else.

Bob sought legal advice. Because they were 50% shareholders and there was no constitution for the company and no Shareholders Agreement his options were limited. He could either provide Steve with a vendor loan to be paid off over time which carried risk if Steve stopped paying and shut the business down.

The only realistic option for Bob was to apply to the court to have the company placed into liquidation on the grounds that it is fair and equitable because the shareholders no longer get along and cannot properly operate the business together. The difficulty with that is that they then lose control of the sale process and the liquidator will simply put it on the market and take the best price they can get.

Both Steve and Bob will of course go to lawyers and incur legal costs which are likely to be in the tens of thousands of dollars. This could have all been avoided had they completed a Shareholders Agreement which set out what should happen in these very circumstances.

If you are in business with another person or persons using a limited liability company it is essential that you have a Shareholders Agreement.

If you would like to discuss your particular circumstances please feel free to contact us.

20 MINUTE FREE

WANT to review your Family Trust structure?
THEN call us and take advantage of our 20 Minute Free interview

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