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For Incompatible Business Partners, the Current Economy May Present Opportunities to Initiate a Business Divorce

Author: Curtis L. Golkow

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When times are tough, even healthy business relationships can become strained, and incompatibilities between business partners may surface. Challenging times will force business owners to consider measures for short-run survival, revisit their strategy for long-run success, assess their own and their partner's contributions and commitment to the business and generally reexamine their priorities. Through this process, business owners may come to realize how they differ in visions for the business, risk tolerances, levels of commitment or values. The partner who is willing to work harder or contribute more to the business may grow intolerant of the one who will not carry his or her weight. For these reasons and others, economic woes often cause business owners to seek a business divorce.

Controlling Business Owner's Perspective

While the decline and volatility of the stock market and real estate market may have many investors wondering where to put their money, the answer should be obvious for many business owners with a majority or controlling interest: it is time to invest more in their own company. With business valuations at their lowest levels in years, what better opportunity will the controlling business owner have to buy out a minority business partner?

The buy-out of a minority owner often may be achieved without the minority owner's consent. Depending on the type of business entity, state of incorporation or formation, and various other factors involved, the controlling owner may have the ability to squeeze-out the non-controlling owner through a merger, share exchange, reverse stock split, redemption or other transaction that would compel the non-controlling owner to sell or extinguish his or her interests. If there is a shareholders agreement, LLC operating agreement, partnership agreement or other "pre-nuptial" agreement between the business owners that requires a buy-out upon termination of the non-controlling owner's employment or some other triggering event, the controlling owner may wish to pull the trigger.

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