

General Business Law

First Quarter 2007

Five Steps to Help Ensure Limited Liability Protection for Your LLC

Every year, numerous Limited Liability Corporations (LLCs) are formed due to the personal liability protections these corporations offer their officers and members. However, there are many often overlooked ways of losing these great benefits. The following five steps are designed to illustrate general factors considered by the courts in determining whether an LLC is legitimate and ensure that your LLC will not lose the benefit of its protections.

- In order to avoid any accusations of your LLC being a “shell” corporation, always make sure the LLC has enough capital in its bank account to sustain its operations. If you obtain a loan or a line of credit, always ensure the LLC is the official borrower and, when making a loan to the LLC from your personal finances, be sure to draft an official written loan agreement.



- When entering into contracts, always use the name of the LLC as the contracting entity because using your own name may subject you to personal liability. When signing all contracts, include your LLC title in the signature to ensure you are signing as an officer of the LLC and not as an individual.

- Always treat the LLC as a separate entity by never mixing personal funds and business assets. Make sure any funds transferred or made from your personal bank accounts into the LLC are categorized as capital contributions or loans and that they are documented as such. You should never deposit business funds into your personal bank account.

- Always maintain state required licenses and submit all required reports. Failure to timely do so may result in the automatic termination of the LLC and subject you to personal liability, regardless of your knowledge of the termination.

- Always make informed managerial decisions that will benefit the LLC. Ensure that each business opportunity is presented to and voted on by the members and recorded pursuant to the company agreement or regulations. The first place a court will look when determining whether LLC members should be personally liable is the LLC book, also known as the minute book. Always keep this book up to date with everything from your formation documents to each and every governance resolution. Such paperwork may seem menial, but is an important culmination of the five steps.

Although these steps are not inclusive of all measures that may need to be taken in particular situations, by remembering the importance of always treating the LLC as a complete and separate entity and following these five steps, you can help ensure the future benefits and protections of your LLC.

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SPAIN HASTINGS WARD CAREY & CHAMBERS

11806 Barker Cypress
Cypress, Texas 77433
Phone: (281) 373-0270
Fax: (281) 373-0271

909 Fannin Street, Suite 3900
Houston, Texas 77010
Phone: (713) 650-9700
Fax: (713) 650-9701

3755 Capital of Texas Highway, Suite 100
Austin, Texas 78704
Phone: (512) 445-0001
Fax: (512) 329-0071