

Message From Chris....

I've recently moved to a new location. Please note my new address and phone information.

We all read a lot about what should be considered **before/during** the purchase/sale of a business. However, we don't find much about what should be done **after** the deal closes, **particularly by a seller**. This month, we'll talk about just that (you may be surprised at what you find). See more below (and don't forget to click on my Facebook or YouTube links below to also see my short video on this material).

Things To Consider After Selling A Business

First, ask yourself this question: *“Did I sell my entire business and its receivables, assets, etc..., **including the entity itself**, or, in the alternative, did I just sell the receivables, assets, etc... of my business, **exclusive of the entity itself**?”* It makes a big difference. If you sold the entire business, including the entity itself, you're generally “off the hook” as the buyer has assumed the entire business and business entity, along with all of the debts/liabilities of the business. However, if you merely sold the receivables, assets, etc... of the business - but still retain ownership of the business entity itself, keep reading.

Second, ask yourself this question: *“Did I owner-finance the purchase or did the buyer obtain its own purchase money financing?”* If the buyer obtained its own purchase money financing **and** the contract **does not** provide for, among other things, any ongoing indemnities or covenants on the part of seller to be performed (not very common, but it happens), the seller should, upon closing, **immediately dissolve** its business entity's articles of formation with the Secretary of State – otherwise, the entity could, by virtue of its continuing legal existence, still be subject to ongoing claims/liabilities from the general public. Alternatively, if you **either** owner-financed **any percentage** of the deal (where you could still potentially “foreclose” on buyer and get the business entity back) **or** have any ongoing indemnities or covenants to perform pursuant to the contract, keep reading.

If you're still reading, your business entity's legal existence remains necessary - whether to perform contractual obligations under the contract or to stand ready to “foreclose” on buyer. Accordingly, in the meantime, you need to continue your business entity's general liability coverage (although you can, in order to save money after closing, drop your exposure amounts) until the **last** of the following occur: **1)** the expiration of your contractual obligations (**remember:** contractual liability is an exclusion from any general liability policy thus requiring you to obtain an exception to such exclusion), **2)** the date upon which buyer pays off the entire purchase price in full, or **3)** the expiration date of such general liability policy (**note:** most GL policies are *occurrence policies* which cover the “occurrence” if it occurred during the policy term in contrast to professional liability and employer's practices liability policies which are

“claims made” policies). When the last of the foregoing occur, it’s time to dissolve your entity’s articles of formation (to prevent any further liabilities from arising).

Practically speaking, all this means you, as seller, don’t want, if at all possible, any of your ongoing contractual obligations or the term of the owner-finance period to extend beyond your coverage period – otherwise, you’ll be funding any claims/liabilities/demands which relate to your business entity out of your own pocket (unless your business entity still has money in the bank). If you want to learn more about the right insurance coverage, contact Chris Moxley at Professional Insurors, (405) 507-2750 - cmoxley@pi-ins.com.

What My Clients Are Saying

“Chris has worked on several projects for both me and my clients over the last several years including building acquisitions, preparation of new business documents and lease transactions. I have found that he is very dependable on the turnaround of document preparation and the pricing he has given me is more than fair for the excellent work he performs. Chris’ extensive knowledge in real estate and business transactions has been a valuable asset to me as a small business owner.”

Renee Reneau / Owner / Reneau Properties, LLC / Edmond, Oklahoma

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