

How Do I Dissolve A Business I Have With Two “Friends”?

March 19, 2013 | by Jason Rittie

Dear Ask the Attorney:

A few years back, two of my closest friends and I formed a company all as equal partners. All had been going well until about 8 months ago when we began fighting with each other over the direction of the company with the other two disagreeing and ganging upon me. Now it is getting out of hand and I want out. What do I have to do? Will it help to know that we are an LLC?

A.S.

Our guest blogger today is [Jason R. Rittie, Esq.](#), a partner in Einhorn Barbarito. In addition to being chair of the Real Estate Department, Mr. Rittie is also a member of the Closely Held Business Group, a division of Einhorn Barbarito which helps private companies with all of their legal needs.

Dear A.S.,

It is unfortunate to hear that you and your business partners are not getting along and disagreeing, and that you no longer desire to be associated with the company. Your question is a little difficult to answer without additional information and facts. You mention that the business was formed as an LLC (limited liability company). For purposes of responding to your question, I am going to assume that your company was formed in New Jersey. One of the reasons your question is difficult to answer is due to the lack of information whether your LLC has a written agreement between you and your two friends (known as members in an LLC).

In New Jersey, limited liability companies are formed and created under the “New Jersey Limited Liability Company Act” by the filing of a Certificate of Formation. Once an LLC is organized and if the members have no other agreement concerning the LLC’s affairs and conduct of its business, then the Act, by default, supplies the parties’ agreement. If you and your co-members have a written agreement, defined under the Act as an Operating Agreement, then your rights to withdraw from the LLC, or to be bought out from the LLC, would be found in that written Operating Agreement. If there is no written Operating Agreement, then you need to examine the Act’s default provisions for an explanation of your rights and options. The Act’s various provisions are too much to describe in detail for this Patch answer. However, the Act does provide certain mechanisms for you to voluntarily resign as a member, and to seek to dissolve the LLC.

Your question also happens to be very timely. The New Jersey Limited Liability Company Act became effective on January 26, 1994, and since it was enacted, the Act has undergone modest revisions. You mention that your LLC was formed a few years ago, and as such, your LLC was formed under this Act. However, on September 21, 2012, Governor Christie signed the “Revised Uniform Limited Liability Company Act” (RULLCA), which will become effective on March 18, 2013, for all new limited liability companies formed after that date. In addition, RULLCA will repeal the existing New Jersey Limited Liability Company Act, and RULLCA will apply and govern all NJ LLCs beginning on March 1, 2014, unless there is a written Operating Agreement between the parties. RULLCA represents the first major revision and is a significant advancement in this area of the law. RULLCA incorporates some of the best elements of the existing New Jersey Limited Liability Act, but it also now takes into account almost two decades of legal developments in the field.

For your purposes and depending on whether your LLC has a written Operating Agreement to the contrary, you should certainly examine the differences in the default rules of the existing New Jersey Limited Liability Act, and the new provisions of RULLCA, and then decide how you wish to proceed to with your co-members. If it is as contentious as you indicate, it may be wise for you to contact an attorney with knowledge in this field and an accountant to help you determine what you may be due (or owe) in this situation.