JRSB205

Topic 1, Lesson 1, Activity 3: Starting a Business… Legally Speaking

Step one: The group has chosen the “Family restaurant” business type.

Step two:

1. How would a sophisticated client find an appropriate lawyer? Why would you need to hire a lawyer?

A sophisticated client can find an appropriate lawyer through different ways:

a. Referrals from provincial law societies such as the Law society of Alberta; they offer a Lawyer Referral Service.

b. An appropriate lawyer can also be referred by friends or relatives who operate a similar small business and whose judgements can be trusted.

c. Professional association and institutions that they have met with similar interest (e.g.: the Alberta Restaurant & Foodservice Association)

We need to hire a lawyer because legally s/he operates as a legal advisor (expert) that helps enable her/him to make better decisions. Some examples would be giving advice on lease documents, bank documents or any other lending institutes, in addition, if there were any property issues such as naming of the business, patents, trademarks, copyrights, and leans. The lawyer can help advise the client on how to proceed with the business to make sure that there will be an increase in efficiency and a decrease in liabilities and risks.

2. Can you use the same lawyer for different aspects of your business? Do lawyers have different specialties?

The advice of any expert, including lawyers, in the different stages of the business development is essential avoiding mistakes, minimizing risks and for developing the business in the most efficient way. Lawyers have different specialities and if we want to minimize risk and increase efficiency, we should deal with different lawyers for different aspects of our business. For example, we could use a lawyer receiving advice for the start-up of the business, but then, if we have some problem with employees, it could be reasonable to hire some lawyer with specific background and speciality in this labour problem.

3. Where would you turn to find your lawyer? Is the source reliable?

In the first question, we have given as examples of several reliable sources to find a lawyer; one of them is the Law Society of Alberta by using their Lawyer Referral Service. All these sources are reliable, but also they have a certain degree of unreliability; we need to check and verify any information (e.g. documents, references) keeping in mind that the lawyer will play a key role advising us.

4. How would you ensure that you’ve located the right lawyer for you and your type of business?

The same process of seeking a lawyer requires answering several questions related with the background of the lawyer (e.g.: background experience, ethical standards, professionalism, commitment, responsibility, and predisposition), this will give us the first idea that the found lawyer is the right
lawyer for us. Once we think we have found the correct lawyer, we could make an initial consultation, first find out how much the lawyer will charge. When you feel comfortable make the amount and meet the lawyer to get a feel for s/he. Specific questions could be point out with a deeper degree of details; for example: Will the lawyer be a fit good for me and my restaurant? Can I trust this lawyer to help me make some sound decisions? How much will the lawyer charge me for her/his services? Also will this lawyer stay with me during and after starting up my business? We need to make sure that we come out of the meeting making sure that we feel comfortable and that we are well informed with were the lawyer stands.

5. What common fee structures do lawyers use?

The common fee structures lawyers’ use includes:
   a. Fixed fee: this method of billing is often used for specific tasks, such as preparing a will, starting-up a business, etc.
   b. Hourly rate: this method takes into consideration the time that the lawyer expends working in the case.
   c. Contingency fee: the lawyer receives a percentage of the amount the client collects; clearly this does not apply for a business start-up.

We also need to consider the disbursement and retainer costs.

6. What fee structure would be most suitable for the type of legal work you envision needing?

Option 5.a, fixed fee looks the most appropriate for the family restaurant start-up due that it is a common business where the lawyer could estimate very well the cost (and if s/he didn’t know it is a good parameter to find other lawyer). After start up is finished there could be a change in fee structure as the lawyer will not be doing all the work s/he did during start up. Then option 5c, percentage fee would make the most sense.

7. If you believe the fees ultimately charged by your lawyer are excessive, is there some recourse available? Who would a sophisticated client turn to in such circumstances?

If the fee being charged by our lawyer is too high, the issue will be discussed with him. If we cannot resolve the fee dispute, we will evaluate the possibility of involving a neutral mediator who will try to facilitate a mutually acceptable resolution in case both parties accept the mediation process. If unsuccessful, we will forward the bill to a Taxation officer of the Court of Queen's Bench for review and it will be determined if the lawyer's bill is fair and does not need to be changed.