

The Legal Strategist

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FOURTH QUARTER 2009

This quarter's Feature Topic examines the need for periodic review of your company's legal health. The end of the calendar year offers an ideal opportunity for most businesses and individuals to measure their performance over the previous 12 months and conduct a thorough assessment of their operations, controls, strategic initiatives, and short- and long-term objectives.

This is particularly true for many of us who typically postpone much-needed analysis and review in order to focus on day-to-day operations and ongoing personal pressures. It is easy to understand how immediate concerns can draw our attention from what appear to be less pressing matters. Unfortunately, resolving today's real problems often takes precedence over preparing for tomorrow's possibilities.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in our newsletter (which can be viewed on [The Legal Strategist](#) tab of our web site), please contact our office to set up a consultation.

Scott Barrett

TEXAS ESOTERIC FACTS

- ◆ The entire Encyclopedia Britannica is banned in Texas because it contains a formula for making beer at home.
- ◆ In Borger, Texas, it is against the law to throw confetti, rubber balls, feather dusters, whips or quirts (riding crop), and explosive firecrackers of any kind.

FEATURE TOPIC:

LEGAL HEALTH CHECK



People are conditioned to have regular medical and dental check-ups. However, the same is not true for check-ups for legal needs. Nevertheless, hiring a competent attorney to undertake periodic legal health check can be prudent. It is much easier and less expensive to resolve or address a legal issue as soon as possible after it has been identified rather than after it is ignored and grows into a costly and time consuming problem.

Successful companies and their owners understand that prudent legal planning can go a long way toward providing the flexibility and nimbleness necessary to achieve success in a fast-moving business climate, as well as in an unpredictable environment. By knowing your legal positions, you can taking action to shore up or avoid potential contingent liabilities and better prepare for the future.

SB&A has developed a comprehensive diagnostic tool for our assessing clients legal health. Our Legal Health Check enables SB&A to fully and accurately measure our clients legal matters and to offer the client information that will allow them to arrange those matters to best protect the company's interests. Listed below is just a snippet of the type of questions designed to uncover potentially troublesome areas.

Employees:

- ◆ Do existing employment contracts make appropriate provision for restrictive covenants (for example, restrictions on an employee's ability after termination of their employment to compete with the business, or to solicit other employees away from the business)?
- ◆ Do you have a staff handbook and/or policies and procedures which regulate the relationships between staff and management? If so, have these policies been recently reviewed to ensure that they are up-to-date and cover any recent developments in employment law?

Corporate Governance:

- ◆ Are your corporate records complete and up to date: including state, local and federal filings; operational agreements; buy/sell agreements; corporate minutes, approvals and elections?
- ◆ Have there been any extra-ordinary transactions such as employee or owner loans from the company; unusually large purchases; new owners or shareholders admitted; key employees added or terminated; acquisitions or divestitures; new business units formed?

Contracts:

- ◆ Do you have written terms of agreement with your clients and suppliers? Have they been signed by all parties? Are the goods/services adequately described? Are the existing terms of your customer agreements still appropriate? Do the agreements have evergreen clauses? If so, are they due for renewal or termination?

Financial (Fraud & Abuse):

- ◆ Do you know the amount of funds in your account(s)? Is the person preparing checks and /or authorizing accounts payable the same person who signs the checks? Does the person entrusted with the collection and disbursement of your firm's funds also prepare and reconcile the bank statements and ledgers?
- ◆ Do you require a detailed explanation along with all supporting documentation verifying any large or unusual item appearing on your statement or ledger? Does someone other than your payroll manager reconcile your employee time sheets with funds expended on salaries? Does the person who is responsible for your firm's accounting function assist your CPA in year end statements, tax preparation or audits?

As you can tell, a Legal Health Check can uncover areas of concern that may not be in the forefront of the business owners "to do" list; however, it can be invaluable. If you would like more information on the SB&A Legal Health Check, please contact [Scott Barrett](#) to set up a consultation.