



Once Partners, Now Enemies: How to Manage Shareholder Disputes

Disagreements between business partners are a grim reality when operating a private company. However, if these little squabbles snowball into full blown shareholder disputes, it's time to seek help before it's too late. In this article, we provide private business owners some ideas on how to manage disputes and the repercussions if they aren't settled in a timely and orderly manner.

The story of Rudi and Adi Dassler is a cautionary tale. The brothers formed Dassler Brothers Shoe Factory in the 1920s, but after 30 years in business together, the brothers' relationship unraveled, and the company was shuttered for good. The bright spot in the story? Rudi went on to create Puma and Adi to form what we now know as Adidas—each with great success. However, their families and even their entire town became divided along the lines of separate factories, social circles, bakeries, barbers, and football teams. We can only imagine what the brothers could have accomplished together if they had resolved their dispute.

Business partners all start out with similar goals and aspirations. Some level of disagreement is normal as the realities of a partnership unfold, but the relationship can break down in time—especially when faced with emotional and financial stress, and difficult market prospects.

Certainly, the K-shaped recovery during the pandemic has selectively hit some private businesses, and their shareholders, particularly hard. However, catalysts for demanding times can include matters of divergent business interests, difference of opinion over management style, suspected fraud, family breakdown, illness, and personal transgression. Shareholder disputes can quickly spiral out of control and, if a business begins to falter, the impact of the dispute and the cost of litigation can compound the stress of the business. Accordingly, the goal should be to avoid litigation at all costs.

Dispute resolution in perspective

There are numerous strategies that can preserve your company's commercial value, depending on the state of the business and the relationship of the shareholders. The challenge is to put your personal differences aside in the interests of

keeping the business operating and under control, so things don't escalate further. However, time is of the essence—as matters deteriorate, the action of creditors, lenders, or tax authorities can quickly add to the stress and reduce your options.

There is usually some element of intervention required by objective third-party advisors or other professionals to focus the parties on a solution. It's important to have the right advisors, with an ability to defuse the tension and a knowledge of the options available. Where relations are too strained, the process for engaging and getting your partner on the same page, can be as challenging as the resolution itself.

Process as important as substance

Sometimes, there are mechanisms already in place to help find a resolution between you and your partners or shareholders. Business plans and strategy documents evidence the agreed direction of the business during more amicable times. More formally, the terms of your partnership or shareholder agreement can break the impasse and stipulate the means to a sale, division of the assets, or a disposition of one shareholder's interest to the other shareholder.

Negotiation can be effective, provided you are willing to engage and eager to pursue a constructive outcome. Intermediaries are often helpful in separating the people from the process—keeping the discussion focused on business-related issues while maintaining the operations of the business. In other words, ensuring your company has the resources to operate indefinitely while working on a resolution.

When you and your business partner are not able to work things out on your own, more formal methods are available. [Alternate dispute resolution](#) (“ADR”) can provide an unbiased forum to table all relevant information and reach a solution through guidance, or even sanction. This, of course, requires that you can agree on a mediator and put trust in their guidance and authority.

Depending on the form of conflict resolution chosen and the willingness of the parties to be bound, the process could range from mediated recommendations or settlement conferences to arbitration. Importantly, each of these can avoid a court process—which should be the goal.

Actions and transactions

For businesses that have reached the point of distress, the immediate goal is to secure adequate breathing room, unfettered by suppliers, lenders, and tax collectors. In addition, the operations must have access to the necessary working capital to continue functioning. Ultimately, as the shareholders, you should be concerned with [preserving the value of the company](#) for your own benefit, while minimizing your personal liability.

Longer term solutions for you and your company may involve significant transactions or structural changes. You may need to find new financing arrangements, undergo a division of assets or operations, execute a sale as a going concern or wind

up and close the business.

Advice and help with implementation are required

A breakdown in trust between partners is perhaps the most destructive force a business can encounter. It often requires immediate intervention by those skilled in dispute resolution and technical expertise including finance, [valuations](#), [M&A](#), [insolvency and restructuring](#). Owners are also wise to enlist the help of professionals with interpersonal skills such as [emotional intelligence](#), counselling, negotiation, and mediation. In addition, the urgency of the situation requires that advice and implementation be combined within a very short time frame.

Efforts at dispute resolution may be too late to save the relationship between shareholders or owners, but don't squander your opportunity to save the value of the business and your reputations. While, the Dassler brother story may have ended with commercial success for the two, a bitter dispute tarnished the brother's relationship forever.

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