

SAMPLE SMALL BUSINESS FORMATION CONFLICT WAIVER



Dear Ms. Jones and Ms. Smith,

Before I can begin to work on your behalf, I have an ethical duty to discuss potential conflicts of interest given that the two of you have asked me to represent you both, in addition to your proposed new [Partnership/LLC/Corporation] NewBusiness. The reason I must do so is our state's rules of professional conduct for lawyers place limits upon any lawyer's ability to represent clients whose interests are, or may in time become, adverse to each other. This is the situation here. The purpose of this letter is to make certain that our working relationship starts out on the right foot by making sure you both are fully informed of what I am allowed and not allowed to do under those rules.

During our initial discussion, both of you shared you believe you have resolved all major potential points of contention between the two of you regarding the creation and operation of NewBusiness. Based upon this initial discussion, it does appear to me that you have agreed upon many of the issues including [set forth what has been agreed upon such the compensation plan, contributions, division of stock, etc.].

Nevertheless, it is possible that as the necessary documents begin to take their final form one or both of you may decide to change your mind with respect to one or more of the resolved issues. It is also possible disagreements may arise that none of us are currently aware of. For example, [List examples. Perhaps voting rights, dissolution issues, or buyout concerns have yet to be resolved].

If a disagreement were to arise, know that in accordance with our state's rules, I would be prohibited from advocating the interests of either one of you against the other. The most I could do would be to set forth possible alternatives and highlight the general pros and cons to each of you individually. I would then urge both of you seek separate and independent counsel to assure that each of you are properly advised regarding any issues in dispute. Further, should your disagreements become numerous or too serious, it will become necessary for me cease representing either NewBusiness, or the two of you, if not forced into having to withdraw from this matter entirely.

Also, by agreeing to have me represent you both jointly, understand neither of you should assume anything you say to me will be held in confidence from the other. With joint representation I will have a legal and ethical duty to tell the other anything that one of you tells me in confidence if it has any relevancy at all to any of the legal issues at hand. In other words, your conversations with me are not privileged as between the two of you. If you want independent advice or wish to be able to discuss matters in complete privacy, you both will need separate counsel.

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Finally, I am required to advise you both to seek advice from independent counsel in order to help you decide if you should consent to this joint representation. The decision as to whether you follow through and seek outside advice is up to you.

Feel free to take whatever time is necessary to think about and discuss all that I have set forth here. Just know that I am unable to commence my representation of you both until a copy of this letter has been signed and returned. If either of you have any questions you would like to discuss prior to making this decision, please don't hesitate to ask. Otherwise, if your decision is to consent to being jointly represented, please date and sign the one of the enclosed copies of this letter and return it to me at your earliest convenience.

Sincerely,

We hereby consent to the representation as set forth above:

Ms. Cheryl Jones

Dated

Ms. Shirley Smith

Dated

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