Learning team reflection on personal liability

Education, Learning

Week Two Learning Team Reflection on Personal Liability Law/531 October 2, 2012 ? Week Two Learning Team Reflection on Personal Liability Benefits to Commerce Team C colleagues decided on the following opinions inrespectto the advantages of commerce using shareholders and other entities for protection against personal liability losses. Commerce is the buying and selling of goods or services within cities, states, and globally. The legal structure of a business will establish the liable responsibilities of the business owner.

When a business is established as a Corporation or an LLC this structure separates business owner's personal assets from the business debit and liability. The benefits of commerce acquiring shareholders or other entities to protect and shield their members from personal liabilities are a consideration that every entrepreneur should seek professional advice before starting a business. " As a separate legal entities, corporations are liable for their own debts and obligations" (Cheeseman, p. 558, 2010). By the corporation having shareholders it is limiting their loss if a potential suit arises.

If they were to be sued they would be limited to the extent of their financial investment in the corporation. The officers of the corporation create a shield that protects them from liability, and from having their personal assets at risk. The benefit of having a corporation is that corporations itself becomes a legal entity; therefore the liability is taken away from an owner. If lawsuits arise the assets of the corporation will be at risk; however, the shareholders will not bear any personal liability. Therefore, potential investors in a corporation seek to have professional executives who use good judgment in running a business.

The net worth of the corporation is also determined by the shareholders investment in the business and should there be a suit the corporation stands to be financially stronger than a business owned by a sole proprietor. If protecting investors was not available through legal methods most investors would not take the risk of losing their personal assets along with their investment. Personal Liability of Shareholders Team C colleagues decided on the following opinions in respect to the advantages of needing personal liability attached to individuals in violation and performing misdeeds.

The United States is a country of laws. Believing that individuals and businesses are responsible for the actions and decision they make while in a position of authority. Personal liability is sometimes imposed the shareholders are normally not liable for the corporate debts incurred. (Cheeseman, 2010) Beginning around 1940, the government started enacting laws that attempted to protect society from unscrupulous businesses. History has shown that these laws alone cannot protect society from the misdeeds of individuals.

Businesses always have relied on the consumer for continued existence. Therefore, a mutual trust must occur to maintain the balance of commerce. People run businesses; therefore it is reasonable to consider that those that have a fiduciaryresponsibilityshould be held accountable for the misdeeds or torts that occur because of their negligence. Current laws consider a corporation as a legal entity accountable for any torts the members of that company may commit. Members of management under the same laws are afforded protection against claims on personal assets.

If this protection did not exist individual’s assets could be attached to any litigation against the company regardless of which members were at fault. One may think attaching personal liability to managing members would be a reasonable solution. After all, they are the individuals who have stewardship over the company. In fact, this action would be counterproductive harming society and commerce alike. Corporate officers and business leaders would not want to take on the risk and would refrain from seeking a managing role within a corporation. The immediate effect on commerce would be devastating.

Those with experience and know-how would simply remove themselves from management responsibilities, creating a vacuum for less qualified individuals, increasing the potential for torts to occur. Shareholders confidence would wane, stock markets would falter, and the economy would suffer a financial meltdown. Team C members also concur that corporations have protection for their shareholders regarding their personal information, but they do not hold the shareholders responsible if the corporation goes bankrupt or shuts down. Shareholders are only responsible for the amount ofmoneythey have invested in the company.

Piercing the corporate veil is the doctrine stating that if the shareholder uses the corporation improperly, the court of equity disregards the corporate entity. The shareholder is personally liable for the corporation's debts and obligations (Cheeseman, 2010). This is also known as the alter ego doctrine because the corporation becomes the alter ego of the shareholder. Still today sole proprietorships are the most popular form of starting a business and having ownership. The definition is a business owned by one person and not incorporated with any others.

In the business world sole ownership is not separate and cannot be split apart from the owners personal assets (Fairfax, 2011). The unincorporated business is exposed to unlimited liabilities and loss of personal asset protection. In today's commerceenvironmenthaving unlimited liability is the single most substantial difference between having shareholders and other entities shielding the business and sole ownership. Concluding, it is imperative that individuals interested in starting a business take the appropriate measures to decide how they simply will protect the business from potential liability, or loss.

Seeking the advice of professionals can facilitate making the proper decisions. ? Reference Cheeseman, H. (2010). Corporate Formation and Financing, Business Law (7th ed.)(pp. 556- 576). Upper Saddle River, New Jersey: Prentice Errors And Omissions Insurance - E. (2012, September 28). Retrieved from (I) INVESTOPEDIA: http://www. investopedia. com/terms/e/errors-omissions-insurance. asp#axzz27oyyIDBO Fairfax, L. M. (2011, July). The Model Business Corporation act at Sixty. Law & Contemporary Problems, 74(1), 19-30.