



LEGAL EQUESTRIAN™

Last year I just bought a horse with my friend who is a trainer. I paid for the horse and my friend trained and showed him. We've had fun and made a little money, but now I would like to move barns and trainers. My friend says I can't take my horse because we're partners. How did I end up with a partner?

Many individuals with business relationships in the horse industry are actually a part of a partnership whether they realize it or not. Unfortunately, many people are also unaware of the various duties and liabilities that attach to such a relationship. A partnership is a fiduciary relationship and therefore, partners may not take advantages for themselves at the expense of the partnership.¹ In other words, if you are a partner in a boarding facility venture, you can't take a few bales of hay to your barn for your personal benefit without reimbursing the boarding facility. Further, partners are held to the standards and duties of a trustee in their dealings with each other, and in all proceedings connected with the conduct of the partnership, every partner is bound to act in the highest good faith to his or her copartner and may not obtain any advantage over him or her in the partnership's affairs by the slightest misrepresentation, concealment, threat or adverse pressure of any kind.²

A partnership places the duty of loyalty on the partners and such duty requires him or her [Corp. Code, § 16404, subd. (b)]: (1) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property or information, including the appropriation of a partnership opportunity, (2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership, and (3) to refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

The California Uniform Partnership Act of 1994 governs partnerships in California. The Act defines a partnership as an association of two or more "persons" to carry on, as co owners, a business for profit. Under this Act, a partnership can be formed whether or not the persons involved intended such a relationship. Typically, two or more individuals will combine their money, property or time to purchase a horse without fully contemplating who will have control over decisions for the care and keeping of the horse, including vet care, training, show participation and boarding, as well as, how the partnership will eventually be dissolved. Failure by the parties at the onset to resolve these issues often leads to a deterioration in the relationship and often times, litigation. For example, if an individual purchases a horse and a trainer puts time and effort into training and showing the horse with the parties sharing equally in the costs and profits, this relationship could be determined to be a partnership. In this scenario, the horse owner may be surprised to find he or she cannot simply walk away from the relationship with the horse even though he or she purchased it. The horse became an asset of the partnership relationship and must be properly factored into the dissolution of the relationship.

Another pitfall of finding oneself in a partnership relationship is exposure to liability for the actions of the other partners. A partnership is an entity unto itself and separate from the individual partners. It is possible for one partner to obligate the partnership without the consent of the other partners. For example, the trainer in the scenario above may decide he or she needs a more reliable horse trailer and purchases said trailer in the name of the partnership business. The partnership is now obligated to manage that debt despite lack of consent.

In order to avoid misunderstandings and potential litigation in partnership relationships, parties should enter into clearly defined written partnership agreements that clearly set forth the rights and responsibilities of both the partners and the partnership business.

This article is meant to provide general information only and is not intended to constitute legal advice. The information in this article is not intended to establish an attorney-client relationship between attorney and reader. The contents of this article are not a substitute for seeking the advice of legal counsel.

© Copyright 2010. Legal Equestrian, a Professional Law Corporation All rights reserved.

¹ Jones v. Wells Fargo Bank, 112 Cal. App. 4th 1527, 5 Cal. Rptr. 3d 835 (2d Dist. 2003)

² Enea v. Superior Court, 132 Cal. App. 4th 1559, 34 Cal. Rptr. 3d 513 (6th Dist. 2005)