

Inside This Issue

Choosing Your Company's Name

Success Story

Finally! LLCs for Licensed Contractors in California

Tax Corner

The Latest News

Real Estate Corner

Important Updates

Dates to Remember

Did You Know?

Choosing Your Company's Name



Mark R. Figueiredo, Esq.

Choosing a new company's name is often more involved than some entrepreneurs may realize. Some names are already taken. Some entrepreneurs are surprised to discover that its corresponding domain website name is not available. Others who properly register their company names are surprised to get cease-and-desist letters alleging the name violates another's trademark rights. What should one consider in picking an appropriate company name?

It is important to bear in mind that a name has to work on several levels. Website domain names are registered at the global level - there cannot be two identical domain names leading to two different websites. Trade names and trademarks are registered at the national level and can be registered at the state level. Had Coca-Cola registered its name only in the U.S., then another company could have used that name outside the U.S. Corporate names, including corporations and limited liability companies, are registered at the state level. Ignoring the other levels, there could conceivably be 50 different companies in the 50 different states having the same cor-

porate name. Fictitious business names are registered at the local level. Using California as an example, and ignoring the other levels, there could be 58 different companies in the 58 different counties using the same fictitious business name. A good company name can work on all levels if it is so distinctive that the name will be associated solely with your business and not anybody else's.

Legal and business considerations should be taken into account when picking a company name.

In addition to legal considerations when selecting a good name, business considerations, including branding and marketing concerns, should also be taken into account. It is also a good idea to check for any negative connotations with the chosen name. Words can have different meanings in different languages. The old TV show, *Joanie Loves Chachi*, caused a stir in Korea because "Chachi" is a Korean slang for a body part. Acronyms should also be considered as the Wisconsin Tourism Federation discovered before changing its name to the Tourism Federation of Wisconsin.

SLG attorneys are ready to assist you with the legal repercussions and practical considerations in choosing your company's name.

Success Story



On multiple occasions, Structure Law Group clients have been wrongfully sued simply because their name was substantially similar, if not identical, to that of another. After the client tried to educate the plaintiff that it had sued the wrong party, and got nowhere, SLG's attorneys stepped in. On each occasion, SLG sent a single letter documenting the error and threatening sanctions for continued prosecution against an innocent party. On each occasion, the lawsuit was immediately dropped against SLG's client.

Finally! LLCs for Licensed Contractors in California



Tamara B. Pow, Esq.

As of January 1, 2011, the California Corporations Code finally allows a California limited liability company ("LLC") to operate as a licensed contractor. However, the Contractors' State License Board is only required to start processing applications no later than January 1, 2012.

For years, contractors were limited by a provision in the LLC Act that said an LLC may not "render professional services, as defined in Section 13401 and in Section 13401.3, in this state." Section 13401 defines professional services as "any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act." In addition, a section of the Contractors' State License Law provided for the issuance of contractors' licenses only to individuals, partnerships and corporations.

As of this year, the LLC law was changed to add: "...a limited liability company may render services that may be lawfully rendered only pursuant to a license, certificate, or registra-

tion authorized by the Business and Professions Code if the applicable provisions of the Business and Professions Code authorize a limited liability company to hold that license, certificate or registration." The Contractors' State License Law was changed to allow for individuals, firms, partnerships, corporations, limited liability companies, associations, organizations, or any combination thereof.

This is great news for contractors who will no longer be limited to corporations in their choice of entities for liability protection. Hopefully more sections of the Business and Professions Code will soon be revised to provide the same opportunity to other licensed professionals.

If you are a licensed contractor currently organized as a sole proprietorship or as a corporation, Structure Law Group attorneys can help you determine if an LLC may be a better fit for your business.



Tax Corner

Bush Tax Cuts Have Been Extended

President Barack Obama has extended the Bush tax cuts at all income levels for another two years. Some highlights of the tax cuts:

- The 35% top rate on individuals will continue through 2012. Dividend and capital gains taxes remain at a 15% cap for top filers and 0% for those in the 10% or 15% tax bracket.
- The estate tax exemption of \$5 million per person (\$10 million per couple) with a top tax rate of 35% and stepped-up basis for heirs will be reinstated for 2011 and 2012.
- The lifetime gift tax exemption will increase to \$5 million.
- The estate tax exemptions will be portable. When a spouse dies, the unused portion of their estate tax exemption goes to the surviving spouse, which can be used at his or her death.
- The alternative minimum tax (AMT) exemptions will in-



crease for 2010 and 2011.

- Some refundable tax breaks will renew through 2012, including a child credit, the earned-income tax credit, and the American Opportunity college credit.
- Tax breaks that lapsed after 2009 will be revived for 2010 and 2011, including direct payouts from IRAs to charity of up to \$100,000, the research and development credit, and the write offs for state sales tax, up to \$250 of teacher supplies, and college tuition.
- A Social Security tax cut for employees and those who are self-employed to a 4.2% rate from a 6.2% rate for 2011 only. This replaces the Making Work Pay Credit.
- Businesses may claim 100% bonus depreciation for new assets with useful lives of 20 years or less, used after September 8, 2010 and through December 31, 2011. For equipment placed in service on January 1, 2012 through December 31, 2012, businesses may claim 50% depreciation.

[Source: *The Kiplinger Tax Letter* Vol. 85, No. 25, December 10, 2010.]

The Latest News At  STRUCTURE LAW GROUP, LLP

SLG Has a New Blog



We're pleased to announce the launch of our new legal blog: San Jose Business Lawyers Blog. Making its debut this winter, the blog is an information counterpart to the SLG website and provides readers with interesting posts dealing with legal issues on entity formations, mergers and acquisitions, and business and employment law. Come check out our

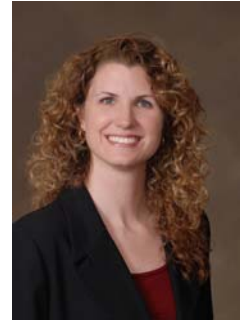
blog: at www.sanjosebusinesslawyersblog.com.

Some recent posts include:

- Separate Your Business Enterprises for Maximum Liability Protection
- Mergers and Acquisitions – The Importance of Good Company Records

Sugar and Spice and Everything Nice...

It's a girl! Structure Law Group, LLP has a new member to welcome to our family. Esther Brumleve gave birth to her second child, daughter Kiera Olivia Brumleve, on January 7, 2011. Esther is currently on maternity leave. Congratulations to Esther and her family!



Real Estate Corner

Plan to Buy and "Flip" Property?

A Reminder:

The Tax Court recently confirmed the rule that individuals who bought properties and then sold them, usually within two to three months, are considered dealers in real estate and must treat their profits from sales as ordinary income for tax purposes, not as offsets to capital losses. [Source: *The Kiplinger Tax Letter Vol. 85, No. 26, December 22, 2010*]

Residential and Commercial Property Landlords

New Filing Requirements in 2011:

Beginning this year, rental property landlords must report to the IRS payments of \$600 or more made to each individual or business that provides services to their property (with a few exceptions). The landlords must file Form 1099-MISC by January 31, 2012 or the IRS will impose a penalty for failure to file. Landlords should have service providers (including gardeners, maintenance workers, property managers, and more) complete form W-9 at the time they engage their services.



Important Updates

LLPs Are Not Just For Architects, Accountants and Lawyers Anymore

Engineers and Land Surveyors may operate as a limited liability partnership effective September 30, 2010 through January 1, 2016. [Source: *Cal. Corp. Code Sect. 16101(6)(A)*]

New Standard Mileage Rate for Business Driving

The standard mileage rate for business driving is 51¢ for 2011, up 1¢ from last year. Businesses with four or fewer vehicles can use the allowance, but must reduce the vehicle's basis by 22¢ for depreciation. Parking and tolls are still deductible if you claim the standard rate, but fuel and repairs are not, and you cannot use this allowance if you have depreciated or expensed the vehicle. [Source: *The Kiplinger Tax Letter Vol. 85, No. 25, December 10, 2010*]

Small Business Tax Breaks

The tax break for buying stock in certain corporations with assets of \$50 million or less and holding it more than five years has been extended through 2011. [Source: *The Kiplinger Tax Letter Vol. 88, No. 2, January 21, 2011*]





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Dates To Remember

February 6 Super Bowl Sunday
February 11 Lincoln's Birthday—some courts and government offices closed
February 14 Valentine's Day
February 21 Presidents Day—courts and government offices closed
March 8 Daylight Savings Begins
March 17 St. Patrick's Day
April 18 Tax Day

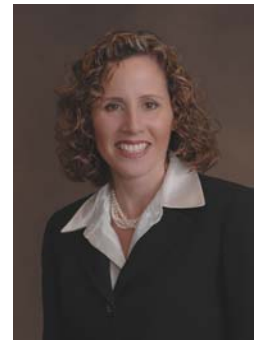


Did You Know?

- Some Caribbean oysters can climb trees.
- More people are killed annually by donkeys than die in airplane crashes.
- Every day, more money is printed for Monopoly than for the U.S. Treasury.
- The last Pony Express ride ended in Sacramento, CA.
- The average person walks the equivalent of twice around the world in a lifetime.
- Proportional to their weight, men are stronger than horses.



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*We appreciate
your referrals!*

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Check out our new blog!
www.sanjosebusinesslawyersblog.com