

Boots toBusiness

Picking a Legal Entity

Jon Whitehead

August 8, 2014

www. whiteheadlawllc.com / B2B2014

Slides and materials available at this address

Boots 2 Business

Three Warnings

1. These aren't answers.
2. This is not legal advice.



Boots 2 Business

Three Warnings

1. These aren't answers.
2. This is not legal advice.
3. Sorry if you are a visual learner.



The Best Available Visual Description of This Lesson



Entity Choices

- ❖ Nothing (Sole Proprietor)
- ❖ Contract (Partnership)
- ❖ Limited Liability Partnership
- ❖ Limited Partnerships
- ❖ Limited Liability Limited Partnerships
- ❖ Corporation
- ❖ Professional Corporations (P.C., etc.)
- ❖ LLC



LLC Requirements

- ❖ Filing with SOS - “Articles”
- ❖ Operating Agreement*
- ❖ Tax Status*



LLC vs.

- ❖ ... Nothing (Sole Proprietorship).
- ❖ Easy.
- ❖ Saved a few hundred dollars.
- ❖ *Unlimited* risk for personal assets caused by business mistakes.



LLC vs.

- ❖ ... Partnership.
 - ❖ Also easy — *verbal* agreement is sufficient.
 - ❖ Cooperating with others.
 - ❖ Saved a few hundred dollars in legal fees.
 - ❖ *Unlimited* risk for personal assets — for actions by you *and all of the partners*.



LLC vs.

- ❖ ... Corporations.
 - ❖ Pro
 - ❖ Cooperating with others.
 - ❖ Minimal risk for investors and coworkers.
 - ❖ Long history of predictable case law.
 - ❖ Con
 - ❖ Significant paperwork and registration burden.
 - ❖ Ongoing legal fees and annual meetings.
 - ❖ Inflexible structure.
 - ❖ Relatively limited tax options.



LLC Basics: the Litigator's perspective

Legal Magic

At relatively low cost, you can tell the Judge how to treat you and your money — if you do it far enough in advance.



What About S-Corps?

- ❖ Be wary of mingling IRS Tax Status with “legal entity.”
 - ❖ Disregarded.
 - ❖ C-Corp.
 - ❖ S-Corp.
- ❖ Likely requires special forms.



Boots to Business

Structure & Operation of a Business

Jon Whitehead

August 8, 2014



"Shield"

What Clients Think



“Shield”

Form of...LLC.



"Shield"

What Lawyers Think



"Shield"

Well trained users.
Correctly deployed in combat.
One of several weapons.



"Shield"

Correctly deployed



"Shield"

Other Tools

Other Ways to Defeat the Shield

- ❖ Intentional misconduct
- ❖ Contract
- ❖ Taxes
- ❖ Co-mingling of funds
- ❖ Misrepresentation
- ❖ Personal Guarantee
- ❖ Failure to observe formalities
- ❖ Tort vs. Contract



Boots to Business

Contracting with the Government

Jon Whitehead

August 8, 2014

Contracting considerations

- ❖ Veteran status is no indicator that you are even more likely than anyone else to receive a government contract.

Contracting considerations

- ❖ Highest Position in the company
- ❖ Managerial Experience
- ❖ AND (15 USC 657f)
 - ❖ No Other Like Business Submits Offers.

Contracting considerations

- ❖ Talk to an attorney.
- ❖ Get certified.
- ❖ Start small.
- ❖ Consider Subcontracts.
- ❖ Maintain systems.