



## Shareholders' Agreements by Scott D. Abel

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Generally, in small, closely held corporations, the shareholders are also the directors, the employees, and the officers. That is, a small number of people are performing all of the functions in the corporation.

The corporation may be structured this way for a number of reasons, for example, a small number of people, be it family or friends, want to go into business together, and with the advice of accountants and lawyers, decide to incorporate.

With the excitement of starting the business, and struggling to make the first dollar of profit, the importance of that legal relationship, and the circumstances which may arise, cannot be lost.

We as lawyers encourage shareholders in a corporation, whether that corporation be big or small, to enter into a shareholders' agreement. A shareholders' agreement is an agreement among the shareholders, which establishes the legal relationship among those shareholders.

Often times, the reason people

started the business together is because they are friends, and enjoy working with each other. However, those people may not want to work with their friend's spouse or children. A share certificate is property, just like a car, or a house, and can be left to the shareholder's family in his or her will.

A shareholders' agreement would limit the ability of a shareholder to transfer his or her share to a family member, whether while they are alive, or in their will. The shareholders' agreement would establish a requirement that life insurance be obtained on the shareholder's life, so that when the shareholder dies, the shares are bought by the corporation, and the family member, rather than receiving the shares, receives the life insurance proceeds as payment.

In this way, the other shareholders who are still alive can ensure that they continue to do business with people they choose, rather than whoever inherits the shares.

A shareholders' agreement may

also contain provisions which establish how shareholders as between themselves can buy or sell their shares to the other shareholders. Perhaps the relationship between the shareholders is no longer friendly, and one shareholder no longer wishes to be in business with the other shareholders. The shareholders' agreement could establish a manner in which the unhappy shareholder can either buy all of the other shares, or the other shareholders have to purchase the unhappy shareholder's shares.

The clauses which one finds in a shareholders' agreement are numerous, all of which may be important at some point in time.