



Corporate conflict – how to be prepared

In order to understand what will be discussed in this article, let us sort out what is a corporate conflict. This term often refers to a wide variety of conflict situations in a company, ranging from disputes between the director and the owners to on-and-off confrontations between various departments, which have almost no connection with the legal structure of the company itself.

This article contains information about how to minimize the effects of a corporate conflict, if it arises between business owners or investors and owners, as well as in other similar cases.

How do we know that conflict has already started

For the person initiating the conflict everything is understandable as it is, since he/she decides all alone when to start acting. However, how can the defending party recognize the beginning of a conflict? And, more importantly, how to do it as early as possible?

So as to promptly notice the opponents' actions, one needs to analyze in advance the nature of such potential actions. Corporate conflicts are unique, so different strategies may be involved. However, if environment for a conflict has already been created, and it becomes clear that confrontation cannot be avoided, it is recommended, at least, that you conduct regular (preferably daily) monitoring of public sources of information about the company, including the following:

- ✓ Unified State Register of Legal Entities (for example, section “Business risks: check yourself and your contractual partner” on website nalog.ru);
- ✓ Database of arbitral tribunals (kad.arbitr.ru);
- ✓ Company website (if any);
- ✓ Online disclosure page (if the company's information is disclosed; primarily, this concerns public companies);
- ✓ Register of Insolvencies (bankrot.fedresurs.ru).

There are also other sources which may be referred to depending on the company and its assets, as well as specifics of the conflict itself.

What information should be considered? Any unusual events with regard to the company, including new complaints made against the company, changes in the information about owners and management, issues of additional shares or changes in the authorized capital are suspicious. Each such event should be assessed for potential consequences for the company and the parties to the conflict.

It is important to be prepared

A corporate war is quite a war, so preparation and available funds are of importance. If based on the results of analysis of open sources, as well as taking into account any other criteria, it becomes clear that hostile activities have been initiated or active preparation for the beginning of such activities is being carried out, one should be prepared for defense. In this case, everything depends on the status of each party. Let us consider two common options.

If the company and its main owners are to be protected

In this case, in addition to the above-mentioned activities, we recommend the following basic measures:

- ✓ Checking all corporate decisions (approval of transactions, designation of directors, Board members, etc.) made over the past three years for violations;
- ✓ In case of disclosures, checking publishing process for violations, and the information for completeness;
- ✓ Check the register of shareholders, internal documents – the list of members, information about beneficiaries, for completeness and accuracy, to determine whether the company is ready to provide documents the provision of which minority shareholders or regulatory authorities are entitled to claim;
- ✓ Brief employees on the receipt of correspondence, so as to prevent the letters from opponents or judicial notices from being lost among other documents.

The above is the minimum list of recommendations. Depending on specifics of the company, it might be necessary to check many other weak points as well – licenses, compliance with employment and labor law, rental conditions, etc.

If a minority owner is to be protected

In this case the situation is quite different. On the one hand, the amount of information that needs to be verified is less than in the first case. On the other hand, minority owner rights are often violated, and sometimes it is very difficult to protect them. Protection of minority owners requires the following minimum list of preparatory activities:

- ✓ Requesting and regularly checking status information – depending on the company’s type, it may be an extract from the register of shareholders or an extract from the Unified State Register of Legal Entities;
- ✓ Arranging quick and uninterrupted receipt of all incoming correspondence;
- ✓ In case of notices of any meetings, provide without fail for the presence of such person or his/her representative at such meetings;
- ✓ Verifying the accuracy of all documents related to the meetings to be conducted.

In this case, one needs to be extremely careful, and if any violations are revealed, appropriate measures must be taken as soon as possible.

Further steps

There are various corporate conflicts, as well as methods for resolving them. However, as a rule, a full-scale corporate war involves legal and administrative procedures, and often ends with criminal cases. Such confrontations sometimes last for years, taking time and money.

In such situations, it is important to understand that a corporate conflict may be most effectively and relatively quickly resolved through negotiations, rather than by all other legal methods which should be used to strengthen the negotiating position instead of directly resolving the conflict. Therefore, the main step in preparing for the defense is to decide what agreements should be reached, what you can or cannot sacrifice, how likely the positive result is. Only this approach will prevent you from getting drowned in exhausting and often unpredictable, procedures.

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