

Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

DECEMBER 30 - JANUARY 5, 2023

Happy holidays to all. We look forward to seeing you in the new year!

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EVEN BILLIONAIRES CAN FUMBLE BUSINESS SUCCESSION PLANNING

Probate Litigation Leading to Denver Broncos' Sale Teaches Many Lessons

Just because Denver Broncos Owner Pat Bowlen was a billionaire did not mean his business succession planning was easy. After leading the Broncos to eight Super Bowls, the NFL Hall of Famer began consolidating his Broncos ownership in 2002 to ensure one or more of his seven children would succeed him in running the franchise.



BY:
PAUL R. SHUGAR, ESQ.

Instead, two probate lawsuits ensued—one even before Bowlen's 2019 death—and the team sold for \$4.65 billion in 2022.

Some could argue the succession plan failed because the Bowlens no longer own the Broncos. But others would contend the succession plan worked with the family making billions on a \$78 million initial investment. No matter the point of view, the Denver Broncos' sale demonstrates that succession planning is hard for owners of businesses of

all sizes while providing the following lessons:

1. There Are Fates Worse Than Death

All business owners know they will die, but what happens if they become incapacitated? Much of the family feud for control of the team started because doctors reportedly diagnosed Bowlen with

Alzheimer's in 2006. This is before Bowlen executed his estate plan and started preparing one child to become his successor. As incapacity, like death, can happen at any time, business owners need to have plans in place that address both contingencies.

2. Who You Put in Charge Matters

Bowlen nominated three people to serve as his powers of attorney/trustees to execute his estate plan—the Broncos' CEO, the team's executive vice president/general counsel, and his personal attorney. When these

fiduciaries balked at one of the children trying to become the next owner before Bowlen died, Bowlen's brother filed a lawsuit claiming the fiduciaries were failing to honor Bowlen's wishes. So not only must business owners select fiduciaries who will honor their estate-planning goals after death/incapacity, but business owners must clearly articulate their intent to these trusted individuals.

3. People Plan, and God Laughs

If the children wanted to succeed their father, Bowlen's trustees required the following: 1) an advanced degree such as a JD or MBA; and 2) five years of senior management experience with the NFL, the Broncos, or the Broncos' stadium management company. The issue is that all seven children had to agree to the eventual succession plan. With two children working to satisfy the requirements, the family became divided. When one side filed an undue influence lawsuit to invalidate the estate plan after Bowlen's death, it doomed the

team's plan for staying within the family. Not only should accountants, financial advisors, and estate planning attorneys be part of the succession planning team, but a probate/commercial litigation attorney consultation can help stress test the plan prior to death. ■

Paul is a shareholder in Reminger Co., LPA's probate litigation practice group. He presented Planning and Litigation Lessons From Selling the Denver Broncos as part of the Columbus Bar Association's Advanced Probate Law Institute on December 15, 2022.

EDUCATION & EVENTS

■ Thursday, January 5 – 12:00 – 1:00 p.m.
Common Pleas Court Committee Meeting

■ Thursday, January 5 – 7:30 – 9:00 a.m.
Young Lawyers Networking Breakfast at First Watch

■ Friday, January 6 – 12:00 – 1:00 p.m.
Social Security Disability Committee Meeting

All classes listed are offered by the Columbus Bar Association through Zoom. To register, call 614-221-4112 or enroll online at www.cbalaw.org.

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HO, HO, NO! SCAMS TO AVOID THIS FESTIVE SEASON

Whether you've been naughty or nice, someone will try and stuff a scam down your chimney either way. The FBI is warning of several likely ways to be parted from your funds or logins, and we're going to give some additional context along with tips to avoid these digital lumps of coal.

Work from home scams

The FBI says:



BY: **CHRISTOPHER BOYD**

Consumers should beware of sites and posts offering work they can do from home. These opportunities rely on convenience as a selling point but may have fraudulent intentions. Consumers should carefully research the job posting and individuals or company offering employment

We say:

Work from home scams are big business over the holiday season, especially with people potentially

looking for a little extra cash in the run up to the new year. These scams became incredibly popular with the advent of the COVID-19 pandemic, often tying into cryptocurrency.

Other scams of this nature will make use of cryptocurrency ATMs and QR codes. They'll set up fake job hunt websites for you to upload your resume to, or post bogus ads on real sites. If you take part in an interview via WhatsApp or Telegram, that may be a red flag. If they send you money to buy work equipment, and then ask you to

send the rest of the money to another bank account, that's a whole box of red flags. You may well be walking into a short-lived career as a money mule. It's simply not worth the risk.

Don't let the scammers spoil your fun

We hope a combination of the FBI's warnings and our additional hints and tips will keep you safe over the coming weeks. Unfortunately, scammers don't tend to take time off over Christmas, so it's essential to keep your guard up. As for that lump of coal: return to sender. ■

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