

dbi talbots tales

do you have interest in a business? does your Will deal with your business interests?

Horace Cobweb had worked hard for several years to make his Company, Cobweb Manufacturers Ltd., a success. Horace always took proper advice when he had brought in additional partners and the company had grown steadily. It had become a limited company and shares were now worth significant sums.

Whilst he always ensured he obtained appropriate advice in respect of company and commercial decisions, unfortunately Horace was not so prompt at dealing with his own personal affairs.

He had made a Will when the children were small and he had just started the business. Since then, his legal advisers had repeatedly advised him to update this and he had always intended to do so, but he wanted to get things straight in his own mind first, e.g. what would happen to his business; how could it continue?

Sadly Horace never managed to decide this before he died!

His Will was very straightforward, leaving everything – including the Company - to his wife, Sophie Cobweb. Sophie had no real understanding of the business in its current form. She had helped out a little in the early days with some book-keeping and answering the telephone, but that was years ago. When the shareholders began to ask questions, Sophie did not know which way to turn. The actual work within the business was continuing - employees wanted to be paid and contracts needed to be dealt with but she had just lost her husband. She was sure, however, that as a business man Horace would have made arrangements – he had not!

Their daughter, Sarah, worked within the business but was also unsure of her position. Although she and her father had often talked about what could happen, she did not hold any shares. She knew there were some restrictions in the Memorandum and Articles but was unsure what these were and how these affected her father's interest. She also knew that while her brother James had never been interested in the business, he was interested in money and he could persuade his mother to do virtually anything.

So what should Horace have done to avoid this very difficult situation for his family?

- He could have considered including a gift of shares to Sarah to ensure her position within the Company.
- He could have appointed appropriate executors to deal with the Company and ensure the continued smooth operation of the business.
- He could have arranged that his partners buy his interest in the business from the estate so that Sophie and James could benefit and their interests would be protected.

If you have business interests it is vital to seek professional advice and ensure that appropriate steps are taken to deal with your business assets and to protect all those involved.

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