

CLIENT ALERT MEMO

*Here's how "What You Don't Know" can cause you to **LOSE** your Company /Business, every day you drive your car!*

"Florida Says No Turnover Orders Against Foreign Assets In Sargent"

For the past 24 years, J E Holdings, LLC has been advising clients of the need to hold title to their Stock/Membership certificates of their corporations /LLC's, in the name of a Family Limited Partnership (FLP) - not in their individual names.

The following (March 2014) case from Florida illustrates this point perfectly: You can lose your company / business, if someone gets a judgment against you, and the Stock / Membership certificates of your company, are in your name.

(The four paragraphs below summarize the case from the Florida Court of Appeals decision)

The debtors breached an agreement to ship oil across Jordan for the U.S. military to use in Iraq, the creditors sued in Florida, and a Florida jury awarded \$28.8 million against the debtors.

To collect on the judgment, the creditor sought what is known as a Turnover Order against certain stock shares owned by the debtors in foreign

companies. The Turnover Order sought to make the debtors turn over to the local Florida sheriff, all the defendant's physical stock / share certificates in the foreign companies that they owned. The trial court granted the motion and entered the Turnover Order.

The debtors appealed, stating that the trial court lacked the jurisdiction to compel the debtors to turn over their foreign assets. The creditor responded that while the foreign assets might not have been within the jurisdiction of the court, certainly the debtors were before the Florida court, and subject to the contempt power of the court if they did not cough up the share certificates.

Citing some dubious authorities hardly near the point, the Court of Appeals concluded that Florida law has not been interpreted to allow Florida courts to exercise jurisdiction over assets outside Florida. Instead of focusing on the fact that the debtors were before the Florida court, the Court of Appeals instead engaged in a tortured analysis, that came to the conclusion that the Turnover Order was invalid, and therefore reversed the trial court. If the creditor wanted to collect against the share certificates, the creditor would have to go to various foreign countries, including those where enforcing a U.S. judgment is all but practically impossible, and attempt to collect there.

(The two paragraphs below are the actual language from the start of the Florida Court of Appeals decision)

"This case arises from the creditor's suit against the debtors for breach of an agreement to ship oil across Jordan for use by the United States military in Iraq. Following a jury verdict of \$28.8 million, the trial court entered judgment against the debtors and we affirmed...

The creditor filed a motion for proceedings supplementary to execution pursuant to section 56.29, Florida Statutes (2012). The motion sought to compel the debtors to "turn over all stock certificates and similar documents memorializing their ownership interest in any corporation." The debtors opposed the motion, arguing that the stock certificates concerned assets located abroad—in the Bahamas, the Netherlands, Jordan, the Isle of Man, and the Dominican Republic—and therefore, the trial court lacked jurisdiction to compel the turnover. Without conducting an evidentiary hearing, the trial court entered an order compelling the debtors to turn over the stock certificates to their counsel. This appeal follows." *Sargeant v. Al-Saleh*, 4D13-1447, 2014 WL 836755 (Fla.App., Mar. 5, 2014).

The LESSON of this case:

These appellants probably spent in excess of \$500,000.00 + litigating this case in the Florida Appellate court, just so they could keep their companies. This could all have been avoided with an Asset protection plan that placed title to the Shares / Membership certificates of their companies, in a **Family Limited Partnership** (FLP) in the first place. It probably would have cost them about \$7,500.00 +.

Every day you drive car, there is a possibility you will cause a catastrophic auto accident, with damages in excess of your auto insurance coverage. If this happens, you can lose your company / business.

There is **No Insurance Policy** you can buy to protect you from a lawsuit judgment. Only a Properly structured Asset Protection Plan can accomplish this.

With Regards,

Rupert Francisco, J.D., Pres.

J E Holdings, LLC