

PARTNERSHIP LAW – DOES A PARTNER’S DESIRE TO TERMINATE THE PARTNERSHIP AT A LATER DATE CONSTITUTE DISSOLUTION?

By Thomas Horton^{*}

Buck v. Palmer, 381 S.W.3d 525 (Tex. 2012).

The Supreme Court of Texas recently issued an opinion in *Buck v. Palmer* on the issue of whether statements of intent to discontinue a joint venture cause automatic dissolution of the venture as a matter of law. The Court held that statements expressing intent to dissolve at a future date does not terminate the partnership immediately as a matter of law.¹

The withdrawal of partners from a partnership agreement are governed by Section 152.501 of the Texas Business Organizations Code, which states that a person ceases to be a partner on the occurrences of an event of withdrawal.² An event of withdrawal occurs upon the receipt by the partnership of notice of the partner’s express will to withdraw on the date the notice is received.³

The issue in this case arose when the outstanding debt of the joint venture was consolidated and reduced to a \$600,000.00 note.⁴ Soon after the settlement Buck allegedly promised to transfer to Palmer his remaining interest in the venture in exchange for a discharge of indebtedness.⁵ Two years later, Palmer sued Buck for breach of an oral agreement; however, Buck denied the existence of the contract and sought a declaratory judgment confirming his interest in the partnership.⁶

The central piece of evidence was a letter dated June 16, 1995, where Buck stated “I have no desire to embark into any QID land development scenario with you.”⁷ Palmer contends that Buck surrendered his interest on June 16, 1995, whereas Buck contends that he never intended to relinquish his interest in the joint venture.⁸

The trial court denied Buck’s motions and granted Palmer’s motion for summary judgment. The Court of Appeals affirmed the trial court, holding that the letter was conclusive evidence of dissolution of the joint venture. The Supreme Court of Texas granted review of summary judgment under a *de novo* standard.⁹

Palmer’s contention relied on a single case, *Woodruff v. Bryant*, which supported the proposition that dissolution occurs “automatically” when a partner expresses the intent to dis-

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¹ *Buck v. Palmer*, 381 S.W.3d 525, 526 (Tex. 2012).

² TEX. BUS. ORGS. CODE ANN. § 152.501(a) (West 2011).

³ *Id.* § 152.501(b)(1).

⁴ *Buck*, 381 S.W.3d at 526.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 527.

solve.¹⁰ The Texas Supreme Court, after examining the *Woodruff* decision, acknowledged that the court in *Woodruff* held that an expression of will to dissolve the partnership is legally sufficient evidence of dissolution.¹¹ Further, the court in *Woodruff* stated that a letter expressing a desire to cease the partnership is only some evidence supporting dissolution.¹² In fact, the *Woodruff* court overturned the jury's finding and held that the evidence was insufficient due to the "overwhelming evidence" that the partner retained her partnership interest.¹³

It is true that the June 16, 1995 letter from Buck is some evidence that the partnership had dissolved. However, Buck presented contradicting evidence, which included 1) the settlement agreement listing Buck as a twenty percent owner, after the alleged dissolution, which was signed by Palmer; 2) an amended joint venture agreement, adopted after the alleged dissolution, still listing Buck as an owner; and 3) Buck's affidavit stating he did not intend to dissolve the venture.¹⁴ When the letter is viewed in conjunction with all of the evidence presented, summary judgment is inappropriate because reasonable jurors could differ on the issue of whether Buck intended to dissolve the partnership.¹⁵

The Texas Supreme Court held that a partner's statements expressing his lack of a desire to embark are not legally sufficient evidence of dissolution. These expressions could merely be a partner's desire to relinquish his right at a later date or an expression of frustrations with the entity's performance.¹⁶

Partners must be explicit when intending to dissolve or terminate a joint venture of partnership if they desire their expression to be upheld as a legally sufficient termination.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*