

# MAINE STATE LEGISLATURE

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March 15, 1939

Mayo A. Shattuck, Esquire  
15 State Street  
Boston, Massachusetts

Dear Sir:

After a careful study of the matter very fully discussed in your letter of the 7th, relative to the changes recently taken place in the business of Baldwin & Company, I regret that we cannot agree that the change which has taken place in Baldwin & Company by reason of the decease of Mr. Baldwin and the proceedings since, "is no more in essence than a change in personnel". It seems to be settled that:

"By the general rule of law, every partnership is dissolved by the death of one of the partners. It is true, that it is competent for the partners to provide by agreement for the continuance of the partnership after such death; but then it takes place by virtue of such agreement only, as the act of the parties and not by mere operation of law."

So here, without an agreement "the partnership would have followed the general rule of law and the dissolution would have taken place at the death of the member".

In the instant case it was agreed that:

"If either party shall die before the termination of the partnership the remaining partner shall have ninety days from the appointment of legal representatives of the deceased partner in which to purchase or liquidate the interest of the deceased partner."

Mayo A. Shattuck, Esquire  
March 14, 1939  
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Instead of proceeding in accordance with the terms of said agreement a limited co-partnership was formed to begin on the first day of March 1939, to continue through the first day of March 1942. "The co-partnership established hereby is to take over and assume all accounts, securities and customers of said partnership," etc.

A new partner was taken into the general partnership and Janice L. Baldwin, Administratrix of the Estate of Clarke T. Baldwin (deceased partner) became a limited partner. Paragraph 8 of your letter is as follows:

"New partnership articles between Lester G. Bruggemann, general partner, Howard S. Harris, general partner, and Janice L. Baldwin, Administratrix of the Estate of Clarke T. Baldwin, were duly signed and became effective on March 1, 1939. The partnership under these articles will continue until March 1, 1942."

This seems to indicate a new partnership.

We cannot discover that the agreement made by the former partners "in case either shall die before the termination of the partnership", has been complied with, consequently, the former partnership was dissolved.

Enclosed is the copy of the Articles of Co-Partnership which was left at this office.

Very truly yours,

Sanford L. Fogg  
Deputy Attorney General

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