

#89 TRG Transcript

Mike Stohler

What if you could be doing something smarter with your money that creates income. Now, if you're wanting to get ahead financially, and enjoy greater freedom of choice, if you want a comfortable retirement, and you know you'll have more choices, if you can do more with your money. Now, if you've wondered who else is creating ways to make their money work for them, and you want actionable ideas, with honest pros and cons, and no fluff. Welcome to the richer geek podcast. We're here helping people find creative ways to build wealth and financial freedom. I'm Mike Stoller, and in this podcast, you'll hear from others who are already doing these things, and learn how you can welcome back to another episode of the rich drinking.

Today we welcome Jonathan Finnick. He's an attorney and partner at Colorado, LLC attorney.com. In this position, he helps business owners at nearly every level, and in nearly every industry with asset protection, estate planning, and business formation.

Welcome back to another episode of the richer geek. I'm happy to have on this episode, Jonathan Finnick. How you doing, Jonathan?

Jonathan Feniak

I'm doing pretty darn good.

Michael Stohler

Good. Jonathan is an attorney and partner at Colorado LLC attorney.com. The reason I brought Jonathan on in all the other different types of podcasts that I've had, I've talked about having a team and having an attorney, a good attorney, is part of your team that you will need whether you invest passively or actively whether you're a general partner, limited partner, whether you own your own business, a reputable attorney is part of your team. Why are they such a good part? Well, Jonathan, why do we need an attorney on our team, if we're investors,

Jonathan Feniak

It's a complex world. And you have to assume that the other side has an attorney working for them. And I think you're, you're foolish if you're going in without the same weapons, don't bring a knife to a gunfight. And if they've got a gun, an attorney, you want to have a gun attorney as well. That that's what we offer to our clients and then trying to really extend attorneys into markets where they traditionally have sort of been inaccessible by a lot of people. You know, the the big offices downtown, where you have to get an appointment weeks in advance, you have to pay a retainer, you're going to be looking at very significant bills are our model is all about, I need an attorney now, I have something that's pressing, how can I talk to someone who knows about this particular area,

and individuals will sign up for half an hour at a time with me, give me a little brief background on the situation, I need to do some research ahead of time, I will, if it's a topic that I'm dealing with on a daily basis, which is, which is hopefully what people are signing up for appointments with me for, then I'm able to talk to their issues immediately. And then at the end of it, they're they're done with the engagement. There's no surprise billing. And if there is something that needs to be done, we work on a flat fee basis. So we tell you exactly what it's going to cost. You don't have to worry about is this 10 hours, 100 hours, how many hours are going to take we know how long these things take, because this is really focused area of practice. And so that's that's what our clients are, are getting out of this. And at the very, very least, they're going to be spending a heck of a lot less than the other side, whoever they're negotiating with on the same transaction and getting an equal or superior quality of work.

Mike Stohler

Now, you mentioned that people would call you for certain issues, what are some of the types of things that I would call you up or you know, the listeners would? What type of expertise?

Jonathan Feniak

Yeah, the broad categories are asset protection and privacy. And then you sort of look underneath what that involves, we're not getting involved in any litigation. We're not, you know, dealing with insurance claims or divorce or any of that. It is if you're concerned about protecting your business interest or your personal interest, your assets. Or if you're concerned about your privacy because you're you're becoming you know, let's look let's face it, face it in our society, you know Those who have wealth or those who are in positions of power, we come targets in many ways. And there was a great story of one of my clients is a is an executive for a financial services firm, and recently moved to Colorado but had lived in the Midwest. And he was targeted, because he was part of the 1%. You know, during the financial crisis, there were individuals outside his home picketing, he was afraid his family was afraid. And he never wanted that to happen again. So we were able to allow him and help him acquire property in Colorado without his name appearing in the property records. And so that's that's the privacy aspect. But it's also, you know, it's asset protection, your family is an asset, how you can protect your family from those who may or may want to come after you. lawsuits are, it's very easy to sue somebody. We think that shielding those assets from the potential claims of plaintiffs attorneys is gonna put you in a much better negotiating position when it comes time to, you know, settlement, assuming you did something wrong, right. But sometimes, even if it didn't do something wrong, the better strategies to settle, just to make it go away, because your time is valuable.

Mike Stohler

Yeah, well, and also the attorneys costs are, it's cheaper to settle than litigate it and keep it going. You know, I had one of the things that we have to deal with, with hotels and things like that are the

fraudulent ADA lawsuits. They're going around California, Arizona, Nevada is just getting hit by they're called phonebook lawsuits. And they just start picking hotels, no matter what, and then they sue, you never went to the hotel, never stepped foot on it. And then they say, Okay, well, we'll sell for 5000 is cheaper than your attorney costs. And they get a quick, you know, and they file 1000s of lawsuits a year, you know, and it's just there, those types of people that are out there. Let's talk about you also do like entity formation.

Jonathan Feniak

Yeah, yeah, that's

that that's a great place for us to start. So the firm is actually owned by cloud peak laws and parent company, based in Wyoming. In cloud peak law owns Wyoming LLC attorney, we have Colorado LLC attorney, we also have entity formation services, a number of other states, New Mexico, Florida, Delaware. And most people learn about an LLC and start their business using an LLC or a corporation. And they sort of have a general idea of what it can do for them. And they form their LLC is with us with with us, we offer a very cheap services. And the things you get other than just the formation, which a lot of states you can do on your own, is we set you up with great starting documents, a guide, how to run an LLC, an operating agreement, consents to open bank accounts, your Articles of Organization, all that you know, half a dozen different documents we deliver to people who sign up for an LLC with us, and it will help them deliver on the promise of the limited liability protections an LLC offers, if you're not respecting your entity, following the guide, we give you to understand what it means to respect your entity that means, you know, not treating it as if it's your alter ego, where you're putting money into and out of it without any record of it, you're not keeping entity records, you're not keeping separate bank accounts, all of these things. You're you're probably not going to get any protections. If you don't respect it, why would a judge and so so we do, you know, on a monthly basis around the country in excess of 700 entity formations a month. And that is most people's sort of entree to to the law with this business. They need the limited liability protection. And then they have questions about, you know, the particularities, you know, this is my, you know, me and my sister in law that are starting this LLC, what do we need to worry about? How should we draft our operating agreement, and so we'll have consultations with them. And and provide them with guidance. Sometimes they just need they need an NDA, sometimes they need, you know, a lease agreement or a marketing agreement, because they're going to outside third parties, virtual assistant agreements, all these kinds of things. And we can assist with drafting them on a very reasonable prices, all flat fee prices. So we start out with the formations and then we're there when they need us.

Mike Stohler

Go that's you know, and that's, you know, for our listeners out there that are thinking about getting into even as simple things as the fix and flips or if you're just starting even as a limited partner. In a an investment, you'll believe, Jonathan, how many times that I've gone to different meetings, and

people have, you know, three or four rental homes. And it's in their personal name. It's like, Well, you know, I got a mortgage on it, and the mortgage wants me to put I have to keep it in my name. You know, what do you tell people? It's like, Oh, I'm thinking, it's like, oh, my gosh, you know, you don't realize what you've opened up. You're, what you're you're opening yourself up to? By keeping things in your own name, can you? What is the port? Everyone knows? It's like, yeah, I need to know something about the LLC is, what does that importance to put it into the LLC?

Jonathan Feniak

Yeah, there's two kinds of liability that most people experience in their life or that are subject to, and one's going to be personal liability, you're driving around your car, you get in an accident, you've got an insurance policy, and we can't stress it enough, the first barrier for your personal assets is going to be an insurance policy. Right. So having the right amount of sure of insurance for the right risks. If you get in that auto accident, and someone Sue's you above your policy limits, and they get a judgment against you, a limited liability company can protect those business assets from the claims of creditors in certain states. So even in Colorado, you know, we have a pretty good Limited Liability Company laws. But Wyoming really is differentiated from most others, in that they have something called charging order protection, it's the sole remedy of a creditor. So if my personal creditor I get in a car accident, and they want to try to go after other assets, my business assets. In most states, a judge will allow them to foreclose on the assets in an LLC, so foreclose on the assets in my Colorado LLC. If I have an LLC in Wyoming, they will not allow them to do that they can sit on the outside of the LLC, and wait for distributions to be made. And when the distributions are made, they can sort of siphon them up and take them to pay their judgment, but they can't break into the LLC and sell the assets that are in there, foreclose on them. And so even with a Colorado LLC, many of our clients will form there. They're the Wyoming LLC, first at the top level as a parent company, a holding company. And then they'll set up subsidiaries in various states, Colorado, or Texas, or wherever they have property or potential liability. And what this does is it shields those business assets from that personal liability.

The other liability we have is liability, which flows from the assets themselves from the business assets, you own a rental property, and someone's you know, slips and falls, what can they get from that suit? Again, first thing, I can't stress it enough, having appropriate landlord policies on the property, don't expect that you're going to be covered for these kinds of risks. If you you know, slip and fall, you're renting it out if you had it as a primary residence, and now you've converted it, and you don't have a true landlord or policy to make sure you have the right policies there. So so what are they going to get above that liability policy, while they're going to get the equity in that property? That's going to be subject to the claims of creditors, they'll get a lien against the property in the LLC. But what else will they get? And you talked about, you've got four LLCs. You know, if you've got four LLCs, well, then great, those pockets of liability are going to be isolated from each other, they're not going to be able to go after the assets or across liability to those other LLCs, they're not going to get up into the Wyoming holding company and then to you. But if you imagine a scenario where you've got the four properties in your individual name, somebody slips and falls Sue's above the policy limits, they're going to get a lien against that property against the other four or three properties, as well as go over and attach your personal bank account. And so that one event which could be

limited, you could limit your liability, just to the assets in that company are now really limited only by what do you have? how wealthy are you?

Mike Stohler

Yeah, and that's, you know, please ever want to take take that to heart. It's it happens. You can't say, Well, you know, I know this person, they won't sue me, you know, he's been a family for they'll sue you. If something comes down to it. You know, I hate to be a pessimist on those types of things, but, you know, I've been in multifamily for 20 some years, hotels. People pretend to you know, slip on a crack and trip. Things happen. What, uh, you know, another question? So let's say I have, and this can be expensive and can be a nightmare for the CPAs. I have, you know, 25 properties. And I have limited partners and each owns five properties. Do I have 25 different LLC? Or is it okay to kind of bunch within the me as the general partner and then you have five LLC is with the 14same limited partner, is it okay to bunch of more? I mean, do I have that many fellow sees?

Jonathan Feniak

Yeah, and I saw I was I was a financial advisor, I have an MBA as well as a law degree. And and I think something I bring to, to my conversations with clients is there's business decisions to be made. And in certain states like California, they have a California LLC, and it's \$800 per years, the franchise tax for California LLC. You know, in other states, you know, Colorado or Wyoming, it's, it's pretty reasonable, your annual fees are low. And so I think there is a decision to be made about what is the best allocation of your funds, if you've got properties with limited equity in them, then I'm okay with bundling them together, I have clients, you know, and you've got four condos in one building. And those four condos, your liability is really pretty low, you know, your common area liability is going to be one where it's going to fall on to the building. And then within your units, you're going to have pretty good insurance, what could happen. I mean, there's horror stories, one horror story. It was it was in Colorado, and there was a house in Aspen that was, it was a charity auction, and a family won the charity auction when the state of this house in Aspen, and the entire family died, there was a problem with the carbon monoxide there was like a heating a driveway heater, and it was improperly installed. And so you imagine that kind of liability if you have a, you know, if you're very wealthy, you've got a lot of equity in the property. It's got a pool, it's got a hot tub. It's got roof decks, it's you know, what is the actual liability that each of those properties holds? And I think that's the business decision to be made. Do I want to isolate this risk in this one LLC? Or do I feel comfortable because it's for condos? You know, common areas? If they're small, they're safe. You know, it's Airbnb, and I've got, you know, a million dollars of coverage from Airbnb, I've got my own liability policies, you know, you say, one LLC would be overkill, especially in a state like California, with \$800 per entity, but but but there is a business decision to be made there. And I talked my clients through it.

Mike Stohler

Okay. Yeah, that makes sense. Because it's like, oh, my gosh, I have my CPA would kill me if, if I had an LLC for every single, every single one. But you know, I didn't know but I think it is, you know, when you look at for homes that are worth \$150,000 each, and they have, you know, yeah. You know, the rentals, right? And the same lenders or partners. Now, once you get, you know, a lot of our listeners have considerable wealth and they're doing okay, at what point and when you're talking about let's kind of switch over to maybe it's this is kind of estate planning a little bit kind of asset protection kind of folds into that. At what point would you start looking at, okay, you know, what we need to look at maybe NFL DPI, or, you know, a limited partnership within the family within kind of separating the things out so that now we're getting into the estate planning and we want to actually protect the estate and, and other different things that you could do not necessary and listers. FLP is a was a family limited partnership. Those types of things for that type of protection.

Jonathan Feniak

Yeah, and we do a lot of that as well. So Wyoming is a there's been this arms race among different states trying to set up very protective trust statutes. And so you got, you got Delaware, Nevada, Alaska, Wyoming, South Dakota, have all been in this arms race, to get people to come there and set up their trust and, and that's sort of the capstone to many of our asset protection strategies. It does achieve a state planning goals, but Wyoming has a qualified spendthrift trust statute that will really shield those assets from your personal creditors. And that comes into play when you have personal liability, that car accident type of liability but much greater that you can't shed, because you're the executive of a company, and you're on the hook for multimillion dollar contracts. You know you're an obstetrician. And if a mother and baby suffer injuries on the birthing table, I don't care how much malpractice insurance you have, you are going to be sued? well above it, right? And so so what assets Can't you really shield you can't shed that personal liability if you're an executive in a company, an engineer and architect and attorney, a doctor, those tend to be the ones who say, Okay, I don't want to lose this, I built up a you know, 235 million dollars. And I'm, yeah, I could lose it based on a frivolous suit. Or if I just screw up it, hey, people make mistakes. And there's negligence that we all engage in on a daily basis. Unfortunately, at that point, a Wyoming asset protection trust can act as a, I viewed as a family office, where you're not just talking about your wealth, you're talking about multi generational wealth now. And it's a it's a great way to remove those assets from the liability you generate by walking around the world or interacting with the world. And it will endure in Wyoming for you know, there's 1000 year asset protection trust there. I don't know what's going to happen. 1000 years, go back 1000 years, it was the Dark Ages, who knows what was going on. But, you know, let's assume it's not mad max or something years from now. Those are a part of what we do. Mark Pierce is the Wyoming licensed attorney. And so I worked with him to develop these plans with with our clients to come up with this comprehensive plan. How do we protect their assets from their personal liabilities and from their business related liabilities?

Mike Stohler

Yeah, it's something that we worry about, with as we get into 10s of millions of dollars worth of real estate holdings? You know, at what point is that LLC not going to help you do I need to start putting things in flps and putting things in trust, and just separating them out. And, you know, I think a lot of people don't realize that that stuff is even out there. In order to you know, at what point do you think like, Okay, I have a million dollars worth of assets that I need 5 million, at what point do you have to say, okay, you know, what, I need to bump up a little bit as far as the estate planning instead of just, Hey, I have a will, you know,

Jonathan Feniak

well, well, well, there's a continuum there and I think the continuum I have people who, you know, they got half a million dollars, but then very heavily regulated or scrutinized industries and you know, in Colorado CBD is is huge and I think there's a significant concern there that there could be something happening at the national level to impose very significant penalties or jail time or you know, if you're dealing with they're they're not pharmaceuticals right they're they're not approved by the FDA whatever it turns out there's harm and we wind up with the kind of situation like Philip Morris or with a cigarette companies did down the road and and there's this these unknowns there that caused those individuals to say look, I'm on a steep asset and a growth path in my life. Why don't I start protecting myself from now because I've got all the chips on the table that I want to risk, start pulling them off peeling off those assets, getting them into an asset protection trust. But but but again, that's that's usually the capstone, there's you know, six different ways we think about protecting assets typically, our personal liability unless you fall into one of those sort of professions, your executive attorney so on and so forth, is going to be fairly limited even if you know most terrible car accidents, look at a couple million dollars and so you've got good live auto liability and then if you don't have an umbrella policy, you definitely need to investigate it you know, a 123 to \$5 million umbrella policy is is definitely important there but then but then there's some risks of an umbrella policy is not going to cover you for and those you know professional risks are typically the ones that it's not going to cover you for what color you cover your for the car accident. You know, one of the key things here is to not be say flashy about your wealth, but keep it private, and certain states allow you to form LLC is anonymous. And others don't. We there's a we do entity formations in Florida, Florida does not allow for the creation of anonymous LLC Wyoming does, you don't have to report the members of the manager to the State of Wyoming, you don't have to do it for Colorado, either, you just have to list organizer. And so we act as the organizer for our clients. But then using that in a state that doesn't allow for the anonymous formation of LLC, you use your holding company as the member in Florida. And then we act as the manager, who will immediately resign after formation and assign those, the manager duties to you. And so in that way, you keep your name out of the Secretary of State records. If somebody can easily find out that you own 30 or 50, or 100, LLCs, you're gonna know you're wealthy, and you're you're a target. Right? So what are you doing to keep your name out of the public records we also offer for our clients in Wyoming Colorado, we offer nominee services of or if they're their Wyoming or Colorado entity is purchasing something in another state, we can still act there as well. So we'll act as the nominee manager, because your name goes into the title records. And, and depending on the state, the indexing can be it, everything,

everything in that in that deed could potentially be indexed on title records, allowing someone to easily find you. And for those who are, you know, all of us, I think, these days have our views and in politics or are outspoken online in one way or another. If someone knows where you live, you are really taking a risk there. And so how can you protect yourself from from that type of risk? or someone's, you know, doxxing you or whether they swatting you or to end up at your house with a gun, you know, yeah. Yeah, we do offer those services, nominee services and, and privacy has got to be a key element. A lot of people in tech understand that at least people will work in sort of information security called attack surfaces, you know, how do you minimize the your attack surfaces? Or whether it's a potential creditor or someone wishing to do you or your family harm? How are you minimizing those? And we offer a lot of solutions in those in those areas.

Mike Stohler

Yeah, and see, ladies and gentlemen, you can't get this from normal websites that where you can just download the forms, we all know, you know, those those websites, where you click download everything you want? And then how do you fill it out? What kind of protection all you have to do is, is miss one line and it i'm sure voids everything's You know, it just so, you know, how important is it? Jonathan, though, you know, while we wrap up? It's it's kind of like the same things, you know, I'm not going to diagnose myself online, you know, with, you know, I'm sure a lot of people tried to diagnose me and but you go to a doctor, right? I'm not going to go in and try to self diagnose myself, you know, there are I feel the same thing with attorneys. entity, you know, I have four or five different attorneys. And they each specialize in each different segments. And that is one thing, don't download, like, Look, you know, I can save for five bucks, I can download my LLC, two pager. And they're done. You know? Please, people don't do that.

Jonathan Feniak

Yeah, I do like, like an operating agreement as your foundational document. And when it's a single member LLC, well, do you need an agreement with yourself, you know, under most under most states, Colorado and Wyoming, you actually don't need an operating group. There's no requirement to have one for a single member LLC. But it can build in creditor protections. So if you got an LLC operating agreement that says there, you know, creditor can't do this, or creditor can't do that. That can be a powerful tool in front of a judge. When you start getting into partnerships with other individuals, you know, it's not your spouse, even if it is, you know, maybe you still want an operating agreement with your spouse who's in charge. I think you need to sort of take a step back every time you're putting capital at risk and say, Is this the best way to do this? How am I limiting my risk in this endeavor? And then if you're not sure, you know, there's a Donald Rumsfeld you know, the knows those are the things we know the unknown unknown are the known unknowns and then the unknown unknowns and and if you're in the unknown Unknown phase, I think you should speak to an attorney, you should speak to us or you could speak to to someone else and say, What am I missing here? You know, one of the most common things I see is individuals are starting up a limited liability company will dump a whole load of cash into the LLC. Without realizing there's another way to do it. The other way to do it is to lending the money to your LLC, right, become a creditor for your

LLC Sure, you have to have a certain amount of capital in there for operating purposes. But anything above that sort of minimum operating capital making a loan, if anyone comes in and gets a judgment against that LLC, you're going to be ahead of them in terms of creditor protections and and that's something we do very often, you know, you have to document needs to be bonafide you can't just say this was a loan, document that documented but that is a baseline issue. If you didn't know about that, the listeners, there's a dozen or 20 other things that we can offer advice on. So if you're not sure what your risks are, you should definitely set up a time and talk with an attorney.

Mike Stohler

And while you're at it, you should talk to Jonathan, instead of another one. So, Jonathan, how can our listeners find you if they are interested? yet, go to Colorado LLC attorney,

Jonathan Feniak

or Wyoming LLC attorney, and you can book time with myself and the other attorneys in the firm. And depending on what you need, we can you can read our BIOS and read what areas we focus on and pick the right attorney, very easy to do. And all you're obligated for is that half an hour hour that you that you booked

Mike Stohler

and I should say you don't have to be from Colorado, or Wyoming in order to talk to you

Jonathan Feniak

know, if you're concerned about asset protection, or sort of this idea of the, you know, multi jurisdictional practice of law. And for areas of particular expertise, you may not be able to get it in your state. You can reach out to attorneys in any state and say I have this issue, I'm concerned about asset protection, you know, does it touch Colorado, you know, there's gonna be certain certain things that an attorney from other state can't do in your state. But when it comes to getting generalized advice about asset protection, which a lot of it is sort of it's federal law, applies, got bankruptcy law, we've got a State Law, IRS related issues, taxes. And then most states have adopted these uniform laws uniform Limited Liability Company Act, uniform, Corporations Act, uniform Trust Act, and so on. And so, you know, we can provide this broad guidance on asset protection. And, and it's often the case you say, look, you know, we can do this part. But then you need to work with an attorney in your home state, because there's there's property issues here, which are going to be very specific their particular state. So I'm happy to speak with with anyone about the asset protection in general and some of the techniques that are broadly applicable across the entire country.

Mike Stohler

Yeah, you know, like entity formations, LLC is anyone can do that any attorney in the state. Well, Jonathan, I appreciate you being on today. You've taught me a few things. And I've been buying in the having LLC, created for about 20 some years. So it's been it's been wonderful. And I thank you for this time. I appreciate you. It

Jonathan Feniak

was great talking to you. And I am glad you gave me an audience with a group that I think could really use this really smart individuals typically know what they know and know what they don't know.

Mike Stohler

Absolutely. Thank you.

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