The Purdy Crawford Chair
In Aboriginal Business Studies

Case Studies in Aboriginal Business

Moonlight Works A
Katie K. MacLeod
The Purdy Crawford Chair in Aboriginal Business Studies was established at Cape Breton University in 2010 in response to Aboriginal community leaders’ expression of the need for entrepreneurship, business investment, and corporate skills training for the purpose of creating a model of self-reliance.

Named in honour of Canadian lawyer and corporate boardroom leader, the late Mr. Purdy Crawford, the Chair aims to promote interest among Canada’s Aboriginal people in the study of business at the post-secondary level.

The Purdy Crawford Chair in Aboriginal Business Studies focuses its work in four areas:

- Research on what “drives” success in Aboriginal Business
- National student recruitment in the area of post-secondary Aboriginal business education
- Enhancement of the post-secondary Aboriginal business curriculum
- Mentorship at high school and post-secondary levels

“Meaningful self-government and economic self-sufficiency provide the cornerstone of sustainable communities. My wish is to enhance First Nations post-secondary education and research to allow for the promotion and development of national Aboriginal business practices and enterprises.”

Purdy Crawford, C. C.
(1931-2014)
Killa Atencio, a self-taught Mi’kmaw artist who specializes in jewellery, was thinking about registering her continuously expanding business in fall 2014. While researching the registration process, she identified several issues that she would need to carefully consider before deciding which registration option, if any, would be best for her business.

BACKGROUND

Moonlight Works was established in 2012 by entrepreneur Killa Atencio, a self-taught Indigenous artisan who specialized in beaded jewellery. All of the products available from Moonlight Works are handcrafted by Killa. Her work is very colourful with bold designs, which appeal to her Aboriginal clientele and clients who have an appreciation for contemporary Mi’kmaw designs. In addition to her bolder designs, she produces items with more neutral colours her non-Aboriginal customers tend to prefer. Originally, the jewellery business focused primarily on earrings; however, it later expanded into other products, such as medallions, medicine bags, poppies for Remembrance Day, and, most recently, metal products.

Killa has recently developed a partnership with an Indigenous silversmith in Peru. She is teaching him about Mi’kmaw culture and symbols, such as the flag and the eight-point star, which he is incorporating into silver pieces. These will be sold through a fair-trade process as part of a product line called IndigenUs. This initiative complements Killa’s overall goal for her business, which is to bring together Indigenous peoples from all over the world through art. With a particular interest in uniting Indigenous cultures from North and South America, she hopes to use her business as a cultural tool that encourages exchange and skill sharing between artists all over the Americas.

Though she has lived in Halifax, Nova Scotia since 2007, Killa Atencio is originally from Listuguj First Nation, located on the Gaspé Peninsula of Québec. Killa is proud of her Mi’kmaw heritage, as well as her Quechua heritage (her father is from South America), and incorporates both into her work. She returns home to Listuguj annually to sell Moonlight Works products at the community’s powwow.

In the Quechua language, Killa means “moonlight.” In Mi’kmaw culture, the moon represents a “grandmother” who is a guiding light. By using “moonlight” in the name of her business, Killa was including her own name and acknowledging both sides of her ancestry. It also represented of her goal of uniting Indigenous cultures from North and South America. She added “works” to the name, rather than terms such as jewelry or beadwork, to ensure flexibility that would allow her to expand into other products over time.
Since starting her business in 2012, Killa has participated in many business development workshops and programs to improve her knowledge of business practices and continue expanding her business. She has sold her products primarily at powwows, conferences, and other events. She recently launched an e-commerce website and started using a mobile point of sales (POS) system to accept major credit cards at events.

REGISTERING THE BUSINESS

In Canada, once a business’s total revenue surpasses $30,000 per year, it must be registered. Although Killa has not yet reached that level of revenue, with the continuous growth and success of Moonlight Works, she has started to think seriously about registering her business. While researching the process, Killa identified several issues, options, and considerations for the registration of her business. She needed to determine the appropriate business structure (sole proprietorship or corporation) and decide whether to pursue provincial or federal registration. The related issues of language policies for businesses in Québec and the implications of business structure for taxation would also influence her decisions.

Sole proprietorships are registered provincially, while corporations can be registered provincially or federally. This leaves Killa with a number of options to register her business:

- Register as a sole proprietor in Nova Scotia
- Register as a sole proprietor in Québec
- Register as a corporation in Nova Scotia
- Register as a corporation in Québec
- Register as a corporation federally
- Not register her business

Operating as a sole proprietor would cost $65 per year in Nova Scotia and $32 per year in Québec. The fees associated with registering corporations in both provinces vary; however, they are significantly higher than those of sole proprietorships. Furthermore, there are additional legal and accounting fees associated with registering. Registering a business federally comes with higher start-up costs, with a fee of $200 if filed online under the Canada Business Corporations Act (CBCA).

Canada Revenue Agency (CRA) places guidelines on where a business is registered and operating. Registering Moonlight Works in Nova Scotia as a sole proprietorship or corporation would be the simplest route for Killa to take, as she currently operates her business out of Halifax. Conversely, if Killa were to register Moonlight Works in Québec, regardless of whether she chooses to register as a sole proprietorship or a
corporation, she would need to carefully weigh the options before proceeding, as this would require moving the operation of her business to Québec.

All businesses registered in Québec must have a French name unless the business owner’s legal name is in that of the business. Therefore, if Killa were to register her business in Québec, she noted that she would either have to change the name of the business to “Moonlight Works by Killa Atencio” or translate it into French in order to comply with the Charter of the French language and the Act respecting the Legal Publicity of Enterprises. In order to comply with these standards, the French name of the business would have to appear on all labeling, brochures, business cards, signage, order forms, invoices, and receipts. Bilingual versions of the business name would be permitted; however, they too would have to follow particular standards, such as the English translation appearing below the French name in a font of equal or lesser size. If Killa were to register her business in Nova Scotia or federally she would be able to preserve the cultural integrity of her business name, as Nova Scotia has no language clauses on businesses and Canada Business Corporations Act (CBCA) operates in both French and English.

**Sole Proprietorship**

A sole proprietorship is the simplest of the business structures as it acts as an extension of the individual and is considered to be the least costly. Operating a sole proprietorship requires little capital to start and comes with lower tax rates than corporations; however, sole proprietors are personally liable for all business debt incurred. The personal and business assets of a sole proprietor are at risk to be seized by creditors to cover business debts, liabilities, or obligations. Since the person and business exist as one unit, a creditor could collect business profit to cover a business owner’s personal debt. It is important to sustain strong financial management of a sole proprietorship and clearly separate personal and business expenses to maintain control and prepare for potential audits.

If Killa registers as a sole proprietor before reaching $30,000 she can claim business expenses without collecting harmonized sales tax (HST) and remitting HST in Nova Scotia; or goods and services tax (GST) and Québec sales tax (QST) in Québec. The CRA or Revenu Québec is aware that the business is operating but making below their requirement of $30,000. When her business reaches $30,000, the CRA or Revenu Québec will automatically require the business to collect HST/GST/QST, the business will operate as it had prior to reaching $30,000 aside from the added factor of collecting and remitting taxes.

A sole proprietor can be an Indian as defined by the Indian Act; however, a corporation cannot. Registering as a sole proprietor would attach Killa directly to her business and would allow her to take advantage of tax exemptions under section 87 of the Indian
Act. To avoid complications with the CRA, Killa would have to operate and register Moonlight Works on a reserve in order to make any section 87 claims. If Killa were to operate her business in Listuguj, Québec, there would likely be no issue with her claiming these exemptions. In order to take advantage of these exemptions in Nova Scotia, Moonlight Works would need to operate on a Mi’kmaw reserve within Nova Scotia, instead of Halifax. This option could require the approval of the Chief and Council for that reserve.

**Provincial Corporations**

Registering a corporation provincially is a more complex and expensive process than registering a sole proprietorship and separates the business owner from the business itself. If Moonlight Works was registered as a corporation, Killa would not be able to take advantage of tax exemptions for Status Indians under the *Indian Act* and would not be required to operate her business on reserve.

Corporations have increased access to capital and can borrow money at lower rates. Sole proprietorships and partnerships cease to exist after the death of the business owners; however, as corporations exist as separate entities their ownership is transferred to the beneficiaries of the shareholders. Furthermore, shareholders of a corporation are not liable or personally responsible for the debts of a corporation.

If Killa were to register her business as a corporation before reaching $30,000 she could claim business expenses and CRA or Revenu Québec would be aware that she is operating a business as she would be filing a separate income tax. She would not be required to collect or remit HST/GST/QST until she reached $30,000. When the business reaches $30,000, the CRA or Revenu Québec will automatically require the business to collect HST/GST/QST, the business will operate as it had prior to reaching $30,000 aside from the added factor of collecting and remitting taxes.

**Federal Corporations**

Federal incorporation requires a business to register with Industry Canada under the Canada Business Corporations Act (CBCA). Incorporation is made simple through an online submission process, offers numerous online and customer services, and small business resources. There is heightened name protection and increased recognition for businesses. Business names are protected nationally rather than provincially, decreasing the likelihood that the name can be used in other locations by another business. Additionally, CBCA has international recognition which would offer increased support to businesses operating internationally.

Federal corporations have the same associated liability protection for shareholders as
provincial corporations. The CBCA, however, places certain responsibilities and obligations upon directors. Even as a shareholder, the director has a unique relationship with the corporation and can be held liable for debts, such as acting or failing to act upon an action that resulted in incurred debt.

As Moonlight Works is a travelling business, federal incorporation would allow her to conduct business in all Canadian provinces and territories. Since it is a corporate business structure, she would not be able to take advantage of tax exemptions under section 87 of the Indian Act. She would not have to decide between registering her business in Nova Scotia or Québec. Instead, she would be able to move and sell freely between the two provinces without facing issues with the CRA because federal incorporation does not limit business activity to the province or territory where the business is located and maintained. It would also alleviate any issues and registration processes should Killa decide to move back to Listuguj after registering her business in Nova Scotia.

NOT REGISTERING THE BUSINESS

Killa presently operates in the same capacity as a sole proprietor. Killa is able to offer competitive prices to her customers because she is not required to collect HST/GST/QST on her products. This also results in her not having to remit these business associated taxes on her personal income tax. Considering these advantages, Killa is also wondering if it is the right time in the development of her business to undergo the process of registration.

CONCLUSION

In fall 2014, Killa Atencio began researching the registration process for her growing business. A self-taught Mi’kmaw artist who specializes in jewellery, she often travels between Halifax, Nova Scotia and Listuguj, Québec to sell her handmade products. Killa needed to consider several factors before deciding which registration option, if any, would be best for her business.
The Purdy Crawford Chair
In Aboriginal Business Studies

Cape Breton University
Happen.
Shannon School of Business

CAPE BRETON UNIVERSITY
UNAMAKI COLLEGE