

SECTION

B

The Record BUSINESS

TUESDAY, APRIL 8, 2008

THE MARKETS

DOW

3.01

Close:
12,612.43

S&P 500

2.14

Close:
1,372.54

NASDAQ

6.15

Close:
2,364.83

Market Movers

BUSINESS

TUESDAY, APRIL 8, 2008

ASK A LAWYER

Spell out terms of business loan

Q. My friend wants to borrow money to start up a business. What should I do to protect my investment?

In order to protect yourself, an investment in a friend's business should be properly documented and secured by some form of collateral. A properly documented loan can prevent misunderstandings in the future about whether the money was a loan or a gift, how much interest is owed and when it has to be repaid.

Any time money is being lent, you should require the debtor to sign a promissory note, which is a legally binding contract in which the debtor promises to repay the loan. The promissory

note should include terms such as the loan amount, the date of the loan, the interest rate, the maturity date and the repayment schedule. It is also important to have the debtor sign the promissory note, as his or her signature is evidence of the debtor's acceptance of its terms. Although the loan may be made among friends, it should be properly documented so that if the business does not succeed and the debtor is unable to repay the amount owed in a timely manner, there is written evidence of the loan and no misunderstanding of the amount owed.

You should also consider some form of collateral to secure

the repayment of the loan. For instance, you can get a security interest in the assets of the business, a personal guaranty from the owners of the business, a mortgage on real property or a pledge of the ownership interest in the company that operates the business. However, even if you receive collateral to secure the repayment of the loan, there is no guarantee you will recover the outstanding balance of the loan in full as the amount owed may exceed the value of the collateral.

Since each of the different forms of collateral possesses its own set of benefits and risks, you should contact an attorney at law to discuss which collateral would

be right for your loan.

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Do you have a business question for a lawyer? Send it to Business-News@northjersey.com. This column is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of a client.