6-07/220.20 Limited Partnership

A limited partnership is comprised of one or more general partners who manage the business and who are personally liable for partnership debts, and one or more limited partners who contribute capital and share in the profits, but who normally take no part in running the business and who incur no liability with respect to partnership obligations beyond their capital contribution. The purpose of a limited partnership is to encourage passive investors to invest in the enterprise, allowing them to reap a share of the profits if it succeeds, but without risking more than the capital contributed. (Evans v. Galardi 16 CA 3d 300) Limited Partnerships are governed by the Uniform Limited Partnership Act of 2008 (CORP 15900 – 15912.07) A limited partnership is an entity distinct from its partners. (CORP 15901.04)

Except as otherwise provided by law or agreement, the general partners of a limited partnership are subject to the same liabilities as partners of a general partnership, i.e., joint and several liability for all debts and obligations of the partnership. (CORP 15904.04) Every general partner is an agent of the limited partnership and may thus bind the partnership in matters concerning partnership business. Although general partners are jointly and severally liable to third parties, they are not liable to limited partners for another general partner's misdeeds unless they participated in the wrongdoing or negligently permitted it to occur. (CORP 15904.02)

The limited partner is primarily a passive investor, and normally is not active in the management and control of the business on a day-to-day basis but has the right to information, reports, accountings, to inspect partnership records, and to attend partnership meetings. (CORP 15904.07) A limited partner is normally not liable for partnership debts, the limited partner’s liability being limited to the partner’s investment in the partnership. However, a limited partner who participates in control of the partnership business may be held personally liable to creditors who actually knew of such participation at the time of extending credit and who, based on the limited partner's conduct, reasonably believed the limited partner to be a general partner. (CORP 15903.03)

A limited partner has the right to assign his or her interest in whole or part to a third person. But such assignment merely transfers the right to receive distributions from the partnership. It does not entitle the assignee to become substituted as a limited partner, unless the partnership agreement expressly so provides or all partners consent. The partnership agreement may also impose restrictions on the transferability of the limited partners' interests. (CORP 15901.02)

A limited partnership comes into existence upon filing of a certificate of limited partnership with the Secretary of State. (CORP 15902.01, 15902.02) The certificate must state the name of the limited partnership, street address of the designated office, name and address for the agent for service of process, name and address of each partner, the mailing address of the limited partnership if different from the designated office.