

CHAPTER 3-RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

20. PARTNER AGENT OF PARTNERSHIP AS TO PARTNERSHIP BUSINESS

1. Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

2. An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

3. Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership.

(b) Dispose of the good-will of the business.

(c) Do any other act which would make it impossible to carry on the ordinary business of the partnership.

(d) Confess a judgment.

(e) Submit a partnership claim or liability to arbitration or reference.

4. No act of a partner in contravention of a restriction on his authority shall bind the partnership to persons having knowledge of the restrictions.

21. CONVEYANCE OF REAL PROPERTY OF THE PARTNERSHIP

1. Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subdivision one of section twenty, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

2. Where the title to real property is in the name of the partnership, a conveyance executed

by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subdivision one of section twenty.

3. Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subdivision one of section twenty, unless the purchaser or his assignee is a holder for value, without knowledge.

4. Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subdivision one of section twenty.

5. Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

22. PARTNERSHIP BOUND BY ADMISSION OF PARTNER

An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership.

23. PARTNERSHIP CHARGED WITH KNOWLEDGE OF OR NOTICE TO PARTNER

Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

24. PARTNERSHIP BOUND BY PARTNER'S WRONGFUL ACT

Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership, or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefore to the same extent as the partner so acting or omitting to act.

25. PARTNERSHIP BOUND BY PARTNER'S BREACH OF TRUST

The partnership is bound to make good the loss:

1. Where one partner is acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

2. Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is the custody of the partnership.

26. NATURE OF PARTNER'S LIABILITY

(a) Except as provided in subdivision (b) of this section, all partners are liable:

1. Jointly and severally for everything chargeable to the partnership under sections twenty-four and twenty-five.

2. Jointly for all other debts and obligations of the partnership; but any partner may enter into separate obligation to perform a partnership contract.

(b) Except as provided by subdivisions (c) and (d) of this section, no partner of a partnership which is a registered limited liability partnership is liable or accountable, directly or indirectly (including by way of indemnification, contribution or otherwise), for any debts, obligations or liabilities of, or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract or otherwise, which are incurred, created or assumed by such partnership while such partnership is a registered limited liability partnership, solely by reason of being such a partner or acting (or omitting to act) in such capacity or rendering professional services or otherwise participating (as an employee, consultant, contractor or otherwise) in the conduct of the other business or activities of the registered limited liability partnership.

(c) Notwithstanding the provisions of subdivision (b) of this section, (i) each partner, employee or agent of a partnership which is a registered limited liability partnership shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services on behalf of such registered limited liability partnership and (ii) each shareholder, director, officer, member, manager, partner, employee and agent of a professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a partner, employee or agent of a partnership which is a registered limited liability partnership shall be personally and fully liable and accountable for any negligent or wrongful at or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in his or her capacity as a partner, employee or agent of professional services in his or her capacity as a partner, employee or agent of such registered limited liability partnership. The relationship of a professional to a registered limited liability partnership with which such professional is associated, whether as a partner, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law or a professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership, foreign professional service corporation or

professional partnership, engaged in the practice of law, of the Nation Court.

(d) Notwithstanding the provisions of subdivision (b) of this section, all specified partners of a partnership which is a registered limited liability partnership may be liable in their capacity as partners for all or specified debts obligations or liabilities of a registered limited liability partnership to the extent at least a majority of the partners shall have agreed unless otherwise provided in any agreement between the parties. Any such agreement may be modified or revoked to the extent at least a majority of the partners shall have agreed unless otherwise provided in any agreement between the partners; provided, however, that (i) any such modification or revocation shall not affect the liability of a partner for any debts, obligations or liabilities of a registered limited liability partnership incurred, created or assumed by such registered limited liability partnership prior to such modification or revocation and (ii) a partner shall be liable for debts, obligations and liabilities of the registered limited liability partnership incurred, created or assumed after such modification or revocation only in accordance with this Code and, if such agreement is further modified, such agreement as so further modified but only to the extent not inconsistent with subdivision (c) of this section. Nothing in this section shall in any way affect or impair the ability of a partner to act as a guarantor or surety for, provide collateral for or otherwise be liable for, the debts, obligations or liabilities of a registered limited liability partnership.

(e) Subdivision (b) of this section shall not affect the liability of a registered limited liability partnership out of partnership assets for partnership debts, obligations and liabilities.

(f) Neither the withdrawal or revocation of a registered limited liability partnership pursuant to subdivision (f) or (g), respectively, of section 121-1500 of this Code nor the dissolution, winding up or termination of a registered limited liability partnership shall affect the applicability of the provisions of subdivision (b) of this section for any debt, obligation or liability incurred, created or assumed while the partnership was a registered limited liability partnership.

27. PARTNER BY ESTOPPEL

1. When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

2. When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

28. LIABILITY OF INCOMING PARTNER

A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that his liability shall be satisfied only out of partnership property.