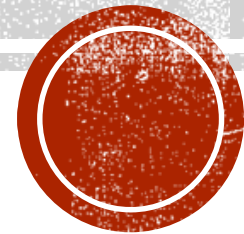


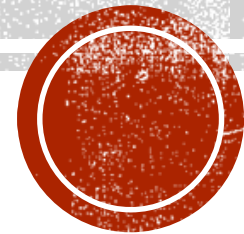
CHOICE OF BUSINESS FORM

- Limited liability
- Free transferability of interests
- Continuity of existence
- Management and control
- Costs
- Taxation
- Access to capital



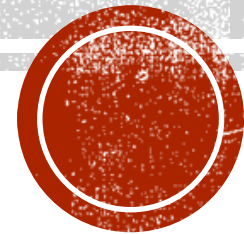
USEFUL RESOURCES

- Investopedia
- Wall Street Journal
- New York Times
- Bloomberg BusinessWeek
- Silicon Valley News
- Taxation
- Access to capital



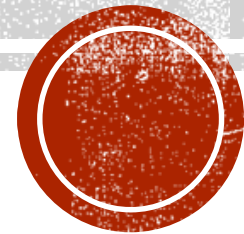
AGENCY LAW

- Agency formation
- Fiduciary duties
- Principles of attribution



AGENCY DEFINITION

- Restatement third of Agency
- Fiduciary relationship that arises when:
 - A principal manifests assent to another person (an agent)
 - That the agent shall act on the principal's behalf
 - And subject to the principal's control
 - Agent manifests assent or otherwise consents to act



DUTIES

- Principal's: contract obligations, indemnification, good faith and fair dealing
- Agent's: contract obligations, duty of care, competence, diligence, obedience, good conduct, disclosure, manage of principal's property, loyalty

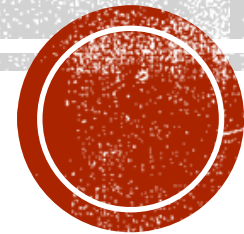


PRINCIPLES OF ATTRIBUTION

PRINCIPAL

AGENT

THIRD PARTY



ACTUAL AUTHORITY

- At the time of taking action that has legal consequences for the principal, the agent reasonably believes, in accordance with principal's manifestations to the agent that the principal wishes the agent to act this way

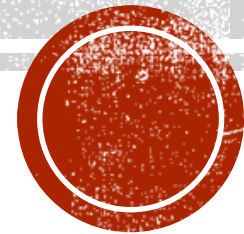
Principal expresses his/her assent



ACTUAL AUTHORITY

- Express
- (oral/written)

- Implied
- (proper, usual, necessary)



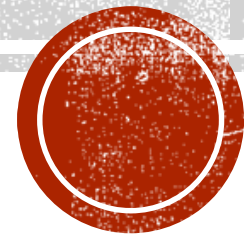
APPARENT AUTHORITY

When a third party reasonably believes the person has authority to act on behalf of the principal, the belief is connected to principal's manifestations, that the person is the agent

Manifestation to THIRD PARTY

Third party reasonably believes

Connected to the manifestation!

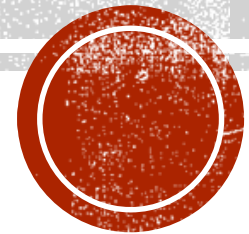


PARTNERSHIP

Association of two or more persons
To carry on as co-owners a business
For profit

Whether or not the persons intended to form
it

Holmes v. Lerner

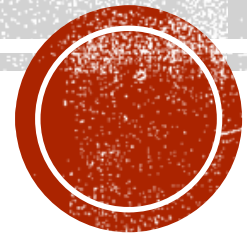


PARTNERSHIP

One partner may be bound to third parties for acts of another partner

Personally liable for obligations of the partnership

Subsidiary liability ?



PARTNERSHIP

Management:

- Who makes decisions? (inside)

Ordinary course of business –
majority

Outside – consent of all partners



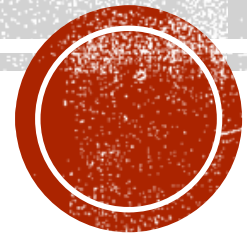
PARTNERSHIP

Management:

Who represents the p-p? (outside)

Acts of every partner binds p-p

Unless 3rd party knew

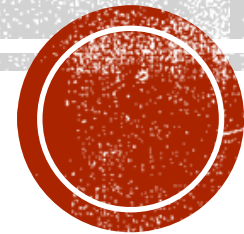


PARTNERSHIP

Standards of conduct (fiduciary duties)

- Loyalty
- Care
- Good faith
- Fair dealing

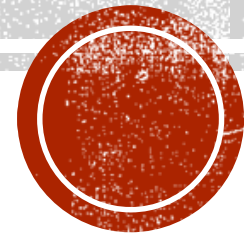
Care: refrain from: gross negligence, reckless conduct, intentional misconduct, knowing violation of the law



PARTNERSHIP – ACCOUNTING

- Contributions
- Share of profits/loses
- Withdrawal

Default rules v. agreement

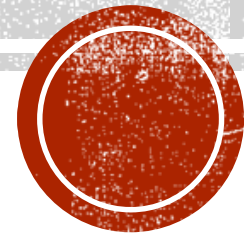


PARTNERSHIP - ACCOUNTING

Default rules:

- Share in profits equally (regardless of the actual capital contributions)
- Loses – same proportion as profits
- Repayment of capital (right)

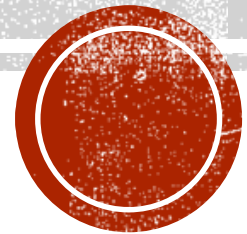
How could we change that?



PARTNERSHIP - LIABILITY

- joint and several
- Exhaustion requirement – 1st go after the assets of the p-p; 2nd you can seek personal assets of partners

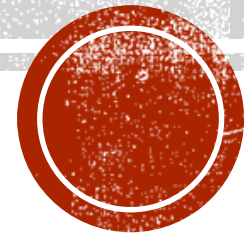
Why? Who do we protect?



LIMITED PARTNERSHIP

- Governed by a separate statute: ULPA or RULPA
- At least one general partner (GP) and one limited partner
- GP – responsible for the management
- Limited partner – passive investor

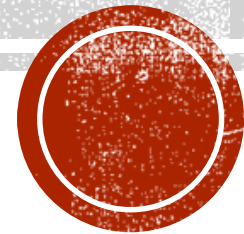
Registration!!!



LIMITED PARTNERSHIP

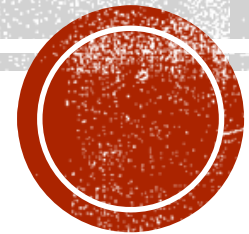
Liability:

- GP – unlimited, personal liability
- Limited partner – personally liable if he participates in the control of the business



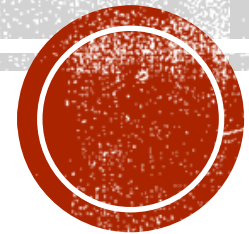
LIMITED LIABILITY LIMITED PARTNERSHIP

- Could register as LLLP – including a statement in the certificate of the LP
- Limited partner has no liability
- GP – limited liability instead of unlimited and personal liability



LIMITED LIABILITY PARTNERSHIP

- Filed a statement of qualification under section 1001
- An obligation of an LLP incurred during the LL status, is solely the obligation of the partnership
- Partner is not personally liable



LIMITED LIABILITY PARTNERSHIP

Statement of qualification

STATE OF DELAWARE STATEMENT OF QUALIFICATION

1. The name of the limited liability partnership is _____
2. The address of its registered office in the State of Delaware is _____
in the city of _____, Zip Code _____. The name of
the registered agent is _____.
3. The number of partners of the limited liability partnership is _____.
4. The partnership elects to be a limited liability partnership.
5. The effective date of this Statement of Qualification is _____.

IN WITNESS WHEREOF, the undersigned have executed this Statement of Qualification this _____ day of _____, _____ A.D.

By: _____
Authorized Person or Partner

Name: _____
Type or Print

DISSOLUTION OF PARTNERSHIP

Stages:

- 1) Dissociation
- 2) Dissolution
- 3) Winding up
- 4) Termination

Dissociation:

- Partner is bought out
- Partner's authority to bind ends
- Partner is no longer liable

