

# BUSINESS LAW



## AGENCY

|                                 |                                                                                 |
|---------------------------------|---------------------------------------------------------------------------------|
| Principal-agent                 | Agent may replace principal<br>• Agent acts on own discretion                   |
| Employer-employee               | Employer's right to manage employee's physical conduct                          |
| Employer-independent contractor | Contractor is not an employee • No control over details of physical performance |

## PRINCIPAL-AGENT

|                  |                                                                                            |
|------------------|--------------------------------------------------------------------------------------------|
| Agreement        | Formed by express consent or implied from conduct                                          |
| Revocation       | Principal, by act or agreement, ceases conduct of third person who acted outside authority |
| Estoppel         | Principal causes third person to act on the belief that another person is the agent        |
| Operation of law | Social duty or emergency where principal not available                                     |

## TERMINATION OF AGENCY

|                    |                                                                                                        |
|--------------------|--------------------------------------------------------------------------------------------------------|
| Act of the parties | Lapse of time • Purpose achieved • Mutual revocation • Termination by one party                        |
| Operation of law   | Death or insanity • Impossibility • Changed circumstances • Bankruptcy • War between trading countries |

## AGENT'S AUTHORITY

|          |                                                              |
|----------|--------------------------------------------------------------|
| Express  | Expressly given to agent                                     |
| Implied  | Custom, or position of the agent through principal's actions |
| Apparent | Principal's conduct leads third party to follow agent        |

## CARELESS

|                    |                                                                                                                            |
|--------------------|----------------------------------------------------------------------------------------------------------------------------|
| Contracts          | Principal bound where agent has authority • Agent bound by express agreement • Agent contracts without authority           |
| Agent's torts      | Principal's own tortious conduct • Principal authorizes tortious conduct • Doctrine of respondent superior • Managementism |
| Independent        | Employer not liable                                                                                                        |
| Contractor's torts | Except negligent activities                                                                                                |
| Agent's crimes     | Employer not liable                                                                                                        |
| Subagent's acts    | Principal is liable where authority exists                                                                                 |

## PARTNERSHIP

- Uniform Partnership Act governs the operation of partnerships in absence of express agreements
- Association of two or more persons acting as co-owners of business

## CREATION OF PARTNERSHIP

|             |                                      |
|-------------|--------------------------------------|
| Intent      | Consent of parties involved          |
| Formalities | Oral, written, or implied by conduct |
| Duration    | Term or at will                      |
| Capacity    | Legally capable                      |
| Estoppel    | Third party liability                |

## TAX STATUS

- Partners are taxed on proportional shares of income; taxes include accumulated & distributed earnings
- Proportionate share of capital gain; no tax on exempt income which is received from item
- Partnership plan may vary (for example, full self-employment tax required)
- No exemption for payments to partner's beneficiaries; not subject to state taxes

## DISSOLUTION OF PARTNERSHIP

- Death of partner(s)
- Either partner may end it; winding up requires notice
- Bankruptcy, and so on

## TYPES OF PARTNERSHIPS

|         |                                                                                                                                                                                                                    |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General | Created by mutual agreement of parties involved • Not treated as entity (limited partners) • Unlimited debt liability • Equal management unless agreement states otherwise • Capital contribution set by agreement |
| Limited | Comply with statutory requirements • One or more general partners, and one or more limited partners • Limited partners not involved in management • Liable for contribution amount only                            |

## SOLE PROPRIETORSHIP

- Created at will by the owner
- Owner is the business; not separate entity
- Duration depends on owner; dissolved upon death
- Transfer of interest ends individual's ownership
- Management at owner's discretion
- Unlimited liability
- Owner pays personal taxes on business income
- Generally no limit on out-of-state business transactions

## PRIVATE FRANCHISE

- Distributorship, chain-style business, or manufacturing/processing plant
- Agreement: Franchisor pays for license • Defines specific territory by franchisor's firm • Purchases goods from franchisor • Abides by standards • Conditions provided for in franchise • Retail price of goods cannot change

## COMMON DUTIES

|                 |                                                                                                                                                           |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Duty of care    | Discharged in good faith with care in reasonable manner • Best interests of business entity • Liability limited to gross negligence or willful misconduct |
| Duty of loyalty | Intrinsic, dispassionate • Top selling business opportunities • Protect confidential information                                                          |

Notes: Please be advised that this chart does not account for jurisdictional differences • It is an informational tool that should be supplemented by more comprehensive materials and/or professional legal counsel

# Lslbc Business And Law Study Guide

**Christian G. Meyer**



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