

Business Law Chapter 4

CHAPTER 4: LIMITED PARTNERSHIP

Art. 1843. A limited partnership is one formed by two or more persons under the provisions of the following article, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership.

General partner - liable up to the extent of their separate property.

Limited partner - liable up to the extent of his contribution only.

Characteristic of a limited partnership

1. It is formed by compliance in good faith with the statutory requirements;
2. One or more general partners control the business and are personally liable to creditors;
3. One or more limited partners (also known as special partner/s) contribute to the capital and share in the profits but do not participate in the management of the business;
4. The limited partners are not personally liable for partnership obligations beyond their capital contributions;
5. The limited partners may ask for the return of their capital contributions; and
6. The partnership debts are paid out of the common fund and the separate properties of the general partners.

Art. 1844. Two or more persons desiring to form a limited partnership shall:

- (1) Sign and swear to a certificate, which shall state
 - (a) The name of the partnership, adding thereto the word "Limited";
 - (b) The character of the business;
 - (c) The location of the principal place of business;
 - (d) The name and place of residence of each member, general and limited partners being respectively designated;
 - (e) The term for which the partnership is to exist;
 - (f) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
 - (g) The additional contributions, if any, to be made by each limited partner and the times at which or events on the happening of which they shall be made;
 - (h) The time, if agreed upon, when the contribution of each limited partner is to be returned;

- (i) The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution;
 - (j) The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;
 - (k) The right, if given, of the partners to admit additional limited partners;
 - (l) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority;
 - (m) The right, if given, of the remaining general partner or partners to continue the business on the death, retirement, civil interdiction, insanity or insolvency of a general partner; and
 - (n) The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.
- (2) File for record the certificate in the Office of the Securities and Exchange Commission.

A limited partnership is formed if there has been substantial compliance in good faith.

Essential Requisites in the Formation of a Limited Partnership

1. The certificate of limited partnership

It must be signed and sworn to. It must contain all the enumerated items in the above-stated article.

2. The certificate of limited partnership must be filed in the Office of the Securities and Exchange Commission.

Note: As compared to general partnership which can be verbal, a limited partnership must always be in writing (certificate of limited partnership).

Presumption in favor of a general partnership

A partnership transacting business with third persons is disputably presumed to be a general partnership.

Art. 1845. The contributions of a limited partner may be cash or property, but not services.

Art. 1846. The surname of a limited partner shall not appear in the partnership name unless:

- (1) It is also the surname of a general partner, or

Business law chapter 4 delves into essential legal principles that govern contracts, providing a comprehensive understanding of how agreements are formed, enforced, and potentially voided. This chapter is crucial for anyone looking to navigate the complex landscape of business transactions, as contracts form the backbone of commercial relationships. In this article, we will explore the fundamental elements of a contract, various types of contracts, defenses against contract enforcement, and the implications of breach of contract.

Understanding Contracts

Contracts are legally binding agreements between two or more parties that create mutual obligations enforceable by law. To be valid, a contract must contain several key elements:

Essential Elements of a Contract

1. Offer: An offer is a proposal by one party to enter into a legally binding agreement with another party. The offer must be clear and specific.
2. Acceptance: Acceptance occurs when the other party agrees to the terms of the offer. This acceptance must mirror the offer precisely; any variation constitutes a counteroffer.
3. Consideration: Consideration refers to something of value that is exchanged between the parties. It can be money, services, or goods.
4. Mutual Assent: Both parties must demonstrate a mutual agreement to the contract's terms, often referred to as a "meeting of the minds."
5. Capacity: Parties entering into a contract must have the legal capacity to do so, meaning they are of sound mind, not minors, and not under duress.
6. Legality: The subject matter of the contract must be legal. Contracts involving illegal activities are void and unenforceable.

Types of Contracts

Contracts can be categorized in several ways, and understanding these categories is vital for business professionals.

Express vs. Implied Contracts

- Express Contracts: These contracts are explicitly stated in written or spoken words. For example, a written lease agreement is an express contract.
- Implied Contracts: These contracts are formed by the behavior of the parties involved. For instance, if someone orders food at a restaurant, there is an implied contract that they will pay for the meal.

Bilateral vs. Unilateral Contracts

- Bilateral Contracts: In bilateral contracts, both parties make promises to each other. For example, a sales agreement where one party agrees to sell a car and the other agrees to pay for it is bilateral.
- Unilateral Contracts: A unilateral contract involves a promise made by one party in exchange for a specific act by another party. A classic example is a reward contract, where one party offers a reward for the return of a lost item.