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Partnership

Here, we are told from the facts that Ann, Bob, and Claire pooled their resources and opened a retail shoe store called ABC Shoes. They each provided initial operating capital, took an active role in day-to-day operations, and agreed to split any profits equally. From these facts we can see that a Partnership for equal partnership was formed between Ann, Bob and C under ABC.

They formed these positions when they incorporated ABC from partnership to a corporation but it was still a joint equal corporation with regular meetings, adopted bylaws and they each were directors of the corporations and its sole shareholders. As such they each were equal shareholders with equal rights and responsibilities in the corporation to make decisions in the best interest of the corporation for expanding and profiting the corporation for the better.

Ann as President, Bob as Secretary and Claire as Treasury as equal shareholders and directors each owed the following duties to each other and the ABC Inc.

- Duty of loyalty to each shareholder and partner
- Duty to not use partnership funds for personal use
- Duty of confidentiality
- Duty to act in the best interest of the partnership and corporation

Who is liable for each of the following items:

a. The Delta loan? Discuss -

Ann, Bob and Claire all equally owe this loan as when this loan was given to ABC they were a joint equal partnership and took all profits and losses equally.

b. The Echo loan? Discuss

Ann, Bob and Claire owe this \$40,000 loan that Ann borrowed from Echo Bank together equally as Ann did this with the approval of both Bob and Claire as such they all owe this money as equal partners in the corporation. Here, Bob and Claire will argue that Ann signed for this loan her name for this loan as Ann, President. But Ann will counter that argument that she asked for their permission and they had knowledge and gave her approval and she did this for the best interest of the corporation and she actually signed the note as "ABC, Inc., by Ann, the President" as such they are all equally responsible for this loan.

c. The Big Shoe Co contract? Discuss.

Here, Ann without asking for permission from Bob and Claire as she did in the past entered into a contract with Big Shoe Co to buy \$50,000 of inventory. Again Ann signed the contract as "ABC Inc. by Ann, President". Ann will argue that she did this for the benefit of the corporation and as such they all as equal partners should be responsible and liable for this debt equally. However, her argument will fail here since she did not ask for permission of the other two equal partners this time and did so without their approval so she will be held responsible for having made that decision herself as the President and as such Ann will be the only one that will be liable for the \$50,000 to the

Big Show Co.

d. Damages for Peter's injuries? Discuss

Here, the facts indicate that Ann again without Bob and Claire's approval then hired Fred to work in the store and occasionally pick up inventory. While driving to pick up inventory one day, Fred negligently injured Peter, a pedestrian who was walking in a crosswalk.

Here, the pedestrian will go after Fred and the ABC Inc. as the Corporation as Fred was driving under the scope of employment and ABC as the employer would be vicariously liable for the acts of its employees or agents while engaged during the scope of employment. ABC, Inc. as the employer will be liable as the Corporation and Bob and Claire will argue that they had nothing to do with Fred's hiring and him being negligent on the job as such shouldn't have to be held liable but since Fred was an employee of ABC Inc the Corp will be liable and if the courts find that Bob and Claire should be reimbursed for Ann's fiduciary duty that she breached as an equal partner by hiring Fred without their knowledge and for Fred's negligent actions then the court will reimburse Claire and Bob.

Fred will also owe his share of contribution to the pedestrian for his contributory negligence in his driving. As such the ABC, Inc and Fred will both each as joint tortfeasors owe the pedestrian their apportioned percentage of liability that the court finds for.

Question #3 Final Word Count = 744

END OF EXAM