

3)

A. Delta Loan

General Partnership (GP)

A GP exists when two or more people operate a business as owners. Each partner in a GP is personally liable for their partner's conduct within the business because unlike a validly formed corporation, GP's do not enjoy a liability shield.

Here, Ann, Bob, and Claire intentionally pooled their resources to open a retail store called ABC Shoes where each provided operating capital and took on active roles in the day to day operation of the business. ABC Shoes is a general partnership because they agreed to equally split profits and and operate the business as a partnership.

Scope and Authority

Partners may enter into contractual agreements on behalf of the partnership with each partner's knowledge and awareness. However, because GP's do not enjoy a liability shield, each partner is personally liable on contractual loans entered on behalf of the partnership with another entity.

Here, Delta Bank loaned ABC Shoes \$30,000 two months after ABS Shoes was formed with Ann signing the loan papers. Ann, Bob, and Claire are now personally liable to Delta Bank for the \$30,000 because at this point ABC Shoes is a partnership. Here, Ann signed the documents, but there is no evidence that Bob nor Claire were unaware of this agreement. Because of the nature of GP's all three partners will be personally liable on this loan.

Therefore, Ann, Bob, and Claire will be liable to Delta Bank for the \$30,000 loan that was taken two months after the business was formed.

B. The Echo Loan

De Jure Corporation

A De Jure Corporation is a validly incorporated corporation that satisfied the requisite requisite requirements and filed the necessary incorporating paperwork with the Secretary of State.

Here, three months after taking the loan out from Delta Bank, ABC shoes was validly incorporated as ABC Inc. with Ann as the president, Bob as the secretary, and Claire as the treasurer. Additionally, the three were the directors of the corporation and the sole shareholders.

Therefore, ABC Inc. is a validly created corporation.

Required Board Meetings

A corporation is required to have set board meetings and substantial changes to the corporation must be made with a vote of a majority of shareholders. The board meetings are required to occur at specific time per year.

Here, six months after ABC Inc. was formed, Anne borrowed \$40,000 rom Echo Bank to expand the business with the approval from Bob and Claire. ABC Inc. this entered into an agreement for this loan to expand with Ann signing the note as ABC Inc. Because Claire and Bob had knowledge of this transaction and agreed to it, the corpoation will be liable for the loan.

Dissolution

When a corporation ends there are dossilition proceedings that must be followed and require that the corporation pay off any reamining assets and liabilites prior to the directors from being paid.

Here, ABC Inc. closed on year after opening because of low demand and an econmoic recession. Under the required dissolution rules, ABC Inc. must first pay the \$40,00 loan to Echo Bank because this loan was entered into

on behalf of the corporation and it must be paid prior to Bob, Claire, or Ann receiving any profits from the corporation.

Therefore, ABC Inc. is liable to Echo for the loan.

C. The Big Shoe Co. Loan

Duty of Care and Good Faith

A director owes a duty of care when entering on contracts on behalf of the corporation. This duty requires directors to act with the best faith effort and to keep directors informed of actions they will be taking. A director may not breach this duty.

Here, Ann owed a duty of care to enter into contract with good faith and fair dealing. Here, she entered into the contract with Big Shoe without the knowledge and approval of Claire and Bob. Prior to this Ann informed both directors of contracts and loans because she sought their approval when entering into the Echo loan. However, here, Ann failed to seek their approval and did not inform them of a contract with Big Shoe for \$50,000 worth of inventory. Ann may be personally liable for this contract because she acted outside the scope of the what a traditional business director would conduct.

Therefore, Ann breached this duty and entered into a contract unilaterally.

Assets at Dissolution

Assets at the dissolution of a corporation must be salvaged and used to first pay off any liabilities, and subsequently pay off any debts.

Here, the shoes are worth \$50,000 and are in the form of shoe inventory.

Therefore, ABC Inc. must first pay off this loan. However, any deficit will be personally owed by Ann because she entered into the contract unilaterally and thus subjected herself to liability on this specific contract.

D. Peter's Injuries

Piercing the Corporate Veil

Courts will pierce the corporate veil to hold an individual and personally liable when 1) justice so requires and 2) the plaintiff's injuries were the result of independent negligent conduct. Generally, courts are more likely to pierce the corporate veil when tortious conduct resulted in the plaintiff's injuries. Courts will generally not pierce the corporate veil for contract disputes.

Here, ABC Inc. hired Fred to work in the store and occasionally pick up inventory. However, while driving to pick up inventory, Fred negligently injured a pedestrian (Peter) who was walking on the crosswalk. Although Fred was working and was in the course of his employment, his conduct was the result of his own negligence. Here, the court will likely hold that he is personally liable to Peter for any injuries that resulted from the accident because Fred was negligent as he was driving. ABC Inc. will not be liable for these injuries because they resulted from Fred's negligence. Vicarious liability would not apply here because Fred was negligent in his conduct.

Therefore, Fred will be liable for Peter's injuries and ABC will not be liable.

Question #3 Final Word Count = 998

END OF EXAM