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Business Entities

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1. Introduction
2. Business Entities Overview
3. Tax Considerations
4. Sources of Business Owner Liability
5. Series LLCs
6. Trusts
7. Financing & Joint Venture Considerations

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1. Introduction
 - a) Holding Title to Real Estate Business
 - i. Personally
 - ii. Legal Entity
 - A. What is a legal entity?

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2. Business Entities

- a) Sole Proprietorship
- b) Partnership
- c) Limited Partnership
- d) Corporation
- e) Limited Liability Company
 - a) Traditional
 - b) Series
- f) Trust
 - a) Statutory Trust (business trust)
 - b) Common Law Trust

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3. Tax Considerations
 - a) Disregarded Entity
 - b) Partnership
 - c) S-Corporation
 - d) C-Corporation

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4. Sources of Business Owner Liability

a) General Liability

i. Contract

- A. Sole Proprietor
- B. Partners (in a general partnership)
- C. General Partner (in a limited partnership)

ii. Tort (negligence, fraud, battery, assault, malicious prosecution, etc.)

- A. All individuals (for her or her own tortious conduct)
- B. Employers (for employees torts committed in scope of employment)
 - I. Sole Proprietor
 - II. Partner
 - III. General Partner

iii. Statutory



Tort Law (civil law)

- Tort – A wrong against an individual

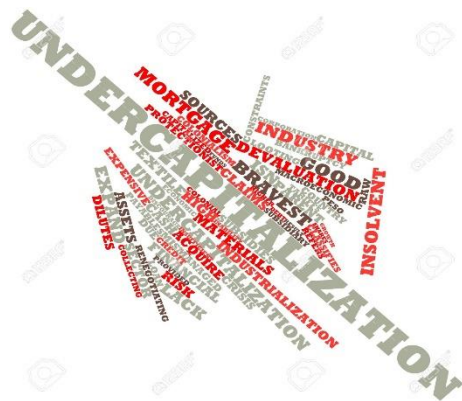
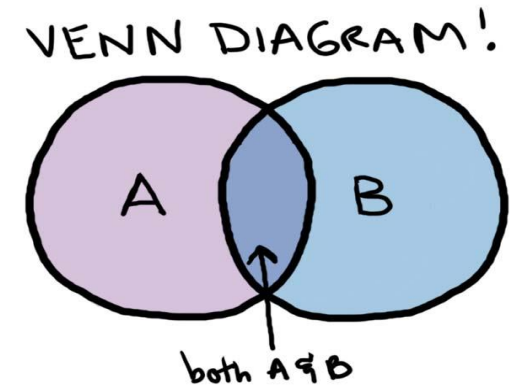
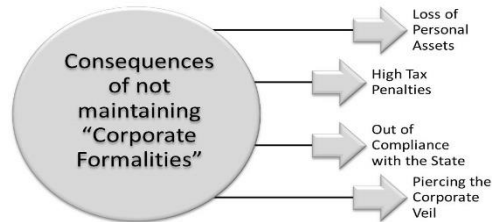
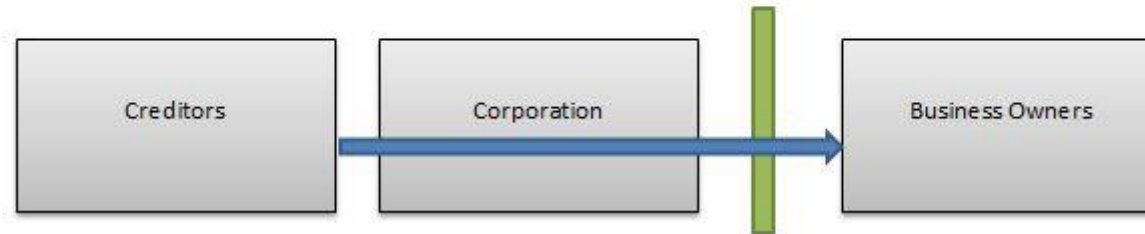


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- 4. Sources of Business Owner Liability
 - b) Piercing the Corporate Veil

Piercing the Corporate Veil



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4. Sources of Business Owner Liability

c) Breach of Fiduciary Duties

i. Who owes fiduciary duties and to whom, generally?

A. A fiduciary duty exists in *“a situation where one person reposes special trust in and reliance on the judgment of another or where a special duty exists on the part of one person to protect the interests of another.”*

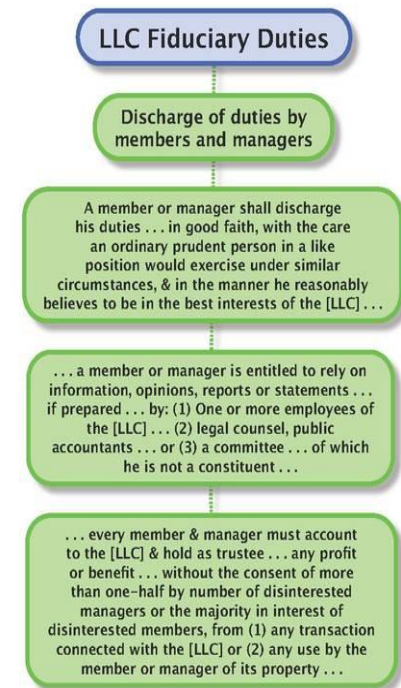
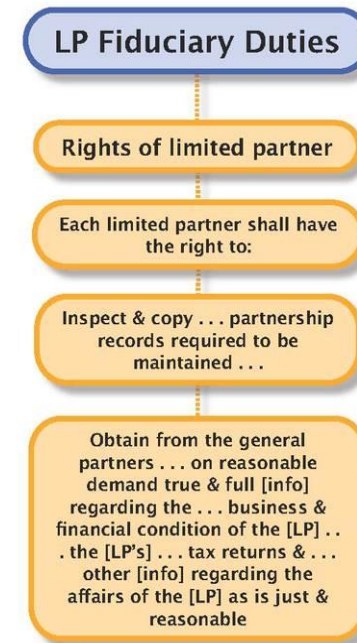
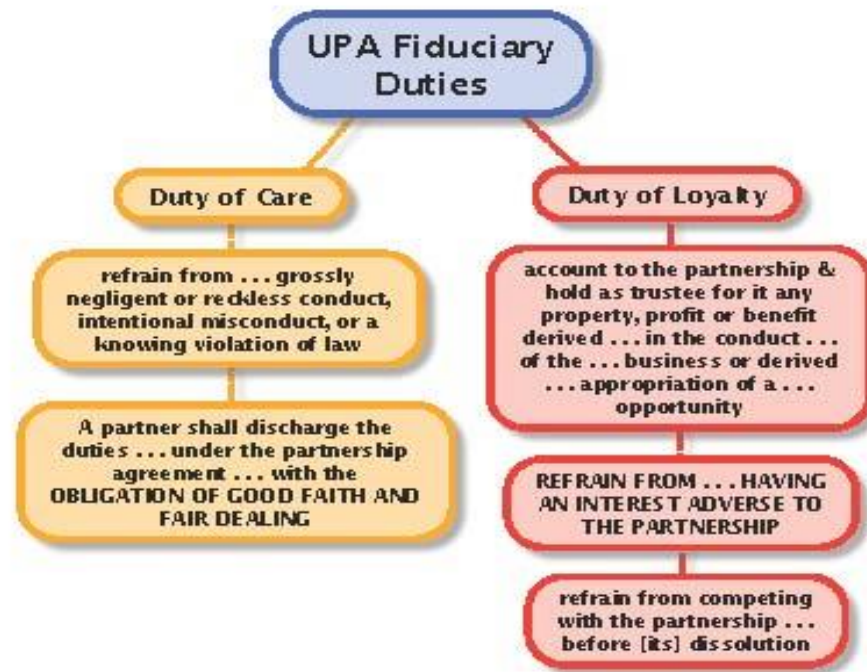
- I. Officers to the company and to shareholders.
- II. Directors to the company and to shareholders
- III. Controlling shareholder to minority shareholders.
- IV. Partners of a partnership to other partners.
- V. Members of an LLC to the company and other members.
- VI. Manager of an LLC to the company and the members.

ii. What duties are owed?

- A. Duty of Care
 - I. Duty of Good Faith
- B. Duty of Loyalty

Business Entities

4. Sources of Business Owner Liability c) Breach of Fiduciary Duties



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5. Series LLC

- A. A LLC may provide for the establishment of 1 or more designated series of members, managers, limited liability company interests or assets. Any such series may have separate rights, powers or duties with respect to specified property or obligations of the LLC or profits and losses associated with specified property or obligations, and any such series may have a separate business purpose or investment objective.
- B. History of Series Entities.

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5. Series LLC

A. Requirements to establish a series LLC.

- i. LLCA provides for establishment of series
- ii. Records for each series account for series assets associated with such series separately from other series and the company generally
- iii. Inter-series limitation of liability provided for in LLCA
- iv. Inter-series limitation of liability set forth in the Certificate of Formation of the company

B. Risks of using a series LLC.

C. Changes to the LLC Act in 2019

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6. Trusts

A. Statutory Trusts

- i. Form by filing a Certificate of Trust with Delaware Secretary of State.
- ii. Delaware Trustee.

B. Common Law Trusts

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7. Financing & Joint Venture Considerations

a. Financing

- i. Usury
- ii. Series entities

b. JV deals

- i. Principal-agent relationship, formal joint ownership (i.e. for a new LLC), or roll the dice and wish for luck.
- ii. Document the agreement and be sure you are positioned to enforce your rights.