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## Business Associations and Professions; Limited Partnerships

University of the Pacific, McGeorge School of Law

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damages<sup>14</sup> and reasonable attorney fees<sup>15</sup> to the prevailing party.<sup>16</sup> Chapter 15 displaces conflicting tort, restitutionary, and other civil remedies for misappropriation of trade secrets.<sup>17</sup> Finally, the statute of limitations on an action for misappropriation of a trade secret is three years from the date the misappropriation is discovered.<sup>18</sup>

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14. *Id.* § 41.333 (definition of exemplary damages); 1987 Nev. Stat. ch. 15, secs. 6, 7, at \_\_\_ (exemplary damages are not to exceed twice the award ordinarily made).

15. *Id.* sec. 7, at \_\_\_ (reasonable attorney fees may be awarded if a claim of misappropriation or a motion to terminate an injunction is made or resisted in bad faith).

16. *Id.*

17. *Id.* sec. 10, at \_\_\_ (Chapter 15 does not affect contract remedies and criminal sanctions based on misappropriation or other civil remedies not based on misappropriation of a trade secret). See NEV. REV. STAT. § 104.2106 (definition of a contract); *id.* § 104.2718 (amount of liquidated damages stated in the contract); *id.* § 205.275 (receiving, possessing or withholding stolen property).

18. *Id.* sec. 9, at \_\_\_ (or should have been discovered by the exercise of reasonable diligence); *id.* (a continuing misappropriation constitutes a single claim).

## **Business Associations and Professions; limited partnerships**

NEV. REV. STAT. § 88.\_\_\_\_ (new); §§ 88.315, 88.320, 88.330, 88.335, 88.350, 88.355, 88.365, 88.370, 88.375, 88.395, 88.415, 88.420, 88.430, 88.435, 88.445, 88.450, 88.475, 88.480, 88.485, 88.490, 88.500, 88.510, 88.525, 88.540, 88.550, 88.575 (amended).

AB 202 (Sader); 1987 STAT. Ch 26

Existing law establishes certain requirements for the formation of limited partnerships.<sup>1</sup> Under prior law, a limited partnership could not be formed unless two or more persons executed a certificate of limited partnership.<sup>2</sup> Chapter 26 eliminates the requirement that two or more persons execute the certificate, and requires that the latest date of intended dissolution of the limited partnership be included on the certificate.<sup>3</sup>

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1. NEV. REV. STAT. § 88.350 (amended by 1987 Nev. Stat. ch. 26, sec. 5, at \_\_\_) (Chapter 26 requires certain information to be included in the certificate of limited partnership). See *id.* §§ 88.020 (definition of limited partnership); 88.315 (definition of limited partner).

2. 1985 Nev. Stat. ch. 445, sec. 8, at 1281.

3. 1987 Nev. Stat. ch. 26, sec. 5, at \_\_\_ (amending NEV. REV. STAT. § 88.350).

Under prior law, only partners or their assignees could request an amendment to the certificate of limited partnership.<sup>4</sup> Chapter 26 allows any person who is adversely affected by the failure to execute an amended certificate to petition the court to require that the certificate be executed.<sup>5</sup> Prior law required that all limited and general partners sign the original certificate of limited partnership.<sup>6</sup> General partners could be added only with the written consent of each partner.<sup>7</sup> Chapter 26 requires only that each general partner sign the original certificate.<sup>8</sup> Further, Chapter 26 allows additional partners to be added, without the written consent of each partner, if provided in the partnership agreement.<sup>9</sup>

Under Chapter 26, a partner is obligated to perform any written promise to make contributions to the limited partnership.<sup>10</sup> Further, unless the written partnership agreement provides otherwise, Chapter 26 requires a limited partnership to keep records of the contributions of each partner, the times at which any additional contributions are to be made, events causing dissolution, and any right of a partner to receive, or of a general partner to make, distributions to a partner.<sup>11</sup>

Under prior law, a limited partner was only liable for the obligations of the limited partnership if that partner participated in the control of the business.<sup>12</sup> A limited partner who participated in the control of the business was liable only to those persons who transacted business with the limited partnership with actual knowledge of the limited partner's participation.<sup>13</sup> Chapter 26 makes a limited partner liable to any individuals doing business with the limited partnership who reasonably believe that the limited partner is a general partner.<sup>14</sup>

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4. 1985 Nev. Stat. ch. 445, sec. 10, at 1283.

5. 1987 Nev. Stat. ch. 26, sec. 7, at \_\_\_ (amending NEV. REV. STAT. § 88.365).

6. 1985 Nev. Stat. ch. 445, sec. 11, at 1283.

7. *Id.* sec. 22, at 1286.

8. 1987 Nev. Stat. ch. 26, sec. 9, at \_\_\_ (amending NEV. REV. STAT. § 88.375) (or an amendment to the certificate).

9. *Id.* sec. 15, at \_\_\_ (amending NEV. REV. STAT. § 88.445).

10. *Id.* sec. 17, at \_\_\_ (amending NEV. REV. STAT. § 88.475 1).

11. *Id.* sec. 4, at \_\_\_ (amending NEV. REV. STAT. § 88.335 (e)(1-4)) (requires a description of the amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner, or events upon the happening of which additional contributions are to be made).

12. 1985 Nev. Stat. ch. 445, sec. 19, at 1285.

13. *Id.*

14. 1987 Nev. Stat. ch. 26, sec. 13, at \_\_\_ (amending NEV. REV. STAT. § 88.430).

Existing law establishes a list of acts which do not constitute participation in the management of a limited partnership.<sup>15</sup> Chapter 26 expands the number of acts that constitute non-participation but also excludes the approval or disapproval of the transfer of all the assets of the limited partnership and actions causing the limited partnership to incur a debt.<sup>16</sup>

Under prior law, a person ceased to be a general partner upon the happening of certain events.<sup>17</sup> These events, however, did not terminate a general partner's powers unless written consent of all the partners was obtained, or if the certificate of limited partnership expressly stated that the happening of the event will not terminate the general partner's powers.<sup>18</sup> Chapter 26 allows the general partner's powers to continue if the partnership agreement states that the happening of the event will not terminate the general partner's powers.<sup>19</sup>

Under prior law, a limited partnership was dissolved at the time, or upon the happening of the events, specified in the certificate of limited partnership.<sup>20</sup> Under Chapter 26, a limited partnership is dissolved upon the happening of events specified in the partnership agreement.<sup>21</sup>

Chapter 26 requires the agent for service of process of a limited partnership to file a certificate with the Secretary of State within ten

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15. NEV. REV. STAT. § 88.430, sec. 13, at \_\_\_ (amended by 1987 Nev. Stat. ch. 26). Acts of non-participation include: (1) Being a contractor for an agent or employee of the limited partnership or of a general partner; (2) consulting with and advising a general partner with respect to the business of the limited partnership; (3) acting as a surety for the limited partnership; (4) voting on one or more of the following matters: (a) The dissolution and winding up of the limited partnership or the transfer of a substantial amount of the assets of the limited partnership; (b) the incurrence of indebtedness by the limited partnership, other than in the ordinary course of business; (c) a change in the nature of the business; (d) the removal or admission of a general partner; (e) a transaction involving a potential conflict of interest between the general partner and the limited partnership; (f) an amendment to the partnership agreement or the certificate of limited partnership; (g) any other matters related to the limited partnership which, under the partnership agreement, require the approval or disapproval of the limited partners. *Id.*

16. 1987 Nev. Stat. ch. 26, sec. 13, at \_\_\_ (amending NEV. REV. STAT. § 88.430 2) Acts of non-participation include: (1) Being an officer, director, or shareholder of a general partner that is a corporation; (2) assuming one or more obligations of the limited partnership; (3) taking any actions toward filing a derivative suit on behalf of the limited partnership; (4) requesting a meeting or attending a meeting of partners. *Id.*

17. 1985 Nev. Stat. ch. 445, sec. 23, at 1286. (events include: (1) Filing for bankruptcy; (2) making an assignment to creditors; (3) and filing a petition seeking reorganization including liquidation; or (4) incompetency).

18. *Id.*

19. 1987 Nev. Stat. ch. 26, sec. 16, at \_\_\_ (amending NEV. REV. STAT. § 88.450).

20. 1985 Nev. Stat. ch. 445, sec. 43, at 1291.

21. 1987 Nev. Stat. ch. 26, sec. 25, at \_\_\_ (amending NEV. REV. STAT. § 88.450).

days of appointment.<sup>22</sup> Under Chapter 26, an additional certificate must be filed each time the agent for service of process changes office locations within Nevada.<sup>23</sup> Additionally, upon the resignation of an agent for service of process, a statement of resignation must be filed with the Secretary of State.<sup>24</sup> The Secretary of State must then notify the limited partnership of the resignation.<sup>25</sup> The limited partnership must designate a new agent within thirty days.<sup>26</sup> Additionally, Chapter 26 requires each limited partnership to keep a current list separately identifying the general and limited partner's in alphabetical order.<sup>27</sup>

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22. *Id.* sec. 3, at \_\_\_ (amending NEV. REV. STAT. § 88.330 3).

23. *Id.* (amending NEV. REV. STAT. § 88.330 3). The certificate must set forth the names of the limited partnerships represented by the agent, the address at which the agent has maintained an office for each of the limited partnerships, and the new address to which the office is transferred. *Id.*

24. 1987 Nev. Stat. ch. 26, sec. 28, at \_\_\_ (enacting NEV. REV. STAT. § 88.\_\_\_\_)

25. *Id.* § 88.\_\_\_\_2.

26. *Id.* § 88.\_\_\_\_3.

27. *Id.*, sec. 4, at \_\_\_ (amending NEV. REV. STAT. § 88.335 1(a)).

## **Business Associations and Professions; personal liability of directors and officers**

NEV. REV. STAT. § 78.\_\_\_\_ (new); §§ 41.480, 78.035, 78.300, 78.751 (amended).

SB 6 (Raggio); 1987 STAT. Ch 28 (*Effective March 18, 1987*)

Under existing law, articles of incorporation<sup>1</sup> may contain provisions that the incorporators<sup>2</sup> choose to insert for the regulation of the business and affairs of the corporation.<sup>3</sup> Articles of incorporation may also contain provisions creating, defining, limiting, and regulating the powers of the corporation, directors,<sup>4</sup> stockholders,<sup>5</sup> or ob-

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1. NEV. REV. STAT. § 78.010 1(a) (definition of articles of incorporation).

2. *Id.* § 78.030 1 (definition of incorporators).

3. *Id.* § 78.035 (amended by 1987 Nev. Stat. ch. 28, sec. 4, at \_\_\_). See 1987 Nev. Stat. ch. 28, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 78.\_\_\_\_).

4. NEV. REV. STAT. § 78.115 (number and qualifications for the board of directors).

5. *Id.* § 78.195 3 (holder of preferred or special stock of any class or series is entitled to receive dividends).