

San Luis Obispo College of Law

Business Organizations I (Agency and Partnership)

Fall 2023 Make Up Exam

Professor: E. Wagner

Instructions:

Time Allotted: Three (3) Hours

Allocate your time according to the points for each question:

Question 1: 125 points

Question 2: 125 points

Question 3: 50 points

Question 1: 125 points

Derwood has a landscape design and garden tool repair shop, Moonscapes. He is the sole owner and the business is a sole proprietorship. He hires Gomer and the employment agreement states that Gomer will work in the shop to both talk to customers about designs and to repair garden tools, as well as manage the general operations when Derwood is traveling (there are maintenance workers that need to be paid). As Derwood is also a rodeo clown, he travels often. In order to keep the business running, he provides Gomer with a power of attorney that allows Gomer to act on Derwood's behalf and to "enter into and execute any contract for the purchase of goods or merchandise as needed for the operation of the current business of Moonscapes, or to sign any credit or promissory note in connection with the operation of the current business of Moonscapes on my behalf."

While Derwood is performing at the world rodeo finals in Manaus, Brazil, Gomer comes up with an idea for selling specialty personalized flower baskets. He goes to the bank and tells them he has power of attorney from Derwood "to run the business." The bank manager knows Derwood and does not bother to look at the power of attorney. Gomer signs a promissory note for \$50,000 to purchase the baskets from Bertha's Basketville. Gomer takes delivery of the baskets and decides he could make more money personalizing them himself and selling them online. That evening, he leaves the store closed and locked (he is the only employee with a key so no other staff can enter) and flies to Cambria, Wales to create his online business. When Derwood returns one week later, the store is still locked, and he receives notice that the bank has not been repaid and no employees paid so they all quit.

What would you advise Derwood regarding his position with the bank, Gomer's actions, and the legal recourse (if any) he can take against Gomer?

Question 2: 125 points

Ragnar, Lagartha, and Floki orally agreed to start RLF (“RLF”), a business to manufacture and sell Pickled Herring. Ragnar contributed \$100,000 to RLF, stating to Lagartha and Floki that he wanted to limit his personal liability to that amount.

Lagartha, who had technical expertise at pickling fish, contributed \$50,000 to RLF. Floki contributed no money to RLF but agreed to act as salesperson. Ragnar, Lagartha, and Floki agreed that Lagartha would be responsible for pickling herrings, and that Floki alone would handle all fish sales.

RLF opened and quickly became successful, primarily due to Floki’s effective sales techniques. Subsequently, without the knowledge or consent of Ragnar or Floki, Lagartha entered into a written sales contract in RLF’s name with Bjorn, Inc. (“Bjorn”) to sell Pickled herrings manufactured by RLF at a price that was extremely favorable to Bjorn. Lagartha’s sister owned Bjorn. When Ragnar and Floki became aware of the contract, they contacted Bjorn and informed it that Lagartha had no authority to enter into sales contracts, and that RLF could not sell Pickled herrings profitably at the price agreed to by Lagartha. RLF refused to deliver the Pickled herrings, and Bjorn sued RLF for breach of contract.

Thereafter, Ragnar became concerned about how Lagartha and Floki were managing RLF. He contacted Zeta, Inc. (“Zeta”), RLF’s fish supplier. He told Zeta’s president, “Don’t allow Floki to order fish; he’s not our technical person. That’s Lagartha’s job.” Floki later placed an order for several expensive amounts of fish (including some fish other than herring such as Colombian dogfish) with Zeta. RLF refused to pay for the fish, and Zeta sued RLF for breach of contract. Not long afterwards, RLF went out of business, owing its creditors over \$500,000.

1. How should RLF’s debt be allocated? Discuss.
2. Is Bjorn likely to succeed in its lawsuit against RLF? Discuss.
3. Is Zeta likely to succeed in its lawsuit against RLF? Discuss.

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Question 3: 50 points

Before Ragnar, Lagartha and Floki begin their partnership, they ask you to draft a simple partnership agreement (they plan to be a general partnership). Please provide a minimum of 10 clauses you will include in the agreement. Please provide full sentences.

Final Exam

Business Organizations I (Agency and Partnership) Fall 2023

Professor: Stirling & Wagner

Question 1: 125 points

Question 2: 125 points

Question 3: 50 points

ANSWER 1 (OUTLINE)

20% Organization (Similar headings – boldfaced below)

20% Issue (Spot all issues)

20% Rules (Name all rules – underlined below)

20% Analysis (Apply law to facts – all non-underlined, non-italicized font below)

20% Conclusions (Get correct conclusions – as *italicized* below)

Introduction

Nature of the business: No facts indicate that there are any other owners of Moonscapes, nor that it is incorporated, so this would be a sole proprietorship owned by Derwood.

Nature of the relationship

- An agency relationship exists when one party, the agent, consents to act on behalf of, and under the control of another, the principal.
- In this case, Gomer agreed to employment by Moonscapes and to act on behalf of Derwood. *Accordingly, Gomer is an agent of the principal, Derwood.*
- As an agent, Gomer owes particular duties to the principal, including fiduciary duties such as a duty of loyalty, a duty of care and a duty to obey or follow instructions.

Does Derwood have any recourse with regard to the loan payable to the bank?

- Derwood expressly empowered Gomer to act on his behalf by providing a power of attorney that included the signing of promissory notes.
- The power of attorney was limited, however, to the business of the shop, which did not include purchasing and selling baskets.
- *As such, Gomer violated his fiduciary duty to Derwood by entering into a transaction for which he had no authority.*

- Be that as it may, a principal is responsible for the act of the agent taken in the course of employment. As such, it would appear that Derwood is responsible for the loan signed on his behalf by Gomer.
- The bank manager may argue that Gomer had apparent authority to sign the loan document. Apparent authority arises when a principal holds an agent out as having a certain level of authority. Derwood may argue, however, that Gomer's authority was not apparent, but rather express by way of the power of attorney. The manager did not read the power of attorney which would have informed the bank that Gomer was not authorized to obtain the loan unrelated to the business of Moonscapes, and thus the loan agreement itself was invalid. *Derwood can therefore argue that he is not responsible for the loan as it was invalid.*

Does Derwood have any legal recourse against Gomer?

- An agent has various fiduciary and other duties to the principal, such as the duties of care, loyalty and to follow instructions.
- In this case, Gomer was empowered to sign promissory notes, but only related to the business of the shop which did not include baskets.
- Gomer would not be able to argue that he had implied authority to obtain the loan and purchase baskets. Implied authority includes ancillary actions that the agent may logically conclude are within his/her power as part of the overall authority. Had Gomer signed the loan to purchase repair parts, implied authority may have been present. In this case, however, the shop did not sell baskets, nor was the loan related to necessary parts.
- *Accordingly, Gomer violated his fiduciary duty of care and acted outside of the course of his employment, and thus Derwood would not be responsible for the purchase of the baskets.*
- Secondly, Gomer was responsible for running the shop in Derwood's absence which included opening and closing the shop and managing the other employees. As such Gomer violated his fiduciary duty of care to Derwood to keep the business running. Gomer may have a legal complaint for loss of business for the days the shop was not operating.
- Thirdly, Gomer decided to take the baskets and start his own business. Such an action would be a violation of his duty of loyalty to Derwood. It should be noted, however, that Gomer may argue that Moonscapes was not in the business of selling baskets so there would be no violation of a duty of loyalty. Regardless, Gomer was an employee and has absconded with the baskets that were the property of the shop, and in doing so has not only committed criminal theft, but also a violation of his duty of loyalty to the principal.
- Finally, with regard to the question of whether Derwood can succeed in pursuing legal action against Gomer for the above noted issues, the facts indicate that Gomer has left the country. Unless Gomer returns, any legal action may be procedurally challenging.
- *In summary, Derwood should argue that he is not responsible for the loan as it was an invalid transaction for which he gave no express approval. Derwood does have legal recourse for the lost revenue for the days Gomer failed to open the shop.*

ANSWER 2 (OUTLINE)

20% Organization (Similar headings – boldfaced below)

20% Issue (Spot all issues)

20% Rules (Name all rules – underlined below)

20% Analysis (Apply law to facts – all non-underlined, non-italicized font below)

20% Conclusions (Get correct conclusions – as *italicized* below)

Introduction

1. Nature of Organization
2. RLF is a general partnership under definition
3. Partnerships are business for profit and if no agreement, profits are split

1. How should RLF's Debt be Allocated?

1. Just like profits, without agreement, debts are split equally.
2. R wanted to limit his liability. However, absent a formal agreement, R is going to be considered a general partner.
 - a. Also R has active management (general managerial position, apparent equal voting rights), R was the one to call Zeta (Z) and tell them not to accept orders from F.
 - b. Limited partners, those with limited liability, generally have no managerial functions.
 - c. Under agency law, any contract or tortious action entered into in the scope of the partnership is deemed to be partnership debt, and all partners are jointly and severally liable.
3. Therefore, any contracts that were properly entered into and authorized by a partner having authority are partnership debts that R, L, and F will be jointly and severally liable for as individuals.
4. ***Therefore, the order of payment is: (1) all debt creditors, (2) all capital contributions from each partner, which would be \$100,000 to R and \$50,000 to L and zero to F since partners generally have no right to salary or compensation for services; (3) any remaining profits equally to R, L, F.***

2. Is Bjorn likely to Succeed in its Lawsuit against RLF?

1. Validity of the Agreement: Bjorn (B) must show that EL was authorized to enter the contract.
 - a. All partners are authorized agents of the partnership but the nature of authority may vary.

- b. Express authority exists when the arrangement expressly states what an agent may do, but sales were expressly reserved to F so L doesn't have express authorities.
 - c. Implied authority exists when the function is 1) necessary to carry out other responsibilities, 2) one that has been done in the past dealings without objection, or 3) normal custom for someone with the position of the agent. Sales are not necessary to L's technical design responsibilities, and she has never sold before.
 - d. Apparent authority exists when the company cloaks the agent with authority to do certain things and later withdraws or limits that authority without notifying a customer who is still relying on that authority. In this case, there is no indication that RLF held L out to be a sales representative in the first instance. There was likely no good basis that B had to rely on any authority from RLF. However, given that L herself is a managing partner, B likely could argue that L's actions were sufficient to show that the corporation had given her authority to act. As such, they will argue that it was reasonable to rely on this without any other notice. This would bind RLF.
2. ***Failing to perform on the contract is a breach of duty and the partnership, as well as the individual partners, will be obligated to pay as described above.***
 3. Breach of Duty of Good Faith and Loyalty
 - a. Partners have fiduciary duties to each other that are described as the utmost duty of good faith and loyalty.
 - b. Duty of Loyalty means a partner must not engage in self-dealing, usurping business opportunities, or competing against the company. In this instance, L engaged in a transaction with her sister who owned B. The terms were apparently very favorable to B. This could be viewed as self-dealing because it promoted L's familial interest with her sister and was not in the best interest of the company.
 - c. Duty of Good Faith requires that partners act in a way that solely benefits and is advantageous to the partnership. Again, L's deal with B didn't garner the profits that it should have. Furthermore, this duty requires disclosure of conflicts of interest to the other non-interested partners so that they can either cleanse the transaction through ratification or disapprove it. There is no indication that L informed her partners. The other partners have a very strong argument to bring a claim against L for these breaches of duty.
 4. ***Therefore, the entire liability for the breached contract would be on L, which would deviate from the normal liability scheme described above, and B could only succeed against B.***

3. Is Zeta likely to Succeed in its Lawsuit against RLF?

1. Validity of the Agreement
 - Zeta's (Z) claim on this contract again hinges on the authority of F to enter into it. In this instance, F has the express authority to enter into sales contracts. However,

this contract was for components being purchased by F, which is outside his express authority.

- Implied authority: Z may argue that components are necessary to production and later sales, which gives F implied authority to enter into contracts. Plus, it is reasonable to assume that a partner who can sell can also buy. This reasonable assumption lends credence to a claim of apparent authority.
 - Apparent authority: Z will argue that RLF has held F out as a person whose sole responsibility is to contract, and it reasonably relied on that representation. Z will argue, therefore, that any resulting contract liability would be distributed among the partnership and R, L and F.
2. Actual notice to Z of Lack of F's authority
- Z's main issue is that R called and gave actual notice that F could not enter into this contract. This would destroy any reasonable reliance that Z had. R told Z that L was the technical person, not F. As such, Z should have seen that this was outside the scope of F's authority. But F is still a general partner in the company.
 - Z could rightly assume that one partner doesn't have the sole authority to terminate the management authority of another partner. Management functions are only transferable and alterable upon a unanimous vote of the partnership. R alone tried to limit what F could do. Z may argue that it knew this wasn't a proper action by R and more reasonably relied on F.
 - RLF will argue that Z at least should have investigated further once given notice that F may not have authority and failure to follow through made their reliance on his apparent authority unreasonable. RLF will argue that this contract is invalid and will not bind RLF for this persuasive reason.
3. Effect of R's Notice on F's Duties
- R might also claim that F's activities outside his scope of duty were not in good faith.
 - The argument is that acting in an area in which F knows nothing about shows a lack of obedience to his agency limits and lack of good faith in honoring partnership agreements on authority.
 - But R didn't act with the consent of E. As such, there is no indication that the majority of management is at odds with F's decision to enter the contract. This appears to be solely the reservation of D with E and F.
 - ***In the end, there was likely no breach of duty and any potential liability from this contract would flow to all, not just F.***

Answer 3

1. Name of the partnership
2. Purpose and type of the partnership
3. Partners identified
4. Contributions by each partner.

5. Liability (joint and several)
6. Meeting frequency
7. Powers of partner 1
8. Powers of partner 2
9. Powers of partner 3
10. Impact of one partner leaving.

1)

Whether a principal agency relationship existed.

A principal agent relationship is formed when a (1) consenting (2) person (agent) acts on (3) behalf of, and (4) in the interest of (5) another (principal)

Here, Derwood owns a landscaping business know as Moonscapes. Because of his hobby of being a rodeo clown on weekends, he is often out of town. As such, he requires additional help in the shop, so he hires Gomer. Gomer, a key-holder of this business, is to talk with customers about designs and to repair garden tools, as well as manage the general operations when Derwood is traveling. Derwood executes a power of attorney that allows Gomer to "enter into and execute any contract for the purchase of goods or merchandise as needed for the operation of the current business of Moonscapes, or to sign any credit or promissory note in connection with the operation of the current business of Moonscapes on my behalf."

Derwood and Gomer both consent to the arrangement, and the agreement signed states that Gomer is to act on behalf of and in the interest of Moonscapes, which is the principals business.

A court would likely conclude that a principal agent relationship exists.

Whether Gomer had the express, implied, and/or apparent authority to enter into a contract.

Express Authority

Express authority exists when there is an oral or written statement made granting the authority. Such statement must be clear and unambiguous to the power being vested to the agent.

Here, Derwood would argue that Gomer did not have the express authority to sign the promissory note for \$50,000 and then proceed to embezzle the baskets. Although a principal agent relationship existed between Derwood and Gomer, and Gomer had a lawful power of attorney in furtherance of Derwoods needs, the power of attorney expressly stated that any promissory notes or purchases must be on behalf of Moonscapes, Derwoods store. Gomer would argue that his intent was to use them for the store at the time of purchase, but changed his mind down the road.

A court would find in favor of Derwood-- although Gomer had the authority to purchase items, he was limited to items for the store, and he did not purchase the items for the store.

Implied Authority

Implied authority focuses on the scope and nature of the task of the agent. This is often shown when a level of authority is necessary to properly finish the task on behalf of and in the interest of the principal, but it is not expressly stated.

Here, Gomer was acting in a managerial role for Derwood. This is demonstrated to the point that Gomer had the only key to the establishment, Moonscapes, and Gomer had a limited power of attorney over Derwood regarding the management and maintenance of Moonscapes. However, there was nothing within the scope of the principal agent relationship that would warrant Gomer purchasing items for his own benefit, nor was there any indication in the limited power of attorney that would demonstrate that Gomer embezzling or misappropriating the principals funds was within the scope of his employment. See fiduciary duty below.

A court would likely find that Gomer did not have any implied authority.

Apparent Authority

Apparent authority exists when the principal does a substantial step that would give rise to the agent having the subjective notion that they have the authority. This apparent authority must also be clear to a third party.

Here, Gomer would argue that he did have apparent authority, using the limited power of attorney as the substantial act and two separate people believe in his apparent authority. He would point to the bank, who also breached fiduciary duty by not looking over the paperwork, and he would point to Bertha's Basketville, who believed him to be purchasing the baskets on behalf of Derwood. Derwood would argue, outside of the bank's clear negligence, that the limited power of attorney was limited in nature, and the sole purpose of the power of attorney was to ensure the day to day operations were successful at Derwoods business. There was no apparent authority for Gomer to purchase baskets on behalf of Gomer-- there was only power vested in the limited power of attorney for the benefit of Derwood and his business.

A court would likely find there was no apparent authority.

Whether Gomer breached his duty to Derwood.

Duty of indemnity

The duty of indemnity is a duty to pay. Regarding an agent to a principal, an agent is liable to the principal for misconduct. A principal owes a duty to indemnify an agent for costs and expenses the agent incurs on behalf of the principal, even if they are outside the scope of the agent.

Here, Gomer owes a duty to Derwood, such that Gomer owes Derwood for the promissory note amount and debts incurred as a result. Gomer would argue he was within his right to purchase the items, and he does not owe Derwood for them, even if they were out of the scope of employment. Derwood, however, would argue that the purchases of the baskets were not for Derwood or his business; rather, the purchases were for Gomer. They were not an expense, and Gomer, using Derwood's money, is embezzling funds, (see below, tortious act), which is misconduct. Agents owe a duty to their principal to indemnify due to misconduct.

A court would likely find that Gomer owes a duty to indemnify, or pay back, Derwood.

Duty to act in good faith

The duty to act in good faith and fair dealing reaches to almost any area of law that involves contracts, agreements, or relationships. The crux of this duty is that an individual must act in good faith, or in other words, act with the idea to not bring harm (financial or otherwise) to the party they are acting for / on behalf of.

Here, Gomer owes a duty of good faith and fair dealing to Derwood such that he Gomer must conduct himself and his affairs in a manor that does not cause harm to Derwood. This is not the case here-- Gomer misappropriated funds belonging to Derwood, purchased \$50,000 worth of baskets from Bertha's Basketville, and fled the country to live and personalize his stolen baskets in Wales, a small island north of England (I think). Gomer does not have a viable argument or defense about a breach of good faith and fair dealing.

A court would find that Gomer acted in bad faith.

Duty to obey

The duty to obey exists between an agent and a principal, such that an agent is obliged, or in some cases, obligated, to act on behalf of and for the interest of the principal. As such, they are also obliged to obey the principal.

Here, the power of attorney stated that Gomer and Derwood "enter into and execute any contract

for the purchase of goods or merchandise as needed for the operation of the current business of Moonscapes, or to sign any credit or promissory note in connection with the operation of the current business of Moonscapes on my behalf." The document, and the request or order from Derwood is that Gomer must act on behalf of or in furtherance of Moonscapes. Gomer directly disobeyed the wishes of the principal, or master, by misappropriating funds to support Gomer's Wales-based custom basket business.

A court would likely find Gomer breached his duty to obey.

Fiduciary duty

Whenever a relationship exists between two or more people for the advancement of a common goal, the two people owe a duty to one another to act in good faith for the advancement of the common goal. This applies in partnerships and marriages, where the partners or spouses owe the highest duty to one another, and in less extreme cases, like principal agent relationships, the agent and the partner must still act reasonably towards one another to achieve the common goal set forth in their agreement or arrangement.

Here, Gomer and Derwood each owed a fiduciary duty to one another. Derwood owed Gomer a duty to disclose risky or dangerous hazards, duty to compensate, duty to indemnify, duty of good faith and fair dealing. Gomer owed similar duties to Derwood, however, Gomer breached several duties in the process through misappropriation of funds, and by closing Moonscapes for the weekend while Derwood was out of town, no notice given. As such, Derwood would want compensation for the breach, which is up to the courts discretion. Gomer, again, would have very little defense, leaning on the power of attorney stating that he had the power through that to act as he did. Often times, when a fiduciary duty is breached, debts incurred will go to the breaching party.

A court would likely find that Gomer breached his fiduciary duty.

Whether Gomer is liable to Derwood for the \$50,000.

Tortious Act

A principal is not liable for debts incurred by an agent if the agent commits a tortious act.

Here, Gomer embezzled money from Derwood. Embezzlement requires that the person entrusts property (typically money) to another temporarily, and the entrusted individual then misappropriates

the property. Here, Derwood had a limited power of attorney that Derwood could revoke at any time. This limited power of attorney was for the express purpose of allowing Gomer access to funds on behalf of the business. Gomer then took the money, and misappropriated the funds, committing embezzlement, a tortious act.

A court would likely find that Gomer is liable to Derwood for the amount of \$50,000 plus potential lost revenue closing the store down for the weekend.

2)

1) How should RLFs debts be allocated?

What type of partnership is RLF and how should its debt be allocated?

Partnerships - General

General partnerships are voluntary associations that require 2 or more persons as co-owners to agree to work together for profit. There is no requirement for a written agreement nor is the agreement required to be filed. Profits and losses are distributed equally in a general partnership. General partners owe each other a duty of care, loyalty and disclosure.

Here, the facts demonstrate that Ragnar (R), Lagartha (L), and Floki (F) formed the business RLF. The business was to manufacture and sell pickled herrings for each of the three members to profit off of. There are no facts provided that state that the agreement was put in writing, however for a general partnership a verbal agreement is sufficient. Each member of RLF contributed either money or talents or both to the partnership. R contributed \$100,000, L contributed \$50,000 and would be responsible for pickling herrings, and F alone would handle all fish sales. Here we see that although there was no direct

Conclusion

Therefore, it is likely that R, L and F entered into a general partnership.

Limited Partnership - LP

A limited liability partnership is composed of one or more general partners and one or more limited partners. The agreement must be appropriately filed. General partners are personally liable for the company while limited partners are not. The profits are generally distributed based on each parties contributions.

Here, the facts provide that RLF did not file any paperwork at the formation of their business. Further, there is no description of general partner duties and limited partner duties as being written down in a physical document, therefore no LP was formed.

Conclusion

There was no LP formed.

Limited Liability Partnership - LLP

A LLP requires a statement of qualification with the secretary of state. Each partner operates a general partner but it relieves all persons of personal liability.

Here, the facts provide that RLF did not file any paperwork nor did they seek a qualification from the secretary of state at the formation of their business to form a LLP. Therefore no LLP was formed.

Conclusion

There was no LLP formed.

Overall conclusion for type of partnership formed for RLF

Therefore, based on the arguments above, RLF is a general partnership.

Management

All partners in a general partnership have equal rights to management and are jointly and severally liable for obligations to each other.

Here, based on the facts provided R is trying to claim he is a limited partner and he wanted to limit his personal liability to a limited partner. However, since there was no paperwork filed to create a LP, R cannot claim that he is a limited partner since this is a general partnership and all general partners have equal rights and responsibilities, thus R is subject to any debts incurred during the course of the partnership alongside L and F as general partners upon dissolution.

Dissolution

If a general partnership is dissolved, the partnership must repay the 1) creditors, 2) pay back any capital considerations, and 3) the rest is split as profits and losses.

Here, the facts describe to us that RLF owes its creditors \$500,000, therefore it must pay back those debts. Once those debts are paid RLF is subject to pay back any initial contributions that each of the partners made. Here, R paid in \$1000,000 and L paid in \$50,000. R and L are entitled to a reimbursement of their capital contribution and should be paid back the appropriate amounts. Thereaft

Conclusion to allocation of debt

RLF must pay back all of their creditors followed by paying back all capital considerations, and the remainder will be distributed evenly amongst the general partnership.

2) Bjorn's lawsuit

Whether or not L had the authority to make a sale to Bjorn inc.?

Authority of General Partnership - GP

In a general partnership the acting partner must have authority to act within the scope of their employment. Authority can either be actual authority which is express or implied, or the partner can have apparent authority.

Did L have Actual Authority - Express and Implied

Actual authority can be express, meaning the authority is given to the directly to the partner. The scope of the partners authority is clear and can be given either verbally or written in a document.

Here, the facts state that L was given a specific role in the general partnership. L is responsible for pickling herrings and for purchases as RLF's technical person. F was given the express authority to be salesman of all the fish. Therefore, L did not have the express authority to make a sale to Bjorn.

Authority can also be implied. It is not necessary for every authority to be laid out in specific terms of ones employment. It can be implied during the course of employment that a general partner has authority to complete tasks outside of their general scope.

Here, the facts state that F was given all authority to make sale of the pickled herring. There is no implication that L would also have some implied authority to make a sale to a company. Here, Therefore, L did not have the express authority to make a sale to Bjorn.

Conclusion

L did not have Actual Authority

Did L have Apparent authority

To have apparent authority the action must be reasonably within the bounds of the partners employment. It cannot exceed the scope of their agreed to terms.

Here, there are no facts that demonstrate that L had any apparent authority to make the deal with Bjorn. F was to be the sole salesman while L was the technical person. There are no facts that demonstrate that L had the apparent authority to make the sale to Bjorn based on her role in the general partnership. Therefore, L did not have the apparent authority to make a sale to Bjorn.

Conclusion

L did not have apparent Authority

Liabilities - Fiduciary Duty

A general partnership owes each other a fiduciary duty. Each member of the partnership must give a duty of care, loyalty and disclosure. Each partner owes each other a duty of care. They must act with care towards one another in the scope of their partnership. Further, each partner in a general partnership owes each other a duty of loyalty. They must be loyalty to the other members of the partnership and must not act in their own self interest. Further, they must disclose any outside influences they may have when making deals for the partnership.

Here, L set up a great sale deal with Bjorn. However, it is likely that L acted in her own self interest when she gave a great deal to Bjorn. The president of Bjorn is L's sister. Thus L went outside of her fiduciary duty when she made the deal that was highly favorable to Bjorn and unfavorable to RLF.

L is liable to RLF for breaking her fiduciary duty with them.

Conclusion

RLF is not liable to Bjorn for breach of contract since L acted outside her authority when creating the agreement. Bjorn can go after L to fulfill their order but cannot successfully sue RLF.

3) Zeta's lawsuit

Whether F had the authority to enter into an agreement with Zeta?

Authority of General Partnership - GP

See rule above

Did F have Actual Authority - Express and Implied

see rule above.

Here, the facts state that F was given a specific role in the general partnership. F was responsible for all sales of fish. There is nothing in the fact pattern that would indicate that F had actual authority to buy fish. Further, the facts provide that R called Zeta and told Zeta's president to, "not allow Floki to order fish; he's not our technical person. That's Lagartha's job." This shows that F did not have express authority and this was even told directly to the president of Zeta. Therefore, F did not have express actual authority.

Authority can also be implied. See rule above

Here, as stated previously F was given the specific role in the general partnership to handle all fish sales. Although, it could be implied that as the fish salesman F would also have the implied authority to buy the fish. Zeta would argue that F would need to buy fish in order to sell them. However, it is likely that this argument will be found to be insufficient as being able to sell products does not entitle the seller to also purchase those products. Further, as stated above R told the president of Zeta that F did not have any authority to buy fish and thus it would be hard to conclude that F had implied authority. Therefore, F did not have implied actual authority.

Conclusion

F did not have Actual Authority

Did F have Apparent authority

see rule above.

Here, it is likely that RLF will argue that F did not have the apparent authority to buy the fish due to the statement made by R to the president of Zeta. However, this may be insufficient reasoning for apparent authority. It is likely that Zeta will argue that F had the apparent authority to make the purchase of their fish. As the seller of RLF it can be reasonably assumed that F would have the authority to make purchases in order to continue making sales. Even though R called the president of Zeta and told them F did not have the authority to buy F still had apparent authority as a general partner and as the main seller of RLF. Further, R and F are both general partners R cannot act over F and take away his authority since authority is split when it is not expressly described. Thus it is

reasonable to conclude that F had apparent authority to buy the fish from Zeta.

Conclusion

F did have apparent Authority

Conclusion

RLF is liable to Zeta for breach of contract since F had authority to enter into the contract. RLF must fulfill their end of the agreement.

3)

RLF PARTNERSHIP AGREEMENT*December 7, 2023*

The parties Ragnar, Lagartha, and Floki agree as of December 7, 2023 in San Luis Obispo, CA agree to the following:

1. Ragnar, Lagartha, and Floki agree to form a general partnership named "RLF" in San Luis Obispo, CA.
2. Ragnar will contribute \$100,000 to RLF and will have the same rights and liabilities as his partners Lagartha, and Floki.
3. Lagartha will contribute \$50,000 to RLF and will have the same rights and liabilities as her partners Floki and Ragnar.
4. Floki will be contributing his service of acting as a salesagent for RLF.
5. Floki will have the same rights and liabilities as his partners Ragnar, and Lagartha.
6. Lagartha will be contributing his technical expertise at pickling fish for RLF.
7. Each of the parties owe each other fiduciary duties of acting in Good faith and fair dealing, and owe eachother the highest duty of care.
8. The Partnership RLF will not be held liable of any intentional torts or reckless misconduct that either of the "Partners" do that is not within the scope of the business.
9. All parties agree that when there is a business decision regarding RLF then they all must come to a conclusion, and if unable to come to an agreement 2/3 vote is what rules the business desision.
10. All parties agree that the job titles stated are interchangeable depending on whether the partners have all come to a mutual agreement, or whether one of the partners are no longer able to perform his duty stated.

END OF EXAM
