LLPs – REGISTERED LIMITED

LIABILITY PARTNERSHIPS

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CALIFORNIA SOCIETY OF CPAS

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LLPs – REGISTERED LIMITED LIABILITY PARTNERSHIPS

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This outline should be viewed only as a summary of the law and not as a substitute for tax or legal consultation in a particular case. Your comments and questions are always welcome.

REGISTERED LIMITED LIABILITY PARTNERSHIPS

THREE KEY PROVISIONS OF THE CALIFORNIA CORPORATIONS CODE

Section 16306. Joint and severable liability; personal liability; registered limited liability partnerships

(a) Except as otherwise provided in subdivisions (b) and (c), all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

(c) Notwithstanding any other section of this chapter, and subject to subdivisions (d), (e), (f), and (h), a partner in a registered limited liability partnership is not liable or accountable, directly or indirectly, including by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or liabilities of or chargeable to the partnership or another partner in the partnership, whether arising in tort, contract, or otherwise, that are incurred, created, or assumed by the partnership while the partnership is a registered limited liability partnership, by reason of being a partner or acting in the conduct of the business or activities of the partnership.

(d) Notwithstanding subdivision (c), all or certain specified partners of a registered limited liability partnership, if the specified partners agree, may be liable in their capacity as partners for all or specified debts, obligations, or liabilities of the registered limited liability partnership if the partners possessing a majority of the interests of the partners in the current profits of the partnership, or a different vote as may be required in the partnership agreement, specifically agreed to the specified debts, obligations, or liabilities in writing, prior to the debt, obligation, or liability being incurred. That specific agreement may be modified or revoked if the partners possessing a majority of the interests of the partners in the current profits of the partnership, or a different vote as may be required in the partnership agreement, agree to the modification or revocation in writing; provided, however, that a modification or revocation shall not affect the liability of a partner for any debts, obligations, or liabilities of a registered limited liability partnership incurred, created, or assumed by the registered limited liability partnership prior to the modification or revocation.

(e) Nothing in subdivision (c) shall be construed to affect the liability of a partner of a registered limited liability partnership to third parties for that partner's tortious conduct.

(f) The limitation of liability in subdivision (c) shall not apply to claims based upon acts, errors, or omissions arising out of the rendering of professional limited liability partnership services of a registered limited liability partnership providing legal services unless that partnership has a currently effective certificate of registration issued by the State Bar.

(g) A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership in which personal liability for partnership debts, obligations, or liabilities is asserted against the partner, unless that partner is personally liable under subdivision (d) or (e).

(h) Nothing in this section shall affect or impair the ability of a partner to act as a guarantor or surety for, provide collateral for or otherwise be liable for, the debts, obligations, or liabilities of a registered limited liability partnership.

(Added by Stats.1996, ch. 1003, § 2.)

Section 16955. Conversion of domestic partnership; rights and obligations

(a) A domestic partnership, other than a limited partnership, may convert to a registered limited liability by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement.

(b) When such a conversion takes effect, all of the following apply:

(1) All property, real and personal, tangible and intangible, of the converting partnership remains vested in the converted registered limited liability partnership.

(2) All debts, obligations, liabilities, and penalties of the converting partnership continue as debts, obligations, liabilities, and penalties of the converted registered limited liability partnership.

(3) Any action, suit, or proceeding, civil or criminal, then pending by or against the converting partnership may be continued as if the conversion had not occurred.

(4) To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

(5) A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

(Added by Stats.1996, ch. 1003, § 2.)

Section 16956. Security for claims against limited liability partnership; requirements; evidence of compliance

(a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

Accts

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

When staff increase, → increase COVERAGE.

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with fewer than five licensed persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of

insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of security for partnerships with fewer than five licensed persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred

prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars ($10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with fewer than five licensed persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed seven million five hundred thousand dollars ($7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability

required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of security for partnerships with fewer than five licensed persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed seven million five hundred thousand dollars ($7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding fifteen million dollars ($15,000,000).

(3) For claims based upon acts, errors, or omissions arising out of the practice of architecture, a registered limited liability partnership or foreign limited liability partnership providing architectural services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with fewer persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages

arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of security for partnerships with fewer than five licensed persons shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing architectural services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars ($10,000,000).

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of

subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), or subparagraph (D) of paragraph (3) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), OR SECTION 16956(a)(3)(D) OF THE CALIFORNIA CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership

2. _____
Jurisdiction where partnership is organized

3. _____
Address of principal office

4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), or 16956(a)(3)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars ($10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars ($15,000,000), in the case of a partnership providing legal services, or ten million dollars ($10,000,000), in the case of a partnership providing architectural services.

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), or subparagraph (D) of paragraph (3) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last

day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1), (2), or (3) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(Amended by Stats. 1998, ch. 504, § 3.)

Source: Legal > States Legal - U.S. > California > Statutes & Regulations > **CA - Barclays Official California Code of Regulations**
TOC: Barclays Official California Code of Regulations > / . . . / > ARTICLE 11. ACCOUNTANCY CORPORATION RULES > **§ 75.8. Security for Claims Against an Accountancy Corporation**

16 CCR 75.8

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 1. STATE BOARD OF ACCOUNTANCY
ARTICLE 11. ACCOUNTANCY CORPORATION RULES

16 CCR 75.8 (2004)

§ 75.8. Security for Claims Against an Accountancy Corporation

(a) An accountancy corporation shall provide and maintain adequate security for claims against it by its clients arising out of the rendering of or failure to render professional services. Security for such claims shall consist of either of the following:

(1) Insurance for each claim in an amount equal to at least $100,000 per licensee, provided that the maximum amount for each claim shall not be required to exceed $100,000, and that the minimum amount guaranteed for all claims during any one calendar year shall be at least an amount equal to $250,000 per licensee, provided that the maximum amount shall not be required to exceed $3,000,000; or

(2) A written agreement of the shareholders that they shall jointly and severally guarantee payment by the corporation of liabilities to its clients arising out of the rendering of or failure to render professional services.

(b) In the event of failure to comply with the requirements of this section, each and every shareholder of the corporation shall be deemed to have agreed to be jointly and severally liable for claims against the corporation by its clients arising out of the rendering of, or failure to render, professional services.

AUTHORITY:

Note: Authority cited: Sections 5010 and 5157, Business and Professions Code. Reference: Section 5157, Business and Professions Code.

HISTORY:

1. Amendment filed 4-12-83; effective thirtieth day thereafter (Register 83, No. 16).

2. Amendment filed 3-1-94; operative 3-31-94 (Register 94, No. 9).

Source: Legal > States Legal - U.S. > California > Statutes & Regulations > **CA - Barclays Official California Code of Regulations**
TOC: Barclays Official California Code of Regulations > / . . . / > ARTICLE 11. ACCOUNTANCY CORPORATION RULES > **§ 75.8. Security for Claims Against an Accountancy Corporation**
View: Full

ATTENTION: LIMITED LIABILITY PARTNERSHIP FILERS

Pursuant to California Revenue and Taxation Code section 17948, every Limited Liability Partnership (LLP) that is doing business in California or that has a Certificate of Registration issued by the Secretary of State's office (pursuant to California Corporations Code section 16953 or 16959) is subject to the annual LLP minimum tax of $800. The tax is paid to the California FRANCHISE TAX BOARD; is due for the taxable year of registration and must be paid for each taxable year, or part there of, until a Notice of Change of Status (pursuant to Corporations Code section 16954 or 16960) is filed with the Secretary of State's office. For further information regarding the payment of this tax, please contact the FRANCHISE TAX BOARD at:

From within the United States (toll free) ..... (800) 852-5711
From outside the United States (not toll free) ..... (916) 845-6500
Automated Toll Free Phone Service ..... (800) 338-0505

California Secretary of State
Business Programs Division
Business Filings Section
(916) 657-5448

State of California
Kevin Shelley
Secretary of State

File #_____

This Space For Filing Use Only

REGISTERED LIMITED LIABILITY PARTNERSHIP REGISTRATION

A $70.00 filing fee must accompany this form.
IMPORTANT – Read instructions before completing this form.

1. Name of the registered limited liability partnership or foreign limited liability partnership:
(End the name with the word "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.", "LLP", "R.L.L.P.", or "RLLP.")

2. ☐ Domestic (California) **OR** ☐ Foreign (Not in California) | 3. Jurisdiction

4. Address of the principal office: City State Zip Code

5. Name the agent for service of process in this state and check the appropriate provision below:
_____ which is
[ ] an individual residing in California. Proceed to item 6.
[ ] a corporation which has filed a certificate pursuant to California Corporations Code Section 1505. Proceed to item 7.

6. If an individual, California address of the agent for service of process:
Address
City State **CA** Zip Code

7. Indicate the business in which the limited liability partnership shall engage: (check one)
☐ Practice of Architecture ☐ Practice of Public Accountancy
☐ Practice of Law ☐ Related:_____

8. Indicate whether the limited liability partnership is complying with the alternative security provisions (California Corporations Code 16956[c]): ☐ Yes. Attach Alternative Security Provision (LLP-3) ☐ No

9. Future Effective Date, if any Month Day Year

10. Other matters to be included in this registration may be set forth on separate attached pages and are made a part of this registration. Total number of pages attached, if any:

11. **Declaration:** By filing this Registered Limited Liability Partnership (LLP-1) with the Secretary of State, the partnership named above is registering as a domestic registered limited liability partnership or foreign limited liability partnership. **(DO NOT ALTER THIS STATEMENT)** Further, I declare that I am the person who executed this instrument, which execution is my act and deed.

_____ _____
Signature of Authorized Partner/Person Type or Print Name of Authorized Partner/Person Date

12. **RETURN TO:**
NAME
FIRM
ADDRESS
CITY/STATE
ZIP CODE

SEC/STATE (REV. 12/2003)

FORM LLP-1 – FILING FEE $70
Approved by Secretary of State

INSTRUCTIONS FOR COMPLETING THE REGISTERED LIMITED LIABILITY PARTNERSHIP REGISTRATION (LLP-1)

DO NOT ALTER THIS FORM
Type or legibly print in black ink.

Statutory filing provisions are found in California Corporations Code Sections 16953 and 16959, unless otherwise indicated.

FILING FEE: The fee for filing the Registered Limited Liability Partnership Registration (LLP-1) is $70 (Government Code Section12189).

For further information contact the Business Filings Section at (916) 657-5448.

- **Make check(s) payable to the Secretary of State.** Send the executed document and filing fee to:
  California Secretary of State, Document Filing Support Unit, P.O. Box 944228, Sacramento, CA 94244-2280

- The original and at least two copies of the document should be included with your submittal. The Secretary of State will certify two copies of the filed document without charge, **provided that the copies are submitted to this office along with the original to be filed.** Any additional copies submitted with the original will be certified upon request and the payment of the $8.00 (per copy) certification fee.

Fill in the items as follows:

Item 1. Enter the name of the registered limited liability partnership or foreign limited liability partnership. The name of the limited liability partnership shall contain the words "Limited Liability Partnership," "Registered Limited Liability Partnership," or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" (California Corporations Code Section 16952).

Item 2. Check if the registering limited liability partnership is Domestic (California) or Foreign (not in California). If it is a foreign limited liability partnership, attach an original certificate of good standing from an authorized public official of the jurisdiction under which the foreign limited liability partnership was formed. If issuance of such a certificate is not permissible in that jurisdiction, then attach a statement by the foreign limited liability partnership indicating such.

Item 3. Enter the jurisdiction of formation of the foreign limited liability partnership.

Item 4. Enter the complete address, including the zip code, of the principal office. Do not abbreviate the name of the city.

Item 5. Enter the name and address of agent for service of process in this state. The agent for service of process must be an individual residing in California or a corporation which has filed a certificate pursuant to California Corporations Code Section 1505. Check the appropriate provision.

Item 6. If an individual is designated as the agent for service of process, enter an address in California. Do not enter "in care of" (c/o) or abbreviate the name of the city. DO NOT enter an address if a corporation is designated as the agent for service of process.

Item 7. Check the appropriate provision indicating whether the limited liability partnership shall engage in the practice of architecture, the practice of public accountancy, the practice of law, or a related activity as provided in Section 16101(6)(A).

The inclusion of the practice of architecture as a professional limited liability partnership service permitted by Section 16101 commenced January 1, 1999 and shall extend only until January 1, 2007.

Item 8. Upon registering as a registered limited liability partnership or foreign limited liability partnership, and while transacting intrastate business, the limited liability partnership shall provide security for claims against it. Check the appropriate provision indicating whether the limited liability partnership is complying with the alternative security provisions. If the limited liability partnership is complying with such alternative security provisions, attach the Alternative Security Provision using form LLP-3 (California Corporations Code Section 16956[c]).

If the limited liability partnership is not utilizing the Alternative Security Provisions, information regarding the security for claims against the limited liability partnership or foreign limited liability partnership is not required to be filed with the Secretary of State.

Item 9. Enter the future effective date of the Registered Limited Liability Partnership Registration (LLP-1), if any. If none is indicated, the Registration shall be effective upon filing with the California Secretary of State.

Item 10. The Registered Limited Liability Partnership Registration (LLP-1) may include other matters that the person filing the Registration determines to include. If other matters are to be included, attach one or more pages setting forth the other matters. Enter the number of pages attached, if any. All attachments should be 8½" x 11", one-sided and legible.

Item 11. The Registered Limited Liability Partnership Registration (LLP-1) must be executed with the original signatures of one or more partners authorized to execute a registration, if a domestic limited liability partnership, or by an authorized person if a foreign limited liability partnership.

Execution of this document confirms the following statement, which has been preprinted on this form and may not be altered. "BY FILING THIS REGISTERED LIMITED LIABILITY PARTNERSHIP REGISTRATION (LLP-1) WITH THE SECRETARY OF STATE, THE PARTNERSHIP NAMED ABOVE IS REGISTERING AS A DOMESTIC REGISTERED LIMITED LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PARTNERSHIP."

Item 12. Enter the name and address of the individual or firm to whom a copy of the filing is to be returned.

State of California Department of Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

For Office Use Only
Cert. No. _____
Date _____

PARTNERSHIP NAME CHANGE

APPLICATION FOR LICENSURE

Application Type:

- ☐ **General Partnership**
- ☐ **General Partnership – Nonlicensee Partner(s)**
- ☐ **Limited Liability Partnership**
- ☐ **Limited Liability Partnership – Nonlicensee Partner(s)**

☐ **California (Domestic)** ☐ **Out-of-State (Foreign) – Name of State** _____

LLP Secretary of State Registration No. _____

The following must accompany the application:

1. Application and name change fee of $150.
2. Copy of LLP Registration Certificate endorsed by the California Secretary of State, if registering as a LLP.

(Please type or print) **ALL ITEMS MUST BE COMPLETED**

1.	New Partnership Name			Firm Telephone Number (Optional) ( )
	Former Name of Partnership			Par. No.
2.	New Place of Practice (Street Address)	City	State	ZIP Code No.
	Former Street Address (if any)	City	State	ZIP Code No.
3.	Mailing Address if Different than Place of Practice Address (Street Address)	City	State	ZIP Code No.

4. Section 5072(b)(1) & (2). Information for each partner of firm **personally engaged** in the practice of public accounting. Out-of-state partners must submit certification attesting to a valid license to practice public accounting.

Name of CPA, PA, Corporation or applicant for licensure under Sections 5087 and 5088.	Street Address	License Certificate No.

5. Section 5072(b)(4). Information for each Resident Manager in charge of an office of the firm.

Name of CPA, PA, or applicant for licensure under Sections 5087 or 5088.	Street Address	License Certificate No.

GENERAL PARTNERSHIP WITH NONLICENSEE PARTNER(S) STATEMENT

We, the undersigned, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this general partnership with nonlicensee partner(s) complies with the requirements of Section 51of Title 16 of the California Code of Regulations and Section 5079 of the Business and Professions Code, as well as with all applicable regulations.

Date _____ Type or Print Authorized CPA/PA Partner Name _____

Signature of Authorized CPA/PA Partner _____

Date _____ Type or Print Authorized Nonlicensee Owner Name _____

Signature of Authorized Nonlicensee Owner _____

LIMITED LIABILITY PARTNERSHIP INSURANCE STATEMENT

The undersigned certifies under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this limited liability partnership complies with the requirements of Section 16956 of the California Corporations Code regarding security for claims.

Date _____ Type or Print Name of Authorized CPA/PA Partner _____

Signature of Authorized CPA/PA Executing This Form _____

LIMITED LIABILITY PARTNERSHIP WITH NONLICENSEE PARTNER(S) STATEMENT

We, the undersigned, certify under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this general partnership with nonlicensee partner(s) complies with the requirements of Section 51of Title 16 of the California Code of Regulations, Section 5079 of the Business and Professions Code, Section 16956 of the California Corporations Code regarding security for claims, as well as with all applicable regulations.

Date _____ Type or Print Authorized CPA/PA Partner Name _____

Signature of Authorized CPA/PA Partner _____

Date _____ Type or Print Authorized Nonlicensee Owner Name _____

Signature of Authorized Nonlicensee Owner _____

Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

GENERAL PARTNERSHIP/LIMITED LIABILITY PARTNERSHIP *NAME CHANGE* CHECK SHEET

A GENERAL PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP (LLP) NAME CHANGE IS REQUIRED TO BE APPROVED BY THE CALIFORNIA BOARD OF ACCOUNTANCY (Board) BEFORE PRACTICING AND HOLDING OUT TO THE PUBLIC UNDER AN AMENDED NAME.

- **The application must be completed in its entirety.**
- **All requested documents must accompany the application.**
- **Copies of the requested documentation are acceptable.**
- **The application and name change fee of $150 must accompany the application.**

If the application is not complete, it will be returned for appropriate documentation. Once an application is complete, allow eight to ten weeks for processing.

The following check sheet is intended to assist you with filing a complete partnership name change application.

COMPLETION OF THE APPLICATION FOR *GENERAL PARTNERSHIP* NAME CHANGE

General Partnership Name Changes are not required to register with the Secretary of State.

❑ FEES FOR LICENSURE

The name change application fee is $150. A check, money order or cashier's check made payable to the California Board of Accountancy must accompany the application.

❑ APPROPRIATE USE OF PARTNERSHIP NAME

The name of the firm must meet the requirements set forth in Sections 5060 and 5073 of the Business and Professions Code and Section 75.5 of Title 16 of the California Code of Regulations. Because Board staff are unable to provide guidance regarding firm structure and whether a particular firm name will be considered false or misleading by your clients, licensees are encouraged to contact their legal counsel for guidance.

❑ PARTNERS OF THE FIRM

Section 5072(b)(1) of the Business and Professions Code requires at least one general partner to hold a valid California license to practice as a certified public accountant (CPA), public accountant (PA) or accountancy corporation, or shall be an applicant for a certificate as a CPA under Sections 5087 and 5088. Section 5072(b)(3) requires each partner not personally engaged in the practice of public accountancy within California to be a CPA or PA in good standing of some state, except as permitted by Section 5079.

❑ OUT-OF-STATE PARTNERS

Section 5072(b)(2) of the Business and Professions Code requires each partner personally engaged in the practice of public accountancy as defined by Section 5051 to hold a valid permit to practice in this state or to have applied for a certificate as a CPA in good standing of some state, except as permitted by Section 5079.

An out-of-state CPA or PA wanting to practice in California must file an application for licensure and meet the requirements set forth in Sections 5087 and 5088 of the Business and Professions Code, s well as Section 21 of Title 16 of the California Code of Regulations.

An expired partnership license may be renewed up to five years after its expiration date. A license that is not renewed within five years is cancelled and cannot be renewed, restored or reinstated.

❑ CHANGE OF ADDRESS, PARTNERS, AND/OR FIRM NAME

Section 3 of Title 16 of the California Code of Regulations requires a licensed firm to notify the Board of any change in its address of record within 30 days after the change. Section 5073(d) of the Business and Professions Code also requires notification shall be given to the Board within 30 days after the admission to, or withdrawal of, a partner from any registered partnership.

If you are changing the firm's address or telephone number, or adding or disassociating a partner without changing the firm's name, you may notify the Board on your firm's letterhead.

If the firm's name is changing as a result of adding or disassociating a partner, you must complete the *Partnership Name Change Application.* The firm's name change must be approved by the Board before holding out and practicing under an amended name.

❑ CHANGE TO A LIMITED LIABILITY PARTNERSHIP

To change a general partnership to a LLP, contact the California Secretary of State at its Web site at *www.ss.ca.gov/business.*

❑ DISSOLUTION OF A GENERAL PARTNERSHIP

To dissolve a general partnership, submit a letter to the Board stating the firm has dissolved and provide the effective date. Upon receipt of the letter, the firm's license will be cancelled.

COMPLETION OF THE *LIMITED LIABILITY PARTNERSHIP* NAME CHANGE APPLICATION

❑ FEES FOR LICENSURE

The name change application fee is $150. A check, money order, or cashier's check made payable to the California Board of Accountancy must accompany the application.

❑ APPROPRIATE USE OF PARTNERSHIP NAME

The name of the firm must meet the requirements set forth in Sections 5060 and 5073 of the Business and Professions Code and Section 75.5 of Title 16 of the California Code of Regulations. Because Board staff are unable to provide guidance regarding firm structure and whether a particular firm name will be considered false or misleading by your clients, licensees are encouraged to contact their legal counsel for guidance.

Section 16952 of the Corporations Code (Limited Liability Partnerships) requires that the name of a registered LLP contain the words "Registered Limited Liability Partnership", "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

Section 16958 of the Corporations Code requires that the name of a foreign LLP transacting intrastate business in this state contain the words "Registered Limited Liability Partnership", "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

❑ PARTNERS OF THE FIRM

Section 5072(b)(1) of the Business and Professions Code requires at least one general partner to hold a valid license to practice as a CPA, PA or accountancy corporation, or to be an applicant for a certificate as a CPA under Sections 5087 and 5088. Section 5072(b)(3) requires each partner not personally engaged in the practice of public accountancy within California to be a CPA or PA in good standing of some state, except as permitted by Section 5079.

❑ OUT-OF-STATE PARTNERS

Section 5072(b)(2) of the Business and Professions Code requires each partner personally engaged in the practice of public accountancy as defined by Section 5051 to hold a valid permit to practice in California or to have applied for a certificate as a CPA in good standing of some state, except as permitted by Section 5079.

An out-of-state CPA or PA wanting to practice in California must file an application for licensure and meet the requirements set forth in Sections 5087 and 5088 of the Business and Professions Code, as well as Section 21 of Title 16 of the California Code of Regulations.

Section 5073(e) of the Business and Professions Code states that any registration of a partnership under this section granted in reliance upon Sections 5087 and 5088 must be terminated if the Board rejects the application under Sections 5087 and 5088 of the general partner who signed the application for registration as a partnership, or any partner personally engaged in the practice of public accountancy in California, or any resident manager of a partnership in charge of an office in California.

❑ RESIDENT MANAGER(S)

Section 5072(b)(4) of the Business and Professions Code requires each resident manager in charge of an office of the firm in California to be a licensee in good standing in California, or to have applied for a certificate as a CPA under Sections 5087 and 5088.

Section 5078 of the Business and Professions Code requires in each office of a CPA or PA in California which is not under the personal management of such an accountant, respectively, that the work be supervised by a CPA or PA.

❑ NONLICENSEE PARTNERS

Section 5079 of the Business and Professions Code permits minority ownership of public accounting firms by individuals who are not licensed as CPAs or PAs. This section applies to both accountancy partnerships and accountancy corporations.

At initial licensure and at license renewal, Section 51 of Title 16 of the California Code of Regulations requires firms with nonlicensee owners to certify that any nonlicensee owner with his or her principal place of business in this state has been informed of the rules of professional conduct applicable to accountancy firms. This declaration shall be completed and signed by a licensed partner of the firm (see page 3 of the application).

The number of licensed partners as owners must be greater than the number of nonlicensed partners. The only exception is that firms with only two partners may have one partner who is a nonlicensee.

❑ FEDERAL EMPLOYER ID NUMBER

Disclosure of the firm's federal employer identification number (FEIN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405(c)(2)(C)) authorize collection of the FEIN. The FEIN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure by a licensing entity where licensure is reciprocal with the requesting state. **Applications without a FEIN will not be processed** (see page 2 of the application).

❑ LIMITED LIABILITY PARTNERSHIP STATEMENT

The declaration statement must be signed and dated by a partner who is a licensee with a valid license to practice public accounting. Firms with nonlicensee owners must complete and sign the nonlicensee owner(s) declaration (see page 3 of the application).

❑ PARTNERSHIP RENEWAL CYCLE

Pursuant to Sections 5070.5, 5070.6, 5070.7, and 5070.8 of the Business and Professions Code, a partnership license must be renewed every two years to remain in good standing. The expiration date is based on the month and year the Board originally approved the application.

If approved in an even-numbered year, the license will expire each even-numbered year on the last day of the month in which it was originally approved. If approved in an odd-numbered year, the license will expire each odd-numbered year on the last day of the month in which it was originally approved.

The Board mails renewal forms with instructions approximately two months before the firm's license expiration date. If your renewal form is not completed, mailed, and postmarked by the license expiration date, your firm's practice rights cease until all deficiencies are corrected, and the license is renewed by the Board.

An expired partnership license may be renewed up to five years after its expiration date. A license not renewed within five years is cancelled and cannot be renewed, restored or reinstated.

❑ CHANGE OF ADDRESS, PARTNERS, AND/OR FIRM NAME

Section 3 of Title 16 of the California Code of Regulations requires a licensed firm to notify the Board of any change in its address of record within 30 days after the change. Section 5073(d) of the Business and Professions Code also requires notification shall be given to the Board within 30 days after the admission to, or withdrawal, of a partner from any registered partnership.

If you are changing the firm's address or telephone number, or adding or disassociating a partner without changing the firm's name, you may notify the Board on your firm's letterhead.

If the firm's name is changing as a result of adding or disassociating a partner, you must complete the *Partnership Name Change Application.*

❑ DISSOLUTION OF A LIMITED LIABILITY PARTNERSHIP

To dissolve a LLP, you must contact the California Secretary of State and file a *Notice of Change of Status*. The firm must receive a *Tax Clearance Certificate* from the Franchise Tax Board before *the Notice of Change of Status* can be filed. Information on dissolving a LLP is available on the Secretary of State's Web site at *www.ss.ca.gov/business*. Information on obtaining the *Tax Clearance Certificate* is available on the Franchise Tax Board's Web site at *www.ftb.ca.gov*.

Upon completion of the above, submit a letter to the Board stating that your firm has been dissolved and give the effective date. Upon receipt of the letter, your firm's license will be cancelled.

QUESTIONS

If you have questions or are unable to locate the information you need, please fax your questions to (916) 263-3676, e-mail to *firminfo@cba.ca.gov* or contact Board staff at (916) 561-1701.

Personal Information Collection Notice: The information provided in this form will be used by the California Board of Accountancy, to determine qualifications for a Certified Public Accountant/Public Accountant License Renewal. Sections 5009, 5026 through 5029, 5060, 5070 through 5079, and 5150 through 5158 of the Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the form as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the Information Practices Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this form, and may be contacted at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, telephone number (916) 263-3680 regarding questions about this notice or access to records.

State of California Department of Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
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SACRAMENTO, CA 95815-3832
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For Office Use Only
Cert. No. _____
Date _____

New PARTNERSHIP

APPLICATION FOR LICENSURE

Application Type:

- ☐ General Partnership
- ☐ General Partnership – Nonlicensee Partner(s)
- ☐ Limited Liability Partnership
- ☐ Limited Liability Partnership – Nonlicensee Partner(s)
  - ☐ California (Domestic) ☐ Out-of-State (Foreign) – Name of State _____
  - LLP Secretary of State Registration No. _____

The following must accompany the application:

1. Application and initial license fees of $350.
2. Copy of LLP Registration Certificate endorsed by the California Secretary of State, if registering as a LLP.

(Please Type or Print) **ALL ITEMS MUST BE COMPLETED**

1.	Partnership Name			Firm Telephone Number (Optional) ( )	
2.	Place of Practice	(Street Address)	City	State	ZIP Code No.
3.	Mailing Address, if Different from Place of Practice Address	(Street Address)	City	State	ZIP Code No.

4. Section 5072(b)(1) & (2). Information for each partner of firm **personally engaged** in the practice of public accounting. Out-of-state partners must submit certification attesting to a valid license to practice public accounting.

Name of CPA, PA, Corporation or applicant for licensure under Sections 5087 and 5088.	Street Address	License Certificate No.

5. Section 5072(b)(3). Information for each out-of-state partner **not personally** engaged in the practice of public accounting.

Name of CPA or PA	Street Address	License Certificate No.

GENERAL PARTNERSHIP WITH NONLICENSEE PARTNER(S) STATEMENT

We, the undersigned, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this general partnership with nonlicensee partner(s) complies with the requirements of Section 51 of Title 16 of the California Code of Regulations and Section 5079 of the Business and Professions Code, as well as with all applicable regulations.

Date _____ Type or Print Authorized CPA/PA Partner Name _____

Signature of Authorized CPA/PA Partner _____

Date _____ Type or Print Authorized Nonlicensee Owner Name _____

Signature of Authorized Nonlicensee Owner _____

LIMITED LIABILITY PARTNERSHIP INSURANCE STATEMENT

The undersigned certifies under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this limited liability partnership complies with the requirements of Section 16956 of the California Corporations Code regarding security for claims.

Date _____ Type or Print Name of Authorized CPA/PA Partner _____

Signature of Authorized CPA/PA Executing This Form _____

LIMITED LIABILITY PARTNERSHIP WITH NONLICENSEE PARTNER(S) STATEMENT

We, the undersigned, certify under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this general partnership with nonlicensee partner(s) complies with the requirements of Section 51 of Title 16 of the California Code of Regulation, Section 5079 of the Business and Professions Code and Section 16956 of the California Corporations Code regarding security for claims, as well as with all applicable regulations.

Date _____ Type or Print Authorized CPA/PA Partner Name _____

Signature of Authorized CPA/PA Partner _____

Date _____ Type or Print Authorized Nonlicensee Owner Name _____

Signature of Authorized Nonlicensee Owner _____

The Board mails renewal forms with instructions approximately two months before the firm's license expiration date. If your renewal form is not completed, mailed, and postmarked by the license expiration date, your firm's practice rights cease until all deficiencies are corrected, and the license is renewed by the Board.

An expired partnership license may be renewed up to five years after its expiration date. A license that is not renewed within five years is cancelled and cannot be renewed, restored, or reinstated.

❑ CHANGE OF ADDRESS, PARTNERS, AND/OR FIRM NAME

Section 3 of Title 16 of the California Code of Regulations requires a licensed firm to notify the Board of any change in its address of record within 30 days after the change. Section 5073(d) of the Business and Professions Code also requires notification be given to the Board within one month after the admission to, or withdrawal of, a partner from any registered partnership.

If you are changing the firm's address, telephone number, or adding or disassociating a partner without changing the firm's name, you may notify the Board on your firm's letterhead.

If the firm's name is changing as a result of adding or disassociating a partner, you must complete the *Partnership Name Change Application.* The firm's name change must be approved by the Board before holding out and practicing under an amended name. The name change application and accompanying information is available on the Board's Web site at *www.dca.ca.gov/cba* or by calling the Board at (916) 263-3947.

❑ CHANGE TO A LIMITED LIABILITY PARTNERSHIP

To change a general partnership to a LLP, contact the California Secretary of State at its Web site at *www.ss.ca.gov/business* for filing information.

❑ DISSOLUTION OF A GENERAL PARTNERSHIP

To dissolve a general partnership, submit a letter to the Board stating the firm has dissolved and provide the effective date. Upon receipt of the letter, your firm's license will be cancelled.

COMPLETION OF THE *LIMITED LIABILITY PARTNERSHIP* APPLICATION FOR LICENSURE

LLPs are required to file and be approved as a LLP with the California Secretary of State before filing an application for licensure with the Board. An endorsed copy of the LLP Registration from the Secretary of State must accompany the application.

Information on filing for *Registration of Limited Liability Partnership* is available on the Secretary of State's Web site at *www.ss.ca.gov/business.*

❑ FEES FOR LICENSURE

The application and initial license fees are $350. A check, money order, or cashier's check made payable to the California Board of Accountancy must accompany the application.

❑ APPROPRIATE USE OF PARTNERSHIP NAME

The name of the firm must meet the requirements set forth in Sections 5060 and 5073 of the Business and Professions Code and Section 75.5 of Title 16 of the California Code of Regulations. Because Board staff are unable to provide guidance regarding firm structure and whether a particular firm name will be considered false or misleading by your clients, licensees are encouraged to contact their legal counsel for guidance.

9 of 10 DOCUMENTS

MEGADYNE INFORMATION SYSTEMS, Plaintiff and Appellant, v. ROSNER, OWENS & NUNZIATO et al., Defendants and Respondents.

B155176

COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR

2002 Cal. App. Unpub. LEXIS 8897

September 24, 2002, Filed

NOTICE: [*1] NOT TO BE PUBLISHED CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBITS COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR PURPOSES OF RULE 977.

PRIOR HISTORY: APPEAL from a judgment of the Superior Court of Los Angeles County, Super. Ct. No. BC213137. Richard Fruin, Judge.

DISPOSITION: Reversed with directions.

COUNSEL: Newman & Sweeney and James K. Sweeney for Plaintiff and Appellant.

Garrett & Tully, Efren A. Compean and Chau T. Do for Defendants and Respondents.

JUDGES: VOGEL (C.S.), P.J. We concur: EPSTEIN, J., CURRY, J.

OPINIONBY: C.S. VOGEL

OPINION:

INTRODUCTION

Megadyne Information Systems (Megadyne) sued the law firm of Rosner, Owens & Nunziato, LLP (the Rosner firm) and the firm's individual partners for legal malpractice and breach of fiduciary duty. The Rosner firm n1 successfully moved for summary judgment. Megadyne appeals. We conclude summary judgment was properly granted on the legal malpractice cause of action but that triable issues of material fact exist on one fact-specific theory supporting the cause of action for breach of fiduciary [*2] duty. We also find a triable issue of fact exists as to the individual partners' involvement in that breach. We therefore reverse for further proceedings.

n1 For the sake of clarity, we will use the term "the Rosner firm" to include the three individual defendants.

FACTUAL AND PROCEDURAL BACKGROUND

• • • •

Liability of Individual Attorneys

Pursuant to *Corporations Code section 16306*, subdivision (c), an individual partner of a registered limited liability partnership such as the Rosner firm has no vicarious liability for the tort(s) of another partner. Only the partnership and the individual partner are liable. (See *Corp. Code, § 16306*, subd. (e).) Consequently, Megadyne can only hold Nunziato and Rosner liable if they were involved in the handling of its matter. All three partners offered declarations [*29] averring Owens was "the sole attorney" who handled the Megadyne matter and that neither of the other two had "any involvement" in the case. To contradict that showing, Megadyne offered Owens's testimony that "there might have been discussions" with his two partners that Megadyne had a viable legal malpractice claim against [redacted]. This is sufficient to create a triable issue of fact as to whether the partners were personally involved in the firm's breach of fiduciary duties.

If the partners had *discussions* that Megadyne could sue [redacted] for malpractice, it is reasonable to infer that they knew Megadyne's claim against OCTA was time-barred and that they participated in the decision to not disclose this fact to Megadyne while the firm continued to represent it. In addition, the fact Nunziato's name was on the caption page of the claim filed with OCTA suggests his involvement in the case.

CONCLUSION

To summarize, the Rosner firm established no triable issue of fact exists on the cause of action for legal malpractice as pled in the complaint. To the extent the cause of action for breach of fiduciary duty was based upon the theory of a failure to disclose [*30] [redacted] had committed legal malpractice, that theory was not pled in the complaint so that the Rosner firm established no triable issue of fact exists. However, to the extent the cause of action for breach of fiduciary duty is based on the theory the Rosner firm intentionally misled Megadyne about the viability of its claim against OCTA and Megadyne relied to its detriment upon those misrepresentations by continuing to employ the Rosner firm to prosecute the claim, that theory was sufficiently pled in the complaint and Megadyne established a triable issue of material fact in that regard. There is also a triable issue of fact as to whether the partners other than Owens were involved in that breach of fiduciary duty. We therefore reverse the judgment solely to permit Megadyne to continue its action on that theory.

DISPOSITION

The judgment is reversed and the cause is remanded for further proceedings consistent with the views expressed herein. The parties to bear their own costs on appeal.

VOGEL (C.S.), P.J.

We concur:

EPSTEIN, J.

CURRY, J.

5 of 66 DOCUMENTS

UNITED STATES OF AMERICA, Plaintiff,-v.-175 INWOOD ASSOCIATES LLP, 175 ROGER CORP., ABRAHAM WOLDIGER, ABRAHAM TAUB, PETER HOFFMAN (PINCHAS), Defendants.

96-CV-1471 (DRH)(ETB)

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

330 F. Supp. 2d 213; 2004 U.S. Dist. LEXIS 16032

August 6, 2004, Decided

DISPOSITION: [**1] Court found defendants liable for environmental claenup casts. Case referred to magistrate to determine amount of damages, interest, fees and costs owed by defendants.

LexisNexis(R) Headnotes

COUNSEL: For Plaintiff: Kevin P. Mulry, Esq., Stanley Alpert, Esq., UNITED STATES ATTORNEY'S OFFICE FOR THE EASTERN DISTRICT OF NEW YORK, Central Islip, New York.

For Defendants: JOEL KENNETH DRANOVE, ESQ., New York, New York.

JUDGES: DENIS R. HURLEY, U.S.D.J.

OPINIONBY: DENIS R. HURLEY

OPINION:

[*214] **MEMORANDUM & ORDER**

HURLEY, District Judge:

This is a civil action brought pursuant to *Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9601, et seq. Section 107(a) of CERCLA* allows the United States to move rapidly to respond to the release or threatened release of hazardous substances by permitting the government to spend monies from [**2] a "Superfund" established by Congress to finance the initial cost of such response actions. In relevant part, the United States brings this action against 175 Inwood Associates, 175 Roger Corporation, Abraham Woldiger, Abraham Taub, and Peter (Pinchas) Hoffman ("Defendants") based on their liability under CERCLA. The United States seeks to [*215] recover costs incurred by the Environmental Protection Agency ("EPA") in response to the release or threat of release of hazardous substances at 175 Roger Avenue, Inwood, New York ("Inwood Site" or the "Site"). The United States also seeks to recover civil damages from the Defendants for failure to comply with (1) an Administrative Order issued by the EPA pursuant to *Section 106(a) of CERCLA, 42 U.S.C. § 9606(a)*; (2) an Access Order issued by the EPA pursuant to Sections 104(e)(3) and (e)(5) of CERCLA, *42 U.S.C. § 9604(e)(3)* and *(e)(5)*; and (3) multiple Requests for Information issued by the EPA pursuant to *Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2)*.

The Complaint was filed on March 26, 1996. This case received a non-jury trial before the undersigned on November 6, 2003. The [**3] parties submitted proposed findings of fact and conclusions of law after the trial. All such post-trial submissions, including the Defendants' reply and the government's sur-reply, were received in chambers by March 10, 2004.

This decision serves to provide the Court's Findings of Fact and Conclusions of Law pursuant to *Federal Rule of Civil Procedure 52*.

I. UNDISPUTED FACTS.

The following undisputed facts were set forth in the Pretrial Order Statement of Stipulated Facts filed June 29, 1999 ("Pretrial Order"), the evidence received in connection with the November 6, 2003 non-jury trial, and the proposed findings of fact submitted by both parties after the trial. The Court will identify several remaining disputed facts while recounting the undisputed facts. These idnetified disputed facts will be discussed later in the instant order.

175 Inwood Associates is a limited liability partnership under New York Partnership law. Plaintiff's Exhibit ("Pl.'s Ex.") 84. The partnership was established for the

[**26] In light of the assessments of the Inwood Site by Geraghty and Miller, NCDOH, NYSDEC, Weston, and the EPA, see supra Part I, the Court finds that the waste materials left at the Inwood Site are properly categorized as "hazardous substances" under Section 101(14). *42 U.S.C. § 9601(14)*.

Finally, the phrase "owner or operator" is defined to mean "(ii) in the case of an onshore facility or offshore facility, any person owning or operating such facility." *42 U.S.C. § 9601(20)(A)(ii)*. Applying that definition, the Second Circuit has held that an individual may be liable as an "owner or operator" even if he did not actively participate in the management of the site or [*223] contribute to the release of the hazardous substances. *New York v. Shore Realty Corp., 759 F.2d 1032, 1044-45 (2d Cir. 1985)*. Considering the undisputed facts in this case, see supra Part I, the Court notes that Defendants 175 Inwood Associates, Abraham Woldiger, Abraham Taub, and Peter Hoffman all received, whether directly or passing through the 175 Inwood Associates entity, lease payments from Rockaway Metal while the hazardous materials were being [**27] disposed of at the Site. Upon this observation, the Court concludes that Defendants 175 Inwood Associates LLP, Abraham Woldiger, Abraham Taub, and Peter Hoffman all qualify as "owner[s]" under *Section 107(a)(2)*.

Defendant Peter Hoffman claims that he was not an "owner or operator" of the Inwood Site under the statutory definition and pleads indicia of ownership primarily to protect a security interest under *§ 9601(20)(A)*. Since Hoffman asserts this as an affirmative defense to liability under *Section 107(a) of CERCLA*, the Court will address this issue in Part III of this Order. As will be discussed more fully in that section, the Court concludes that all Defendants are "owner[s]" under CERCLA. See *42 U.S.C. § 9607(a)(2)*. Accordingly, the Court, for the purposes of the instant section moves on to the next relevant portion of the statute to ascertain Defendants' liability: the timing of Defendants' ownership.

Consistent with the statutory language of *CERCLA Section 107(a)(2)*, the only remaining question surrounding liability is whether Defendants owned and operated the Inwood Site "at the time of disposal of any hazardous substance." In New York v. [**28] Shore Realty Corp., the Second Circuit explained that liability does not extend to all former owners or operators of a facility under *Section 107(a) of CERCLA*; it applies only to those former owners or operators who owned or operated the facility "at the time of disposal" of a hazardous substance. *759 F.2d at 1043-44*. Consequently, former owners or operators can be held liable if any disposal of hazardous substances occurred at the site during the time that they were the owners. *Id. at 1044*. Furthermore, those contemporaneous owners are primarily liable under the act for the costs of disposal, without regard to the proportion of hazardous materials which were released during ownership. Id. (stating that CERCLA "unequivocally imposes strict liability on the current owner of a facility from which there is a release or threat of release [of hazardous materials], without regard to causation"). Upon the evidentiary record, 175 Inwood Associates was the owner of the Site as of 1989. 175 Roger Corporation is also, upon the evidentiary record an owner of the Site. (However, as seen below, 175 Roger Corporation was not the owner at the time of disposal [**29] of some hazardous materials on the Site.) As discussed more fully infra, the individual defendants that formed 175 Inwood Associates, Woldiger, Taub and Hoffman, are also considered as owners for the purposes of CERCLA due to their general partnership liability under New York law. The reasons for this liability require a detailed discussion.

As mentioned supra, Woldiger, Taub and Hoffman are general partners in a limited liability partnership. In relevant part, *Section 26 of New York Partnership Law* provides:

> (a) Except as provided in subdivision (b) of this section, all partners are liable:
>
> 1. Jointly and severally for everything chargeable to the partnership under sections twenty-four and twenty-five.
>
> 2. Jointly for all other debts and obligations of the partnership; [*224] but any partner may enter into a separate obligation to perform a partnership contract.
>
> (b) Except as provided by subdivisions (c) and (d) of this section, no partner of a partnership which is a **registered limited liability partnership** is liable or accountable, directly or indirectly ... for any debts, obligations, or liabilities of, or chargeable to, the **registered limited liability** [**30] **partnership** ... whether arising in tort, contract, or otherwise, which are incurred, created or assumed by such partnership while such partnership is a **registered limited liability partnership,** solely by reason of being such a partner or acting (or omitting to act) in such capacity or rendering professional services or otherwise participating (as an employee, consultant, contractor or otherwise) in the conduct of the other business or activities of the **registered limited liability partnership.**

N.Y. Partnership Law § 26 (McKinney 2004).

While *subsection (a)(2)* indicates that all partners in normal partnershipsare liable jointly for all debts and obligations of the partnership, *subsection (b)* indicates that a different standard applies to partners in a limited liability partnership. Thus, under New York Partnership law Woldiger, Taub, and Hoffman, as general partners in a limited liability partnership, cannot be held individually liable "for any debts, obligations, or liabilities" of 175 Inwood Associates "solely by reason of being such a partner" in the entity. Id.

However, after reviewing the relevant case law, the Court has determined that, under [**31] New York Partnership law, general partners in a limited liability partnership are not protected as individuals from liability incurred by the partnership if the assets of the partnership are insufficient to satisfy the liability. See *Bank of New York v. Ansonia Assoc., 172 Misc. 2d 70, 656 N.Y.S.2d 813, 819 (N.Y. Sup. Ct. 1997)* ("general partners [in limited liability partnerships] are individually liable for payment of partnership liabilities if they cannot be paid out of partnership assets"); *Belgian Overseas Securities Corp. v. Howell Kessler Co., 88 A.D.2d 559, 450 N.Y.S.2d 493, 494 (N.Y. App. Div. 1982)* ("When partnership assets are insufficient to pay [limited liability] partnership debts, creditors may look to the general partners to satisfy the debts."); *Helmsley v. Cohen, 56 A.D.2d 519, 391 N.Y.S.2d 522, 523 (N.Y. App. Div. 1977)* ("individual assets are chargeable for [limited liability] partnership debts only after partnership is adjudicated bankrupt, or, ... when joint or partnership property is insufficient to pay partnership and there appears to be no effective remedy without resort to individual property").

Here, [**32] since it is undisputed that 175 Inwood Associates has no assets, see supra, Part I, the Court finds that, under New York law, the general partners of 175 Inwood Associates, Woldiger, Taub, and Hoffman, are individually liable for the CERCLA liability incurred by the partnership. With that partnership issue resolved, the Court now returns to the CERCLA analysis.

For all of the reasons discussed supra, the Court concludes that all of the Defendants are owners of the Inwood Site. As the trier of fact in this case, and based upon the evidence discussed below, the Court further finds that the Defendants, other than 175 Roger Corp., did own the Inwood Site at the time of disposal of some hazardous substances. The Court sets out its reasons for this conclusion, as well as its reasons for not accepting Defendants' arguments to the contrary, infra. However, before reaching that discussion, the Court must address Defendants' argument [*225] that no hazardous materials were disposed of during their ownership of the Site.

Defendants argue that Rockaway Metal had ceased its manufacturing operations at the Inwood Site sometime during late 1988. Defendants contend that this proves that Rockaway [**33] Metal had stopped disposing of hazardous substances, as defined by *Section 107(a)(2)*, before 175 Inwood Associates purchased the property in January 1989. In light of the record in this case, the Court finds this argument unconvincing.

Defendants point to two pieces of evidence to support its position that Rockaway Metal did not dispose of hazardous substances while Defendants were the owners and operators of the Inwood Site: a letter written by Elg Haniel to Einbinder and Abraham Taub's testimony at trial.

Elg Haniel's letter to Einbinder on November 13, 1988 was a laundry list of complaints related to Einbinder's alleged failure to perform its basic contractual duties as the lessor of the property. One of the listed complaints referenced an oven previously used by Rockaway Metal that had not been removed from Elg Haniel's subleased space. Defendants assert that the oven left in Elg Haniel's subleased space was the source of the waste materials produced at the Site. Defendants believe evidence indicating that the oven was abandoned proves that Rockaway Metal could not have been disposing of hazardous substances after November 13, 1988 or at any time while Defendants owned and operated [**34] the Inwood Site.

Defendants also believe their position is supported by one portion of Taub's trial testimony, which indicates that Rockaway Metal's steel painting division was closed down before 175 Inwood Associates purchased the property. Tr. 111. This closure, Defendants maintain, eliminated any chance that hazardous materials were generated and disposed of during the relevant period.

Despite the Defendants' assertions to the contrary, the Court finds that the weight of the evidence clearly demonstrates that Defendants, other than Defendant 175 Roger Corp., the liability of which will be discussed infra, did own the Inwood Site "at the time of disposal of a[] hazardous substance." First, Defendants' claim that the oven was the sole source of the hazardous substances generated at the Inwood Site is not supported by any evidence in the record. See supra, Part I. Second, at trial the United States demonstrated that Woldiger's testimony, on the question of whether Rockaway Metal was operating at the Inwood Site at the time 175 Inwood Associates purchased the property, contradicted earlier statements that he made in his sworn deposition. Tr. 95-97. In his deposition, Woldiger [**35] stated that Rockaway Metal operated at the Inwood Site for "a few months" after 175 Inwood Associates took title to the property. Tr. 96. Third, Taub also testified that Rockaway Metal was "in the site" at

A FEW TROUBLESOME PROVISIONS OF GENERAL PARTNERSHIP AGREEMENTS

a) **Additional Capital Contributions**. *No further contributions to capital shall be required or made by any Partner*, except by mutual consent of the Partners. Partners may make loans to the Partnership on terms to be agreed by the Partners. [This is OK for an LLP. Check for mandatory capital calls that a bankruptcy trustee might be able to make.]

[For an LLP, consider removing all provisions for personal liability of the partners for partnership debts. These can be in lots of places in a general partnership agreement.]

c) **Prior Acts**. No Partner shall be liable for any obligation incurred by any other Partner, either before or after this Agreement is signed, *except obligations incurred pursuant to this Agreement in connection with or on behalf of the Partnership*. [Bad exception for an LLP.]

e) **Continuing Effect**. If a Partner withdraws from the Partnership, transfers his or her entire Interest in accordance with the Agreement, or otherwise ceases to be a Partner, *he or she shall remain liable for all obligations and liabilities incurred by the Partnership prior to the effective date of such occurrence* and shall be free of any obligation or liability on account of the activities of the Partnership from and after such time. [The whole provision is bad for an LLP.]

g) **Limitations on Liability**

i) **Return of Capital**. No Partner shall be liable personally for the return of the capital of the Partners; this return is to be made solely from the assets of the Partnership in accordance with this Agreement. [OK for an LLP.]

ii) **Shared Liabilities**. *If for any reason one or more Partners become liable personally for any obligation of the Partnership, such liability shall be borne by the Partners in proportion to their relative Percentage Interests at the time that the liability was incurred*. [An LLP disaster.]

j) **Third Party Claims**. The Partners acknowledge the possibility that the Partnership *and the Partners* could incur liabilities to various Persons as a result of claims made by such Persons based upon various legal and equitable theories (including breach of implied warranties and strict liability). Upon receipt of notice by the Partnership or any of the Partners of any such claim, the recipient shall immediately notify the Partnership and each Partner of the claim. All costs and expenses, including attorneys' fees, incurred in connection with discharging or otherwise satisfying any such claim or defending against any lawsuit or other legal proceeding arising from a claim shall be an expense of the Partnership. *The obligation of the Partners to bear the foregoing costs and expenses in proportion to their Percentage Interests shall survive the dissolution of the Partnership*. [Bad for an LLP.]

l) **Franchise Tax Liabilities**. If the partnership [used as a liquidating trust alternative] becomes personally liable for franchise tax liabilities relating to the Corporation, such franchise tax liabilities and all costs and expenses, including without limitation attorneys' and accountants' fees, incurred in connection with discharging or otherwise satisfying any such claim and/or defending against any lawsuit or other legal proceeding arising from a claim relating to such franchise tax liabilities shall be an expense of the Partnership and shall be borne by the Partnership. The obligation of the Partnership to bear the foregoing franchise tax liabilities and all costs and expenses shall survive the dissolution of the Partnership and, in such event, *shall be an obligation of the Partners in proportion to their Percentage Interests*. [Bad for an LLP.]

n) **Negative Capital Accounts**. If a Tax Liquidation occurs, then:

i) Distributions shall be made pursuant to Section ___ (Application of Proceeds) to the Partners who have positive Capital Accounts; and

ii) *If any Partner's Capital Account has a deficit balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), such Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero*. [An LLP disaster.]

[End of examples.]

[End of outline.]