

What Are the Fiduciary Duties of a General Partner in a Limited Partnership?

General partners are held to a high standard of conduct known as fiduciary duties when managing and carrying out partnership activities. Before we discuss the fiduciary duties of a general partner in a limited partnership, let's take a look at some of the defining factors of a limited partnership.

What is a Limited Partnership?

A limited partnership is a legal business entity made up of at least one limited partner and at least one general partner. Limited partners cannot exercise management authority, but are protected from partnership liability beyond their agreed capital contributions, or as otherwise agreed in the partnership agreement. Limited partners are generally passive investors.

General partners, on the other hand, manage and control the limited partnership and have authority to bind the partnership. This brings us to the next facet of this article, the fiduciary duties of general partners.

What is a Fiduciary Duty?

Fiduciary duty is often defined as the duty of loyalty and the duty of care. In California, Corporations Code Section 15904.08 (a) defines the fiduciary duties of a general partner to the limited and general partners as the duties of loyalty and care specifically set forth in subparagraphs 15804.08 (b) and (c):

- (b) A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following:
 - (1) to account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;
 - (2) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and
 - (3) to refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.
- (c) A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited

partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

In other words, a general partner's fiduciary duties owed to the limited partners and other general partners include the following:

- Account for the limited partnership assets;
- Hold property, profit, or benefits derived from partnership property or activities as a trustee for the benefit of the limited partnership;
- Refrain from acting as or on behalf of another with an adverse interest when dealing with the limited partnership;
- Refrain from competing with the limited partnership; and
- Refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or breaking the law regarding partnership activities.

For example, general partners should keep complete, accurate records or have systems in place to be sure proper accounting is being maintained. General partners should never treat partnership property as their own property. Rather, partners must deal with partnership property with the same level of care as trustees holding trust property.

Likewise, general partners must maintain loyalty to the partnership, regardless of their personal business affairs. For instance, if a general partner has outside interests in other business entities; his outside businesses cannot compete against or deal adversely with the partnership.

The fiduciary duties of a general partner come with the territory and are a one-way street, but a limited partner's duties can be expanded if done so in the partnership agreement. A general partner's fiduciary duty is an ongoing obligation until the partnership is legally dissolved.

For more information about the duties and responsibilities of general partners and limited partners, or for help with other matters related to business transactions and commercial law, contact the [Law Offices of Tony T. Liu](#), a business trial firm located in Orange County, California. Call us today at (714) 415-2007 to schedule an appointment.