

General Partnership Question No. 2

Five years ago, Butch, Cassidy and Jesse signed a partnership agreement to form BCJ Enterprises, a general partnership, to manufacture widgets. The partnership agreement specified a 10 year term. The partnership owns a small factory and several industrial machines. It conducts business in Florida. The real estate is owned in the name: BCJ Enterprises. The partnership agreement specifies that each partner is to share profits and losses equally.

The partnership has prospered, making money in each of its first five years of operations. However, in their personal lives, each of Butch, Cassidy and Jesse have lived as big spenders—getting themselves into dire financial trouble.

Butch borrowed \$50,000 from Hannity. Cassidy borrowed \$75,000 from Limbaugh and Jesse borrowed \$100,000 from O'Reilly. Each of Butch, Cassidy and Jesse are delinquent on their respective loans. All loans are in “default”, with each lender having accelerated the maturity of the loan and in the process of pursuing remedies to collect the debts.

Hannity sued Butch and now has a judgment. Butch is essentially judgment proof. Thus Hannity is considering trying to collect from the partnership's real estate and machines by getting a writ of attachment or some sort of judgment lien.

Limbaugh has not yet sued Cassidy but his plan is to collect the loan from Cassidy's partnership interest.

Jesse has in writing assigned his interest in the partnership to O'Reilly. O'Reilly had demanded two things: to participate in the management of the partnership and to inspect its books and records. O'Reilly is also threatening to collect the debt by forcing the partnership to dissolve, wind up its affairs and distribute its assets to its partners (which O'Reilly now thinks includes him!).

Answer the following questions:

a. What law apparently governs the partnership and related matters on these facts? Briefly explain.

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1. Can Hannity properly get a writ of attachment and enforce his judgment against Butch by levy on the land or equipment owned by the partnership?
2. How would you advise Limbaugh to collect on his loan to Cassidy if Limbaugh wants to recover the amount of the Loan from the partnership interest that Cassidy owns?
3. Does O'Reilly have the right to participate in the management of the partnership or to inspect the books and records of the partnership?
4. Could O'Reilly require the partnership to dissolve and wind up its affairs?”
5. How would your answers to the above questions change if the partnership had elected under Florida law to become a limited liability partnership?
6. Explain what steps Butch, Cassidy and Jesse would need to have taken in order for BCJ Enterprises to become a limited liability partnership.

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b. Explain your answers to questions 1-4 on the assumption that the partnership was governed by the Uniform Partnership Act (1914).