The Revised Uniform Partnership Act: An Introduction

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A man named Colin comes into your office and begins telling you his legal problems:

Eight years ago, Colin and his friends George, Dick and Condie formed "G.O.P.," a California general partnership, to buy, sell and manage foreign oil and real estate. After operating successfully for years, Colin believes that George, the managing partner, began to make very bad decisions regarding the partnership business. Colin confronted George, the partners argued, and now Colin wants to do whatever it takes to get out of the partnership while getting paid fairly for his share of G.O.P.

You agree to take the case, and head for the library to refresh your knowledge of California general partnership law.

It is a good thing you are diligent, because if your knowledge about partnerships pre-dates 1997, then it may no longer represent the law. Colin's situation will be governed by the Revised Uniform Partnership Act ("RUPA"), which California adopted almost verbatim in 1997 (Corp. Code § 16100, *et seq*.) and which establishes an entirely new framework for partnership law.

Although RUPA has been around almost ten years, there are few cases in California or elsewhere that interpret or apply it. Accordingly, you should learn the statute and official commentary inside and out if you face litigation under RUPA.Your case is likely to raise issues of first impression for your judge, with no controlling appellate authority.

Because Colin wants to leave the partnership, his case will involve a "dissociation," a "dissolution," or both. We will return to these terms in a minute, but first a very brief history.

Prior to RUPA, California followed the aggregate theory of partnerships, under which a partnership was viewed as essentially the combination of its partners. If that combination changed because a partner left or was kicked out, the partnership was always "dissolved," in the absence of a written partnership agreement providing otherwise. For the remaining partners to continue carrying on the partnership's business without the departed partner, they were required to form a new partnership.

RUPA introduced a more flexible framework based on an entity theory of partnership, under which the partnership is a separate entity that exists apart from the sum of its partners. Under RUPA, a partnership can (and usually should) survive the departure of a partner. RUPA accomplishes this result by introducing the concept of "dissociation," which is the term used to describe a partner leaving or getting kicked out of a partnership that continues. Although good business lawyers had been incorporating similar concepts into written partnership agreements prior to RUPA,RUPA made them the default rules.

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