BUSINESS ORGANIZATIONS – General Information and Syllabus

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University of Baltimore
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M, W, 5:45 pm – 7:35 pm

Course Description:

A study of the various forms of business organizations and the laws governing them with an analysis of choice of business entity decisions. Coverage includes the law of agency, partnerships, limited partnerships, professional corporations, limited liability companies (LLC’s), limited liability partnerships (LLP’s), limited liability limited partnerships (LLLP’s), and corporations (with an emphasis on the closely-held and smaller corporations). Topics include formation, governance and dissolution of the various entities as well as a comparison of the roles, obligations, fiduciary duties, rights and remedies of the owners, management and creditors under each business form. In addition, the course may include introductions to the following: the forms of financing the entity--equity (partnership interests, membership interests, corporate stock or shares) and debt (bonds and debentures); and introductions to Federal Tax and Security Regulations, including corporate taxation, Subchapter S and insider trading.

Required Course Materials:

2. White Supplement (for Fred Brown’s Business Organizations course).

TWEN Site

You are required to register for this course on TWEN, and you must use your UBALT address as your TWEN e-mail address as per University Policy. You are responsible for all information posted on or disseminated from TWEN.

Class Preparation

You are responsible for the assigned readings in Hamilton, et al and the White Supplement. This course involves difficult rules and concepts, and thus it is very important that you prepare for class. Moreover, it is important to keep your class preparation current. A good deal of the course will be built on subjects previously discussed, and the various business law code sections sometimes work in conjunction with one another. If you miss and/or do not prepare for one class, the next class may use terms and concepts you do not understand, which will compound the difficulty of understanding this complex area of law. Moreover, as discussed below, part of your grade will be based on class participation.
Please be sure to raise any unaddressed questions you still have after class, or during my office hours (W: 7:45 pm to 9 pm; Th: 1:30 pm – 3:00 pm) or by appointment, or through e-mail: fbrown@ubalt.edu or by phone: 410-837-4537. In addition, as we will be actively using TWEN to address and discuss issues students raise outside of class, posting your query on TWEN will serve a very useful contribution. I will be monitoring and responding to queries on TWEN on a regular basis.

**Exams/Grading**

Your grade for the course will be determined as follows:

- 75 percent of your grade will be based on a three-hour, completely open book final exam given at the end of the semester.
- 15 percent of your grade will be based on a 40 minute, completely open book mini exam given at about the midpoint of the semester; the date for the mini exam will be announced at least a month before the mini exam.
- 10 percent of your grade will be based on class participation; this will include my evaluation of your preparedness when called upon (very prepared, prepared, or unprepared), along with your responses when you volunteer to answer questions.

**Attendance**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). In this course, students are allowed a maximum of five absences. Attendance will be taken at the beginning of each class.

**Computers**

Students may use laptop computers for class related purposes, as well as on the exams (with the School-provided exam software).

**Class Cancellation**

If I must cancel a class, notices will be sent to students via the University of Baltimore e-mail system and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule.

**Academic Integrity**

Students must adhere to the School of Law Honor Code, which can be found at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm
Disability Policy

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director for Student Support in the Office of Academic Affairs, at 410-516-5623 or via email at lmetzger@ubalt.edu.

Study Guides

For many members of the class, Business Organizations represents their first introduction to business concepts and business terms. A number of guides that students have found useful over the years have been placed on reserve in the law library for your convenience. They are as follows:

- Palmiter, Corporations: Examples and Explanations, 8th Edition, Aspen
- Pinto & Branson, Understanding Corporate Law, 4th Edition, LexisNexis

Learning Outcomes

- Obtain knowledge and understanding of legal rules governing various types of business entities.
- Obtain knowledge and understanding of policy underlying these rules.
- Develop proficiency in reading, analyzing, and applying statutory provisions governing various types of business entities.
- Develop proficiency in reading, analyzing, and applying case law related to the governance of various types of business entities.
- Develop proficiency in identifying, analyzing and resolving legal issues related to the governance of various types of business entities.

First Class Assignment

Please do the assignment under topic I of the Syllabus (below).
Syllabus

All page assignments refer to pages within Hamilton, et al; all section assignments refer to sections of the Maryland Corporations & Associations Code contained in the White Supplement.

(The syllabus may be subject to some adjustments as the semester proceeds.)

I. Introduction to Business Organizations  
pp. 1-6 (prior to Federal Income Taxation: Basic Principles)

II. Agency Law  
pp. 15-22 (prior to Notes)  
pp. 23-34 (prior to Notes)  
pp. 35 (starting with Liability of the Third Party to the Principal) - 41
Problem 1 (will be available on TWEN)

III. Basic Principles of Federal Income Taxation  
pp. 6-9 (prior to the Taxation of Proprietorships, Partnerships, and Corporations)

IV. Partnerships  
A. Introduction and Formation  
pp. 43-44  
Martini v. Peyton (p. 44)  
Notes (pp. 48-49): 3  
pp. 50-53  
Notes (pp. 53-54): 4  
Problem 2 (will be available on TWEN)
B. Management and Operation  
Summers v. Dooley (p. 55)  
Notes (pp. 57-58): 1-5  
National Biscuit Co. v. Stroud (p. 58)  
Notes (pp. 60-61): 1-7  
§§ 9A-301, 9A-102(a), (c), (d), 9A-303, 9A-401(c), (d), (e), (f), (j), 9A-403, 9A-103  
Problem 3 (will be available on TWEN)
C. Financial Interests  
1. Partnership Accounting  
pp. 61-68  
Notes (p. 68): 1  
§ 9A-401(a)  
Problem 4 (will be available on TWEN)
2. Sharing of Profits and Losses  
pp. 69-70  
Kessler v. Antinora (p. 70)  
Notes (pp. 74-75): 1, 3, 4  
§§ 9A-401(a), (b), (h), 9A-103
Problem 5 (will be available on TWEN)

D. Liability of Partners
pp. 75-76
Roach v. Mead (p. 77)
Notes (p. 80): 1, 2
p. 82-83
§§ 9A-306(a), (b), 9A-307 (omit (e), (f)), 9A-305, 9A-103, 9A-401(c)

Problem 6 (will be available on TWEN)

E. Duties of Partners
Meinhard v. Salmon (p. 83)
Notes (p. 89): 1, 2, 3
pp. 89-90
Enea v. Superior Court (p. 90)
Notes (pp. 93-96): 1-6
Singer v. Singer (p. 100)
Notes (pp. 102-103): 2-4
§§ 9A-404, 9A-405 (omit (c), 9A-103

Problem 7 (will be available on TWEN)

F. Ownership Interests and Transferability
p. 112
Notes (p. 112): 1
Notes (pp. 116-118): 4, 5

Problem 8 (will be available on TWEN)

G. Dissociation and Dissolution
pp. 118-119 (prior to Notes)
pp. 144-146 (prior to Saint Alphonsus Diversified Care, Inc.)
Collins v. Lewis (p. 120)

Problem 9 (will be available on TWEN)

V. Overview of Partnership Taxation
pp. 10-11 (Unincorporated Business Forms)

VI. Corporations
A. Formation
1. Mechanics of Incorporation
pp. 169-172
Notes (pp. 172-178): 1-10
§§ 2-101, 2-102 (omit (b)(3)), 2-103, 2-104, 2-106, 1-502(a), 1-504, 2-108(a), 1-101(f)
(skim §§ 7-101 – 7-305)

Problem 10 (will be available on TWEN)

2. Organizing the Corporation
pp. 178-179
Notes (p. 180): 1-3
3. **Ultra Vires**

   pp. 181-182

   *711 Kings Highway Corp. v. F.I.M. ’s Marine Repair Serv., Inc.* (p. 183)

   *Notes* (p. 184): 1, 2

   *Notes* (p. 190): 2

   § 1-403

4. **Premature Commencement of Business**

   a. **Promoter Liability**

      pp. 191-193

      *Notes* (pp. 193-194): 1-4

      *Stanley J. How & Assoc., Inc. v. Boss* (p. 194)

      *Notes* (pp. 197-200): 1-10

      Problem 11 (will be available on TWEN)

   b. **Defective Incorporation**

      *Robertson v. Levy* (p. 200)

      *Notes* (pp. 204-206): 1-8

      *Cranson v. IBM* excerpt (White Supplement)

      Problem 12 (will be available on TWEN)

B. **Liability of Shareholders**

1. **In General**

   § 2-215(a)

2. **Piercing the Corporate Veil**

   *DeWitt Truck Brokers v. W. Ray Flemming Fruit Co.* (p. 215)

   *Bartle v. Home Owners Co-op.* (p. 213)

   *Notes* (pp. 220-224): 1-7

   *Baatz v. Arrow Bar* (p. 224)

   *Notes* (pp. 228-230): 1-3

   *Radaszewski v. Telecom Corp.* (p. 230)

   *Notes* (pp. 233-234): 1-5

   *Pepper v. Litton* (p. 261)

   *Notes* (pp. 264-265): 1-3

C. **Financial Interests**

1. **Debt and Equity Capital**

   pp. 273-274

   *Debt & Equity* (White Supplement)

2. **Types of Equity Securities**

   p. 274-281

   *Notes* (pp. 281-282): 1-5

   § 2-105 (omit (c))

   Problem 13 (will be available on TWEN)

3. **Issuance of Shares**

   pp. 282-288

   *Notes* (pp. 288-289): 1-2

   *Hanewald v. Bryan’s, Inc.* (p. 289)

   *Notes* (p. 293): 1-2
pp. 293-298

Notes (p. 298): 1-3

§§ 2-201(a), (skim 2-202), 2-203 (omit (d)), 2-204(a), (b)(1), 2-206 (omit (d)), (skim 2-208, 2-209, 2-210, 2-211), 2-215, 2-216(b)

Problem 14 (will be available on TWEN)

4. Debt Financing

pp. 299-304 (prior to Tax Treatment of Debt)

pp. 305-306 (Debt as a Planning Device)

Note (p. 306)

5. Planning the Capital Structure

pp. 306-307

6. Preemptive Rights

Stokes v. Continental Trust Co. of City of New York (p. 324)

Notes (p. 327): 1-2

§§ 2-205, 2-105(a)(11)

Problem 15 (will be available on TWEN)

7. Distributions

Dodge v. Ford Motor Co. (p. 341)

Notes (pp. 345-346): 1

pp. 346-348

Notes (p. 349): 2

pp. 349-354

Notes (p. 355): 1

§§ 2-301, 2-309(b), 2-309(c)(2), 2-310(a)(1), (a)(2), 2-311

Problem 16 (will be available on TWEN)

D. Management and Control

1. Shareholders

a. Voting

Notes (pp. 391-393): 1-4

pp. 393-395

Humphrys v. Winous Co. (p. 396)

Notes (pp. 400-401): 1-3

§§ 2-501 (omit (b)), (skim 2-502), 2-502.1, (skim 2-503), 2-504(a), 2-505(a), (b), 2-506, 2-507 (omit (c)(2) – (c)(4)), (skim 2-511), 2-401, 2-402, 2-404, 2-405(a), 2-406, (skim 2-407), 2-104(b)(7)

Problem 17 (will be available on TWEN)

b. Voting Agreements

Ringling Bros.-Barnum & Bailey Combined Shows v. Ringling (p. 401)

Notes (p. 410): 1

Notes (p. 410-411): 1

§ 2-507(d), 2-510.1

c. Voting Trusts

Notes (pp. 420-421): 1-3

§ 2-510

d. Traditional Limits on Shareholders Agreements and Close Corporations

Statutes

McQuade v. Stoneham (p. 359)

Notes (pp. 362-365): 1-3
2. Directors

Baldwin v. Canfield (White Supplement)
Mickshaw v. Coca Cola Bottling Co (White Supplement)

§§ 2-401, 2-402, 2-403, 2-408, (skim 2-409, 2-410)
Problem 18 (will be available on TWEN)

3. Officers

Black v. Harrison Home Co. (White Supplement)
Lee v. Jenkins Bros. (p. 438)

Notes (pp. 442-445): 1-4
In The Matter of Drive-In Dev. Corp. (p. 436)
Notes (pp. 437-438): 1, 2

§§ 2-412, 2-413, 2-414, 2-415(a)

E. Duties of Directors

1. Duty of Care and the Business Judgment Rule

Shlensky v. Wrigley (p. 551)
Notes (pp. 556-559): 1-7
Smith v. Van Gorkom (p. 560)
Notes (p. 575): 1-2
In Re Caremark Intern. Inc. Derivative Litigation (p. 578)
Notes (pp. 588-591): 1-5

pp. 455 (starting with The Sarbanes-Oxley Act) – 462 (prior to The Financial Crisis of 2007-2010)

§§ 2-405.1 (omit (d)), 2-411 (omit (b), (c)), 2-312 (review 2-311)

2. Duty of Loyalty and Conflict of Interest

a. Self-Dealing

Marciano v. Nakash (p. 605) (in connection with this case, see Delaware General Corporation Law § 144 on p. 695, n. 14)
Notes (pp. 608-612): 1-8
Heller v. Boylan (p. 625)
Notes (pp. 647-650): 1-8
Sinclair Oil v. Levien (p. 650)
§ 2-419 (omit (e))
Problem 19 (will be available on TWEN)

b. Corporate Opportunity

Northeast Harbor Golf Club, Inc. v. Harris (p. 673)
Notes (pp. 682-684): 1-5, 6, 7
2-103(15)

3. Shareholder Derivative Litigation

Gall v. Exxon (p. 685)
Notes (pp. 688-689): 1-4
Zapata Corp. v. Maldonado (p. 689)
Note (p. 699)
Aronson v. Lewis (p. 699)
Notes (pp. 709-710): 1-3
Notes (p. 721): 1-2
Werbowsky v. Collomb (White Supplement)
§§ 2-405.1 (omit (d)), 2-411 (omit (b), (c))

4. Liability Limitation and Indemnification
Del. Gen. Corp. Law § 102(b)(7) (p. 576)
Notes (pp. 576-577): 1, 2, 4
§§ 2-405.2, 5-410 of Courts and Judicial Proceedings Article, 2-418 ((omit (h), (i), (l))
Problem 20 (will be available on TWEN)

F. Transferring Shares
Notes (pp. 433-436): 1-9
Notes (p. 348): 1
§§ 4-503(b), 2-105(a)(9)

G. Corporate Books and Records
§§ 2-512, 2-513, 2-313(a), (b)

H. Amendment of Articles of Incorporation and Bylaws
§§ 2-601, 2-602, (skim 2-603), 2-604, (skim 2-605, 2-606, 2-607, 2-608, 2-609, 2-610, 2-610, 2-109(b)
Problem 21 (will be available on TWEN)

I. Statutory Appraisal Rights
§§ 3-201(f), 3-202 (omit (d), (e)), 3-203, 3-207(a), 3-208, 3-210, 3-211(a), (b)

J. Dissolution
In Re Radom & Neidorff, Inc. (p. 739)
Notes (pp. 745-747): 1-5
§§ 3-401, (skim 3-402), 3-403, 3-404, 3-406, 3-407(a), 3-408, 3-410, (skim 3-411), 3-412 (omit (d)), 3-413, (skim 3-414), 3-419(a), (skim 3-501 to 3-519)

VII. Overview of Corporate Taxation
A. C Corporations
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  pp. 304-305 (Tax Treatment of Debt)
  Notes (p. 305): 1-3

B. S Corporations
  pp. 12-13 (prior to Notes)

C. Tax Planning for Businesses
  pp. 13-14

VIII. Limited Partnerships
A. Introduction
  pp. 1115-1118

B. Formation
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  Notes (p. 1119): 1-4
  pp. 1127 (Entity Status)
  §§ 10-101(g), (h), (i), (j), (k), (l), 10-102, 1-502(d), 10-108, 10-201

C. Management and Operation
  pp. 1122-1123
  §§ 10-302, 10-403

D. Financial Interests
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§§ 10-503, 10-504

E. Liability of Partners
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pp. 1136 (Note on the Statutory Evolution of the Control Rule)
pp. 1140-1143 (Control of the Entity General Partner)
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F. Duties of Partners
pp. 1145-1147 (prior to Notes)
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G. Ownership Interests and Transferability
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H. Dissociation and Dissolution
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Notes (p. 1171): 1-2
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§§ 10-602, 10-603

I. A Final Look
pp. 1174-1176

IX. Limited Liability Partnerships
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B. Formation
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§§ 9A-101(g), 9A-1001 (omit (e)), 9A-1003, 1-502(c), 9A-1005(a)

C. Liability of Partners
Notes (pp. 1193-1194): 3, 4
§ 9A-306(c), (d), (e)

D. Limited Liability Limited Partnerships
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Notes (pp. 1195-1196): 1-3
§§ 9A-1006, (skim 9A-1007), 10-805, 1-502(e)

X. Limited Liability Companies
A. Introduction and Overview
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Notes (pp. 1338-1341): 2, 5

B. Formation
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Notes (pp. 1203-1208): 2, 3, 6, 11, 13, 14
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§§ 4A-101(c), (m), (p), 1-101(v), 4A-102, 4A-201, 4A-202, 4A-203, 4A-204, 4A-206(a), 4A-208, 1-502(b)(1), 4A-210(a), 4A-402
Problem 22 (will be available on TWEN)
C. Management and Operation
   p. 1208
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   §§ 4A-401, 4A-403, 4A-404, 4A-406
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D. Financial Interests
   p. 1233
   Notes (p. 1234): 5
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E. Liability of Members
   pp. 1242-1243
   Notes (pp. 1255-1256): 1, 2, 3
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F. Duties of Members
   pp. 1257
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   Notes (pp. 1282-1283): 4, 5
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   Problem 25 (will be available on TWEN)

G. Ownership Interests and Transferability
   pp. 1299
   §§ 4A-101(n), (o), 4A-601, 4A-602, 4A-603, 4A-604, 4A-607

H. Dissociation and Dissolution
   pp. 1311-1312
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I. A Final Look
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