

Contents

Part I Introduction and General Principles

1	Introduction	3
1.1	Preliminary Notes	3
1.2	Intended Audience	3
1.3	A Note on the American Case Law	4
1.4	The Business Organization: An Overview	4
1.5	Factors to Consider When Choosing a Business Entity	6
2	Agency	9
2.1	Defining Agency	9
2.2	Liability of Principals to Third Parties in Tort	10
2.3	Liability of Principals to Third Parties in Contract	13
2.4	Fiduciary Obligations of Agents	17
3	Accounting and Finance	21
3.1	Principles of Accounting	21
3.2	Principles of Finance	23
3.3	Conclusion	25

Part II The Sole Proprietorship and Partnerships

4	Sole Proprietorships	29
4.1	Characteristics	29
4.2	Credit, Financing, and Unlimited Liability	29
4.3	Employees, Relationships and Duties	31

5 Partnerships	33
5.1 Characteristics	33
5.2 Partnership Variations	34
5.3 The Partners	37
5.4 Binding the Partnership	39
5.5 Fiduciary Obligations	40
5.6 Partnership Dissolution	41
 Part III The Corporation	
6 Introduction to the Corporation	47
6.1 Characteristics	47
6.2 The Internal Affairs Rule	50
6.3 The Scope of Corporate Purpose	50
6.4 Corporate Modalities	52
7 Obligations of Directors and Officers	55
7.1 Liability and the Business Judgment Rule	55
7.2 Duty of Loyalty	58
7.3 Inside Information	61
7.4 Piercing the Corporate Veil	64
7.5 Indemnification and Insurance	66
8 Corporate Accountability	69
8.1 The Appraisal Right	69
8.2 Takeover Bids	69
8.3 Securities Monitoring: Disclosure and Fairness	70
8.4 Shareholder Derivative Litigation	75
9 Problems of Control	79
9.1 The Special Context of Closely Held Corporations	79
9.2 Control in Non-closely Held Corporations	84
10 Mergers and Acquisitions	91
10.1 Introduction	91
10.2 Classification of Mergers	91
10.3 The <i>De Facto</i> Merger Doctrine	93
10.4 The <i>De Facto</i> Non-merger Doctrine	95
10.5 Freeze-Out Mergers	95

Part IV The Limited Liability Company

11 Limited Liability Companies 99

- 11.1 Characteristics 99
- 11.2 Formation 100
- 11.3 The Operating Agreement 100
- 11.4 Piercing the “LLC Veil” 100
- 11.5 Fiduciary Duties 101
- 11.6 Dissolution 101

Appendices 103

Glossary 109

Table of Cases 115

Index 119