

# CALIFORNIA RULLCA REVIEW

## *Dissociation*

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The California Revised Uniform Limited Liability Company Act (RULLCA; 2012 Ch. 419 [SB 323]), codified at Section 17701.01 *et seq.* of the California Corporations Code (in effect or repealed, the Code), repealed the Beverly-Killea LLC Act (the Old Act) effective January 1, 2014.

RULLCA introduces the term “dissociation” into California LLC law. The Old Act used the more narrow term of “withdrawal.” Dissociation of a member causes the member to lose rights to vote, participate in management and inspect most books and records of an LLC and thereafter to hold a transferable interest as a transferee. Dissociation also causes a member to cease being a manager.

Dissociation is a new term for California LLCs, but both current California partnership acts use that term. (Section 16601 of the Code for general partnerships and Section 15906.01 of the Code for limited partnerships). RULLCA generally does a good job of harmonizing California LLC law with California partnership law.

Losing member rights generally means that a member should avoid dissociation. However, dissociation ends fiduciary duties owed by a dissociating

member in a member-managed LLC for future matters and events; a good reason for a member to dissociate. Dissociation does not by itself relieve that person from obligations incurred while a member. (Section 17706.03 of the Code). Moreover, dissociation does not without supporting operating agreement provisions entitle a dissociating member to accelerated LLC distributions or cause a dissolution of the LLC. (See Sections 17705.02 and 17707.01.)

RULLCA specifies many events that can lead to the dissociation of a member, including among others: (i) voluntary withdrawal, (ii) the expulsion of a member under various circumstances, including the dissolution of a member that is a corporation, partnership or LLC, (iii) death of a member, (iv) certain distributions by a trust or estate, and (v) the bankruptcy of a member in a member-managed LLC. (Section 17706.02 of the Code.) Under these default rules, the legal status of an entity and distributions by a trust or estate will need monitoring. Some commentators have suggested that a bankruptcy stay should prevent event “v” above.

RULLCA allows the operating agreement to eliminate or modify the dissociation provisions. However, a

member has the power to dissociate at any time even if it breaches the operating agreement. A “wrongful” dissociation can create liability to the LLC or other members for damages caused by the dissociation. (Section 17706.01 of the Code.)

Although the dissociation of a member does not normally cause the dissolution of the LLC, it could. The operating agreement could specify that certain dissociation events to certain key members dissolve the LLC. Additionally, under a new RULLCA provision, the dissociation of the last remaining member could cause a dissolution of the LLC if it causes the LLC to have no members for 90 consecutive days. (Section 17707.01 of the Code.)

In summation, “dissociation,” is a good reason to amend operating agreements governed by the Old Act. Those agreements generally will not have provisions addressing the dissociation provisions of RULLCA.

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