

powers of a general partner while avoiding any direct dealings with third parties, the "is not substantially the same as" test was introduced. Subsection (b) is intended to provide a "safe harbor" by enumerating certain activities which a limited partner may carry on for the partnership without being deemed to have taken part in control of the business. Subsection (c) is derived from § 10-106(b)(2) of the previous Limited Partnership Act (§ 5(2) of the prior uniform law), but adds as a condition to the limited partner's liability the fact that a limited partner must have knowingly permitted his name to be used in the name of the limited partnership.

**10-304. PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER.**

(A) ACTS TO AVOID LIABILITY. EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO MAKES A CONTRIBUTION TO A PARTNERSHIP AND ERRONEOUSLY BUT IN GOOD FAITH BELIEVES THAT HE HAS BECOME A LIMITED PARTNER IN THE PARTNERSHIP IS NOT A GENERAL PARTNER IN THE PARTNERSHIP AND IS NOT BOUND BY ITS OBLIGATIONS BY REASON OF MAKING THE CONTRIBUTION, RECEIVING DISTRIBUTIONS FROM THE PARTNERSHIP, OR EXERCISING ANY RIGHTS OF A LIMITED PARTNER, IF, ON ASCERTAINING THE MISTAKE:

(1) IN THE CASE OF A PERSON WHO WISHES TO BE A LIMITED PARTNER, HE CAUSES AN APPROPRIATE CERTIFICATE TO BE EXECUTED AND FILED; OR

(2) IN THE CASE OF A PERSON WHO WISHES TO WITHDRAW AS A PARTNER FROM THE PARTNERSHIP, THE PARTNER TAKES THE NECESSARY ACTION TO WITHDRAW.

(B) LIABILITY IMPOSED. A PERSON WHO MAKES A CONTRIBUTION UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (A) IS LIABLE AS A GENERAL PARTNER TO ANY THIRD PARTY WHO TRANSACTS BUSINESS WITH THE PARTNERSHIP PRIOR TO THE OCCURRENCE OF EITHER OF THE EVENTS REFERRED TO IN SUBSECTION (A) OF THIS SECTION:

(1) IF THAT PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN EITHER THAT NO CERTIFICATE HAS BEEN FILED OR THAT THE CERTIFICATE INACCURATELY REFERS TO HIM AS A GENERAL PARTNER; AND

(2) IF THE THIRD PARTY REASONABLY RELIED UPON THE FACT THAT THE PERSON WAS A GENERAL PARTNER AT THE TIME OF THE TRANSACTION.

**COMMENT**

This section is derived from § 10-110 of the previous Limited Partnership Act (§ 11 of the prior uniform law). The "good faith" requirement has been added in the first sentence of § 10-304(a). The prior law had also called upon the person making a contribution as described in this