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April 3, 2014

ATTORNEY GENERAL OPINION NO. 2014-08

The Honorable Sharon Schwartz  
State Representative, 106<sup>th</sup> District  
State Capitol, Room 149-S  
300 S.W. 10th Avenue  
Topeka, Kansas 66612

Re: Corporations—Agricultural Corporations—Restrictions; Exceptions;  
Penalties; Limited Corporate Partnership

Synopsis: A limited corporate partnership as used in K.S.A. 2013 Supp. 17-5904(a)(12) means a limited partnership as defined in K.S.A. 2013 Supp. 17-5903(c). Cited herein: K.S.A. 2013 Supp. 17-5903; 17-5904; K.S.A. 56-1a01; 56a-101.

\* \* \*

Dear Representative Schwartz:

As State Representative for the 106<sup>th</sup> District, you ask for our opinion on the meaning of the term “limited corporate partnership” as used in K.S.A. 2013 Supp. 17-5904(a)(12).

K.S.A. 2013 Supp. 17-5904(a) provides general restrictions on ownership of agricultural land in Kansas by certain named entities as follows:

No corporation, trust, limited liability company, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited liability agricultural company, family farm limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state.

While a corporate partnership is included in the general restriction language found in subsection (a) of K.S.A. 2013 Supp. 17-5904, there is no similar reference to a limited corporate partnership. The law specifies certain exceptions to the general restrictions found in K.S.A. 2013 Supp. 17-5904(a).<sup>1</sup> The only references to a limited corporate partnership are found in the exception language in K.S.A. 2013 Supp. 17-5904(a)(7) and (a)(12). Those subsections provide in relevant part:

The restrictions provided in this section do not apply to the following:

...

(7) Agricultural land owned or leased or held under a lease purchase agreement . . . by a corporation, corporate partnership, *limited corporate partnership* or trust on the effective date of this act if [certain conditions apply].

...

(12) Agricultural land owned or leased by a corporate partnership or *limited corporate partnership* in which the partners associated therein are either natural persons, family farm corporations, authorized farm corporations, limited liability agricultural companies, family trusts, authorized trusts or testamentary trusts.<sup>2</sup>

“Limited corporate partnership” is not defined in the Kansas agricultural corporation law,<sup>3</sup> Kansas corporation law<sup>4</sup> or Kansas partnership law.<sup>5</sup> The term simply is not defined in Kansas law. The only references to limited corporate partnership we located are in K.S.A. 2013 Supp. 17-5904(a)(7) and (a)(12).

Statutory interpretation begins with the language selected by the legislature. If that language is clear and unambiguous, then statutory interpretation ends there as well.<sup>6</sup> However, when the language in the statute is unclear or ambiguous, courts employ canons of construction, legislative history, or other background considerations to derive the legislature's intent and construe the statute accordingly.<sup>7</sup>

In this case, the meaning of the undefined term “limited corporate partnership” found in K.S.A. 2013 Supp. 17-5904(a)(12) is not readily apparent. In order to identify the meaning of this term, we turn to legislative history.

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<sup>1</sup> K.S.A. 2013 Supp. 17-5904(a)(1) through (18).

<sup>2</sup> *Emphasis added.*

<sup>3</sup> K.S.A. 17-5902 *et seq.*

<sup>4</sup> See Chapter 56 of the Kansas Statutes Annotated.

<sup>5</sup> See Chapter 56a of the Kansas Statutes Annotated.

<sup>6</sup> *Graham v. Dokter Trucking Group*, 284 Kan. 547, 554 (2007).

<sup>7</sup> *Stewart Title of the Midwest, Inc. v. Reece & Nichols Realtors, Inc.*, 294 Kan. 553, 564–65 (2012).

The term “limited corporate partnership” first appeared in Kansas law in 1981 following the passage of Senate Bill No. 298,<sup>8</sup> which included the following definition of “limited corporate partnership”:

“Limited corporate partnership” means a limited partnership, as defined in K.S.A. 56-122, which has as a member or members, whether as general or limited partners, one or more corporations.<sup>9</sup>

In 1986, Senate Bill 308<sup>10</sup> was enacted and the definition of “limited corporate partnership” was stricken and replaced with a definition of “limited partnership” in K.S.A. 17-5903(c). Additionally, the word “corporate” was stricken from “limited corporate partnership” in four places in K.S.A. 17-5902 and in one place in K.S.A. 17-5904(a), related to the general restrictions. In 1987, House Bill 2076 was enacted and the word “corporate” was stricken from “limited corporate partnership” in K.S.A. 17-5904(b).<sup>11</sup> Only the references in K.S.A. 17-5904(a)(7) and (a)(12) remain in the law. It is not clear within the context of K.S.A. 17-5902 *et seq.* why only those references would remain; however, the legislative history strongly suggests that the legislature intended to replace the term “limited corporate partnership” with “limited partnership,” but simply overlooked the references to “limited corporate partnership” in K.S.A. 17-5904(a)(7) and (a)(12). “If the intent of the legislature is plain and unmistakable, [the court is] permitted to correct clerical or inadvertent errors in terminology.”<sup>12</sup>

Reading all of the provisions of K.S.A. 17-5902 *et seq.*, together with the 1981, 1986, and 1987 amendments described previously, we conclude that the retention of the term “limited corporate partnership” in K.S.A. 17-5904(a)(7) and (a)(12) was an inadvertent error and that this term means a “limited partnership” as defined in K.S.A. 2013 Supp. 17-5903(c).

K.S.A. 2013 Supp. 17-5903(c) provides that “limited partnership” has the meaning set forth in the Kansas Revised Uniform Limited Partnership Act.<sup>13</sup> K.S.A. 56-1a101(g) defines “limited partnership” and “domestic limited partnership” to mean “a partnership formed by two or more persons under the laws of the state of Kansas and having one or more general partners and one or more limited partners.” “‘Person’ means a natural person, partnership, domestic or foreign limited partnership, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.”<sup>14</sup>

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<sup>8</sup> L. 1981, Ch. 106, § 1(c).

<sup>9</sup> K.S.A. 17-5903(c) (Ensley 1981).

<sup>10</sup> L. 1986, Ch. 96, §§ 1, 2 and 3.

<sup>11</sup> L. 1987, Ch. 368, § 2.

<sup>12</sup> See *Davis v. Winning Streak Sports, LLC*, 48 Kan. App. 2d 677, 688 (2013).

<sup>13</sup> K.S.A. 56-1a01.

<sup>14</sup> K.S.A. 56-1a101(k).

Representative Sharon Schwartz  
Page 4

With the aid of legislative history, we conclude that “limited corporate partnership” means a limited partnership as defined in K.S.A. 2013 Supp. 17-5903(c).

Sincerely,

Derek Schmidt  
Attorney General

Athena Andaya  
Deputy Attorney General

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