

The Truth About FLP's

There is no such thing as a Family Limited Partnership.

There are limited partnerships, (LP's) that hold family assets. But there is no special law, structure or benefit from limited partnerships holding family assets beyond what is afforded under limited partnership law. When you set up a "FLP" you are just setting up an "LP". You should not pay extra for claimed benefits that really do not exist.

Limited Liability Companies do offer asset protection.

Contrary to statements made by Utah promoters, Limited Liability Companies (LLC's) do offer excellent asset protection. As well, with an LLC you only need to set up one entity, the LLC, for beneficial protection. In an LP, the general partner is personally liable for all acts of the LP. To minimize this exposure, a corporation or LLC must be formed to be the general partner. Thus, in an LP setting you need to set up two entities for protection, instead of just one for the LLC. That said, there are extra taxes in California and Texas on LLC's which may make LP's a better option. In asset protection planning there is not just one right answer.

California Courts do not give LP's complete asset protection.

There are two California court cases that deny LP's asset protection benefits. The Utah promoters cover this over by saying the court made a "mistake". But in *Crocker National Bank v. Perroton*, 208 Cal.App.3d 1, 255 Cal.Rptr. 794 (1989) the Court did not make a "mistake" by applying general partnership law as the Utah promoters suggest. Rather, the court intentionally applied General Partnership law because it supplements the law of Limited Partnerships. The promoters state that *Hellman v. Anderson*, 233 Cal. App. 3rd 840, 284 Cal.Rptr. 830 (1991) "has no bearing upon a limited partners rights against judgment creditors" because it involves a general partnership. Although the case does involve a general partnership, the law at issue, general partnership law, is applicable to limited partnerships. In California, a creditor may foreclose and sell a partner's interest, be it a limited partnership interest or a general partnership interest, and, according to *Hellman*, they may do so without the approval of the non-debtor partners. To better protect yourself in California it becomes proper to consider using Nevada and/or Wyoming LLCs and LPs. But to rely on inaccurate readings of California law is not wise.

Everyone's specific situation is not solved by the exact same solution.

The Utah promoters would have you believe that everyone's unique situation can be remedied by using an FLP. That's like saying everyone needs the same exact prescription when they go to the pharmacy. In reality, your situation is different from everyone else. You need so speak with your advisors as to what is the best for you. This does not have to be an expensive or time consuming process. (In half an hour, for \$175.00, our attorneys can map out an entity structure tailored to your specific needs.) But whether with us or your own advisors know that when protecting assets it is not prudent to adopt a one size fits all mentality.

No one can offer a 100% Asset Protection Guarantee.

Laws are amended. Court cases redefine laws. We live in a dynamic society where things do change. It is irresponsible for anyone to offer a 100% guarantee that your assets will be completely protected. Beware of promoters who prey upon your fears of litigation and loss to separate you from your money. Instead, be realistic, analyze your options with your advisors and proceed to protect your assets as best you can. With your advisors you will keep up on any changes in the law and restructure, if necessary, as best you can for protection. For more information and updates feel free to visit www.sutlaw.com or call 800.700.1430.