

# Overview of Bankruptcy and the Family Limited Partnership

A common question is whether or not a limited partner will lose his limited partnership interest in bankruptcy. The answer depends on how the partnership agreement is drafted. If drafted correctly, the answer is generally no. The bankruptcy trustee obtains only the charging order remedy of an individual creditor. However, the trustee may claim paid-in capital contributions that the bankruptcy partner is entitled to withdraw. Every limited partnership agreement should be carefully reviewed by an insolvent partner's attorney, well in advance of bankruptcy.

A general partner's bankruptcy does not transfer the managerial authority to his bankruptcy trustee. Nevertheless, the bankruptcy can, in numerous ways, cause disruption to the smooth or continuous management of the partnership. Therefore, the general partner contemplating bankruptcy should be replaced.