322C.0409 STANDARDS OF CONDUCT FOR MEMBERS, MANAGERS, AND GOVERNORS.

Subdivision 1. **Scope of duties.** A member of a member-managed limited liability company owes to the company and, subject to section 322C.0901, subdivision 2, the other members the fiduciary duties of loyalty and care stated in subdivisions 2 and 3.

Subd. 2. **Duty of loyalty.** The duty of loyalty of a member in a member-managed limited liability company includes the duties:

(1) to account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:

(i) in the conduct or winding up of the company's activities;

(ii) from a use by the member of the company's property; or

(iii) from the appropriation of a limited liability company opportunity;

(2) to refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and

(3) to refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

Subd. 3. **Duty of care.** Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities is to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith on opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.

Subd. 4. **Contractual obligation of good faith and fair dealing.** A member in a limited liability company shall discharge the member's duties and exercise any rights under this chapter or under the operating agreement consistently with the contractual obligation of good faith and fair dealing, including acting in a manner, in light of the operating agreement, that is honest, fair, and reasonable.

Subd. 5. **Fairness defense.** It is a defense to a claim under subdivision 2, clause (2), and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

Subd. 6. **Authorization and ratification.** All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

Subd. 7. **Manager-managed company rules.** In a manager-managed limited liability company, the following rules apply:

(1) Subdivisions 1, 2, 3, and 5 apply to the manager or managers and not the members.

(2) The duty stated under subdivision 2, clause (3), continues until winding up is completed.

(3) Subdivision 4 applies to the members and managers.

(4) Subdivision 6 applies only to the members.

(5) A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

Subd. 8. **Board-managed company rules.** In a board-managed limited liability company, the following rules apply:

(1) Subdivisions 1, 2, 3, and 5 apply to the governors and not the members.

(2) The duty stated under subdivision 2, clause (3), continues until winding up is completed.

(3) Subdivision 4 applies to the members and governors.

(4) Subdivision 6 applies only to the members.

(5) A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

History: *2014 c 157 art 1 s 38*