

Restatement (Third) on Agency Additional Sections for Business Associations I

1. The Agency Relationship

(c) Termination

§ 3.06 Termination Of Actual Authority--In General

An agent's actual authority may be terminated by:

- (1) the agent's death, cessation of existence, or suspension of powers as stated in § 3.07(1) and (3); or
- (2) the principal's death, cessation of existence, or suspension of powers as stated in § 3.07(2) and (4); or
- (3) the principal's loss of capacity, as stated in § 3.08(1) and (3); or
- (4) an agreement between the agent and the principal or the occurrence of circumstances on the basis of which the agent should reasonably conclude that the principal no longer would assent to the agent's taking action on the principal's behalf, as stated in § 3.09; or
- (5) a manifestation of revocation by the principal to the agent, or of renunciation by the agent to the principal, as stated in § 3.10(1); or
- (6) the occurrence of circumstances specified by statute.

§ 3.07 Death, Cessation Of Existence, And Suspension Of Powers

- (1) The death of an individual agent terminates the agent's actual authority.
- (2) The death of an individual principal terminates the agent's actual authority. The termination is effective only when the agent has notice of the principal's death. The termination is also effective as against a third party with whom the agent deals when the third party has notice of the principal's death.
- (3) When an agent that is not an individual ceases to exist or commences a process that will lead to cessation of existence or when its powers are suspended, the agent's actual authority terminates except as provided by law.
- (4) When a principal that is not an individual ceases to exist or commences a process that will lead to cessation of its existence or when its powers are suspended, the agent's actual authority terminates except as provided by law.

§ 3.08 Loss Of Capacity

(1) An individual principal's loss of capacity to do an act terminates the agent's actual authority to do the act. The termination is effective only when the agent has notice that the principal's loss of capacity is permanent or that the principal has been adjudicated to lack capacity. The termination is also effective as against a third party with whom the agent deals when the third party has notice that the principal's loss of capacity is permanent or that the principal has been adjudicated to lack capacity.

(2) A written instrument may make an agent's actual authority effective upon a principal's loss of capacity, or confer it irrevocably regardless of such loss.

(3) If a principal that is not an individual loses capacity to do an act, its agent's actual authority to do the act is terminated.

§ 3.09 Termination By Agreement Or By Occurrence Of Changed Circumstances

An agent's actual authority terminates (1) as agreed by the agent and the principal, subject to the provisions of § 3.10; or (2) upon the occurrence of circumstances on the basis of which the agent should reasonably conclude that the principal no longer would assent to the agent's taking action on the principal's behalf.

§ 3.10 Manifestation Terminating Actual Authority

(1) Notwithstanding any agreement between principal and agent, an agent's actual authority terminates if the agent renounces it by a manifestation to the principal or if the principal revokes the agent's actual authority by a manifestation to the agent. A revocation or a renunciation is effective when the other party has notice of it.

(2) A principal's manifestation of revocation is, unless otherwise agreed, ineffective to terminate a power given as security or to terminate a proxy to vote securities or other membership or ownership interests that is made irrevocable in compliance with applicable legislation. See §§ 3.12-3.13.

§ 3.11 Termination Of Apparent Authority

(1) The termination of actual authority does not by itself end any apparent authority held by an agent.

(2) Apparent authority ends when it is no longer reasonable for the third party with whom an agent deals to believe that the agent continues to act with actual authority.

§ 3.12 Power Given As Security; Irrevocable Proxy

(1) A power given as security is a power to affect the legal relations of its creator that is created in the form of a manifestation of actual authority and held for the benefit of the holder or a third person. This power is given to protect a legal or equitable title or to secure the performance of a duty apart from any duties owed the holder of the power by its creator that are incident to a relationship of agency under § 1.01. It is given upon the creation of the duty or title or for consideration. It is distinct from actual authority that the holder may exercise if the holder is an agent of the creator of the power.

(2) A power to exercise voting rights associated with securities or a membership interest may be conferred on a proxy through a manifestation of actual authority. The power may be given as security under (1) and may be made irrevocable in compliance with applicable legislation.

§ 3.13 Termination Of Power Given As Security Or Irrevocable Proxy

(1) A power given as security or an irrevocable proxy is terminated by an event that

- (a) discharges the obligation secured by the power or terminates the interest secured or supported by the proxy, or
- (b) makes its execution illegal or impossible, or
- (c) constitutes an effective surrender of the power or proxy by the person for whose benefit it was created or conferred.

(2) Unless otherwise agreed, neither a power given as security nor a proxy made irrevocable as provided in § 3.12(2) is terminated by:

- (a) a manifestation revoking the power or proxy made by the person who created it; or
- (b) surrender of the power or proxy by its holder if it is held for the benefit of another person, unless that person consents; or
- (c) loss of capacity by the creator or the holder of the power or proxy; or
- (d) death of the holder of the power or proxy, unless the holder's death terminates the interest secured or supported by the power or proxy; or
- (e) death of the creator of the power or proxy, if the power or proxy is given as security for the performance of a duty that does not terminate with the death of its creator.

3. Liability of Principal in Torts

§ 7.02 Duty To Principal; Duty To Third Party

An agent's breach of a duty owed to the principal is not an independent basis for the agent's tort liability to a third party. An agent is subject to tort liability to a third party harmed by the agent's conduct only when the agent's conduct breaches a duty that the agent owes to the third party.

§ 7.08 Agent Acts With Apparent Authority

A principal is subject to vicarious liability for a tort committed by an agent in dealing or communicating with a third party on or purportedly on behalf of the principal when actions taken by the agent with apparent authority constitute the tort or enable the agent to conceal its commission.