The California Corporations Code governs the birth and death of a wide variety of entities, including corporations, limited partnerships, and limited liability companies. The provisions relating to each of these types of entities are generally the same and contemplate an election to dissolve followed by a period of winding up that culminates in cancellation of the entity charter. However, it also possible to proceed directly to cancellation.

Recently, Vice Chancellor Sam Glasscock III of the Delaware Court of Chancery was called upon to interpret and apply California's dissolution/cancellation statutes. Buttonwood Tree Value Partners, L.P. v. R.L. Polk & Co., Inc., 2022 WL 2255258. This was necessary because the defendants argued that one of the plaintiffs, a California limited partnership, "no longer exists" because it had filed a certificate of cancellation with the California Secretary of State. Vice Chancellor Glasscock disagreed with the defendants, finding that the plaintiff continued to
exist notwithstanding its filing of a certificate of cancellation.

The California Uniform Limited Partnership Act of 2008, unlike the General Corporation Law (Section 1905(b), does not expressly state that upon filing a certificate of cancellation, a limited partnership's powers, rights, and privileges "cease". Nonetheless, the Secretary of State's form of limited partnership certificate of cancellation requires this statement. Rather than rely on this required statement in the certificate of cancellation, Vice Chancellor Glasscock looked to analogous provisions in the General Corporation Law (Section 2010(a)) and the Revised Uniform Limited Liability Company Act (Section 17707.06(a)).

However these statutes are not exactly the same. The GCL provision refers to "a corporation which is dissolved" while the RULLCA provision refers to a "limited liability company that has filed a certificate of cancellation". The difference is attributed to a 2015 amendment to Section 17707.06 which substituted "certificate of cancellation" for "certificate of dissolution". Stats. 2015, ch. 775 (AB 506). This change in wording was at issue in DD Hair Lounge, LLC v. State Farm General Ins. Co., 20 Cal. App. 5th 1238 (2018), a case that I discuss in this post. Because these statutes differ, I don't believe that they can both rely on to support the Vice Chancellor's conclusion. Here, the legislature's failure to state that a limited partnership's powers, rights, privileges cease may provide the firmest basis for reasoning that they continue.

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