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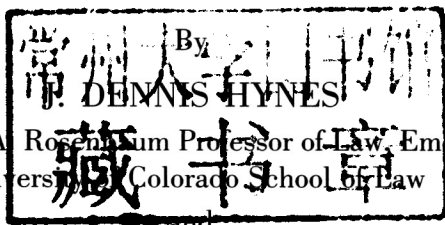
**J. DENNIS HYNES
MARK J. LOEWENSTEIN**

5th EDITION

WEST®

AGENCY, PARTNERSHIP, AND THE LLC IN A NUTSHELL

FIFTH EDITION



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I dedicate this fifth edition to David Getches, whose untimely death in July, 2011 was a shock to all who knew him. He served Colorado Law as Dean from 2003 to 2011, tirelessly and with good cheer. A wonderful teacher, scholar and leader, he will be deeply missed.

Mark J. Loewenstein

PREFACE

This Nutshell seeks to describe, succinctly, the law as it relates to agency and unincorporated business entities. These areas, particularly agency law, have ancient origins, yet are constantly being reexamined. Indeed, the American Law Institute published a third restatement of the law of agency in 2006 and the law related to unincorporated business entities—partnerships (general and limited), business trusts and limited liability companies—has been the subject of considerable legislation at the state level in recent years. Uniform acts in these areas that once stood unchanged for decades are now being revised frequently. These developments prompted this fifth edition.

Another development that inspired this edition relates to the philosophy that now characterizes statutes relating to unincorporated business entities. Although, traditionally, the rights and liabilities of the owners of such entities were statutory questions, increasingly they have become matters of contract. The statutes have thus largely become default rules when the parties have not agreed otherwise. The drafters of these statutes are taking this trend to its logical extreme, even permitting the waiver of fundamental fiduciary duties in the agreements of the owners. This edition updates the

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growing body of judicial precedents on unincorporated business entities, particularly cases dealing with limited liability companies.

Despite these legal developments, this fifth edition follows the excellent organization of the prior editions, with the principles of agency law set forth first, followed by an examination of the various forms of unincorporated business entities. This is a logical sequence, as agency law is a powerful influence on the law as it relates to unincorporated business entities, and explains why, in many law schools, the two subjects are taught together in a single course.

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September 2011

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