

# *Syndication Attorneys* PLLC

*More than a law firm.*

**We help entrepreneurs create  
successful investment companies.**

**That's what keeps our clients coming back.**

[www.SyndicationAttorneys.com](http://www.SyndicationAttorneys.com)

# KIM LISA TAYLOR

## Corporate Securities Attorney



- ◆ Founder of Syndication Attorneys, PLLC
- ◆ Multi-Family Syndicator
- ◆ Author

*Syndication Attorneys*  
PLLC

# DISCLAIMER

We are **NOT** your attorneys!

◆ Education Only

# STATISTICS



>300 offerings



>\$500M raises



>\$1.5B real estate

# WHAT IS A SYNDICATE?

A group organized for a common purpose, a common interest or to carry out a particular business transaction... .

– Black’s Law Dictionary, Seventh Edition

# WHAT DO YOU CALL A SYNDICATOR?

- ◆ LLC Manager
- ◆ General Partner
- ◆ Group Sponsor
- ◆ Issuer (of Securities)

# WHAT DOES A SYNDICATOR DO?

- ◆ Raise Money
- ◆ Find Deals
- ◆ Conduct Due diligence
- ◆ Coordinate financing/guarantees
- ◆ Oversee Property Manager
- ◆ Work with CPA; Tax Representative
- ◆ Communicate with Investors



# CHOICES YOU NEED TO MAKE

- ◆ Entities (What & Where Formed)
- ◆ What to Offer Investors
- ◆ Minimum Investment
- ◆ Minimum Offering Amount
- ◆ Maximum Offering Amount
- ◆ Timing & Duration



# WHAT WE'LL COVER

Entities You  
Need

Types of  
Syndicates

What to  
Offer  
Investors

# Entities You Need

# LIMITED LIABILITY COMPANY

**Limited  
Liability  
Company**

- Units/Members
  - Member-managed OR Manager-managed
  - Operating or Company Agmt

# LIMITED PARTNERSHIP

## Limited Partnership

- LP Interests
  - Managed by General Partner
  - Limited liability for LPs
  - Limited Partnership Agmt

# LLC & LP BENEFITS

- ◆ Operating Agreement or LP Agreement
- ◆ Advantages:
  - ✓ Pass-through tax treatment
  - ✓ Not as formal as a corporation
  - ✓ No taxable event on liquidation
  - ✓ Limited liability for all members/LPs
  - ✓ No limited liability for illegal acts

# THREE TYPES OF SYNDICATIONS

Specified

Semi-specified

Blind pool

# 3 PHASES OF A SYNDICATION

Acquisition

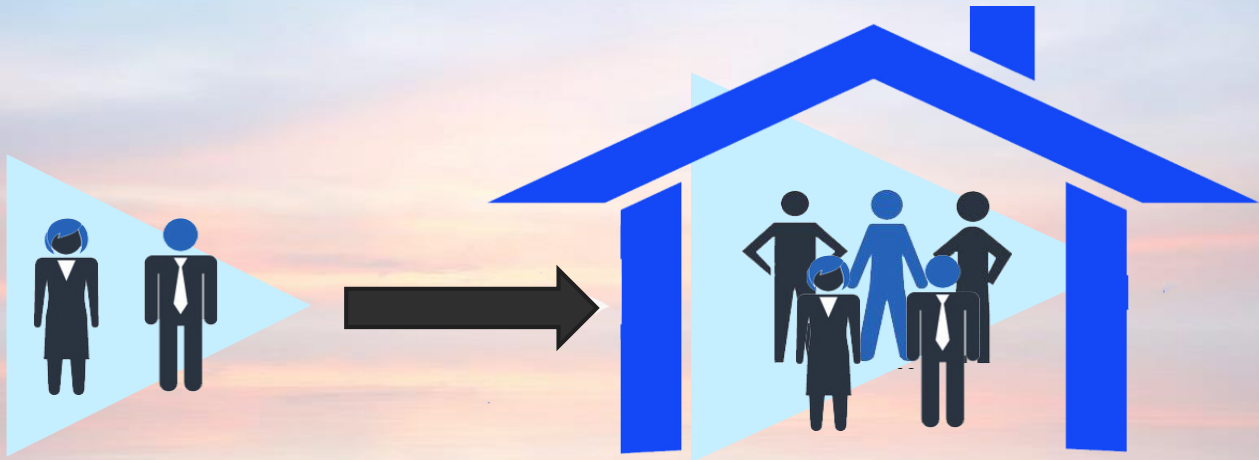
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graph TD; A[Acquisition] --> B[Operations]; B --> C[Disposition];
```

Operations

Disposition



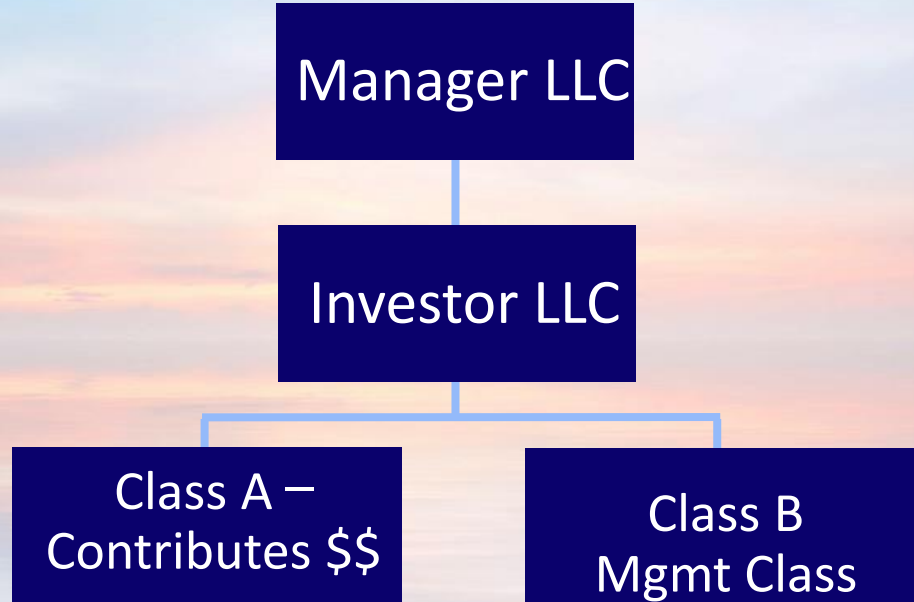
# 2-TIERED SYNDICATION STRUCTURE



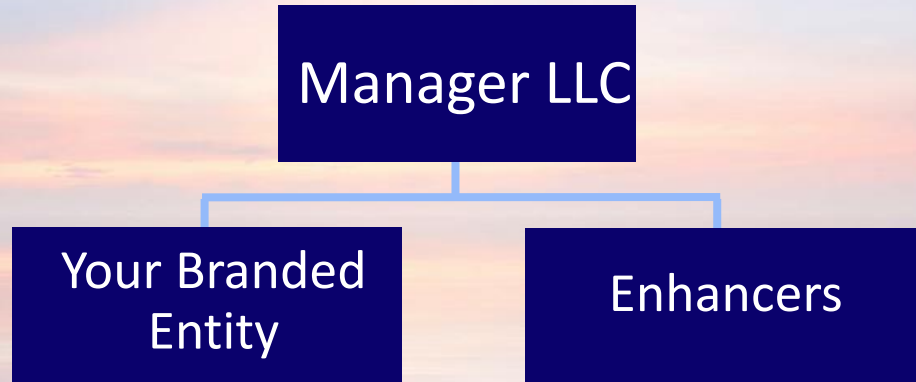
**Manager  
Entity (JV)**

**Investor Entity  
(Syndicate)**

# SINGLE PROPERTY STRUCTURE



# MANAGER STRUCTURE



# ENHANCERS

People who  
Know People  
with \$\$

Guarantors

Deal Finders

People with  
Experience

# TERMINOLOGY

STRUCTURING TERMS EVERY  
SYNDICATOR SHOULD KNOW

# CAPITAL CONTRIBUTIONS

= The cash investors give a company in exchange for ownership interests.

- LLC Units or Interests
- LP Interests
- Corporate: \_\_\_\_\_ or \_\_\_\_\_

# PERCENTAGE INTERESTS

= The Capital Contributions of a single investor compared to the total Capital Contributions of all investors of the same class or of the company as a whole:

- Example: a \$100k investor in a \$1M fund with 1 investor class owns 10% of the investor class
- If the investor class owns 60% of the Company, what is his % Interest in the Company? \_\_\_\_\_



# DISTRIBUTIONS

= Cash paid to Members in an LLC

# DISTRIBUTABLE CASH

= Cash left after:

- Operating Expenses
- Debt Service
- Operating Capital
- Withholding Reserves

*Gets distributed to Members*

# PREFERRED INTERESTS

= Interests in a company whose Distributions are paid before other, subordinate classes are paid.

# PREFERRED RETURN

= A provision in the Company Agreement that requires the company to pay Preferred Class Members all of the Distributable Cash up to a certain Hurdle Rate (usually expressed as a percentage of Investor Capital Contributions), before subordinate classes receive any Distributions.

- Cumulative v. Noncumulative

# CARRIED INTEREST

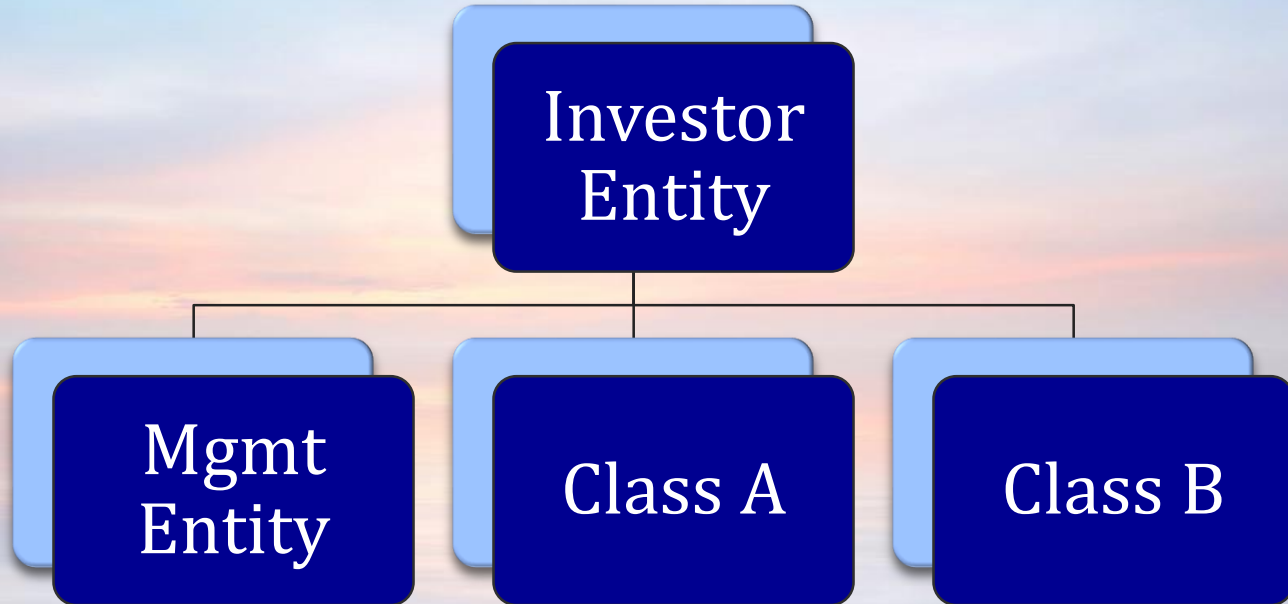
= The share of profits the Management class receives as compensation for providing services (Non-Capital Contributions) to the company

- Usually not paid until the Preferred Return has been achieved for the Investor class
- Class B Interests

# CLASS B CATCHUP

= A fixed or pre-determined amount paid to the management class after the Investor class has received it's Preferred Return

# WHO GETS A PREFERRED RETURN?



# WHO GETS CARRIED INTEREST?



# RETURN OF CAPITAL

Distribution (Refund) of all or a portion of an Investor's original Capital Contribution.

- Not considered income or capital gains from the investment

# HOW SYNDICATORS *LEGALLY* EARN MONEY

- ◆ Acquisition fee (1% to 4% of purchase price)
- ◆ Asset management fee (1% to 2% gross earnings)
- ◆ Refinance fee (1% to 2% of loan)
- ◆ Carried Interest (cash flow) (20% to 50%)
- ◆ Share of sales proceeds (20% to 50%)
- ◆ RE commissions/property management fees

# DISTRIBUTION WATERFALL

The order in which Distributions are made to members,

- Considers priority of payment to preferred classes before the Mgmt class participates in profits (*pari-passu*).
- Once a class earns a Distribution, funds are distributed amongst the class members *pro-rata*

# EXAMPLE STRAIGHT SPLIT WATERFALL

## Distributions From Operations:

- ◆ Split Distributable Cash 60/40 between Class A & Class B

## Distributions From Capital Transactions:

- ◆ First, to Class A – 100% of their money back; then
- ◆ Remainder split 60/40 between Class A & Class B

# EXAMPLE PREFERRED RETURN WATERFALL

## Distributions From Operations:

- ◆ First, to Class A until they receive an 8% annualized Cumulative Preferred Return;
- ◆ Second, to Class B until they receive a cash distribution of 5.33% calculated against the Capital Contributions of Class A
- ◆ Third, remainder split 60/40 between Class A & Class B.

# EXAMPLE PREFERRED RETURN WATERFALL

## Distributions From Capital Transactions:

- ◆ First, to Class A - 100% return of capital contributions; then
- ◆ To Class A - arrearages in Preferred Returns; then
- ◆ To Class B – arrearages in Class B Distributions; then
- ◆ Remainder split 60/40 between Class A & Class B.

# PONZI SCHEME

Fraudulent Investing Scam

- Offers high rates of return
- Little or no risk
- Often “guaranteed” returns

Relies on new investors to pay returns promised to earlier investors

- Charles Ponzi – 1919 (Intn’l Reply Coupons)



**Questions?**