

**Facts:**

- HACK Enterprises is a tree pruning business that was established by Henry, Able, Charlie, and Kim. Henry is a minor, all of the other partners have reached the age of majority at the time of establishment.
- The equipment that they acquired to start the company was from their respective families and by using cash purchases at farm auctions.
- The group decided to buy a chainsaw for operating activities, but they only had \$26 in capital, which is not enough to buy a saw.
- Henry decided to purchase a chain-saw through a hardware store for \$300, this was without the consent of his partners. The merchant sold Henry the saw because he said he was buying it for HACK Enterprises, so he agreed to sell it to him even though he was underage to do so. Henry purchased the saw by writing a \$25 cheque from the company, and then signed an agreement to enter into a contract of making \$25 monthly payments until the balance was paid off.
- The firm made several payments to the hardware store, but eventually they stopped making payments because they decided on disbanding the company. When the partners divided up their assets, Henry took the saw as part of his portion.
- After a month had gone by without payments, the hardware store contacted Henry and demanded payment, but he refused to make a payment or return the saw back to the store.

**Legal Question:**

The legal question that presents itself in the case is in the area of partnership law. The people involved with the case is Henry, who is underage, and the partnership that is owing to the hardware store for unpaid amounts. The question that we need to determine is if Henry is liable for the debts of the partnership, even though he wrote the cheque under the name of the partnership without consent of the

partners, and the fact that he is underage to be purchasing a chainsaw. Should the hardware store be able to sue either the partnership or Henry for failure to pay?

**Legal Principles:**

There are two key relationships at play in an agency situation. The first is the relationship between the agent and the principal. The second relationship is between the principal and the party with whom the agent does business. Such a party is known as an outsider because he/she are “outside” the agency relationship between principal and agent. The outsider may also be called the third-party. The complications resulting from these relationships have necessitated rules of law to regulate and resolve them. These rules are known as the law of agency, which in turn, is derived largely from tort and contract law. There is very little legislation pertaining to agency as such, other than special statutes that govern the duties and responsibilities of specific kinds of agents.

Agency relationships are created in a variety of ways. Most often, particularly in a business context, the relationship arises by contract between the parties. At other times, the relationship arises by conduct. The parties do not specifically agree to an agency relationship but, by words or actions, outsiders are led to believe the relationship is one of agency.

An agency relationship created by contract normally involves the principal authorizing an agent to act on their behalf and the agent agreeing to do so in return for some type of compensation. This often happens through a contract created expressly and only for that single purpose. Of course, not all employees are agents for the businesses that employ them. The agency agreement may be express or implied, oral, in writing, or in writing under seal. If the agent is to issue promissory notes or sign cheques in the name of the principal, then the agency agreement should be in writing. A special type of express agency agreement is the power of attorney. It is a grant of authority under seal and it permits the agent to sign documents on behalf of the principal under seal.

The authority of the agent is a key aspect of the agency relationship. It determines whether there is a contract between the principal and the outsider. When an agent acts within the scope of the agent's authority and negotiates a contract for the principal, the principal is bound by the contract, whether the principal likes it or not. However, even when the agent has acted outside the scope of his/her authority in entering a contract – that is, by exceeding the powers he/she has been given – the contract may still bind the principal. The principal will be obligated by the contract when the agent has actual authority or when the agent has apparent authority.

Agency by ratification occurs when a person represents themselves as another's agent even though he is not, and when the purported principal adopts the acts of the agent. In both agency by estoppel and agency by ratification, the agent has no authority to do what he does. What distinguishes them is whether the principal has conducted himself in a misleading way. Agency by estoppel forces the principal to be bound by the unauthorized contract because the principal has represented someone as his agent and must live the consequences when that agent purports to act on his behalf. Under agency by ratification, the agent is perhaps equally out of line but not due to any fault of or misrepresentation by the principal. For this reason, the law does not force the principal to adopt the contract, but rather permits him to make that decision for himself, per his own best interests. It should be noted that a principal cannot ratify every contract that his "agent" enters. A principal can only ratify a contract if he does so in a reasonable time, the principal had the capacity to create the contract at the time the agent entered it and at the time of ratification, and the agent identified the principal at the time of entering the contract. A principal's ratification may be express or implied.

An agency relationship created by contract imposes on an agent certain duties to perform. If the agent fails to perform these duties, he is in breach of the contract. An agent is required to perform in accordance with the principal's instructions. In the event that the principal has not given any instructions as to how the performance is to be carried out, performance must meet the standard of the particular trade

or industry. Normally, it is expected that the agent will personally perform the obligations. However, there may be an express or implied provision which allows the agent to delegate responsibility for performance onto someone else.

An agent also owes a fiduciary duty to the principal. This duty requires the agent to show what the law describes as “utmost good faith to the principal. This duty is often expressed as a “profit rule” – a fiduciary must not personally profit by virtue of her position – and a “conflict rule” – a fiduciary must not place herself in a position where her own interests conflict with the interests of the principal. The content of the fiduciary duty will vary with the circumstances. However, as a general rule, an agent has the duty to make full disclosure of all material information that may affect the principal's position, avoid any conflict of interest that affects the interest of the principal, avoid acting for two principals in the same transaction, avoid using the principal's property, money, or information to secure personal gain and avoid accepting or making a secret commission or profit. There is not, however, an absolute prohibition against conflicts such as acting for two principals in the same transaction or using the principal's property. The agent must simply not do so in secret and must obtain the fully informed consent of the principal or principals.

A fiduciary duty can arise in any relationship where the facts indicate sufficient elements of power and influence on the part of one party and reliance, vulnerability, and trust on the part of the other. In addition to the discretionary power to unilaterally affect the vulnerable party's legal or practical interests, there must be an express or implied undertaking to act with loyalty. Because professional relationships can be easily categorized as fiduciary, it is incumbent on those who offer their services to others to understand the indicia of the fiduciary relationship.

A principal's duties usually are not onerous as an agent's and normally are set out in the contract creating the agency relationship. Such contracts usually obligate the principal to pay the agent a specified fee or percentage for services rendered unless the parties have agreed that the agent will work for free and

to assist the agent in the manner described in the contract. These contracts also state that the principal must reimburse the agent for reasonable expenses associated with carrying out his agency duties as well as indemnify against losses incurred in carrying out the agency business.

The most significant result of an agency relationship is that, when an agent enters into a contract on behalf of a principal with a third party, it is the principal, not the agent, who ordinarily is liable on the contract. To a large extent, discussion of this point is simply the flip side of a discussion regarding an agent's actual and apparent authority. Put another way, the principal's liability to the third party depends on the nature of the agent's authority.

An agent who acts without authority and contracts with an outsider is liable to the third party for breach of warranty of authority. In this situation, there is no contract between either the principal and the outsider or the agent and the outsider. An agent may also be bound when he contracts on his own behalf to be a party to the contract along with his principal.

An agent may incur liability when he contracts on behalf of an undisclosed principal. A principal is said to be undisclosed when the third party does not know that she is dealing with an agent at all and assumes that the party she is dealing with is acting only on his own behalf. From the perspective of the outsider, there is no principal waiting in the background. When the agent is acting for an undisclosed principal, the general rule is that the principal is still liable on the contract so long as the agent is acting within his authority. The agent has no liability, however.

When an agent exceeds his authority, the principal can sue the agent for breach of their contract – assuming that there is such a contract in place.

Choosing how to own a business is a critical decision because it determines in who is financially liable for the business, shares in business profits and other assets, and makes and is accountable for management decisions.

The **sole proprietorship** is the oldest form of business organization and the one most often used by small business. It is particularly popular choice for the home-based enterprise. A sole proprietorship is an unincorporated business organization that has only one owner, and from a legal perspective, it also represents the simplest form of business organization because there is no legislation pertaining to the sole proprietorship as such. A sole proprietor has what is known in law as unlimited liability. Unlimited liability is the unrestricted legal responsibility for obligations. Regardless of what the owner has invested in his business, his personal assets – and not just the business assets – may be seized to pay the outstanding debts of the business. Unfortunately, these debts can far exceed anything anticipated when the business was started. A major difficulty with “going in alone” is that the sole proprietor has limited access to capital. Since the proprietor has no business partner, he is limited to his own assets and to whatever credit he can draw on to finance the operation. Due to a sole proprietor not having a legal entity separate from the owner, there are no formal or specialized tax rules governing it. Profit and losses are simply reported on the owner’s personal income tax return. A sole proprietor cannot be transferred or sold to another because it has no legal status. There is, in effect, nothing to transfer. However, the assets associated with the proprietorship such as inventory – are transferrable. The legal requirements for establishing and conduction this form of business organization are minimal – one simply commences business activity. There is no general need to incur legal fees to create the business vehicle.

When two or more persons want to pool their resources, and carry on business together, one of the most common options is to form a partnership. A partnership is much like a sole proprietorship in that neither has a legal personality – or legal existence – separate from the people who comprise them. The rules governing partnerships come from three sources:

1. Partnership legislation
2. Contract law
3. Agency law

A very important feature of partnership law is that each partner is fully responsible for all the debts and obligations of the partnership and not just for some appropriate proportion. Accordingly, the bank can proceed against the partner with the most assets – owning the debt. In law, this is known as joint liability. **Joint liability** is the shared by two or more parties where each is personally liable for the full amount of the obligations. Because a partnership comprises two or more persons pooling their resources, the management base is potentially strong. Each partner can bring different assets to the table such as product knowledge, marketing skills, or financially. If one partner becomes sick or otherwise unable to devote sufficient attention to the business, the other partners are in place to carry on. The downside to partnerships is that managing business will require consultation among other partners whom might not always achieve agree with each other.

Partnership law is based on contract law, agency law, and provincial partnership legislation, known in every jurisdiction as the partnership act. The legislation in place in the common-law provinces mandatory rules with respect to when a partnership exists, according to the partnership act, a partnership exists when two or more people “carry on business in common with a view towards profit”. The definition excludes charitable and not-for-profit endeavours. What the relationship of partner is to outsider, the partnership act and agency law also make partners responsible for one another’s mistakes.

**Joint and Several Liability:** individual and collective liability for a debt. Each liable party is individually responsible for the entire debt as well as being collectively liable for the entire debt. The partnership act provides for the termination of a partnership under certain circumstances:

If entered into for a fixed term, by the expiration of the term

If entered into for a single venture or undertaking, by the termination of that venture or undertaking.

By any partner giving notice to the others of her intention to dissolve the partnership

Following the death, insanity, or bankruptcy of a partner, nevertheless, these provisions may be varied by

agreement. On dissolution of a partnership, partnership legislation provides a process for dealing with partnership property. It must be applied in payment of the debts and liabilities of the partnership first and then to payment of what is due to the partners. After all the firm's debt are satisfied, any excess is applied, in the following order, to

- Repayment of loans made to the firm by partners
- Repayment of capital contributed by the partners
- Payment of any surplus to partners according to their respective rights to profits
- As with the sole proprietorship, there are no legal requirements for the establishment and conduct of a partnership.

A **limited partnership** is a partnership in which at least one partner has unlimited liability with others have a limited liability. General partners have unlimited liability, whereas the limited partners have a liability limited to the amount that they have contributed to the partnership capital. This type of business entity cannot be created informally. A limited partnership requires a written agreement that must be registered with the appropriate provincial body. Without this filing, the limited partnership does not exist. General partners have substantially the same rights and powers as partners in ordinary partnerships; limited partners have more narrowly defined rights.

**Limited liability partnership (LLP)** is a variation on the partnership form of business. It is a partnership in which the partners have unlimited liability for their own malpractice but limited liability for other partners' malpractice. An LLP has characteristics of a general partnership, but with specific limitations on the liability of partners. The limitation on liability (the liability shield) varies depending on the jurisdiction. The LLP may be used for the purpose of practising a profession (for example, accounting or law), provided the statute governing the profession expressly permits its members to practise using this vehicle.

Outside of partnerships and proprietorships, the higher level of business in Canada is the corporation. The key characteristic of a corporation is that it provides a limited liability to its shareholders. A limited liability is a responsibility for obligations restricted to the amount of investment. That is, should the corporation's financial health take a bad turn, the shareholder's loss is limited to what she paid to purchase shares in the corporation. Profits of the corporation are distributed to shareholders through dividends. That is, shareholders are paid a return on their investment in the corporation, but only if there is profit, and only if the directors declare a dividend. Because a corporation is a separate legal entity, a corporation pays its own taxes. A shareholder of a corporation will be taxed if she earns a salary from the corporation, receives a dividend from it, or realizes a capital gain from the sales of her shares. The fact the corporation has a separate legal entity allows for easy transference of an ownership interest represented by shares.

A **franchise** is a contractual agreement between a manufacturer, wholesaler, or service organization (franchisor) and an independent business (franchisee), who buys the right to own and operate one or more units of the franchise system. Franchising involves a contract between the franchisor and the franchisee. The relationship between a franchisor and a franchisee does not normally create fiduciary obligations. However, the legislation imposes on the parties a duty of good faith and fair dealing in the performance and enforcement of the franchise agreement.

A joint venture is a grouping of two or more businesses to undertake a particular project. The key feature of a joint venture is that it is usually limited to a specific project or to a specific period of time. The joint venture itself can take a variety of forms:

**Partnership** – all the legal consequences associated with a partnership apply

**Equity joint venture** – parties incorporate separate corporation for the project and each party holds shares in that corporation.

A **strategic alliance** is an arrangement whereby two or more businesses agree to cooperate for

some purpose. **Product licensing** is an arrangement whereby the owner of a trademark or other proprietary right grants to another the right to manufacture or distribute products associated with the trademark or other proprietary right.

After reviewing the laws regarding partnerships and agencies, it is time to look into the laws regarding corporations in Canada. The idea behind a corporation is that it possesses a legal identity that is separate from its owners and employees. The corporation is also liable to be responsible for the operations and the things that they own. If the corporation were to perform business in an illegal matter, then the shareholders of the company would not be affected, other than losing the purchase price of their shares.

Corporations have been established since 1897 and continue to be treated as entities that are separate from their shareholders, making them unique from partnerships and proprietorships, as they have limited liability, whereas a proprietorship will have unlimited liability.

The main individuals that drive a corporation's success is the stakeholders that hold ownership in the company. The internal stakeholders of a corporation will have a direct or indirect role in governing the company and showing the direction of the business' overall goals. Shareholders will buy into the company and in return, they will receive voting or nonvoting shares that represent some sort of ownership in the company. The board of directors is in charge of making key decisions, but the shareholders will vote on the direction of the company.

Internal stakeholders are not just the only stakeholders, as there are those on the outside of the company that will be impacted by the business decisions that the corporation makes. These external stakeholders can include the government, the general public, employees, customers, and even creditors.

Before a business becomes incorporated and turns into a corporation, they need to decide whether they are going to incorporate federally or provincially, what type of shares will be made available, and what the name of the corporation will be. These decisions will be made based on what kind of business

they are performing, where they are doing their business, and how they wish to accommodate the future growth of the business.

Federal incorporation allows for the creation of an entity that is recognized as a legal person, is owned by shareholders who enjoy a limited liability for the debts of the corporation, and is managed by a board of directors who owe a certain amount of duty to the company. Federally incorporated corporations have the right to carry on business in each province throughout Canada. Companies that will want to carry on business in more than two provinces should look to incorporate federally, as this will lower costs to administration.

Provincial incorporation allows for the creation of an entity that is recognized as a legal person, is owned by shareholders who enjoy a limited liability for the debts of the corporation, and is managed by a board of directors who owe a certain amount of duty to the company. Provincially incorporated companies are only allowed to business in the province that they are incorporated in. If they wish to only perform business in one province, then this would be the best route, as administration costs would be very low.

After a company has decided on provincial or federal incorporation, they must they decide on the share structure. This means that there will have to be a decision made on the class or classes of shares, as these shares are what will be made available to the shareholders that wish to purchase ownership in the company. A share represents some form of ownership in the company, it is unique. It does not give the holder the right to any of the assets or to directly manage the operations of the corporation. It does, give the owner the rights that are specifically outlined by each type of share. Corporations can have one type, or many types of shares, which can entail different rights. Some of these rights include voting for the election of directors, receive dividends declared by the directors, and share in the proceeds of the dissolution of the corporation, after creditors are paid off. Every time that a corporation will issue a new

type of shares, a reorganization will occur and an amendment to the corporation's organizational structure will have to be filed.

A corporation has the right to issue shares to the general public. This is called a widely held corporation, where the shares are traded on a public stock exchange like the NYSE or the TSX. A corporation like this is subject to the regulation pursuant to the relevant securities legislation, which are laws designed to regulate transactions involving shares and bonds of a corporation.

A private corporation or closely held corporation is a corporation that is smaller in size, and does not sell its shares to the general public. Many Canadian corporations are private, and will not sell more than 50 shares. They also have a restriction on the transfer of shares to each person, and there is a prohibition on any invitation to the public to subscribe to these 50 shares. One advantage that private corporations have is that they are subject to a much lower tax rate than public corporations. Private corporations are subject to the small business rate, which is 15% corporate tax on the first \$500,000 earned throughout the year. Public corporations are subject to a tax rate that is upwards of 50%.

A share is considered a piece of property that is freely transferable unless there is a restriction in place. There is usually no restriction in a public company, but in a private company there is usually a very strict policy on the movement of shares.

All corporations are required to have a name and corporation number. When choosing a name, corporations must have:

- A distinctive name that are different from others
- No confusion with any existing name or trademark
- It must include a legal element (incorporated, limited, corp.)
- Must not include any unacceptable terms that may falsely describe the business.

Another part of a business becoming incorporated is the NUANS Report, which is a document that shows the result of a search for business names. This is prepared by using a large database containing

existing and business names that are already reserved. There are also companies that do not participate in active business, these are called shelf companies or holding companies, as they are just needed for when a corporation may need to use them in the future, or hold funds paid from another corporation so that taxes will stay low in both companies.

The process of incorporation can be long and complicated, but there are some strict guidelines that can be followed to make it easier for businesses that want to incorporate. First is the articles of incorporation that are needed. This is the document that defines the basic characteristics of corporations incorporated in many of the Canadian provinces, as well as the federal level as well. The incorporator is the person who starts the incorporation process, they must pick the name of the company, and then they must pay the filing fee to the Receiver general of Canada.

After the company is incorporated, the first directors will ordinarily undertake a number of tasks that include:

- Make bylaws: rules specifying the day-to-day operating procedures
- Adopt forms of shares and corporate records
- Appoint certain officers
- Make banking arrangements
- Making the corporate structure.

Once a company starts, they are going to need a way to acquire capital to begin the operations. They can do this in two ways, by either borrowing money through debt financing or issuing shares of their company. The term bond is a document evidencing a debt owed by the corporation, which can be either described as secured or unsecured. This is one of the main ways that a company can build a cash base to start operations. Equity financing is another method which is used to acquire capital in which a company will issue shares of ownership in the business to people in exchange for cash. Shares also provide the benefit of promoting a corporation's growth.

Sometimes, shares and bonds can have conversion rights attached to them to increase the value. This is where a shareholder will have the right to convert one type of share or security into another type. This versatility can be appealing to many people who are interested in buying into the company.

All provinces have very specific securities acts that outline the rules around buying and selling shares/bonds. The main goals that are outlined in every province are shown below:

- Provide the mechanism for the transfer of securities
- Ensure that all investors have the ability to access adequate information in order to make informed decisions
- Regulate those people who are engaged in the trading of securities
- Punish those who fail to comply to the rules of the act

A company that wishes to partake in selling their shares is subject to register with their provincial securities commission. Furthermore, everyone who is planning on buying or selling securities must be registered through the commission.

The company must both comply with the disclosure provisions set forth in the securities legislation. Every trade must be accepted by the the commission, with a proceeding prospectus: a document a corporation must publish when offering securities to the public. The legislation assumes that prospective investors will rely on the prospectus in making investment decisions. In general terms, a company must notify the public of any material change in its affairs, first by issuing a press release and second by filing a report with the securities commission within 10 days of the changes.

There are a few rules that can be broken within a company when trading securities. Insider trading can occur when transactions in securities in corporation by or on behalf of an insider on the basis of relevant material information concerning the corporation that is not known to the general public. This is against the rules of the securities legislation and someone who is considered a tippee (acquiring information from an insider), is prohibited from trading with inside information.

A corporation can experience two distinct kinds of liability in tort:

- Primary liability – a corporation has primary liability for a tort when, in law, it is regarded as the entity that committed the tort in question.
- The identification theory is a theory specifying that a corporation is liable when the person committing the wrong is the corporation's directing mind. This theory seeks to determine which person are the directing mind of the corporation.
- When that person commits a tort related to the business enterprise, this conduct is identified with or attributed to the corporation itself.
- Vicarious liability – the tort has been committed by an agent or employee who is not a directing mind of the corporation. The law of vicarious liability does not distinguish between the natural employer/principal – that is, a living, breathing human being – and the artificial employer/principal – that is, a corporation. Instead, the same principal applies to both.

The court generally do not follow the identification theory, instead, agency law largely determines when a corporation is liable on a contract and when it is not.

Pre-incorporation contracts are contracts governed by the federal and provincial corporate law statutes, which permits the company to adopt contract – something that was impossible to do at common law. **Regulatory offence** is an offence contrary to the public interest.

The directors, who are elected by shareholder, manage or supervise the management of the business and the affairs of the corporation. In addition to this general authority, directors have specific powers and obligations set out in legislation (declare dividends, call shareholder meeting, adopt bylaws). The Fiduciary Duty requires directors and officers to act honestly and in good faith with a view to the best interest of the corporation. They cannot allow themselves to favour one particular group of shareholders.

Owners of the corporation are occasionally held responsible for debts and liabilities incurred by the corporation. In other words, the corporation is not considered a separate entity from its shareholders.

Lifting the corporate veil is determining that the corporation is not a separate legal entity from its shareholders. Shareholders have rights and they are described in a few categories.

*The right to vote:* Corporation legislation requires that there be at least one class voting shareholders in a corporation. Voting shareholders have the right to approve or disapprove of directors' actions since the last general meeting. Proxy is a person who is authorized to exercise a shareholder's voting rights.

*The right to information:*

- Inspect the annual financial statement for the corporation
- Apply to the court to have an inspector appointed to consider the affairs of the corporation if it can be shown that there is a serious concern about mismanagement
- Inspect certain records, including minute books, share transfer, incorporating documents
- Know whether directors have been purchasing shares of the corporation

*The right of financials:* Shareholders generally buy shares with the hope or expectation that the corporation will prosper and generate financial rewards. **Pre-emptive right** is a shareholder right to maintain a proportionate share of ownership by purchasing a proportionate share of any new stock issue.

Dissent and appraisal right is the right of shareholders who dissent from certain fundamental changes to the corporation to have their shares purchased by the corporation at a fair price. A Shareholders' agreement is an agreement that defines the relationship among people who have an ownership interest in a corporation.

### **Application of Legal Principles:**

The first principle that can be applied to this case is the establishment of a partnership. The four individuals decided to enter into a partnership together, so they now have to abide by partnership laws in Canada. If HACK Enterprises is a limited partnership, then only one partner would be liable for all of the

malpractice in the company, but if they are in a limited liability partnership, then the partners would only be responsible for their individual malpractice.

The next application is concerning Henry. Henry is a minor, who is allowed to be a partner in a partnership, but there are a few rules that they must follow. He is technically not old enough to sign off on financial documents, such as write cheques. If he were to make a decision to buy something, he would have to either buy it under his own name, or have one of the partners who is of age sign off on behalf of the company. In this case, Henry signed off on a document on behalf of the corporation as an minor, so this is considered a problem in the partnership. He also did this without the consent of the other partners, this is something that could be a breach of partnership laws, and could be a concern, but they partnership continued to make payments after, so the company must have overlooked this issue.

Next, there are some concerns regarding the merchant who sold the chainsaw to HACK Enterprises. The merchant should not have sold the saw to the minor, even though he said that he was acting as a part of the company. This contract may be fought to be invalid because the minor was technically not allowed to sign a contract to pay the merchant on behalf of the company. This could be used in favour of HACK, if the merchant were to sue for damages for failure to make payments. However, if this contract is deemed to be valid, then the merchant can start to take legal action against the partnership.

The next legal principle that can be applied is concerning the liability of Henry when the merchant is demanding repayment. According to the partnership laws, Henry is unlimitedly liable for his actions, which means he is subject to losing all of his assets if he were to do something wrong. The individual is ultimately responsible for the debts of the partnership, even if it has dissolved. If the merchant is demanding a payment that is outstanding from the partnership, one or all of the partners will be liable to pay him/her back at some point in time, or there may be serious legal consequences for damages to the merchant's business. The contract would indeed be breached as there was no payment, so

penalties may occur.

If HACK Enterprises is a limited liability partnership, then Henry may have the right to refuse the payment. Depending on the type of partnership, Henry could be shielded from the merchant's demand for debt because he would only be liable for the company assets. If they are not a part of a limited liability partnership, then both the personal and business assets are in play if the debt owed to the merchant cannot be paid back in cash out of his own pocket.

Henry may also be able to suggest that all of the partners are at fault, as the contract was signed on behalf of the entire firm. If they are in a shared partnership, and the debts of the company are split between them all, then all of the partners may be liable for the action of Henry.

**Decision:**

In my opinion, the merchant would have the right to take legal action against the company for failure to pay. The company was entered into a valid contract, and they received something from that contract which has a value. The contract stated that the company was required to pay the full amount, and this action was not met yet. The merchant has the right to come after whoever is responsible for paying him back in some type of fashion. As for who is liable for paying him back, the court would most likely rule it in a way directed towards Henry. Even though he was a minor, Henry is still at fault for signing on behalf of the company, and he also took the asset that is being sought after as part of his share. Henry should be required to pay back the merchant at minimum the full amount of what he saw cost, less what had been already paid back. With the refusal to pay or return, Henry could also be liable for some of his personal assets as well, because he is not protected by the partnership for his debts, where if he were part of something like a corporation, then he would just be liable for the business debts. I believe that Henry has failed to follow the rules of contract law, and since he was a partner, even being a minor, he has violated the rules of partnership law as well, and should be obliged to pay the merchant back, plus any damages that may have resulted from this.

