

حمیدرضا صبوح اصغر، ۱۴۰۲

بررسی حقوقی مسئولیت مدنی مدیران در شرکت های سهامی و با مسئولیت محدود

مدیران در شرکت های سهامی و با مسئولیت محدود در قبال سهامداران و اختیاراتی که دارند نسبت به کم و زیاد شدن ارزش سهام و ایجاد اختیارات مالی دارای مسئولیت مدنی می باشند و سهم در شرکتهای سهامی (عام و خاص) بیانگر مشارکت دارنده آن در سرمایه شرکت است یعنی سهامداران در اصل همان آورندگان سرمایه شرکت هستند.سهامداران به تبع همین امر و مالکیت سهام شرکت دارای حقوق و مزایای ناشي از اين مالكيت ،در شركت مي شوند. اين حقوق و مزايا خواه مالكيت سهام در اثريذيره نويسي حاصل شده باشد خواه در اثر انتقال و واگذاری سهام شرکت باشد، به سهامدار تعلق گرفته شده است.این حقوق مزایا و تکالیف گاه ناشی از قانون است و گاه ناشی از درج در اساسنامه می باشد و مشمول کسانی که در تصویب اساسنامه نیز دخالتی نداشته اند هم می شود نظرات مختلفی در خصوص ماهیت سهم و اینکه آیا سهم مال است یا خیر، بیان شده است و یکی از نظرات اینست که سهم مال ذاتی نیست بلکه ماهیت خاصی است که بیانگر یکسری حقوق و تعهدات در شرکت است. هیات مدیره ، هیاتی از میان سهامداران شرکت سهامی است که وظیفه اداره شرکت را بر عهده دارند و مدیر عامل، شخصی است که توسط هیات مدیره برای اداره امور جاری شرکت زیر نظر هیات مدیره تعیین می گردد. اعضاء هیات مدیره و مدیر عامل شرکت در مقابل شرکت و اشخاص ثالث نسبت به تخلف از قانون یا اساسنامه شرکت یا مصوبات مجمع عمومی برحسب مورد منفردا ً یا مشترکا ً مسئول اند و دادگاه حدود مسئولیت هر یک را برای جبران تعیین شده است. نتایج حاصله در این نوشتار نشان از اهمیت مسئولیت مدنی مدیران شرکتهای سهامی با مسئولیت محدود می باشد.که در برابر خسارات مالی ناشی از نوسان اقتصادی و نوع مدیریت آنها مسئولیت مدنی نیز شاملشان خواهد شد.

کلیدواژهها: بررسی حقوقی مسئولیت مدنی مدیران در شرکت های سهامی و با مسئولیت محدود

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Thesis:

Legal examination of the civil liability of managers in joint-stock and limited liability companies



Shares in joint-stock companies (public and private) represent the participation of the owner in the company's capital, that is, the shareholders are basically the same as the bringers of the company's capital. Accordingly, the shareholders and the ownership of the company's shares have the rights and benefits arising from this ownership in the company. These rights and benefits will be given to the shareholder, whether the ownership of the shares is achieved through the effective writing or the transfer and assignment of the company's shares. Those who were not involved in the approval of the articles of association have expressed different opinions about the nature of the share and whether the share is property or not, and one of the opinions is that the share of property is not intrinsic, but has a special nature that expresses a set of rights and obligations. is in the company The board of directors is a board among the shareholders of a joint stock company who are responsible for managing the company, and the managing director is a person appointed by the board of directors to manage the current affairs of the company under the supervision of the board of directors. The members of the board of directors and the CEO of the company are responsible to the company and third parties for the violation of the law or the company's statutes or the approvals of the general assembly, depending on the case, individually or jointly, and the court will determine the limits of the responsibility of each one for compensation. Therefore, the manager of limited liability companies is civilly responsible for the profits and losses of the shareholders. This research, with a descriptive method, aims to determine the extent of this responsibility and how to compensate the shareholders' losses.

Keywords: civil responsibility; Shareholders, limited liability company, profit and loss of the company

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