

INSTRUCTIONS

This questionnaire consists of thirteen (13) numbers contained in six (6) pages. Read each question very carefully. Answer *legibly, clearly, and concisely*. Start each number on a separate page; an answer to a sub-question under the same number may be written continuously on the same page and immediately succeeding pages until completed. Do not repeat the question. A mere "Yes" or "No" answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

Signed **ADOLFO S. AZCUNA**
Chairperson
2007 Bar Examination Committee

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| MERCANTILE LAW |
|-----------------------|

I.
(10%)

R issued a check for P1M which he used to pay S for killing his political enemy.

- a. Can the check be considered a negotiable instrument?
- b. Does S. have a cause of action against R in case of dishonor by the drawee bank?
- c. If S negotiated the check to T, who accepted it in good faith and for value, may R be held secondarily liable by T?

Reason briefly in (a), (b) and (c).

II.
(10%)

Alex deposited goods for which Billy, warehouseman, issued a negotiable warehouse receipt wherein the goods were deliverable to Alex or order. Alex negotiated the receipt to Caloy. Thereafter, Dario, a creditor secured judgment against Alex and served notice of levy over the goods on the warehouseman.

- a. To whom should the warehouseman deliver the goods upon demand?
- b. Would your answer be the same if the warehouseman issued a non-negotiable warehouse receipt

III.

(5%)

Diana and Piolo are famous personalities in showbusiness who kept their love affair secret. They use a special instant messaging service which allows them to see one another's typing on their own screen as each letter key is pressed. When Greg, the controller of the service facility, found out their identities, he kept a copy of all the messages Diana and Piolo sent each other and published them. Is Greg liable for copyright infringement? Reason briefly.

**IV.
(10%)**

Alfredo took out a policy to insure his commercial building against fire. The broker for the insurance company agreed to give a 15-day credit within which to pay the insurance premium. Upon delivery of the policy on May 15, 2006, Alfredo issued a postdated check payable on May 30, 2006. On May 28, 2006, a fire broke out and destroyed the building owned by Alfredo.

- a. May Alfredo recover on the insurance policy?
- b. Would your answer in (a) be the same if it was found that the proximate cause of the fire was an explosion and that fire was but the immediate cause of loss and there is no excepted peril under the policy?
- c. If the fire was found to have been caused by Alfredo's own negligence, can he still recover on the policy?

Reason briefly in (a), (b) and (c).

**V.
(5%)**

C contracted D to renovate his commercial building. D ordered construction materials from E and received delivery thereof. The following day, C went to F Bank to apply for a loan to pay the construction materials. As security for the loan, C was made to execute a trust receipt. One year later, after C failed to pay the balance on the loan, F Bank charged him with violation of the Trust Receipts Law.

- a. What is a Trust Receipt?
- b. Will the case against C prosper? Reason briefly.

**VI.
(5%)**

Discuss the trust fund doctrine

**VII.
(10%)**

In a stockholder's meeting, S dissented from the corporate act converting preferred voting shares to non-voting shares. Thereafter, S submitted his certificates of stock for notation that his shares are dissenting. The next day, S transferred his shares to T to whom new certificates were issued. Now, T demands from the corporation the payment of the value of his shares.

- a. What is the meaning of a stockholder's appraisal right?
- b. Can T exercise the right of appraisal? Reason briefly.

VIII.
(10%)

Due to growing financial difficulties, Z Bank was unable to finish construction of its 21-storey building on a prime lot located in Makati City. Inevitably, the *Bangko Sentral* ordered the closure of Z Bank and consequently placed it under receivership. In a bid to save the bank's property investment, the President of Z Bank entered into a financing agreement with a group of investors for the completion of the construction of the 21-storey building in exchange for a ten year lease and the exclusive option to purchase the building.

- a. Is the act of the President valid? Why or why not?
- b. Will a suit to enforce the exclusive right of the investors to purchase the property prosper? Reason briefly.

IX.
(5%)

On December 4, 2003, RED Corporation executed a real estate mortgage in favor of BLUE Bank. RED Corporation defaulted in the payment of its loan. Consequently, on June 4, 2004, BLUE Bank extrajudicially foreclosed the property. Being the highest bidder in the auction sale conducted, the Bank was issued a Certificate of Sale which was registered on August 4, 2004.

Does RED Corporation still have the right to redeem the property as of September 14, 2007? Reason briefly.

X.
(5%)

Name at least five (5) predicate crimes to money laundering.

XI.
(10%)

Two vessels figured in a collision along the Straits of Guimaras resulting in considerable loss of cargo. The damaged vessels were safely conducted to the Port of Iloilo. Passenger A failed to file a maritime protest. B, a non-passenger but a shipper who suffered damage to his cargo, likewise did not file a maritime protest at all.

- a. What is a maritime protest?
- b. Can A and B successfully maintain an action to recover losses and damages arising from the collision? Reason briefly.

XII.
(5%)

Seeking to streamline its operations and to bail out its losing ventures, the stockholders of X Corporation unanimously adopted a proposal to sell substantially all of the machineries and equipment used in and out its manufacturing business and to sink the proceeds of the sale for the expansion of its cargo transport services.

- a. Would the transaction be covered by the provisions of the Bulk Sales Law?
- b. How would X Corporation effect a valid sale?

XIII.
(10%)

- a. What are the preferred claims that shall be satisfied first from the assets of an insolvent corporation?
- b. How shall the remaining non-preferred creditors share in the estate of the insolvent corporation above?

NOTHING FOLLOWS.