

INSTRUCTIONS

This questionnaire consists of sixteen (16) numbers contained in eight (8) 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 **ANGELINA S. GUTIERREZ**

Chairperson

20006 Bar Examination Committee

PLEASE CHECK THE NUMBER OF PAGES IN THIS SET

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| MERCANTILE LAW |
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- I -

1. What is the doctrine of "piercing the veil of corporate entity?" Explain 2.5%
2. To what circumstances will the doctrine apply? 2.5%
3. What is the minimum and maximum number of incorporators required to incorporate a stock corporation? is this also the same minimum and maximum number of directors required in a stock corporation? 2.5%
4. Must all incorporators and directors be residents of the Philippines? 2.5%

- II -

Discuss the legal consequences when a bank honors a forged check. 5%

- III -

Jun was about to leave for a business trip. As his usual practice, he signed several blank checks. He instructed Ruth, his secretary, to fill them as payment for his obligations. Ruth filled one check with her name as payee, placed P30,000.00 thereon, endorsed and delivered it to Marie. She accepted the check in good faith as payment for goods she delivered to Ruth. Eventually, Ruth regretted what she did and apologized to Jun. Immediately he directed the drawee bank to dishonor the check. When Marie encashed the check. it was dishonored.

1. Is Jun liable to Marie? 5%

2. Supposing the check was stolen while in Ruth's possession and a thief filled the blank check, endorsed and delivered it to Marie in payment for the goods he purchased from her, is Jun liable to Marie if the check is dishonored? 5%

- IV -

Rudy is jobless but is reputed to be a jueteng operator. He has never been charged or convicted of any crime. He maintains several bank accounts and has purchased 5 houses and lots for his children from the Luansing Realty I Inc. Since he does not have any visible job, the company reported his purchases to the Anti-Money Laundering Council (AMLC). Thereafter, AMLC charged him with violation of the Anti-Money Laundering Law. Upon request of the AMLC, the bank disclosed to it Rudy's bank deposits amounting to P100 Million. Subsequently, he was charged in court for violation of the Anti-Money Laundering Law.

1. Can Rudy move to dismiss the case on the ground that he has no criminal record? 2.5%
2. To raise funds for his defense, Rudy sold the houses and lots to a friend. Can Luansing Realty, Inc. be compelled to transfer to the buyer ownership of the houses and lots? 2.5%
3. In disclosing Rudy's bank accounts to the AMLC, did the bank violate any law? 2.5%
4. Supposing the titles of the houses and lots are in possession of the Luansing Realty I Inc., is it under obligation to deliver the titles to Rudy? 2.5%

- V -

The Peninsula Insurance Company offered to insure Francis' brand new car against all risks in the sum of P1 Million for 1 year. The policy was issued with the premium fixed at P60,000.00 payable in 6 months. Francis only paid the first two months installments. Despite demands, he failed to pay the subsequent installments. Five months after the issuance of the policy, the vehicle was carjacked. Francis filed with the insurance company a claim for its value. However, the company denied his claim on the ground that he failed to pay the premium resulting in the cancellation of the policy.

Can Francis recover from the Peninsula Insurance Company? 5%

- VI -

1. In several policy addresses extensively covered by media since his appointment on December 21, 2005, Chief Justice Artemio V. Panganiban vowed to leave a judiciary characterized by "four Ins" and to focus in solving the "four ACID" problems that corrode the administration of justice in our country.

Explain this "four Ins" and "four ACID" problems. 2.5%

2. The Chief Justice also said that the judiciary must "safeguard the liberty" and "nurture the prosperity" of our people.

Explain this philosophy. Cite Decisions of the Supreme Court implementing each of these twin

beacons of the Chief Justice. 2.5%

- VII -

1. What is a mutual insurance company or association? 2.5%
2. Distinguish between the role of a conservator and that of a receiver of a bank. 2.5%

- VIII -

Pio is the president of Western Bank. His wife applied for a loan with the said bank to finance an internet cafe. The loan officer told her that her application will not be approved because the grant of loans to related interests of bank directors, officers, and stockholders is prohibited by the General Banking Law.

Explain whether the loan officer is correct. 5%

- IX -

The Blue Star Corporation filed with the Regional Trial Court a petition for rehabilitation on the ground that it foresaw the impossibility of paying its obligations as they fall due. Finding the petition sufficient in form and substance, the court issued an Order appointing a rehabilitation receiver and staying the enforcement of all claims against the corporation.

What is the rationale for the Stay Order? 5%

- X -

1. What acts or omissions are penalized under the Trust Receipts Law? 2.5%
2. Is lack of intent to defraud a bar to the prosecution of these acts or omissions? 2.5%

- XI -

Under Republic Act No.1405 (The Bank Secrecy Law), bank deposits are considered absolutely confidential and may not be examined, inquired or looked into by any person, government official, bureau or office.

What are the exceptions? 5%

- XII -

1. Is the Securities and Exchange Commission the venue for actions involving intra-corporate controversies? 2%

- XIII -

Supposing Albert Einstein were alive today and he filed with the Intellectual Property Office (IPO) an application for patent for his theory of relativity expressed in the formula $E=mc^2$. The IPO disapproved Einstein's application on the ground that his theory of relativity is not patentable.

Is the IPO's action correct? 5%

- XIV -

In a written legal opinion for a client on the difference between apprenticeship and learnership, Liza quoted without permission a labor law expert's comment appearing in his book entitled "Annotations on the Labor Code."

Can the labor law expert hold Liza liable for infringement of copyright for quoting a portion of his book without his permission? 5%

- XV -

A real estate mortgage may be foreclosed judicially or extrajudicially.

In what instance may a mortgagee extrajudicially foreclose a real estate mortgage? 5%

- XVI -

Pursuant to a writ of execution issued by the Regional Trial Court in "Express Bank v. Don Rubio," the sheriff levied and sold at public auction 8 photocopying machines of Don Rubio. Is the sheriff's sale covered by the Bulk Sales Law? 5%

NOTHING FOLLOWS.