

**Set A**

**MULTIPLE CHOICE QUESTIONS (MCQs)  
INSTRUCTIONS**

The following questionnaire consists of one hundred (100) MCQs numbered 1 up to 100 contained in TWENTY FOUR (24) pages.

Answer each question on the MCQ Answer Sheet by shading completely the appropriate circle corresponding to the letter you have chosen. (Read the Marking Instructions on the Answer Sheet)

Avoid erasures on the Answer Sheet. If you need to make corrections, erase completely the answer you want to change.

Do not explain your answers in the MCQ portion of the exam. You will not earn any credit for that.

Keep the Answer Sheet clean. Do not make unnecessary marks on it. Do not fold, roll, scratch, crumple or tear it.

You may write on the questionnaire and use it as scratch paper but make sure to transfer your answer to the Answer Sheet. Provide ample time to transfer the answers if you choose to do this.

Answer first the MCQs completely before going to the essay-type questions.

**HAND IN YOUR ANSWER SHEET. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**

**GOODLUCK!!!**

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**MARTIN S. VILLARAMA, JR.**

*Chairperson*

*2012 Bar Examinations Committee*

**PLEASE CHECK THAT THIS SET CONTAINS TWENTY FIVE (25) PAGES (INCLUDING THIS PAGE).**

**WARNING: NOT FOR SALE OR UNAUTHORIZED USE**

<b>MERCANTILE LAW</b>
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1. Letters of Credit are financial devices in commercial transactions which will ensure that the seller of the goods is sure to be paid when he parts with the goods and the buyer of the goods

- gets control of the goods upon payment. Which statement is most accurate?
- a. The use of the Letter of Credit serves to reduce the risk of nonpayment of the purchase price in a sale transaction.
  - b. The Letters of Credit can only be used exclusively in a sales transaction.
  - c. The Letters of Credit are issued for the benefit of the seller only.
  - d. (a), (b) and (c) are all correct.
2. Letter of Credit which is used in non-sale transaction, where it serves to reduce the risk of non-performance is called -
- a. irrevocable letter of credit;
  - b. standby letter of credit;
  - c. confirmed letter of credit;
  - d. None of the above.
3. At the instance of CCC Corporation, AAA Bank issued an irrevocable Letter of Credit in favor of BBB Corporation. The terms of the irrevocable Letter of Credit state that the beneficiary must present certain documents including a copy of the Bill of Lading of the importation for the bank to release the funds. BBB Corporation could not find the original copy of the Bill of Lading so it instead presented to the bank a xerox copy of the Bill of Lading. Would you advise the bank to allow the drawdown on the Letter of Credit?
- a. No, because the rule of strict compliance in commercial transactions involving letters of credit, requiring documents set as conditions for the release of the fund, has to be strictly complied with or else funds will not be released.
  - b. Yes, because an irrevocable letter of credit means that the issuing bank undertakes to release the fund anytime when claimed by the beneficiary, regardless of the kind of document presented.
  - c. Yes, because the issuing bank can always justify to CCC Corporation that xerox copies are considered as faithful reproduction of the original copies.
  - d. Yes, because the issuing bank really has no discretion to determine whether the documents presented by the beneficiary are sufficient or not.
4. AAA Carmakers opened an irrevocable Letter of Credit with BBB Banking Corporation with CCC Cars Corporation as beneficiary. The irrevocable Letter of Credit was opened to pay for the importation of ten (10) units of Mercedes Benz S class. Upon arrival of the cars, AAA Carmakers found out that the cars were all not in running condition and some parts were missing. As a consequence, AAA Carmakers instructed BBB Banking Corporation not to allow drawdown on the Letter of Credit. Is this legally possible?
- a. No, because under the "Independence Principle", conditions for the drawdown on the Letters of Credit are based only on documents, like shipping documents, and not with the condition of the goods subject of the importation.
  - b. Yes, because the acceptance by the importer of the goods subject of importation is material for the drawdown of the Letter of Credit.
  - c. Yes, because under the "Independence Principle", the seller or the beneficiary is always assured of prompt payment if there is no breach in the contract between the seller and the buyer.
  - d. No, because what was opened was an irrevocable letter of credit and not a confirmed letter of credit.
5. For a fee, X deposited 1,000 sacks of corn in the warehouse owned by Y. Y is in the business of warehousing. Y issued a warehouse receipt as proof of the possession of the 1,000 sacks of corn. The warehouse receipt states as follows: "Deliver to X or bearer 1,000 sacks of corn." X wanted to use the warehouse receipt as payment of his debt in favor of Z. How can the ownership of the goods covered by the warehouse receipt be transferred?
- a. Negotiate the warehouse receipt by just delivering the warehouse receipt to Z.

- b. Assign the warehouse receipt to Z to transfer ownership of the goods.
  - c. Negotiate the warehouse receipt by specifically indorsing it to Z.
  - d. The warehouse receipt in this case is non-negotiable.
6. The warehouseman, by issuing the warehouse receipt, acknowledges that the goods are in his possession, but he can refuse to deliver the goods to the holder of the warehouse receipt covering the goods if -
  - a. the warehouse receipt covering the goods is not presented.
  - b. the lien of the warehouseman is not satisfied.
  - c. the said holder presents a materially altered warehouse receipt.
  - d. All of the above.
7. The legal remedy of the warehouseman in case of conflicting claims is to ---
  - a. file an action for interpleader.
  - b. give the goods to the first one who first presented the warehouse receipt.
  - c. use his discretion as to who he believes has the prior right.
  - d. keep the goods and appropriate them to himself.
8. BBB Banking Corporation issued a Letter of Credit in the amount of P5Million, for the purchase of five (5) tons of corn by X. Upon arrival of the goods, the goods were delivered to the warehouse of X. Thereafter he was asked to sign a Trust Receipt covering the goods. When the goods were sold, X did not deliver the proceeds to BBB Banking Corporation, arguing that he will need the fund for the subsequent importation. Is there sufficient basis to sue for criminal action?
  - a. Yes, because X's failure to turn over the proceeds to the bank is a violation of the Trust Receipt Law.
  - b. No, because the trust receipt was signed only after the delivery of the goods. When the trust receipt was signed, the ownership of the goods was already with X.
  - c. Yes, because violation of Trust Receipt Law is mala prohibita, intention is irrelevant.
  - d. No, because X has a valid reason not to deliver the proceeds to BBB Banking Corporation.
9. X secured a loan from BBB Bank to pay for the importation of some dried fruits. Upon arrival of the goods consisting of dried fruits imported by X but before delivery to him, a trust receipt was executed by X to cover the transfer of the dried fruits to his possession. The dried fruits were so saleable but instead of turning over the proceeds of the sale, X used the funds to pay for the medical expenses of his mother who was sick of cancer of the bone. Which statement is most accurate?
  - a. X cannot be held criminally liable because although he did not pay the bank he used the proceeds for a good reason.
  - b. Fraud or deceit is a necessary element to hold X criminally liable for non -payment under the Trust Receipts Law.
  - c. X can be held criminally liable under the Trust Receipts Law regardless of the purpose or intention for the use of the proceeds.
  - d. X cannot be held criminally liable because the underlying obligation is one of simple loan.
10. X is the President of AAA Products Corporation. X signs all the Trust Receipts documents for certain importations of the company. In the event of failure to deliver the proceeds of the sale of the goods to the bank, which statement is most accurate?
  - a. The criminal liability will not attach to X as President because of separate juridical personality.
  - b. For violation of Trust Receipts Law, the law specifically provides for the imposition of penalty upon directors I officers of the corporation.
  - c. The officer will not be held criminally accountable because he is just signing the trust

receipt for and in behalf of the corporation.

- d. The officer of the corporation will be held liable provided it is clear that the officer concerned participated in the decision not to pay.

11. Who is the Entrustee in a Trust Receipt arrangement?
  - a. the owner of the goods;
  - b. the one who holds the goods and receives the proceeds from the sale of the goods;
  - c. the person to whom goods are delivered for sale and who bears the risk of the loss;
  - d. the party who acquires security interest in the goods.
12. Which phrase best completes the statement - In accordance with the Trust Receipt Law, purchasers of the goods from the Entrustee will:
  - a. get the goods only as a collateral;
  - b. not get good title to the goods;
  - c. only get security interest over the goods;
  - d. get good title to the goods.
13. X acted as an accommodation party in signing as a maker of a promissory note. Which phrase best completes the sentence - This means that X is liable on the instrument to any holder for value:
  - a. for as long as the holder does not know that X is only an accommodation party.
  - b. even though the holder knew all along that X is only an accommodation party.
  - c. for as long as X did not receive any consideration for acting as accommodation party.
  - d. provided X received consideration for acting as accommodation party.
14. X issued a promissory note which states, "I promise to pay Y or order Php100,000.00 or one (1) unit Volvo Sedan." Which statement is most accurate?
  - a. The promissory note is negotiable because the forms of payment are clearly stated.
  - b. The promissory note is non-negotiable because the option as to which form of payment is with the maker.
  - c. The promissory note is an invalid instrument because there is more than one form of payment.
  - d. The promissory note can be negotiated by way of delivery.
15. X issued a promissory note which states "I promise to pay Y or bearer the amount of HK\$50,000 on or before December 30, 2013." Is the promissory note negotiable?
  - a. No, the promissory note becomes invalid because the amount is in foreign currency.
  - b. Yes, the promissory note is negotiable even though the amount is stated in foreign currency.
  - c. No, the promissory note is not negotiable because the amount is in foreign currency.
  - d. Yes, the promissory note is negotiable because the Hong Kong dollar is a known foreign currency in the Philippines.
16. X delivered a check issued by him and payable to the order of CASH to Y in payment for certain obligations incurred by X in favor of Y. Y then delivered the check to Z in payment for certain obligations. Which statement is most accurate?
  - a. Z can encash the check even though Y did not indorse the check.
  - b. Z cannot encash the check for lacking in proper endorsement.
  - c. Y is the only one liable because he was the one who delivered the check to Z.
  - d. The negotiation is not valid because the check is an instrument payable to order.
17. A stale check is a check -
  - a. that cannot anymore be paid although the underlying obligation still exists.
  - b. that cannot anymore be paid and the underlying obligation under the check is also extinguished.
  - c. that can still be negotiated or indorsed so that whoever is the holder can
  - d. which has not been presented for payment within a period of thirty (30) days.

18. In payment for his debt in favor of X, Y gave X a Manager's Check in the amount of Php100,000 dated May 30, 2012. Which phrase best completes the statement - A Manager's Check:
- is a check issued by a manager of a bank for his own account.
  - is a check issued by a manager of a bank in the name of the bank against the bank itself for the account of the bank.
  - is like any ordinary check that needs to be presented for payment also.
  - is better than a cashier's check in terms of use and effect.
19. Which phrase best completes the statement -- A check which is payable to bearer is a bearer instrument and:
- negotiation can be made by delivery only;
  - negotiation must be by written indorsement;
  - negotiation must be by specific indorsement;
  - negotiation must be by indorsement and delivery.
20. As payment for a debt, X issued a promissory note in favor of Y but the promissory note on its face was marked non-negotiable. Then Y instead of indorsing the promissory note, assigned the same in favor of Z to whom he owed some debt also. Which statement is most accurate?
- Z cannot claim payment from X on the basis of the promissory note because it is marked non-negotiable.
  - Z can claim payment from X even though it is marked non-negotiable.
  - Z can claim payment from Y because under the Negotiable Instrument Law, negotiation and assignment is one and the same.
  - Z can claim payment from Y only because he was the endorser of the promissory note.
21. Negotiable instruments are used as substitutes for money, which means -
- that they can be considered legal tender.
  - that when negotiated, they can be used to pay indebtedness.
  - that at all times the delivery of the instrument is equivalent to delivery of the cash.
  - that at all times negotiation of the instruments requires proper indorsement.
22. The signature of X was forged as drawer of a check. The check was deposited in the account of Y and when deposited was accepted by AAA Bank, the drawee bank. Subsequently, AAA Bank found out that the signature of X was actually forged. Which statement is most accurate?
- The drawee bank can recover from Y, because the check was deposited in his account.
  - The drawee bank can recover from X, because he is the drawer even though his signature was forged.
  - The drawee bank is estopped from denying the genuineness of the signature of the X, the drawer of the check.
  - The drawee bank can recover from Y because as endorser he warrants the genuineness of the signature.
23. A issued a check in the amount of Php20,000 payable to B. B endorsed the check but only to the extent of Php1 0,000. Which statement is most accurate?
- The partial indorsement is not a valid indorsement, although will result in the assignment of that part.
  - The partial indorsement will invalidate the whole instrument.
  - The endorsee will be considered as a holder in due course.
  - The partial indorsement is valid indorsement up to the extent of the Php10,000.
24. A promissory note which does not have the words "or order" or "or bearer" will render the

promissory note non-negotiable, and therefore -

- a. it will render the maker not liable;
- b. the note can still be assigned and the maker made liable;
- c. the holder can become holder in due course;
- d. the promissory note can just be delivered and the maker will still be liable.

25. A check is -

- a. a bill of exchange;
- b. the same as a promissory note;
- c. is drawn by a maker;
- d. a non-negotiable instrument.

26. A check was issued to Tiger Woods. But what was written as payee is the word "Tiger Woods". To validly endorse the check -

- a. Tiger Woods must sign his real name.
- b. Tiger Woods must sign both his real name and assumed name.
- c. Tiger Woods can sign his assumed name.
- d. the check has become non-negotiable.

27. Y, as President of and in behalf of AAA Corporation, as a way to accommodate X, one of its stockholders, endorsed the check issued by X. Which statement is most accurate?

- a. It is an ultra vires act.
- b. It is a valid indorsement.
- c. The corporation will be held liable to any holder in due course.
- d. It is an invalid indorsement.

28. In a negotiable instrument, when the sum is expressed both in numbers and in words and there is discrepancy between the words and the numbers -

- a. the sum expressed in words will prevail over the one expressed in numbers.
- b. the sum expressed in numbers will prevail over the one expressed in words.
- c. the instrument becomes void because of the discrepancy.
- d. this will render the instrument invalid.

29. A promissory note which is undated is presumed to be -

- a. dated as of the date of issue;
- b. dated as of the date of the first indorsement;
- c. promissory note is invalid because there is no date;
- d. dated on due date.

30. An insurance contract is an aleatory contract, which means that -

- a. the insurer will pay the insured equivalent to the amount of the premium paid.
- b. the obligation of the insurer is to pay depending upon the happening of an uncertain future event.
- c. the insured pays a fixed premium for the duration of the policy period and the amount of the premiums paid to the insurer is not necessarily the same amount as what the insured will get upon the happening of an uncertain future event.
- d. the obligation of the insurer is to pay depending upon the happening of an event that is certain to happen.

31. An Insurance Contract is a contract of adhesion, which means that in resolving ambiguities in the provision of the insurance contract, -

- a. the general rule is that, the insurance contract is to be interpreted strictly in accordance with what is written in the contract.
- b. are to be construed liberally in favor of the insured and strictly against the insurer who drafted the insurance policy.
- c. are to be construed strictly against the insured and liberally in favor of the insurer.
- d. if there is an ambiguity in the insurance contract, this will invalidate the contract.

32. X is the common law wife of Y. Y loves X so much that he took out a life insurance on his own life and made her the sole beneficiary. Y did this to ensure that X will be financially comfortable when he is gone. Upon the death of Y, -
- X as sole beneficiary under the life insurance policy on the life of Y will be entitled to the proceeds of the life insurance.
  - despite the designation of X as the sole beneficiary, the proceeds of the life insurance will go to the estate of Y.
  - the proceeds of the life insurance will go to the compulsory heirs of Y.
  - the proceeds of the life insurance will be divided equally amongst X and the compulsory heirs of Y.
33. X, in January 30, 2009, or two (2) years before reaching the age of 65, insured his life for Php20Million. For reason unknown to his family, he took his own life two (2) days after his 65th birthday. The policy contains no excepted risk. Which statement is most accurate?
- The insurer will be liable.
  - The insurer will not be liable.
  - The state of sanity of the insured is relevant in cases of suicide in order to hold the insurer liable.
  - The state of sanity of the insured is irrelevant in cases of suicide in order to hold the insurer liable.
34. X, a minor, contracted an insurance on his own life. Which statement is most accurate?
- The life insurance policy is void ab initio.
  - The life insurance is valid provided it is with the consent of the beneficiary.
  - The life insurance policy is valid provided the beneficiary is his estate or his parents, or spouse or child.
  - The life insurance is valid provided the disposition of the proceeds will be subject to the approval of the legal guardian of the minor.
35. The "incontestability clause" in a Life Insurance Policy means ---
- that life insurance proceeds cannot be claimed two (2) years after the death of the insured.
  - that two (2) years after date of issuance or reinstatement of the life insurance policy, the insurer cannot anymore prove that the policy is void ab initio or rescindable by reason of fraudulent concealment or misrepresentation of the insured.
  - that the insured can still claim from the insurance policy after two (2) years even though premium is not paid.
  - that the insured can only claim proceeds in a life insurance policy two (2) years after death.
36. For both the Life Insurance and Property Insurance, the insurable interest is required to be -
- existing at the time of perfection of the contract and at the time of loss.
  - existing at the time of perfection and at the time of loss for property insurance but only at the time of perfection for life insurance.
  - existing at the time of perfection for property insurance but for life insurance both at the time of perfection and at the time of loss.
  - existing at the time of perfection only.
37. A house and lot is covered by a real estate mortgage (REM) in favor of ZZZ Bank. The bank required that the house be insured. The owner of the policy failed to endorse nor assign the policy to the bank. However, the Deed of Real Estate Mortgage has an express provision which says that the insurance policy is also endorsed with the signing of the REM. Will this be sufficient?
- . No, insurance policy must be expressly endorsed to the bank so that the bank will have a right in the proceeds of such insurance in the event of loss.

- b. The express provision contained in the Deed of Real Estate Mortgage to the effect that the policy is also endorsed is sufficient.
  - c. Endorsement of Insurance Policy in any form is not legally allowed.
  - d. Endorsement of the Insurance Policy must be in a formal document to be valid.
38. X is a passenger of a jeepney for hire being driven by Y. The jeepney collided with another passenger jeepney being driven by Z who was driving recklessly. As a result of the collision, X suffered injuries. Both passenger jeepneys are covered by Comprehensive Motor Vehicular Insurance Coverage. If X wants to claim under the "no fault indemnity clause", his claim will lie -
- a. against the insurer of the jeepney being driven by Z who was the one at fault.
  - b. the claim shall lie against the insurer of the passenger jeepney driven by Y because X was his passenger.
  - c. X has a choice against whom he wants to make his claim.
  - d. None of the above.
39. X insured the building she owns with two (2) insurance companies for the same amount. In case of damage, -
- a. X can not claim from any of the two (2) insurers because with the double insurance, the insurance coverage becomes automatically void.
  - b. the two (2) insurers will be solidarily liable to the extent of the loss.
  - c. the two (2) insurers will be proportionately liable.
  - d. X can choose who he wants to claim against.
40. When X insured his building, X indicated in the application that it is a residential building, but actually the building was being used as a warehouse for some hazardous materials. What is the effect on the insurance policy, if any?
- a. The insurance policy can be cancelled because of the change in the use.
  - b. The insurance policy will automatically be changed.
  - c. The insurance policy need not be changed.
  - d. The insurance policy is fixed regardless of the change in the use.
41. X owned a house and lot. X insured the house. The house got burned. Then he sold the partially burnt house and the lot to Y. Which statement is most accurate?
- a. X is not anymore entitled to the proceeds of the insurance policy because he already sold the partially burnt house and lot.
  - b. X is still entitled to the proceeds of the insurance policy because what is material is that at the time of the loss, X is the owner of the house and lot.
  - c. No one is entitled to the proceeds because ownership over the house and lot was already transferred.
  - d. Y will be the one entitled to the proceeds because he now owns the partially burnt house and lot.
42. X, while driving his Toyota Altis, tried to cross the railway tract of Philippine (xxx line 2 unread text xxx) approached Blumentritt Avenida Ext., applied its horn as a warning to all the vehicles that might be crossing the railway tract, but there was really nobody manning the crossing. X was listening to his Ipod touch, hence, he did not hear the sound of the horn of the train and so his car was hit by the train. As a result of the accident, X suffered some injuries and his car was totally destroyed as a result of the impact. Is PNR liable?
- a. PNR is not liable because X should have known that he was crossing a place designated as crossing for train, and therefore should have been more careful.
  - b. PNR is liable because Railroad companies owe to the public a duty of exercising a reasonable degree of care to avoid injury to person and property at railroad crossings which means a flagman or a watchman should have been posted to warn the public at all times.



- c. PNR is not liable because it blew its horn when it was about to cross the railway along Blumentritt Avenida Ext.
  - d. PNR is not liable because X was negligent, for listening to his Ipod touch while driving.
43. The AAA Bus Company picks up passengers along EDSA. X, the conductor, while on board the bus, drew his gun and randomly shot the passengers inside. As a result, Y, a passenger, was shot and died instantly. Is AAA Bus Company liable?
- a. The bus company is not liable for as long as the bus company can show that when they hired X, they did the right selection process.
  - b. The bus company cannot be held liable because what X did is not part of his responsibility.
  - c. The bus company is liable because common carriers are liable for the negligence or willful act of its employees even though they acted beyond the scope of their responsibility.
  - d. The bus company is not liable because there is no way that the bus company can anticipate the act of X.
44. X is a trader of school supplies in Calapan, Oriental Mindoro. To bring the school supplies to Calapan, it has to be transported by a vessel. Because there were so many passengers, the two (2) boxes of school supplies were loaded but the shipping company was not able to issue the Bill of Lading. So, on board, the Ship Captain issued instead a "shipping receipt" to X indicating the two (2) boxes of school supplies being part of the cargo of the vessel. Which phrase therefore, is the most accurate?
- a. the owner of the vessel is not liable because no bill of lading was issued to X hence, no contract of carriage was perfected.
  - b. it is possible to have a contract of carriage of cargo even without a bill of lading, and the "shipping receipt" would be sufficient.
  - c. the only acceptable document of title is a Bill of Lading.
  - d. None of the above.
45. X took Philippine Airlines Flight PR 102 to Los Angeles, USA. She had two (2) luggage checked-in and was issued two (2) baggage checks. When X reached Los Angeles one (1) of the two (2) checked in luggage could not be found. Which statement is most accurate?
- a. PAL is liable for the loss of the checked- in luggage under the provisions of the Warsaw Convention on Air Transport.
  - b. PAL is liable for the loss only if the baggage check expressly states that the airline shall be liable in case of loss.
  - c. PAL cannot be held liable because that is the risk that a passenger takes when she checks- in her baggage.
  - d. PAL can only be held liable if it can be proven that PAL was negligent.
46. X owns a passenger jeepney covered by Certificate of Public Convenience. He allowed Y to use its Certificate of Convenience for a consideration. Y therefore was operating the passenger jeepney under the same Certificate of Public Convenience (Kabit System) under the name of X. The passenger jeepney met an accident. Who will be liable?
- a. Y, the one actually operating the jeepney, will be liable to the injured party.
  - b. X will be the one liable to the injured party despite the fact that it is Y who is actually operating the jeepney, because while the Kabit System is tolerated, the public should not be inconvenienced by the arrangement.
  - c. X will not be held liable if he can prove that he is not the owner anymore.
  - d. Public Policy dictates that the real owner, even not the registered one, will be held liable.
47. X owns a fleet of taxicabs. He operates it through what is known as boundary system. Y

drives one of such taxicabs and pays X a fixed amount of Php1 ,000 daily under the boundary system. This means that anything above Php1 ,000 would be the earnings of Y. Y, driving recklessly, hit an old lady crossing the street. Which statement is most accurate?

- a. X as the owner is exempt from liability because he was not the one driving.
- b. X as the owner is exempt from liability because precisely the arrangement is one under the "boundary system".
- c. X will not be exempt from liability because he remains to be the registered owner and the boundary system will not allow the circumvention of the law to avoid liability.
- d. Y is the only one liable because he drove recklessly.

48. The Articles of Incorporation of AAA Corporation was approved by the Securities and Exchange Commission (SEC). After the receipt of the Certificate of Approval from the SEC, AAA Corporation decided to immediately start the operation of its business despite the fact that it has no approved By-Laws. What is the legal status of the AAA Corporation?

- a. A de jure corporation;
- b. A de facto corporation;
- c. A corporation by estoppel;
- d. An unregistered corporation.

49. X, the President of ZZZ Corporation, was authorized by the Board of Directors of ZZZ Corporation to obtain a loan from YYY Bank and to sign documents in behalf of the corporation. X personally negotiated for the loan and got tile loan at very low interest rates. Upon maturity of the loan, ZZZ Corporation was unable to pay. Which statement is most accurate?

- a. Because X was personally acting in behalf of the Corporation, he can be held personally liable.
- b. X, as President, cannot be personally held liable for the obligation of the corporation even though he signed all the loan documents, because the loan was authorized by the Board.
- c. YYY Bank can choose as to who it wants to hold liable for the loan.
- d. If ZZZ Corporation cannot pay, X can be held subsidiarity liable.

50. X owns 99% of the capital stock of SSS Corporation. X also owns 99% of TTT Corporation. SSS Corporation obtained a loan from VW Bank. On due date, SSS Corporation defaulted. TTT Corporation is financially healthy. Which statement is most accurate?

- a. X being a controlling owner of SSS Corporation can automatically be held personally liable for the loan of SSS Corporation.
- b. TTT Corporation, owned 99% by X, can automatically be held liable.
- c. SSS Corporation and TTT Corporation, although both are owned by X, are two (2) distinct corporations with separate juridical personalities hence, the TTT Corporation cannot automatically be held liable for the loan of SSS Corporation.
- d. The principle of piercing the veil of corporate fiction can be applied in this case.

51. A corporation generally can issue both par value stock and no par value stock. These are all fixed in the Articles of Incorporation of the corporation. Which of the following corporations may not be allowed to issue no par value shares?

- a. Insurance companies;
- b. Banks;
- c. Trust companies;
- d. All of the above.

52. Father X, an American priest who came from New York, registered the Diocese of Bacolod of the Roman Catholic Church which was incorporated as a corporation sole. There were years when the head of the Diocese was a Filipino, but there were more years when the heads were foreigners. Today, the head is an American again. Y donated a piece of land located in

Bacolod City for use as a school. Which statement is most accurate?

- a. The Register of Deeds of Bacolod City can refuse to register and transfer the title because the present head of the corporation sole is not a Filipino.
- b. The nationality of a corporation sole depends upon the nationality of the head at any given time.
- c. A corporation sole, regardless of the nationality of the head, can acquire real property either by sale or donation.
- d. A corporation sole is not legally allowed to own real property.

53. The number of the Board of Trustees of a non-stock, non-profit educational institution should be ---

- a. five (5) only
- b. any number for as long as it is not less than five (5) and no more than eleven (11)
- c. any number in multiples of five (5), for as long as it is not less than five (5) and no more than fifteen (15).
- d. not less than five (5) nor more than ten (10) in multiples of five (5).

54. X subscribed 10,000 shares in the capital stocks of AAA Corporation. He paid 50% of the 10,000 shares. X asked the Corporate Secretary to issue him the corresponding stock certificate representing the 50% of what he already paid. The Corporate Secretary of the corporation refused. Was the Corporate Secretary correct?

- a. The Corporate Secretary is correct because the Corporation Code provides that no certificate of stock shall be issued to a subscriber until the shares as subscribed have been fully paid.
- b. The Corporate Secretary cannot refuse because a Stock Certificate can be issued corresponding to the percentage of shares which were paid.
- c. The Corporate Secretary cannot refuse because a Certificate of Stock can be issued provided it is indicated in the Certificate the actual percentage of what has been paid.
- d. The Corporate Secretary cannot refuse because it is his legal duty to issue a stock certificate corresponding to the number of shares actually subscribed regardless of the actual payment.

55. XXX Corporation and YYY Corporation have agreed to be merged into one corporation. To facilitate the merger, both corporations agreed that the merger be made effective on May 31, 2012. The Securities and Exchange Commission (SEC) approved the Articles of Merger on June 30, 2012. Which statement is most accurate?

- a. The effective date of the merger is May 31, 2012, the date stipulated by the parties as the effective date.
- b. The effective date of the merger is always the date of the approval of the Articles of Merger by the SEC.
- c. The effective date of the merger would be the date approved by the Board of Directors and the stockholders.
- d. The stockholders and the Board of Directors can set the effective date of the merger anytime after the approval of the SEC.

56. AAA Corporation is a wholly owned subsidiary of BBB Corporation. To support the business of AAA Corporation, BBB Corporation agreed to give its corporate guarantee to the loan of AAA Corporation. What is required so that the corporate guarantee will be valid?

- a. It only requires the approval of the Board of Directors of BBB Corporation.
- b. The Articles of Incorporation must provide such power and be approved by the Board of Directors.
- c. Providing corporate guarantee to another corporation is a necessary exercise of power of a corporation.
- d. It would require both the approval of the Board of Directors and the stockholders on

record.

57. The capital stock of ABC Corporation is divided into common shares and preferred shares. Preferred shares are preferred as to dividends and common shares are those shares which have the regular and ordinary attributes of a share of a corporation. Which statement is most accurate?
- This kind of classification may not be allowed or else it will violate the Doctrine of Equality of shares.
  - Classifications of shares may be allowed for as long as it is clearly stated as such in the Articles of Incorporation of the Corporation.
  - Classifications of shares is mainly for business purpose to attract investors.
  - Classifications of shares may be allowed with the approval of the stockholders and the Board of Directors.
58. ABC Corporation declared stock dividends to its stockholders. The stock dividends were approved by the Board of Directors of ABC Corporation. In the subsequent year however, the Board again approved the redemption of all stock dividends and to pay the shareholdings in cash. Which statement is most accurate?
- The redemption of the stock dividends can be validly approved by the Board without any conditions.
  - The redemption of stock dividends may only be allowed if there are sufficient earnings and should not be violative of the trust fund doctrine.
  - The redemption of the shares may be taken from the existing property and other assets of the corporation.
  - None of the above.
59. X sold all his shares in AAA Hotel Corporation to Y. X owns 99% of AAA Hotel Corporation. As the new owner, Y wanted a reorganization of the hotel which is to include primarily the separation of all existing employees and the hiring of new employees. Which statement is most accurate?
- With the change in ownership, in effect there is a new juridical entity and therefore all employees are considered separated.
  - Despite the change in shareholder, there is actually no change in the juridical entity and therefore existing employees can not automatically be considered separated.
  - Y, as the new shareholder, has the right to retain only those employees who in his judgment are qualified.
  - For as long as the existing employees are given their separation pay, they can be terminated.
60. South China Airlines is a foreign airline company. South China Airlines tickets are sold in the Philippines through Philippine Airlines as their general agent. South China Airlines is not registered to do business as such with the Philippine Securities and Exchange Commission. Which statement is most accurate?
- Although unlicensed to do business in the Philippines, South China Airlines can sue before the Philippine Courts and can also be sued.
  - South China Airlines can sue but cannot be sued.
  - South China Airlines cannot sue and cannot be sued also.
  - South China Airlines can be sued in Philippine Courts but cannot sue.
61. So that ABC Corporation could venture into more projects, it needed to raise funds by issuing new shares to increase its capitalization. X, Y, Z, J and G are the five existing shareholders of the company. They hold 20% each. How will the additional shares be divided among the existing shareholders?
- The existing shareholders can subscribe to the new shares equivalent to their existing shareholdings because the Corporation Code provides that each of the existing

- stockholders will have preemptive rights to the extent of their existing shareholdings.
- b. The existing shareholders' preemptive rights is equivalent to the percentage that they want.
  - c. Each of the existing shareholder can exercise their right of first refusal against each other.
  - d. Preemptive rights and right of first refusal are one and the same.
62. If ABC Corporation will increase its authorized capital stock, the Corporation Code requires -
- a. the approval of the majority of the Board of Directors only.
  - b. the approval of the majority of the stockholders and the Board of Directors.
  - c. the approval of 2/3 of the shareholders of the outstanding capital stock as well as the approval of the Securities and Exchange Commission.
  - d. the approval of the majority of the Board of Directors and approval of the shareholders holding 2/3 share of the outstanding capital stock.
63. X is a minority stockholder of CCC Corporation. Y is a member of the Board of Directors of CCC Corporation and at the same time he is the President. X believes that Y is mismanaging CCC Corporation hence, as a stockholder and in behalf of the other stockholders, he wanted to sue Y. Which statement is most accurate?
- a. X can institute a derivative suit in behalf of himself as a stockholder.
  - b. A derivative suit must be instituted in behalf of the corporation.
  - c. Derivative suit is an exclusive remedy that X can institute.
  - d. Derivative suit is not the remedy in this situation.
64. The term GGG Corporation in accordance with its Articles of Incorporation ended last January 30, 2012. The term was not extended. What will happen to the corporation?
- a. The corporation is dissolved ipso facto.
  - b. There is a need to pass a board resolution to formally dissolve the corporation.
  - c. The Board of Directors must pass a resolution for the corporation to formally go into liquidation.
  - d. The stockholders must pass a resolution to dissolve the corporation.
65. The term of one (1) year of the Board of Directors of AAA Corporation expired last February 15, 2012. No new election of the Board of Directors was called, hence, the existing members of Board continue as Directors in hold over capacity. Which statement is most accurate?
- a. This is allowed provided there is a valid and justifiable reason for not calling for an election of the new members of the Board.
  - b. This is not allowed because the term of the directors must only be for one (1) year.
  - c. The positions of the members of the Board of Directors will be automatically declared vacant.
  - d. Acting as members of the Board of Directors in a hold over capacity must be ratified by the stockholders.
66. AAA Corporation is a foreign corporation that wants to operate a representative office here in the Philippines. As required by the Corporation Code, there is a need to appoint a Resident Agent as a condition precedent to the issuance of a license to transact business in the Philippines. After two (2) years, AAA Corporation removed its Resident Agent and did not appoint anyone anymore. Which statement is the most accurate?
- a. This can be a ground for revocation or suspension of its license to do business.
  - b. There is no more effect in the license because anyway at the time of registration, a resident agent was appointed.
  - c. This can be a ground for suspension only.
  - d. This will result in automatic revocation of its license to do business in the Philippines.
67. The By-laws of ABC Corporation is silent as to when a stockholder can be qualified to attend the meeting of the stockholders. The Corporate Secretary sent out the notice of the

stockholders meeting two (2) days before the meeting and at that time X was not yet a stockholder. On the day of the meeting, however, X became a shareholder which was duly recorded in the stock and transfer book. Which statement is most accurate?

- a. X is a stockholder of ABC Corporation as of the time of meeting of the stockholders for the purpose of electing the members of the board.
  - b. X is not qualified to elect members of the board because at the time the notice of the meeting was sent, she was not yet a stockholder.
  - c. Qualifications as to who are considered as stockholders on record for purposes of being able to elect members of the board are to be determined by the By-laws alone.
  - d. None of the above.
68. X, who is the Executive Vice President of ABC Corporation, a listed company, can be held liable or guilty of insider trading if, he -
- a. bought shares of ABC Corporation when it was planning to acquire another company to improve its asset base, the news of which increased the price of the shares in the Stock Exchange.
  - b. bought shares of XYZ Corporation, a sister company of ABC Corporation when he learned that XYZ Corporation was about to also list its share in the Philippine Stock Exchange.
  - c. bought shares of ZZZ Corporation when he learned that ABC Corporation would acquire ZZZ Corporation.
  - d. All of the above.
69. The purpose of the "Tender Offer" Rule is to -
- a. ensure an even playing field for all shareholders of a company in terms of opportunity to sell their shareholdings.
  - b. ensure that minority shareholders in a publicly listed company are protected in the sense that they will equally have the same opportunity as the majority shareholders in terms of selling their shares.
  - c. ensure that the shareholders who would also want to sell their shareholdings will have the opportunity for a better price.
  - d. All of the above.
70. Section 38 of The Securities Regulation Code defines an independent director as a person who must not have a relation with the corporation which would interfere with his exercise of independent judgment in carrying out the responsibilities of a director. To ensure independence therefore, he must be -
- a. nominated and elected by the entire shareholders;
  - b. nominated and elected by the minority shareholders;
  - c. nominated and elected by the majority shareholders;
  - d. appointed by the Board.
71. "Securities" issued to the public are required by law to be registered with -
- a. the Bangko Sentral ng Pilipinas;
  - b. the Philippine Stock Exchange;
  - c. the Securities and Exchange Commission;
  - d. the Securities and Exchange Commission and the Philippine Stock Exchange.
72. The government agency granted with the power of supervision and examination over banks and non-bank financial institutions performing quasi-banking functions, to ensure that the conduct of its business is on a sound financial basis that will provide continued solvency and liquidity is -
- a. The Philippine Deposit Insurance Corporation;
  - b. The Bangko Sentral ng Pilipinas;
  - c. The Anti-Money Laundering Council;

- d. The Securities and Exchange Commission.
73. X maintains a savings deposit in the amount of Php1 Million with ABC Bank Corporation. X also has obtained a loan from ABC Bank Corporation in the amount of Php1 Million. In case of default,
- ABC Bank can set-off the loan from the savings account being maintained by X with ABC Bank.
  - Set-off is not possible because legal compensation is not allowed in banking transaction.
  - Deposit accounts are usually earmarked for specific purpose hence offsetting is not legally possible.
  - Off -setting is not possible because the obligation of X is a "simple loan".
74. XYZ Corporation is engaged in lending funds to small vendors in various public markets. To fund the lending, XYZ Corporation raised funds through borrowings from friends and investors. Which statement is most accurate?
- XYZ Corporation is a bank.
  - XYZ Corporation is a quasi-bank.
  - XYZ Corporation is an Investment Company.
  - XYZ is none of the above.
75. XXX Bank Corporation and ZZZ Corporation were merged into XX ZZ Bank Corporation. So as not to create any unnecessary conflict, all the former directors of both banks wanted to be appointed /elected as members of the Board of Directors of the merged bank. Each bank used to have eleven (11) members of the board. The maximum number of directors of the merged bank is -
- 15;
  - 22;
  - 21;
  - 11.
76. All senior officers of ABC Bank are entitled to obtain a housing loan. X is an Executive Vice President for Operations of ABC Bank. She obtained a housing loan with the ABC Bank. Which statement is most accurate?
- The housing loan of X requires a guarantor from somebody who is not connected with the bank.
  - The housing loan of X requires the approval of the Board of Directors of the bank.
  - The housing loan of X, being a benefit for employees, does not require (a) but will require (b).
  - The housing loan of X, being a benefit for employees, will not require (a) and (b).
77. ABC Holdings Company, a Hong Kong company, owns 10% of XYZ Bank. Because of the peace and order situation in the Philippines, ABC Holding Company wanted to sell its shareholdings in XYZ Bank. Unfortunately, nobody is interested to buy a 10% shareholdings in a bank. The board of directors of XYZ Bank thought that it would be a good idea to buy back the shares owned by ABC Holding Company. Which statement is most accurate?
- Buying back the shares by XYZ Bank is absolutely not allowed.
  - Buying back the shares may be allowed provided it is with the approval of the Monetary Board and disposed of within six (6) months.
  - Buying back the shares may be allowed provided such shares 'will be disposed of within ten (10) years.
  - Buying back the shares may be done anytime provided the Board of Directors will approve the same.
78. X is being charged for violation of Anti-Graft and Corrupt Practices because he is suspected of having accumulated unexplained wealth. X maintains deposit accounts with ABC Bank.

The Ombudsman filed criminal cases against X before the Sandiganbayan. Can the Court issue subpoenas against ABC Bank to produce all documents pertaining to all the deposit accounts of X?

- a. Yes, because there is already a pending case and provided the subpoena must be specific as to which account.
- b. Yes, it is enough that the specific bank is identified.
- c. No, because the issuance of the subpoena has no real legal basis.
- d. Even without a subpoena, information about the deposit accounts of X can be submitted to the Sandiganbayan because it will be used in a pending case.

79. X, a private individual, maintains a dollar deposit with ABC Bank. X is suspected to be the leader of a Kidnap for Ransom Gang and he is suspected of depositing all ransom money in said deposit account which are all in US Dollars. The police want to open said account to know if there are really deposits in big amounts. Which statement is most accurate?

- a. The same rules under Secrecy of Bank Deposit Act will apply.
- b. An approval from the Monetary Board is necessary to open the account.
- c. Because the deposit is in US Dollars, it is covered by the Foreign Currency Deposit Act which allows disclosure only upon the written permission of the depositor.
- d. Approval from the Court is necessary to order disclosure of the account.

80. X is a depositor of AAA Bank. She has three (3) deposit accounts all under her name. One, in checking account, one in saving account and another one in time deposit account. Each account has a balance of Php250,000. AAA Bank became insolvent. Philippine Deposit Insurance Corporation closed the Bank. X therefore is unable to withdraw from all of the accounts. She then filed her claims with the Philippine Deposit Insurance Corporation. Which statement is most accurate?

- a. X can claim a total of Php500,000 for all the three (3) accounts.
- b. X can only claim from one (1) account of Php250,000.
- c. X can claim a total of Php750,000 from all the three (3) accounts.
- d. X cannot claim anything from any of the deposit accounts.

81. The Bank Secrecy Law (RA 1405) prohibits disclosing any information about deposit records of an individual without court order except -

- a. in an examination to determine gross estate of a decedent.
- b. in an investigation for violation of Anti-Graft and Corrupt Practices.
- c. in an investigation by the Ombudsman.
- d. in an impeachment proceeding.

82. X works as a research computer engineer with the Institute of Computer Technology, a government agency. When not busy with his work, but during office hours, he developed a software program for law firms that will allow efficient monitoring of the cases, which software program is not at all related to his work. Assuming the program is patentable, who has the right over the patent?

- a. x;
- b. Institute of Computer Technology;
- c. Neither X nor the Institute of Computer Technology can claim patent right over the invention;
- d. X and the employer of X will jointly have the rights over the patent.

83. The "test of dominancy" in the Law on Trademarks, is a way to determine whether there exists an infringement of a trademark by -

- a. determining if the use of the mark has been dominant in the market.
- b. focusing on the similarity of the prevalent features of the competing marks which might create confusion.
- c. looking at the mark whether they are similar in size, form or color.



- d. looking at the mark whether there is one specific feature that is dominant.
84. X's painting of Madonna and Child was used by her mother to print some personalized gift wrapper. As part of her mother's efforts to raise funds for Bantay Bata, the mother of X sold the wrapper to friends. Y, an entrepreneur, liked the painting in the wrapper and made many copies and sold the same through National Bookstore. Which statement is most accurate?
- Y can use the painting for his use because this is not a copyrightable material.
  - X can sue Y for infringement because artistic works are protected from moment of creation.
  - Works of art need to be copyrighted also to get protection under the law.
  - Y can use the drawing even though not copyrighted because it is already a public property having been published already.
85. Compulsory Licensing of Inventions which are duly patented may be dispensed with or will be allowed exploitation even without agreement of the patent owner under certain circumstances, like national emergency, for reason of public interest, like national security, etc. The person who can grant such authority is -
- the Director General of the Intellectual Property Office;
  - the Director of Legal Affairs of the Intellectual Property Office;
  - the owner of the Patent right;
  - any agent of the owner of the Patent right.
86. The Fair Use Doctrine allows others to utilize copyrighted works under certain conditions. The factors to consider whether use is fair or not would be the purpose and character of the use, nature of the copyrighted work, amount and substantiality of the portions used, and what else?
- effect of the use upon the creator of the work.
  - effect of the use upon the potential market of the work.
  - effect of the use upon the public in general.
  - effect of the use upon the class in which the creator belongs.
87. Which phrase best completes the statement - A chattel mortgage can be constituted to secure:
- obligations both past and future;
  - obligations existing at the time the mortgage is constituted;
  - future obligations only;
  - past obligations only.
88. Which phrase best completes the statement - A chattel mortgage can cover:
- only property described in the deed without exception;
  - can also cover substituted property;
  - properties described in the deed except in case of stock in trade being a substitute;
  - after acquired property.
89. Which phrase best completes the statement - The Deed of Chattel mortgage, if not registered with the Register of Deeds where debtor resides:
- is not valid, hence not binding between the mortgagor and the mortgagee;
  - is binding between the mortgagor and the mortgagee but will not affect third party;
  - to be valid between the mortgagor and the mortgagee, it must be coupled with the delivery of the subject matter of the chattel mortgage;
  - is as if a non-existent chattel mortgage.
90. Which phrase best completes the statement - To bind third parties, a chattel mortgage of shares of stock must be registered:
- with the Register of Deeds where the debtor resides;
  - with the Register of Deeds where the principal office of the corporation is;
  - in the Stock and Transfer Book of the corporation with the Corporate Secretary;

- d. with the Register of Deeds where the debtor resides and the principal office of the corporation.
91. Which phrase best completes the statement - The affidavit of good faith in a Deed of Chattel Mortgage is:
- an oath where the parties swear that the mortgage is made for the purpose of securing the obligations specified and that the obligation is just and valid;
  - an affidavit, the absence of which will vitiate the mortgage between the parties;
  - necessary only if the chattel being mortgaged are growing crops;
  - a certification from the mortgagor that he is the mortgagor of the chattel.
92. X defaulted in his loan with Y. Y instituted extra-judicial foreclosure of the property subject of a real estate mortgage that secured the loan. X has one year within which to redeem the property. After the foreclosure, X filed an action questioning the validity of the extra-judicial foreclosure sale. Which statement is most accurate?
- The one (1) year period within which to redeem will be interrupted by the filing of an action questioning the validity of the foreclosure.
  - The one (1) year period will not be interrupted by the filing of the action.
  - The one (1) year period will be extended for another year because of the filing of an action questioning the validity of the foreclosure sale.
  - If the action which questions the validity of the foreclosure prospers, the period will be interrupted.
93. What is the effect if the proceeds in an extra-judicial foreclosure sale is not sufficient to pay for the obligation?
- the mortgagee can claim for deficiency judgment from the debtor.
  - the mortgagee can claim for deficiency judgment from the mortgagor even though it is a third party mortgage.
  - the mortgagee has no more recourse or claim against the debtor.
  - the mortgagee cannot claim for deficiency judgment from the debtor because its an extrajudicial foreclosure.
94. X mortgaged her residential house and lot in favor of ABC Bank. X defaulted in her loan and so the bank foreclosed the real estate mortgage on the residential house. Y then bought the residential house and lot before the expiration of the redemption period. Can Y now take possession of the property?
- No, because it is still covered by the redemption period and the purchaser is not yet entitled as a matter of right to take possession of the property.
  - Yes, the purchaser is now entitled to the possession of the house.
  - No, because there is a need to talk to X to leave the house.
  - No, because Y was not the one who foreclosed the mortgage on the property.
95. Which phrase best completes the statement - When a debt is secured by a real estate mortgage, upon default of the debtor:
- the only remedy of the creditor is to foreclose the real estate mortgage;
  - another remedy is filing an action for collection and then foreclose if collection is not enough;
  - the creditor can foreclose the mortgage and demand collection for any deficiency;
  - None of the above.
96. XYZ Corporation bought ten (10) units of Honda Civic from CCC Corporation. ABC Bank granted a loan to XYZ Corporation which executed a financing agreement which provided for the principal amount, the installment payments, the interest rates and the due dates. On due dates of the installment payments, XYZ Corporation was asked to pay for some handling charges and other fees which were not mentioned in the Financing Agreement. Can XYZ Corporation refuse to pay the same?

- a. No, because handling charges and other fees are usual in certain banking transactions.
  - b. Yes, because ABC Bank is required to provide XYZ Corporation not only the amount of the monthly installments but also the details of the finance charges as required by the Truth in Lending Act.
  - c. No, because the Finance Agreement is a valid document to establish the existence of the obligation.
  - d. Yes, because legally, finance charges are never allowed in any banking transaction.
97. Which of the following is an exception to the secrecy of bank deposits which are in Philippine Pesos, but NOT an exception to the secrecy of foreign currency deposits?
- a. Upon Bangko Sentral ng Pilipinas (SSP) inquiry into or examination of deposits or investments with any bank, when the inquiry or examination is made in the course of the SSP's periodic special examination of said bank to ensure compliance with the Anti-Money Laundering Act (AMLA);
  - b. Upon Philippine Deposit Insurance Corporation (PDIC) and SSP inquiry into and examination of deposit accounts in case there is a finding of unsafe or unsound banking practice;
  - c. Upon inquiry in cases of impeachment;
  - d. Upon inquiry by the Commissioner of Internal Revenue in the event a taxpayer files an application to compromise his tax liabilities on the ground of financial incapacity.
98. The Anti-Money Laundering Law is a law that seeks to prevent money laundering activities by providing for more transparency in the Philippine Financial System, hence the following institutions are covered by the law, except:
- a. bank and any financial institutions;
  - b. pawnshops;
  - c. casino operators;
  - d. All of the above.
99. For purposes of determining violation of the provisions of Anti-Money Laundering Law, a transaction is considered as a "Suspicious Transaction" with "Covered Institutions" regardless of the amount involved, where which of the following circumstances exist/s?
- a. the amount involved is not commensurate with the client's business or financial capacity;
  - b. there is no underlying legal or trade obligation, purpose or economic justification;
  - c. client is not properly identified;
  - d. All of the above.
100. The main feature of the Foreign Investment Act of 1991 is to introduce the concept of "Negative Lists". Under the said law, what is a "Negative List"?
- a. It is a list of business activities or enterprises in the Philippines that foreigners are disqualified to engage in.
  - b. It is a list of business activities or enterprises in the Philippines that foreigners are qualified to engage in.
  - c. It is a list of business activities or enterprises that are open to foreign investments provided it is with the approval of the Board of Investment.
  - d. It is a list of business activities or enterprises that are open to foreign investments provided it is with the approval of the Securities and Exchange Commission.

**- NOTHING FOLLOWS -**

HAND IN YOUR ANSWER SHEET.

**THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**

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**2012 BAR EXAMINATIONS  
CRIMINAL LAW**

21 October 2012

10 A.M. - 12 NN.

**Set B**

**ESSAY TYPE QUESTIONS  
INSTRUCTIONS**

The following questionnaire consists of ten (10) questions (numbered I to X) contained in FIVE (5) pages.

Begin your answer to each numbered question on a separate page; an answer to a sub-question/s under the same number may be written continuously on the same page and succeeding pages until completed.

Answer the question directly and concisely. Do not repeat the question. Write legibly.

HAND IN YOUR NOTEBOOK. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.

GOODLUCK!!!

---

**MARTIN S. VILLARAMA, JR.**

*Chairperson*

*2012 Bar Examinations Committee*

**PLEASE CHECK THAT THIS SET CONTAINS SIX (6) PAGES (INCLUDING THIS PAGE).**

**WARNING: NOT FOR SALE OR UNAUTHORIZED USE**

<b>MERCANTILE LAW</b>
-----------------------

I

ABC Company filed a Petition for Rehabilitation with the Court. An Order was issued by the Court, (1) staying enforcement of all claims, whether money or otherwise against ABC Company, its guarantors and sureties not solidarily liable with the company; and (2) prohibiting ABC Company from making payments of its liabilities, outstanding as of the date of the filing of the Petition. XYZ Company is a holder of an irrevocable Standby Letter of Credit which was previously procured by ABC Company in favor of XYZ Company to secure performance of certain obligations. In the light of the Order issued

by the Court.

- a. Can XYZ Company still be able to draw on their irrevocable Standby Letter of Credit when due? Explain your answer. (5%)
- b. Explain the nature of Letters of Credit as a financial device. (5%)

## II

CCC Car, Inc. obtained a loan from BBB Bank, which fund was used to import ten (10) units of Mercedes Benz S class vehicles. Upon arrival of the vehicles and before release of said vehicles to CCC Car, Inc., X and Y, the President and Treasurer, respectively, of CCC Car, Inc. signed the Trust Receipt to cover the value of the ten (10) units of Mercedes Benz S class vehicles after which, the vehicles were all delivered to the Car display room of CCC Car, Inc. Sale of the vehicles were slow, and it took a month to dispose of the ten (10) units. CCC Car, Inc. wanted to be in business and to save on various documentations required by the bank, decided that instead of turning over the proceeds of the sales, CCC Car, Inc. used the proceeds to buy another ten (10) units of BMW 3 series.

- a. Is the action of CCC Car, Inc. legally justified? Explain your answer. (5%)
- b. Will the corporate officers of CCC Car, Inc. be held liable under the circumstances? Explain your answer. (5%)

## III

X borrowed money from Y in the amount of Php1Million and as payment, issued a check. Y then indorsed the check to his sister Z for no consideration. When Z deposited the check to her account, the check was dishonored for insufficiency of funds.

- a. Is Z a holder in due course? Explain your answer. (5%)
- b. Who is liable on the check. The drawer or the indorser? Explain your answer. (5%)

## IV

Indicate and explain whether the promissory note is negotiable or non-negotiable.

- a. I promise to pay A or bearer Php100,000.00 from my inheritance which I will get after the death of my father. (2%)
- b. I promise to pay A or bearer Php100,000 plus the interest rate of ninety (90) day treasury bills. (2%)
- c. I promise to pay A or bearer the sum of Php100,000 if A passes the 2012 bar exams. (2%)
- d. I promise to pay A or bearer the sum of Php100.000 on or before December 30, 2012. (2%)
- e. I promise to pay A or bearer the sum of Php100,000. (2%)

## V

X borrowed from CCC Bank. She mortgaged her house and lot in favor of the bank. X insured her house. The bank also got the house insured.

- a. Is this double insurance? Explain your answer. (3%)
- b. Is this legally valid? Explain your answer. (3%)

- c. In case of damage, can X and CCC Bank separately claim for the insurance proceeds? (4%)

## VI

X is a Filipino immigrant residing in Sacramento, California. Y is a Filipino residing in Quezon City, Philippines. Z is a resident alien residing in Makati City. GGG Corporation is a domestic corporation - 40% owned by foreigners and 60% owned by Filipinos, with T as authorized representative. CCC Corporation is a foreign corporation registered with the Philippine Securities and Exchange Commission. KKK Corporation is a domestic corporation (100%) Filipino owned. S is a Filipino, 16 years of age, and the daughter of Y.

- a. Who can be incorporators? Who can be subscribers? (2%)
- b. What are the differences between an incorporator and a subscriber, if there are any? (2%)
- c. Who are qualified to become members of the board of directors of the corporation? (2%)
- d. Who are qualified to act as Treasurer of the company? (2%)
- e. Who can be appointed Corporate Secretary? (2%)

## VII

X obtained a loan for Php50Million from SSS Bank. The collateral is his vacation house in Baguio City under a real estate mortgage. X needed more funds for his business so he again borrowed another Php10Million, this time from BBB Bank, another bank, using the same collateral. The loan secured from SSS Bank fell due and X defaulted.

- a. If SSS Bank forecloses the real estate mortgage, what rights, if any, are left with BBB Bank as mortgagee also? (2%)
- b. If the value of the Baguio property is less than the amount of loan, what would be the recourse of SSS Bank? BBB Bank? (2%)
- c. If the value of the property is more than the amount of the loan, who will benefit from the excess value of the property? (2%)
- d. If X defaulted with its loan in favor of BBB Bank but fully paid his loan with SSS Bank, can BBB Bank foreclose the real mortgage executed in its favor? (2%)
- e. Does X have any legal remedy after the foreclosure in the event that later on he has the money to pay for the loan? (1%)
- f. If SSS Bank and BBB Bank abandon their rights under the real estate mortgage, is there any legal recourse available to them? (1%)

## VIII

X obtained a Php10Million loan from BBB Banking Corporation. The loan is secured by Real Estate Mortgage on his vacation house in Tagaytay City. The original Deed of Real Estate Mortgage for the Php10Million was duly registered. The Deed of Real Estate Mortgage also provides that "The mortgagor also agrees that this mortgage will secure the payment of additional loans or credit accommodations that may be granted by the mortgagee ... " Subsequently, because he needed more funds, he obtained another Php5Million loan. On due dates of both loans, X failed to pay the Php5Million but fully paid the Php10Million. BBB Banking Corporation instituted extrajudicial foreclosure proceedings.

- a. Will the extrajudicial foreclosure prosper considering that the additional Php5Million was not covered by the registration? (5%)

- b. What is the meaning of a "dragnet clause" in a Deed of Real Estate Mortgage? Under what circumstances will the "dragnet clause" be applicable? ( 5%)

## IX

A, B, C, D, E are all duly elected members of the Board of Directors of XYZ Corporation. F, the general manager, entered into a supply contract with an American firm. The contract was duly approved by the Board of Directors. However, with the knowledge and consent of F, no deliveries were made to the American firm. As a result of the non-delivery of the promised supplies, the American firm incurred damages. The American firm would like to file a suit for damages. Can the American firm sue:

- a. The members of the Board of Directors individually, because they approved the transaction? (2%)
- b. The corporation? (2%)
- c. F, the general manager, personally, because the non-delivery was with his knowledge and consent? (2%)
- d. Explain the rules on liabilities of a corporation for the act of its corporate officers and the liabilities of the corporate officers and Board of Directors of a corporation acting in behalf of the corporation. (4%)

## X

AAA Corporation is a bank. The operations of AAA Corporation as a bank was not doing well. So, to avert any bank run, AAA Corporation, with the approval of the Monetary Board, sold all its assets and liabilities to BBB Banking Corporation which includes all deposit accounts. In effect then, BBB Corporation will service all deposits of all depositors of AAA Corporation.

- a. Will the sale of all assets and liabilities of AAA Corporation to BBB Banking Corporation automatically dissolve or terminate the corporate existence of AAA Corporation? Explain your answer. (5%)
- b. What are the legal requirements in order that a corporation may be dissolved? (5%)

**- NOTHING FOLLOWS -**

HAND IN YOUR NOTEBOOK.

**THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**