

## INSTRUCTIONS

1. This Questionnaire contains eight (8) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are 16 items (I to XVI) to be answered within/our (4) hours.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *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 the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, to reason logically in a lawyer-like manner, and to form a sound conclusion from the given premises.

A mere "Yes" or "No" answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. Make sure you do not write your *name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

**YOU CAN BRING HOME THIS QUESTIONNAIRE OR SUBMIT IT TOGETHER WITH YOUR NOTEBOOK**

JUSTICE TERESITA J. LEONARDO-DE CASTRO  
Chairperson  
2015 Bar Examinations

I.

A. Nadine has a checking account with Fair & Square Bank. One day, she lost her checkbook and the finder was able to forge her signature and encash the forged check. Will Nadine be able to recover the amount debited from her checking account from Fair & Square Bank? Justify your answer. (3%)

B. Is a manager's check as good as cash? Why or why not? (2%)

C. When can you treat a bill of exchange as a promissory note? (3%)

II.

A. Novette entered into a contract for the purchase of certain office supplies. The goods were shipped. While in transit, the goods were insured by Novette. Does she have an insurable interest over the goods even before delivery of the same to her? Explain. (2%)

B. Will an insurance policy be binding even if the premium is unpaid? What if it were partially paid? (3%)

III.

A. Discuss the three-fold character of a bill of lading. (3%)

B. What is a "Jason clause" in a charter party? (2%)

C. Are common carriers liable for injuries to passengers even if they have observed ordinary diligence and care? Explain. (2%)

IV.

A. Maine Den, Inc. opened an irrevocable letter of credit with Fair Bank, in connection with Maine Den, Inc.'s importation of spare parts for its textile mills. The imported parts were released to Maine Den, Inc. after it executed a trust receipt in favor of Fair Bank. When Maine Den, Inc. was unable to pay its obligation under the trust receipt, Fair Bank sued Maine Den, Inc. for estafa under the Trust Receipts Law. The court, however, dismissed the suit. Was the dismissal justified? Why or why not? (3%)

B. Does the rule "res perit domino" apply in trust receipt transactions? Explain. (2%)

V.

A. A standby letter of credit was issued by ABC Bank to secure the obligation of X Company to Y Company. Under the standby letter of credit, if there is failure on the part of X Company to perform its obligation, then Y Company will submit to ABC Bank a certificate of default (in the form prescribed under the standby letter of credit) and ABC Bank will have to pay Y Company the defaulted amount. Subsequently, Y Company submitted to ABC Bank a certificate of default notwithstanding the fact that X Company was not in default. Can ABC Bank refuse to honor the certificate of default? Explain. (3%)

B. Is the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce applicable to commercial letters of credit issued by a domestic bank even if not expressly mentioned in such letters of credit? What is the basis for your answer? (3%)

VI.

A. DEF Corporation has retained surplus profits in excess of 100% of its paid-in capital stock. However, it is unable to declare dividends, because it had entered into a loan agreement with a certain creditor wherein the declaration of dividends is not allowed without the consent of such creditor. If DEF Corporation cannot obtain this consent, will it be justified in not declaring dividends to its stockholders? Explain. (3%)

B. What is "watered stock" and what is the legal consequence of the issuance of such stock? (3%)

VII.

A. A foreign company has been exporting goods to a Philippine company for several years now. When the Philippine company failed to pay the latest exportation, the foreign company sued to collect in the Philippines. The Philippine company interposed the defense that the foreign company was doing business in the Philippines without a license; hence, could not sue before a Philippine court. Is this defense tenable? Explain your answer. (3%)

B. Define:

1. Doctrine of apparent authority (2%)

2. Trust fund doctrine (2%)

VIII.

Barn filed an action to enjoin SN Company's Board of Directors from selling a parcel of land registered in the corporation's name, to compel the corporation to recognize Barn as a stockholder with 50 shares, to allow him to inspect the corporate books, and to claim damages against the corporation and its officers. Subsequently, the corporation and the individual defendants moved to dismiss the complaint since the corporation's certificate of registration was revoked by the SEC during the pendency of Barn's case on the ground of non-compliance with reportorial requirements. The special commercial court granted the motion and reasoned that only an action for liquidation of assets can be maintained when a corporation has been dissolved and Barn cannot seek reliefs which in effect lead to the continuation of the corporation's business. The court also ruled that it lost jurisdiction over the intra-corporate controversy upon the dissolution of the corporation.

a.) Was the court correct? (3%)

b.) Four years later, SN Company files an action against Barn to recover corporate assets allegedly held by the latter for liquidation. Will this action prosper? (3%)

IX.

A. Able Corporation sold securities to 21 non-qualified buyers during a 15-month period, without registering the securities with the Securities and Exchange Commission. Did Able Corporation violate

the Securities Regulation Code? Explain. (2%)

B. Securities issued by the Philippine government are "exempt securities" and, therefore, need not be registered with the Securities and Exchange Commission prior to their sale or offering to the public in the Philippines. What is the rationale behind this exemption? (2%)

C. Why is the Securities Regulation Code called a "truth in securities law"? (2%)

X.

Mr. and Mrs. Reyes invested their hard-earned savings in securities issued by LEAD Bank. After discovering that the securities sold to them were not registered with the SEC in violation of the Securities Regulation Code, the spouses Reyes filed a complaint for nullity of contract and for recovery of a sum of money with the RTC. LEAD Bank moved to dismiss the case on the ground that it is the SEC that has primary jurisdiction over actions involving violations of the Securities Regulation Code. If you were the judge, how would you rule on the motion to dismiss? (3%)

XI.

A. Why is the Bangko Sentral ng Pilipinas considered a lender of last resort? (2%)

B. Distinguish a conservator from a receiver of a bank. (2%)

C. What is insider trading? (2%)

XII.

A. Raymond invested his money in securities issued by the Philippine government, through his bank. Subsequently, the Bureau of Internal Revenue asked his bank to disclose his investments. His bank refused the request for disclosure on the ground that the investments are confidential under the Secrecy of Bank Deposits Law (Republic Act No. 1405, as amended). Is the bank's refusal justified? Defend your answer. (2%)

B. First Bank received an order of garnishment over a client's peso and dollar deposits in First Bank. Should First Bank comply with that order? Explain. (3%)

XIII.

A. A commercial bank wants to acquire shares in a cement manufacturing company. Do you think it can do that? Why or why not? (2%)

B. A court found the interest charged by a bank as excessive and unconscionable and struck down the contractual stipulation on interest. If you were the judge, what would you impose as the applicable interest rate? State your legal basis. (2%)

C. What is the single borrower's limit? (2%)

XIV.

A. Differentiate trademark, copyright and patent from each other. (6%)

B. What is the doctrine of equivalents? (2%)

C. In what ways would a case for infringement of trademark be different from a case for unfair competition? (3%)

XV.

CHEN, Inc., a Taiwanese company, is a manufacturer of tires with the mark Light Year. From 2009 to 2014, Clark Enterprises, a Philippine registered corporation, imported tires from CHEN, Inc. under several sales contracts and sold them here in the Philippines. In 2015, CHEN, Inc. filed a trademark application with the Intellectual Property Office (IPO) for the mark Light Year to be used for tires. The IPO issued CHEN, Inc. a certificate of registration (COR) for said mark. Clark Enterprises sought the cancellation of the COR and claimed it had a better right to register the mark Light Year. CHEN, Inc. asserted that it was the owner of the mark and Clark Enterprises was a mere distributor. Clark Enterprises argued that there was no evidence on record that the tires it imported from CHEN, Inc. bore the mark Light Year and Clark Enterprises was able to prove that it was the first to use the mark here in the Philippines. Decide the case. (4%)

XVI.

A. On the anti-money laundering laws:

1. What is the distinction between a "covered transaction report" and a "suspicious transaction report"? (2%)

2. Does the Anti-Money Laundering Council have the authority to freeze deposits? Explain. (2%)

B. On foreign investments:

1. A foreign company has a distributor in the Philippines. The latter acts in his own name and account. Will this distributorship be considered as doing business by the foreign company in the Philippines? (3%)

2. ABC Corporation was organized in Malaysia but has a branch in the Philippines. It is entirely owned by Filipino citizens. Can you consider ABC Corporation a Philippine national? (2%)

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