



Chartered Secretaries Qualifying Scheme – Level One

Applied Business Law

June 2011

Wednesday morning 8 June 2011

Time allowed: 3 hours and 15 minutes
(including reading time)

Do not open this examination paper until the presiding officer or an invigilator tells you to.

You must not take this paper out of the examination room.

The examination paper contains **six** questions. Each question is worth 25 marks. You must attempt **four questions only**.

Questions

Answer **four** questions from this paper.

1. Marlow, a medium size hardware distribution firm, received an order from a business trading retailer, Matrix, operating from 23 Holly Road, Kanata, Ontario, for 50 HP laptops. The order was presented on Matrix's letterhead, Matrix, 23 Holly Road, Kanata, Ontario.

Unknown to Marlow, there is an established business called S&B Matrix & Co. Ltd., whose place of business is also on Holly Road, Kanata but operating from number 32. A letter purporting to come from the Holly Road Branch of Scotia Bank, supporting the credit worthiness of Matrix, accompanied the order. However, this letter was subsequently discovered to be a forgery.

Marlow despatched the laptops, which were delivered to 23 Holly Road, Kanata. The following day, a man representing himself as James Crowe, the proprietor of Matrix, called at Marlow's premises. He thanked Carles, the order clerk, for the delivery of the laptops and asked for five HP netbooks which he wanted to take with him.

Carles telephoned the number on record, taken from the Matrix's letterhead from which the order for the laptops had been made and he obtained confirmation that James Crowe was the proprietor of Matrix. The netbooks were handed over to Crowe.

It was later discovered that no business was being conducted at 23 Holly Road, Kanata and the person calling himself James Crowe cannot be found. Further, it was revealed that the computers were purchased in good faith by Stephen Smith from the man purporting to be James Crowe. This came to light because Marlow had not been paid for the goods. The invoice and the statement of account were returned by Canada Post, the reason being "addressee unknown". After contacting Hewlett-Packard (Canada) Co. in Mississauga with the serial numbers of the computers, Marlow learned that the computers are registered to Stephen Smith of Caveat & Emptor Enterprise.

Required

Advise Marlow as to their rights against Stephen Smith.

(25 marks)

2. Caroline Goodbos, the CEO of Latimer Incorporated, in Toronto, decides to reward her staff for all their hard work during the previous 12 months by organising a trip to see horse racing at the Woodbine & Mohawk Racetrack, Rexdale. She asks Valerie Prioracis, the assistant company secretary, to organise the event. Valerie makes a number of enquiries and finally hires a coach, on behalf of Latimer, from Executive Coaches to take the staff to the racetrack at Rexdale. Executive Coaches is a small, newly formed limousine provider, owned by four ex-employees of B&W Dalmatian Incorporated, specializing in luxury transport services. They were chauffeurs of B&W Dalmatian's limousine division, where they had taken early retirement because of company restructuring and downsizing.

Executive Coaches charges \$1,000 and Valerie, on behalf of Latimer, paid a deposit of \$250 in advance.

On the morning of the trip, it is announced on CBC Radio 2 that the races have been cancelled as animal rights activists have damaged the course. As this will take considerable time to repair, the Racetrack is closed.

Latimer is demanding a refund of the \$250 deposit and is refusing to pay the outstanding balance on the ground that the contract has become frustrated.

Required

Advise Latimer.

(25 marks)

3. Jenny Brondumbe is employed as a company secretarial assistant of Fabrico Ltd ('Fabrico'). She was instructed to order a cargo of cotton to be shipped from India to the port of Vancouver, on the Luciana, a ship owned by Dreadle Ltd. Unfortunately, the ship collided with another ship, the Blackwatch 2, owned and operated by Carson Line. The collision was entirely due to Carson Line's negligence. Part of the Luciana's cotton cargo was damaged by sea water and it could only be sold at a reduced price for low-grade cloth. The collision delayed the Luciana and, by the time the cotton was delivered, the market price had fallen dramatically.

This incident severely affected Fabrico's business, but Artur Townsend & Co. ('Townsend'), Fabrico's auditor, negligently failed to discover this when examining Fabrico's books. As a result, Fabrico's annual profit was grossly over-stated. At the time, as Townsend knew, Fabrico was the subject of takeover negotiations with Natel & Co, who subsequently bought Fabrico.

Required

Advise with regard to the following:

- (a) Inadvertently, insurance was not placed on the cargo. Fabrico Ltd, therefore, wish to sue Carson Line for the damage to part of the cargo and the loss of profit on the whole cargo. *(10 marks)*
- (b) Natel & Co claim that they relied on Townsends' audit report when they purchased Fabrico Ltd at an inflated price. *(10 marks)*
- (c) Greg Shreudmun claims, in relying on Townsend's audit report, that he retained his shares in Fabrico Ltd and he suffered losses when the value of the shares fell as the true facts became known. *(5 marks)*

(Total: 25 marks)

4. Sophia von Lauder is an aesthetician and distributor of high-end beauty products based in Hull, Quebec. She travels around the country as a beauty consultant, selling her products to beauty salons. While visiting Ottawa, she only stays at the Grande, a boutique hotel, and drives her 1954 Gullwing Mercedes which she inherited from her grandparents. She also always asks for Room 121. Behind the bedroom door, there is a notice that reads:

"The management accept no liability for loss or damage suffered by visitors which is caused by the negligence of our employees or contractors."

Sophia once again visits the Grande Hotel ('the hotel') with her Gullwing and is booked into Room 121.

- (i) Karles, the valet, parks her Mercedes but accidentally reverses into the garden wall, causing damage to the trunk and bumper.
- (ii) Sophia decides to have dinner at Zoé, a chic lounge restaurant of Chateau Laurier, and on the way, she trips over a loose carpet in the hotel's lobby and falls to the floor, breaking her foot and damaging her new Christian Dior sunglasses.
- (iii) After returning from the local hospital, Sophia discovers that her Gullwing has been stolen from the hotel premises because the security guard employed by Star Security left opened the gate of the hotel garage. Star Security has a contract with the hotel to guard their property.
- (iv) It was later discovered that the thieves knew the security guard who left the gates open intentionally.
- (v) Sophia considers bringing a claim against the hotel to recover the high insurance deductible of the Gullwing. The hotel also considers taking legal action against Star Security. Star Security denies liability based on a clause in their contract with the hotel which states:

'Under no circumstances will Star Security be responsible for any loss or damage caused by an employee unless this could have been foreseen and avoided by the exercise of due diligence.'

Required

Advise Sophia and the Grande Hotel with respect to each, (i) to (v), of the appropriate incidents outlined in the question.

(25 marks)

5. Peter Green is the Executive Assistant to the Human Resources (HR) director of Delta Ltd, a provincial (New Brunswick) incorporated firm in Saint John New Brunswick. The HR director asks Peter to recommend solutions to several matters on which he has some concerns:
- Christopher Johnson had been made redundant from his position with Delta five years ago but within a matter of months Christopher was back working with Delta on a 'consultancy' basis. Christopher invoiced Delta with HST and received no holiday and vacation entitlements. He was responsible for his own income tax, CPP and IE remittances. Presently, Christopher's service is no longer required and he has been advised accordingly.
 - The HR department has now received a letter from Christopher claiming that he was, at all times when acting as a consultant, a deemed employee. He is therefore claiming compensation for unfair dismissal.
 - Paul Clark, who is employed by Delta as a finance officer, has discovered that his boss, Mary Thomas, the CFO, has over the past five years claimed expenses without providing receipts to support her claims. Paul sent an email to Suzanne Smith, the CEO, reporting the matter. However, Suzanne ordered Paul to delete the email and to remain quiet. Suzanne believed that if this news reached the press it could adversely affect the price of Delta's shares. Suzanne further indicated that if this information was leaked, Paul would lose his job. Paul reported the matter directly to HR.

Required

Advise Peter on:

- (a) Christopher's status as an employee or self-employed. In particular, advise how this matter would be addressed in law. *(18 marks)*
- (b) Paul's possible claim for unfair dismissal if he subsequently was dismissed. *(7 marks)*

(Total: 25 marks)

6. Royal Belmont Club ('the Club'), a fitness and leisure centre in Toronto, contacts you (being a human rights expert) for advice. It is because of one of the recommendations amongst the implementation objectives of Kaizen Wellbeing.

Kaizen Wellbeing is a recently conducted continuous improvement initiative at the Club. The recommendation, for better customer service and operational efficiency, is that a new female changing room attendant should be hired.

Required

- (a) Advise the board of directors of the Club, in general, on the obligations imposed upon them in relation to discrimination in the recruitment and selection of employees.

(19 marks)

- (b) Advise the board of directors of the Club if it would be possible to employ a female to work in the female changing room without transgressing discrimination legislations.

(6 marks)

(Total: 25 marks)

The scenarios included here are entirely fictional. Any resemblance of the information in the scenarios to real persons or organisations, actual or perceived, is purely coincidental.

