

INSTRUCTIONS:

- 1 One. The Final Exam is on Monday, **December 12th** and is worth 350 course
- 2 points.
- 3 Two. This exam is closed book and closed notes.
- 4 Three. The student shall provide both a single **blue book** and an **ink pen** for this
- 5 exam.
- 6 Four. The Final Exam is an essay exam. It contains three questions about a shared set
- 7 of facts.
- 8 Five. Each of those three questions shall require the student to engage in detailed
- 9 legal analysis.
- 10 Six. Question 3 requires the student to demonstrate the student's mastery of ethical
- 11 analysis.
- 12 Seven. Correct use of legal vocabulary (i.e., objectively demonstrate having read and
- 13 understood the assigned b-law readings) is critical to earning a passing grade
- 14 on this essay exams.
- 15 Eight. This exam tests the student's master of the assigned readings from the *Business*
- 16 *Law: Text and Cases* textbook and the instructor's classroom handouts as well
- 17 as your professor's lectures over that textbook material and those classroom
- 18 handouts. Exam answers may, but are not required to, include appropriate
- 19 information from other readings and/or lectures.
- 20 Nine. Each question on each exam will be graded using the truncated scale of:
- 21 A = 100%; C = 75%; and F = 30%.
- 22
- 23

QUESTIONS:

The day of the Final Exam each student will be assigned three legal persons from the immediately below table of nine legal persons. In answering the Final Exam's three questions each student shall use that student's assigned legal persons.

TABLE OF LEGAL PERSONS FOR TESTING PURPOSES

1. Alice Adams (AA a.k.a. AAB a.k.a. MrsB)
2. Bob Baker (BB)
3. Charleen Charlie (CC)
4. David Dumbledore (DD)
5. Zaphod Baker (ZB)
6. Limited Partnership ABD (LP=ABD)
7. Corporation ABD (Co=ABD)
8. Exter Everlasting (EE)
9. Corporation EC (ECCo)

1. [1A] Vertically, one per blue book line, list your three legal persons, start each person's line in the format 1A1, 1A2, and 1A3.
- [1B] Vertically, identify one relationship of the "principal" and "agent" variety for each of your three assigned legal persons. Start each such identification with the notation 1B1, 1B2, and 1B3. To clearly "identify" such a relationship might take several lines on a blue book page.
- [1C] Vertically, for each relationship in [1B] list all other participants in that relationship (e.g., if your legal person is an agent, then also list the principal as well as list any co-agents and any subagents).

- 48 *Do note that [1B] and [1C] are asking for two different things:*
 49 *the former is context and the latter is participants.*
- 50 [1D] Contemplate the broad inventory of feasible causes of action arising from
 51 within each of those [1B] relationships. For each [1B] relationship, focus
 52 on the causes of action that are likely to be successful for the plaintiff.
 53 Make a five column table (yes, you may turn the blue book sideways).
 54 The far left column shall be three rows that list your [1A] persons.
 55 The left of center column shall list that [1A] person's role in the
 56 lawsuit (e.g., plaintiff; cross suing co-defendant; counter suing defendant).
 57 The center column shall list the name of that [1A] person's law suit
 58 opponent (the opponent's role is implied by the left center column).
 59 The right of center column shall contain the words either [1D1]
 60 "most likely", [1D2] "more likely", and [1D3] "likely" to indicate the
 61 student's rank ordering of the plaintiff's likelihood of successful law suit.
 62 The far right column shall contain words that reflect the student's
 63 estimation of the relative magnitude of the defendant's loss (e.g., ranging
 64 between nominal and bankruptcy) upon the plaintiff's successful suit.
- 65 [1E] Explain your reasoning for the content of and your placement of one of the
 66 rows in your [1D] table.
- 67
- 68 2. Which person listed in [1A] is most likely of the three persons listed in [1A] to
 69 have liability, either criminal or civil, for a security law violation?
 70
- 71 3. [3A] Return to your [1D] inventory of feasible causes of action that
 72 are **not** included in your [1D] table.
 73 [3B] Identify a plaintiff's cause of action that is at least likely to be successful at
 74 suit: here, merely give the name of the cause of action.
 75 [3C] Vertically,
 76 which [1A] person is involved;
 77 what is that [1A] person's role (e.g., plaintiff), and
 78 what is the name of the opposing party?
 79 [3D] Explain how your [3B] cause of action demonstrates the adage
 80 "Legal is not the same as ethical" in the context of your [3C] parties.

81 **SHARED FACTS FOR THE FINAL EXAM:**

82 Alice Able, Bob Baker, Charleen Charlie, and David Dumbledore respectively are
 83 herein known as AA, BB, CC, and DD. Assume all of the Midterm Exam Facts as true
 84 unless and until changed by the Final Exam Facts. Then, update the Midterm Exam
 85 facts with the following facts unique to the Final Exam. All facts from the Midterm took
 86 place in the years prior to the year 2011. All facts only listed on this Final Exam took
 87 place in the year 2011.

88 **MIDTERM EXAM FACTS:**

89 [AA, BB, CC, and DD e]ach is a solo proprietor in the same small town. Each
 90 deals in goods as well as services.

91 AA as buyer contracted with BB as seller for the purchase of a turn-key website to
 92 support AA's business' sales to consumers. The website proved to be widely successful.
 93

94 Success tends to draw attention. In the third year of AA's website's operation
95 CC's lawyer contacted AA about infringement of intellectual property rights that CC
96 claimed were owned by CC. At all relevant times CC is an employee of BB.

97 By year two the website was sufficiently successful that AA had to increase all
98 aspects of AA's operations. AA as buyer contracted with DD as seller for the purchase of
99 a turn-key office building. CC owns real property adjacent to office building AA
100 purchased. CC's lawyer contacted AA about many annoying attributes of AA's
101 operations. CC's concerns included, but were not limited to, AA's employees parking in
102 CC's parking lot, late night business activities that disturbed CC's sleep, and liquids and
103 smells of a noxious type emanating from AA's storage area. CC's lawyer informed AA
104 that all such complaints had been registered with DD prior to DD's sale and were being
105 renewed against AA.

106 As the disputes between AA and CC drained off AA's cash in an erratic manner,
107 AA's bank balance also became erratic.

108 At the outset of development of the website AA issued a promissory note to BB.
109 Each month since then AA has issued at least one draft to BB for various payments
110 related to the website.

111 At the date of purchase of the office building AA issued a promissory note to DD.
112 Each month since then AA issued at least one draft to DD for various payments related
113 to the office building.

114 BB factored AA's promissory note with BB as payee, but none of the drafts, to CC.
115 Instead, BB indorsed to DD for face value cash all of AA's drafts with BB as payee. DD
116 then factored all of those drafts of AA to CC.

117 DD factored AA's promissory note and all of AA's drafts with DD as payee to CC.
118 Erratically, some of AA's drafts to BB are bouncing and all of AA's drafts to DD
119 are bouncing. Less erratically, AA is missing payments on the promissory notes to BB
120 and DD.

121 If BB or if DD could protect a good faith claim to an ownership interest with
122 prior, written, signed agreement, then the lawyer representing BB and the lawyer
123 representing DD made sure that formal agreement was signed.

124 **FINAL EXAM FACTS:**

125 After a tumultuous 2010, upon the advice of each of their counsels, AA, BB, CC,
126 and DD each abandoned their sole proprietorships in favor of more formal business
127 organizations. Alas, they refused to follow all of the counsels' advice and their collective
128 actions formed one general partnership, one limited partnership, and two corporations.

129 In January 2011, having grown very tired of CC's business practices, AA, BB, and
130 DD formed a limited partnership (LP=ABD) as well as formed a domestic corporation
131 (Co=ABD). Co=ABD was created to and does serve as the general partner of LP=ABD.

132 The limited partners of LP=ABD are AA, BB, DD, and ZB. ZB is Zaphod Baker.
133 Zaphod Baker (ZB) is the nephew of LP=ABD's attorney, lives quite comfortably off of
134 his significant trust fund, is new to our fair town, and is no relation of BB.

135 The sole shareholders of Co=ABD are AA, BB, and DD. The Board of Directors of
136 Co=ABD elected by the shareholders are AA as Secretary, BB as Chair, and DD as
137 Treasurer. The Co=ABD Board of Directors has appointed as officers of Co=ABD AA as
138 Secretary, BB as Chief Executive Officer, and DD as Chief Financial Officer.

139 Co=ABD is the sole managing partner of LP=ABD. Via the LP=ABD partnership
140 agreement the general partner is to monthly receive reimbursement of all reasonable

141 business expenses and a guaranteed annual profit of \$1; all limited partners are to
142 receive annual distributions of profit on a pro rata basis. BB is the sole employee of
143 LP=ABD performing all of the day-to-day activities of LP=ABD. By prior, written,
144 signed partnership agreement, neither AA, DD, nor ZB are to participate in any way in
145 any of the day-to-day activities of LP=ABD.

146 The initial investments to fund Co=ABD and to fund LP=ABD are as follows.

147 **CASH:** AA, BB, and DD each paid into the treasury of Co=ABD \$100 cash
148 and each received in return 10,000 common shares. Par value of these Co=ABD shares
149 is \$0.01. Also, AA, BB, and DD each paid into the treasury of LP=ABD \$100,000 cash
150 and each received in return 10,000 common shares. Par value of the LP=ABD shares is
151 \$0.01. ZB paid cash into the treasury of LP=ABD equaling one year's payout to ZB from
152 his trust (i.e., \$2,000,000) and received in return 20,000 common shares of LP=ABD.
153 ZB made zero investment of any kind into Co=ABD.

154 **NEGOTIABLE INSTRUMENTS:** In addition to the cash, AA, BB, and DD
155 each negotiated to LP=ABD all existing dishonored, all existing not yet presented, and
156 all future contractually obligated to be issued drafts and notes drawn or made by AA and
157 in their respective possessions on January 1, 2011. The aggregated face value of the
158 transferred negotiable instruments exceeded \$3,000,000 each for AA, BB, and DD. In
159 return AA, BB, and DD each received 3,333 common shares in LP=ABD.

160 Another person new to our fair town is Exter Everlasting (EE). Since Exter
161 makes Charleen look like a Casper Milquetoast it ought not be a surprise that CC and EE
162 soon were an item both inside and outside the board room.

163 EE induced CC to form the epitome of equalitarian arrangements, the general
164 partnership, in lieu of that outdated and clearly oppressively patriarchal institution
165 known as marriage. Also, for their more creative business endeavors that would benefit
166 from the element of surprise, EE and CC formed a corporation in a distant USA State.
167 This corporation's name is ECCo. CC and EE each invested the par value of one share
168 (here, \$0.01) to purchase a single common share. Then, they flipped a coin (of so
169 conveniently and lovingly provided by EE) to see who would buy a second share so that
170 management power would be cleanly and clearly allocated between CC and EE. The
171 coin flip went EE's way and he paid in a second penny and got the third of three shares
172 of ECCo.

173 On June 1, 2011 LP=ABD obtained a Small Business Administration guaranteed
174 loan for \$15,000,000 to implement its business plan drafted by AA and reviewed by the
175 local bank.

176 On July 1, 2011 ZB and AA married. Legally, AA took her husband's surname and
177 routinely signs documents "Alice A. Baker" but occasionally signs documents with the
178 moniker "Mrs. Alice Baker", herein known, respectively, as AAB and as MrsB.

179 Seeing that LP=ABD was flush with cash ECCo's CEO EE proposed and Co=ABD
180 CEO BB qua LP=ABD employee accepted a business services contract for rapid
181 implementation of LP=ABD's business plan. Alas, the burn rate was far beyond all
182 forecasts and the LP=ABD treasury had a zero balance by December 1, 2011.

183 Last week news of LP=ABD collapse spread throughout the town as its checks
184 starting bouncing. Two nights ago EE was publicly drunk and slobberingly distraught at
185 a spots bar during the televised display of the college's competition for the conference
186 championship. Yesterday, EE's Jaguar convertible, leased through ECCo, was found in
187 the river along with a joint suicide note for CC and EE. Only CC's body was recovered.