



**NATIONAL COMMITTEE ON ACCREDITATION**

**SAMPLE EXAMINATION**

**COMMERCIAL LAW**

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**INSTRUCTIONS:**

**ANSWER ALL QUESTIONS. QUESTIONS ARE OF UNEQUAL VALUE. PROPORTION YOUR TIME CAREFULLY.**

**EXAMINEES MAY CONSULT ANY MATERIAL THEY WISH TO BRING INTO THE EXAMINATION ROOM (WITH THE EXCEPTION OF PERSONAL TYPED OR HANDWRITTEN NOTES).**

**THE TIME LIMIT MUST BE STRICTLY OBSERVED. BOOKLETS HANDED IN AFTER EXPIRY OF THE ALLOTTED TIME WILL NOT BE ACCEPTED. IF YOU ARE USING EXAMINATION BOOKLETS, YOU MAY ANSWER MORE THAN ONE QUESTION IN EACH BOOK — PLEASE ENSURE THAT THE QUESTION NUMBER IS CLEARLY IDENTIFIED.**

**YOU MUST RETURN THIS EXAM WITH YOUR ANSWERS. FAILURE TO DO SO WILL RESULT IN AN AUTOMATIC EXAM FAILURE.**

**Please note this document contains sample questions only, and does not reflect all requirements of the actual examination.**



**Sample Question One: 25%**  
**Suggested time for this question is fifty minutes.**

Ace Manufacturing Ltd. (“Ace”) of Ottawa wishes to borrow money from the Bank, but Ace has already granted security interests in all of its’ inventory to other lenders. On January 3, 1997, Ace and the Bank sign an agreement which provides:

- (1) the Bank will loan Ace \$150,000 to be repaid by monthly installments with interest;
- (ii) to secure payment of the sum of \$150,000, Ace grants the Bank a charge over “all accounts now due and owing or which may hereafter become due and owing to Ace; and
- (iii) the Bank is authorized to demand, collect and recover the said accounts.

The bank registers an error free financing statement under the Ontario P.P.S.A. against Ace Manufacturing Ltd. on December 30, 1996. The Bank loans Ace \$130,000 on January 3, 1997 and a further \$20,000 on February 20, 1997.

On February 1, 1997 Ace signs an agreement with Equipment Dealer Inc. (“Dealer”) which provides: (i) Ace will purchase from Dealer ten brand new bulldozers for a total price of \$160,000 to be paid for by a \$60,000 down payment, plus equal monthly installments thereafter, including interest, for a period of three years; (ii) Ace grants Dealer a security interest in the same ten bulldozers and all proceeds thereof; and (iii) title and ownership of the bulldozers will not pass to Ace until the entire purchase price has been paid in full.

Ace pays the \$60,000 down payment and takes possession of the ten bulldozers on February 4, 1997 and proceeds to use them as equipment in its business in order to move heavy loads. On February 8, 1997 Dealer registers an error free financing statement against Ace Manufacturing Ltd., marking the boxes on the financing statement for “equipment” and “other”.

By March 3, 1997 Ace is in default to both Dealer and the Bank. Therefore, Dealer consents of the sale of the ten bulldozers by Ace to Purchaser Ltd. for a total sum of \$110,000 on March 4, 1997. This is the one and only receivable due to Ace, since it has virtually discontinued its business and is insolvent. Purchaser Ltd. Receives immediate possession of the ten bulldozers that same day pursuant to the terms of the sale and is about to pay the \$110,000 to Ace or to the Dealer, when Purchaser receives a formal demand from the Bank claiming the right to the full \$110,000. On March 6, 1997 Ace is petitioned into bankruptcy. Ace had notified only the Bank (and nobody else) a few days earlier that it had changed the spelling of its corporate name to ASE Manufacturing Ltd.

- (a) Advise the Bank, Dealer and the Trustee in Bankruptcy of the likelihood of success of each of their respective claims to the sum of \$110,000.
- (b) Would your answer to Question (a) be different if Dealer had refrained from registering its financing statement until February 22, 1997? Explain.

**Sample Question Four: 14%**  
**(Suggested time 25 minutes)**

It will be easier for you to answer this entire question in point form.

The Olympic Committee (“Olympic”) contracts to purchase 1,000 uniforms of various sizes and specifications for Canadian athletes, from an Ontario uniform manufacturer called Ice Sun Ltd. (“Ice”).

The contract dated September 1, 1994 provides the following terms:

- (a) Ice has no such uniforms in stock, but undertakes to manufacture them in its only factory for a total purchase price of \$100,000;
- (b) Olympic will pay Ice a down payment of \$60,000, with the balance of \$40,000 to be paid once Olympic is notified that the uniforms are ready for delivery. Upon receiving such notification, Olympic is responsible to pick up the uniforms. If Olympic fails to pick up the uniforms within 15 days after notification that they are ready, Ice will charge Olympic \$50 per day, over and above the purchase price, commencing on that 15<sup>th</sup> day; and
- (c) Ice will maintain fire insurance on the uniforms from September 1994 until 15 days after notification by Ice that the uniforms are ready to be picked up.

Olympic pays Ice \$60,000 as agreed. Ice manufactures all 1,000 uniforms in accordance with the contractual specifications, and notifies Olympic on February 15, 1995 to pick up the uniforms. Olympic pays Ice the balance of the purchase price (\$40,000) on that same day.

On February 24, 1995 Ice is petitioned into bankruptcy by one of its creditors, at which time it is discovered that all 1,000 completed uniforms remain on Ice premises (Olympic has not yet arranged to take delivery). Unknown to Olympic, (i) these 1,000 uniforms represent the sale of all of Ice’s remaining inventory, and (ii) Ice was at all material times planning to discontinue its business upon completion of these uniforms for Olympic.

Question: Is the Trustee in bankruptcy correct in law to refuse to turn over the 1,000 uniforms to Olympic on the grounds that property or title in the uniforms never passed from Ice to Olympic? Explain.