



## **NATIONAL COMMITTEE ON ACCREDITATION**

### **SAMPLE EXAMINATION**

# **CORPORATE LAW (BUSINESS ASSOCIATIONS)**

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**SAMPLE EXAMINATION**

**CORPORATE LAW (BUSINESS ASSOCIATIONS)**

INSTRUCTIONS:

- (1) You have three (3) hours to complete this examination.
- (2) Answer questions with full sentences.
- (3) This is an open book examination. You are permitted to bring into the examination room and to consult any material you choose with the exception of personal typed or handwritten notes.
- (4) The value of each question is indicated above each question. The value of all questions together is 100. A pass on the examination is 50.



**QUESTION ONE**  
**Twenty-five (25) Marks (approximately 45 minutes)**

Oneal Maraj has been carrying on a sole proprietorship business as an architect since 1990. Sheila Ng became qualified as an architect in 2008. Oneal has known Sheila's family for a long time and has been a mentor to her, giving her advice on her career. Oneal wanted to help Sheila get started in her work as an architect. They discussed the possibility of carrying on business in partnership but instead decided to practice as sole practitioners working in the same location, with Oneal referring work to Sheila whenever he could, and sharing common costs. Both entered into a ten-year lease for the second floor of a local building where they would carry on business. They both signed the lease as tenants.

As part of their cost saving effort, they hired a secretary to work for both of them. All office equipment and office furniture was acquired by both of them with payment being shared equally. Payment was made from a common joint bank account that they opened in both their names. The lease payments, the salary of the secretary and all other common expenses are paid out of this account.

From time to time, Oneal and Sheila advertised in the local newspaper. The advertisements took the following form:

**Oneal Maraj**

**Sheila Ng**

**Architects**

**Call us at 123 456 7890**

The sign on their office door and the directory in the lobby of the building said the same thing.

To ensure that no doubt existed as to the nature of their relationship, Oneal and Sheila entered into a written agreement that provided as follows:

- a) each of them would be carrying on business as a sole proprietor;
- b) each of them would have their own clients, do their own billing, and be individually responsible for costs related exclusively to their activities, such as insurance, long distance telephone and monthly internet charges;
- c) all common expenses would be shared equally and paid from the joint bank account with cheques that required the signatures of both Oneal and Sheila;
- d) each month, each of them would deposit \$2,000 into the joint bank account to pay for the common expenses; and



- e) all decisions regarding the leased premises, office equipment, hiring the secretary to work for both of them and paying any common expense would require the consent of both of them.

Oneal and Sheila consulted frequently with one another when rendering advice, and at times met together with clients to discuss potential issues. Often clients would ask if they were partners, and their response was always that they were only close associates.

One day in May 2008, Luke, a long time client of Oneal's, came to their office. It was the first time that Luke had consulted Oneal since Oneal had started sharing space with Sheila. Luke asked Oneal to design a commercial building for him. Oneal replied as follows:

I am very busy right now, but I can get my new associate, Sheila Ng, to design the building. She is very talented and has a cheaper hourly rate than I do. You can still speak to me with any questions you have but Sheila will do the design.

Luke agreed to have Sheila do the design. She prepared a design of the building and sent Luke a bill on her letterhead which only referred to her name and not Oneal's. Luke had a couple of questions about the work and he called Oneal. Oneal answered his questions. Eventually Luke paid the bill with a cheque payable to Sheila alone. After she received Luke's payment, Sheila decided to pay Oneal 10% of the total fees paid by Luke for the design to reward him for his role in getting her the work and helping out by answering Luke's questions.

Six (6) months later the not yet complete building collapsed.

**QUESTION:**

Assuming that the reason that the building collapsed is that Sheila was negligent in designing the building, is Oneal liable to Luke for **Sheila's negligence**?

**(TWENTY-FIVE (25) MARKS)**

**QUESTION TWO**  
**Thirty-five (35) Marks (approximately 63 minutes)**

Royal Consulting Inc. (“*Royal*”) is a corporation incorporated under the *Canada Business Corporations Act* that carries on a consulting business. The corporation has only one class of shares and the sole shareholder was Inger. She held 100 shares and was also the sole director.

Arif is a friend of Inger’s and lent Royal \$100,000 in September 2006. There was no written or oral agreement recording the terms of the loan. No interest has ever been paid and no repayment of any portion of the loan has ever been made.

In December 2007, Arif started to become concerned about his loan and asked Inger for some reassurance that he would be paid. Inger told him the following:

The corporation will do its best to repay you (Arif) in full any time you ask and, if the corporation does not have sufficient cash to pay you when you demand payment, the corporation will issue you 100 shares. Since I have 100 shares, this would mean that you would have a 50% interest in Royal.

In March 2008, Inger, as director approved a sale of a truck owned by the corporation to her son for \$5,000, much less than the \$15,000 that Inger knew it was worth. The truck was transferred to Inger’s son and he paid Royal \$5,000 in return.

In April 2008, Inger caused Royal to issue 100 shares to Morris in return for \$100,000 with the result that she and Morris now each have 100 shares and the corporation had an additional \$100,000 in cash. Inger and Morris elect Morris as a director of Royal. Later in April, Inger caused Royal to use the \$100,000 received from Morris as a down payment on the purchase of a building that would be used for the corporation’s business. The total purchase price was \$500,000.

In May 2008, Arif decided that he would like his money back and sent a letter to Inger asking the corporation to repay the loan. Inger wrote back that the corporation did not have any available cash to repay Arif. When Arif replied that he would like 100 common shares of Royal instead, as Inger had promised, Inger said that she could not do that without Morris’s approval now that he holds ½ of the shares of Royal and is a director of the corporation. This was the first that Arif had heard about Morris’s investment and he demanded that the corporation issue him 200 shares since he was promised a 50% interest in Royal if the loan was not repaid following his demand. Because Inger and Morris now hold 100 shares each, Arif argued that it would be necessary to issue him 200 shares to give him 50% of the total issued shares of Royal.

Morris refused to agree to the issuance any shares to Arif.

Arif is extremely frustrated by the refusal of Inger, Morris and Royal to do anything about the debt that the corporation owes him. In the course of his discussions with Inger, he finds out about the truck sale and becomes even more frustrated. He comes to you for advice.

**QUESTION:**

Discuss all the actions that Arif can take to seek relief in connection with the situation described above. Be sure to discuss the procedural steps required to be taken by Arif, the relief that he may claim and any arguments that could be made against Arif's position.

**(THIRTY-FIVE (35) MARKS)**



**QUESTION THREE**  
**Forty (40) Marks (approximately 72 minutes)**

Satinder is the majority shareholder, president, and a director of Satco Inc., a corporation incorporated under the *Canada Business Corporations Act*. The other shares of Satco Inc. are held by 20 Satco Inc. employees. Satco Inc. has carried on a clothing manufacturing business since 1998. It has been a very successful business to date due, in part, to the popularity of its clothing brands.

Jodie is an experienced financial analyst and runs a financial consulting business. Her firm has occasionally provided financial advice to Satinder personally as well as to Satco Inc. and Satinder has been impressed by Jodie. Satinder has asked Jodie to join the board of directors as its fifth member. She is particularly interested in having Jodie join the board because the board needs financial expertise at this time.

Giantco Inc. has communicated to the board an offer to purchase the business of Satco Inc. by buying all of its assets. Giantco Inc. is willing to pay \$5,000,000. Satinder believes this is a very good price and thinks that the corporation should sell its assets to Giantco. Satinder is concerned, however, that the employee shareholders will not want to sell because Giantco Inc. has told the board that it will layoff many employees if it gets control of the corporation's business. The board of directors of Satco Inc. has to decide what action to take in response to the Giantco Inc. offer.

The other directors are

- Ellen, one of the employees who is a shareholder,
- Oren, a partner in the law firm that does Satco Inc.'s legal work, and
- Tom, a retired businessman with no connection to Satinder or Satco Inc. other than his position as a director.

Jodie is a long time client of the law firm at which you are an associate. At her request, you meet with her to provide advice regarding whether she should join the board. She is concerned about her liabilities as a director in general and about what would be her responsibility in relation to the proposed purchase of the assets of Satco Inc. by Giantco Inc.

**QUESTION**

- (a) What are the liability risks to which Jodie would be exposed as a director both in general and in the circumstances described?  
**(TWENTY (20) MARKS)**
- (b) What strategies Jodie might adopt to reduce or manage these risks?  
**(TWENTY (20) MARKS)**