Elements of the Law of Contract

Wednesday 29 May 2013: 10.00 – 13.15

Candidates will have fifteen minutes during which they may read the paper and make rough notes ONLY in their answer books. They then have the remaining THREE HOURS in which to answer the questions.

Candidates should answer FOUR of the following EIGHT questions.

Candidates should answer all parts of a question unless otherwise stated.
1. On the 2\textsuperscript{nd} of April, an announcement appears in the newspapers to the effect that shares in Digger, a gold exploration company, may be subscribed for £5 each.

Later that day Goldbug sees the announcement and fills in the application form in the newspaper requesting 1,000 shares. His application is received by Digger the following day and the Company Secretary promptly sends the share certificates to Goldbug by that morning’s post. However, Goldbug changes his mind and on the same afternoon (the 3\textsuperscript{rd}) he posts a letter, withdrawing his application to Digger.

During the day a rich seam of gold is discovered by Digger in Cumbria and the Company Secretary telephones Goldbug informing him that they do not wish to accept his application and would like him to return the certificates when they arrive.

By the time he receives the Secretary’s request, Goldbug has heard of the gold discovery and wishes to buy the shares after all.

Advise Goldbug.
2. Robbie runs a fairground, Toppers, and hires a big dipper from Fred for £3,000 per annum. Times are tough, however, and the bad weather has affected business at the fairground. Robbie asks Fred whether he can have a reduction in rent until he gets on his feet again. He intends to use the money, thereby saved to advertise the fairground more widely. Fred agrees to reduce Robbie’s rent by £1,000 per annum until business improves. Delighted, Robbie immediately spends £1,000 on advertising, in the hope that it will attract more visitors. However, Fred now regrets his promise and demands that Robbie pay him the full amount of rent.

Spooks operates the ghost train at the fairground and receives a 50% share of the ticket sales. He wishes to buy his wife a new car and needs some extra cash. He telephones Robbie and asks him to increase his share of the ticket sales to 75% for a twelve-month period. Ghost train operators are specialists and extremely hard to find. However, although Robbie does not want to lose Spooks, he will find it a financial strain to fund the higher commission rate. Robbie asks Spooks if he can think about this request for a few days. Spooks agrees. The next day, however, Spooks gets an offer from another fairground, offering a 75% share of the ticket sales to run their ghost train. He goes to Robbie’s home and threatens to quit his job unless Robbie gives him the 75% share of the ticket sales. Robbie agrees. Three months later he tells Spooks that next month he will return to the 50% share of the ticket sales.

Robbie asks his cousin, Claude, who is a carpenter, to paint the big wheel. He has often asked Claude to do jobs around the fairground and always pays him. When Claude finishes, Robbie is delighted and says that he will pay him £350. However, following a family argument, Robbie now refuses to pay him.

Advise Robbie.
3. Honey is planning for her wedding in August and decides to visit Romantic Weddings, a local shop that advertises itself as providing ‘Stress Free Weddings or Your Money Back’. Honey is particularly attracted by the shop’s photos of romantic castles and lakes and asks Amir, the manager of Romantic Weddings, for more information about a possible venue for her wedding reception. Amir informs Honey that he can find her the perfect setting for a romantic wedding, adding that ‘the sweet singing of the birds will be the only noise to disturb the tranquillity of the day’. He suggests a venue, Dagenham Manor, and advises that Honey visit it so that she can appreciate the true beauty of the place for herself. Dagenham Manor is in Romstown, a town near to where Honey lives. Honey knows Romstown well and is surprised to hear that it would offer a tranquil and romantic location for her wedding. However, she notices that she will get special rates if she books that day and decides to book the venue immediately. Before paying, she asks Amir how many guests Dagenham Manor will hold. Amir has never visited the venue and rings a friend, Wayne, who had his wedding there last year. Wayne tells Amir that it holds about one hundred people and Amir passes this news on to Honey. On hearing this, Honey is thrilled. She is expecting 80 guests and realises Dagenham Manor will be perfect. She goes ahead with the booking.

The wedding day is a disaster. Dagenham Manor is located on the junction of a busy motorway and the noise of the passing vehicles reaches unbearable levels. In addition, the venue is very small and can only accommodate 40 people. As a result, half of Honey’s guests are turned away from the venue. Amongst those prevented from entering is Mr Bee, Honey’s boss. He is so angry that he does not give Honey the wedding gift of £10,000 that he had promised her.

Advise Honey.

4. ‘Equity provides various forms of relief in cases of mistake but it will not provide relief where the common law renders a contract void for common mistake. This is not a desirable result.’

Discuss.

5. ‘Although the doctrine of privity is simple in practice, attempts to circumvent it introduced unnecessary complications into English law. The Contracts (Rights of Third Parties) Act 1999 has done little to simplify English law in this area.’

Discuss.
6. Milo wants to landscape the garden of his house and requires a new lawnmower. He notices that the local garden supply shop, Lawnz, has special offers on garden equipment. He enters the shop and immediately notices a top-of-the-range lawnmower on display. A sign above it states 'Special Offer! Terms and Conditions apply – ask within'. Milo asks the shop assistant, Sebastian, for more information. Sebastian informs Milo that the lawnmower is being sold at £200 (half the recommended retail price) and that the shop’s website gives full information on the terms and conditions of all the shop’s sales. Fearful of missing out on such a great bargain, Milo decides to purchase the lawnmower immediately. As he is waiting at the cash desk, Sebastian gives Milo a number of papers and informs Milo that he will find the lawnmower's operating instructions amongst them.

Milo wishes to use the lawnmower that afternoon and consults the operating instructions as soon as he gets home. Amongst the papers he also finds Lawnz’ terms and conditions of sale. These include the following two terms:

1. Lawnz is not responsible for any damage whatsoever or howsoever caused when using its products.

2. Lawnz reserves the right to replace faulty products with a substitute of their choice.

Despite several attempts at operating the lawnmower Milo cannot get it to work. He takes it back to Lawnz where Sebastian does some electrical work on it. Unfortunately, Sebastian has done the work incorrectly and when Milo attempts to use the lawnmower again it explodes, damaging an expensive sculpture in his garden. Milo returns to Lawnz and demands that it replaces the lawnmower and compensates him for the damage caused by the explosion. Lawnz refuse compensation but offer to give Milo a replacement lawnmower. The replacement lawnmower is a second-hand one and of far inferior quality than the one originally purchased by Milo.

Advise Milo.
7. Arthur was a supplier of horsemeat who was registered as required by the (fictitious) Horsemeat Supply and Distribution Act 2003. Arthur supplied 150 kilos of horsemeat to Beatrice for the agreed price of £400. However he did not include the statutory invoice recording the sale, as required by the Act since Beatrice had told him that, as between friends, such formalities were unnecessary. Beatrice now refuses to pay Arthur for the horsemeat.

Arthur delivered to Charles 1,000 kilos of horsemeat. The meat was accompanied by the required statutory invoice. Charles processed the meat and sold it as ‘organic beef burgers’. This misleads consumers who would not otherwise eat horsemeat for ethical reasons. Charles now refuses to pay Arthur.

Arthur delivered to Davina 20 kilos of horsemeat to be fed to her dogs. The delivery was not accompanied by the relevant statutory invoice, the horsemeat was tainted with bacteria and caused one of Davina’s dogs to fall seriously ill. Davina is required to pay £200 to the veterinarian to care for the dog.

Advise Arthur.

To what extent, if any, would your advice differ if Arthur’s registration had expired before the above transactions were entered into, although Arthur was unaware of this?
Miles, a famous television presenter, has decided to treat himself to a special teeth-whitening procedure at his dentist's surgery, Smiles Ltd. He discusses the options with Roman, the dentist. Roman advises him that the bleaching powders, known as Bleachit, are the most time consuming treatment, but provide the best result. The procedure requires ten separate visits and, after the final visit, Miles will have permanently whitened teeth. Roman warns Miles, however, that it is only on the final treatment that Miles' teeth will turn white, and that during the course of treatment Miles' teeth will be yellow. The cost for the treatment is £3,000. Miles agrees to this procedure and pays £2,000 immediately. The balance is due at the end of the ten treatments.

Miles undergoes the first five treatments. He finds that his teeth start to go a very bright yellow. The day before Miles arrives at his sixth appointment, the results of an enquiry into the cosmetic surgery industry are published. The report reveals that the company that manufacture Bleachit have not followed the relevant safety procedures for licensing. The UK government therefore announce that Bleachit is to be banned from public use. Roman is rather glad about this news as Bleachit had recently increased their prices so much that he was operating at a loss on his clients' treatments. He telephones Miles and informs him that he will not be able to continue with his treatment. Miles is furious. Unable to work with yellow teeth he is sacked from his job. He demands a refund and compensation from Roman.

Advise Roman.

END OF PAPER