

**UNIVERSITY COLLEGE LONDON**

University of London

**EXAMINATION FOR INTERNAL STUDENTS**

For The Following Qualification:-

*LL.B.*

**LL.B. Part II: Commercial Law**

**COURSE CODE : LAWSII08**

**DATE : 16-MAY-05**

**TIME : 10.00**

**TIME ALLOWED : 3 Hours 15 Minutes**

## COMMERCIAL LAW

Answer **FOUR** questions.

1. Does the law of agency adequately safeguard the rights of third parties where the agent acts for an undisclosed principal or where the principal ratifies an unauthorised act?
2. Dennis, who is employed as a buyer by Gnasher plc, a department store, is expressly forbidden to enter into contracts for more than £1,000 without the approval of the managing director, Lord Snooty.

Minnie, who is in charge of sales at Biffo plc, a manufacturer of fridges, tells Dennis that Biffo plc has a cash flow problem and needs to raise money rapidly. She offers to sell ten fridges that would normally cost £20,000 for only £10,000. Dennis tells Minnie that he is not sure has authority to enter this size of deal, but he knows she will go elsewhere if the deal is not closed immediately, so he signs a contract of sale, telling her, "I am absolutely certain that Lord Snooty will give his approval, if it is needed."

Discuss whether Gnasher plc is liable to pay for the fridges.

How might your answer differ if, before Dennis speaks to Lord Snooty, Snooty receives a letter from the managing director of Biffo plc telling him that Minnie has no authority to make the offer? Snooty wants the fridges.

3. Do sections 34-35 of the Sale of Goods Act adequately define the circumstances in which a commercial buyer may exercise the right of rejection for breach of condition?
4. The railway operator, Trains On Track plc (Track), has discontinued the railway branch line that runs over the moors from Gruntingham to Slappersdyke Viaduct. It dismantles the track and sells the rails to the Foxglove Railway Society (Foxglove), which runs a recreational railway between the villages of Snuggleham and Dappledown. Foxglove lays some of the rails so as to create an extension of the line from Dappledown to Buttercup Lea. Subsequently, a train carrying railway lovers leaves the tracks between Dappledown and Buttercup Lea. The engine, "Panting Jimmy", is damaged and a number of customers are shaken and slightly injured. It transpires that some of the rails are suffering from gauge corner cracking, a fault that creates a risk of derailment proportional to the speed of the train. To placate its angry customers, Foxglove pays them some compensation.

Advise Foxglove of its rights (if any) against Track.

**TURN OVER**

5. The First Bedouin Bank of Benghazi (Bedouin) has been instructed by a customer, No Holds Barred Carriers (Carriers), to make a credit transfer to the account of Panglossiotis Shipping (Panglossiotis) at the Cheapside branch of the International Chartered Bank (Chartered) in London. Carriers is the time charterer of a ship that is owned by Panglossiotis. Under the terms of the charter, bimonthly hire must be paid in advance on the fifteenth and the last days of each month.

Discuss the rights and liabilities of the parties in each of the following separate circumstances:

(i) Owen's Shipping News has published a feature on the financial affairs of Panglossiotis. The article discloses that Panglossiotis is suffering from a severe cash flow crisis. The article has come to the attention of Bedouin which nevertheless pays the next instalment of hire falling due. On the following day, a creditor of Panglossiotis arrests the ship in Dubai where it remains immobilised for the remainder of the charter period.

(ii) February 15 is a Friday. A credit transfer is received by Chartered at 5.15 pm, which is 15 minutes before Chartered closes for the day. The transfer is credited to Panglossiotis's account at 10.30 am on Monday 18 February. Panglossiotis is entitled to withdraw the ship from hire and terminate the charterparty contract if payment is late. It purports to exercise these rights on Tuesday 19 February.

(iii) A credit transfer is credited by Chartered to Panglossiotis's account at 11.30 am on August 31. At 2.30 pm, before funds are transferred from Bedouin to Chartered, Bedouin goes into insolvent liquidation.

6. FlySouth Airways (FlySouth) leases a number of airframes (namely, aircraft minus the engines) for a term of 15 years from Airframe Leasing (Airframe), which is a subsidiary of a major bank. The instalments of hire are assigned on 1 April 2002 by Airframes to Orphan Ltd (Orphan) under the terms of a securitisation arrangement. Under the terms of this assignment, the amounts of hire falling due under each of the leases is expressed to be £50,000 per month. Oral notice of the assignment is given by Airframe to FlySouth on 10 May 2002.

FlySouth experiences business difficulties, largely because much of its business is in the United States and its revenue stream comes in the form of US dollars. On 15 April 2004, FlySouth and Airframe agree to reduce the instalments of hire to £40,000 for each month for the remainder of the 15-year term.

Advise Orphan.

To what extent, if at all, would your answer be different if the instalments had been reduced because the condition of the airframes was such that they required more maintenance than was warranted by Airframe in the leases?

**CONTINUED**

7. Answer **EITHER** (a) **OR** (b)

(a) "The bank's strict duty to carry out its customer's mandate is not easily reconciled with its duty to exercise due care in appropriate cases. In addition, there is an unavoidable awkwardness in treating a bank both as the debtor and the agent of the customer."

Discuss.

**OR**

(b) "A documentary letter of credit must be as good as cash for the beneficiary."

Discuss.

8. Answer **EITHER** (a) **OR** (b)

(a) "The rules applicable to contracts of guarantee are inspired by the notion that guarantees are one-sided contracts and guarantors are entitled to the protection of the law from the harsher consequences of such contracts."

Discuss.

**OR**

(b) "Despite their superficial resemblance, assignment and novation are very different transactions."

Discuss.

**END OF PAPER**