

UNIVERSITY OF LONDON

266 0017 ZB

277 0204 ZB

LLB EXAMINATION

for External Students

PARTS I AND II EXAMINATIONS (Scheme A)

THIRD AND FOURTH YEAR EXAMINATIONS (Scheme B)

GRADUATE ENTRY LEVEL II (Route A)

GRADUATE ENTRY THIRD YEAR (Route B)

BSc DEGREES

for External Students

MANAGEMENT WITH LAW, LAW WITH MANAGEMENT, ACCOUNTING
WITH LAW AND LAW WITH ACCOUNTING FOR STUDENTS IN THE
EXTERNAL PROGRAMME

Commercial Law

Wednesday 3 June 2009: 10.00 - 1.15 pm

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. 'English Commercial Law seeks to maintain a difficult balance between protecting the interests of the parties to a transaction and protecting the interests of third parties, who are not directly involved in that transaction, but who may be affected by it.'

Discuss by reference to issues raised during your studies for this course.

2. 'Agency is the fiduciary relationship that arises when one person (a "principal") manifests assent to another person (an "agent") that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents to act.'
(US *Restatement (Third) of Agency (Tentative Draft No. 2)* (2003))

Discuss how accurate this is as a description of agency.

3. 'The strict compliance rule in relation to letters of credit does not require exact literal compliance in all circumstances and as regards all documents. The banker is, therefore, required to exercise judgement whether the requirement has been fulfilled.'

Discuss.

4. 'It is often difficult to differentiate between fob and cif contracts.'

Discuss. Why is the difference important?

5. 'Where there is a contract for the sale of goods by description, there is an implied condition that the goods correspond with the description.'

Discuss.

6. Fred sells leather on 30 days' credit to companies that make various types of leather goods. He is concerned that some of these companies may become insolvent before he is paid and seeks your advice as to how he might try to tackle this problem by means of a retention of title clause. Advise him as to the likelihood that such a clause will resolve all the legal issues that might arise.

7. Watson's business of manufacturing cars is taken over by Holmes ('Holmes'). As part of that deal, Holmes agrees to employ Watson to purchase materials for car manufacture, but prohibits him from undertaking transactions above £1 million and from buying materials made by rival car manufacturers without the prior authority of the Board of Directors of Holmes. Advise Holmes on **ALL** of the following actions by Watson.
 - (a) Watson orders £2 million of steel from Moriarty Ltd, a steel producer. Moriarty Ltd has never had any previous dealings with Watson or Holmes, and Watson fails to identify himself as an agent of Holmes. Moriarty Ltd later discovers the existence of the agency and, because it has found that it can obtain a better price for the steel, Moriarty Ltd tells Holmes that it is not going ahead with the deal. Holmes wishes to continue the transaction.

 - (b) Watson orders £500,000 of steel from Lestrade Ltd, a steel producer that had sold steel to Watson when he still ran his car manufacturing business. Lestrade Ltd is unaware that Watson no longer owns the business. When Lestrade Ltd discovers that Watson is working for Holmes, Lestrade Ltd no longer wishes to go ahead with the transaction because in the past it has experienced difficulty in obtaining payment from Holmes.

 - (c) Watson orders £100,000 of car door handles from Baker Ltd, a car manufacturer. Baker Ltd is rather surprised to receive this order since it knows Watson is buying for Holmes and that Holmes has publicly stated its wish never to buy parts from other car manufacturers. Baker Ltd is, however, reassured when Watson explains that the policy has changed and produces a letter that appears to have been signed by the Board of Directors of Holmes giving Watson authority to enter into transactions 'with any seller'. As a result, Baker goes ahead and agrees the deal. The letter has been forged by Watson. Holmes has not changed its policy and does not wish to go ahead with the transaction.

8. Colour Co. (“Colour”), a manufacturer of paint, buys a quantity of cans from Tinny Co. (“Tinny”) for a new brand of paint that Colour is planning to make and sell. Immediately after securing this agreement, Colour launches an expensive advertising campaign for the new paint.

The cans are filled with paint, but Colour discovers that a chemical reaction between the paint and the material from which the cans have been made causes the paint to deteriorate. Tinny knew that this reaction might happen as the result of the chemicals used in some paints, but not all paints contain these chemicals. Tinny was unaware that Colour’s paint contained the chemicals and did not mention the chemical reaction to Colour at the time of the contract.

As a result, the paint cannot be sold. This means Colour has to refund large sums of money paid in advance by customers waiting for the new paint and loses a lucrative contract with the government to repaint all its offices. It also means Colour’s reputation is damaged because of the disappointment caused to customers, who had been attracted by the advertising campaign.

Advise Colour Co.

END OF PAPER