

Thursday Afternoon
February 23, 2017
Essay Questions 7 - 12



TEXAS BAR EXAMINATION

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**If hand-writing, answer in section marked Question 7.
If laptop, answer in the screen marked Question 7.**

Question 7

Blackacre is located in Webb County, Texas, and owned by Ally in fee simple. In June 2016, Ally and Breck entered into a valid lease wherein Ally granted all of the oil and gas under Blackacre to Breck for “5 years and as long thereafter as oil and gas is produced in paying quantities.” The consideration for the Blackacre lease was a one-eighth royalty interest, a bonus of \$10,000 per acre, and delay rentals of \$1,000 per acre.

(1) After execution of the Blackacre lease with Ally:

(a) What does Breck own? What obligations, if any, does Breck have to Ally? Explain fully.

(b) What does Ally own? What obligations, if any, does Ally have to Breck? Explain fully.

(2) What substances belong to the Blackacre surface estate as a matter of law? Explain fully.

**If hand-writing, answer in the section marked Question 8.
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Question 8

While on a temporary work assignment outside of the United States, Rob, a single adult, leased his 8-acre improved homestead property in Wise County, Texas, to Chris for a 12-month term.

- (1) Pursuant to the Texas Property Code, what characteristics must Rob's homestead possess to be considered an urban homestead? Explain fully.**
- (2) Pursuant to the Texas Property Code, what characteristics must Rob's homestead possess to be considered a rural homestead? Explain fully.**
- (3) Pursuant to the Texas Property Code, will Rob's lease of his homestead property to Chris change its homestead character? Explain fully.**

**If hand-writing, answer in the section marked Question 9.
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Question 9

In October 2016, Sam died at his home in Houston, Texas. Sam was survived by his two children, Amanda and Beth, and his brother John.

After his death, the following handwritten note was found on the nightstand next to his bed:

I leave my entire estate to my brother John.

/s/ Sam

On the back of the note was the following, in the same handwriting:

The note on the other side of this paper is my last will. I was more than 18 years old and of sound mind when I signed it.

/s/ Sam

30 September 2016.

John recognizes the handwriting and signature as being Sam's. But Amanda and Beth, who have not seen or corresponded with Sam in many years, are not familiar with his handwriting.

- (1) Does the note found on Sam's nightstand constitute a valid, self-proving will? Explain fully.**
- (2) What evidence must John offer to probate the note as Sam's will? Explain fully.**

**If hand-writing, answer in the section marked Question 10.
If laptop, answer in the screen marked Question 10.**

Question 10

Zach died in 2016 with a valid attested and self-proven will. Zach was survived by his wife Jill and their three adult children, Ann, Bob, and Chad.

The will named Ann as Independent Executor, to serve without compensation or requirement to post a bond. The will named Bob and Chad as the devisees of Zach's entire estate.

When Zach died, Zach and Jill owned the following assets:

- (a) A house in Real County, valued at \$500,000, that Zach inherited from his parents, and in which Zach and Jill lived at the time of his death.
- (b) Home furnishings valued at \$30,000.
- (c) A \$250,000 life insurance policy on Zach, which named Ann as the beneficiary.
- (d) Zach's retirement plan, with a value of \$1 million, naming Jill as the beneficiary.

- (1) What procedural steps must Ann take to probate the will and be appointed as Independent Executor of Zach's estate? Explain fully.**
- (2) What are Ann's obligations after the county court signs an Order Admitting Will to Texas Probate and Appointing Independent Executor? Discuss both (a) the Texas Probate Code requirements generally applicable to independent executors, and (b) Ann's responsibilities with regard to specific assets identified above.**

**If hand-writing, answer in the section marked Question 11.
If laptop, answer in the screen marked Question 11.**

Question 11

Cattlemen Inc. (Cattlemen), a Texas corporation, owns a ranch and is in the business of raising cattle. George and Patsy are the only officers, directors, and shareholders of Cattlemen.

Cattlemen's certificate of formation states that its purpose is the "transaction of any and all lawful business," and provides for one class of shares with no limits on preemptive rights. Cattlemen has authorized 150 shares of common stock. George owns 75 shares of Cattlemen's common stock and Patsy owns 25 shares.

Ray, a friend of George, owns a meat processing plant and is in the business of slaughtering, curing, and packing beef. Ray and George decide that it is in their interest to combine Cattlemen's ranch business with Ray's meat processing business. They agree to a plan under which Ray will convey his meat processing plant and its business to Cattlemen. In return, Cattlemen will issue and convey 50 shares of its common stock to Ray.

The plan also contemplates that, after issuance of the shares to Ray, George and Ray will vote their shares to add Ray to the Cattlemen board of directors. Further, once Ray becomes a director, Cattlemen will loan George \$10,000 to pay for a Caribbean cruise.

Patsy opposes all aspects of George and Ray's proposed plan.

Advise Patsy on the following questions:

- (1) Which parts of the plan, if any, proposed by George and Ray are *ultra vires*? Explain fully.**
- (2) What steps, if any, can Patsy take as a shareholder to prevent the plan proposed by George and Ray from being implemented? Explain fully.**
- (3) What are "preemptive rights," and does Patsy have any such rights if the proposed plan by George and Ray is consummated? Explain fully.**

**If hand-writing, answer in the section marked Question 12.
If laptop, answer in the screen marked Question 12.**

Question 12

In 2008, John and Mary formed JM Partnership Rental Company (JM), a valid Texas general partnership, for the purpose of owning and operating an apartment building (Building). John and Mary each contributed equal amounts of cash toward JM's purchase of Building, and an unencumbered fee title to Building was taken in the partnership name. The JM partnership agreement provided that the partnership was for a term of 10 years. JM hired a building superintendent to manage Building.

In 2013, without consulting John, Mary gave one-half of her partnership interest in JM to her son Tom as a graduation gift. No formal steps were taken to admit Tom into the partnership.

Last summer, there was a fire in the basement of Building. The contents of a number of apartments were damaged. Placing blame for the fire on Building's superintendent, Tom told the superintendent that his employment was terminated.

Concerned about his personal liability to JM's tenants for the fire, Tom has made a written demand on JM that it buy out his interest for \$50,000 cash, the value assigned by Tom's appraiser. JM asserts that it is not required to buy out Tom's interest and also disputes the value assigned by Tom's appraiser.

(1) Under Texas law, did Tom have the authority to terminate Building's superintendent?

Explain fully.

(2) Does Tom have any personal liability to JM's tenants for damage to their property caused by the fire? Explain fully.

(3) Is JM required to buy out Tom's interest for \$50,000 in cash? Explain fully.

This concludes the Texas Bar Examination.

Write the Honor Pledge on the back of this question book.

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Examinee # _____