Question MEE 2 – February 2026 – Selected Answer 2

1. Clyde may recover the unpaid contract price from Angie. The issue here is whether Angie was personally liable for the contract that she entered into in the name of XYZ. Sole proprietors are personally liable for the contracts that they enter into on behalf of their sole proprietorship.

Here, on April 1, Angie started a new business which she called XYZ. Angie, in the name of XYZ, and Clyde entered into a written agreement under which Clyde would make the app usable by the general public and XYZ would pay Clyde $10,000 upon the signing of the agreement and $15,000 when he completed and delivered the app. As soon as they signed the agreement, Angie paid Clyde $10,000.

In the formation of XYZ, there is no evidence to suggest that XYZ was anything other than a sole proprietorship. Angie might try to claim that there was a partnership with Basra, but even if the court were to find a partnership, it would at best be a general partnership where the partners are liable for the debts of the business, and Angie would still be liable. Any other business formation would require Angie to file with the secretary of the state certain documents to prevent personal liability, and Angie has not done that here.

Therefore, because Angie formed a sole proprietorship, and because she entered into a contract with Clyde on behalf of that sole proprietorship, she is personally liable to Clyde and Clyde may recover the unpaid contract price from Angie.

2 (a). Clyde may not recover the unpaid contract price from Basra on the theory that Basra is a partner of Angie. In order for there to be a partnership, two people must intend to enter an agreement to carry on a business together for profit. Agreeing to share in the profits of a business creates a rebutable presumption that there was a partnership.

Here, Angie did not enter into an agreement to carry on a business together for profit with Basra because she was merely discussing the possibility of a business, and took no further steps beyond that with Basra. In March, while discussing her app with Basra, Angie wondered aloud whether she could earn money with her app by hiring a software developer to refine it so that she could make it available to the general public. However, Angie said nothing about starting a busienss at the time, even though Basra told her that the thought her idea was great, and that he believed it would make a lot of money and would be willing to invest $5,000 if Angie started the business. No further action was taken and no agreements were made between the two parties. The mere mention of profit sharing from an investment is insufficient to create a partnership.

Thus, because there was no agreement that they would carry on a business together, Clyde may not recover the unpaid contract price from Basra on the theory that Basra is a partner of Angie.

2 (b). Clyde may not recover the unpaid contract price from Basra on the theory that Basra is a shareholder of the corporation. Shareholders, unless it is a closely held corporation, are not liable for the debts of the business. Only partners are liable for the debts in a corporation absent misconduct by a shareholder, or the shareholder entering into the contract themselves on behalf of the corporation.
Here, Angie created a corporation because in June, Angie completed teh paperwork to form a corporation to market the app and filed the paperwork with the appropriate state agency. The articles of incorporation. named Angie as the sole initial director of the corporation, and approved 10,000 shares of stock to herself in exchange for her contribution to the corporation of all her intellectual property rights in the app. Basra became a shareholder when Angie approached Basra, reminding him of their earlier conversation and offering him 2,500 shares for an investment of $5,000 in the corporation, and Basra agreed (after which the corporation issued Basra 2,5000 shares of stock in exchange for that $5,000).
However, there is no evidence that this is a closely held corporation because Basra does not engage in the day to day management of the business, and Angie is the only director in the corporation. Angie controls the management of the business, not Basra.
Therefore, because Basra is merely a shareholder of the corporation, and the contract with Clyde was entered into by Angie, Clyde cannot recover the unpaid contract price from Basra on the theory that Basra is a shareholder of the corporation.

3. Clyde may not recover the unpaid contract price from the corporation, on the theory that it adopted the contract. In order to adopt a contract, the corporation must take some step or derive some benefit from the contract without objecting to the contract. Here, the corporation took no steps to adopt the contract.
In fact, the corporation did the opposite - in July, Angie realized that she would not be able to raise the additional capital necessary to refine the app for public use. She immediately told Clyde to stop work. Because Angie was the director of the corporation, and has the ability, as the director, to adopt or disaffirm contracts in the ordinary course of the business, this is likely to be an act which disaffirms the contract on behalf of the corporation. Clyde's unfortunate situation of having finished the app and sending the corporation a bill is irrelevant when the corporation disaffirmed the contract.
It is also unlikely that Clyde will be able to recover when the Corporation failed to take a formal action with respect to the agreement with Clyde, because the corporation is not required to take formal actions on contracts when the directors disaffirm them in the ordinary course of the corporation's business.
Therefore, Clyde may not recover the unpaid contract price from the corporation, on the theory that it adopted the contract.

Question MEE 2 – February 2026 – Selected Answer 2

1. The issue is whether Angie is personally liable for the contract price from Clyde.

A promoter is a person who works to form a corporation before the corporation is legally formed. A promoter may enter into contracts and make promises, but the promoter is personally liable for all of their actions. Some exceptions to this include if the corporation adopted the contract, or entered into a new contract with the same terms, which would form a novation.

A corporation is formed on the date that is files articles of incorporation with the appropriate state agency. The articles of incorporation must state the name of the corporation, as well as the address of a the corporation, as well as the name of the director of the corporation. Once a corporation is formed, a board of directors is formed consisting of people who manage the company. Shareholders are also able to purchase shares and own shares of the corporation.

Once a corporation is formed, a shareholder or director is not personally liable for any debts or liabilities that the corporation holds. Exceptions include when a party can pierce the corporate veil, such as when there is a comingingly of assets, a lack of formalities with the corporation, or undercapitlization.

A promoter can get around personal liability if a de facto corporation was formed (meaning, the promoter acted in good faith believing that everything was done in order to incorporate). Another way a promoter can get around personal liability is through estoppel. If a third party validly believes that the promoter was acting as the corporation, than estoppel might prevent the promoter from being personally liable.

Here, Angie acted as a promoter. She started her business, XYZ on April 1. She met Clyde on April 10 and entered int a written agreement with him at that time. In the agreement, Angie agreed to pay Clyde $10,000 initially and $15,000 when he completed work on the app. However, she did not file the articles of incorporation until later in June. Therefore the corporation was not validly formed until June when the articles were filed.This means that Angie is personally liable for any debt or contracts that she entered into before the corporation was formed unless she can avoid personal liabiliy through a de facto corporation or through estoppel.

Here, it is unlikley that a de facto corporation was formed. First, Angie started her new business XYZ with the intent of incorporating later. Therefore she did not make a good faith effort to actually incorporate before she entered into the contract with Clyde. Further, it might be likely that estoppel would prevent personal liability. This is because Angie held herself out at XYZ when she contracted with Clyde. Therefore, Clyde may have relied on the fact that XYZ was already incorporated before he entered into the contract.

Therefore, because Angie acted as a promoter before the corporation was properly incorporated, she is likely peronally liable for the contract price with Clyde unless the doctrine of estoppel allows her to not be personally liable.

2. (a) The issue is whether Angie and Basra formed a partnership.

In order for a partnership to form, two people must form an association where they form a for-profit business and share the profits. A partnership can be formed without any official filing in a state office, and it can be formed either through an oral agreement or in writing. There must be valid intent to form the partnership.

Here, Angie told Basra about her business idea about earning money with an app. Basra approached Angie and told her that he liked her business and that if she wanted to start a business, he would be willing to invest $5000 in it. Angie had said nothing about starting the business at the time, rather she wondered outloud about some ideas.

This interaction likely does not meet the threshold of forming a partnership. First, Angie wondered aloud about an idea, to which Basra responded that he liked the idea and then offered to invest if she ever did start a business. There was no intent for the two associations to form a for-profit business together.

Even though Basra did eventually invest his money later in the business, it was not as a partner where they shared profits.

Therefore, a valid partnership between Basra and Angie was not formed, and Clyde cannot recover the unpaid contract price from Basra as a partner.

(b) The issue is whether Clyde can recover the unpaid contract price on the theory that Basra is a shareholder of the corporation.

A shareholder of a corporation is not personally liable for debts incurred from the incorporation. The exception to this is when the corporate veil is pierced, due to fraud or other comingling or mismanagement of assets. A majority shareholder or manager of the corporation holds responsibilities to creditors of the corporation, but minor shareholders do not. Common stock shareholders are not liable to creditors.

Here, Basra is a shareholder of the corporation. He is a minor shareholder, with only 2500 shares. Because he is not involved with management of the firm, and has not participated in any misconduct that would pierce the corporate veil in order to hold him liable, Basra is not liable to Clyde has a common stock shareholder.

Therefore, Clyde may not recover from Basra as a shareholder of the corporation.

3. The issue is whether Clyde may recover the unpaid contract price from the corporation on the theory that it adopted the contract.

A promoter is liable for agreements made with third parties before the corporation is properly incorporated. A corporation may adopt the contracts that promoters make by implied adoption, or actual adoption, etiher accepting the terms of the contract, creating a new contract or novation, or otherwise acting upon the terms of the contract.

Here, there was no formal action with respect to the corporation formally adopting the contract between Angie as the promoter and Clyde. Further, there are not other actions that the corporation participated in which would show an implied adoption. Anige entered into the contract with Clyde before XYZ was incorporated, and all of her interactions with Clyde were before that time as well. Therefore, once she incorporated in June, she did not have any interactions with Clyde other than when she told him to stop work.

Therefore, without any implied or actual adoption, it is unlikely that Clyde can recover the unpaid contract price from the corporation on the theory of adopting the contract.

Question MEE 2 – February 2026 – Selected Answer 3

1. Clyde may recover the unpaid contract price from Angie
The issue will be whether she remains liable for a contract made as a promoter of the corporation.

Angie acted as a promoter of the XYZ corporation in securing this contract. Promoters are parties who, prior to incorporation, secure contracts, instrumentalities, assets, etc for a corporation to be. On contracts entered into by promoters, promoters are liable personally for the obligations of the contract unless the contract shows the third party would only look to the corporation for performance under the contract or a novation occurs, following the incorporation.

Because the contract with Angie as representative of XYZ did not explicitly state that Clyde would only look to XYZ corporation for payment on the contract and because there has not been a novation, in which all other parties release Angie of the obligations under the contract, Angie remains personally liable on the contract.

It does not change the outcome that Angie considered herself a business as XYZ, prior to incorporation. Given the facts, without any filing with the state to create some other form of limited liabiltiy business, and without any partners present to create a partnership, Angie acted as a sole proprietorship, during the pre-incorporation period. As a sole proprietorship, XYZ's liability would be attributable to Angie, so the outcome stays the same.

2.

a) Clyde cannot recover from Basra on the theory he is a partner of Angie.
the issue will be whether he intended to run XYZ as a co-owner with Angie, prior to incorporation.

A partnership is a form of business association in which two or more parties intend to run a business for profit as coowners. The intent to run the business as coowners is the relevant inquiry here. the inquiry of whether to parties intended to run a business as coowners considers many factors including their relationship, management of the organization, and most prominently, whether they were entitled to shares of profits, which creates a presumption that the person was a coowner. the subjective intent to create a partnership is not required for a partnership to be formed, only the intent to carry on as coowners of a business for profit.

Here, Angie cannot be considered a partner because there are not facts to support showing that he was a co-owner. The extent of Basra's involvement prior to becoming a shareholder of XYZ was to encourage Angie in her venture, set her up with Clyde, and stating he would be willing to invest in such a venture. These activities are not characteristic exclusively of owners of a business and do not rise to the level of involvement and ownership of a business as to make Basra a co-partner in the business. Neither investing, nor encouraging, nor connecting others in their business relations will be enough on their own to create a sufficient showing of coownership. Further, Basra was not entitled to a share of profits so there is no presumption of partnership to be constituted.

b) Clyde cannot recover from Basra on the theory he is a shareholder of the corporation.

The issue will be whether there have been any facts to support piercing the corporate veil to hold Basra liable on the preincorporation contract.

Shareholders are generally not liable for any corproation obligations. they own shares and may direct corporation operations, through the election of directors. They will only become liable when the court decides to pierce the corporate veil. This remedy is a very rare occurrence, usually available when a corporation fails to follow corporate formalities or is insfufficiently capitalized. Further, courts are more likely to pierce the veil in tort cases than contract cases. Also, only active shareholders become liable when the veil is pierced, meaning they had active participation in the running of the business.

The court will not pierce the veil because there are no facts to show ther corporation was insufficiently capitalized or that corporate formalities were not followed. Additionally, this would be a claim in contract so Clyde is highly likely to fail in a claim against Basra as a shareholder.

3. Clyda cannot recover the unpaid contract prince from the corporation on the theory that is adopted the contract.

The issue will be whether it ratified or assumed the benefit from it.

Corporations become liable on a pre-incorporation contracts by a promoter only when they adopt it. This can include either ratifying the contract, meaning some official action is taken to assume the obligations of the contract, or by someone with authority receiving the benefit of the contract.

Here, XYZ corp will not be liable because no official action was taken by the corporation to assume the contract and no benefit was received by someone with authority on the contract. XYZ never received the benefit of the contract because XYZ only received the functioning app following Angie's refusal of the contract. Thus, XYZ will not be liable for the unpaid contract price.