

**PART II: Essay Question****Special Instructions Repeated From Page One of this Exam**

This essay question constitutes 1/3 of the exam. It consists of one (1) question divided into parts, all of which should be answered. Read the facts carefully. Answers based on incorrect facts are treated as incorrect answers. If you think that important facts are missing or ambiguously stated, make reasonable and explicit assumptions about them, but don't make any assumptions that would make the entire problem vanish. Abbreviate where appropriate. Write legibly on every other line and only one side of each page only. **I won't read illegible answers.**

Edna and Harry owned an office building as tenants in common. The first floor was leased in 2000 to Brilliant Brokers for a twenty year term at a rental of \$10,000 per month; the lease provided that Brilliant was limited to using the premises for selling stocks and related financial products, and that it could assign or sublet the lease only with the written consent of Edna and Harry.

In 2002 Brilliant subleased the premises to Stacker Stocks, who took the premises for the remaining balance of the term, less one day. Edna and Harry consented to the sublease on the condition that Stacker assume all the lease obligations, which it did.

In 2004, without the consent of either Edna and Harry or Brilliant, Stacker assigned its interest in the premises to Asgood Analyzers, who continued doing the same business as Brilliant and Stacker had done (selling stocks). Since the rent to Edna and Harry was paid by direct deposit into their bank account, neither Edna and Harry nor Brilliant realized that a transfer to Asgood had occurred.

Now, because of the catastrophe in the financial markets, Asgood says the business can no longer justify a \$10,000 monthly rent; and it has paid only \$4,000 for each of the last two months. The best solution Asgood has been able to come up, is to turn over the place to Newsom, who would use the premises as a dented can store and is willing to pay \$7500 a month for the remaining life of the lease. Harry and Edna have categorically rejected Newsom's dented can store in the building, because if complaints about it from other tenants in the building. However, in their opinion, the best rent they will be able to collect from any financial-type tenant in this market would be 6,000 a month.

Treat each of the following questions separately and make each answer complete so that it can be graded independently. But look at all of the questions before starting to answer any of them so that you can locate points you want to make in the right places.

1. Brilliant visits you to discuss its situation, It is concerned about what liabilities and defenses it might have to Harry and Edna, and what remedies it may have against Stacker and Asgood. Discuss its situation with it.

2. Stacker visits you to discuss its situation. It is concerned with what liabilities and defenses it might have to Harry and Edna or to Brilliant, and what remedies it may have against Asgood. Discuss its situation with it.

3. Asgood visits you to discuss its situation. It is concerned with what liabilities and defenses it might have to Harry and Edna or to Brilliant or to Stacker and what defenses it may have against any of them.

4. Edna visits you. After more thought, she has concluded that Newsom's dented can store is the best idea, but Harry disagrees. However, without rental income, future mortgage payments will have to be made out of their own pockets; Harry is willing to do this, but Edna doesn't have enough money to pay her share. Edna wants to know whether she can accept the dented can proposal on her own, even if Harry objects. And if she does do so, how will it affect her financial relations with Harry as to any recovery from Brilliant, Stacker, Asgood or Newsom, or the mortgage debt she and Harry owe?

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**END OF EXAM**