

**FINAL EXAMINATION**  
**REAL ESTATE FINANCE**  
**PROFESSOR BERNHARDT**  
**FALL 2005**

1. You have **three (3) hours** to complete both parts of this exam. You may allocate your time as you wish.
2. This is an **open** book exam. You may use any written materials you wish.
3. There are two parts to this exam:

**PART ONE** consists of 57 true/false questions and constitutes **67%** of your grade. You should try to complete this part in two hours. Correct multiple-choice answers are to be marked on the ParSCORE answer sheet form provided using pen or pencil and following the instructions on that form. If you change your answer, place an **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.

**PART TWO** consists of one essay question and is worth **33%** of your grade. More detailed instructions are located on the page containing the question. Write your responses in the blue books provided. Write clearly and **legibly**. Write on every other line and every other page to permit instructor comments. If you are using exam software and typing your answers, be sure to frequently save to the diskette.

**Please note:** We have tried not to use words and phrases in a technical, narrow sense. Thus, deed of trust and mortgage are used interchangeably, except where the question itself shows that the distinction is intentional. The same is true for foreclosure sale and trustee sale, etc. You may exercise the same latitude in your answers. You may also abbreviate wherever it is appropriate (e.g., TD or DT for deed of trust, first letters for characters' names).

4. Write your **exam number** on your exam envelope. Put your correct class section and student exam number at the top of this page, each page of questions, each blue book, and the ParSCORE test form. **Do not use your name, student ID number or Social Security Number on any exam materials.**
5. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. Do not seal the envelope. **Failure to return this exam with all its pages intact will result in a failing grade.**

# PART TWO: ESSAY

## INSTRUCTIONS

1. This part constitutes **33% of the exam**. There is one essay question in two parts.
2. Read the facts carefully. Answers based on incorrect facts are incorrect answers.
3. If you think important facts are missing or badly stated, make explicit assumptions about them. Do not make assumptions that are unreasonable or that make the entire issue vanish.
4. Read the call of each question carefully; don't answer questions that haven't been asked.
5. You should try to organize your thinking beforehand, so that relevant points are put in the right places.
6. Type or answer in blue books. You may abbreviate where appropriate. Write legibly on every other line and one side of each page only. **Illegible answers are not read.**

Dora purchased a lot from Jerry and gave him a note and deed of trust for \$50,000 as part of the price. Six months later, Dora informed Jerry that she was planning on building a house on the lot and had arranged to borrow \$300,000 for its construction, but that her lender, RichBank, required that its deed of trust be first in priority. Jerry agreed to and did execute a subordination agreement, letting RichBank have priority over him. The agreement also provided that, as consideration for subordinating, Dora waived CCP 580b regarding Jerry's mortgage.

A few months later, Dora defaulted on her loan to Jerry, and when he contacted her to find out why she was not paying him, she told him that she had defaulted on both of her loans because she had lost her job, but that she expected to inherit some money from her recently deceased aunt within the next six months. Jerry agreed to make RichBank current and to add what he advanced to his second mortgage so long as she paid him within a year. To do this, they opened an escrow and Dora deposited a grant deed made out to Jerry with instructions for the escrow agent to record it if she had not repaid Jerry for his advances by the end of the year.

Jerry then contacted RichBank to find out how much was owed, but its loan officer refused to speak with him on the ground that he was not the trustor and had not recorded any Request for Notice of Default. As a result, Jerry could not find out how much RichBank required for reinstatement. Jerry contacted Dora who told him that RichBank had noticed a sale for the following week.

Jerry went to RichBank's sale and offered to pay the auctioneer however much money was necessary to cure all defaults (he had brought enough money with him to do that) but he was told that only payment of the entire loan would be accepted. Although Jerry offered to go to his bank to borrow enough money to do so, the auctioneer refused to delay the sale more than ten minutes, which was not enough time for Jerry to accomplish that. So Jerry stayed at the sale, yelling at the top of his voice to all bidders that the sale was not proper.

Notwithstanding all of this commotion, the property was sold to Thorp for \$300,001, which was \$1 over RichBank's bid. Jerry tried to stop the auctioneer from delivering the trustee's deed to Thorp, but could not.

1. That was yesterday. Today Dora has come to see you. She wants to know what remedies she has against RichBank and Thorp, and whether or not she should file bankruptcy. Advise her.
2. Jerry has also come to see you. He wants to know what remedies he has against RichBank, Thorp, and Dora. Advise him. Notwithstanding any conflict of interest you perceive in talking to him as well as to Dora, advise him. Your answer here may refer to parts of your previous answer without repeating those same points in full a second time.

**END OF EXAM**