

FINAL EXAM

CORPORATIONS

PROFESSOR GREENBERG

SUMMER SEMESTER 2005

1. You have **four (4) hours** to complete this exam. You are not required to spend the entire time working on the exam - the average time for completion is between slightly over three hours. I recommend that you spend ninety minutes on the multiple-choice questions, and two-and-one-half hours on the essay question. Try to avoid the temptation to second-guess yourself on the multiple-choice questions your initial instinct is often the most accurate.
2. **THIS IS AN CLOSED BOOK EXAM.** You may **not** bring in or use any notes, books or other materials to assist you in responding to the questions.
3. The exam has two components a set of 40 multiple-choice questions, and a single essay question. The multiple-choice questions are each worth one (1) point, for a total of 40 points. The essay question is worth 60 points.
4. With respect to the multiple choice question section, you must use the PARSCORE form to enter your answers. You may use a pen or pencil. Follow the directions on the score form. Please be careful not to make any stray marks.
5. With respect to the essay question, answer it as fully as you can, citing any appropriate cases, model rules, industry standards, and statutes that are relevant.
6. **WITH RESPECT TO THE ESSAY QUESTION, DO NOT WRITE ON BOTH SIDES OF THE PAGE. WRITE LEGIBLY OR PRINT IF YOUR HANDWRITING IS DIFFICULT TO READ.** If I cannot read your response to a question, your grade will be adversely affected. Be sure to write your exam number on your blue books and on the exam question. Turn in all questions, scratch paper and blue books after the conclusion of the exam.

7. On the essay question, I recommend that you first spend about one hour issue-spotting and outlining your response, before you start writing. This way you are less likely to miss issues or to submit a disorganized response. Points are deducted if you miss an issue. The essay question contains numerous issues. Each issue is worth the same amount of points (for example, if there are ten (10) issues, they are each worth 6 points towards the total of 60 points). To obtain a high score, you will need to properly identify and respond to all of the issues.

Part 2

Essay Question

Sixty (60) points

You are an attorney in private practice in San Francisco. You have been contacted by the PRAXIS PENSION FUND, a San Francisco based institutional investor in JERUSALEM STEEL CORPORATION, regarding a possible lawsuit PRAXIS wants to file against the directors of JERUSALEM. According to your research, JERUSALEM is a publicly traded corporation, listed on the New York Stock Exchange, with \$500,000,000 in listed assets and over 1 million shareholders, with 5 million shares outstanding. The corporation's principal place of business is in New Jersey.

The directors of PRAXIS tell you that the directors of JERUSALEM recently entered into a deal to sell the companies manufacturing plant in New Jersey to a new company, formed by the current directors of JERUSALEM, for a sales price of \$100 million dollars. The new company, called EXODUS, plans to tear down the plant and build 1000 luxury homes on the site, which they will be able to sell for \$700 million dollars total. Since the plant is the principal asset of JERUSALEM, the PRAXIS directors claim that this sales price is too low, and will cause a dramatic drop in the price of the stock, presently trading at \$25 per share. PRAXIS owns 20% of the outstanding shares of JERUSALEM, and estimates that after the sale of the plant, the price of JERUSALEM stock will drop to \$5 per share.

The directors of JERUSALEM recently registered a proxy solicitation with the SEC for their upcoming annual Board of Directors meeting, now set for October 31st, and called on shareholders to approve the sale of the plant to EXODUS. The solicitation contains the representation that the sales price is a fair market price, based on an appraisal they had done by a small local residential real estate firm in New Jersey. The proxy solicitation fails to disclose the identity of the owners of EXODUS, nor does it reveal that the appraisal firm has never done a commercial appraisal. The proxy solicitation informs shareholders that the value of the company stock will drop to \$5 per share after the sale, but explains that the sale is necessary because the plant equipment is out of date, and it will cost too much to replace it. The JERUSALEM Board offers, in the proxy solicitation, to buy the outstanding stock of the shareholders of the company for \$7 per share.

The directors of PRAXIS ask for your opinion of this proposed sale. Does PRAXIS have grounds for suit against the Board of JERUSALEM? What are the grounds available to PRAXIS? What is the procedure to be followed in order for PRAXIS to bring any suit? What defenses are available to the Board of JERUSALEM? Is there any basis for SEC involvement, and if so, what can the SEC do in this case? Between JERUSALEM and PRAXIS, who is likely to prevail, and why? What is your advice?

END OF EXAM