

**Final Examination**

# **INTRODUCTION TO BANKRUPTCY**

**Professor Wurms**

**SPRING 2006**

**Exam Instructions**

1. You have **three (3) hours** to complete this exam.
2. This is an **open book** exam. You may refer to the Federal Bankruptcy Code, the Federal Bankruptcy Rules, and all other materials.
3. This exam consists of one (1) Essay question counting for sixty (60) points, forty (40) Multiple Choice questions counting for twenty (20) points, and forty (40) True and False questions counting for twenty (20) points. For the essay, please write your responses in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments. For the Multiple Choice and True and False questions, please fill in the corresponding space on the ParScore.
4. Write your exam number on your exam envelope. Put your student exam number at the top of this page, each page of questions, and each blue book. **Do not** use your name, student ID number or Social Security Number on any exam materials. (Standard instruction for all exams.)
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. Students who do not return all exam materials at the end of the exam may not be graded. (Standard instruction for all exams.)

**GOOD LUCK!!**

## Essay Question (60 points)

Read the following fact pattern and then do the Requested analysis that appears at the end of the fact pattern. (You may want to read the Requested Analysis at the end of the Fact Pattern before reading the Fact Pattern.)

### Fact Pattern

On May 1, 2005, Neal London was appointed the bankruptcy trustee for the Little Jimmy Manges Steelers Emporium, Inc. (Jimmy) chapter 7 bankruptcy estate. Jimmy sold gift items related to the Pittsburgh Steelers football franchise. Jimmy originally filed his bankruptcy as a chapter 11 on June 1, 2004, but the court converted the case to chapter 7 on May 1, 2005, when it appointed Neal. At Jimmy's meeting of creditors, Neal learned the following:

On April 2, 2004, Jimmy paid \$100,000 to SOI, Inc., the company that supplied Jimmy with most of the Steelers items that he sold. The \$100,000 was for a single invoice that was due on December 2, 2005, so was 4 months past due. In the 10 years that Jimmy and SOI had done business, this was the first time that Jimmy had paid late. In fact, none of SOI's customers ever paid late since the Pittsburgh Steeler gift industry was very strict in requiring payments to be on time. After SOI received the payment due on December 2, 2005, it shipped an additional \$20,000 of gift items to Jimmy. Payment for the new shipment was due on May 25, 2004. Jimmy paid \$10,000 of that amount on time. So Jimmy still owed SOI \$10,000 when it filed its bankruptcy.

When it filed, Jimmy was insolvent and had been insolvent for the year before its bankruptcy. The fair market value of its assets at the time of bankruptcy was \$100,000. Its creditors have filed legitimate claims of over \$500,000.

There is a single Jimmy store in operation. Neal must sell all of the gift items still at the store. Since the Steelers won the last Super Bowl, Neal figures that he can sell all of the items by operating the business for the rest of the month. At that point, he will close the store.

Jimmy rents the store from Celeste, Inc. Unfortunately, Jimmy has failed to pay the last 5 months rent. The monthly rent is \$1,000. Most similar places are being rented at \$2,000 per month. The lease has another 2 years before it expires. Neal would like to get value for the lease.

Jimmy never assumed the store's lease, but has received extensions from the court to assume it. The present extension expires on July 1, 2006. The court will not grant further extensions.

## Requested Analysis

Neal wants to hire you as his attorney. The first thing he wants you to do is to provide him with a written analysis of the following issues and any relevant issues that you see. He understands that you may not have enough facts this early in the case to provide answers to all of the issues, but he would like you to at least address them. He doesn't think you will need more than 2 hours on this task, but he wants your analysis to be in as much detail as this time limitation permits. He would prefer if your analysis contained citations to the sections of the relevant Bankruptcy Code and Rules, when appropriate.

Can Neal avoid the SOI transfer? What steps must he take and when? What defenses might SOI assert and would they likely succeed? What is the amount of Neal's likely recovery, if any?

Can the lease provide Neal with value? What steps must he take and when? What objections might Celeste raise?

**END OF EXAM**