

Fundamentals Level – Skills Module

# Corporate and Business Law (Hong Kong)

Monday 9 December 2013



**Time allowed**

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

**Do NOT open this paper until instructed by the supervisor.**

**During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.**

**This question paper must not be removed from the examination hall.**

The Association of Chartered Certified Accountants

# Paper F4 (HKG)

The ACCA logo, consisting of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black square.

**ALL TEN questions are compulsory and MUST be attempted**

- 1 In relation to Basic Law and human rights under the Hong Kong legal system:**
- (a) Explain the enforceability of the International Covenant on Civil and Political Rights in the Hong Kong Special Administrative Region. (4 marks)**
  - (b) Describe the scope of human rights protected in the International Covenant on Civil and Political Rights. (6 marks)**
- (10 marks)**
- 2 In relation to employment law, explain the tests adopted by the courts in distinguishing a contract of service from a contract for services. (10 marks)**
- (10 marks)**
- 3 In relation to the law of tort:**
- (a) Explain the meaning of causation. (5 marks)**
  - (b) Explain the rule governing remoteness of damage. (5 marks)**
- (10 marks)**
- 4 In relation to partnership law:**
- (a) Explain the authority of the partners of a partnership. (5 marks)**
  - (b) Explain the circumstances under which the partners of a firm are liable for the act of a partner to the firm. (5 marks)**
- (10 marks)**
- 5 In relation to company auditors:**
- (a) Describe the duties of the auditors. (6 marks)**
  - (b) Explain the statutory procedure for removing the auditors. (4 marks)**
- (10 marks)**
- 6 In relation to the formation of a company:**
- (a) Explain what is a certificate of incorporation and the importance of it. (3 marks)**
  - (b) Explain the nature of the memorandum of association and the articles of association. (7 marks)**
- (10 marks)**

**7 In relation to the winding up of a company, describe the main differences between a voluntary liquidation and a compulsory liquidation.**

**(10 marks)**

**8** Two months ago, Sam ordered a mobile phone of a particular model from Phone Ltd. Having received the order from Sam, Phone Ltd posted a parcel to Sam, which contained a mobile phone.

Sam discovered that the mobile phone in the parcel was not the model which he had ordered when he opened the parcel.

Sam then called Phone Ltd and demanded Phone Ltd take the phone back. However, Phone Ltd refused to do so by reason that the phone had been accepted by Sam when Sam opened the parcel. Phone Ltd has also sent Sam an invoice demanding Sam settle the price of the phone.

**Required:**

**In relation to contract law, advise Sam as to whether he needs to pay for the price of the phone.**

**(10 marks)**

**9** Peter was an employee of Estate Agent Ltd before he left the company three months ago. The employment contract between Peter and Estate Agent Ltd provided, among others, that Peter could not solicit the customers of Estate Agent Ltd within half a year after Peter left Estate Agent Ltd.

After Peter left Estate Agent Ltd, he assisted Cindy, who is Peter's girlfriend, in setting up a company called Land Agent Ltd. Land Agent Ltd runs a business similar to that of Estate Agent Ltd. Cindy and her younger brother are the only two shareholders of Estate Agent Ltd. Under the direction of Peter, Cindy approaches customers of Estate Agent Ltd and has successfully entered into an agency contract with those customers under the name of Land Agent Ltd.

Following the events, Estate Agent Ltd has claimed against Peter for damages by reason that Peter has breached his employment contract.

**Required:**

**In relation to the circumstances under which the court will lift the corporate veil of a company and make the officers of the company personally liable, advise Peter as to whether he would be liable for the damages to Estate Agent Ltd.**

**(10 marks)**

**10** David was a clerk of Wong & Co, an accounting firm. About half a year ago, he was assigned by the firm to carry out stock taking for Computer Ltd.

Before David carried out his duty on the first day of the stock taking, he had breakfast with the managing director of Computer Ltd. On that occasion, David received a sum of HK\$20,000 from the managing director without permission from Wong & Co. In return, David promised the managing director that he 'would not make things difficult' for Computer Ltd.

However, before David started taking the stock of Computer Ltd on that day, Wong & Co instructed David to do things unrelated to the stock taking because of some internal arrangement of Wong & Co. Ever since then, David has not been involved in the stock taking.

**Required:**

**In relation to the law of bribery, advise David as to whether he has committed any crime.**

**(10 marks)**

**End of Question Paper**