

FINAL EXAMINATION
COMMERCIAL PAPER
PROFESSOR G. FLINT

ESSAY
PLEASE READ CAREFULLY

ALL ANSWERS ARE TO BE WRITTEN ON THE BLUE BOOKS PROVIDED WITH THIS EXAM. BE SURE TO NUMBER EACH RESPONSE.

There are three questions (time and percent indicated). The time for completing the examination is three hours.

1. This examination is "open book". You may use your casebook, statutory supplement, and class notes. Use of calculators and cleansed laptops is permitted.
2. **Be sure to answer the specific question that is asked. No question asks for a general recitation about a topic from you notes.** Information supplied relating to general material from your notes or some unasked question will not increase your score and consumes you time needed to answer the asked questions.
3. If additional facts are necessary to resolve an issue, specify what additional facts you believe to be necessary and why they are significant. You may not make an assumption that changes or contradicts the stated facts.
4. Quality, not quantity, is desired. Think through and briefly outline your answer before you begin to write.
5. Write legibly. Be sure to formulate your answers in complete sentences and paragraphs with proper grammar. Failure to do so will result in an appropriately lower score.
6. Do not seek an interpretation of language in the question from anyone. If you sense ambiguity or typographical error, correct the shortcoming by shaping the question in a reasonable way and by recording your editorial correction in your answer.

Under the Honor Code, when you turn in this examination, you affirm that you have neither given, received, nor obtained aid in connection with this examination, nor have you known of any one so doing. If you cannot make this affirmation, you shall note such fact on your examination and must immediately advise the Dean of the reason therefore.

I. (33.3 %--1 hour)

Otha Gasaway, a resident of San Antonio, traveled to Houston for his daughter's basketball tournament one weekend. Unknown to Otha Gasaway, his suburban leaked oil. So when he tried to start his engine the next morning (Saturday) to take his daughter to the tournament, his engine would not start. It had seized. Fortunately, Otha Gasaway was a member of AAA and their representatives towed the suburban to the AAA-approved Garrett Voshell's Auto Shop. The individuals at the Garrett Voshell auto shop were totally unknown to Otha Gasaway. Garrett Voshell recommended replacing the old engine (at 180,000 miles) with a "used engine" that Garrett Voshell claimed had only 60,000 miles. With few choices in a strange city on Saturday morning, Otha Gasaway authorized the repair work, which would take about 3 business days to complete. While waiting for the repairs and to attend most of the basketball games Otha Gasaway rented a vehicle for a week. The next Friday Otha Gasaway again traveled to Houston to return the rent car and pick up the suburban. Otha Gasaway paid for the repairs to the suburban with a check made out to Garrett Voshell Auto Shop for several thousands of dollars and for which he had previously transferred sufficient funds to his bank account at James Madison Rogers National Bank to cover. The Garrett Voshell Auto Shop attendant wrote down his driver's license number on the check. On the return drive Friday afternoon, Otha noticed that the oil light to the suburban flashed on as he reached Seguin, Texas.

Worried that he might have a defective engine, Otha Gasaway has entered your associate's office at Suem & Stickem, P.C., late Friday night. Otha Gasaway wants his money back. Otha Gasaway wants to know what his options are, and their resulting liabilities, if any. Provide your response and its support with relevant code sections and case law.

II. (33.3 %--1 hour)

Davis Flint completed his tax return on April 10, 2004. Davis Flint owed several thousands of dollars. Without thinking (not following the instructions accompanying the tax return materials), Davis Flint wrote a check for the amount in the name of "I.R.S." (The materials say make the check in the name of "U.S. Treasury"). Consequently, Iva Ruth Smith, an employee of the Internal Revenue Service, intercepted the check. Iva Ruth Smith added "mith" after I.R.S (obliterating the last period), endorsed the check "I.R.Smith, for collection only" and deposited it in her bank account she had previously established in the name of "Iva Ruth Smith" at Arunah Hubbell State Bank. The Internal Revenue Service notified Davis Flint that he owed them several thousand dollars for the 2004 tax year. Davis Flint reviewed the checks returned by his bank to him in the monthly statements and noticed the wrong payee on check he had sent the Internal Revenue Service.

Worried that the Internal Revenue Service might take his home, Davis Flint has entered your associate's office at Blue Stocking Law Firm, P.C. Davis Flint does not want to pay the Internal Revenue Service a second time. Provide your response and its support with relevant code sections and case law.

III. (33.3 %--1 hour)

In March 2005 William Jasper Christian noticed that his bank statement from the Franz Josef Stainer National Bank included two thousand more dollars in his bank account than he thought it should. William Jasper Christian withdrew almost the entire account, leaving only enough to prevent closure of the account. William Jasper Christian then went on a spending binge, spending almost all the \$2000. Shortly, William Jasper Christian received a letter from Franz Josef Stainer that the Franz Josef Stainer National Bank had miscredited \$2000 to his account and wanted him to return the money.

William Jasper Christian has entered your associate's office at Robbem & Stealem, P.C. William Jasper Christian wants to know what his rights and liabilities, if any, are for these moneys. Provide your response and its support with relevant code sections and case law.