

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2025**

QUESTION 1 (40 POINTS)

Movie Equipment, Inc. (“MEI”) is a validly-formed Louisiana corporation engaged in the business of leasing cameras and lighting equipment to movie-production companies making films in Louisiana. Other than the minimum required information, MEI’s articles of incorporation provide that the corporation will have three directors and is authorized to issue 100 shares of stock.

MEI’s three directors are Ann, Bob, and Cam. Each owns 10 shares of MEI stock. Ann is the sole officer of MEI and serves as both president and secretary. The remaining 70 shares of stock are owned by Rusty (69 shares) and Scott (1 share), neither of whom is involved in MEI’s business operations.

One year ago, Ann, as a personal project and without informing the other directors, began making a film using MEI equipment. Ann completed the project and sold the rights to the film to a Hollywood-based movie-production company for \$1 million. After the sale, Ann disclosed the project and the sale to Bob and Cam. Bob was not happy that Ann had made personal use of MEI’s equipment for her own profit. He demanded that Ann reimburse MEI for her use of the equipment and assign to MEI the proceeds of the sale of her film. Cam, on the other hand, was thrilled with the news and suggested that MEI change its business focus from leasing equipment to movie production. Bob objected to MEI undertaking movie productions. In light of Bob’s opposition, Ann and Cam offered to purchase Bob’s shares in MEI if he would resign from MEI’s board of directors. Bob refused.

The following day, at a properly-convened meeting of MEI’s board of directors, Ann and Cam offered for vote a resolution to amend MEI’s articles of incorporation that would reduce the number of MEI’s directors from three to two and eliminate the director position currently held by Bob. Ann and Cam voted in favor of the resolution. Bob voted against the resolution.

Immediately following the board meeting, Cam, without informing Ann, signed, on behalf of MEI, an agreement with Sam, a local author, to purchase for \$1 million the film rights to Sam’s latest novel.

One week later, at MEI’s regularly-scheduled annual shareholder’s meeting, Ann and Cam announced that MEI’s board of directors, by majority vote, had amended MEI’s articles of incorporation to reduce the number of directors from three to two and had eliminated Bob’s director position. The meeting was attended by Ann, Cam, Rusty, and Scott. At the meeting, neither Rusty nor Scott raised any objection to the amendment of MEI’s articles or to the elimination of Bob’s director position.

The following day, a fire broke out at MEI’s equipment storage facility, resulting in the complete loss of all equipment owned by MEI. The damage caused by the fire was not covered by insurance because Ann—while preoccupied with making her own film— had forgotten to pay the annual premium on MEI’s fire insurance policy.

Answer the following seven subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 1.1 What fiduciary duties, if any, did Ann, as an officer and director of MEI, breach by her actions? Explain fully. (5 points)**
- 1.2 What action, if any, might Bob take to require Ann to reimburse MEI fair rental value for Ann’s personal use of MEI’s equipment to make her own film, and is Bob likely to succeed in any such action? Explain fully. (10 points)**
- 1.3 Can Scott successfully take action to require Ann to pay monetary damages to MEI due to the loss of fire insurance coverage caused by Ann’s failure to pay the policy annual premium? Explain fully. (3 points)**

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- 1.4 Is the amendment to MEI's articles of incorporation eliminating Bob's director position valid? Explain fully. (4 points)
- 1.5 Is MEI bound by the agreement that Cam signed on behalf of MEI to purchase the film rights to the author's novel for \$1 million? Explain fully. (6 points)
- 1.6 *For purposes of this subquestion 1.6 only, assume that MEI maintains a record of all compensation that MEI has paid to Ann for her service as MEI's president and secretary, and that all MEI shareholders have held their shares for more than one year.*
- a. Is Rusty entitled to inspect the record of compensation paid to Ann? Explain fully.
- b. Is Scott entitled to inspect the record of compensation paid to Ann? Explain fully.
- (6 points)
- 1.7 Under what circumstances can a shareholder require a corporation to purchase the shareholder's shares? Does Bob have any legal grounds to require MEI to purchase his shares if Bob wishes to withdraw as a shareholder? Explain fully. (6 points)

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

Answer the following eight questions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

PART A (25 POINTS)

Lance, Molly, and Nancy are in business together and operate a food truck. They conduct the business as a partnership under the name, Street Food Company. The partners have no written partnership agreement but share equally in the profits and expenses of the business. Lance serves as the general manager of the business. Molly contributed the food truck. Nancy serves as the chef.

A month ago, Lance suggested to Molly and Nancy that they should expand the business by purchasing a second food truck. Molly and Nancy objected. Without informing Molly and Nancy, Lance signed a sales contract on behalf of the partnership purchasing a second food truck on credit for \$50,000.

Nancy became so upset upon learning of Lance's purchase that she immediately quit the business. Due to Nancy's abrupt departure, Molly was forced to take over cooking responsibilities, though she had no training or skill as a chef, and within a day of Nancy's quitting, Molly caused a customer to suffer food poisoning by using improperly handled ingredients. The customer subsequently obtained a judgment against Street Food Company for \$100,000.

- 2.1 Did Nancy validly withdraw from the Street Food Company partnership? Explain fully. (5 points)**
- 2.2 *For purposes of this subquestion 2.2 only, assume that that no payments have been made for the second food truck, that Street Food Company currently has no assets other than the two food trucks, and that each of the food trucks has a fair market value of \$10,000. Is Nancy personally liable for payment of any amount of the purchase price of the second food truck? Explain fully. (9 points)***
- 2.3 *For purposes of this question 2.3 only, assume that Nancy did not withdraw from the Street Food Company partnership but, instead, without the knowledge or consent of Lance or Molly, sold her interest in the partnership to a third party. Is Nancy's sale of her partnership interest to the third party valid and, if so, does the third party become liable for Nancy's share of the debt? Explain fully. (3 points)***
- 2.4 *For purposes of this subquestion 2.4 only, assume that, instead of being a partnership, Street Food Company is a validly formed member-managed Louisiana limited liability company ("LLC"). Did Lance have authority to purchase the second food truck for the LLC? Explain fully. (4 points)***
- 2.5 *For purposes of this subquestion 2.5 only, assume that Street Food Company is a validly formed manager-managed Louisiana limited liability company ("LLC"), that Lance is the sole manager, and that the LLC's operating agreement does not address removal of a manager. Under what circumstances could Lance be removed as the manager by Molly and Nancy? Explain fully. (4 points)***

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PART B (15 Points)

The following short answer questions are not based on the facts in Part A.

Answer each of the following three questions and provide a brief explanation.

- 2.6 For Louisiana corporations, what is a “qualified director” and what is a “directors’ action”? (4 points)**
- 2.7 Under what circumstances can a partner in a general partnership be expelled? (4 points)**
- 2.8 What are the powers and obligations of a partner in commendam? (7 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2025**

QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds to the correct answer.

- 3.1 Limited liability company; failure to file annual report
- 3.2 Corporation; meeting and quorum requirements
- 3.3 Corporations; authority under unanimous governance agreements
- 3.4 Agency; express and apparent authority
- 3.5 Corporation; officers
- 3.6 Limited liability company; dissolution
- 3.7 Partnership; partnership contributions
- 3.8 Corporation; provisions for protecting against shareholder dilution
- 3.9 Corporation; indemnification
- 3.10 Partnership; admission of new partner

[End of Question 3]

END OF BUSINESS ENTITIES TEST

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
JULY 2024**

QUESTION 1 (40 POINTS)

PCI Inc. (“PCI”) is a validly-formed Louisiana corporation. In addition to the minimum required information, PCI’s articles of incorporation provide that: (1) the corporation will have three directors; (2) the corporation is authorized to issue 3,000 shares of stock; and (3) the right of shareholders to inspect the corporation’s records is limited to inspection of the corporation’s annual reports.

The three directors are Bob, Claire, and Dan. Bob and Claire are married to each other but opted out of the community property regime. Adam is the sole officer of PCI, and he serves as both president and secretary. PCI has three shareholders—Bob, Dan, and Sara—and each owns 1,000 shares. All have owned their shares for more than one year.

PCI owns a commercial office tower. Recently, the board of directors obtained an independent appraisal of the tower, which indicated the tower has a fair market value of \$10 million. After considering the appraisal, the board voted to authorize Adam to solicit purchasers for the tower.

Shortly after receiving the appraisal, Bob, alone, secretly organized another company, Building Buyers LLC, for the purpose of purchasing the office tower from PCI and reselling it at a profit. Without revealing the identity of its member and organizer, Building Buyers LLC submitted an offer to PCI’s board of directors to purchase the tower for \$9 million.

At a properly convened meeting of PCI’s board of directors, Bob, without explanation, recommended that the board accept Building Buyers LLC’s offer. Bob did not disclose to the other directors that he owned and controlled Building Buyers LLC. Neither Claire nor Dan inquired why Bob was recommending acceptance of an offer that was \$1 million less than the appraised value. Nevertheless, the board voted unanimously to accept Building Buyer LLC’s offer.

Sara is upset with the board’s decision to accept Building Buyers LLC’s offer. She believes PCI should not have sold the tower for less than fair market value. Sara submitted a written request to PCI to inspect and copy the minutes of the board of directors meeting at which the directors voted to accept Building Buyers LLC’s offer. Based on the provision in PCI’s articles of incorporation restricting shareholder inspection rights to the corporation’s annual reports, PCI denied Sara’s request.

Answer the following eight subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 1.1 What fiduciary duties do Bob, Claire, and Dan owe as directors of PCI? Explain fully. (4 points)**
- 1.2 Should any of Bob, Claire, or Dan be held personally liable to PCI for payment of monetary damages resulting from the board’s acceptance of Building Buyers LLC’s offer? Explain fully. (7 points)**
- 1.3 What is a “director’s conflicting interest transaction”, and is one present under the facts of this case? Explain fully. (3 points)**
- 1.4 What is a “directors’ action,” and is one possible in this case with respect to the PCI’s board’s acceptance of Building Buyers LLC’s offer? Explain fully. (5 points)**

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- 1.5** *Solely for purposes of this question 1.5, assume that: (a) a derivative proceeding is brought against Bob, Claire, and Dan; (b) Bob, Claire, and Dan succeed in defeating the derivative proceeding brought against them, and (c) PCI's articles of incorporation include no provision that addresses indemnification of directors or officers.*

Is PCI required to indemnify Bob, Claire, and Dan for the legal expenses they incurred in defending against the derivative proceeding? Explain fully. (4 points)

- 1.6** *Solely for purposes of this question 1.6, assume that Sara brought a civil action against PCI to require the corporation to allow her to inspect and copy the minutes of the board of directors meeting.*

How should the court rule on Sara's action? Explain fully. (6 points)

- 1.7** **What is a "unanimous governance agreement," what is required to form one, and could one validly allow Sara to veto any decisions made by PCI's board of directors to sell the tower? Explain fully. (5 points)**

- 1.8** **What is the statutory remedy provided for "shareholder oppression" under Louisiana law, what facts must be established to succeed on a claim of "shareholder oppression," and do the facts of this case establish "shareholder oppression" by PCI's board of directors against Sara? Explain fully. (6 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
JULY 2024**

QUESTION 2 (40 POINTS)

PART A (25 POINTS)

Andrew, Maddie, and Scott are partners in Tree Cutting Services Co. ("TCSC"), a Louisiana general partnership. Scott and Maddie each contributed \$100,000 to the partnership when it was formed. Andrew contributed \$50,000. TCSC's written partnership agreement states only that Scott and Maddie are each assigned a 40% interest in the partnership, and that Andrew is assigned a 20% interest in the partnership.

TCSC uses pickup trucks to transport crew and equipment to work sites. One day, the three partners met to discuss Andrew's desire to purchase an additional truck to supplement the company's existing fleet. Maddie and Scott stated to Andrew that they believed the company's existing fleet of trucks was sufficient for the company's current business and that purchasing an additional truck would be a waste of resources. Maddie and Scott told Andrew that they did not consent to his purchasing an additional truck.

Andrew, without informing Maddie and Scott, purchased a brand-new luxury pickup truck for TCSC for \$80,000 from a local dealership. Andrew paid \$8,000 in cash and signed a promissory note for the balance. Andrew signed all documents as "Andrew, Partner, on behalf of TCSC partnership."

Maddie and Scott learned of Andrew's purchase of the truck later that same day, and they were upset. They believed TCSC had no need for an additional pick-up truck, much less an expensive luxury model, and they considered the purchase to be a waste of partnership resources. Maddie and Scott immediately voted to expel Andrew from the partnership. At that time, TCSC's business was fairly valued at \$1 million, taking into consideration all liabilities.

Please answer the following six subquestions. The subquestions in Question 2, Part A are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

2.1 Should TCSC be liable to the dealership for payment of the balance due on the purchase price of the pickup truck? Explain fully. (5 points)

2.2 Should Andrew be personally liable to the dealership for the entire balance due on the purchase price of the pickup truck? Explain fully. (5 points)

2.3 Under what circumstances, if any, can a partner be expelled from a partnership, and, in this case, was Andrew's expulsion from TCSC by Maddie and Scott valid? Explain fully. (5 points)

2.4 *Solely for purposes of this question 2.4, assume that Andrew was properly expelled as a partner from TCSC.*

What amount, if anything, is Andrew entitled to receive for his 20% interest in TCSC? Explain fully. (4 points)

2.5 *Solely for purposes of this question 2.5, assume that TCSC is a validly-formed Louisiana partnership in commendam and that Andrew is a partner in commendam.*

Did Andrew have authority to purchase the truck for TCSC? Explain fully. (3 points)

2.6 *Solely for purposes of this question 2.6, assume that TCSC is a validly-formed, member-managed Louisiana limited liability company and that Andrew, Maddie, and Scott are its members.*

Did Andrew have authority to purchase the truck without the approval of Maddie and Scott? Explain fully. (3 points)

TEST CONTINUES ON NEXT PAGE

PART B (15 POINTS)

The following short answer questions are not based on the facts in Part A.

Please answer each of the following five questions and provide a brief explanation. Assume in each instance that there is no provision of the organizational documents of the affected entity addressing the issue in question.

- 2.7 What are the requirements for a partner to withdraw without the consent of the other partners from a partnership that is constituted for a term? (3 points)**
- 2.8 What are the requirements for a partner to withdraw without the consent of the other partners from a partnership that is constituted without a term? (3 points)**
- 2.9 For a member-managed limited liability company, what vote is required to approve the alienation, lease, or encumbrance of immovable property owned by the company? (3 points)**
- 2.10 What are “preemptive rights” and how are they advantageous? (3 points)**
- 2.11 What are “emergency powers” for a Louisiana corporation, and how are such powers used? (3 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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JULY 2024**

QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds to the correct answer.

- 3.1 Corporations; business opportunities
- 3.2 Approval needed for sale by limited liability company
- 3.3 Partnership; formation
- 3.4 Corporations; mergers
- 3.5 Responsibility of limited and general partners for partnership liability
- 3.6 Limited liability company; rights of former member who has withdrawn
- 3.7 Agency; form of mandate
- 3.8 Persons authorized to bind a limited liability company
- 3.9 Allocation of profits for limited liability company
- 3.10 Partnership; liability of partners for partnership debts

[End of Question 3]

END OF BUSINESS ENTITIES TEST

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2024**

QUESTION 1 (40 POINTS)

XYZ, Inc. is a validly-formed Louisiana corporation that owns and operates a small hotel. Its articles of incorporation provide that the corporation will have three directors but otherwise contain only the minimum required information (including that the corporation is authorized to issue 1,000 shares).

The three directors are sisters Rebecca, Claire, and Maddie, and each owns 100 shares. Their brother, Scott, owns 700 shares. All have owned their shares for more than one year. Rebecca is the sole officer of XYZ, Inc., and she serves as both president and secretary.

At a properly convened meeting of the board of directors, Rebecca presented for approval a resolution authorizing XYZ, Inc. to purchase for \$100,000 a vacant lot adjoining the hotel, which Rebecca planned to use as reserved parking for herself. Rebecca owned the lot and disclosed that fact to Claire and Maddie before the directors voted on the resolution. However, Rebecca did not disclose to Claire and Maddie that she had purchased the lot just one year earlier and had paid only \$10,000 for it. Rebecca knew that the lot would sell for no more than \$10,000 in the open market. Neither Claire nor Maddie inquired about the reasonableness of the \$100,000 purchase price before they voted on the resolution. The three directors voted unanimously to approve the purchase, and one week later the purchase was completed.

Scott learned of the parking lot purchase a few months later and asked Rebecca how much the corporation had paid for it. Rebecca refused to tell Scott anything about the transaction because she feared that Scott would be upset to learn that the purchase completely exhausted XYZ, Inc.'s cash reserves and, as a result, XYZ, Inc.'s shareholders would not receive a dividend for the year.

Rebecca informed Claire and Maddie about Scott's inquiry, and the three directors agreed that the less Scott knew about the transaction, the better. For that reason, at a properly convened meeting of the board of directors, Rebecca, Claire, and Maddie voted to adopt a bylaw providing that the corporation's shareholders shall not be permitted to inspect corporate records unless the shareholder is an officer or director of the corporation. At the same board meeting, the directors voted to amend XYZ, Inc.'s articles of incorporation to provide for obligatory indemnification of the corporation's officers and directors for liability for any action taken or not taken as an officer or director.

Please answer the following seven subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer. An answer without explanation will receive no credit.

- 1.1 What fiduciary duties do Rebecca, Claire, and Maddie owe as directors of XYZ, Inc.? Explain fully. (3 points)**
- 1.2 Can Rebecca, Claire, and Maddie be held personally liable to XYZ, Inc. for payment of monetary damages resulting from the corporation's purchase of the lot for \$90,000 more than its market value? Explain fully. (10 Points)**
- 1.3 What action(s), if any, can Rebecca, Claire, and Maddie take, as directors, to dismiss any derivative proceeding that Scott might bring on behalf of XYZ, Inc. against the directors? Explain fully. (8 Points)**
- 1.4 Does Scott have a right to inspect XYZ, Inc.'s corporate records relating to the purchase of the lot? Explain fully. (6 points)**
- 1.5 Is the obligatory indemnification provision in XYZ, Inc.'s articles of incorporation valid? Explain fully. (4 points)**

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- 1.6** After learning of the purchase, Scott decides that he wants to end his involvement with the corporation. What action(s), if any, can Scott bring to compel XYZ, Inc. to purchase his shares? What must Scott establish to obtain that relief, and is he likely to succeed? Explain fully. (7 points)
- 1.7** What action(s), if any, can Scott take to remove Rebecca as a director and officer of XYZ, Inc. before the expiration of her term as a director? Explain fully. (2 points)

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2024**

QUESTION 2 (40 POINTS)

Andrew, Billy, Clark, and Dan decided to go into business together to operate a charter fishing company, and they each signed the following agreement:

**Gulf Fishing Excursions
Partnership Agreement**

1. On this date, Andrew, Billy, Clark, and Dan agree to form a partnership in which each will be a partner.
2. The partnership is constituted without a term and will conduct business under the name, Gulf Fishing Excursions (“GFE”).
3. The partners will share in the profits and losses of the business according to each partner’s proportional interest in the partnership.
4. Andrew agrees to serve as the general manager of the business and owns a 50-percent interest in the partnership.
5. Billy agrees to contribute his fishing boat, the *Blue Dolphin*, to the partnership and owns a 30-percent interest in the partnership. The partners stipulate that the fishing boat’s present fair market value is \$100,000.
6. Clark owns a 10-percent interest in the partnership. Clark will not be involved in the business operations of the partnership and has no mandatary relationship with the partnership.
7. Dan owns a 10-percent interest in the partnership.

After a few successful years of working in the business, Billy decided to retire. He mentioned to Clark that he planned to leave within a day or two and would be taking *Blue Dolphin* with him. Clark knew that GFE could not do business without a boat to take clients fishing. Later that day, Clark signed an agreement with Boats, Inc. to purchase a new fishing boat. The agreement provided as follows:

This is a purchase agreement between Boats, Inc. and the Gulf Fishing Excursions partnership (“GFE”). Boats, Inc. agrees to sell, and GFE agrees to buy, the fishing vessel named *Shark Bait*, currently in Boat Inc.’s inventory, for the purchase price of \$150,000. Payment shall be made by GFE to Boats, Inc. upon delivery of *Shark Bait* to GFE.

Clark signed the purchase agreement without consulting with Andrew, Billy, or Dan.

Andrew learned of Clark’s purchase the following day when Boats, Inc. called to schedule a time to deliver the new fishing boat. Andrew was furious that Clark purchased the new boat for GFE without consulting with him. Andrew informed Boats, Inc. that Clark was not authorized to sign the purchase agreement on behalf of GFE and that GFE would not pay for the new fishing boat.

The following day: (a) Andrew, Billy, and Dan voted to expel Clark from the partnership; and (b) Billy gave notice to Andrew and Dan that he was withdrawing from GFE effective immediately and taking *Blue Dolphin* with him. As of that day, the value of GFE's assets, less its liabilities, was worth \$1 million, inclusive of the fair market value of *Blue Dolphin*, which was \$50,000.

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Please answer the following eight subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer. An answer without explanation will receive no credit.

- 2.1 Did Billy properly withdraw from the partnership? Explain fully. (5 points)**
- 2.2 Assume for this Question 2.2 only that Billy properly withdrew from GFE. What, if anything, is Billy entitled to receive from GFE following his withdrawal, and is he entitled to take *Blue Dolphin*? Explain fully. (6 points)**
- 2.3 Is GFE liable for payment to Boat, Inc. for the purchase of the new fishing boat? Explain fully. (6 points)**
- 2.4 Did Andrew, Billy, and Dan properly expel Clark from GFE? Explain fully. (5 points)**
- 2.5 For this Question 2.5 only, assume that Clark was properly expelled from GFE. What, if anything, is he entitled to receive from GFE after his expulsion? Explain fully. (4 points)**
- 2.6 For this Question 2.6 only, assume that Dan sells his interest in GFE to his cousin, Rusty. Is Rusty entitled to review GFE's business records? Explain fully. (4 points)**
- 2.7 For this Question 2.7 only, assume the following: (a) in the first year of GFE's business operation, a customer was injured and obtained a judgment against GFE for payment of \$150,000 in damages; (b) GFE sold *Blue Dolphin* for \$50,000 and applied the entire proceeds toward payment of the judgment; and (c) GFE has no remaining assets to satisfy the judgment. What amount, if any, can the customer collect against Andrew on the judgment? Explain fully. (6 points)**
- 2.8 For this Question 2.8 only, assume the following: (a) instead of being formed as a partnership, GFE was validly formed as a member-managed LLC; (b) the GFE LLC's articles of organization are valid and properly filed with the Secretary of State; (c) the articles of organization identify Andrew, Billy, Clark, and Dan as members and state that Clark has no agency or mandatory authority to bind the LLC in any contract; and (d) GFE LLC took no action to cause Boats, Inc. to believe that Clark's purchase of the boat was authorized or ratified. Is GFE LLC liable to Boats, Inc. for payment of the new fishing boat? Explain fully. (4 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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FEBRUARY 2024**

QUESTION 3

Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.

- 3.1 Corporations – indemnification
- 3.2 Partnership - voting
- 3.3 LLC – authority of members for extraordinary transactions
- 3.4 LLC – authority for managers
- 3.5 Corporation - officers
- 3.6 LLC - dissolution
- 3.7 Partnership – partnership contributions
- 3.8 Corporation – election of directors
- 3.9 Corporation – approval needed for interested transaction of corporate directors
- 3.10 Corporation – provisions for protecting shareholder dilution

[End of Question 3]

END OF BUSINESS ENTITIES TEST

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
JULY 2023**

QUESTION 1 (40 POINTS)

Andrew, Bob, Claire, and Dan started a business together manufacturing and selling specialized computer keyboards for gamers. They signed the following agreement:

Partnership Agreement

1. We agree to form a partnership constituted without a term, and its name shall be The Keyboard Company (“TKC”).
2. Andrew will serve as the manager of the business.
3. Each of the partners will contribute \$10,000 to TKC.
4. The partners will share equally in the profits of the business.
5. Bob, Claire, and Dan will have no mandatary relationship with TKC and no authority to bind TKC in the performance of any contractual obligations.
6. Dan will not be involved in the daily operations of TKC, and he will not be liable to third persons for the obligations or liabilities incurred by TKC.

Andrew, Bob, Claire, and Dan each sent \$10,000 to TKC’s bank account. Andrew used the funds to purchase tools, equipment, and parts needed to build keyboards. He named the keyboards Blasterboards and offered them for sale at \$500 each.

Claire met with her friend Rusty, who owns an electronics store. Claire told Rusty about TKC and its Blasterboards. Rusty offered to purchase 20 Blasterboards if TKC would give him a volume discount. Without consulting with Andrew, Claire agreed to a 50% discount and signed the following agreement with Rusty: “TKC agrees to sell 20 Blasterboards to Rusty for \$5,000. The keyboards will be delivered to Rusty within 6 months, and payment is due at time of delivery.” Claire signed the agreement on behalf of TKC.

The following day, Claire told Andrew about the agreement she signed with Rusty. Andrew told Claire that she did not have authority to sign the agreement on behalf of TKC. Andrew instructed Claire to tell Rusty the agreement is off. But Claire was too embarrassed to tell Rusty anything.

A few days later, Claire visited her cousin Violet. Violet hosts a popular internet website known as “Gamer’s Guide,” which publishes reviews on gaming keyboards. Violet told Claire that she recently purchased a Blasterboard and that it was the best gaming keyboard she had ever used. Violet commented that TKC was going to make a fortune. Claire didn’t think so, and she offered to sell Violet her partnership interest in TKC for \$10,000. Violet accepted. Claire didn’t inform Andrew, Bob, or Dan about her sale of the partnership interest to Violet.

The following day, Violet published on the Gamer’s Guide website a glowing review of the Blasterboard, and orders for Blasterboards began flooding into TKC. To meet the sudden increased demand for Blasterboards, Andrew asked Bob, Claire, and Dan to each contribute \$50,000 to the partnership to fund the hiring of new employees to assist Andrew in manufacturing Blasterboards. Bob, Claire, and Dan declined to contribute funds to expand production. In response, Andrew notified Bob, Claire, and Dan that, effective immediately, he was resigning as manager and withdrawing from the partnership.

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Earlier that same day, TKC's first customer, Michael, suffered severe burns to his face and hands when his Blasterboard caught fire and exploded. Michael brought a lawsuit against TKC for personal injury. The court awarded Michael a judgment against TKC for \$100,000. TKC has no cash or other assets and no insurance to pay the judgment.

Please answer the following four subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 1.1 Is TKC bound to the agreement that Claire signed with Rusty? Explain. (5 points)**
- 1.2 Was Andrew's withdrawal from TKC effective? Explain. (5 points)**
- 1.3 For each of the following persons—Andrew, Bob, Claire, Dan, and Violet—determine whether he/she is liable for payment of any amount of the \$100,000 judgment awarded to Michael. Explain the basis for your conclusions on liability; and for each individual, state the dollar amount, if any, for which he/she is liable. (20 points)**
- 1.4 *Solely for purposes of this question 1.4, assume that (i) instead of executing the Partnership Agreement described above and forming a partnership, Andrew, Bob, Claire, and Dan validly formed a member-managed Louisiana limited liability company known as TKC LLC and (ii) Claire has assigned all of her rights in TKC LLC to Violet without informing the other members of TKC LLC that she had done so, and (iii) Michael has obtained a \$100,000 judgment against TKC LLC for his personal injuries.***
 - a. What right, if any, does Violet have to inspect TKC's business records? Explain. (5 points)**
 - b. As a member of TKC LLC, is Bob personally liable for any amount of the \$100,000 judgment the court awarded against TKC LLC? Explain. (5 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

The following eight subquestions are not related to each other. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 2.1** LDL Corp. is a validly-formed Louisiana corporation that owns and operates fast-food restaurants throughout the state. Tim, Stan, and Heather, who have no familial relationship to each other, are the sole shareholders of LDL Corp. Tim, Stan, and Heather are also the directors of LDL Corp.

LDL's directors convened a meeting to consider an offer received from LDL's main competitor, Hot Wings, Inc., to sell several Hot Wings restaurants to LDL for \$10 million. Without obtaining an independent estimate of the value of the restaurants offered for sale, LDL's directors unanimously voted to accept the offer. At the time of the vote, Tim was engaged to be married to Matilda. He knew that Matilda was Hot Wings, Inc.'s sole shareholder and that the restaurants offered for sale were worth no more than \$5 million. Tim did not disclose these facts to Stan and Heather prior to the vote by the directors. Neither the directors nor the shareholders took any further action to authorize or ratify the purchase.

Following the vote and LDL's purchase of the Hot Wings restaurants, Stan saw a news story involving Hot Wings and began investigating. Stan discovered the worth of Hot Wings and that LDL had overpaid by \$5 million dollars for the stores that it had purchased from Hot Wings. Stan and Heather, on behalf of LDL, brought an action against Tim to recover the loss.

- a. Was the vote by the LDL directors a Director's Conflicting Interest Transaction? Explain. (4 points)
 - b. Can Tim be held personally liable for payment of monetary damages to LDL resulting from his vote to accept Hot Wings' offer? Explain. (6 points)
- 2.2** Kitchen Design, L.P. ("KD") is a validly formed Louisiana partnership in commendam that offers residential kitchen design and construction services. KD's written partnership agreement filed with the secretary of state identifies Ken as a general partner and Sue and Charles as partners in commendam. The partnership agreement also states that Sue and Charles each will contribute \$50,000 to the partnership. Sue made her contribution. Charles did not.

Sue encouraged her best friend, Tina, to hire KD to design and build a kitchen for Tina's new home. Sue met Tina at KD's showroom several times to assist Tina in selecting appliances, cabinets, and countertops for her kitchen project and in taking Tina's orders for her selections. Several months after KD completed work on the kitchen, Tina brought a lawsuit against KD alleging poor workmanship and breach of contract. Tina ultimately obtained a judgment for \$100,000 against KD. KD currently has no assets or cash to satisfy the judgment. KD also owes \$30,000 to Appliances, Inc. for payment of appliances KD purchased for various kitchen projects.

- a. Is Sue personally liable for any amount of either the judgment obtained by Tina or the debt owed to Appliances, Inc.? Explain. (4 points)
- b. Is Charles personally liable for any amount of either the judgment obtained by Tina or the debt owed to Appliances, Inc.? Explain. (4 points)

TEST CONTINUES ON NEXT PAGE

- 2.3 In a manager-managed limited liability company, what fiduciary duties, if any, are owed to the LLC by a member who is not a manager? Explain. (3 points)**
- 2.4 Under what circumstances, if any, may a partner be expelled from a partnership that is constituted for a term? Explain. (3 points)**
- 2.5 May a corporation unilaterally compel a shareholder to sell its shares to the corporation? Explain. (2 points)**
- 2.6 What is the statutory remedy provided for “shareholder oppression” under Louisiana law, and what conduct may constitute oppression? Explain. (5 points)**
- 2.7 What is a “unanimous governance agreement” (UGA) under Louisiana law; how is a UGA formed; and are there any limitations on what a UGA can do? Explain. (4 points)**
- 2.8 Sharon owns 10% of the outstanding common shares of a Louisiana corporation. She has owned the shares for more than a year. She wants to inspect the records of how a particular director voted at meetings of the corporation’s board of directors during the past year. Does Sharon have a right to inspect such records, and, if so, what, if any, requirement(s) must she satisfy in order to be permitted to inspect such records? Explain. (5 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
JULY 2023**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Limited liability company; expulsion of member
- 3.2 Corporations; mergers
- 3.3 Agency; form of mandate
- 3.4 Corporations; authority under unanimous governance agreements
- 3.5 Corporations; quorum
- 3.6 Partnerships; liability of partners to third persons
- 3.7 Limited liability company; persons authorized to bind
- 3.8 Agency; express and apparent authority
- 3.9 Partnerships; formation
- 3.10 Partnerships; contribution

[End of Question 3]

END OF BUSINESS ENTITIES TEST

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2023**

QUESTION 1 (40 POINTS)

Bernard, Emily, and Abby decided to go into business together to open and operate a restaurant, and they validly formed Good Food, Inc. (“Good Food”) in Louisiana for that purpose. Good Food’s articles of incorporation provide that it will have three directors; that Bernard, Emily, and Abby will serve as the initial directors; and that the corporation is authorized to issue 10,000 shares of stock. The articles also provide that no shareholder may inspect the records of Good Food unless the shareholder is an officer, director, or employee of Good Food.

Last year, on February 1, at a properly-convened meeting of the board of directors, Bernard, Emily, and Abby voted unanimously: (1) to appoint Bernard president and secretary of Good Food; (2) to authorize Bernard to negotiate the purchase of a suitable location for a restaurant; (3) to issue 2,000 shares each to Bernard, Emily, and Abby; and (4) to issue 4,000 shares to Courtney in exchange for her investment of \$200,000 in cash.

One month later, on March 1, at a properly-convened meeting of the board of directors, Bernard reported to Emily and Abby that he had found a perfect location for a restaurant—a warehouse owned by Family Holdings, Inc. (“Family Holdings”). Bernard explained that the warehouse was not listed for sale, but that he had negotiated with Family Holdings to purchase the warehouse for \$500,000. Bernard told Emily and Abby that \$500,000 was a fair and reasonable price for the warehouse, and he recommended that the board vote to approve the purchase. Emily and Abby asked no questions, and Bernard provided no additional information about Family Holdings or the warehouse. The directors voted unanimously to approve the purchase.

On April 1, Good Food and Family Holdings executed an act of the sale, and Good Food became the owner of the warehouse. Within a week, Bernard hired a construction team, which began work converting the warehouse to a restaurant. Shortly thereafter, Bernard became romantically involved with Emily, and for several months Bernard was so preoccupied with seeing Emily that he spent little time overseeing the construction work at the warehouse.

On July 1, Abby visited the warehouse and spoke with Stan, the leader of the construction team. Stan informed Abby that the construction was several weeks behind schedule due to a delay in purchasing a walk-in refrigeration unit for the restaurant. As Stan explained, two months ago he and Bernard had met with the president of Refrigeration, Inc. (“RI”) and selected a refrigeration unit to purchase for the restaurant. RI’s president provided Bernard a purchase order detailing the terms of the sale—specifically that RI agreed to sell the refrigeration unit to Good Food for \$100,000, with payment due ten days after delivery of the unit. Stan told Abby that Bernard had not signed the purchase order and that he had not seen or heard from Bernard since the meeting with RI’s president. Stan provided a copy of the purchase order to Abby and urged her to sign it in Bernard’s absence. Abby carefully reviewed the purchase order and attempted several times to contact Bernard to discuss the purchase order. But Bernard did not respond. Before leaving the warehouse that day, Abby signed the purchase order as “Abby, Member of Good Food Board of Directors,” and instructed Stan to deliver the signed purchase order to RI that day.

On July 15, RI delivered the refrigeration unit to Good Food’s warehouse. The next day, Bernard went to the warehouse, saw that the refrigeration unit had been delivered, and learned then that Abby had signed the purchase order. Bernard demanded that RI take back the refrigeration unit, claiming that Abby had no authority to sign the purchase order on behalf of Good Food. RI refused and demanded that Good Food honor its agreement to pay RI \$100,000 for the refrigeration unit.

TEST CONTINUES ON NEXT PAGE

That evening, Bernard and Emily were married. At the wedding reception, Courtney overheard Bernard and his brother discussing Family Holdings and the warehouse. She learned that Bernard and his brother had formed Family Holdings in 2020; that Bernard owned 60% of Family Holdings' total authorized shares since its formation; and that Family Holdings purchased the warehouse for \$100,000 just a few months before it sold the warehouse to Good Food, based on an appraisal that was completed on the day Family Holdings purchased the warehouse. That appraisal valued the warehouse at \$100,000.

Three months after the wedding, Good Food's board of directors received a letter from Courtney detailing what she had learned in overhearing Bernard's conversation with his brother. Courtney demanded that Good Food's board of directors remove Bernard as a director and require Bernard to pay Good Food \$400,000—the difference between the price that Good Food paid for the warehouse and the amount for which the warehouse appraised when Family Holdings acquired it.

The next day, at a properly-convened meeting of the board of directors, Bernard admitted to Emily and Abby that Courtney's claims were all true. He also admitted that the warehouse was worth \$100,000 when the Good Food's board voted to authorize its purchase of the warehouse for \$500,000. Bernard left the room, and directors Emily and Abby voted unanimously to approve and ratify Good Food's purchase of the warehouse for \$500,000. They also passed a resolution stating that Good Food's board of directors remained fully confident in Bernard's ability to serve as a director and officer of Good Food; that the board would not remove Bernard as a director or officer; and that the board would not require Bernard to pay any amount to Good Food for any reason relating to Good Food's purchase of the warehouse. Emily mailed a copy of the resolution to Courtney that day with a cover letter stating: "Courtney, this is what you get for eavesdropping at my wedding."

Since receiving the copy of the resolution from Emily, Courtney has sent numerous letters to Good Food's board of directors requesting access to inspect Good Food's corporate records. The board has refused all of her requests based on the provision in Good Food's articles of incorporation that a shareholder may not inspect Good Food's records unless the shareholder is an officer, director, or employee of Good Food. And most recently, the board of directors sent a letter to Courtney last month demanding that she stop bothering them with her "silly" requests and threatened to exclude her from all Good Food shareholder events and meetings.

Please answer the following five subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 1.1 What duties, if any, did Bernard breach by his actions involving Good Food's purchase of the warehouse? Explain fully. (6 points)**
- 1.2 Can Bernard be held liable for payment of damages to Good Food for any loss or harm Good Food might have sustained in purchasing the warehouse from Family Holdings for \$500,000? Explain fully. (15 points)**
- 1.3 Does Courtney have a right to inspect Good Food's corporate records? Explain fully. (5 points)**
- 1.4 What amount, if any, can RI recover from Good Food for payment of the refrigeration unit? Explain fully. (6 points)**
- 1.5 Courtney has brought an action under Louisiana law to withdraw from Good Food and require Good Food to buy her shares at fair value based on shareholder oppression. Is she likely to succeed? Explain fully. (8 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2023**

QUESTION 2 (40 POINTS)

Please answer the following eight subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

2.1 *The following facts pertain only to Question 2.1:*

Mason and Oscar formed a validly organized partnership (“MO Partnership”) to construct modular homes. They agreed that Mason would contribute \$50,000 in cash to fund the purchase of materials and that Oscar would perform the construction services to build the homes. Mason’s contribution would be made within 30 days after MO Partnership was formed. They further agreed to share the profits equally.

Six weeks later, a subdivision developer and MO Partnership signed a construction contract under which MO Partnership agreed to build 10 homes for the developer. Before purchasing any materials for this work, Oscar received MO Partnership’s bank statement and discovered that Mason’s \$50,000 contribution had not been made. Oscar asked Mason to make the contribution, since they needed working capital to purchase the materials to build the homes for the subdivision developer. Citing monetary problems, Mason refused to put up his contribution and told Oscar that he would need at least three to four months before he would be able to raise the money. The lack of funds caused MO Partnership to breach the construction contract with the developer. Angry with Mason’s failure to make his agreed contribution, Oscar is considering forming his own company to take over the project.

What steps might Oscar take to create a new business entity for the purpose of taking over the construction project? Explain fully. (6 points)

- 2.2** Which contracts does a single partner, acting alone, have the authority to enter into on behalf of the partnership? Explain fully. (5 points)
- 2.3** Paula is a partner of a partnership. If a third party files a lawsuit against Paula by virtue of her status as a partner of the partnership, and Paula successfully defends the suit, is Paula automatically entitled to reimbursement from the partnership for reasonable attorneys’ fees Paula incurred in defending the suit? Explain fully. (5 points)
- 2.4** What information is required in the organizational document of a Louisiana partnership in commendam, and what are the filing requirements, if any? Explain fully. (4 points)
- 2.5** For a partnership in commendam, what duties/responsibilities is a partner in commendam allowed to have and what activities, if any, must a partner in commendam avoid in order to preserve his/her limited liability protection? Explain fully. (5 points)

TEST CONTINUES ON NEXT PAGE

2.6 *The following facts pertain only to Question 2.6:*

Troy and Barry decided to form a limited liability company. They executed and filed with the Secretary of State the proper organizational documents to form the LLC. These organizational documents contain only the minimum requirements for formation of the LLC, and the LLC has no operating agreement. After the LLC had been in operation for several years, Troy died. His son, Junior, who has been placed into possession of all of Troy's assets by a proper judgment of possession in Troy's succession proceedings, wants to become a member of the LLC.

Is Junior entitled to be admitted as a member of the LLC? Explain fully. (6 points)

2.7 What are the differences in the formation and operation of a member-managed LLC and a manager-managed LLC? Explain fully. (5 points)

2.8 For a manager-managed LLC, list four types of decisions that require the vote of the membership. (4 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2023**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Corporations; indemnification
- 3.2 Agency; form of mandate
- 3.3 Corporations; provisions for protecting against shareholder dilution
- 3.4 Corporations; meeting and quorum requirements
- 3.5 Partnership; partnership contributions
- 3.6 Corporations; authority under unanimous governance agreements
- 3.7 Corporations; mergers
- 3.8 Agency; express and apparent authority
- 3.9 LLC; dissolution
- 3.10 LCC; dividing profits

[End of Question 3]

END OF BUSINESS ENTITIES TEST