

## PCLL CONVERSION EXAMINATION JUNE 2010

Title of Paper : Commercial Law – Part A  
Date : 30 June 2010  
Time : 9:00 a.m. – 9:10 a.m. (Reading Time)  
9:10 a.m. – 10:10 a.m.

### Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is an one-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 2 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
8. The passing mark for this paper is 50 marks.

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PCLL Conversion Examination June 2010

Commercial Law

**Part A: Sale of Goods**

**Question 1 (100 marks)**

Tom buys a truck from Ace Trucks for HK\$80,000. Ace Trucks has a “floor plan” arrangement for financing with Big Bank but Big Bank has never taken physical possession of the trucks. Tom leaves the truck in the garage to his flat with the registration and other papers in the glove box. Fred steals the truck and, pretending to be Tom, sells it to Jack for \$60,000 at the Yuen Long “truck market” which is conducted every Sunday in Yuen Long. Jack drives the truck for a week and then sells it to Albert for \$70,000. Albert pays Jack by cheque and the cheque is dishonoured when Jack cashes it. In the meantime, Albert goes out drinking and loses the truck. He says to his friend, Bill, “Here are the keys – if you find the truck it’s yours”. Bill looks all over TST and finds the truck. Advise all the parties on claims they may have in relation to the truck.

**Question 2 (100 marks)**

Manuel is a famous Hong Kong painter. He is very interested in entering the Hong Kong Art competition. He wants the very best paint. He goes to Frank’s Paint Shop and says to Frank: “I want you to help me – I need a special red effect for my painting of a sunset for the Art Competition and it must be top quality acrylic paint from Germany. I want 8 tubes of 250 mls because I don't want to waste paint. I also need an easel”. Frank says, “No problems. May I recommend the “Prague acrylic” for you? It is \$400 for 100 mls; the other paint would probably be just as good but it is only \$200 per 100 mls.”

When the paint is delivered it is in 4 tubes of 500 mls. Upon inquiry, it turns out the paint is not from Germany but from the Czech Republic. The easel has in fact been stolen from the suppliers although Frank did not know this. Manuel uses 400 mls of the paint but it is rather runny for top quality acrylic paint. Two days after he has finished the painting it starts to crack but there is no time to repair the painting. He fails to win the Art Competition, and his reputation suffers badly. He wants to sue Frank. Advise him.

**~ End of Examination Paper ~**

## PCLL CONVERSION EXAMINATION JUNE 2010

Title of Paper : Commercial Law – Part B  
Date : 30 June 2010  
Time : 10:25 a.m. – 10:35 a.m. (Reading Time)  
10:35 a.m. – 11:35 a.m.

### Instructions

9. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
10. Start each answer on a separate page of the answer book.
11. Write your answers only in the answer books provided.
12. This is an one-hour examination.
13. This is an open book examination.
14. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
15. This paper consists of 2 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
16. The passing mark for this paper is 50 marks.

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PCLL Conversion Examination June 2010

Commercial Law

**Part B: Personal Property**

**Question 1 (100 marks)**

Tom is in Jane's Bakery buying an egg tart when he sees a bracelet lying just behind the counter. Another customer, Jill, had accidentally dropped it earlier. Tom picks it up and takes it to Sam's Vegetable Store where he says to Sam: "I want a large box of your best lychees in return for this bracelet; is that ok?" Sam says: "Sure" so Tom hands over the bracelet. Sam takes the bracelet and sees that the chain has come loose. Sam takes the bracelet to Jack's Bracelet Shop where he has already had a pair of earrings repaired although he has not paid for the repairs. He says to Jack, "Please repair this bracelet for me". Jack repairs the bracelet and lets his wife, Emma, wear it to a fashion show she attends that night. The next day Sam comes to collect the bracelet but Jack says, "I am holding the bracelet until you pay me for the earring repair". Jill has given up looking for the bracelet. Advise all the parties on claims which may arise.

**Question 2 (100 marks)**

Brush Manufacturer Ltd ("BM") is a customer of BigBank and has a factoring arrangement with Ace Factors ("AF") to whom it assigns all its book debts for value. AF has discovered that a large number of customers are resisting paying the debts assigned to it because of defects in the brushes. BigBank has advised BM that it requires security for a loan it intends to make to BM. In particular, it requires:

- (a) a charge over the deposit of HK\$5 million which BM has with BigBank; and
- (b) a floating charge over all the future brushes which BM makes.

BM is also contemplating lending its subsidiary, Kowloon Brushes ("KB"), HK\$5 million on a subordinated basis.

Advise BM on the validity of the proposed security, and how the charge over the future property operates. Advise AF on its position under the assignment. Advise KB on the effect of a subordinated debt arrangement.

**~ End of Examination Paper ~**

## **PCLL CONVERSION EXAMINATION JUNE 2010**

Title of Paper : Commercial Law – Part C  
Date : 30 June 2010  
Time : 11:50 a.m. – 12:00 p.m. (Reading Time)  
12:00 p.m. – 1:00 p.m.

### **Instructions**

17. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
18. Start each answer on a separate page of the answer book.
19. Write your answers only in the answer books provided.
20. This is an one-hour examination.
21. This is an open book examination.
22. Reading time for this paper is 10 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
23. This paper consists of 3 pages, including two questions. Candidates are only required to answer **ONE** question out of two. A total of 100 marks may be awarded. Candidates will score zero marks for that part if they answer more than one question from one part.
24. The passing mark for this paper is 50 marks.

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# PCLL Conversion Examination June 2010

## Commercial Law

### Part C: Consumer Credit and Protection

#### **Question 1** (100 marks)

Health and Beauty Ltd (“HBL”) is a new company in Hong Kong eager to expand its business in an already competitive market. Mr Wong the new Managing Director for HBL has attended several sales and marketing workshops in Hong Kong and has some ideas for sales and marketing promotions.

He seeks your legal advice on the following proposals as he does not want to be in breach of any Hong Kong law.

1. HBL will solicit customers by sending out a team of 30 young sales people with flyers to hand out on major street corners in Central and Kowloon during rush hour.  
On each flyer will be an offer of “a free gym membership” to the first 88 customers who attend the HBL Wellness Workshop in Wellington Street, Central between 9a.m. and noon on Saturday July 31<sup>st</sup> and Saturday August 7<sup>th</sup> 2010.
2. At these 2 Saturdays Wellness Workshops a team of young sales assistants wearing white coats with special badges marked “Your Personal Wellness and Inner Beauty Consultant” will welcome all attendees with free health food and health beverages.  
Two personal Wellness and Inner Beauty Consultants will take each individual customer into a private cubicle and suggest particular beauty and wellness products to be purchased together with a one month course of membership for “personalized wellness and beauty treatments” for \$20,000 (HK\$ twenty thousand). Mr Wong tells you that none of HBL’s employees have received any medical training and that all employees will be specifically instructed NOT to claim any medical knowledge.
3. The individual customer who decides to buy the \$20,000 one month course of membership will be asked to pay in full immediately and to sign HBL’s standard contract with the following clause.
  - ***“Any money paid to HBL under this contract is non-refundable under Hong Kong law and HBL shall not, under any circumstances, consider claims by you for the return of any deposits or payments made under this contract or made as a result of any unwritten contracts or statements made by HBL employees or agents during the negotiations made prior to this contract but your rights as a consumer are not affected by signing this contract.”***

Please advise Mr Wong on whether the proposals outlined above meet with the appropriate consumer protection laws in Hong Kong and what advice, if any, you would give to HBL in this regard.

**Question 2 (100 marks)**

**How effective, in your view, is *The Money Lenders Ordinance* (Cap 163) in offering protection to the general public in Hong Kong?**

**Discuss with reference to both the particular sections of the ordinance that you consider most relevant and to recent Hong Kong case law to support your answer.**

**~ End of Examination Paper ~**