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FEDERAL PUBLIC SERVICE COMMISSION
COMPETITIVE EXAMINATION FOR RECRUITMENT TO POSTS
IN PBS-17, UNDER THE FEDERAL GOVERNMENT, 2003

MERCANTILE LAW

TIME ALLOWED: THREE HOURS

MAXIMUM MARKS: 120

NOTE: Answer **FIVE** questions in all, including question NUMBER- 8 which is **COMPULSORY**. All question carry **EQUAL MARKS**. In each of the following cases give your decision and state the legal principle that applies. Your answer must correctly identify the relevant areas of law, accurately discover and apply the appropriate principles, and should be well structured and argued. Please refrain from: (1)-Reproducing the facts of the cases; (2)-Unnecessary and irrelevant details; (3)-Unreadable handwriting.

1. Asif and Babar carried on a business of household furniture under the name, "Asif & Babar's". The partnership was dissolved in April 1999, but Babar carried on the business under the same name. In 2001 Karigar (Pvt) Ltd. which had not previously dealt with Asif & Babar's, obtained an order to supply them with six suits of furniture. The price was never paid, and the company obtained judgement for the recovery of the price against Asif & Babar's, and sought to enforce it against Asif. The only knowledge which the company had of Asif was that his name had appeared on some old headed notepaper (used before the dissolution), which had been used by Babar without Asif's authority in confirming the order for the purchase of the furniture, and which Asif had failed to destroy before he left the firm. Is Asif liable to Karigar (Pvt) Ltd? Why or why not?
2. "The Law treats a registered company as a separate legal person from its members. To this general rule there are several exceptions." Examine the statement by giving two examples of circumstance in which the court will look at the reality behind the legal facade.
3. Aftab subscribed for shares in Overseas Trade Ltd. on the basis of the prospectus which showed that for the previous five years the company had earned substantial and increasing profit. Shortly after allotment he sold half of his shares to Bilal at a large profit. The information in the prospectus was correct but it omitted to mention that much of the business was in the Middle East and because of war in that region the profits had been materially reduced. The shares are now half the price paid by Aftab. Compare and contrast the remedies available to Aftab and Bilal in such a situation.
4. How is a contract affected by a unilateral mistake of fact? Discuss in detail.
5. Arif purchased a used car from Green Motors. He asked the seller if the car had ever been wrecked in an accident. The salesperson of the Green Motors Ltd. had never seen the car before that morning and knew nothing of its prior history, but quickly answer Arif's question by saying, "No! It has never been wrecked in an accident." In fact the car had been seriously damaged in an accident and, although repaired, was worth much less than the value it would have had if there had not been any wreck. When Arif learnt the truth, he sued Green Motors Ltd. and the salesperson for rescinding the contract on the basis of fraud. They raised the defence that the salesperson did not know that the statement was false and had not intended to deceive Arif? Did the conduct of the salesperson constitute fraud? Why or why not?
6. Compare the status of the finder of a lost cheque with the status of the finder of a lost watch. Discuss in detail.

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JR Anderson



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