

EQUITY AND TRUSTS
MODEL EXAM
2010



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IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

Question One

Luna is a successful and well known clairvoyant and Penny hosts a breakfast chat show on television. In February 2006 they entered into a valid contract whereby Luna agreed to appear in a weekly segment on Penny's show and answer viewers' questions, whilst on the air, when they called in. Further Luna agreed to appear **only** on Penny's show. In return, Penny agreed to allow Luna to promote her books and other charms she produces as a clairvoyant. The contract was for 5 years. The agreement would further Luna's exposure outside of news print and allow her to sell her range of books and charms. Luna's popularity and name would also attract a higher audience share to Penny's show, which would receive higher advertising income.

Luna begins appearing in the segment on Penny's show and is a runaway success. Penny's show, too, has increased its audience share significantly and attracted a

number of new advertising accounts wanting to advertise during her show. However, Penny refuses to allow Luna to promote her books and charms on the segment as another clairvoyant wishes to advertise their products during the show and more money will be made from the other clairvoyant's products as Penny would not receive any income from sales of Luna's products.

Luna is annoyed by Penny's ban on her selling her wares but continues on with the segment. Luna is approached by a rival breakfast chat show offering her a segment, more money and an exclusive promotion deal of her products. Luna tells Penny about the offer and threatens to leave unless she is allowed to advertise her products.....

Question Two

Darian Dalrymple is a real estate agent and has acted for Fabian on a number of occasions in selling and buying property. Darian recently sold Fabian's house for a record \$2.5 million. Fabian was over the moon as he bought the house over 30 years ago for \$90 000. Fabian consulted with Darian on how he should invest the healthy surplus he made on the sale in the property market.

Darian had recently met with a developer, Oliver, for whom Darian was acting. Oliver suggested to Darian that he should invest in a new development, Manhattan Chase Apartments, adjacent to the one he was selling. Oliver said that the property market, especially in high rise apartment developments, was soaring at the moment and in his opinion was a good financial investment. Unfortunately, Darian did not have any spare money to invest in the development. Darian passed all the relevant details, costings and projected outcomes onto Fabian, knowing he was interested in investing his money in the property market. Fabian then bought into the development securing some prime real estate assets including the pent house and a number of the more desirable apartments. Two weeks later Darian had a win in the Lottery and invested the money in the Manhattan Chase Apartment development.....

Question Three

Derek Shepherd (DS) is a wealthy and well known surgeon who owns a prime piece of real estate which he leases to wealthy social types for holidays. On 14 February 2004 he makes the following statement before a number of witnesses:

'I declare myself the trustee of my salubrious holiday pad, "McDreamy Estate" at Forster on the New South Wales North Coast, from now on. The income earned from the lease of the house to wealthy socialites is to be divisible amongst my work colleagues as I choose until 14 February 2005. After that date it is to be held by my wife in total'.

However, one year later (14 February 2005) Derek, in a fit of passion, wrote the following signed letter to Meredith Grey (MG):

Dear Meredith,

For so long now our love has had to be silent and clandestine and I know how it pains you so. It pains me not to be with you as we both want. I take this Valentine's Day to declare my love for you and my desire to be with you always. As you are aware I declared myself trustee of my salubrious holiday pad, "McDreamy Estate" at Forster, the income for a year to be divided to my work colleagues, which you received, and the property to be held in total for my wife. To prove to you my love is true I am distributing the income earned (\$100 000) for the next year [see attached cheque] and the property will be held for you in total.

Yours, Derek.....

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**If you have any queries regarding the equity and trusts model exam
please email - info@lawskool.com.au**