

**2021 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD IV: ACCOUNTS**

Tuesday, 16 November 2021



## **2021 PART A on Accounts Test Paper**

**This Part is worth 25 marks. There is one question. You must pass this Part and Part B in one sitting of the Head IV Examination in order to pass this Head.**

RESTRICT YOUR ANSWERS TO SOLICITORS' ACCOUNTING ISSUES ONLY.

**2021 Overseas Lawyers Qualification Examination**  
**Head IV: Part A on Accounts**

**Question 1 (25 marks)**

Lewis and Max are solicitors and have worked together at a well-known magic circle law firm for many years. However, they have not been offered partnership. They have decided to resign and their intention is to open their own firm. They intend to offer a boutique service regarding advising in respect of regulatory issues affecting crypto-currencies and other exotic investment products.

They are very confident that their existing clients will follow them. However, Lewis and Max are worried about the obligations they will face in complying with the Solicitors' Accounts Rules (Cap. 159F) and various accounting issues.

**Identify, explain and comment on how each of the following situations/scenarios should be dealt with in order to comply with the Solicitors' Accounts Rules (Cap.159F) and prudent accounting procedure. All Know Your Client and Anti-money laundering procedures have been cleared.**

**(a) Lewis and Max have decided that they do not wish to open a client account with a bank.**

**(3 marks)**

**(b) A potential client has told Lewis and Max that they would wish to settle bills and pay money on account of costs by way of Bitcoin and they insist that the firm opens a bank account in the Cayman Islands.**

**(5 marks)**

*(See the next page for a continuation of Question 1)*

**(c) Lewis' good friend, Valtteri, has asked whether he can work part-time at their new firm as their bookkeeper. He has been a racing driver but feels he can easily learn what is needed to do. Lewis knows him well. Since Lewis will be travelling extensively, he feels very comfortable in hiring Valtteri. Max agrees that he is the best person to sign cheques.**

**(6 marks)**

**(d) Lewis has told you that he has heard about "client account reconciliation". He wants to know what this is all about. He feels that if he does not hold or deal with client money, he needs not to bother with this.**

**(6 marks)**

**(e) Max has told you he is aware that each year the firm has to engage some accountants to produce a report to the Law Society. He knows nothing about this. However, he hopes that Valtteri will produce the report.**

**(5 marks)**

**End of Part A (Accounts)**

**2021 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD IV: PROFESSIONAL  
CONDUCT**

Tuesday, 16 November 2021



## **2021 PART B on Professional Conduct Test Paper**

**This Part is worth 75 marks. You must pass this Part and Part A in one sitting of the Head IV Examination in order to pass this Head. Each question must be answered.**

**2021 Overseas Lawyers Qualification Examination**  
**Head IV: Part B on Professional Conduct**

**Question 1 (25 marks)**

A month ago, Albert Low (“Albert”) came to consult your senior partner, Beatrice Shaw (“Beatrice”). Beatrice asked you to join the meeting to take notes and to assist her.

Albert, aged 65, is the senior partner of the law firm, Albert Low & Co. All the partners of Albert Low & Co. have decided to close down the law firm. Albert wanted Beatrice to advise him. Albert told Beatrice that he still wished to continue ‘some form’ of legal practice which would be very different from what Albert Low & Co. was doing.

Albert did not want to shoulder the heavy financial burden of renting an office and hiring staff. He would however comply with all Law Society practice requirements, including the keeping of solicitor indemnity insurance.

Albert’s idea was to set up a one-man sole proprietorship. It would still be called Albert Low & Co. in order to retain as much as possible the clients and contacts of the dissolved firm. The address of the sole proprietorship would be that of a secretarial service company which serves many other customers. The secretarial service company would provide him with telephone reception service.

*(See the next page for a continuation of Question 1)*

Albert would use the family home as his office. When a client wants to meet with him, Albert would always request a video conference. Albert would switch on a virtual background showing that he was sitting in a grand office with rows of law books behind him. Albert said that would be his “virtual office”. He would ask his adult children to appear in his video conferences as his legal assistants taking notes. His wife would come in from time to time as his secretary. If a physical meeting was needed, Albert would conduct in-person meeting in what he described as his “mobile office”.

Albert would buy a light bus and convert that into his “mobile office”. The “mobile office” would be equipped with wireless internet connection, a fax machine and a printer. On one side of the light bus, Albert would post a huge banner of him sitting in his grand “virtual office”. Beneath the banner would be a statement in golden bold print stating: ‘Albert Low & Co., One of the Best Law Firms if not the Best’. On the other side of the light bus, there would be posted information about his new law firm, stating that it would practise all types of legal services.

Albert said he was interested in promoting two types of legal services. On real estate transactions, Albert would concentrate on getting instructions from first-sale buyers. Albert knew several estate agents. Albert would drive his light bus and park it close to the developers’ sale offices. Whenever an estate agent could find an interested first-sale buyer, the estate agent would invite that person to board the light bus and meet with Albert. Albert would explain to that person the laws relating to first sales and the terms of the provisional agreement.

*(See over the page for a continuation of Question 1)*



When a purchaser instructs Albert to act, he would arrange the signing of documents in his “mobile office”. Albert said he would charge normally and he would not share his fees with estate agents.

On criminal law practice, while Albert was not familiar with that area at all, his former clerk has since become very successful in procuring clients, getting instructions from those who were accused or charged with petty criminal offences. That clerk told Albert that Albert could park his light bus near police stations or magistracies, the clerk would bring business to him. Albert wanted to collaborate with that clerk, he would drive his light bus to locations pre-arranged by the clerk. When there is no work, he would study criminal law in his “mobile office”. Albert said he would not reward the clerk for the introduction work.

After the meeting with Albert, Beatrice told you that she was concerned whether Albert could use the name of the closed firm as his new firm’s name and whether he could operate as a one-man sole proprietor without a supporting staff. She was also very uneasy with Albert’s business plan. Beatrice asked you to conduct research into what Albert has suggested at the meeting and prepare a draft opinion for her.

Today Beatrice asked you for that draft opinion.

**State your answer in the form of a draft opinion on Albert’s ideas regarding his new law firm.**

**(25 marks)**

## **Question 2 (25 marks)**

The firm of Chow & Chan acts on a variety of matters for Megabiz (Hong Kong) Limited (“Megabiz”), one of which is a very acrimonious court claim against another company. Unfortunately, the partner responsible for this litigation fell seriously ill. In the circumstances, Chow & Chan instructed another Hong Kong firm - Jen & Associates - to take over the handling of the litigation from them. The written retainer was signed on behalf of Chow & Chan.

Since then, Chow & Chan have remained involved in the litigation to co-ordinate matters and instruct Jen & Associates on behalf of Megabiz. Andrew, the senior partner of Chow & Chan, has been the focal point of this co-ordination. As he is not himself a litigator, most of the day-to-day work has been conducted by Frank, a senior associate in the firm’s litigation department.

Three months before the trial, Frank asked Jen & Associates to instruct senior and junior counsel to appear for Megabiz. Frank also confirmed these instructions with Megabiz. During a telephone conversation between Frank and Hilary, a solicitor at Jen & Associates, she informed Frank that an undertaking to pay costs on account was required before Jen & Associates would issue the briefs to counsel. Later that day, Frank sent an e-mail to Hilary that contained the following passage:

*“We undertake to pay the requested costs on account (inclusive of Senior Counsel’s, Junior Counsel’s and Solicitor’s fees) to your firm by way of two instalments. The first instalment will be paid by close of business [seven days before the trial] and the second instalment will be paid on or before close of business on [the first day of the trial].”*

*(See over the page for a continuation of Question 2)*

Frank did not discuss the e-mail with Andrew, who was busy on another matter at the time. He did, however, copy the e-mail to him. Andrew subsequently noticed that one of the attachments to that e-mail was a note of a brief telephone conversation between himself and a director at Megabiz on an unrelated matter.

Jen & Associates proceeded to instruct senior and junior counsel and both they and counsel carried out the necessary preparatory work for trial. Payment of the first instalment was not made and the following day (i.e. six days before the trial), a Notice of Change of Solicitors in the case was filed on behalf of Megabiz, replacing Jen & Associates with the firm of Leung, Chow & Leung. The new solicitors instructed another set of counsel to appear at the trial on Megabiz's behalf. When the senior partner of Jen & Associates called Chow & Chan to complain, he was told by Andrew and Frank that they had no funds with which to pay them and that they were following their client's instructions.

Jen & Associates have incurred HK\$200,000 in costs in preparing for trial and the senior and junior counsel have issued fee notes to the firm for HK\$1,000,000 and HK\$350,000 respectively as per their briefs.

**(a) Discuss the issues of professional conduct that are raised by Andrew and Frank's actions.**

**(20 marks)**

**(b) What steps, if any, may Jen & Associates have against Andrew and Frank?**

**(5 marks)**

### **Question 3 (25 marks)**

Emily is a newly appointed associate solicitor in the commercial litigation department of Lau & Lau, a medium-sized firm. She has taken over several files from George, who recently retired from the practice.

Whilst Emily was reviewing the files, which were in a total mess, she came across a matter in which the firm is acting for the owner of a house. The Buildings Department issued a Warning Notice and, subsequently, an Order requiring its demolition because its construction was not authorised under the Buildings Ordinance (Cap. 123). The first item in the file was the firm's standard retainer letter, which the client had counter-signed, stating that the expected fees and disbursements to be incurred would not exceed HK\$50,000 in total.

Emily also found George's instructions to Henry, a barrister, regarding the appropriate response to the Warning Notice and Order, and a fee note from him for HK\$40,000 which has been settled. No bill, however, has been sent to the client as yet. Emily worked with Henry at her previous firm, having instructed him in a few insurance coverage disputes.

Henry advised that the Warning Notice was in error. George simply replicated that advice in a letter to the Buildings Department. Following the receipt of the Order, George sent a Notice of Appeal to the Secretary to the Appeal Tribunal a day before the 21-day deadline.

*(See over the page for a continuation of Question 3)*

George subsequently received a draft Statement of Particulars setting out the full details of the appeal from Henry, which replicated the contents of Henry's earlier advice. George merely copied the same without any amendment and sent it to the Secretary to the Appeal Tribunal within a day of receiving it.

There is no further correspondence with the client after the initial retainer letter, except for brief letters from the client attaching the Warning Notice and Order and from George attaching the Notice of Appeal (from the Order) for the client to sign. In particular, there is no substantive advice or references to Henry in George's letters to the client. Emily noted that no date had been set for the hearing of the Appeal and decided that it would be an appropriate time to bill the client for the work done thus far.

A few days after preparing and sending the bill to the client, Emily was told by George's former secretary that she had found some correspondence that had been left inside his desk. One item was a letter from the Buildings Department in response to George's letter based on Henry's advice. The letter preceded the issuing of the Order. Emily noted the Building Department's assertion that the client's house was not exempted from the application of the Buildings Ordinance, contrary to what Henry had advised. In addition, it referred to the fact that Henry (and George) had relied upon a decision that had been overruled by the Court of Appeal last year.

*(See the next page for a continuation of Question 3)*

Emily decided to speak to Martin, the senior partner. He referred her to the firm's standard terms of services, which were set out in the retainer letter:

*“Our civil liability relating to the legal advice and services we provide shall not exceed the amount of any and all fees payable to us by the client.*

*Subject to the above, we accept liability to pay damages in respect of any loss or losses suffered by the client as a direct result of the provision of our legal advice and services.”*

Martin added, “Don't worry about it. We're in the clear. No need to tell anybody. See what happens at the tribunal.”

- (a) What issues of professional misconduct arise from George's action?**  
**(15 marks)**
- (b) What issues arise from Emily's decision to bill the client?**  
**(5 marks)**
- (c) Comment on Martin's interpretation of the retainer letter and his proposed course of action.**  
**(5 marks)**

**End of Part B (Professional Conduct)**