

**2022 OVERSEAS LAWYERS
QUALIFICATION EXAMINATION**

HEAD IV: ACCOUNTS

Wednesday, 9 November 2022



2022 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.

2022 Overseas Lawyers Qualification Examination

Head IV: Part A on Accounts

Question 1 (25 marks)

(A) Y has instructed your Firm to act for him and to appear in court with regard to an application for security for costs. You have carried out all Know Your Client obligations and have cleared all conflict checks. You have asked Y for HK\$200,000 on account of costs in respect of the coming hearing. These costs would be by way of an agreed fee of HK\$100,000 for your Firm and HK\$100,000 for Counsel.

(i) On 1 April, 2022, a cheque payable to your Firm in the sum of HK\$200,000 was received. On the same date, Counsel has made it clear that he will need to have been paid HK\$100,000 before he will start any work. You instruct your accounts department to prepare a cheque payable to Counsel and ask your secretary to ensure this is urgently sent to him.

(5 marks)

(ii) On 3 April, 2022, you were advised by your accounts clerk that Y's cheque had been dishonoured. You immediately called Y and made it clear that you were very upset and angry. Y said he would make immediate arrangements to deliver a cashier's order to your Firm in the sum of HK\$200,000.

(3 marks)

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

- (iii) On 4 April, 2022, a cashier's order in the sum of HK\$200,000 made payable to your Firm was received.

(3 marks)

Identify, explain and comment upon how each of the above should be dealt with in order to comply with the Solicitors' Accounts Rules (Cap. 159F) and prudent accounting procedure.

- (B) Your accounts clerk has indicated to you that there was a deposit made in the sum of HK\$200,000 paid into your Firm's client account. He is not able to identify the client or the file into which the deposit relates.

What steps should you take to ensure that you comply with the relevant Solicitors' Accounts Rules?

(3 marks)

- (C) Your Firm has, in its client account, the sum of HK\$250,000 that was being held on behalf of X, your Firm's client. X can no longer be contacted or located. **Advise what steps the Firm should take.**

(5 marks)

- (D) **What do you understand by the term "Management Accounts" for a firm of solicitors? How might such Management Accounts enhance and assist the partners in the running and supervision of a firm's accounting systems and enable a firm to operate efficiently?**

(6 marks)

End of Part A (Accounts)

2022 OVERSEAS LAWYERS QUALIFICATION EXAMINATION

HEAD IV: PROFESSIONAL CONDUCT

Wednesday, 9 November 2022



2022 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.

2022 Overseas Lawyers Qualification Examination
Head IV: Part B on Professional Conduct

Question 1 (25 marks)

Stark is an associate solicitor working in the firm of Thor & Co. under the supervision of Thor, a sole proprietor, doing mainly conveyancing work.

A year ago, Stark met Natasha on a social occasion. Natasha told Stark that she had invested in a company called Doggie Beauty Limited (“Doggie”), which was in the business of pet grooming, as a minority shareholder. The majority shareholder was Thanos. Disagreements arose between Natasha and Thanos. Thanos excluded Natasha from Doggie’s business and refused to return her investment money to her. Stark vaguely remembered what he learned from law school about protection of minority shareholders and told Natasha that she could file an unfair prejudice petition against Thanos, compelling Thanos to buy out her shares. Natasha said she had no money to pay for the legal work. Stark said that was no problem. His firm (Thor & Co.) would act for Natasha if Natasha was willing to become his girlfriend. He told Natasha that he believed Natasha’s case had good merits. Stark even agreed to take care of the disbursements such as counsel fees, expecting all his costs and disbursements to be recovered from Thanos. But he told Natasha that in the unlikely event that Natasha lost the case, he and Thor & Co. would not be liable and she could not make any complaints. Natasha agreed and started dating Stark.

(a) Comment on Stark’s conduct above.

(9 marks)

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

Not knowing much about litigation practice, Stark engaged a barrister, Hulk, who was his law school buddy, to do the case for Natasha and substantially delegated all the work to Hulk. Hulk also agreed to issue his fee notes only upon completion of the case. After Stark filed the claim drafted by Hulk, Thanos, through his solicitors, offered to pay Natasha HK\$500,000 to settle the case. However, Stark thought this was too low and did not bother to report the offer to Natasha. He instructed Hulk to continue to prosecute the case.

One of the issues at trial was whether Natasha had diverted business from Doggie to a competing business named Perfect Cat Limited, which Natasha was suspected to be involved in. Natasha told Stark that another solicitor firm, Scarlet & Co., had helped her to form Perfect Cat Limited. Stark told Natasha not to worry. He would write a letter to Scarlet & Co. warning them not to give evidence for Thanos or disclose Natasha's involvement with Perfect Cat Limited because this information was privileged.

After the trial, Natasha's case was dismissed as the judge found her evidence not credible. Natasha was ordered to pay indemnity costs to Thanos. Stark told Natasha not to worry as he would lodge an appeal for Natasha and she would surely win. However, Natasha became doubtful and broke up with Stark. At that point, Thor discovered Stark's dealings with Natasha and Hulk. He fired Stark immediately.

(b) Comment on Stark's conduct above.

(6 marks)

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

Subsequently Natasha sued Thor & Co. for negligence and lodged a complaint with the Law Society against Thor & Co. for mishandling her case. Hulk also threatened to sue for his unpaid counsel fees. Thor wanted to deny both the liabilities for negligence and counsel fees. Thor thought Hulk's fees were exorbitant in terms of his seniority and the quantity and quality of his work.

(c) Advise Thor on Natasha's negligence claim and the Law Society's complaint.

(4 marks)

(d) Advise Thor how to deal with Hulk's claim for counsel fees.

(6 marks)

Question 2 (25 marks)

Andy (aged 19) worked at a small restaurant “The Golden Shark” in North Point in Hong Kong near to the public rented flat, which he shares with his mother and younger sister, Bernice (aged 15). Andy is the family’s sole wage earner. In January 2021, Andy’s colleague at the restaurant, Clive, asked Andy if he would accept delivery of a parcel from overseas for him.

Clive explained that he couldn’t have the parcel delivered to his own home as he shared a letter box with another person and there had been a number of thefts from it. Andy agreed in return for gift of HK\$1,000 from Clive “To buy something for your mother”.

No one was at home when the parcel was delivered and a notification card was left in Andy’s letter box. Although the address was correctly stated, the recipient named on the card was a “Mr. David Wong”. Bernice collected the notification card on her return home from school and gave it to Andy, who then called Clive to tell him of its arrival. Clive asked Andy to meet his “friend” named Dave at Kennedy Town MTR Station. Andy did so and gave the card to a man identifying himself as Dave.

The following day, Andy was arrested by police officers. It transpired later that the parcel contained a significant quantity of heroin and Andy was charged with trafficking dangerous drugs in contravention of the Dangerous Drugs Ordinance (Cap. 134). Clive and Dave have also been arrested, charged and face trial.

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

Shortly after Andy's arrest, the manager at the restaurant told Andy's mother that "The owners won't employ drug dealers" and told her that Andy had been sacked. He added, however, that he knew a good law firm that might be able to help. Andy was subsequently visited in custody by Edward, a newly qualified solicitor with Chan, Chan & Chan. Edward told Andy that he had carried out some research before their meeting and advised Andy that he would be liable upon conviction to an enormous fine and imprisonment for life. He also told Andy that it would be "a waste of time" to apply for bail. Edward urged Andy to plead guilty as he "had no chance of avoiding prison" but a guilty plea may get him a lighter sentence. Despite this negative advice, Andy agreed to retain Edward but decided not to confess yet.

(a) Discuss the issues of professional conduct raised by Edward's actions.

(12 marks)

After meeting Andy, Edward consulted a partner in his firm, Gordon, and they agreed that they should involve counsel, who would be able to convince Andy that his position was hopeless. Edward asked his secretary to call Henry, a friend of his from university who had been called to the Bar and practised a mixture of criminal and personal injury litigation. Henry agreed to visit Andy with Edward and to try and persuade him that he should plead guilty. Gordon also called the manager of "The Golden Shark", who said that the restaurant would cover the cost of Edward's and Henry's work on the case provided that Clive, the manager's cousin, was acquitted and no one else from the restaurant was implicated in any alleged drug offences.

(See the next page for a continuation of Question 2)

Edward and Henry subsequently visited Andy and gave him the following document to sign:

"I shall plead guilty to all the charges laid against me on the above date. My legal advisers have fully explained my situation to me and I would like to express my willingness to assist the 2nd Defendant [Clive] as he is innocent of any charges against him.

I and the 2nd Defendant were acquainted at a restaurant where we worked together. At the time of my arrest by the police, I was in a confused state and I confirm that the 2nd Defendant is innocent. I also confirm that he never asked me to receive any parcel for him.

Finally, if the authorities drop the charges against the 2nd Defendant, I will plead guilty to all the charges against me."

Despite much effort by both Edward and Henry, Andy refused to sign the document.

- (b) Discuss the issues of professional conduct raised by Edward's and Gordon's actions.**

(10 marks)

Following the meeting with Edward and Henry, Andy decided to instruct another firm of solicitors. That firm advised him to plead not guilty and, after trial, he was acquitted. A delighted Andy sent the senior partner an antique tea service that had been in the family for many generations in thanks.

- (c) Discuss any practice issues that arise from the gift of the antique tea service.**

(3 marks)

Question 3 (25 marks)

Angela is a partner in Aslem & Wong, a medium-sized commercial firm, who specialises in corporate and commercial work, especially for Information Technology start-ups. She has dealt with initial public offerings, mergers and acquisitions and related transactions for Information Technology companies in both Hong Kong and in other jurisdictions, including England & Wales and Singapore. Earlier today, she received the following e-mail:

“Dear Angela,

I am the managing director of Electroplosion, a leading Korean eSports company, and we are looking to invest in eSports companies in Hong Kong. We have identified Majix Games (Hong Kong) Limited (“Majix”) as a potential partner but, unfortunately, our negotiations have been delayed by technicalities raised by our current local legal advisors. We are looking to invest HK\$100m in Majix and turn it into a major eSports hub for Hong Kong and Southern China. I shall call you by Zoom tomorrow to discuss our case if I may. Please let my secretary know a convenient time and appropriate contact details.

Regards

Jeong-hoon”

Angela doesn’t know anything about Majix but she has heard of Electroplosion. Also, one of her partners has excellent contacts in Korea.

- (a) Explain what Angela should consider and any steps she should take before accepting any retainer from Electroplosion.**

(5 marks)

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

(b) Explain what steps she should take upon deciding to accept the retainer.

(10 marks)

The proposed investment fell through at the last minute as the owners of Majix decided to enter into a partnership with a rival to Electroplosion instead. Nevertheless, Electroplosion paid Angela's considerable fees (and disbursements) to Aslem & Wong. Unfortunately, Electroplosion then criticised Angela for causing the deal to be concluded with the rival company. In order to avoid lengthy and potentially embarrassing litigation, Aslem & Wong agreed to reimburse over half of the fees.

Shortly afterwards, Angela's trainee showed her an article from an electronic gaming website with the following headline:

"esports scandal sees Korean Giant accused of game fixing and money laundering"

The report goes on to give details of various scams on Electroplosion's hosted-online games involving stolen credit cards. It is suggested that some of the stolen funds have been directed to drug traffickers and even terrorist groups. Dozens of streamers (i.e. players) and staff at Electroplosion have been implicated.

(c) Discuss the issues of professional conduct arising from the above facts.

(10 marks)

End of Part B (Professional Conduct)