THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – DECEMBER 2020

LAW 459.003
Business Organizations

Professor Maziar Peihani

**EXAM PASSWORD: 8KxuYX**
RESUME CODE: ABB3FC

**TOTAL MARKS**: 100

(8:50 AM PST) **PREPARATION TIME ALLOWED:** 10 minutes
(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED:** 2 hours 30 minutes

**8:50-9:00 AM Preparation Time (Exam writing not permitted)** – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Examplify, and to progress in Examplify until you see the **STOP SIGN,** where you will **WAIT until 9:00 AM**. **DO NOT proceed past the STOP SIGN**. **DO NOT begin typing your exam answers in Examplify until 9:00 AM!**

**9:00 AM Exam Writing Time – At 9:00 AM, you may proceed past the STOP SIGN in Examplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams.** All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

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This is an open book examination. Students may take any materials they wish into the examination room except library books.

**If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question. Do not email your professor or anyone else about this while the exam is in progress.**

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## ACADEMIC INTEGRITY

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

## CONFIDENTIALITY REGULATIONS – READ CAREFULLY

As this exam is being written off-campus and is unsupervised, any communication whatsoever (including, but not limited to in person, telephone, e-mail, text, social media, etc.) concerning the contents of this examination with anyone (other than the Student Services staff of the Allard School of Law) is strictly prohibited.

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If you experience technical difficulties with Examplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are STRONGLY encouraged to spend NO MORE THAN 5 minutes attempting to do so. You will NOT BE GIVEN ANY EXTRA TIME to complete the exam. **If your attempt to solve the problem is unsuccessful,** or if you choose not to make such an attempt, you MUST immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

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You must also upload to Canvas your hand-written exam answers into the "Exam Answer File Upload (Word Processor or Hand-written ONLY)" folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:
Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking - Galileo**

- **I'm experiencing technical difficulties EXITING and UPLOADING the exam**

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- **I fall ill in the middle of an exam, or am otherwise interrupted such that I'm unable to continue writing my exam**

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END OF COVER PAGES

**Question One: 100 Marks**

Adam, Beatrice, Chloe, and Douglas are recent graduates of the University of British Columbia looking to start up a business together. They want to draw upon their own experiences as former students in order to identify a need in society. They come up with an idea to offer grocery delivery services to university students in Vancouver. The business plan is to obtain a list of groceries from its student clients, procure the groceries from a store and deliver the groceries on the same day. They decide to call their business "DeliverFresh." The four entrepreneurs sign a written contract that says that "Adam, Beatrice, Chloe, and Douglas shall not have unlimited liability relating to DeliverFresh." The contract also indicates that the four entrepreneurs will share profits of the business on an equal basis. During a meeting amongst the four, Beatrice says that she "loves the idea that the business's losses could flow through to her own personal taxes."

The four entrepreneurs look to set up a head office in Vancouver. Chloe has a personal friend, Elon, who has experience in identifying commercial real estate. Chloe and Elon have a long history of working together on business projects, but the two have no formal economic relationship. During a meeting amongst the four, Chloe suggests that Elon could assist DeliverFresh in securing an office. Adam, Beatrice, and Douglas agree that Elon's involvement may be helpful. Chloe emails Elon telling him to "do whatever you have to do to help DeliverFresh identify suitable offices." The next day, while driving around downtown Vancouver, Elon negligently crashes his car into a pedestrian in the parking lot of a building with office space for lease. The pedestrian is seriously injured and looks to recover. Elon does not have enough money to pay.

A few weeks later, DeliverFresh is able to confirm a head office in downtown Vancouver to run the business. The business also has a joint bank account, with each of the four entrepreneurs contributing $10,000. DeliverFresh also takes out a loan from the Royal Bank of Canada ("RBC") for $20,000.

Adam is friends with Robert, director of QuickEats Corp., which is also in the grocery business delivery. Robert requests Adam to use his connections to help him gain insights into the Vancouver student market. Adam is eager to help and informs Robert of DeliverFresh's plans to target first-year students who have just moved to the UBC campus. Robert shares the news with QuickEats Corp. which starts a market campaign targeting the same group of students. The marketing campaigning proves successful and brings QuickEats Corp. a profit of $50,000 on which Adam receives a 10% commission.

Robert is impressed by Adam's talent and invites him to join QuickEats Corp. on a full-time basis as the vice-president for marketing. Adam accepts the offer and gives written notice to Beatrice, Chloe, and Douglas that he no longer wants to work with them on DeliverFresh. Around the same time, Beatrice also leaves DeliverFresh to take on her father's car dealership business.

Chloe and Douglas want to continue the business. After reading a law firm blog, they realize that setting up a corporation is advantageous from a legal perspective. They incorporate the business under the Canada Business Corporations Act ("CBCA"), under the name "DeliverFresh Ltd.". The articles of incorporation provide that the DeliverFresh Ltd. can only engage in the grocery delivery business. The articles provide for two classes of shares and authorize the corporation to issue an unlimited number of shares in each class. The holders of Class A share are entitled to vote at shareholder meetings. Currently, the corporation has 50,000 Class A shares issued and outstanding: Chloe holds 25,000 Class A shares and Douglas holds 25,000 Class A shares. The holders of Class B shares are not entitled to vote but have priority in receiving dividends and return of capital, which is defined in the articles as the amount paid for shares plus any unpaid accrued dividend. The Class B shares include a pre-emptive right which allow their holders to buy additional shares in any future issuance of the corporation's Class B shares. The corporation has not yet issued any Class B shares.

One week after the certificate of incorporation for DeliverFresh Ltd. is issued, Chloe and Douglas pass a shareholders resolution to elect themselves as directors and to dispense with an auditor. A subsequent board resolution appoints Douglas as the company's president. Chloe and Douglas value their relationship with the small business community in Vancouver. They are committed to continue ordering their bread from Saman Bakery ("Bakery") in Kitsilano which makes artisan bread using best, carefully selected, sustainable, and no-GMO ingredients. Chloe and Douglas have known Saman, the owner of the Bakery for a long time, and have bought bread from him since they started the grocery delivery business. They both respect and trust Saman and their business with him is less formal than other suppliers. The bread invoices are usually handwritten and signed by Douglas on behalf of “DeliverFresh”.

Both Chloe and Douglas have computer science degrees. Prior to graduation, they used to be interns at big tech companies. Since they have little experience in marketing, they invite Paul, who is a marketing specialist at a leading advertising company, to join DeliverFresh as a board member and a top manager. Chloe and Douglas offer a generous compensation package to Paul, including $100,000 annual salary and 5,000 Class B shares to be issued and vested right away. Paul accepts the offer and joins the corporation.

The corporation recruits more employees, hires software developers, and advertises heavily on social media. One day, Natalie, an old friend of Chole comes across a DeliverFresh Ltd.'s ad on YouTube. She calls Chloe through DeliverFresh Ltd.'s phone number. The two friends are thrilled to catch up. Natalie tells Chloe that there are students looking for grocery delivery services on the Burnaby campus of Simon Fraser University (“SFU”). It is in preparation for a big party on campus. Chloe and Natalie use their own personal vehicles to procure the groceries and deliver the order on a weekend. Chloe and Natalie split the profits on the delivery. Chloe does not let Douglas and Paul know as she believes that DeliverFresh Ltd. would never deliver outside of Vancouver.

As a new director Paul is concerned about DeliverFresh Ltd. food safety protocols. He thinks the company must ensure that the employees properly handle the groceries. At a board meeting he proposes installing hand sanitizers in its delivery trucks and requiring employees to take a food handling certification course. Chloe and Douglas dismiss Paul's concerns and argue that the corporation should boost green initiatives and promote its brand as a good corporate citizen. They put forward a proposal whereby DeliverFresh Ltd. will contribute 25% of its revenues towards a new composting initiative. Paul strongly opposes the proposal, arguing that the company is not yet profitable and the new initiative will divert the company's resources from its core business. Nonetheless, the board passes a resolution implementing the composting initiative. Paul's dissent is entered into the minutes of the meeting.

DeliverFresh Ltd. has high labour costs and low profit margins. The company cannot increase its delivery fee as it could lose customers to rivals. The company struggles to generate cash. Directors meet to discuss financing options, including shareholder loans, bank loans, issuing shares to existing shareholders or bringing in new investors. Paul prefers bank loans as he is concerned that equity financing would dilute his ownership interests. Chloe and Douglas, however, think that taking on additional debt is not in the best interest of the corporation at this stage. They approach Jamie, a prominent financier who agrees to invest in the DeliverFresh Ltd. The board passes a resolution issuing a 10,000 Class B shares to Jamie in exchange for $10,000. The share price is based on a valuation report prepared by an accounting firm.

Although the number of DeliverFresh Ltd customers continue to grow the corporation is still losing money. Several months have gone by without making payments to the Bakery for the bread deliveries and Saman now wants to sue for the unpaid bills. To keep the company afloat, the board considers an amalgamation with Crave Healthiness Inc., a company incorporated under the CBCA. Crave Healthiness Inc. has a strong balance sheet and a successful track record in the food delivery business. Its newly-recruited Chief Executive Officer (CEO), Allan Neuman is a highly-sought after executive. He previously played a key role in growing DoorGrab, an app-based food delivery platform, which just raised $2.8 billion dollars in its initial public offering. Chloe and Douglas believe that the amalgamation is in the best interest of DeliverFresh Ltd. as it leads to an increased market share, alleviate the strain on company’s finances and help them save jobs. Under the amalgamation agreement, holders of Class A shares will receive an equivalent number of Class AA shares and holders of Class B shares received an equivalent number of Class BB shares in the amalgamated corporation. The Class AA shares are common shares and Class BB shares are redeemable preferred shares. Class BB shares will be immediately redeemed by the amalgamated corporation. Chloe, Douglas, and Jamie are in favour of the deal but Paul is against it. Amidst the amalgamation process, DeliverFresh faces another problem. A DeliverFresh's customer successfully obtains a $100,000 tort judgment against DeliverFresh for an injury caused by the corporation's failure to adopt any safe food handling initiatives. At this time, DeliverFresh has little assets to pay off the judgement.

Please advise on issues that arise under the law of business organizations as we discussed in the course. Assume that directors and officers have been duly appointed under the CBCA.

**END OF EXAMINATION**