

THIS EXAMINATION CONSISTS OF 4 PAGES
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THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW

FALL EXAMINATION – DECEMBER 2021

LAW 211
Contracts

Section 4
Professor Ljiljana Biuković

TOTAL MARKS: 100

TIME ALLOWED: 1 HOUR AND 15 MINUTES
Including reading time

- NOTE:
1. This is a LIMITED OPEN BOOK examination. You may bring to the exam a copy of Ben-Ishai & Percy's textbook, copies of assigned, examinable supplemental cases as posted on the course web sites (Canvas and cms), any additional material that you print from the course web sites (including the syllabus and the class schedule) and your own class notes. The use of library books, textbooks not assigned as mandatory readings for this course, as well as materials from other courses, other Contract Law sections, or previous iterations of this course, is not permitted.
 2. If you think you would need more facts in order to answer the question fully, please indicate what those facts are, why they are necessary, and specify clearly any assumptions you are making in order to address the question.

THIS EXAMINATION CONSISTS OF 1 QUESTION

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Question 1

MARKS

- 100 1. The Copycats are a band that was created 6 years ago by four friends John, Paul, Mick and Keith during their undergraduate studies at UBC. Their career has had a number of unexpected turns. The band remains based in Vancouver but, they have played everywhere in Canada and the US, doing everything from small gigs in pubs and student societies' events, to big wedding parties, summer festivals, and concerts in some famous venues in major North American cities. They released 3 albums as CDs which they have been selling with other band merchandise at concert venues and through their own website. John and Paul also own a small restaurant, Hungry Heart, in downtown Vancouver. Mick operates a music school for pre-teen kids in Vancouver east side and Keith has a guitar shop on Cambie & 18th Avenue in Vancouver.

In 2019, the Copycats were still managed by their original manager Rusty Beat who studied finance at UBC at the same time as the band members. Rusty's primary business is his own wealth management company, but he considers the band members his good friends and his work with the Copycats as a true labour of love. The Copycats and Rusty never put down any terms of their arrangement in writing, but over the years a particular relationship has evolved around their mutual understanding that all Copycats' gigs, and related travel and accommodation issues would be directly and exclusively arranged through Rusty and that he would receive a 30% performance fee for any of Copycats gigs. The recording and merchandise arrangements were managed by the Copycats themselves.

The Copycats initially did not have any big presence on social media as Rusty was very suspicious of the idea of sharing any artistic ideas and information without pre-arranged fees. However, Mick and Keith persuaded the other members to get on as many online platforms as possible and engage with their growing fan base outside North America through YouTube, Facebook, Instagram, TikTok, Twitter, Bandcamp and Soundcloud. Rusty kept making fun of their efforts to post online. On December 19, 2019, after they finished a concert in the Foxy, a famous club in East Vancouver, the Copycats and Rusty went to a nearby pub to celebrate the final concert of the season. They ended up having too many drinks and Rusty was particularly critical of the band's idea to move away from live gigs and record sales to streaming their music on various streaming services. Rusty

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Question 1 (continued)

said that if any of their songs reached 200,000 plays on any streaming service, he would give them 30% of the value of his own wealth management company. Rusty also said: "If you really want to put your money into a safe bet you should invest in a 'real online business' that already exists. I have started this online dating site with one of my friends. Do you know how many people need help to connect with other people? And the number of lonely people is only going to go up, I am pretty sure about that." He pulled out his cell-phone and opened up an app Forever Happy. All four band members pulled out their phones and opened the website. The home page said that the service has one million actively engaged and wealthy professional people in their database. "It's time to go home, friends" said John and they all left.

The Copycats have not played a live gig since that night in the Foxy. On December 23, 2019, a famous actor used one of their early hits "No One Like You" in his Christmas TikTok and Instagram posts. The posts were seen by his 35 million followers and within three weeks the song got 250,000 plays on Spotify alone. A famous talent agency Best Notes with excellent outreach to music markets in Asia, Europe and North America contacted the Copycats offering its services to the band. The pandemic came and all live gigs were cancelled. But Best Notes offered a virtual music event organized to launch a new video game by the world's largest gaming company Electric Gamecraft. The Copycats agreed, signed a deal with Best Notes, and within three months they joined five other artists in the most exciting project of their career.

Streaming revenues soared for the Copycats after the virtual event and their music became popular worldwide almost overnight. The Copycats never said a word to Rusty about the deal with Best Notes. He had been texting and calling them since May 2020 asking for a meeting to discuss the band's plans during the pandemic. They did not text or call back. One text message that they received in June 2020 in a group chat with him was that he was beyond angry with them for playing "virtual gigs" and working with Best Notes behind his back. The last text they received from Rusty in September 2020 read: "John, Paul, Mick and Keith, I deserve to hear this from you rather than learn about it from a music magazine news column!" The band members then blocked Rusty's phone number and had no further communication with him.

The Copycats had hoped that Rusty would focus on expanding his successful wealth management company and that he had decided to leave the band alone.

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Question 1 (continued)

The band has continued to pursue their “virtual” music career with Best Notes. But, in November 2021, John heard Rusty in a music podcast telling a famous Vancouver DJ Moody Boy how the Copycats betrayed him and acted in “bad faith”. When DJ Moody Boy asked Rusty to reveal a bit more about the band’s “shameful actions” and their thriving career with a new manager, Rusty declined to give more details, but said that “the truth would be revealed in court soon.”

The Copycats came to you today to consult you about whether Rusty has any legal claim in Contract Law against them. They also wonder if they have any remedy against Rusty’s dealings with them. The Copycats told you that they each invested a quarter of a million dollars in the dating site that Rusty had showed them in the pub. Unfortunately, they each lost half of their investments within the first two months. The Copycats read in the newspapers that many online services lured investors by making exaggerated representations of their performance prospects. The newspaper named Forever Happy as one of the matchmaking services that did not properly account for a number of their active subscribers and had to deal with many unhappy investors. The Copycats would like to know if they can recoup their money.

Advise The Copycats. Ignore any possible statutory claims and rely only on material and caselaw covered in your Contract Law class this term.

END OF EXAMINATION