

Exam

Name\_\_\_\_\_

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 1) Which of the following statements about agents and principals is not true?
- A) Agreements between agents and principals must be in writing.
  - B) Agents usually have no further legal involvement once a contract is made.
  - C) The main role of an agent is to arrange and enter a contract on behalf of their principal with a third party.
  - D) Principals are legally bound by the authorised conduct of their agents.

Answer: A

- 2) An agent who can conduct any activities that the principal can perform is known as:
- A) a universal agent.
  - B) a comprehensive agent.
  - C) a general agent.
  - D) a special agent.

Answer: A

- 3) An agency can be created by:
- A) apparent (ostensible) authority.
  - B) ratification.
  - C) agreement.
  - D) operation of law.
  - E) all of the above.

Answer: E

- 4) Who am I? I am a case where the court held that the previous proprietor of a hotel was estopped from denying liability for liquor bills incurred by the next proprietor.
- A) *Panorama Developments Ltd v Fidelis Furnishing Fabrics Ltd.*
  - B) *Mick Dundee v Johnny Walker Pty Ltd.*
  - C) *Great Northern Railway Co v Swaffield.*
  - D) *Tooth v Laws.*

Answer: D

- 5) Gina is the finance manager for Euro Cars Pty Ltd, which has an account with Qantas for staff travel. In the past two months Gina has fraudulently billed her company for three first class flights for her personal use. Euro Cars has refused to pay the bill on the grounds that Qantas failed to check with senior management at Euro Cars before approving the flights. Which of the following statements best expresses the legal rights of the parties?
- A) Qantas is not entitled to payment. It should reasonably have known that first class flights would require approval by senior management.
  - B) Qantas is entitled to payment but it only has rights against Gina.
  - C) Qantas is entitled to payment. It reasonably believed that a finance manager would have the authority to book first class flights.
  - D) Qantas and Euro Cars are both at fault. They are obliged to share the cost of the flights and any legal action against Gina.

Answer: C

6) The most important type of agency that may be created by 'operation of law' is known as:

- A) an agency of convenience.
- B) an agency of evidence.
- C) an agency 'subject to a court order'.
- D) an agency of necessity.

Answer: D

7) The duty of an agent to act in the best interests of a principal is known as:

- A) an agency of principality.
- B) a fiduciary duty.
- C) a heavy duty.
- D) all of the above.

Answer: B

8) Which of the following statements about the duty of an agent to act in person (personally) is not true?

- A) Agents may delegate if this is the normal practice in their trade or profession.
- B) Agents may delegate tasks which require their special skill or competence if they believe the principal will suffer no disadvantage.
- C) Agents must carry out their lawful instructions personally unless the principal agrees that the tasks can be delegated.
- D) Agents may delegate simple clerical tasks.

Answer: B

9) Which of the following is not a common law duty that an agent owes to a principal?

- A) To act in the best interests of the principal.
- B) To act in person (personally) when carrying out the principal's instructions.
- C) To invest the principal's money and pay the principal a fair share of the profits received.
- D) To follow (obey) the instructions of the principal.

Answer: C

10) Secret commissions by an agent are:

- A) never permitted.
- B) permitted where trade custom and usage allows it.
- C) permitted where an agent executes a bill of exchange in the agent's own name.
- D) permitted if they mean that the agent is paid a fair fee.

Answer: A

11) An agent has the duty:

- A) to keep all money and property of the principal separate from the agent's own.
- B) to take independent legal advice.
- C) to delegate to an effective sub-agent.
- D) not to provide gratuitous services.

Answer: A

12) Which of the following is not a right of an agent against a principal?

- A) To receive remuneration for services provided on the principal's behalf.
- B) To be indemnified (compensated against losses incurred by the agent on behalf of the principal.)
- C) To receive a secret commission.
- D) To retain the principal's goods until the agent is paid.

Answer: C

- 13) An agency agreement can be terminated:
- A) by mutual agreement.
  - B) by the death, bankruptcy or insanity of the agent or the principal.
  - C) if the agent has accepted a secret commission.
  - D) all of the above.
  - E) A and B only.

Answer: D

- 14) When could an agent be liable to a third party?
- A) If the agent commits a tort, such as negligence.
  - B) If the agent did not tell the third party they were acting for a principal.
  - C) If the agent breaches their warranty of authority by acting outside their authority.
  - D) In all of the above situations.
  - E) In A and B only.

Answer: D

- 15) Which of the following statements concerning mercantile agents is not true?
- A) they have authority to sell the goods on behalf of the owner of the goods.
  - B) they must be registered with a state authority as a merchant or a pawnbroker.
  - C) they are usually paid by commission.
  - D) they often have a lien over the principal's goods.
  - E) they are also known as 'factors'.

Answer: B

- 16) The main types of express or implied authority that are granted to real estate agents are:
- A) to find a purchaser for a property.
  - B) to manage a property.
  - C) to sell a property with express written authority.
  - D) to receive a deposit.
  - E) all of the above.

Answer: E

- 17) When can managing real estate agents carry out repairs without the approval of their principal?
- A) If the repairs are major (important) ones.
  - B) If the principal could not be contacted in time.
  - C) If the repairs are vital and urgent.
  - D) All of the above.

Answer: D

- 18) Which of the following statements is/are true in relation to the authority of real estate agents in New South Wales to participate in the contract of sale?
- A) Agents may enter into a contract of sale and participate in an exchange if they have express approval of the principal or the principal's legal representative.
  - B) A principal who does not give an agent express authority to exchange contracts may be legally bound by the contract that was exchanged by an agent with implied authority.
  - C) Agents do not have statutory authority to exchange contracts. Their authority in this area is based on the common law.
  - D) All of the above.
  - E) A and B only.

Answer: E

- 19) Harvey, a real estate agent, convinced Theresa, an architect, to buy a block of land and build three luxury units by falsely claiming she could sell them for a net profit amount of \$300 000. Theresa carried out her own feasibility study but she relied mainly on Harvey's false financial predictions. When Theresa sold the units she suffered a net loss of \$200 000. Theresa has sued Harvey for misleading or deceptive conduct under the *Australian Consumer Law* and demanded \$300 000 in damages. What is likely to happen?
- A) Harvey will probably win because Theresa only has rights against his principal (his client).
  - B) Harvey will probably lose because Theresa carried out the feasibility study as a result of his false advice and be ordered to pay \$200 000.
  - C) Harvey will probably win because his false claims would be regarded as sales puffery.
  - D) Harvey will probably lose because Theresa carried out the feasibility study as a result of his false advice and be ordered to pay \$300 000.

Answer: D

- 20) Which of the following is not a control that is imposed on real estate agencies by State or Territory legislation?
- A) Licensing qualifications.
  - B) Guarantee funds to compensate people who lose money through the wrongful actions of an agent.
  - C) Accounting requirements, including the maintenance of special trust accounts to hold deposits.
  - D) Voluntary Codes of Conduct.

Answer: D