Chief financial officer

Joe and Marge form a corporation and that each owns 50% of the corporate shares. Marge is the president and Chief Financial Officer and Joe is the Secretary. Both are on the board of directors. Six months after the corporation is started, there was a cash flow problem and it is necessary for Joe to lend $50, 000 to the business to enable it to cover its operating expenses. Four months later they hire, Helmut, as Vice President of Sales & Marketing. During the next few years, the business did well. Vircon, however, never obtained liability insurance.

Joe and Marge keep meticulous records of receipts and payments, but did not document certain corporate transactions, such as salaries and shareholder meetings. In one year the corporation paid six of Marge's monthly mortgage payments because she was having severe personal financial problems and also paid for her daughter's college tuition for her first semester. There are now five persons on the board of directors, Joe, Marge, and three outside directors, Harry, Susan and Marvin and 50 shareholders.

A few month later, the corporate Secretary of Vircon borrowed $60, 000 from Nice Bank on behalf of Vircon, executing a promissory note in the corporation's name. The corporation's chief financial officer later sent a letter to Nice Bank confirming the promissory note and the receipt of the loan proceeds. Thereafter, the board of directors, with knowledge of the loan, authorized the use of the proceeds to acquire new equipment.

Nice Bank presented the loan for payment, but the corporation refuses payment arguing that the bylaws do not authorize its Secretary to borrowmoney. A few months later, Marge wishes to obtain a personal loan from her bank for $100, 000, but the bank requires someone to co-sign the note. Marge co-signed the note in the name of the corporation and signs as the president. Later Marge defaults on the note, and the bank sues the corporation for payment.

At the board of directors regular meeting held on December 20th, the Board properly voted in favor of filing a petition for a Chapter 7 under the Bankruptcy Code. At that meeting the directors invited outside legal counsel and its accountant to answer any questions regarding a Chapter 7 . The Petition was filed on December 30th. 10. Is Vircon (Corporation) liable to Marge’s bank for the $100, 000 personal loan?? 1st possible answer: A corporation may act through its board of directors or its corporate officers who may be authorized either expressly or implied.

Express powers can easily be found in corporation’s articles of incorporation, in the law of the state of incorporation, and in the state and federal constitutions. Resolution of the board of directors and corporate bylaws also ratify or restrict such powers. Implied powers usually include all acts reasonably appropriate to achieve its corporate purposes. For example, a corporate officer such as president has the implied power to bind the corporation in matters concerning the usual course of the corporation’s business.

If the president had been in the habit of acting in similar matters on behalf of the corporation, and that the corporation had authorized him so to act, and had recognized and ratified his former and similar actions, such actions are deemed as implied powers of the president. In this case, Marge’s act of obtaining personal loan by co-signing the note in the name of the corporation and as president is not a matter concerning the ordinary business affairs of the corporation, not benefiting corporation, and not a formerly ratified act by the corporation.

Therefore, Vircon, the corporation can not be held liable to Marge’s bank note. Alternative answer: (Editing required) Because a corporation is a legal entity and can only act through its board of directors or corporate officers. A corporation and corporate officers have the principal-agent relationship. The agent has the duty to act solely for the benefit of his/her principal and not in the interest of the agent or a third party. Marge is the President and Chief Financial Officer as well as one of board of directors of Vircon.

However, in this case, she was the president (agent) of Vircon (principal). In the note, identity of the principal was disclosed and Marge was identified as president of Vircon. Under those circumstances, Vircon, not Marge, is liable to the Marge’s bank for the $100, 000 personal loan. Although the note binded Vircon to liability, since Marge, too, signed the note as an individual, both Vircon and Marge are liable for the $100, 000 personal loan Marge obtained.