

# Singapore company law

[Business](#), [Company](#)



SAMPLE ONLY MID-SEMESTER TEST COURSE: LAW2464 COMPANY LAW DATE: 17/03/2012 TIME ALLOWED: 1 hour 40 minutes (including 10mins reading time) QUESTION (Prospectus Topic) In July 2011, Ah Beng was at his accountant's office to talk about taxation matters. Whilst there, his accountant gave him a prospectus issued by Ionic Ltd. , a company listed on the Singapore Stock Exchange, to take home to read and if interested, to follow the instructions about investing in new shares in the company which were to be quoted on the Exchange.

After reading the prospectus, Ah Beng was convinced that he was going to make a lot of money investing in the company which had stated that it had discovered a huge gold deposit in Western Australia. The prospectus contained a report by a geologist which stated that the gold was near the surface and therefore, easily mined. The prospectus also contained estimations of the amount of profits which it could make based on the current high price of gold. (False and/or Misleading Statements) Criminal Liability Under S253(Jail and/or fine company is liable if it is an entity. Directors are liable.

Statements are materially adverse from viewpoint of investors including Ah Beng. Who else is liable? The Accountant? No advice or false or misleading statement. Did he act intentionally or recklessly? No. No Liability. Could Geologist be liable? Yes, as his a conman. Actions were intentional. S254 Civil Liability Directors liable any defences under s255 SFA? Any defences under s255 SFA? Reasonable reliance on geologist, reports is reliance here reasonable. He is a conman. Not reasonable. Inquiries Defence, May fail.

Geologist liable to compensate no defence. Accountant assuming he made statements.

Yes, if not. No. Ah Beng will receive compensation for his loss. ALTERNATIVE Misrepresentaton. False Statement Made during negotiation that induces one into contract Geologist is dishonest and fraudulent misrepresentation. Recession of contract of sale of shares and damages for the tort of deceit. After applying for the shares, Ah Beng was issued 50, 000 shares at the price of \$1. 00 per share in September 2011. In January 2012, the local newspaper published an article about the arrest of a geologist in Western Australia who was claiming discovery of mines which turned out to be non-existent.

A week later, news broke out that the arrested conman was the geologist whose report was contained in the Ionic Ltd's prospectus and there was actually a very small deposit of gold very deep in the ground which would make any mining a loss-making venture. The price of the shares in Ionic Ltd immediately plunged and trading in the shares had to be halted. Ah Beng has now come to you for advise as he has been informed that Ioninc Ltd shares are now worthless and that the company will soon be wound-up.

REQUIRED:

Can Ah Beng take action against any one or more persons with regard to his loss? Explain. (8 marks) QUESTION TWO Dinosaur Rocks Pte Ltd (Dinosaur Rocks) is a family company whose two shareholders and directors are Fred and his wife, Betty. They live in a house in Pasir Panjang owned by the company. The company owns a business of supplying rocks and sand to construction companies. In August 2011, Fred borrowed \$1 million from U-O-

Me Bank. The loan was secured by a mortgage charge over the Pasir Panjang property owned by Dinosaur Rocks.

The loan was to be used by Fred for personal expenses. According to the articles of association, the mortgage/charge document was to be executed by way of affixing the common seal in the presence of two directors as witnesses. Fred signed the document as witness but he also forged Betty's signature. By early January 2012, Fred had defaulted on his last two loan repayments. It has since emerged that Fred had skipped the country with the \$1 million in October 2011 and is now purportedly living the high life in the Maldives.

U-O-Me Bank has started proceedings to enforce the mortgage/charge against the Pasir Panjang property owned by Dinosaur Rocks. Betty comes to you for advice. She is more distressed about losing the Pasir Panjang property than losing Fred and does not want to vacate the house which she will have to when the Bank sells the property. **REQUIRED:** Advise Betty as to whether the mortgage/charge is valid and enforceable against the company. (8 marks) **QUESTION THREE** (Separating of legal entity concept, Lifting of corporate veil and evasion of legal obligations, case *GM v Horne*, *Jones V Lipman* fraud.

Re *Darby*. Solution is to lift the veil and consider Athena and Grecian as one. Each is liable for the acts of debts of the other. Athena is a hair-dresser. Two months ago, she agreed to sell all the hair-dressing machines and supplies in her salon in Bukit Timah to Hera as she was moving to a new business location in Orchard Road. The purchase price was to be paid three months later whereupon Athena would deliver all the goods to Hera. Athena was

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intending to buy new machines and supplies for her new salon but a month ago, her application to obtain a bank loan was not approved.

Needing equipment and supplies at the Orchard Road location, Athena registered a company called Grecian Pte Ltd (Grecian) with herself as the sole director and member last week. She immediately moved all the machines and supplies from her Bukit Timah salon to the new Orchard Road location of Grecian. Athena then told Hera the deal was off as she no longer owned the machines and supplies. Hera wants the machines and supplies as agreed under the contract as the machines are identical to the ones in her own salon. REQUIRED: Advise Hera. (6 marks) QUESTION FOUR

When incorporated in January 2010, the memorandum and articles of association of Coffee Addict Pte Ltd (Coffee Addict) contained the following clauses:- 1. The objects of the company is the import and supply coffee beans to retail outlets in Singapore; 2. 3. Gloria is to be employed as the sales manager of the company for a period of five years at an annual salary of \$100, 000. In January 2012, Coffee Addict entered into a joint-venture agreement with Jean Ltd to build a row of ten shops in Clementi Road. Both parties are to inject \$2 million each into the project.

Also in January 2012, the Board of Directors of Coffee Addict resolved to terminate Gloria's appointment as the sales manager. REQUIRED: a) Is the contract with Jeans Ltd a valid contract since it is contravenes the objects clause. Explain. (4 marks) b) Can Gloria prevent her removal as sales manager? Would it make any difference if she is also a shareholder? Explain. (4 marks) Total: 4 + 4 = 8 marks QUESTION FIVE Potterfied Ltd ( Potterfied)

has its own set of articles which entitles preference shareholders to an annual dividend of ten cents per share.

The Board of Directors of Potterfield wanted the articles amended so that the dividends are to be reduced to four cents per share and last week, persuaded more than half of the members to pass a resolution at a members' meeting to the effect. The members were also told that there was nothing they could do as long as the majority of all shareholders agreed to the change. Harriet is a preference-shareholder who voted against the amendment to the articles at the members' meeting last week. REQUIRED: Advise Harriet. Assumption that this variation of class rights affects all preferences shareholders rights to receive dividends of 10cent per share, S74(1) applies. If 5% or more of shareholders dissent then can apply to court to stay the resolution to change the article until and unless the court confirms it, the change is ineffective. ) (6 marks) QUESTION SIX REQUIRED: Discuss the validity of the following statement: ' The Privy Council in the case of Lee v Lee's Air Farming Ltd did not apply the principle set out in Salomon v Salomon & Co Ltd. ' (4 marks) \*Separating entity was applied