

CAPITAL UNIVERSITY LAW SCHOOL

ENTREPRENEURSHIP LAW: THEORY AND PRACTICE
SPRING SEMESTER, 1997
FINAL EXAM

Dean Steven Bahls
April 28, 1997
TAKE HOME

INSTRUCTIONS

1. THIS EXAM IS DUE NO LATER THAN 5: 00 P.M. ON THURSDAY, MAY 15 IN THE DEAN'S OFFICE. For convenience, the exam may be turned in earlier. Please, give your exam to Linda Rodichok, the Dean's secretary. Late papers are marked down by one full grade (e.g. a B to a C) for each day or fraction of a day they are late. Plan to get the exam done early. Computer or printer problems are not a valid excuse.
2. The exam must be TYPED and DOUBLE SPACED on 8 ½ by 11 paper. There should be ONE-INCH MARGINS, and the print should be between 10 and 12 characters per inch (10 pci-12 pci). Most students should be able to answer these questions in 20 pages. THE EXAM MUST NOT EXCEED 25 PAGES. You may only write on one side of each page. Number your pages. You may allocate the pages as you see fit. However, YOU MUST BEGIN YOUR ANSWER TO EACH QUESTION AT THE TOP OF A NEW PAGE. THE FAILURE TO FOLLOW THESE DIRECTIONS WILL RESULT IN A LOSS OF POINTS.
3. There are 100 possible points. The questions are weighted as indicated.
4. This is an open-book exam. However, you are not permitted to consult with anyone about the questions or answers until all papers have been submitted. YOU SHOULD BE ABLE TO DO VERY WELL ON THIS EXAM WITHOUT ANY OUTSIDE RESEARCH, BUT CONSULTING OTHER WRITTEN MATERIAL IS PERMITTED.
5. AMBIGUITIES: If you find the facts given to be insufficient to answer a question, state any additional factual assumptions you deem necessary and answer the questions as if your assumptions were part of it. DO NOT MAKE THE MISTAKE OF CHANGING THE QUESTION BY CHANGING THE FACTS.
6. IDENTIFICATION: Write your exam number on the first page and on every succeeding page. Neither your name nor any other identifying mark, other than your exam number, should appear anywhere on your answer.
7. Take time to organize your answers. You should discuss ALL RELEVANT ISSUES even if one issue might dispose of the case. This exam requires you to do ISSUE-SPOTTING and ANALYSIS.
8. REPETITION. When I grade these, I will look at Question One in ALL of the exams and then look at Question Two in ALL of the exams. Merely because you have said something in Question One does not mean that you will get credit for it in Question Two should the same point be relevant in both questions. DO NOT CROSS-REFERENCE. (I don't want my judgment of how you are doing in Question Two to be affected by my judgment of how well you did on Question One.)

CAPITAL UNIVERSITY LAW SCHOOL

ENTREPRENEURSHIP LAW: THEORY AND PRACTICE
SPRING SEMESTER 1997
FINAL EXAMINATION

Dean Steven Bahls
April 28, 1997
TAKE HOME

QUESTION ONE

(40 points)

You represent the Entrepreneurs Association of America, an organization with the following mission statement:

The Association will provide a forum for entrepreneurs to discuss how to eliminate the governmental, legal, economic and psychological barriers to entrepreneurship in the United States of America.

The Association has 5,000 members, all of whom own entrepreneurial businesses. About one third of the members are franchisees.

The Association has received a \$1 million grant from the Foundation for Small Business. The purpose of the grant is as follows:

The Entrepreneurs Association of America (EAA) shall use this grant to employ attorneys to assist and consult with trial attorneys representing small businesses. The goal of the grant is for EAA to assist attorneys in litigating cases that are likely to result in establishing judicial doctrines designed to encourage formation of small business by entrepreneurs.

You have been employed by EAA to help identify those types of cases for which the organization should help the attorneys or file amicus briefs. Please prepare a memo to the EEA Board of Directors describing the three most significant legal issues likely to come before the courts that would have an impact on reducing barriers to entrepreneurship. Describe those issues, tell why they are significant, explain what resolution of the issues the EAA should advocate, and draft the major arguments to support the Association's position.

CAPITAL UNIVERSITY LAW SCHOOL

ENTREPRENEURSHIP LAW: THEORY AND PRACTICE
SPRING SEMESTER, 1997
FINAL EXAMINATION

Dean Steven Bahls
April 28, 1997
TAKE HOME

QUESTION TWO

(20 points)

You represent The Company Corporation, which proposes to run the ad on the next page in major business magazines. What legal problems do you see with this proposed Company Corporation ad? How might the Company Corporation modify the ad to address the problems you've identified?

YOU CAN

FORM YOUR OWN

CORPORATION

IN ANY STATE, AS LOW AS \$45

IN AS LITTLE AS 24 HOURS

You know the advantages of incorporating: Incredible tax breaks. Protection of personal assets from lawsuits. Attracting investors. And more.

Cut out the middleman & save up to 90%.

The problem is most people think you have to go through a law firm, pay \$2,000 to \$3,000, wait six weeks and then forever be bogged down in paperwork. Not so when you go through The Company Corporation. You can incorporate in as few as 8 minutes of your time ... over the phone ... FOR AS LITTLE AS \$45, plus a state filing fee - usually \$74.

Forming corporations is all we do

The Company Corporation has provided corporate services to over 150,000 businesses in the last 25 years.

That's all we do. We can incorporate you in any state, and are most famous for our ability to set you up as a Delaware corporation - the well-known corporate location.

We do it all for you

Now we've made it especially easy for business owners
And entrepreneurs to incorporate. Just call us with your
credit card, and we'll do it all by phone, including name
No red tape. No legal fees. No hassle.

FREE* FREE* FREE

If you're still unsure about incorporating, try this: we will send you a FREE copy of our
publication, "How to Form And Service a Corporation at Very Low Cost." Learn everything
you need to know to form your own corporation...legally, quickly, and affordably, with
maximum protection for your personal assets.

Protect your future

Do yourself, your family and your business a favor.
Take about 8 minutes and call the number below. We'll
incorporate your company on the spot. Or, we'll reserve
your corporation's name for 30 days while you finalize
your plans. Incorporating is a powerful step in controlling
your future. Take that step today.

THE COMPANY CORPORATION

Registered Agents
40111 ALL CORPORATIONS GUARANTEED LEGALLY CORRECT

1-800-542-2677 Ext. 6203

ENTREPRENEUR 127

CAPITAL UNIVERSITY LAW SCHOOL

ENTREPRENEURSHIP LAW: THEORY AND PRACTICE
SPRING SEMESTER, 1997
FINAL EXAMINATION

Dean Steven Bahls
April 28, 1997
TAKE HOME

QUESTION THREE

(20 points)

You represent Amanda Able, who wants to franchise a business. Her business involves “paint-your-own-pottery” stores for children. The business will be called Kids’ Kiln. The idea is fairly simple. Amanda Able will incorporate a business under the name Kids’ Kiln, Inc. She will divide the country into market areas and sell franchises. The franchisee will provide customers with pre-formed ceramic pieces such as cups, plates, tea pots and vases. Customers will paint their own designs and hand the pieces over to the business for firing and glazing. Customers pick up the finished pieces in a few days. The market for Kids’ Kiln is primarily parents with children.

Ms. Able believes that if the concept is properly marketed, fathers will come with their children to make Mothers’ Day gifts, and parents will bring children to make gifts for relatives’ and friends’ birthdays, for Christmas and other holidays. The business will also cater to children’s birthday parties. The franchiser will supply the pre-formed ceramic pieces and a business plan. The focus of the business plan relates to advertising and building a customer list. For example, the plan suggests ways of learning children’s birthdays (purchasing lists of “birthday clubs” from fast-food restaurants) and ways of learning parents’ birthdays (such as purchasing them from insurance agents). To make the business attractive to children, many of the pottery designs are somewhat whimsical. The business also has a kid-friendly deli. For a special rate, parents can buy two deli meals and a “paint-your-own” piece of pottery.

The advantages of the franchise, from the franchisee’s point of view, are (a) the franchise is easy to learn, (b) franchisees don’t need much training or skill to be successful, (c) the advertising plan, relying heavily on zippy newspaper ads and direct-mail coupons mailed prior to birthdays, is easy to execute, and (d) the capital investment is relatively modest. The advantages of the plan creates a problem: the business is susceptible to copycats.

Please provide Ms. Able with a memo describing what strategies she can use to maximize her legal protection against “copycats” forming their own businesses and taking away her idea and business plan.

ENTREPRENEURSHIP LAW: THEORY AND PRACTICE
SPRING SEMESTER, 1997
FINAL EXAMINATION

Dean Steven Bahls
April 28, 1997
TAKE HOME

QUESTION FOUR

(20 points)

You work in Ohio Governor Voinovich’s office. He asks: “In light of *Associated General Contractors of America v. City of Columbus* (4-39), is Executive Order 96-53V (4-68) still advisable?” Answer the question and explain. How would you modify the executive order to increase the probability courts will enforce it, while accomplishing the Governor’s intent?