

VIRGINIA BOARD OF BAR EXAMINERS
Roanoke, Virginia - July 28, 1998

Write your answer to Questions 1 and 2 in Answer Booklet A - (the WHITE booklet)

1. On May 1, 1998, Link Appleyard and his 18 year-old son, Will, went to the "Grab-N-Go" convenience store owned by Mary B. Good in Damascus, Virginia. While Link browsed through the magazine section, Will presented to Mary a forged photo identification card and paid for a six-pack of beer with a check. The check was subsequently returned unpaid for the reason that Will's account with the bank had been closed six months earlier.

Mary caused a criminal warrant to be issued against Will, who was subsequently tried and convicted for writing the bad check and defrauding a merchant. At Will's trial on June 1, 1998, after being duly sworn, Link testified that Will had never gone to Mary's "Grab-N-Go" store, had not purchased any beer, and had not written the check in question. After the jury returned the guilty verdict against Will, both Link and Will confronted Mary and told her that they were going to "get even" with her and that she "would be hearing from the Appleyard family very soon."

On June 2, 1998, Link appeared before a magistrate and, under oath, swore out and signed a criminal complaint against Mary. The allegations of the complaint, which had been concocted by Will and which, at Will's urging, Link had reluctantly agreed to put in the complaint, were as follows: while Link was at Mary's "Grab-N-Go" on May 1, 1998, Link had observed Mary knowingly sell a six-pack of beer to Will, age 18, without asking Will for any identification.

The complaint against Mary was later dismissed when Link and Will failed to appear as witnesses at the trial.

- (a) Can Link be convicted of perjury on the basis of the conflicting statements contained in his June 1 trial testimony and his June 2 sworn criminal complaint? Explain fully.
- (b) Of what crime, if any, can Will be convicted as a consequence of the swearing out of the criminal complaint by Link? Explain fully.

Reminder: Write your answer to the above question #1 in Booklet A - the WHITE Booklet.

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2. Donna Debtor is employed as a checker at the Piggly Wiggly grocery store in Grundy, Virginia. She consults you regarding a letter and some attachments to it that were

served on her by personal delivery at her home yesterday by the Buchanan County Sheriff. The letter, from an attorney for Acme Collection Agency ("Acme") in Bethesda, Maryland, informs her that, on June 12, 1998, Acme obtained a default judgment against her in the District Court in Bethesda, Maryland for \$3,000 on account of an overdue credit account at Bloomingcamp's Department Store in Bethesda. The letter also states that the Maryland judgment has been "domesticated" in the Circuit Court of Buchanan County, Virginia, and attached to the letter are a fieri facias and a summons issued by the Clerk of that court requiring her to appear at a "debtor interrogatory" proceeding in ten days.

Donna tells you the following. She did run up a bill with Bloomingcamp's on a visit to Bethesda last year, and she has been receiving letters from Bloomingcamp's demanding payment. The first notice she ever received from any source that a lawsuit had been filed against her to recover the outstanding balance was when she received Acme's letter yesterday. Her assets consist of \$400 in a savings account at Grundy First National Bank; modest quarterly royalties from mineral rights on a Mercer County, West Virginia parcel of real property bequeathed to her by her late uncle; a diamond ring valued at \$1,200; and her wages from Piggly Wiggly, which, at the time set for the debtor interrogatory, she will not yet have received for the preceding two weeks of work.

Donna asks for your advice on the following questions:

- (a) What does the letter from Acme mean when it says that the Maryland judgment has been "domesticated," what steps are necessary for a judgment to be properly domesticated, and can an out-of-state judgment be enforced against her without suit being filed in Virginia? Explain fully.
- (b) Is there any basis on which the Maryland default judgment can be challenged and proceedings in the Buchanan County Circuit Court halted, and, if so, what needs to be done to challenge it? Explain fully.
- (c) What is the purpose of a "debtor interrogatory" proceeding and how is it carried out? Explain fully.
- (d) Assuming that the Maryland judgment is enforceable and that Donna appears at the debtor interrogatory proceeding, which, if any, of the above-mentioned assets will she be required to disclose and surrender or convey toward the satisfaction of her debt, and what are the consequences if she declines to answer questions about her assets? Explain fully.

Reminder: Write your answer to the above question #2 in Booklet A - the WHITE Booklet.

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Write your answer to Questions 3 and 4 in Answer Booklet B - (the YELLOW Booklet)

3. Three years ago, a valuable painting by a Renaissance artist was stolen from the Maryland Museum for the Arts, a non-profit organization incorporated and located in the State

of Maryland ("Museum"). At the time of the theft, the painting was worth approximately \$800,000. Today, it is worth several million dollars. Police investigated the theft at the time but no suspects were identified. Museum made diligent efforts to locate the painting, but it was never recovered.

Two days ago, on Sunday, Museum's director learned from a friend in the art business that the stolen painting had surfaced in the hands of a once prominent art collector, C. Christopher Covington, IV, who resides in Leesburg, Virginia, which is in Loudoun County. The friend told Museum's director that Covington, who has experienced some financial setbacks recently, plans to sell the painting to an art dealer from Germany; that the sale is scheduled to take place on this coming Saturday at Covington's home in Leesburg; and that the German art dealer has airplane tickets for a flight back to Germany later in the day on Saturday.

Assume that Museum's director is unable to reach you until Thursday evening, barely a full business day before the rumored sale. He tells you of the foregoing and advises you that the painting is a priceless example of Renaissance artwork that was the centerpiece of Museum's collection before its theft. Museum's director also informs you that, based on his personal knowledge, it will be virtually impossible for Museum to recover the painting if it is allowed to be taken from the United States.

Further complicating the matter is the fact that Museum's director has already made several attempts by telephone, facsimile, electronic mail and hand-delivered letters to contact Covington both at his home and office in order to discuss the matter, but all of those efforts have failed. The location of Covington at present is unknown, although he is expected to be at his home in Leesburg to consummate the sale and deliver the painting to the German art dealer on Saturday morning.

During the telephone conversation with you on Thursday evening, Museum's director asks for your advice on the following questions:

- (a) What form of relief can Museum seek on such short notice to stop the sale scheduled for Saturday and recover the painting, and what legal theory or theories should Museum assert in its initial pleading to support its request for such relief? Explain fully.
- (b) If Museum decides it wants to bring an action in Federal court, in which court should it file the case, are the jurisdictional requirements for filing in Federal court present, what are the material requirements for obtaining relief, and is Museum likely to obtain the relief sought? Explain fully.
- (c) If Museum decides it wants to sue in State court, in which court should it file the case, are the jurisdictional requirements for filing in State court present, what are the material requirements for obtaining relief, and is Museum likely to obtain the relief sought? Explain fully.

Reminder: Write your answer to the above question #3 in Booklet B - the **YELLOW** Booklet.

4. Allyson and her fiancée, Walt, were guests at a dinner party attended by twenty-four people at Suzi's home in Charlottesville, Virginia. Early in the evening, Allyson and Walt publicly announced their engagement, and amid much pomp and toasting Walt slipped onto Allyson's ring-finger an impressive diamond engagement ring for which he had paid \$25,000.

Later in the evening, while helping Suzi in the kitchen, Allyson removed her new ring and placed it on the counter. Saying she felt ill because she had drunk too much, Allyson excused herself and headed for the bathroom. Concerned, Suzi started to follow her when she noticed that Allyson had left the ring on the counter.

Suzi, intending to take the ring for safekeeping, picked it up and went after Allyson. On the way, she encountered Tom, one of the other guests with whom she was not personally acquainted but who had escorted one of Suzi's close friends to the dinner party. Suzi is not certain, but she believes she handed the ring to Tom, saying, "Here. Hold this while I take care of Allyson."

Allyson was too ill to stay at the party, so she and Walt left. The next day, realizing that she had left the ring at Suzi's house, Allyson returned to retrieve it. The house was searched thoroughly, but the ring was nowhere to be found. Although Suzi admits she picked the ring up off the counter, she is unable to explain what happened to it except that she believes she handed it to Tom. Tom denies ever having received the ring.

Allyson consults you and asks for your advice on the following matters:

- (a) If she wishes to sue Suzi for damages, in what court should the suit be filed and why?
- (b) Is there any legal relationship, arising out of Suzi's having picked up the ring for safekeeping, upon which Allyson can base a claim for damages against Suzi? Explain fully.
- (c) If so, what, if any, defense might Suzi reasonably raise and what would be the likely outcome of the suit based upon any such relationship? Explain fully.
- (d) Does Walt have any legally enforceable interest in the ring on which he can base a claim against Suzi? Explain fully.

Reminder: Write your answer to the above question #4 in Booklet B - the YELLOW Booklet.

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Proceed to the short answer questions in Booklet C - (the TAN Booklet).