CRIMINAL LAW EXAMINATION
INSTRUCTOR: H. JOHNSON
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GENERAL INSTRUCTIONS

The exam is lengthy. Take note of the point value of each section when budgeting your time. The basis of your analysis, unless otherwise specified, should be the common law and general American law, including statutes. Discuss, for contrast minority positions, Massachusetts law and the Model Penal Code, where appropriate.

- IDENTIFY YOURSELF BY SOCIAL SECURITY NUMBER ONLY.
- TRY TO LIMIT YOUR EXAMINATION ANSWER TO TWO BLUE BOOKS. IF YOU MUST EXCEED THIS LENGTH, YOU MAY.

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

ANSWER FOUR OF FIVE QUESTIONS. BE CONCISE. A PARAGRAPH OR TWO SHOULD SUFFICE. YOU MAY, IF YOU WISH, USE OUTLINE FORM WHERE APPROPRIATE TO ANSWER BUT DO NOT NEGLECT TO DISCUSS THE LAW AND THE KEY FACTUAL POINTS AND TO CONCLUDE.

SECTION II: 70 POINTS

FOLLOW THE FACT PATTERN AND USE "IRAAC" IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE FACTS TO THE LAW. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.
shape of a dollar sign, and the blissful talk of more money. Times, however, have
changed.

The first investors to check into the Kosta Bunch are Per, Ingmar and Nils. The
three are shown to their room, Room 819. The meeting is also to be attended by Jumpin
Jack and his wife, Mona, and Captain Flywheel and his wife, Lisa. The two couples are
shown to their rooms, Room 820 and 822 respectively. The rooms have an adjoining
door, which the two couples have agreed to leave unlocked.

Meanwhile over at Fleecy, Grab, Gouge and Grip are in conference in Grab’s
office. The three know the true financial state of the business and are desperate. Gouge
says, “Boys, we better figure a way out of this or we’re all dead.” Grab, overcome by the
emotion of it all, runs into the spacious closet and locks the door. Grip says to Gouge,
“Old Grab’s lost it. Hey, Gouge, if something happens to Grab, Fleecy’s entitled to the
proceeds of his fifty million dollar life insurance policy. That will save us for the short
run.” Gouge says nothing, but looks at Grip. Gouge shoulders open the closet door and
Grip runs into the closet and places Grab in a bear-hug. Gouge opens the French-style
doors and Grip drops Grab off the patio. Instead of cascading down the entire twenty
floors, Grab lands three floors below on the gold encrusted patio of the executive
washroom. Grab suffers internal injuries.

An ambulance is called and Grab is placed in it for transport to Carving Hospital.
En route, the ambulance driver, Jackie, siren blaring, speeds through a stop sign. Thirsty,
highly intoxicated and driving his pickup, crashes into the ambulance. Jackie suffers a
head injury. Jackie walks up to Shockey as he walks down the street and punches the
appropriately astonished Shockey, raising a welt.

Grab, who suffered further significant internal injuries in the accident, is
transported, this time without incident, to Carving Hospital. Grab is prepared for
emergency surgery. The operation is to be performed by Dr. Slash, a renowned surgeon.
Just before the operation is to begin Dr. Slash enters the hospital pharmacy, waves a
scalpel at the attendant, Pill, and states, “Gimme some oxycodone.” Pill says, “There’s a
new shipment right there,” and gestures across the room. Dr. Slash takes the oxycodone
and exclaims, “Zippity-doo dah!” Dr. Slash runs from the pharmacy and performs
surgery on Grab. Dr. Slash slips and cuts Grab’s aorta during the surgery and Grab dies
as a result. Dr. Slash is confronted by Nurse Rivet who states, “Doctor, you don’t seem
right,” in the operating room. Doctor Slash immediately disrobes and exclaims,
“Kalamazoo!” Dr. Slash is taken away by hospital security.

Meanwhile, back at the Kosta Bunch, after the obligatory moment of silence for
Grab, the meeting and buffet go off without a hitch. Gouge, following dessert,
approaches the podium and says in the course of a droning two hour speech, “Fleecy is
sound. Your money is safe and will grow quickly with us.” A number of the attendees
purchase additional securities and shares in the company.

Ingmar, a computer expert who had himself just bought shares, retires to his
room. He bypasses Fleecy’s security devices on its computer system, and reviews the
company’s financials. Ingmar learns the truth. Ingmar says to Per, who purchased
shares at the meeting as well, “Fleecy is broke. I saw their books. I’m going in there and
get my money.” Ingmar and Per approach the front door of the magnificent Fleecy
Headquarters Building. Ingmar steps on the automatic door mat and the door opens.
Vigilant, the security guard, approaches the two. Ingmar strikes Vigilant on the head
SECTION I

1. What is Wharton’s Rule generally? Give an example of a crime in which Wharton’s Rule would be applicable. In crimes where Wharton’s rule is inapplicable, what is the rule?

2. What is the difference between forgery and uttering? Define each.

3. Junior rests in his crib. Pop and Mom argue. Pop picks up a ceramic statue of Winnie the Poo and throws it at Mom. Mom ducks and the statute lands on Junior, causing a small cut. What crime or crimes has Pop committed? Why or why not?

4. Duck is walking down the street. Duck looks across the street and observes Dodge punching Hyde in the face. Duck comes to Hyde’s aid and, being an ex-boxer, Duck knocks out Dodge with one punch. Unbeknownst to Duck, Hyde had initiated a murderous attack on Dodge due to a disagreement regarding the level of holiday decorating.

Duck is charged with Assault and Battery. You represent Duck. What defense will you raise? What are the different standards? Will you succeed?

5. What is the difference between Larceny by Trick and False Pretenses? Define each.

SECTION II

Fleecy Investments, Inc. has flourished for the past ten years under the leadership of Grab, the Chief Executive Officer, Gouge, the Chief Financial Officer and Grip, the Chairperson of the Board of Directors. The firm manages and sells investment products, primarily based in real estate mortgage receivables. The firm’s “family” of clients has grown accustomed to windfall profits. Fleecy and its leadership have managed, through a combination of market forces, doctoring the books and inflated estimates of the worth of its products, to deliver outlandish returns on investment.

As the annual meeting date draws near, shareholders and clients descend on Fleecy’s headquarters, located in the State of Flux, the fifty-first state in the Union. The meeting itself, which is to be held at the pricey, nearby Hotel Kosta Bunch, will take place in a ballroom, lit with crystal chandeliers, to the strains of the hottest pop band, Harry and the Hotplates. The shareholders and investors, with the look of cult member simplicity on their faces, anticipate the usual buffet, which features a pile of caviar in the
with his pocket computer, rendering Vigilant unconscious. Ingmar removes a set of keys from Vigilant’s belt. Nils joins the two at this point and Per, Ingmar and Nils head for the elevator. Nils, just before getting on the elevator says, “I can’t do it. No violence.” Nils leaves the building.

Ingmar and Per proceed to Gouge’s office. Using the keys taken from Vigilant, Ingmar opens the large safe. Ingmar reaches in and takes twenty-five thousand dollars, the amount of their total investment that day, and an additional two hundred and fifty-one dollars for cab fare.

As Per and Ingmar are leaving, they are confronted by Knuckles, Gouge’s bodyguard. Knuckles states, “Say your prayers, chumps.” Knuckles picks up a brick-sized gold paperweight and swings it at Ingmar. Ingmar ducks and strikes Knuckles with his pocket computer. Knuckles falls backwards and is impaled on the horns of a large statue of a bull. Knuckles dies as a result. Nils drives Per and Ingmar to the airport.

Back at the Kosta Bunch, Jumpin Jack, Mona, Captain Flywheel and Lisa, all highly intoxicated, return to their rooms. Flywheel, who has always had a thing for Mona, opens the unlocked adjoining door and climbs into bed and has intercourse with Mona, who is passed out. Jumpin Jack who is asleep on the floor, awakens, sees the two in bed and says, “I knew it, I’ll kill you Flywheel.” Jumpin Jack bludgeons Flywheel to death with a small bronze replica of the New York Stock Exchange building. Jumpin Jack rests a moment, and then bludgeons the unconscious Mona to death. Jumpin Jack flees. Lisa enters the room and finds the bodies of Mona and Flywheel. Lisa removes Flywheel’s wallet, containing some three thousand dollars in cash, and takes then diamond necklace from the body of the departed Mona. Lisa then leaves.

Over at Fleecy, Grip, overcome by guilt, jumps out the window trying to end it all. Grip’s fall is broken by Tidy, the office cleaner. Tidy, unfortunately, is killed. Gouge, who had been holding the proceeds of the insurance policy on Grab, takes the money and absconds to the Bahamas.