



FORMATION PROFESSIONNELLE DU
BARREAU DU QUÉBEC

EXAMINATION BOOKLET

DROIT DES AFFAIRES SUPPLEMENTAL EXAMINATION

June 4, 2001

- 1) The examination in the Droit des affaires section is intended to determine the extent to which you have met the ultimate goals set forth in the document entitled « Préambule Droit des Affaires ».
- 2) You have a maximum of four hours to complete the examination. You are entirely responsible for managing your time.
- 3) The examination contains questions relating to the following sections :
 - Droit des affaires
 - Le Barreau et la pratique professionnelle
- 4) The questions total 100 marks. You must obtain a mark of 60% or more in order to pass this examination.
- 5) You may use any written documentation which you deem to be useful.
- 6) For photocopying purposes, kindly use a **pen with black ink** to write your answers in your answer booklet.
- 7) **You must write legibly, otherwise your answers will not be graded.**
- 8) Please ensure that your examination booklet contains **11** pages (including this page) and that your answer booklet contains **7** pages.

N.B.: You may assume that the legislation currently in force, as explained in the documentation distributed to you, applies. Do not take into account the amendments announced with respect to the *Canada Business Corporations Act* or those announced with respect to the *Income Tax Act* by the Minister of Finance of Canada during the budget speech of February 28, 2000 or the Economic Statement and Budget Update of October 18, 2000.

FILE 1 (25 MARKS)

You represent *Novimages inc.*, a company incorporated under the Part 1A of the *Companies Act*. Julien Biron, H el ene Simon and Gaston Cartonier are its only directors and shareholders. The authorized share capital of the company is comprised of 2,500 common shares without par value.

On March 12, 1995, at the organization meeting, the board of directors issued 100 common shares to Julien Biron, 100 common shares to H el ene Simon and 100 common shares to Gaston Cartonier, for a consideration of \$1 per share.

On June 21, 1997, the board of directors issued 1,000 common shares to Julien Biron for a consideration of \$10 per share.

On October 28, 1998, the board of directors issued 500 common shares to Gaston Cartonier and 500 common shares to H el ene Simon, for a consideration of \$15 per share.

All of these common shares, which are the only shares outstanding, are fully paid.

Gaston Cartonier, who does not occupy any position as an officer, wishes to withdraw completely from the company. On May 28, 2001, he makes a verbal agreement with Julien Biron and H el ene Simon to sell all his common shares to the company in consideration for an amount of \$25,000 paid in cash and the discharge of an advance of \$15,000 which had been granted to him by *Novimages inc.*

On May 29, 2001, *Novimages inc.*, which can legally acquire these shares, gives you the mandate to prepare all the necessary documents to complete the transaction.

To this end, you are provided with the following additional information :

- the deed of incorporation of *Novimages inc.* establishes the number of directors at three;
- the general by-laws of the company establish the quorum at meetings of the board of directors at two directors in attendance;
- as of the closing of the transaction, Jos ee Hardy will replace Gaston Cartonier as a director of the company;
- Gaston Cartonier, H el ene Simon, Julien Biron and Jos ee Hardy will be present at the closing of the transaction in order to sign, on behalf of the company and on their own behalf, the resolutions and documents prepared by you.

You also notice that the deed of incorporation and the by-laws of the company do not contain any provisions susceptible of affecting the performance of your mandate.

QUESTION 1 (15 marks)

State five resolutions of the board of directors of *Novimages inc.* required to complete the transaction.

ONLY THE FIRST FIVE RESOLUTIONS WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

QUESTION 2 (5 marks)

Indicate the new amount of the issued and paid-up share capital account for the common shares of *Novimages inc.* following the purchase of Gaston Cartonier's shares.

QUESTION 3 (5 marks)

- **Following the purchase of Gaston Cartonier's shares, indicate the maximum number of common shares that *Novimages inc.* may issue without amending its authorized share capital.**
- **You may assume that neither the articles nor the by-laws of the company contain any additional provisions susceptible of affecting your answer.**
- **Justify your answer by referring to one or more specific and relevant provisions of the *Companies Act.***

FILE 2 (21 MARKS)

TelCell inc. is a corporation incorporated pursuant to the *Canada Business Corporations Act* which has fulfilled all the legal formalities required for its existence.

The articles of the corporation provide as follows :

- only one class of shares, namely, common shares;
- the location of the registered office is in Roberval, Quebec;
- a minimum of one director and a maximum of ten.

The board of directors is comprised of five directors, of which four are shareholders of the corporation. Pierre Scott, CA, one of the shareholders, is also a director and acts as the secretary of the corporation. The corporation has 20 shareholders, including Charles Dufresne who owns 4 % of the issued shares.

On May 1, 2001, the following notice is sent to all the shareholders and to the auditor of *TelCell inc.*

Roberval, May 1, 2001

Take notice that the annual and special meeting of shareholders of the corporation *TelCell inc.* will be held on May 25, 2001, at 86 Pinada Vista, Scottsdale, Arizona, United States, at 2:00 p.m., for the purpose, among others, of electing the members of the board of directors and adopting a special resolution to create a new class of non-voting preferred shares with the right to an annual fixed dividend of 10 % in preference to the common shares.

In order to be valid, proxies must be delivered to the corporation no later than May 24, 2001 at noon.

TelCell inc.
Pierre Scott

 Per : Pierre Scott, Secretary

On May 11, 2001, the financial statements of the corporation and the auditor's report for the fiscal year ended September 30, 2000 are sent to the shareholders. These financial statements and the auditor's report were prepared by Lucien Michaud, CA, the auditor of the corporation. The financial statements were duly approved and signed by the directors.

The notice of meeting, the text of the special resolution to be submitted to the shareholders and the financial statements of the corporation, together with the auditor's report, are the only documents sent for purposes of the meeting.

The meeting takes place on the proposed date and at the proposed place, notwithstanding the objection of Charles Dufresne who wanted the meeting to be held in Roberval. During the meeting, at which the auditor and all the shareholders except Charles Dufresne are present, the following resolutions are duly adopted :

- election of five directors, three of whom are already directors and two of whom are newly elected. At this time, Pierre Scott is re-elected as a director;
- appointment of Pierre Scott as the auditor of the corporation, to replace Lucien Michaud who retired;
- creation of the new class of preferred shares.

The financial statements of the corporation and the auditor's report are also presented and discussed at the meeting.

QUESTION 4 (21 marks)

- **State seven illegal or irregular acts with respect to the calling and holding of the meeting of the shareholders of *TelCell inc.***
- **For each illegal or irregular act, justify your answer by referring to one or more specific and relevant provisions of the *Canada Business Corporations Act*.**

ONLY THE FIRST SEVEN ILLEGAL OR IRREGULAR ACTS WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

FILE 3 (20 MARKS)

The situation described in File 3 is an evolving one : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Pierre Langelier, Vice-President and member of the board of directors of *La Maison Fontainebleau ltée*, consults you today and relates the following facts to you.

This corporation operates stores specializing in the sale of decorative furniture and accessories.

Pierre Langelier is preparing for the annual meeting of shareholders which will be held next week in Montreal. He expects that upon the review of the financial statements, the shareholders will ask questions regarding the profitability of the business. In particular, he expects questions regarding the return on sales and the return on net worth.

He provides you with the balance sheet of the corporation as at December 31, 2000 and its income statement for the fiscal year ended December 31, 2000.

LA MAISON FONTAINEBLEAU LTÉE			
BALANCE SHEET			
December 31, 2000			
<u>ASSETS</u>		<u>LIABILITIES</u>	
Current assets		Current liabilities	
Cash	\$4,300,000	Bank loans	\$1,000,000
Current investments	\$350,000	Accounts payable	\$2,500,000
Receivables	\$1,500,000	Income tax currently payable	\$300,000
Inventory	\$2,000,000	Long-term debt coming due during the next fiscal year	<u>\$700,000</u>
Prepaid expenses	<u>\$150,000</u>		
	\$8,300,000		\$4,500,000
Other assets		Long-term liabilities	
Cash surrender value of a life insurance policy	\$250,000	Notes payable to bank secured by hypothec	\$4,000,000
Investments, at cost	\$200,000	Loan from shareholder	\$500,000
Fixed assets	\$3,750,000	Total liabilities	\$9,000,000
		<u>SHAREHOLDERS' EQUITY</u>	
		Share capital	\$3,000,000
		Retained earnings	\$500,000
		Total shareholders' equity	\$3,500,000
		Total liabilities and shareholders' equity	
Total assets	<u>\$12,500,000</u>		<u>\$12,500,000</u>

LA MAISON FONTAINEBLEAU LTÉE	
INCOME	
Fiscal year ended December 31, 2000	
	<u>2000</u>
Sales	\$10,000,000
Cost of goods sold	<u>\$6,500,000</u>
Gross earnings	<u>\$3,500,000</u>
Operating expenses	
Selling expenses	\$1,500,000
Administrative expenses	\$1,200,000
Financial expenses	<u>\$400,000</u>
	<u>\$3,100,000</u>
Earnings before taxes	<u>\$400,000</u>
Income tax	
Payable	\$125,000
Future	<u>\$25,000</u>
	<u>\$150,000</u>
Net income	<u>\$250,000</u>

QUESTION 5 (5 marks)

- Determine the ratio of return on sales (« coefficient de rendement sur les ventes ») of *La Maison Fontainebleau ltée* for its fiscal year ended December 31, 2000.
- Justify your answer by showing all your calculations.

QUESTION 6 (5 marks)

- Determine the ratio of return on net worth (« coefficient de rendement sur la valeur nette ») of *La Maison Fontainebleau ltée* for its fiscal year ended December 31, 2000.
- Justify your answer by showing all your calculations.

SUPPLEMENTARY FACTS

Pierre Langelier also consults you regarding tax matters. A review of the file reveals the following :

- *La Maison Fontainebleau ltée* was incorporated on August 25, 1980 pursuant to the *Canada Business Corporations Act*. Its registered office is located in Montreal and the stores it operates are all located in Quebec. Since its incorporation, its share capital has always been comprised of only one class of shares.
- 80 % of the issued shares of *La Maison Fontainebleau ltée* are held by *Gestion Durand ltée*, a corporation incorporated in 1978 pursuant to the *Canada Business Corporations Act*. The only shareholder of *Gestion Durand ltée* is Paul Durand, a Canadian resident within the meaning of the *Income Tax Act*. The registered office and principal place of business of *Gestion Durand ltée* are located in Montreal.
- 20 % of issued shares of *La Maison Fontainebleau ltée* are held by Armand Jacquard, a resident of France and a non-resident of Canada within the meaning of the *Income Tax Act*.
- Since August 25, 1980, the date of incorporation of *La Maison Fontainebleau ltée*, *Gestion Durand ltée* and Armand Jacquard have been the only shareholders of the corporation and the percentage of shares held by each of them has not changed.

Pierre Langelier tells you that in January of 2001, *La Maison Fontainebleau ltée* realized a substantial gain upon the disposition of a parcel of land it had acquired in 1998. The corporation decided to treat the transaction as giving rise to a capital gain. Consequently, the corporation's capital dividend account is now \$250,000, while it was zero before the disposition of the parcel of land. The company intends to make the election provided for in subsection 83(2) of the *Income Tax Act* and pay a dividend of \$250,000 from its capital dividend account. Therefore, a capital dividend of \$200,000 would be paid to *Gestion Durand ltée* and a capital dividend of \$50,000 would be paid to Armand Jacquard.

QUESTION 7 (6 marks)

Would *Gestion Durand ltée* and Armand Jacquard be subject to any tax under the *Income Tax Act* in respect of the total dividend of \$250,000 which would be paid to them by *La Maison Fontainebleau ltée* from its capital dividend account? If yes, state which tax. If not, explain your answer.

SUPPLEMENTARY FACTS

Since 1998, *La Maison Fontainebleau ltée* has held 80 of the 1,000 issued and outstanding common shares of *MTV Québec inc.*, a Canadian-controlled private corporation within the meaning of the *Income Tax Act*. These are the only issued and outstanding shares of the share capital of *MTV Québec inc.* whose fiscal year end is December 31, 2001.

On May 31, 2001, *MTV Québec inc.* pays a total taxable dividend of \$45,000 to its shareholders, of which \$3,600 is paid to *La Maison Fontainebleau ltée*.

QUESTION 8 (4 marks)

Assuming that *MTV Québec inc.* would not have any refundable dividend tax on hand as at December 31, 2001, would *La Maison Fontainebleau ltée* be subject to tax under Part IV of the *Income Tax Act* in respect of the dividend of \$3,600 paid to it by *MTV Québec inc.*? Explain your answer.

FILE 4 (19 MARKS)

The situation described in File 4 is an evolving one : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

E Mollusque inc. buys seafood from various producers from the eastern part of Quebec in order to process it and sell it, as a mousse, directly to consumers through the Internet.

The company was incorporated in June of 1997. Since then, it has had two shareholders, Jocelyn Thibault and *E Nov inc.*, a venture capital corporation, both of whom subscribed for shares in the share capital of *E Mollusque inc.* for an amount of \$6,000,000. There are no accrued or unpaid dividends on these shares.

Shortly after its incorporation, *E Mollusque inc.* obtained a loan of \$1,500,000 from *Banque Nationale de Développement*. The loan is secured by a legally created hypothec on all the assets of the company.

E Mollusque inc. expected to become profitable during the third quarter of the year 2000. Unfortunately, competition in the marketplace has resulted in a decline in prices and the company cannot turn a profit. Neither *Banque Nationale de Développement* nor *E Nov inc.* wants to invest additional funds in the company.

Jocelyn Thibault, the president of *E Mollusque inc.*, meets with you in order to discuss a possible reorganization of the company. He mentions to you that *E Mollusque inc.* owes \$1,300,000 to various suppliers, in addition to a balance of \$1,400,000 on the loan of \$1,500,000 granted by *Banque Nationale de Développement*. These are the company's only debts.

Jocelyn Thibault also tells you that he would like *E Mollusque inc.* to be able to avail itself of the *Companies' Creditors Arrangement Act*, because the refusal of a proposal submitted under this Act would not result in the immediate bankruptcy of the company.

QUESTION 9 (5 marks)

Can *E Mollusque inc.* avail itself of the *Companies' Creditors Arrangement Act*? Explain your answer.

SUPPLEMENTARY FACTS

You review the financial position of the company with Jocelyn Thibault and Paul Rhéaume, a trustee, and you conclude that, in any event, there is no way out of the situation. Consequently, on May 15, 2001, *E Mollusque inc.* makes an assignment of its property under the *Bankruptcy and Insolvency Act*.

On May 8, 2001, Claude Girard, who operates a fishing business, had delivered shrimp having a value of \$6,000 to *E Mollusque inc.*, which processed them all into mousse before the bankruptcy.

Claude Girard has not been paid and is claiming a prior ranking right as regards the inventory of *E Mollusque inc.* The trustee is of the opinion that this claim is well founded, but that the prior ranking right of Claude Girard is subordinated to the rights held by *Banque Nationale de Développement*.

QUESTION 10 (5 marks)

- Does Claude Girard have a right as regards the inventory of *E Mollusque inc.* which ranks prior to the rights of *Banque Nationale de Développement*?
- Justify your answer by referring to one or more specific and relevant provisions of the *Bankruptcy and Insolvency Act*.

SUPPLEMENTARY FACTS

On May 13, 2001, Rémi Chartrand bought a shrimp mousse from *E Mollusque inc.* After having consumed it on May 14, 2001, he was very ill and missed work for one week. There is no doubt that the mousse was contaminated due to the slackening of certain sanitary controls at *E Mollusque inc.* in the days preceding the bankruptcy. The damages suffered by Rémi Chartrand total \$2,000.

QUESTION 11 (4 marks)

Does Rémi Chartrand have a provable claim against the assets in the bankruptcy of *E Mollusque inc.*? Explain your answer.

SUPPLEMENTARY FACTS

On April 2, 2001, *Équipements frigorifiques DS inc.* sold to *E Mollusque inc.*, for an amount of \$80,000, industrial freezers which were delivered on April 10, 2001. In the contract of sale, the vendor reserved ownership of the goods until payment in full of the purchase price. All the legal formalities required for the validity and enforceability against third parties of this contract were satisfied within the prescribed time limits. The freezers are currently in the possession of the trustee, who has noted that no part of the purchase price has been paid.

QUESTION 12 (5 marks)

- Can *Equipment frigorifiques DS inc.* demand that the trustee return to it the freezers sold to *E Mollusque inc.*? Explain your answer.
- Justify your answer by referring to one or more specific and relevant provisions of the *Bankruptcy and Insolvency Act*.

FILE 5 (15 MARKS)

The situation described in File 5 is an evolving one : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Monique Dufort and Louis Lespérance intend to incorporate a company to operate a computer management business.

On February 15, 2001, they read an advertisement published that day in their neighbourhood's weekly newspaper.

The advertisement reads as follows :

<p>M^e Léon Tremblay 342 St-Paul Street Montreal, Quebec Tel. : (514) 123-4567 Telecopier : (514) 987-6543</p> <p>Corporate law specialist Incorporation: \$1,000, including disbursements</p>

On March 29, 2001, Monique and Louis meet with M^e Tremblay. He informs them that the special price for incorporations was valid only for a period of one month and, consequently, they cannot avail themselves thereof. He explains to them that the usual price for such services is \$1,500, including disbursements. Monique and Louis ask to see a copy of the advertisement, but M^e Tremblay says he did not keep a copy thereof.

After some verification, Monique and Louis conclude that the price of \$1,500 is reasonable and they therefore give M^e Tremblay the mandate to incorporate the company. M^e Tremblay accepts and asks them for an advance of \$500 which Monique and Louis provide to him.

Two weeks later, Monique and Louis receive the articles, the corporate books and all the other documents required for the incorporation and organization of the company. In the same mailing, M^e Tremblay sends his statement of account for fees and disbursements in the amount of \$1,500. From this amount, he has deducted the sum of \$500 held in trust, leaving a balance payable of \$1000.

QUESTION 13 (12 marks)

- **State three breaches of ethical obligations committed by M^e Tremblay.**
- **Justify your answer by referring to one or more specific and relevant provisions of the Professional Code, *An Act respecting the Barreau du Québec*, the regulations adopted under the Professional Code, or the regulations adopted under *An Act respecting the Barreau du Québec*.**

ONLY THE FIRST THREE BREACHES WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

SUPPLEMENTARY FACTS

M^e Louis Lachance, one of M^e Tremblay's partners, has been practising business law for the last five years. Concurrently with his activities as a lawyer, M^e Lachance intends to incorporate a company in the near future to operate a collection agency of which he would be the only shareholder and in which he would work actively as a collections agent.

QUESTION 14 (3 marks)

- **Can M^e Louis Lachance be a shareholder of a company that operates a collection agency?**
- **Justify your answer by referring to one or more specific and relevant provisions of the Code of ethics of advocates.**

CORRIGÉ
DROIT DES AFFAIRES - EXAMEN DE REPRISE
 4 juin 2001

DOSSIER 1 (25 POINTS)

QUESTION 1 (15 points)

Énoncez cinq résolutions du conseil d'administration de *Novimages inc.* requises pour conclure la transaction.

SEULES LES CINQ PREMIÈRES RÉOLUTIONS INSCRITES AU CAHIER DE RÉPONSES SERONT CORRIGÉES.

5 / 7
 3 points / bulle 1. 15

1. Résolution approuvant l'acquisition par la compagnie des actions ordinaires de Gaston Cartonnier (selon les modalités prévues à l'entente). 1.
OU
 Résolution autorisant la compagnie à verser la somme de 25 000 \$ à Gaston Cartonnier et à libérer Gaston Cartonnier pour l'avance de 15 000 \$.
2. Résolution autorisant un administrateur ou un dirigeant à signer pour et au nom de la compagnie les documents requis **ou** la déclaration modificative. 2.
3. Résolution annulant les certificats d'actions de Gaston Cartonnier. 3.
4. Résolution débitant le compte de capital-actions émis et payé. 4.
5. Résolution acceptant (prenant acte de) la démission de Gaston Cartonnier à titre d'administrateur de la compagnie. 5.
6. Résolution nommant Josée Hardy administratrice (pour combler la vacance au conseil d'administration, art. 89(3) L.c.Q.). 6.
7. Résolution ordonnant de faire les inscriptions requises aux registres (des administrateurs **ou** des actionnaires **ou** des actions) de la compagnie. 7.

QUESTION 2 (5 points)

Indiquez le nouveau montant du compte de capital-actions émis et payé des actions ordinaires de *Novimages inc.* à la suite de l'acquisition des actions de Gaston Cartonnier.

18 700 \$ 2. 5

(Avant la transaction, le montant du compte de capital-actions émis et payé est de 25 300 \$ pour 2300 actions ordinaires, soit 11 \$ par action.

À la suite à l'acquisition des 600 actions ordinaires de Gaston Cartonnier, le montant du compte de capital-actions émis et payé sera, selon l'article 123.51 L.C.Q., réduit de 6 600 \$ (600 actions ordinaires X 11 \$).

Le nouveau montant du compte capital-actions émis et payé sera de 18 700 \$ (25 300 \$ - 6 600 \$)).

QUESTION 3 (5 points)

- À la suite de l'acquisition des actions de Gaston Cartonnier, indiquez le nombre maximal d'actions ordinaires que *Novimages inc.* peut émettre sans modifier son capital-actions autorisé.
- Tenez pour acquis que les statuts et les règlements de la compagnie ne contiennent aucune disposition additionnelle susceptible d'influencer votre réponse.
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de la *Loi sur les compagnies*.

800 actions ordinaires, art. 123.42 L.c.Q. 3. 5

DOSSIER 2 (21 POINTS)

QUESTION 4 (21 points)

- Énoncez sept illégalités ou irrégularités relativement à la convocation et à la tenue de cette assemblée des actionnaires de *TelCell inc.*
- **Pour chacune des illégalités ou irrégularités, appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de la *Loi canadienne sur les sociétés par actions.***

SEULES LES SEPT PREMIÈRES ILLÉGALITÉS OU IRRÉGULARITÉS INSCRITES AU CAHIER DE RÉPONSES SERONT CORRIGÉES.

3 points / bulle 4.

21

ILLÉGALITÉS OU IRRÉGULARITÉS	ARTICLES	
1. L'avis de convocation ne mentionne pas le droit de dissidence d'un actionnaire.	art. 175 (2) ou 190 (2) <i>L.c.s.a.</i>	1. <input type="radio"/>
2. L'avis de convocation n'a pas été expédié à l'administrateur qui n'est pas actionnaire.	art. 135 (1) <i>L.c.s.a.</i>	2. <input type="radio"/>
3. Un formulaire de procuration n'accompagne pas l'avis de convocation.	art. 149 (1) <i>L.c.s.a.</i>	3. <input type="radio"/>
4. Une circulaire de procuration de la direction n'accompagne pas l'avis de convocation.	art. 150 (1) <i>L.c.s.a.</i>	4. <input type="radio"/>
5. Le formulaire de procuration et la circulaire de procuration de la direction n'ont pas été expédiés au directeur.	art. 150 (2) <i>L.c.s.a.</i>	5. <input type="radio"/>
6. L'assemblée ne peut être tenue aux États-Unis (sans le consentement unanime des actionnaires).	art. 132 (2) <i>L.c.s.a.</i>	6. <input type="radio"/>
7. Pierre Scott ne peut être nommé vérificateur (car il est un administrateur et un dirigeant de la société).	art. 161 (2) <i>L.c.s.a.</i>	7. <input type="radio"/>
8. Les états financiers couvrent une période de plus de six mois avant la date de l'assemblée.	art. 155 (1) <i>L.c.s.a.</i>	8. <input type="radio"/>
9. Copie des états financiers (et du rapport du vérificateur) n'a pas été envoyée aux actionnaires au moins 21 jours avant l'assemblée.	art. 159 (1) <i>L.c.s.a.</i>	9. <input type="radio"/>
10. L'avis de convocation ne mentionne pas la nomination d'un nouveau vérificateur.	art. 135 (5) <i>L.c.s.a.</i>	10. <input type="radio"/>

DOSSIER 3 (20 POINTS)

QUESTION 5 (5 points)

- Déterminez le coefficient de rendement sur les ventes de *La Maison Fontainebleau ltée* pour son exercice financier prenant fin le 31 décembre 2000.
- Appuyez votre réponse en faisant état de tous vos calculs.

Le coefficient de rendement sur les ventes est de 2,5%.

5. 5

$\frac{\text{Bénéfice net après impôt}}{\text{Chiffre d'affaires}} \times 100$	$\frac{250\,000 \$}{10\,000\,000 \$} \times 100 = 2,5\%$
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QUESTION 6 (5 points)

- Déterminez le coefficient de rendement sur la valeur nette de *La Maison Fontainebleau ltée* pour son exercice financier prenant fin le 31 décembre 2000.
- Appuyez votre réponse en faisant état de tous vos calculs.

Le coefficient de rendement sur la valeur nette est de 6,25%.

6. 5

$\frac{\text{Bénéfice net après impôt}}{\text{Valeur nette}} \times 100$	$\frac{\text{Bénéfice net après impôt}}{\text{Capitaux propres} + \text{Emprunt auprès d'un actionnaires}} \times 100$
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$$\frac{250\,000 \$}{3\,500\,000 \$ + 500\,000 \$} \times 100 = 6,25\%$$

QUESTION 7 (6 points)

Gestion Durand ltée et Armand Jacquard sont-ils sujets à un impôt quelconque en vertu de la Loi de l'impôt sur le revenu, à l'égard du dividende totalisant 250 000 \$ que leur verserait *La Maison Fontainebleau ltée* à même son compte de dividendes en capital? Si oui, dites lequel. Si non, dites pourquoi.

Gestion Durand ltée

Non, car il s'agit d'un dividende en capital qui est non imposable (al. 83(2) b) L.I.R.)

7. 3

Armand Jacquard

Oui, l'impôt de la partie XIII de la Loi de l'impôt sur le revenu (puisque'il est un non-résident et qu'il recevrait alors un dividende en capital (al. 212(2)b) L.I.R.)).

8. 3

QUESTION 8 (4 points)

Dans l'hypothèse où *MTV Québec inc.* n'aurait pas d'impôt en main remboursable au titre de dividendes au 31 décembre 2001, *La Maison Fontainebleau ltée* serait-elle sujette à l'impôt de la Partie IV de la Loi de l'impôt sur le revenu, à l'égard du dividende de 3 600 \$ que lui a versé *MTV Québec inc.*? Dites pourquoi.

Oui, car *MTV Québec inc.* n'est pas rattachée à *La Maison Fontainebleau ltée* (al. 186 (1) a) et 186 (4) L.I.R.)

9. 4

DOSSIER 4 (19 POINTS)

QUESTION 9 (5 points)

E Mollusque inc. peut-elle se prévaloir de la *Loi sur les arrangements avec les créanciers des compagnies*? Dites pourquoi.

Non, puisque le montant de ses réclamations est inférieur à 5 000 000 \$ (art. 3 (1) de la *Loi sur les arrangements avec les créanciers des compagnies*). 10.

QUESTION 10 (5 points)

- Claude Girard a-t-il, sur les stocks de *E Mollusque inc.*, un droit prioritaire aux droits de *Banque Nationale de Développement*?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de la *Loi sur la faillite et l'insolvabilité*.

Oui, art. 81.2 *L.f.i.*

11.

QUESTION 11 (4 points)

Rémi Chartrand a-t-il une réclamation prouvable contre l'actif de la faillite de *E Mollusque inc.*? Dites pourquoi.

Oui, la réclamation est née avant la date de la faillite (art. 121 *L.f.i.*)

OU compte tenu de la trame factuelle sont aussi acceptées les réponses suivantes :

Oui, si le syndic en décide ainsi (art. 121 (2) ou 135 (1.1) *L.f.i.*).

OU

Non, sauf si le syndic en décide autrement (art. 121 (2) ou 135 (1.1) *L.f.i.*).

12.

QUESTION 12 (5 points)

- *Équipements frigorifiques DS inc.* peut-elle demander au syndic de lui remettre les congélateurs vendus à *E Mollusque inc.*? Dites pourquoi.
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de la *Loi sur la faillite et l'insolvabilité*.

Oui, parce qu'elle est propriétaire du bien, art. 81 *L.f.i.*

13.

DOSSIER 5 (15 POINTS)

QUESTION 13 (12 points)

- Énoncez trois manquements commis par M^e Tremblay à ses obligations déontologiques.
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code des professions, de la Loi sur le Barreau ou de leurs règlements.

SEULS LES TROIS PREMIERS MANQUEMENTS INSCRITS AU CAHIER DE RÉPONSES SERONT CORRIGÉS.

1. M^e Tremblay n'a pas conservé une copie de sa publicité pendant un période de cinq ans suivant la date de la dernière diffusion ou publication, art.5.04 Code de déontologie des avocats. 14.
 2. M^e Tremblay n'a pas le droit d'utiliser le titre de spécialiste, art. 58 Code des professions. 15.
 3. M^e Tremblay n'a pas maintenu son tarif forfaitaire en vigueur pendant une période minimale de 90 jours après la dernière diffusion ou publication de l'annonce, art. 5.03 Code de déontologie des avocats. 16.
- OU
- M^e Tremblay a fait de la publicité trompeuse, art. 5.01 Code de déontologie des avocats.
- OU
- Les services rendus ne sont pas conformes à la publicité, art.60.1 Code des professions.

QUESTION 14 (3 points)

- M^e Louis Lachance peut-il être actionnaire d'une compagnie qui exploite une agence de recouvrement?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code de déontologie des avocats.

Non, art. 4.01.01 c) Code de déontologie des avocats.

17.