

JOINT INSOLVENCY EXAMINATION BOARD

*Joint
Insolvency
Examination
Board*

Joint Insolvency Examination

Pilot paper for the 2018 exams

PERSONAL INSOLVENCY (3.5 hours)

ANSWER ALL FOUR QUESTIONS

Questions 1,2 and 3 carry 20 marks each and question 4 carries 40 marks.

SUBMIT ALL WORKINGS

The Examiner will take account of the way material is presented. Candidates should answer the questions set - marks will not be awarded for extraneous material.

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1. Irving Corvedale (“Mr Corvedale”) was made bankrupt on 19 July 2017 pursuant to a Bankruptcy Petition presented by a creditor on 1 June 2017. You were appointed Trustee in Bankruptcy on 23 March 2018 by the Secretary of State. There is no creditors’ committee.

Mr Corvedale did not co-operate in any way with the Official Receiver and did not submit a statement of affairs. All your letters to Mr Corvedale seeking assistance from him were ignored. You therefore applied to the Court for an order that Mr Corvedale’s discharge from Bankruptcy be suspended until such time as you, as Trustee, submit a report to the Court that Mr Corvedale has complied with all his obligations under the Act and Rules. The Court made such an order on 5 July 2018.

Mr Corvedale solely owned a freehold residential property (“the Property”) at the time of his Bankruptcy but this was repossessed by the only mortgagee who sold it in April 2018. You suspect that the funds realised were insufficient to repay the secured debt, although you cannot be sure because your letters to the mortgagee asking for a copy of the completion statement have been ignored. Having been evicted from his home, Mr Corvedale did not provide an address at which he could be contacted.

At one time Mr Corvedale traded on his own account under the name Brown Cow as a wholesaler of toys and nursery goods. Brown Cow appears to have ceased to trade some time before Mr Corvedale’s Bankruptcy but when the Official Receiver’s agents attended the trading premises (a warehouse rented on an informal basis) they found a quantity of trading stock, an old computer and twenty boxes of assorted books and records. You have been told that the agents returned some of the stock to unpaid suppliers and scrapped the remainder, although they still have possession of the computer and the books and records.

Following your appointment the Official Receiver handed to you a bulky file of papers received by him from a significant number of companies, businesses and individuals claiming to be creditors. In accordance with an order of the Court, in early April 2018 you advertised your appointment in the London Gazette and in two local papers. You were deluged by correspondence from potential creditors and others. A schedule of the 88 claims received to date suggests that the total amount due to creditors will exceed £400,000.

There was a decision of the creditors that your remuneration be fixed by reference to the time properly given by you and your staff in attending to matters arising in the Bankruptcy. Prior to your remuneration being fixed on this basis, you provided a fee estimate of £20,000 plus vat in respect of your fees. Details of the expenses you considered were likely to be incurred were also provided.

Following a tip-off received by the Official Receiver from a creditor you have been able to recover funds from a number of bank and building society accounts held by Mr Corvedale under assumed names. After paying all the costs of the Bankruptcy to date, including your own remuneration, you are holding £34,000.

Requirements

Explain the steps that you should take as regards the assets and liabilities, and the other issues which may need to be addressed by you, in order to get to the point where you are able to declare an early first and final dividend to the creditors.

(20 marks)

2. You are an Authorised Insolvency Practitioner. A Partner in your firm has asked you to advise his client, Miss Abigail Williams (“Abigail”), who is struggling to pay her debts. From a brief conversation with the Partner, you ascertain the following information about Abigail’s financial position:

Assets

	£
Equity in solely owned property	45,000
Premium Bonds	6,000
Car	4,500

Liabilities

	£
Credit cards	9,000
Bank overdraft	1,550
Student loan	13,000

Abigail is the sole director and shareholder of a limited company which supplies office furniture. She draws remuneration from that company of £2,000 per month (gross).

Requirements

- (a) Explain the various statutory and non-statutory procedures that might be available to Abigail to resolve her difficulties. (14 marks)
- (b) Advise Abigail which procedure is most likely to be applicable to her. You should explain what further information you would require in order to advise her more fully and set out any assumptions which you have made. (6 marks)

Total: (20 marks)

3. You are a Manager in the employment of Joe Swanson ("Joe"), an Authorised Insolvency Practitioner.

Joe was appointed as Trustee in Bankruptcy of Mrs. Carol West ("Carol") on 1 July 2018. Carol was made bankrupt on 6 May 2018 on the petition of HMRC, in respect of amounts due under self-assessment. The petition was presented on 4 March 2018.

Shortly before the Bankruptcy Order was made, Carol's elderly, unmarried Godmother died, leaving her entire estate, valued at £220,000, to Carol. Unfortunately for Carol, probate over her Godmother's estate was not obtained in time for funds to be released to avoid the Bankruptcy Order being made. The petition debt was £5,200 and in addition, HMRC is claiming payment of the costs of the petition amounting to £1,850 (including all fees and deposits).

You are unaware of any other assets.

Carol's other debts (as at the date of the Bankruptcy Order) are as follows:

	£
Credit cards (x3)	4,370
Bank loan	8,105
Bank overdraft	190
Store cards (x4)	7,940
Student Loan	13,300
Loan from Husband	10,000

There was a decision of the creditors that Joe's remuneration be fixed by reference to the time properly spent by him and his staff in attending to matters arising in the bankruptcy.

As at today's date, Joe's time costs amount to £4,620 and disbursements of £380 have been incurred. The time costs and disbursements incurred are within the fee estimates provided prior to the basis of Joe's remuneration being determined.

Carol has informed you that the executor of her Godmother's estate has confirmed that probate has now been obtained, and that funds of £200,000 will be available before the end of the year. Carol has therefore made an application to Court for the annulment of the Bankruptcy Order pursuant to Section 282(1) (b).

Carol has asked you to tell her what funds are likely to be available to her in the event that her application is successful.

Requirements

- (a) Calculate the estimated amount required to pay the bankruptcy debts and the expenses of the bankruptcy in full, and estimate the surplus funds that will be available to Carol. Clearly state any assumptions that you have made. (12 marks)
- (b) Draft the Trustee's report to Court. (8 marks)

Total: (20 marks)

4(a) You are an authorised insolvency practitioner.

Five weeks ago an acquaintance, George Bullard (“George”), came to see you. He explained that he faces financial difficulties because he is no longer able to meet the monthly repayments on debts of £65,000 which he incurred paying nursing home fees for his ageing parents. Sadly, both have recently died.

George told you that he has consulted another Insolvency Practitioner (“the IP”) who has advised that the best option would be for George to propose an Individual Voluntary Arrangement (“IVA”). However, before agreeing to act as Nominee, the IP wants to be sure that a small business owned and run by George will be able to continue to trade and will provide George with sufficient income to meet not only his personal living expenses but also a monthly contribution into the IVA. George has been asked by the IP to provide a cash flow forecast, prepared on a monthly basis, for the year ending 31 October 2019, together with a profit and loss account for the year ending 31 October 2019 and a balance sheet as at that date. George asked for your help in preparing these documents.

George has given you the following information:

- George’s business is called Bullard Prints (“the Business”). The Business buys unframed prints of well-known pictures, puts them into frames and then sells them either to the general public or to budget hotels, public houses and restaurants.
- In recent times the Business has consistently achieved sales of £20,000 per month and George expects this to continue up to and including April 2019, after which he is confident that monthly sales of £25,000 can be achieved. George estimates that 60% of sales will be to the public and 40% to the hospitality sector. George told you that, in addition to the expected regular monthly sales, a one-off contract (“the Contract”) has been signed with a chain of hotels under which an order with a sales value of £60,000 will be delivered in March 2019.
- Sales to the public are made from orders received through the Business’s website and payment is made by customers at the time that the order is placed. Orders received in this way are dispatched within 24 hours of being received. Sales to the hospitality sector are made on credit and customers typically pay in the second month following the month of the sale. The Business suffers negligible bad debts.
- The Business achieves a gross profit percentage of 50% on sales to the public and 40% on all other sales. Cost of sales comprises only the direct costs of buying in the prints and frames.
- The Business does not hold stocks of prints and frames but acquires these on a “just in time” basis from suppliers in the same month that they are sold by the Business. An exception to this will be the Contract: for this George will need to acquire the necessary prints and frames one month earlier than normal. Suppliers of prints and frames require their invoices to be paid in the month following the month of delivery.
- At 31 October 2018 the balance sheet for the Business is expected to be as follows:

	£
Fixed assets at net book amount	22,000
Debtors	16,000
Balance at bank	7,000
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	45,000
Creditors for supplies	(10,800)
Proprietor’s funds	<hr/>
	34,200
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- The Business's Bank is keen for the Business to continue. However, it has made it clear that it will not be willing to allow the Business's bank account to become overdrawn at any time. The Bank is not owed any money by George personally.
- Other than the costs of buying the prints and frames, all the Business's costs are paid for in the month in which they are incurred. They currently amount to £7,500 per month, but George expects these to increase by £2,000 per month from May 2019.
- George needs to draw £2,500 from the Business each month to meet his personal living expenses. In addition, the IP has estimated that George would need to draw £500 each month to fund the contribution into his IVA.

Requirements

Prepare a cash flow forecast on a monthly basis for the Business for the year ending 31 October 2019. Set out your supporting calculations and state clearly any assumptions which you have made. Ignore all taxation, including VAT. (12 marks)

- 4(b) You prepared the cash flow forecast for George and sent it to him but heard no more until yesterday when you received a telephone call from George. He informed you that, whilst he could see that it might be possible for him to enter into an IVA and to carry on his business, he had decided not to go down this route. His principal, and growing, concern was that two of his most important customers were subsidiaries of large companies based in Europe and he had heard rumours that the flow of orders would dry up once the UK left the European Union. George also told you that, in view of his change of heart and the increasing pressure from creditors he had decided to make an application to the Adjudicator and a bankruptcy order had just been made against him.

You are aware that many of George's creditors routinely request your appointment as Trustee in Bankruptcy in cases where the debtor is or has been in business.

Requirements

Set out the ethical and regulatory matters that you would need to consider before accepting an appointment to act as George's Trustee in Bankruptcy. (8 marks)

- 4(c) You and one of your partners subsequently accept appointment as Joint Trustees in Bankruptcy of George. During your enquiries into George's financial affairs you discover the following;
- George and his wife, Josephine, live in a freehold house called Tuckers. An agent appointed by you valued Tuckers at £260,000. The Land Registry shows that Tuckers was registered in Josephine's sole name at the time of acquisition (April 2014) and that there are no entries in the register of charges. Prior to moving to Tuckers, George and Josephine lived in a property called Pinafores which they owned jointly in equal shares. In an interview George admitted to you that Tuckers had been registered in Josephine's sole name because he had thought it better if, as a businessman, he did not own too many assets.
 - In August 2017 George gave £20,000 to his grandson. This money was used by the grandson towards the deposit on a flat in which he now lives with his civil partner.

Requirements

Set out your views on the prospects of making any recoveries from the two matters identified by you and explain what further steps you, as Trustee, should take. In each case support what you say by referring to the relevant law and by stating any assumptions which you have made. (9 marks)

- 4(d) Whilst in office a Trustee in Bankruptcy is obliged, or may be required by the circumstances of the case, to interact with the Official Receiver and/or the Secretary of State.

Requirements

Identify when and why such interaction is or may be required. (11 marks)

Total: (40 marks)