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524 COMMUNITY PROPERTY

UNM School of Law
Final Examination, Part II
Two Credits

Professor Sheryl Wolf
Friday, November 2, 2001
2:45 p.m. to 3:45 p.m.

One Hour

INSTRUCTIONS

1. This is Part II of the Final Exam, consisting of 3 short essay questions on 1 page, plus this cover sheet.
2. Questions 1 and 2 count for 20 points each; question 3 counts for 10 points. Budget your time accordingly.
3. This is a limited open book exam. You may use your casebook, class handouts, and any material you prepared individually or as an active participant in a group, such as class notes or outlines. You may not consult outside references.
4. You may use calculators. If you have trouble with any calculations, explain your answer the best you can without using numbers.
5. Be sure to place your exam number on your Blue Books or typed pages. Please turn in the exam itself separately, without stapling it to your answers.
6. **IMPORTANT: Unless the facts of a question indicate otherwise, assume the following:**
All relevant events and transactions take place in New Mexico, and all property is located in New Mexico, unless the facts indicate otherwise.

Good Luck!

Community Property Exam--PART II

1. (20 points) Shortly before marriage, Wisteria bought a house for \$150,000. She put \$50,000 down, and took a loan and mortgage for the balance of the purchase price. She took title as "Wisteria, a single woman." After her marriage to Harvey, Wisteria used her earnings to make the mortgage payments of \$1000 a month. The mortgage payments included payment on the principal, interest on the loan, real estate taxes, and homeowners' insurance ["PITI"]. The couple did not live in the house; Wisteria rented it out for \$1200 a month and put the rent checks in a savings account at Mountain Valley Bank in her name alone. Wisteria paid for any necessary repairs and upkeep on the house from her earnings. Ten years after marriage, Wisteria executed, delivered, and recorded a deed to the rental house, transferring title to "Harvey and Wisteria, as Joint Tenants with Right of Survivorship." She did not refinance the house. Wisteria and Harvey are divorcing after 20 years of marriage. Of the \$240,000 mortgage payments made during marriage, the mortgage principal has been reduced by \$50,000. The current mortgage balance is \$50,000. The fair market value of the house is currently \$300,000. To what portion of the house and the savings account at Mountain Valley Bank, if any, is Harvey entitled?

2. (20 points) Huey and Wyona married on September 1, 2001. They immediately opened a new checking account in both their names. At the time they opened the account, Wyona deposited a \$4000 from the sale of an antique desk that she owned prior to marriage. Wyona was a successful real estate agent, and on October 1, Wyona deposited her check of \$8000 for commissions she earned during September. On October 4, Huey wrote two checks, one for \$2000 for stereo equipment, and another a check for \$4000 to American Express to pay off expenses incurred on their honeymoon trip. He also withdrew \$1000 in cash, which he used for personal expenses. On October 27, Wyona wrote a check for \$4,000 to the dentist for Huey's emergency dental work, which he had delayed having done before their marriage. On November 1, Wyona deposited her October commissions of \$8,000. No withdrawals have been made this month. Wyona is starting to think that maybe this marriage was a mistake. She wants to close the joint account and keep her money separate. Wyona wants to know how much, if any, of the money in the account on November 2, 2001, is her separate property and whether the stereo equipment is hers. Please advise Wyona.

3. (10 points) Hal has just retired from his job at Specialized Security Systems, for which he worked for 30 years. Hal had been working as a sales representative for 5 years at the time he married Wanda. He continued to work in that position until Hal and Wanda divorced after 10 years of marriage. In their divorce decree, the court reserved continuing jurisdiction over Hal's pension, awarding Wanda a share of each pension payment when it is paid to Hal. After the divorce, Hal advanced rapidly at Specialized Security Systems. He first was promoted to area supervisor, then district manager, and later to regional vice president. He now earns many times more than he did as a sales representative. Specialized Security Systems pension benefits are calculated at 70% of the salary the employee earned immediately before retirement. When Hal begins receiving his retirement pay next month, in December 2001, how should Wanda's share be calculated?

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End of Exam