STUDENT	IDENTIFIER:	
(Exam#	)	

The University of New Mexico School of Law

Bankruptcy
Professor Nathalie Martin
Course 629
Spring 2005

## FINAL EXAMINATION

This is a three-hour exam. However, you have been given an extra 30 minutes to complete the exam, for a total of three and a half hours.

## **INSTRUCTIONS**

- 1. Print your student identifier at the top of this page.
- 2. The exam is contained on pages 1 to 15. Make sure that your copy is not missing any pages.
- 3. PERMITTED MATERIALS: You may consult only the casebook, any handouts I passed out in class, the Bankruptcy Code, and any notes or outlines which you prepared or which were prepared by a study group in which you participated actively.
- 4. The exam consists of 21 short answer questions, which must be answered in the space provided directly on this exam, unless you are using a computer.
- 5. SPACE LIMITATIONS:
  - a. <u>ALL ANSWERS TO SHORT ANSWER QUESTIONS:</u> Unless you are using a computer, please put your answer to the short answer questions directly on the lines provided in this question booklet, <u>not in the blue book</u>. <u>THE SPACE OFTEN CONTINUES TO THE NEXT PAGE!!</u>.
- 6. LAW TO BE APPLIED:

The United States Bankruptcy Code (Make sure you use the 2004 or 2005 version!) and any applicable state law provisions, as well as any common law contracts concepts that we discussed in class.

YOU WILL EARN POINTS FOR CITING TO RELEVANT PORTIONS OF THE BANKRUPTCY CODE (OR OTHER APPLICABLE LAW) WHENEVER POSSIBLE.

- 7. Write legibly and give all answers concisely. Discuss all relevant issues in each fact situation. Even if you believe that one issue is dispositive, discuss all other relevant issues anyway.
- 8. Questions on this exam will inevitably have fewer facts than would be optimal in predicting legal rights. When more information is required, explicitly state your assumptions and indicate why such assumptions are necessary but do not assume any fact inconsistent with those stated in the given fact situation. If the question asks you to suggest additional facts to improve the quality of your prediction, please be comprehensive and imaginative.
- 9. The suggested time for each question is noted. The suggested times total <u>180 MINUTES</u>. The suggested times reflect the relative weight that will be assigned to each question.

GOOD LUCK AND BUDGET YOUR TIME!

## **Short Answer Questions**

1. (15 min.) Robert Chavez lives in Los Puercos, New Mexico. He owns a home worth \$92,000 that has a \$70,000 mortgage on it. He also owns about \$10,000 in household goods and clothing, an IRA with \$50,000 in it, and a bank account with \$4,200 in it. Las year he suffered a stroke, became disabled as a result and suffered over \$40,000 in medical bills. Because he was out of work for some time, he also fell behind on all of his other bills and expenses, for which he owes another \$50,000. He recently obtained a judgment against a person who committed malpractice against him last year and is about to receive a settlement of \$50,000. Unfortunately it is too little too late to pull him out of financial ruin. He has decided to file a Chapter 7 bankruptcy. Which exemption scheme should he choose and why? What will he get to keep? Does he need to do any prebankruptcy planning before he files, and if so what do you recommend? Very briefly, does it matter if he files now or after October 20, 2005? Does any of your advice expose Robert to any risks in his bankruptcy case?

2.	(10 min.) Giardelli's got \$1,600 from Choc-o-love, a local chocolate factory, just days before Choc-o-love filed for Chapter 11 bankruptcy. Giardelli's was owed \$1,800 at the time it received the payment. It also had a security interest in a piece of equipment worth \$1,000. Can Choc-o-love, as debtor-in-possession get any of the \$1,600 payment back? Under what theory? Assuming a 10% distribution to unsecured creditors, how much will Giardelli's receive in total payments in this case?
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take fals	(25 min.) Patsy Cline has debts to credit card companies for trips to South America en during the past two months, student loans, and for debts to banks resulting from e financial information given by Patsy when she was desperate for cash. She is three on the behind on her \$500 mortgage, three months behind on her \$300 car payment and

owes \$6,000 in unsecured debts not previously mentioned above. She also owes \$2,000 for income taxes incurred in the past year. She owes \$6,000 on her car, which is worth about \$2,000. She owns nothing over and above her state or federal exemptions, except

\$5,000 in cash, which could be used to come current on her car and her house payments, and to pay you a retainer, or for some other purpose. Assuming she files for bankruptcy, should she file a Chapter 7 or a Chapter 13? Discuss all relevant considerations and weigh the pros and cons of each type of case.

(5 min.) Would a person who had \$45,000 in unsecured debts and owned a \$2, \$300 bank account and a few household goods and appliances need to file a banketition? If such a person were to file for bankruptcy, what type of case would the le and what would the case accomplish for this person, over and above what the ould achieve under state law?			
5. (10 min.) Janice Jacobsen just filed a Chapter 13 petition and you represent her exhusband. Her attorney has proposed the following Chapter 13: Class 1: 20% over the years to general unsecured creditors (which include suppliers who made unsecured to her auto parts store, credit card companies, a bank that lent money to Janice on the basis of a false financial statement and your client's claim for past-due support payments), and Class 2: 100% over three years to the taxing authorities and to the ho	ree oans		
of Janice's student loans. What should you do in reaction to Janice's plan? Do you to any other creditors would have any complaints about this plan?			

bankrup construc	otcy. You rep	resent Terry Ti ent and a few o	ng as Klein Construction, has just filed a Chapter ryst, her Chapter 7 trustee. After selling her other non-exempt assets, you have \$200,000 to Kylie. Here are Kylie's creditors:	7
	-Her ex, for -Student lot -Income tare -Valley Bare -Trustee's	or a \$70,000 jude oans in the amounted for 2002 a link, a secured of fees and costs	ount of \$20,000 nd 2003, \$10,000 for each year creditor on the equipment you sold, owed \$100,0 s of sale of \$10,000	
You kno money.			y first, but now tell him what to do with the rest	of the

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Bank is indeed	That should you do, is dentitled to the first nove on behalf of Lir	\$100,000 out of th			•
` '	ne City of Albuquero ws. Will this suit be	. •	_		f the
2000. Bank C \$150,000. Und annum, and Bank One has motions for re	AAA Construction Cone was owed \$130,0 der Bank one's contrank One is entitled to expended \$5,000 in lief, moving for the case. What is the ar	000 on that date, se ract, interest accrude o recover their coll AAA's bankrupto appointment of a t	ecured by inducts at a rate of lection costs a ry case, bringing rustee and oth	istrial equipment 12% simple inter nd attorneys fees ng two unsuccess erwise watching	worth est per s. sful the

10. (5 min.) Assume that today, confirmation of a Chapter 11 has been approved. What is bank One entitled to receive under the plan? How long do you feel an appropriate paout would be?
11. (10 min.) Another creditor in the same case is Frontier Bank. Frontier has a \$110,000 debt, secured by a \$70,000 piece of real estate in Alvarado Gardens. Interest on this loan also accrues at 12% simple interest per annum, and the contract provides the Frontier is entitled to reasonable attorneys' fees. Frontier's attorneys have spend \$2,400
monitoring the case and attending hearings in the case. Calculate Frontier's allowed secured claim.

ind has not bed and b go, and the just filed a	ast hotel on the side of the been in operation for the reakfast building. The Si first mortgage holder on motion for relief from st
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bad loan or emez Bank \$50,000. ncher's Ba has receive building's relief from	d breakfast, but nothing its books, and Apple Value would like to sell the Upon receipt of this mother has made its own mothed no payments post-petits value is just \$65,000.
	emez Bank \$50,000. ncher's Bank has received building's

	c. (5 min.) For either of these lenders, what facts might help prove a lack of adequate protection?
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motions f a hearing Which of	n.) Using the same facts from question 12 above, assume that as a result of the for relief, the debtor files a plan of reorganization, which has been scheduled for on the same day and at the same time as the hearings on the motions for relief. These motions should the court hear first, the motion to approve confirmation or the motions for relief from stay?
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•	me say that the new law is harder on the middle class than it is on the some examples of provisions of the law that might indeed cause this

	AND		38.117
7. (5 min.)What one fact most strersion of Section 707(b)?	rongly suggest a	a substantial abuse under	the current
ttle calling for pictorial maps in Nalley Bank and Trust has a securing time of the bankruptcy filing, As First State Bank account, both o	New Mexico and ity interest in al Augie's had \$10 of which it woul	I has just filed a case und l of its inventory and office, 000 in its cash register and d like to use to meet payr	er Chapter 1 ce supplies. nd \$10,000 coll tomorro
3. (10 min.) Augie's makes pictorial calling for pictorial maps in Nalley Bank and Trust has a securine time of the bankruptcy filing, As First State Bank account, both of there any reason why this cannot cese funds and if so, what? What oney? Do you recommend that A otion? If you decide to call first,	New Mexico and ity interest in all Augie's had \$10 of which it would to be done? Nee will be the stan Augie's call Val	I has just filed a case und lof its inventory and office,000 in its cash register and like to use to meet payrd Augie's do anything in dard for allowing the use ley and/or First State or j	er Chapter ice supplies. nd \$10,000 roll tomorro order to use of this ust file a
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19. (10 min.) Aunt Angic ownes a big screen T.V. that she bought on credit from Ballios last April for \$10,000. She still owes almost the whole \$10,000 on it. However, she noticed that similar T.V.s can be bought used for just \$4,000 according to the Thrifty