



Instituto Superior de Economia e Gestão

UNIVERSIDADE TÉCNICA DE LISBOA

DESDE 1911

## BUSINESS LAW

2012/2013 – 2.º SEMESTRE

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### EXERCISES

#### Chapter V – Commercial Contracts

1. The company '**LUSOLÃ-Clothing, Lda**' (**LUSOLÃ**) celebrated with **Anthony** an agency agreement to promote the selling of their products in the Porto district. **Anthony** sold on behalf of **LUSOLÃ** its goods. With the amount of money received from the sales, **Anthony** bought a house for himself. The sales were performed by using the **LUSOLÃ** invoices made at the request of **Anthony**. The **LUSOLÃ** wants to recover all the income received by **Anthony** with sales of its products, which the **LUSOLÃ** considers abusive, refusing to deliver the goods to a third party under the invoices used by **Anthony**. Analyze the **LUSOLÃ** claim.

2. **Bernard** contracted with '**SOCAFÉ, Production and Marketing of Coffee, SA**' (**SOCAFÉ**) a franchising agreement that allowed him to explore commercial establishments and the brand '**SOCAFÉ**' in the Madeira island. After five years of activity and ten establishments installed, the '**SOCAFÉ**' terminates the franchising agreement with a period of notice of one hundred and twenty days, requesting to **Bernard** the closure of the establishments and termination of the sale activity with their brand. What are the **Bernard** rights?

3. **Joaquim** agreed with **John**, trader, to invest in his buying cars for rent without driver business. This investment allowed **John** to solve some financial difficulties that he was crossing. **Joaquim** agreed with **John** to be entitled to receive 25% of all his profits which result of his activity, but he is not participating in the management of **John's** business and neither to any possible losses. What is the legal nature of the contract? Who is responsible for debts incurred in the exercise of **John's** activity?

4. Two companies agreed that the purchases of raw materials necessary for their textiles production activity as the prospects for their selling abroad will be carried out together. What is the agreement more appropriate to meet the intended purpose?

5. Ten companies are wishing to compete together to the construction of a third bridge across the Tagus river, whose the public bidding will be opened by the State. Each of the ten companies have a defined part of the work that it will have to perform as well as their participation in the work price to be paid by the State. During the execution of the construction, one of the companies will be in charge by representing the remainders through the state. What is the contract more appropriate to meet the purposes of the business?

6. On February 15th 2006, **Charles**, beekeeper, celebrated with **Radish**, an agency contract without representation for exclusively distribution of his honey in Odemira region. In September 2006, **Radish** named **John Tomatoes** as an assistant. In December 2006, **Charles**, **Radish** and **John Tomatoes** made a Christmas dinner to celebrate the results of 2006. During dinner, **Radish** falls in love with **Charles** wife's, and since then they are keeping a love relationship. **Charles** knew of his wife's infidelity by **John Tomatoes**, who informed him with sordid details of the situation. Since then nothing was the same. In April 2007, Charles contracted a concessionaire for the sale of his products in Odemira. In July 2007, **Radish** received from a group of clients the price of the honey sold, but he didn't deliver this value due to **Charles**. In August 2007, knowing of the facts, **Charles** terminated the contract of agency.

a) What type of agency agreement was signed? Classify all the parties.

b) Identify the rights and duties of **Charles** and **Radish**.

c) Has **Charles** violated the exclusivity of **Radish** contracting a concessionaire? Justify.

d) Were the clients who have paid to **Radish** released from their obligation to **Charles**? Justify.

e) May **Charles** terminate the contract of agency? Justify.

f) Have **Radish** and **John** the right to receive from **Charles** a 'clientele compensation'? Justify.

7. The 'PIZZARUSSA', a Multinational Company of pizza manufacturing and marketing, made a franchising contract with Grace, cooker. The contract was settled with all the key elements to ensure the formal and legal validity of the franchising contract. After three months of the contract celebration, Grace stopped paying the royalties and transferred her franchising establishment location for another place, without communicating it to the 'PIZZARUSSA'. To promote the opening of the new establishment, Grace did the franchisor's advertising, in absentia of its knowledge. Simultaneously, Grace made some know-how improvements, but she didn't communicate it to the 'PIZZARUSSA'. Furthermore, five months ago Grace opened a pizzeria in the same locality that competes directly with her 'PIZZARUSSA' franchising. Grace also stopped to buy all her stocks to 'PIZZARUSSA'. Three months ago, Grace ceded contractually her 'PIZZARUSSA' franchising to Thomas. In April, the 'PIZZARUSSA' had knowledge of all the facts and terminated the contract. Quid Juris?

8. Abel, lawyer, is also an owner of a grocery store located in Bairro Alto, where he sells, among other goods, wine, from the Benedict farm, an agronomist who explores a large propriety in Alentejo. In order to boost his gourmet groceries sales, Abel hired

Carlos, a software engineer, to develop several commercials spots to be published on the Internet. Carlos will receive by his services the price of € 4,000.00. Apart from Benedict wine, Abel also sells cheese produced by 'Chaparro regional products, Ltd'. In order to commercialize this cheese was settled a contract under which Abel obliges himself to sell the cheeses in a display approved by 'Chaparro', which will have its identification and logo. Abel is also obliged to acquire a minimum of 500 kg of cheese per year. Answer the following questions, identifying the relevant issues:

a) Consider that Abel is married with Victoria and that he didn't pay the wine supply acquired to Benedict. Suppose that Benedict demand both (Abel and Victoria) to proceed to payment. Quid juris?

b) Qualify the contract established between Abel and Carlos, as well as the legal position of Carlos?

9. Soul and Mate, high school friends and avid books readers, thought that there was a lack of a new literary saga in the children's literature panorama. Soul, owner of a vivid imagination, was liable for writing the stories while Mate, a talented painter, was responsible for illustration. Together, Soul and Mate published the first 20 books of the saga 'Blue Princess'. After a resounding sales success in Portugal, Soul and Mate decided to publish the 'Blue Princess' overseas. To do this, Soul and Mate hired Manolo to promote their saga in Spain and John to do the same in the UK 'exactly like themselves' (as it could be read in the contracts concluded). With the improvement of their business, Soul and Mate decided to open the 'Blue Princess of the Universe', an online store for selling the merchandise to all fans of their saga.

a) Qualify the legal settlement established between Soul and Mate. Justify and analyze the elements of the contract.

b) Qualify the legal settlement (s) established between Soul, Mate, Manolo and John.

c) Imagine that Manolo made a contract with the Penguin Books for the distribution of two million books not only in Spain but also in France and the UK. Soul and Mate think that Penguin Books is paying short for their copyright, so they want to blame Manolo for settlement of the distribution contract, because he did it without their permission. Furthermore John wants to be compensated because the distribution is being also made in the UK. Quid juris?