

EXAM NO. \_\_\_\_\_

THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL  
FINAL EXAMINATION

INTERNATIONAL CRIMINAL LAW  
PROFESSOR ELLEN S. PODGOR

FALL SEMESTER 2003  
TIME LIMIT: 2 HOURS

1. This examination is a two (2) hour examination. It is an open book exam. There are **three (3) pages** to this examination. Please make certain that you have all of the pages.
2. Assume throughout this examination that all parties are human beings.
3. **Please make certain that you answer ALL of the questions following the essay.** Although sufficient time has been provided to properly complete this examination, should you find that you have insufficient time to finish the examination, it is recommended that you list or outline all issues that you would have expounded upon if time had permitted.
4. Please make certain that your anonymous number (Exam Number) appears on every blue book or on the top computer sheet if you are taking your exam by computer, and also on this examination. **Turn in blue books or answer sheets and the examination. Failure to follow this instruction may result in a loss of points to you on the examination.** Please do not identify yourself on this examination, other than by using your anonymous number (Exam Number).
5. **If you answers are contingent on information not provided, explain what that information is, and how it would affect your answer.**

**IN TAKING THIS EXAMINATION YOU ARE REQUIRED TO COMPLY WITH THE LAW SCHOOL RULES AND PROCEDURES FOR FINAL EXMINATIONS.**

Tamar Poodell, a citizen of the United States, works for Bonz, Inc. a U.S. company listed on the Securities and Exchange Commission that has offices only in the United States. Although the company's office is located in the United States, for the last ten years Tamar Poodell's work has been outside the United States. As such she decided to reside in Country X, a country centrally located to the various places that Bonz, Inc. sends her. On July1, 2003, Tamar received instructions from the CEO of Bonz, Inc. informing her to bid on a government contract in Country X for the sale of lamps to the government of Country X. Anxious to please her boss, Tamar decided to get together with other local and foreign lamp companies to see what amount other companies intended to bid for this contract. On July 3, 2003 Sandy Raven-Hansen of Lamps, Inc. in Country X, and Mattie Cottrol of Katz, Inc. from the U.S. met for breakfast at the Pancake House in Country X. Sandy Raven-Hansen a local distributor of lamps in Country X suggested that they all bid no lower than \$10,000. Everyone agreed to this and these were the only three companies to place a bid on the lamp contract with Country X. Tamar ended up bidding \$15,000 on behalf of Bonz, Inc., Sandy Raven-Hansen bid \$16,000 for Lamps, Inc. and Mattie Cottrell also bid \$15,000. To make certain that Bonz, Inc. secured the lamp contract, Tamar paid Julius Lee, the government official from Country X who would be making the decision of which bid to accept, a processing fee of One Thousand (\$1000.00) Dollars and also agreed to send Julius Lee's family on a trip to DisneyWorld in the upcoming summer. Julius Lee readily accepted the processing fee which he placed in his pocket and said that he was looking forward to his upcoming trip to DisneyWorld. He then selected Bonz, Inc. for the contract to sell lamps to Country X.

Tamar Poodell was elated. She went to a friend's house and purchased some cocaine. The sale and possession of cocaine is legal in Country X. Bid Rigging (antitrust), however, is not, and shortly thereafter, Tamar Poodle is arrested in Country X for Bid Rigging. The statute in Country X for the crime of Bid Rigging is identical to the Sherman Act in the United States. The police place Tamar Poodell in a local jail to await trial. While in jail, the police from Country X interrogate and obtain a full confession from her using harsh means that would never be allowed in the United States. The police in Country X are not happy that the maximum sentence for Bid Rigging in Country X is two (2) years. So when the United States requests Country X extradite Tamar Poodell to the United States for the crime of Violating the Sherman Act, they readily agree.

Once extradited to the United States, federal prosecutors amend the Indictment and add the following charges against Tamar Poodell: Count II -Violation of the Foreign Corrupt Practices Act, Count III- Possession of Cocaine. After a trial by jury, Tamar Poodell is found guilty on all three counts.

United States prosecutors decide that they would also like to prosecute Julius Lee for Conspiracy to Violate the Foreign Corrupt Practices Act. Since Country X does not have any equivalent statute to a Foreign Corrupt Practices Act, they refuse to extradite Julius Lee to the United States. Prosecutors in the United States decide to get Julius Lee into the U.S. by staying true to Tamar Poodell's offer to bring Julius Lee and his family to DisneyWorld. This is easy to

accomplish as Bonz, Inc. is cooperating with the U.S. government in order to avoid being prosecuted for any crimes. Using Bonz Inc. letterhead the Federal Bureau of Investigation (FBI) send Julius Lee airplane tickets to Orlando, Florida in the U.S., the airport located nearest to DisneyWorld. Julius Lee uses the tickets and brings his family to the U.S. only to find himself put in handcuffs as he steps off the airplane in Orlando, Florida. Thereafter, Julius Lee is prosecuted and convicted of Conspiracy to Violate the Foreign Corrupt Practices Act.

A. **Tamar Poodell** was convicted in a United States Federal District Court of: Count I-Violation of the Sherman Act, Count II -Violation of the Foreign Corrupt Practices Act, Count III - Possession of Cocaine. **Discuss in detail all arguments that Tamar Poodell can make on appeal, including arguments related to jurisdiction, the confession admitted at her trial, and her extradition to the United States. Include in your discussion whether you believe Tamar Poodell will be successful in these arguments.** It is not necessary to discuss arguments that go beyond what was covered in this International Criminal Law class.

B. **Julius Lee** was convicted in the United States for the crime of Conspiracy to Violate the Foreign Corrupt Practices Act (18 U.S.C. § 371). **Discuss in detail all arguments that Julius Lee can make on appeal and whether these arguments will be successful.** It is not necessary to discuss arguments that go beyond what was covered in this International Criminal Law class.

C. **Can Tamar Poodell and Julius Lee be charged with a crime under the Rome Statute for an International Criminal Court? If not, explain why?**

**IF ANY ANSWER IS CONTINGENT UPON INFORMATION NOT PROVIDED, EXPLAIN WHAT THAT INFORMATION IS, AND HOW IT WOULD AFFECT YOUR ANSWER.**