

2010年12月ACCA考试考官报告(F4)(4) PDF转换可能丢失图片或格式，建议阅读原文

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his duty in providing professional services (part c). Part (b) of this question was relevant to the objective of setting up such a sponsor system in underwriting securities. Generally the objective is to prevent the market risks from occurrence, regulate the operation of the listed companies and protect the lawful rights and interests of investors through the joint legal liability of the issuer and sponsor. Most of candidates who gained limited marks in this part of question failed to state that one of the important objectives is to protect the rights and interests of investors. Part (c) of this question required candidates to state various legal liabilities by a sponsor for his wrong doings or failure to perform his duty in providing professional services. The legal liabilities include: The sponsor may be ordered to make a rectification and be imposed a fine not less the amount of but not more than five times of the business incomes. the illegal incomes may be confiscated. the business permission may be suspended or cancelled. the sponsor in charge may be given a disciplinary warning and fine. the sponsor may be disqualified. Performances of this part were comparatively better than those of the other two parts. On the other hand, many candidates still failed to state such legal liabilities as the suspension or cancellation of business permission, which are commonly used in practices. Question Eight This question required candidates to deal with the legal issue in relation to the usufructuary right and ownership under the Property Law. Performances for this question were satisfactory. Most of candidates were able to give a correct answer to the three parts of this question and gained high marks. In part (a), candidates should describe the category of

property right Mr Lee has held regarding the mountain. It was obvious that Mr Lee held the usufructuary right which belongs to one category of the property rights. According to the relevant provisions of the Property Law, a holder of usufructuary right is entitled to possess, use and collect proceeds from the immovables or movables owned by someone else. Mr Lee, through the contract for the management of land, just held all these rights under the contract in question. However, some candidates did not describe the category of the property right as the usufructuary right, merely describing that Mr Lee held the right of management of land. Such an answer actually was a copy of the question. Part (b) was to test a basic rule with respect to the ownership of the natural resources and other categories of rights under the Property Law. According to the Property Law all the natural resources, such as mineral resources and water, shall be in the ownership of the State. Therefore, although Mr Lee obtained a right to manage a piece of land in light of a contract, this right could not extend to the natural resources under the land. In other words, the usufructuary right of Mr Lee could not prevail over the ownership of the natural resources exclusively owned by the State. However, some candidates did not understand this particular rule and consider incorrectly that the coal under the land should be held by Mr Lee or by the villagers. Part (c) of the question was to test the legal relations between the ownership of the natural resources and the right to the management of land. Almost all candidates were able to answer this part of question and gained high marks. Although some candidates failed to give a correct answer to part (b), they were still able to

answer part (c) correctly, by stating that the ownership of coal did not affect Mr Lee ' s usufructuary right. Obviously, Mr Lee ' s usufructuary right should be protected by the Property Law. If the State wants, as an owner of the coal under the Mr Lee ' s land, to exploit the coal mine, it shall make a reasonable compensation to him. The villagers were neither the legitimate holder of the usufructuary right over the land, nor the owner of the coal under the land. They should make compensation to Mr Lee for the destroyed trees.

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