

# Commercial Law Assignment (BULAW5914)

The Business Faculty

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## Semester One 2014

### Purpose

This is a significant task that requires forward planning and adequate time for research, reading and reflecting. It comprises 35% of your assessment in this subject. You should begin researching early to gather information and establish a plan as soon as possible.

The purposes of the assignment are to enable you to:

- develop your law reading, research and writing skills;
- enhance your understanding of law as a dynamic process;
- learn how to independently research a particular aspect of the law;
- reflect on and consider particular legal issues;
- demonstrate understanding of the legal environment, including relevant laws as well as economic, ethical, social/cultural, international and political issues;
- develop your knowledge about the subject area of your research;
- demonstrate the ability to investigate, synthesise and analyse;
- communicate the findings in a formal piece of work and meet a deadline;
- enhance your analytical and written communication skills; and
- apply your legal skills.

Your work must comply with the format outlined in the *University's General Guide to the Presentation of Academic Work* publication, available online at:

<http://federation.edu.au/library/assignment-and-research-help/referencing>

Assignments must be accompanied by a signed official cover sheet ('Plagiarism Declaration Form'), available online at <http://federation.edu.au/faculties-and-schools/faculty-of-business/the-business-school/current-students/student-forms-and-resources>

On the cover sheet, please state your name, and student number. Also please include the word count for your assignment, and a signed declaration that you are aware of the University of Ballarat's policies on plagiarism, and that this submission is entirely your own work free of plagiarism and collaboration.

The total length of the assignment (all seven questions) must not be more than **2,800 words**; do not include the references or bibliography in the word count. Submission of the assignment is due in teaching week 9. Specific due date, time, location and procedure of submission would be advised by your lecturer. Please note that late penalties apply to assignments where no alternative arrangements have been made with lecturing staff (subject to the discretion of the course coordinator).

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## Assignment Assessment Criteria

You will be assessed on the extent to which you have:

- answered the seven task questions;
- used good English expression, correct spelling, good punctuation and grammar and have proof read your work;
- used good logic and structure;
- been able to identify, set out and discuss relevant legal issues, legal principles and cases, as appropriate;
- used statutes and cases to support your arguments, as appropriate;
- analysed, argued or discussed as required by the task questions; and
- found, read and used other resources.

## Task

Read and consider *Dollars & Sense Finance v Nathan* [2008] NZSC 20 and then answer all of the seven evenly weighted short-answer questions below. In answering each, allocate approximately 400 words per question.

Note that while the questions all relate to the New Zealand Supreme Court decision *Dollars & Sense Finance v Nathan* [2008] NZSC 20 which is available via the Moodle subject page and at <http://www.nzlii.org/nz/cases/NZSC/2008/20.html> good answers will go beyond that judgment and provide evidence further reading and research.

### **Question one**

What property interest did Dollars & Sense register under the Torrens system and how did it acquire that interest? How did that interest relate to Mrs Nathan? Why do you think Dollars & Sense registered its interest? (5 marks)

### **Question two**

Explain the basis upon which Rodney Nathan was found to be Dollars & Sense's agent. Did ratification play any role? (5 marks)

### **Question three**

What was found to be the scope of Rodney Nathan's authority? Did the act of forgery fall within the scope of that authority? (5 marks)

### **Question four**

How could Rodney Nathan's fraud be described as both a tort and a crime? Who was/were the victim/s of his fraud? What role does fraud play in the operation of the Torrens system? (5 marks)

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## Question five

What is meant by vicarious liability in agency law? Why is it referred to as 'strict' liability? How did that concept apply here? (5 marks)

## Question six

What was the nature of the difference of opinion between the dissenting judge of the Court of Appeal (William Young P) and the other judges? Why was the issue so critical in the resolution of the dispute between the parties? (5 marks)

## Question seven

Do you consider the outcome arrived at in this case is fair and correct? How do you think this case would be decided in Australia? If you consider the result in Australia would differ from that in the New Zealand Supreme Court, which do you prefer? (5 marks)