Law of Obligations I – 20 April 2011

- The duration of the examination is 75 minutes.
- During the course of the examination, candidates may freely consult Statutes (in Korean or in English) of their own.
- On each Answer sheet, candidates must write their **student number only**. Please do **not** write your name or major subject of study.
- **All** candidates **must** attempt Question 1.
- Candidates may attempt **only one** topic from the two topics presented in Question 2.

[1] Question 1

Anam Financial Telecommunications and Clearings Institute, Co. (**"AFTC"**) is a non-profit corporation licensed by the Minister of Finance to promote research and offer services related to inter-bank payment and check-clearing. AFTC is also engaged in providing banking solution to paying customers such as banks and credit card companies. Mr D is the executive director of AFTC.

AFTC entered into a contract with Kangwon Fisheries Cooperative Bank (**"KFCB"**) whereby AFTC was to provide Internet banking solution for KFCB at a contract price of 5 billion KRW. KFCB insisted that AFTC must provide a suitable guarantor who would indemnify KFCB should there be a major vulnerability or malfunction of the Internet banking system supplied by AFTC to KFCB.

AFTC requested First Financial Corp ("**FFC**") to become the guarantor for AFTC in respect of AFTC's debt to KFCB which may arise out of the contract between AFTC and KFCB. FFC agreed to become the guarantor at a fee of 100 million KRW. Upon receipt of the fee from AFTC, FFC entered into an indemnification contract with KFCB where it is agreed that FFC shall pay any unpaid and outstanding amount of damages payable by AFTC to KFCB in connection with the provision of Internet banking solution.

A few months after KFCB began Internet banking service using the solution provided by AFTC, KFCB's banking servers broke down completely. KFCB's Internet banking service was disrupted for a week. As a result of this service outage, KFCB sustained an estimated loss of 7 billion KRW.

When asked to pay damages to KFCB, AFTC conducted an internal audit and investigation of Mr D's handling of business related to KFCB project. It turned out that Mr D sub-contracted the project to a company owned by his cousin Mr C who had very little experience or expertise in the design and implementation of banking solutions. Mr C's company's only experience, prior to KFCB project, was to design dating websites. It also emerged that Mr D secured the contract with KFCB without an approval of AFTC's Board of Directors. AFTC's Memorandum of Incorporation stipulates that "contracts over 1 billion KRW and other important transactions must be referred to the Board of Directors".

Mr D resigned. AFTC appointed Mr N as the new executive director. Mr N denied any liability of AFTC to KFCB arguing that AFTC is not bound by the contract executed by Mr D in breach of AFTC's Memorandum of Incorporation. [Please turn to the next page]

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KFCB also demanded FFC to pay 7 billion KRW pursuant to the contract of indemnification. FFC refused to pay. FFC argued as follows: FFC believed that the contract between AFTC and KFCB was valid and binding. On that basis, FFC agreed to become the guarantor of AFTC's obligations to KFCB. Now that the contract is not binding upon AFTC, FFC has no obligation as a guarantor. Even if it had, the indemnification contract is now rescinded as it was entered into by mistake.

Advise KFCB.

[2] Question 2

Please choose and answer only **one** of the following topics:

What remedies are available to a party who entered into a contract with a minor?

or

Explain the effect of rescission of a contract.

[End of questions]