

EXAMINERS' ANALYSIS OF QUESTION NO. 3

1. Return of Money. Marcia is likely legally entitled to recover the \$600 from Krissy. The three elements of a valid gift are: (1) an intent by the donor to pass title to the donee; (2) delivery of the gift, either actual or constructive; and (3) acceptance of the gift by the donee. *In re Handelsman*, 266 Mich App 433, 437-38 (2005). If the gift benefits the donee, the law presumes that it has been accepted. *Id.* at 438. Marcia gifted the jacket to Krissy as all the elements establishing a gift of that item are met. However, there does not appear to be a gift of the hidden money in that jacket. Marcia clearly did not intend to relinquish control of the cash to Krissy, as the facts indicate that at the time of delivery, Marcia had forgotten that the money was in the jacket. Similarly, Krissy didn't know about the cash in the jacket either, and could not have accepted it specifically. These facts would overcome any legal presumption of acceptance based upon the benefit of the money to Krissy. As such, not all the elements of a gift of money were met. Marcia's delivery of the cash to Krissy was a mistake, not a gift.

2. Return of Chairs. It appears that Marcia abandoned the wooden chairs. Personal property is deemed abandoned when the owner (1) intends to relinquish all rights to the property and (2) carries out an external act which effectuates that intent. *Emmons v Easter*, 62 Mich App 226, 237 (1975). See also, *Sparling Plastic Indus v Sparling*, 229 Mich App 704, 717 - 718 (1998). As indicated in the facts, Marcia was undertaking spring cleaning by getting rid of some of her possessions. She acted on that intention by placing items, including the subject chairs, on the curbside of her home specifically for scheduled disposal by the city. That act reflected her desire to permanently part with the chairs, and an indifference as to what would later happen with them. There are no statutory or other legal proscriptions with respect to a private party who finds abandoned property of that nature. Therefore, as a (non-governmental) private party finder of this abandoned property under these circumstances, Reggie acquired full ownership interests in the chairs once retrieved. He may legally keep the chairs despite Marcia subsequently learning of their true value. The abandonment of the chairs forecloses any arguments by Marcia of subsequent entitlement to that personal property.