

# A promise kept, but with a caution to remember

By LAWRENCE SAVELL

In our first installment, "Laying Down the Blue Book Blues May Not Be Taxing" (April 20), Nicholas Bennett, a student at The Law School, filled an exam booklet with his lamentations about having blown his final for Introductory Taxation.

"What I obviously regret most was missing your last week of classes," the third-year student wrote to Professor Simon Rosenstein, "including the class in which you apparently advised that the final exam, which was placed before me over an hour ago and remains untouched, would be not an essay exam, but a computation exam requiring specific numerical calculations with particular results."

The professor now replies.

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Dear Mr. Bennett:

This is the first occasion in my 45 years of teaching that I have returned, an exam booklet to a student, but I thought it necessary and appropriate to respond to your words directly and in kind.

Obviously, as a teacher, I am dismayed that you did not devote the necessary efforts to my class. No professor wants to acknowledge that a student has been a failure in his or her course, because, if even to a small degree, it means the teacher has also failed. But students do fail, and teachers do issue failing grades, no matter how reluctantly.

I am not completely unsympathetic to your situation. I have to confess that, even to this day, and although there is no personal historical basis for it, I occasionally (and usually during particularly stressful periods) have the recurrent and still horrific nightmare in

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which I find myself in a final exam for which I am totally unprepared. Perhaps all lawyers do.

As you may or may not know, this was also my last class at The Law School. Last December, after 52 years of marriage, my beloved wife, Faith, passed away. I have tried to carry on the routines of my life, in particular the teaching that has for so long given me so much pleasure and satisfaction, but I have found that it is impossible to experience those feelings without her.

When I first took this position, my wife, a very charitable and forgiving person, asked me to make her a promise: that I would never fail a student. And, frankly, before this semester, there was never really a

matters. Although they bear no reasonable relation to Introductory Taxation, they (albeit belatedly) reflect your recognition and understanding of the need for proper preparation and diligence, the responsibilities inherent when others depend upon you, and the value of balancing out competing demands. You echo feelings of despair that countless clients who find themselves in apparently hopeless situations experience, until they are comforted by the support of knowledgeable and reliable counsel on, and at, their side. And you present your sentiments in a reasoned and compelling way.

I have always believed that those who want to be litigators should, as part

extrapolation, I can justify viewing your exam as meeting the requirements by which I could have issued a passing grade in a couple of those two-credit courses.

So, following that reasoning, I believe I can, in good conscience, essentially transfer these credits and pass you in this class.

But please do not consider this a free ride. I strongly hope you will appreciate it as one who suffers a sudden but thankfully transitory chest pain heeds it as a fortuitous warning sign, and does everything in his power to prevent himself from experiencing such terror again. Your clients and your colleagues will be relying upon you, and you cannot let them, or yourself, down again.

You cite songs; I cite movies. I find myself watching a lot of them lately, and what comes to mind is the scene in "Wall Street" where Hal Holbrook's fatherly character advises the about-to-be-arrested young hotshot played by Charlie Sheen: "Man looks in the abyss, there's nothing staring back at him. At that moment, man finds his character. And that is what keeps him out of the abyss."

Stay out of the abyss.

And perhaps down the road, when you are a senior partner or a general counsel (or even a law professor), and a young underling messes up, you will give him or her similar heartfelt advice and a similar second chance.

That's all I wanted to say. Please read these words carefully (as I suspect you have), and perhaps read them a second time. Then find a nice open space away from other combustible materials and burn this booklet, so that the only record of its contents will be in your and my memory.

And never forget them.

Have a great career, and congratulations on your upcoming graduation.

Sincerely yours,

Professor Simon Rosenstein

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situation where I had to test the resolve of that oath. But obviously there is now.

But there are many oaths in my life. Another is the oath to maintain the standards and principles upon which this institution and others like it are built, and by which students as well as faculty strive to conform their behavior. I take these requirements very seriously, as we should.

Thus, I cannot simply and offhandedly say, "Oh, what the heck!" But perhaps the analysis should not stop there.

I do believe you have done a degree of preparation for this exam, although obviously you have not done enough. In terms of its relation to the correct responses, your answer booklet unavoidably warrants a failing grade.

But you have taken this opportunity to assess and discuss a variety of other

of their training, have their own deposition taken, so they can feel firsthand the terror a first-time witness experiences. Those who plan to be criminal defense counsel should spend a few hours being "processed" in the criminal justice system, so that they can gain a modicum of understanding of what their clients are going through.

As you may be aware, during my career I have, in addition to this course, also taught a variety of small-group practical and practice-oriented seminars, on such subjects as Legal Negotiation, Legal Ethics, Lawyers and Their Clients, Equity, and Remedies. It could be argued that you have demonstrated that you have learned much of what I have attempted to convey in these seminars, although of course you have technically never taken them. And so, with perhaps a generous helping of logical