

Assas

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(Unité d'Enseignements Complémentaires 1)

Titulaire(s) du cours : M. Justin BEPLATE Mme Suhasini VINCENT

Document(s) autorisé(s) : **Aucun**

I. Complete the following sentences using at least 10 words. Limit your answers to one complete sentence (30%)

1. Unlike mootness, which ...
2. Whereas subject matter jurisdiction ...
3. A matter will be regarded as non-justiciable where ...
4. The defense of necessity ...
5. Long-arm jurisdiction refers to ...

II. Read the following facts and answer the questions below.

Mr Strump is a qualified investment adviser based in Chicago, Illinois. He runs a business advising pensioners on how to maximise their savings through various investment schemes. Ms Gullable, a retired schoolteacher, lives in Detroit in the neighboring state of Michigan. She came across Strump's website while browsing online and emailed him about an investment opportunity advertised on the website. Strump advised Gullable to invest \$80,000 in an investment scheme which he assured her would give a very high return of 35% per annum. In fact, the arrangement was part of a Ponzi scheme in which investors were paid purported returns from funds contributed by new investors, rather than from company profits (profits which did not in fact exist). Within a couple of months of making the investment, the scheme collapsed and Gullable lost all her money.

The activities of investment advisers are regulated by both state and federal laws, all of which allow a damages claim to be brought for misleading or deceptive conduct. Investment fraud is a criminal offense under the state laws of Illinois and Michigan, and is also a federal crime under 18 U.S. Code § 1348.

Questions

1. Gullable wants to bring **civil proceedings** against Strump to recover her money. Advise her on which court(s) could have jurisdiction to hear this matter (discuss both subject-matter jurisdiction and personal jurisdiction in your response). **(20%)**
2. Gullable wins her case against Strump and is awarded damages. However, in subsequent **criminal proceedings** in the Cook County Criminal Court in Chicago, Strump is found not guilty of investment fraud. Discuss the following two issues: (i) could similar criminal charges be brought against Strump in a different court? (ii) How do you explain the fact that Strump could be liable in civil proceedings but acquitted in criminal proceedings? **(20%)**
3. Strump's associate, Ms Crook, is also charged with operating a small Ponzi scheme that caused around a dozen pensioners to lose between \$1000 and \$1500 each. She is convicted of investment fraud and placed on probation for 3 years. Discuss the following two issues: (1) what is probation and how does it differ from parole? (2) having regard to the goals and objectives of sentencing, what arguments might be presented by a prosecutor who wishes to appeal the apparent leniency of Crook's sentence? **(30%)**