

Booklet  
Control  
No.

THE UNIVERSITY OF OKLAHOMA COLLEGE OF LAW  
Immigration Law  
Spring 2013

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Associate Professor of Law

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**FINAL EXAMINATION**

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**Open-book. Three hours.**

Write your exam number here: \_\_\_\_\_

**All exam materials (including this booklet and the answer sheet) must be turned in at the end of the period. You will not receive credit unless you return this booklet with your exam number written above. Do not turn the page until instructed to begin.**

**Notes and Instructions**

1. You may write anywhere on the examination materials — e.g., for use as scratch paper. Only answers and material recorded in the proper places, however, will be graded.
2. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems within the scope of the course's subject matter. It is upon these bases that you will be graded.
3. During the exam: You may not consult with anyone – necessary communications with the proctors being the exception. You may not view, attempt to view, or use information obtained from viewing other student examinations or from viewing materials other than your own.
4. After the exam: You may not communicate regarding the exam with any enrolled member of the class who has not yet taken the exam, and you must take reasonable precautions to prevent disclosure of exam information to the same.
5. Base your exam answer on the general state of U.S. law, including all rules, procedures, and cases discussed in class.
6. Organization counts.
7. Keep in mind: The weight given to each part is specified, but not all issues within each part will be given equal weight. Thus, it may be entirely appropriate for one issue to be dispensed with considerable brevity, while another might require very detailed analysis. You should divide your time according to which issues require the most discussion and analysis.
8. **Bluebooks:** Make sure your handwriting is legible. I cannot grade what I cannot read. Skip lines and write on only on one side of the page. Please put answers to each section in a separate blue book and label the blue books accordingly.
9. **Computers:** Please clearly label your answers to each section.
10. Do not write your name on any part of the exam response or identify yourself in any way, other than to use your examination I.D. number appropriately. Self-identification on the exam will, at a minimum, result in a lower grade, and may result in disciplinary action.
11. Good luck.

## Part 1 2 hours, 40 minutes

In February 2013, Empire Entertainment, Inc. decided to launch a new Broadway musical based on the life of Margaret Thatcher called *MAGS: The Musical*. They held open casting calls in New York City on March 4, looking for fresh young talent to bring to the production.

For the titular role, Empire chose Charlotte Cowburn. Cowburn was from Grimsby, Lincolnshire, United Kingdom, not far from Thatcher's birthplace of Grantham, Lincolnshire. Cowburn, 35, had participated in several theatre productions during her time at Sheffield University, but, since graduation, she had made her living as a piano teacher in Grimsby. Cowburn happened to be in New York at the time of the open casting call by chance. She'd flown into New York's John F. Kennedy airport from London on March 1, having arrived for a two-week trip to visit the city for the first time.

The Empire team found its Ronald Reagan in Stas Shushkevich. At the time of his audition, Shushkevich was working as a janitor for a large cleaning company called Kwik Kleen. Shushkevich holds a B.A. in electrical engineering from Long Island City University, but he was unable to find work as an engineer because he is undocumented.

Shushkevich was born in Belarus in 1982. In 1987, he and his family, seeking a new life, left Belarus and made their way to Montreal, Canada. From Montreal, they drove south into the United States, taking care to avoid the Champlain Service Port and instead following little-used farm routes. The Shushkevich family ultimately settled in Long Island City, New York, and never left.

Shushkevich is married to a lawful permanent resident from Belarus, Anna Arciom. Arciom entered the U.S. at the age of 10, in 1995, when her father came to work for U.S.-based Hectatronics. In 2000, Arciom's father became a naturalized U.S. citizen. Shushkevich and Arciom have a daughter, Kristina, 3, who was born at St. Stephens Hospital in Bethpage, New York. Kristina suffers from cystic fibrosis, an incurable disease affecting her respiratory system, for which she requires daily medical treatment.

Empire had a harder time casting the important role of Deng Xiaoping, the Chinese politician with whom Thatcher negotiated over the sovereignty of Hong Kong. Luckily, they found Li Lau. Lau was Master of Divinity student at the New York City Theological Seminary. Lau, an Evangelical Christian, was in the United States on an F visa from China, and he hoped to return to China to aid his father's ministry in the Grace Evangelical Free Church, a small 50-member church in Beijing, China. Just a few months before *MAGS* began



**FIG. 1:** *MAGS: The Musical* featured songs such as “(I’m In Love With) Margaret Thatcher” by Burnley punk band Notsensibles.

Photo: Rob Bogaerts, [Margaret Thatcher \(1983\)](#), CC0, via Wikimedia Commons

casting, Lau had played the title role in his seminary's production of *Jesus Christ Superstar*, which flared briefly on the local scene after a particularly glowing review in the *Village Voice*. When *Empire* initially approached Lau, he was reluctant to take the part, since it would mean postponing his theological studies for at least a semester. But, after praying on it, Lau agreed to join the production, believing the skills he would gain with *MAGS* would help him evangelize The Word upon his return to China.

*Empire* was thrilled with its casting of Cowburn, Shushkevich, and Lau. The company's head of human resources, Helen Hatfield, was, however, a little daunted by the potential immigration complexities posed by these hires. She decided it would be easiest to hire all three as independent contractors, which eliminated the burden of completing I-9 forms. Hatfield signed the other principal cast members<sup>1</sup>, supporting cast members<sup>2</sup>, and the rest of the ensemble to industry-standard two-year employment contracts.

After casting, things began to move fast. Rehearsals started on March 11, and they were grueling. The cast rehearsed 10 a.m. until 10 p.m., 5 to 6 days a week. But they were on a schedule. *MAGS* was set to open May 24, just in time for the Memorial Day weekend rush.

Cowburn, Shushkevich, and Lau quickly become fast friends. And, in April, they decided to take a short break from *MAGS* to spend a few relaxing days in the Hamptons. Gordon Griswald, the executive producer of *MAGS*, had a house in East Hampton, NY, and he offered to lend the three his home during a break in rehearsals on April 28 and 29.

The three booked round-trip tickets on the Hampton Jitney, a bus service that runs from Manhattan to the Hamptons.



**FIG. 2:** East Hampton is located about 100 miles from Manhattan, on the Southern Fork of Long Island.

Map: Maximilian Dörrbecker (Chumwa), [Map of the Boroughs of New York City and the counties of Long Island, CC BY-SA 2.0](#), via Wikimedia Commons

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<sup>1</sup> Other principal roles included Denis Thatcher (Thatcher's husband) and Queen Elizabeth II.

<sup>2</sup> Supporting roles included Carol and Mark Thatcher (Thatcher's children), Prince Charles, Harold Macmillan (the prime minister who made Thatcher a junior pensions minister), Edward Heath (the Conservative Party leader Thatcher replaced), John Major (the prime minister who succeeded Thatcher), and Mikhail Gorbachev.

A little over an hour into their jitney ride back to Manhattan on April 29, a passenger went berserk, started shouting, and tried to wrest control of the steering wheel. The bus lurched left, careened into the median, and flipped onto its side. The passenger was thrown through the front window and onto the highway where he was hit by oncoming traffic and died. Miraculously, Cowburn, Shushkevich, Lau, the driver, and the 40 other passengers on board all survived, though many had serious injuries.

Nassau County police arrived on the scene within five minutes. Passengers with serious injuries were rushed by ambulance to nearby hospitals. Lau was among them. He had a broken rib and a collapsed lung.

Those passengers without serious injuries were questioned at the scene about the incident. Many told the police that when the passenger first stood up, it seemed as though he were looking for someone else on the bus; the passengers mused about whether the incident might not have been the act of a lone individual but rather someone working with a conspirator.



**FIG. 3:** The Hampton Jitney  
Photo: Adam E. Moreira,  
[Hampton Jitney Prevost XLII](#)  
[LeMirage 101.jpg](#), [CC BY-SA 3.0](#),  
via Wikimedia Commons

Shushkevich sustained only minor abrasions in the accident. He was, however, unable to produce any government identification for the police officers. The officers took Shushkevich into custody, and he was transported to the Nassau County Police Department where he was questioned extensively over the next hours about his involvement in the bus crash. Ultimately, the officers determined that Shushkevich was not involved. However, they also determined that he was undocumented. Nassau County participates in the Secure Communities program and contacted ICE to ascertain if they wanted to place an immigration detainer on Shushkevich.

Cowburn, too, had sustained only minor abrasions during the accident. When an officer interviewed her at the scene, he noticed that Cowburn had a strong smell of marijuana on her clothing. He proceeded to search Cowburn and found two marijuana cigarettes in her pocket. When he attempted to place Cowburn under arrest, she got angry and shoved the arresting officer backward. The officer said, "That's it, lady, you've just earned yourself a resisting arrest charge." Then, with the help of another officer, Cowburn was handcuffed and placed in a police car.

Meanwhile, Lau underwent emergency surgery and was stabilized. When he was able, he called his parents' home in China to tell them about the accident and to ask for money to help pay for his medical care. He was able to reach his mother on the phone. She told Lau that his father had been sent to a government-run labor camp on the charge of "organizing and using a cult to undermine law enforcement." She didn't know when he might return. She also told Lau that officers from the Beijing Municipal Public Security Bureau (the city police) had boarded up the small building that housed the Grace Evangelical Free Church. Every member of the church had been brought to the PSB headquarters for questioning, and all had been "strongly encouraged" to join the Three-Self

Patriotic Movement (“TSPM”), the only state-sanctioned Protestant church in China. The children’s director and associate pastor of Grace Evangelical Free Church were both under house arrest, and both had been fired from their positions at the state-run Beijing No. 80 High School. Lau’s mother warned him not to return to China.

Gordon Griswald learned about the accident and the circumstances of Cowburn, Shushkevich, and Lau when the three failed to show up for rehearsals at noon on April 30. He was panicked. Griswald immediately called his friend and attorney, Paula Peterson, to say, “I’m worried about what’s going to happen to my people.”

Peterson calls you into her office. You’re the firm’s immigration expert. She says, “I need you to assess the situation of Cowburn, Shushkevich, Lau, and Empire. Is there any danger of Cowburn, Shushkevich, or Lau being thrown out of the country? If the authorities try to do that, is there any way to fight it? Are there any other issues Empire should be aware of?”

If you are going to need additional information from the client, make sure you indicate what information you need and why it is important.

### **QUESTION**

In assessing the legal issues that arise from the above facts, organize your response as follows, clearly labeling the subparts:

Subpart A: Discuss any issues concerning Charlotte Cowburn.

Subpart B: Discuss any issues concerning Stas Shushkevich.

Subpart C: Discuss any issues concerning Li Lau.

Subpart D: Discuss any issues concerning Empire Entertainment.

Subpart E: If there is anything else you wish to discuss, which does not belong in any of subparts A through D, please put it under this Subpart E.

Keep in mind the subparts will not be given equal weight. The subpart structure is provided for organizational purposes only. It may be entirely appropriate for one subpart to be answered with considerable brevity, while other subparts might require very detailed analysis. Pace yourself appropriately, and plan ahead to put information where it belongs.

Finally, avoid needless repetition. Do not repeat the exact same analysis with substituted parties. You may incorporate analysis by reference to another portion of your exam answer to the extent appropriate.

### **Some suggested abbreviations for your answer:**

AA: Anna Arciom

EE: Empire Entertainment

CC: Charlotte Cowburn

GG: Gordon Griswald

HH: Helen Hatfield  
LL: Li Lau

MM: *MAGS: The Musical*  
SS: Stas Shushkevich

**EXAM CONTINUES ON NEXT PAGE**

**Part 2**  
**20 minutes**

On April 16, 2013, Senators Schumer, McCain, Menendez , Graham, Rubio, Durbin, Flake, and Bennet –the so-called “Gang of Eight” – released a proposed immigration bill entitled the Border Security, Economic Opportunity, and Immigration Modernization Act (BSEOIMA or “Bessie”).

You are working as a legislative aide for a senator who would like to participate in the markup of the bill. She is particularly interested in Section 2303, which would repeal the diversity visa program. She asks you to write a memo discussing whether or not she should support this provision and why.

**END OF EXAMINATION**