

# EQUITY AND TRUSTS

## GUIDEBOOK

### Tips for Essay / Discussion / Problem Questions

The following information assists in answering the questions at the end of each chapter. It is not intended to be a complete answer.

#### Chapter 4 Undue Influence, Unconscionable Conduct and Estoppel

Essay / Discussion Question (p.49)

- 1 This question is similar to the first question at the end of Chapter 1 The History and Nature of Equity. See Figure 4.1 to assist in establishing that undue influence, unconscionable conduct and estoppel are separate principles.

Problem Questions (pp.49-50)

- 1 See *Louth v Diprose* (1992) 175 CLR 621 and other matters raised in Figure 4.1.
- 2 See Figure 4.1 – undue influence and unconscionable conduct need to be distinguished. Consideration should also be given to appropriate remedies such as a constructive or remedial trust.
- 3 See *Austotel Pty Ltd v Franklins Selfserve Stores Pty Ltd* (1989) 16 NSWLR 582. See also *Waltons Stores (Interstate) Ltd v Maher* (1988) 164 CLR 387 and *Commonwealth of Australia v Verwayen* (1990) 170 CLR 394.

Discussion should also involve *Australian Competition and Consumer Commission v CG Berbatis Holdings Pty Ltd* (2003) 197 ALR 153.