Eboreus c. Britannicum

1. In 545, six neighbours agreed to form a group through which they would enter contracts with various provincial administrations to undertake certain economic activities formerly the preserve of those administrations, in exchange for annual payments from the provinces. The neighbours' agreement, which they came to call the *pactum Romanum*, provided that:

   (α) each member would have one vote on the group's Management Committee;

   (β) the presidency of the Management Committee would rotate among the members;

   (γ) the Management Committee, by simple majority decision made at the start of each year, would allocate the shares in the profits and losses of the group for the following year;

   (δ) the terms of the *pactum Romanum* could be altered from time to time by further agreement;

   (ε) if the members were unanimous, new members could be added to the group on the same terms, on payment of a joining fee of 100,000 *solidi*; and

   (ζ) disputes between the members about, or arising under, the *pactum Romanum* as altered from time to time would be submitted to arbitration, and each member promised to pay into the common fund a penalty of 200,000 *solidi* if he should fail to abide by a proper decision of the arbitrators.

2. By 564, the group had expanded to twenty-eight members and, by agreement with provincial administrations across Hispania, Italia, Dalmatia, Macedonia and Thrace, had taken on a great range of functions, including the running of a large bank. The group's activities were in the hands of a large body of employees, some of whom were very well paid.

3. By the terms of its most recent agreement, the *pactum Lusitanicum*, a member of the group who wished to withdraw can do so, by notice in writing to each of the other members; after receipt of the notice, he is to remain a member for one year to enable the group's operations to continue and to give time to calculate the rights and liabilities of the withdrawing member; such rights and liabilities are to be settled in full by the payment of a single sum.

4. By this time, one member of the group, Britannicus, had become disenchanted, both with the way in which the bank operated and with the size and cost of the group's body of employees. The operation of the bank and the growth in the number of employees were completely in accordance with majority decisions taken by the Management Committee, though Britannicus had consistently voted against them. Accordingly, Britannicus sent written notice of withdrawal to the other members of the group.

5. Negotiations for the withdrawal of Britannicus have been proceeding for almost a year. In the course of these negotiations, Britannicus discovers that, while Mediolanus was President of the Management Committee in 546, before Britannicus was a member of the group, the bank had made a number of very large loans to friends of the then members. These loans were authorised by the Management Committee but, as yet, they have not been repaid. The documentation specified that the loans were interest-bearing but no rate of interest was expressed. In fact, notwithstanding what was said in the documents, it had been orally agreed with the borrowers that the loans should be free of interest. Britannicus argues that the expected future income of the bank should be calculated on the basis that the loans will be repaid with 8% interest; the other members of the group argue that it should be calculated on the basis that the loans are interest-free. If the interest is included, the withdrawal payment will be 2.25 million *solidi*; without interest, it will be 2.5 million *solidi*.

6. Britannicus is now unsure that he wants to leave the group. He discovers that the messenger responsible for delivering his written notice of withdrawal to the President of the Management Committee, Eboreus, had in fact destroyed the notice. While the notice was, accordingly, never delivered to him, Eboreus was shown a copy of the notice sent to Mediolanus. Britannicus argues that the purported withdrawal was ineffective and that he remains a member of the group. The other members argue that the withdrawal was effective, and that Britannicus is welcome to apply to re-join – but only after he has paid the settlement sum for withdrawal and the 100,000 *solidi* joining fee.

7. The dispute about the efficacy of the withdrawal is submitted to arbitration. After a hearing that lasts half a day, the arbitrators, all of whom are former members of the Management Committee, decide that the withdrawal notice was effective. Britannicus writes to each of the other members of the group, rejecting the arbitrators' decision as improper.

8. Eboreus, acting as President of the Management Committee and with relevant mandates from each member of the group other than Britannicus, brings an *actio pro socio* against Britannicus, claiming:

   (α) 200,000 *solidi* as a penalty for rejecting the arbitrators' decision; and

   (β) 2.5 million *solidi* as the withdrawal payment.