

**CHUKA**



**UNIVERSITY**

**UNIVERSITY EXAMINATIONS**

**THIRD YEAR EXAMINATIONS FOR THE AWARD OF BACHELOR OF  
COMMERCE**

**BCOM 334: BANKING LAW PRACTICE**

**STREAMS: BCOM Y3S2**

**TIME: 2 HOURS**

**DAY/DATE: MONDAY 22/4/2013**

**2.30 PM – 4.30 PM**

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**INSTRUCTIONS:**

**ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS**

**QUESTION ONE**

- (a) Outline and discuss the different types of banking systems. [9 Marks]
- (b) What are the implied rights and obligations of the parties in a banker /Customer relationship. [6 Marks]
- (c) Section 11 of the Banking Act specifies the restrictions on the manner in which banks make advances and credits. Discuss the restrictions contained in the Banking Act. [9 Marks]
- (d) Explain the protection given under section 60 of the Bills of exchange Act Cap 27 to the bank which makes payment on a forged cheque. [6 Marks]

## QUESTION TWO

- (a) “The banker’s lien entitles the banker to retain in his possession securities etc, in respect of the general balance due by the owner to the banker. The right extends to all securities placed in his hands as a banker by his customer which are not specifically appropriated.” Discuss the legal limitations to the right. [10 Marks]
- (b) You are a legal expert on banking at Pamoja Bank and you have received a number of complaints from your customer as follows:
- (i) That Neema’s title deeds, which had been placed by Neema and Faraja jointly for safe custody with the bank, have been released to Faraja without Neema’s knowledge or consent.
  - (ii) That the bank whose previous policy was to shred all papers which were not to be filed away, has now decided, as a cost saving measure that all old papers shall be recycled and those which cannot be recycled will be sold to third parties so as to generate additional income for the bank. Last week, one of your customers actually found computer printouts of statements of account being used to wrap meat at his local butchery.
  - (iii) Tumaini has a loan account with Pamoja Bank, which carries an interest of 20% p.a. Last week when Tumaini checked her bank statement she noticed that the interest charged on the loan was higher than usual. Upon inquiry, she was informed that the bank had in last month increased its interest rate to 22%. What advice would you give to the banker and customer? [6 Marks]
- (c) Distinguish between hypothecation and set off. [4 Marks]

## QUESTION THREE

- (a) “It is obligatory for the bankers not to disclose the state of the customer’s account. The confidential relationship between him and his customer enjoins him to keep secret all matters relating to his customer, discovered in the course of their relationships (Tournier Vs. National Provincial and Union Bank of England, 1935)”

### **Required:**

- Discuss the exceptions to the rule in the above case law. [12 Marks]
- (b) Explain the sources of banking law. [8 Marks]

#### **QUESTION FOUR**

- (a) Discuss how the adoption of cheque truncation will improve the whole cheque clearing System. [9 Marks]
- (b) What are the functions of the governor of Central Bank of Kenya? [5 Marks]
- (c) Write short notes on each of the following;
- (i) Joint accounts [3 Marks]
- (ii) Accounts for clubs and societies [3 Marks]
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