



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

JANUARY – APRIL 2014 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 302: COMPANY LAW

Date: APRIL 2014

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. a) In relation to a company explain the meaning of limited liability. **(4 marks)**
- b) In relation to registered companies, explain and distinguish between:
- i) Unlimited companies **(2 marks)**
 - ii) Companies limited by guarantee **(2 marks)**
 - iii) Companies limited by shares **(2 marks)**
- c) State and explain the grounds upon which a person may be disqualified as a director. **(10 marks)**
- d) In the formation of companies explain:
- i) the statement of nominal capital and initial shareholding. **(4 marks)**
 - ii) the articles of association, paying particular regard to how these can be altered. **(6 marks)**

Q2. Chuchu, a suitably suitably qualified person was appointed as the company Secretary of Dodo Ltd. Since his appointment, Chuchu has entered into the following contracts in the name of Dodo Ltd:

- i) An extremely expensive, long-term contract with Erode Ltd for the maintenance of Dodo Ltd's photocopies.
- ii) An agreement to hire a car from Far Ltd which used of his own, non-business related purposes.
- iii) An agreement with ground Ltd to landscape the garden of Chuchu's personal house.

The directors of Dodo Ltd. Have only recently become aware of these contracts. In the context of company law, with specific required to the authority of company secretaries, advise the directors of Dodo Ltd. Whether the above agreement are binding on the company. **(20 marks)**

Q3. At the start of 2010, Moto Ltd entered not the following transactions in an endeavour to sustain its operation.

- i) It borrowed Kshs. 500,000 from Ida, secured by a floating charge. The floating charge was created on 1st April and it was registered on 15 April.
- ii) It borrowed a further Kshs. 500,000 from Joe. True loan was secured by a floating charge created on the 3 April and registered on 12 April.
- iii) It borrowed Kshs. 1,000,000 from Kop – Bank. This loan was secured by a fixed charge. It was created on 5 April and was registered on 16 April.

Unfortunately, the money borrowed was not sufficient to Sustain Moto Ltd and in August 2013, compulsory liquidation proceeding were began. It is extremely unlikely that there will be sufficient assets to pay the debts owed to all of the secured creditors. Advise Moto Ltd as the order of security

and payment of the above debts and explain why they are placed in that order. **(20 marks)**

Q4. In 2010, Fay, Gus and Het formed a private Limited company, FGH Ltd to carry out technological research. They each took 100 shares in the company and each of them became a director in the company. In February 2013 Fay admitted that she had been working with a much larger rival company, Onyx Ltd, and that she had passed on some of FGH Ltd's research results to Onyx Ltd in return for substantial payment. Fay maintains that she has done no harm, as FGH Ltd was not capable of using the information. Nonetheless, Gus and Het are extremely angered by Fay's action. Advise Gus and Het as to any grounds, and the procedure for taking action against Fay and the nature of any remedies that may be available in the light of her conduct. **(20 marks)**

Q5. Dominico, a supplier of building materials, entered into the following transactions:

a) An agreement to sell some goods to a long standing friend, Egonji. The contractual document, however, actually stated that the contract was made with Egonji's company, Elfu Ltd. Although the materials were delivered, they have not been paid for and Dominico has learned that Elfu Ltd has just gone into insolvent liquidation.

(8 marks)

b) Dominico had employed a salesman, Fundi, whose contract of employment contained a clause preventing him, Fundi, from approaching any of Dominico's clients for a period of two years after he had left Dominico's employment. Dominico has found out that, on stopping working for him, Fundi has started working for a company, Genius Ltd, wholly owned by Fundi and his wife, and is approaching contacts he had made while working for Dominico.

(12 marks)

In this context, advise Dominico as to the legality and likely outcome of the above situations. **(20 marks)**

END