



TECHNICAL UNIVERSITY OF MOMBASA

SCHOOL OF BUSINESS

DEPARTMENT OF BUSINESS ADMINISTRATION

UNIVERSITY EXAMINATION FOR:

DEGREE IN BACHELOR OF BUSINESS ADMINISTRATION, BACHELOR OF COMMERCE

BMG: 4303: COMPANY LAW

END OF SEMESTER EXAMINATION

SERIES: AUGUST2019

TIME: 2HOURS

DATE: Pick Date Aug2019

Instructions to Candidates

You should have the following for this examination

-Answer Booklet, examination pass and student ID

This paper consists of **FIVE** questions. Attempt question ONE (Compulsory) and any other TWO questions.

Do not write on the question paper.

QUESTION ONE (COMPULSORY)

- a) Mr. Hamadi was a prosperous trader supplying timber within Mombasa County. After some years of successful trading he sold his business to Hamadi Limited which he formed with a nominal capital of Ksh. 38,000/=.

The said amount was satisfied by Mr. Hamadi paying Ksh. 1000/= in cash, Ksh. 10,000/= in debentures conferring a charge on the company's assets and Ksh. 20,000/= in fully paid up shares. The remaining amount was subscribed for in cash by Mr. Hamadi's wife and daughter and each of his 4 sons. Mzee Kagoni having seen Hamadi Limited prospering advanced a loan of Ksh. 30,000/= for the purpose of opening a new branch in Nyeri

After two years of operation, Hamadi Limited ran into financial problems and consequently it was wound up. Its assets were not enough to satisfy Mr. Hamadi (the debenture holder) and having done so there was nothing left for Mzee Kagoni as unsecured creditors. Mzee Kagoni is now seeking your advice on his legal position against Mr. Hamadi and Hamadi limited.

Aided by relevant provisions of the companies Act, Number 17 of 2015 and decided cases critically advice Mr. Kagoni of his possible remedies (15 Marks).

- b) *“One person company”* is a new concept statutorily introduced by the Companies Act, Number 17 of 2015. Citing relevant provisions of the law explain the concept, its origins and practical application in Kenya (10 Marks)
- c) Explain the foundation of company Law. (5 Marks).

QUESTION TWO:

- a) Discuss the position of common law and equity as a source of company law after the enactment of the Companies Act of 2015 (10 Marks).
- b) *Analyse the rule in Lennard’s Carrying Company - versus - Asiatic Petroleum Company Limited. (1950) A.C. 705 (10 Marks)*

QUESTION THREE:

- a) What are pre – incorporation Contracts (8 Marks)
- b) Citing relevant statutory provisions in Companies Act , discuss the division of powers between the general meeting and the board of directors (12 Marks)

QUESTION FOUR:

- a) Discuss **FOUR** fiduciary duties of a director of a company (12 Marks)
- b) Discuss **FOUR** Characteristics of a floating charge (8 Marks)

QUESTION FIVE:

- a) What are the circumstances under which a company may be wound up by a court order as spelt out under the Companies Act (14 Marks)
- b) Outline **THREE** circumstances under which a company is deemed unable to pay its debts (6 Marks)