



*“Investing in Africa’s future”*

**COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE**

**MAC205: COMPANY LAW**

**END OF SECOND SEMESTER FINAL EXAMINATIONS**

**APRIL/MAY 2019**

**LECTURER: C. MUNGUMA**

**DURATION: 3 HRS**

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### **INSTRUCTIONS**

Answer **QUESTION 1** from **Section A (COMPULSORY)**

Answer any **THREE** questions from **Section B**

Marks allocated to each question are indicated in brackets at the end of the question.

DO NOT repeat material.

## **SECTION A**

### **Question 1**

Gemstone (Pvt) Ltd was the successful tenderer for the supply of 45 pickup trucks to Capital Bank for a total cost of \$2,5million. The sole shareholder of Gemstone (Pvt) Ltd is B who is also a director of the company together with his wife. Capital Bank deposited the cheque for the purchase of the trucks into the account of Gemstone (Pvt) Ltd on the 7<sup>th</sup> of March 2018. The next day the total sum deposited into the account was withdrawn by B who 5 days later bought an upmarket house, 2 jeeps and a flat for his second wife. B only managed to buy and supply one pickup truck to Capital bank.

Despite demand from Capital Bank to supply the vehicles the company has failed. On investigation by Capital Bank it was discovered that:

- a) The purchase price of the trucks was used for purposes unconnected with the acquisition of the vehicles.
- b) B is the sole shareholder of Gemstone (Pvt) Ltd and the company is “literary his” and IT acts as he directs.
- c) The company account has no money and that Gemstone (Pvt) Ltd has no assets at all. The house, flat and jeeps bought were registered in the individual’s names of B’s family members.

Capital Bank has resolved to sue Gemstone (Pvt) Ltd, B and his wife personally for reimbursement of the purchase price of \$2, 5 million. In the light of company law principles you have learnt advice on the following:

- a) Whether there is a justification for personal liability of the shareholders or the directors of the company. [18]
- b) Assuming both B and his wife had signed a guarantee in favour of Capital Bank for the due performance of all Gemstone (Pvt) Ltd.’s liabilities, would the two have any defence to a personal liability claim? [7]

## **SECTION B**

### **Question 2**

Discuss the common law grounds for disregarding the corporate veil in Zimbabwe. [25]

### **Question 3**

- a) “While the majority have immense power, the minority shareholders are not without any weapons at their disposal to protect their interests in the company.” Discuss this view with regard to the provisions of the Companies Act. [20]
- b) What are the formalities that are required by the Companies Act to ratify a pre-incorporation contract? [5]

### **Question 4**

“Directors are required to act in good faith, to be credible and honest in all their dealings with the company that they govern”. Analyse the main common law as well as the statutory obligations of directors in company law. [25]

### **Question 5**

- a) In what circumstances would you advise a client to register a company limited by guarantee? [6]
- b) According to L.C.B Gower, Principles of Modern Company Law, despite the ultra vires doctrine being watered down in many respects “a few ghostly relics of the principle continue to haunt us.” Discuss this statement in the light of the provisions of the Companies Act in relation ultra vires doctrine.[18]

### **Question 6**

- a) What are the main responsibilities of a liquidator in winding up a company? [10]
- b) Analyse the usefulness of a derivative action to minority shareholders. [15]

### **Question 7**

- a) Trace the steps that a company which wants to convert itself from being a private company to a public company has to follow. [10]
- b) Differentiate the following:
  - i) Public and private company
  - ii) Cooperative company and company limited by guarantee.
  - iii) Executive director and a non-executive director. [15]

**End of Paper**