REFORMED CHURCH UNIVERSITY

FACULTY OF COMMERCE

BACHELOR OF COMMERCE HONOURS DEGREE IN ACCOUNTING

COMPANY LAW

HACC 213

PART 2 SEMESTER 1 EXAMINATION

TOTAL MARKS [100]

DATE: DECEMBER 2023

Time: 3 Hours

INSTRUCTIONS

1. This paper has *six (6)* questions
2. Answer question ***one (1)*** and ***any*** other ***three (3)***
3. Each question carries ***25 marks***
4. Start each question on a new page

Question 1

Explain what is meant by the 'separate legal personality' of a company. With reference to the following decided cases, illustrate when the courts will lift the veil of incorporation. Salomon v A Salomon & Co Ltd and Lee v Lee's Air Farming Ltd **(25 Marks)**

Question 2

a) In relation to company law, explain the duties of a promoter, and the remedies available to the company where such duties have been breached. (10 marks)
b) In relation to company law:
i) Define a company's borrowing powers. (5 marks)
ii) Explain and distinguish between loan capital and share capital. (10 marks)

Question 3

a) In relation to the Zimbabwe legal system:
(i) Identify the concept of human rights in the Constitution. (5 marks)
(ii) Explain the duties and responsibilities of the Zimbabwe Human Rights Commission.
(10 marks)

b) In relation to the law of contract:
(i) Explain and distinguish between terms and mere representations. (5 marks)
(ii) Explain the implied terms of a contract. (5 marks)

Question4

Explain what is meant by the 'separate legal personality' of a company. With reference to the following decided cases, illustrate when the courts will lift the veil of incorporation. Salomon v A Salomon & Co Ltd and Lee v Lee's Air Farming Ltd (25 Marks)

Question 5.

Part A

Joe is a non-executive director of a public company called Woody Works Ltd listed on the Johannesburg Stock

Exchange Limited. The business of Woody Works Ltd is to develop electronic components to facilitate the quick and proper functioning of various woodworking machines.

Joe never attends any meetings and does not understand the business of Woody Works Ltd. He is a financial expert with little understanding of issues relating to electronic engineering.

REQUIRED:

(a) State the duties of non-executive directors. (5 marks)

(b) Explain whether Joe can be held liable by the company for damages suffered as a result of bad financial decisions taken in his absence by the other directors. (5 marks)

(c) Explain whether the situation would have been different if Joe were an executive director and not a non-executive director. (3 marks)

Part B

Tanal is the company secretary of a listed public company called EasySell Ltd. At the annual general meeting various problems concerning EasySell Ltd were discussed. Possible litigation by one of its suppliers was specifically mentioned and it could result in EasySell Ltd making huge losses. After the meeting, Tanal phoned her stockbroker, Sam, and instructed him to sell 50% of the shares held by Tanal in EasySell Ltd. Based on this decision of Tanal, Sam decided to phone some clients and advised them to sell their shares in EasySell Ltd. A few days later, the supplier instituted litigation proceedings with a claim of more than $25 million and the share price of EasySell Ltd dropped by 20%.

REQUIRED:

(a) Explain whether the information Tanal possessed qualifies as inside information. (5 marks)

(b) Explain whether Tanal and Sam were insiders before the institution of the litigation proceedings. (5 marks)

(c) State whether Tanal committed a criminal offence. (2 marks)

Question 6.

a) Mukaka Bottles (Pvt) Ltd is a profitable small company whose principal activity is the retail distribution of milk. The two directors, Thabani and Lloyd, appoint Kevin to the board. The articles of association require each director to hold 5,000 $2 qualification shares and allow a director two months from the date of their appointment to acquire his qualification shares.

Kevin does not have the money to enable him to buy the shares and the company is willing to lend him the necessary finance.

At the same time, the company recently bought a farm from Mutasa for $300,000 in exchange for shares worth $200,000.

REQUIRED:

(i) Explain what needs to be done by the company to enable Kevin to buy the qualification shares. (5 marks)

(ii) Explain the procedure Mukaka Bottles (Pvt) Ltd must take in relation to the shares which were sold by the company at a profit of $100,000. (2 marks)

(iii) When will a company be treated as a subsidiary of a holding company? (8 marks)

(iv) Distinguish between a company limited by shares and a company limited by guarantee. (10 marks)

END OF PAPER