

UGANDA MARTYRS UNIVERSITY

NKOZI

UNIVERSITY EXAMINATION DECEMBER 2023

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 3 END OF SEMESTER ONE FINAL ASSESSMENT

ACADEMIC YEAR 2023/2024

BANKING AND NEGOTIABLE INSTRUMENTS LLB 3105

DATE: Thursday 14th December, 2023

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & ½ HRS

Instructions:

1. This is a **PARTLY OPEN** book exam.
2. ONLY UNMARKED statutory materials are allowed in the exam room.
3. Carefully read through ALL the questions before attempting
4. **SECTION A is COMPULSORY. At least one question should be attempted from SECTIONS B & C respectively. A total of FOUR QUESTIONS SHOULD BE ANSWERED IN ALL.**
5. No **names** should be written anywhere on the examination book.
6. Ensure that your **Registration number** is indicated on all pages of the examination answer booklet.
7. Ensure your work is **clear** and **readable**. Untidy work shall be penalized
8. Any type of examination malpractice will lead to automatic disqualification
9. Do not write anything on the questions paper.
10. Use the exam answer booklet for all your rough work.

SECTION A: COMPULSORY QUESTION

Question 1

Jovia Mukwiru is a 55 year old pensioner, with a visual problem. She can see, but not very well. In April 2023 Jovia went with Sarah, her 35 year old daughter, who is a lawyer to assist her to open a bank account. While at the bank, Jovia was given an account opening form, the contents of which and, its terms and conditions were read and explained to her by Sara. For this particular account, once opened, Jovia would be able to carry out mobile banking transactions through her cellphone and mobile number. Jovia, having understood the terms and conditions, signed the account opening form, and the account was opened. She was then given an ATM card, a mobile banking pin, and guidelines on how to operate mobile banking and also protect her pin from strangers.

Because Jovia is an older person with an eye sight problem, she occasionally gave Sara the phone to check for any messages. If Jovia needed help to transact through her phone, she sought Sara's assistance. In June, 2023, Sarah needed some money urgently, and without permission from her mother, withdrew all the money from her mother's bank account through mobile transactions. In October 2023, Jovia went to the bank and requested a withdrawal of some money from her account, but the teller told her she did not have any money on her account; that all the money in her account was withdrawn through mobile money transactions in June, 2023. All the details provided to Jovia revealed that her money was withdrawn through her own mobile phone and mobile banking pin. Jovia is now aware that Sarah must have withdrawn her money. But she insists that since she is an elderly customer of the bank, with an eye sight problem, the bank ought to protect her against such situations. She is therefore demanding a refund of her money from the bank meanwhile the bank has denied any responsibility to pay Jovia.

Advise the parties of their rights, duties and liabilities (25 marks).

SECTION B

Question 2

The Bank has a duty to keep its customer's secrets. But this duty is not absolute. Using relevant statutory and/or case law, discuss this statement **(25 marks)**.

Question 3

Two adult friends, Joseph and Suzan, are recent graduates, with a license to operate a law firm. They are also desirous of conducting a business of dry cleaning. So, they formed a partnership called J & S Partners to provide legal services and registered a company called Dry Cleaners Ltd to provide laundry services. Towards the two business goals, Joseph and Suzan contributed UGX 25, 000, 000 each, as business capital (totaling UGX 50,000,000).

The business capital of UGX 50, 000, 000 was apportioned this way: UGX 25,000,000 for J & S Partners, and UGX 25,000,000 for Dry Cleaners Ltd. As partners in J & S Partners, Joseph and Suzan agreed that in the event of losses, and or for any liabilities that arise, they will be jointly responsible. For the liabilities under Dry Cleaners Ltd, they would be guided by the Memorandum and Articles of Association.

They agreed also that Joseph, who is a good negotiator, and leader, would head the two businesses, as the CEO. Both businesses have been on well, and they decided to strengthen their department on information technology at J & S Partners by borrowing UGX50,000 000 from Bank K. Due to COVID restrictions, they failed to secure more clients and now their loan is outstanding and overdue. J & S Partners is now broke. The good news is that their laundry business at Dry Cleaners Ltd is thriving and well, with a net value of over UGX 100, 000, 000.

It has now come to Suzan's attention that Joseph actually used UGX 10,000.00 of the money that was borrowed from Bank K for his personal use. Suzan was not aware and she is very angry that Joseph acted the way he did without her permission. The bank wants all its money from Joseph and Suzan.

- a) Advise Joseph, Suzan and Bank K on their rights, duties, and liabilities **(20 marks)**.
- b) What would be your advice to the Bank K if during its investigation, it discovered that Joseph and Suzan used UGX 30,000,000 of the loan money to facilitate Dry Cleaners Ltd **(5 marks)**.

SECTION C

Question 4

Jeremy has a bank account in Bank Y. On the 5th of November, 2023, he went to Bank Y and deposited UGX 100, 000,000 and the teller gave him a deposit slip. Then, on the 10th of November 2023, Jeremy drew a cheque on Bank Y, instructing it to pay Bebe UGX 100, 000. On receipt of the cheque, the bank refused to pay Bebe, arguing that Jeremy cannot access his money right now because the bank has noticed an unusually large sum of money that was paid into Jeremy's account; that the Bank CEO became suspicious of the money since Jeremy's account has never received that kind of large sums of money before and its source was not clear. Jeremy is being suspected of laundering money. Accordingly, the suspicion was reported to the Financial Intelligence Authority (FIA) and the FIA has now obtained a court order to freeze Jeremy's bank account. The bank has frozen Jeremy's account and Jeremy is unhappy.

Identify the parties and advise them accordingly of their rights, and duties (25 marks)

Question 5

Bank of Uganda has the regulatory power to ensure that commercial banks can only start business upon compliance with certain legal requirements. Using authorities, discuss this statement **(25 marks)**.

Question 6

Using relevant statutory and/or case law write short notes on bank dealings with the following categories of special customers **(25 marks)**:

- a) Children **(5 marks)**
- b) Joint accounts **(5 marks)**
- c) Partners **(5 marks)**
- d) Administrators **(5 marks)**
- e) Companies **(5 Marks)**