

CHUKA



UNIVERSITY

**UNIVERSITY EXAMINATIONS**

**EMBU CAMPUS**

**THIRD YEAR EXAMINATION FOR THE AWARD OF DEGREE OF  
BACHELOR OF COMMERCE**

**BCOM 336: BANKING LAW AND PRACTICE**

**STREAMS: BCOM Y3S2**

**TIME: 2 HOURS**

**DAY/DATE: WEDNESDAY 24/3/2021**

**2.30 PM – 4.30 PM**

**INSTRUCTIONS:**

- Answer question ONE (Compulsory) and any other TWO
- Do not write anything in the question paper.

**QUESTION ONE**

(a) It is obligatory for the bankers not to disclose the state of the customer's account. The confidential relationship between him and his customer enjoins him to keep secret all matters relating to his customer, discovered in the course of their relationships (Tournier Vs. National Provincial and Union Bank of England, 1935)" Required: Discuss the exceptions to the rule.

[5 Marks]

(b) Evaluate the different types of accounts and garnishee order. [5 Marks]

(c) Assume you have been recruited as a Consultant for ABC bank LTD and charged with the responsibility of training new employees on how the bank may be liable in tort. Explain the contents of your training. [8

Marks]

(d) Explain the circumstances where a banker cannot exercise his right of lien. [8 Marks]

(e) Evaluate the legal definition of a banks customer as considered in commissioners of taxation Vs English and Australian bank, 1920. [4 Marks]

**QUESTION TWO**

- (a) What are the precautions to be taken by the banker before it opens an account in the name of:
- i. A minor [3 Marks]
  - ii. Partnership firm [3 Marks]
  - iii. Joint accounts [4 Marks]
- (b) In case there is a current account, and neither the banker nor the customer makes any specific appropriation, then any successive payments will be appropriated in accordance with the rule in Clayton's case, discuss. [10 Marks]

**QUESTION THREE**

- (a) Explain how a customer's deposit protected according to the banking. Act cap 488. Base your explanation on part II of the act on conduct of prohibited business [10 Marks]
- (b) The relationship between a banker and a customer is that of a debtor and creditor, therefore the bank is legally required to honor a customer's Cheque. Explain instances when a bank is relieved of this responsibility. [10 Marks]

**QUESTION FOUR**

- (a) Explain five cases where a banker has a right to close an account. [10 Marks]
- (b) Kimani has a loan account with Pamoja Bank, which carries an interest of 20% p.a last week when he checked his bank statement and noticed that the interest charged on the loan was higher than usual, upon inquiry, he was informed that the bank had in the last month increased its interest rate to 22%. What advice would you give to the banker and customer? [5 Marks]
- (c) Discuss the issues laid down in the case of United dominion Trust Ltd Vs Kirkwood. [5 Marks]
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