

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

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

BCOM 336: BANKING LAW

STREAMS: BCOM (ODEL) Y3S3
DAY/DATE: TUESDAY 20/7/2021

TIME: 2 HOURS
2.30 P.M. – 4.30 P.M.

INSTRUCTIONS: Answer question 1 and any other TWO questions

QUESTION ONE

(a) Omondi a junior trainee officer in advances department of a branch said that when goods are hypothecated to a limited company, the possession is with the borrower. The borrower may borrow against the same goods from another bank. There will be double finance against the same goods. However, when the goods are pledged to a bank, the bank is fully secured as the goods are in possession of the bank

(i) Do you agree with him? [2 marks]

(ii) What steps would the bank take to protect itself from the possibility of double finance? [8 marks]

(b) Discuss the general relationship between a banker and customer [10 marks]

(c) Explain five sources of banking law [10 marks]

QUESTION TWO

(a) In *Tournier vs. National provincial and Union Bank of England, 1935* there is a duty to maintain secrecy. This obligation continuous even after the customer has closed his account with the banker. However, the duty to maintain secrecy is not absolute but qualified. Explain the circumstances which banker is under statutory obligation to disclose the customer account with him. [10 marks]

(b) Explain Garneshee order and when it does not apply [10 marks]

QUESTION THREE

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- (a) Is the banker entitled to exercise his right of general lien or set off in the following cases
- (i) Mr. A deposits a box containing ornaments for safe custody, but later on becomes indebted to the bank. [2 marks]
- (ii) A banker discounts a documentary bill for his customer, X on the dishonor of the bill, X offers payment of the amount of the bill together with interest charges but the banker claims lien on the documents attached to the bill for other debts due from X [2 marks]
- (iii) When Mr. X, who is indebted to the bank, has a current account jointly with Mr. Y [2 marks]
- (iv) XY, a partnership firm, of stock brokers, are indebted to the bank and Mr. X, a partner of the firm, carries a large credit balance in his account. [2 marks]
- (b) A bank whose previous policy was to shred all unpicked financial statements which were not to be picked, has now decided, as cost saving measure that all old unpicked statement shall be recycled and those which cannot be recycled will be sold to third parties so as to generate additional income for the bank. Last month, one of the customers actually found computer printouts of his statements of account being used to wrap sukuma wiki. Advice him accordingly as a banking law student. [2 marks]
- (c) Explain five cases where a banker has a right to close an account. [10 marks]

QUESTION FOUR

- (a) Mr. B, your valued customer, approaches you to grant an overdraft facility up to sh. 150,000 in his current account. He offers the following securities:
- (i) 1,800 shares of East African breweries ltd of shs. 150 each standing in the name of his wife
- (ii) A fixed deposit receipt for sh. 270,000 standing in the name of his wife and son jointly issued by another branch of your bank
- (iii) His own life insurance policy for sh. 290,000 maturing after two years. Which of the securities would you accept and why? [6 marks]
- (b) What are the precautions to be taken by the banker before it opens an account in the name of:

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- (i) A minor [3 marks]
 - (ii) Partnership firm [2 marks]
 - (iii) Joint accounts [4 marks]
 - (c) Explain the principle stated in the case of United Dominion Trust ltd vs Kirkwood (1966) [4 marks]
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