

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF COMMERCE

BCOM 336: BANKING LAW PRACTICE

STREAMS: BCOM Y3S2 REGULAR /ODEL

TIME: 2 HOURS

DAY/DATE: WEDNESDAY 12/04/2023

2.30 P.M – 4.30 P.M

INSTRUCTIONS:

Answer question one and any other two questions

Do not write on the question paper

QUESTION ONE

- (a) 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 possession of the bank. Explain how a bank protects itself from the possibility of double finance. [8 marks]
- (b) There has been a drastic increase in the number of banks offering loans over the mobile phones, discuss the setbacks of such banking system. [8 marks]
- (c) Daisy walked into the banking hall and opened an account with the intention of depositing money. She filled the forms and hands to the personal. Bank robbers walked in an robbed the bank and all the customers. She wants t sue the bank, will she succeed? Advise. [4 marks]
- (d) Looing at the Kenyan scenario, explain a banking system that is best suited to an investor in the banking sector. [10 marks]

QUESTION TWO

- (a) Mwangi has a loan account with Koja 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 informed that the bank had in the last month increased its interest rate of 25%. What advice would you give to the banker and customer? [5 marks]
- (b) Garnishee order attaches only balance which is lying in the customer's account at the time when the order is served on the banker. Explain when it does apply. [10 marks]
- (c) Explain the issues laid down in the case of United Dominion Trust Ltd Vs Kirkwood. [5 marks]

QUESTION THREE

- (a) Discuss the duties of a customer. [10 marks]
- (b) 'The banker's lien entitles the banker to retain in his possession securities etc, in respect of the general balance due by the owner to the banker. The right extends to all securities placed in his hands as a banker by his customer which are not specifically approached'. Discuss the legal limitations to the right. [10 marks]

QUESTION FOUR

- (a) Mr. B your valued customer, approaches you to grant an overdraft facility up to ksh 150,000 in his current account. He offers the following securities.
- (i) A fixed deposit receipt for ksh 270,000 standing in the name of his wife and son jointly issued by another branch of your bank.
- (ii) His own life insurance policy for ksh 290,000 maturing after two years.

Which of the securities would you accept and why? [6 marks]

- (b) Explain two torts that can be committed by a banker and give examples. [4 marks]
- (c) Discuss how the adoption of cheque truncation will improve the whole cheque clearing system. [10 marks]