

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

THARAKA UNIVERSITY COLLEGE

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

BCOM 336: BANKING LAW AND PRACTICE

STREAMS: BCOM

TIME: 2 HOURS

DAY/DATE: MONDAY 05/08/2019

11.30AM – 1.30 PM

INSTRUCTIONS:

- **Answer Question One and any other Two Questions**
- **Do not write anything on the question paper**

Question One

- (a) Outline and discuss the different types of banking systems. [9 marks]
- (b) What are the implied rights and obligations of the parties in a banker/customer relationship. [6 marks]
- (c) Section II of the Banking Act specifies the restrictions on the manner in which banks make advances and credits. Discuss the restrictions contained in the Banking Act. [9 marks]
- (d) Explain the protection given under section 60 of the Bills of Exchange Act Cap 27 to the bank which makes payment on a forged cheque. [6 marks]

Question Two

- (a) “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 appropriated.” Discuss the legal limitations to the right. [6 marks]

- (b) Explain giving reasons the factors to be considered when licensing the establishment mortgage financial companies. [14 marks]

Question Three

- (a) A customer's wife usually kept his cheque book and she used to give him the cheque leafs when he needed them. In one occasion he asked for a cheque so as to facilitate withdrawal of ksh. 10,000 where upon the wife told him there was no money in the account and then she confessed that she had forged cheques in his name and that she took the money to assist her sister in legal proceedings. He did not inform the bank of the forgery. Afterwards, he discovered that there were no legal proceeding by his wife's sister and he threatened to inform the bank of the forgery and upon the threat the wife shot herself dead. After a few months, he sued the bank for a declaration that he was entitled to be credited with the forged cheque's amount.

Will he succeed? [5 marks]

- (b) Discuss how the adoption of cheque truncation will improve the whole cheque clearing system. [5 marks]
- (c) Explain the classification of loans and advances. [10 marks]

Question Four

- (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 in the above case law. [12 marks]
- (b) Explain the sources of banking law. [8 marks]
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