

**CHUKA**



**UNIVERSITY**

**UNIVERSITY EXAMINATIONS**

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

**BCOM 336: BANKING LAW**

**STREAMS: BCOM Y3S2 (ODEL)**

**TIME: 2 HOURS**

**DAY/DATE: TUESDAY 03/12/2019**

**11.30 AM – 1.30 PM**

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**INSTRUCTIONS:**

**Answer Question 1 and any other TWO questions**

**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 and state the case law. [10 marks]
- (b) There has been a drastic increase in the number of banks and mobile net work providers creating platforms for mobile banking, where banks are able to give short term credit to the net work subscribers. Discuss the setbacks such banking system. [10 marks]
- (c) Discuss banker’s obligation to honour cheques. [5 marks]
- (d) Mwenda 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]

**QUESTION TWO**

- (a) Explain five sources of banking law. [10 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) "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. [10 marks]
- (b) Discuss the torts that can be committed by a banker giving examples. [10 marks]

**QUESTION FOUR**

- (a) Explain five cases where a banker has a right to close an account. [5 marks]
- (b) 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? [5 marks]
- (c) Explain five rights of a Pawner. [5 marks]
- (d) Discuss the issues laid down in the case of United dominion Trust Ltd Vs Kirkwood. [5 marks]
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