

THE PUBLIC ACCOUNTANTS EXAMINATIONS BOARD

A Committee of the Council of ICPAU

CPA(U) EXAMINATIONS

LEVEL ONE

BUSINESS LAW – PAPER 3

THURSDAY, 10 DECEMBER 2009

INSTRUCTIONS TO CANDIDATES

1. Time allowed: **3 hours 15 minutes**.
The first 15 minutes of this examination have been designated for reading time. You may not start to write your answer during this time.
2. Attempt **all** questions in Sections **A** and any **two** questions from Section **B** and any **two** questions from Section **C**.
3. Section **A** has **twenty** compulsory multiple-choice questions each carrying 1 mark.
4. Section **B** has **three** questions and only **two** questions are to be attempted. Each question carries 20 marks.
5. Section **C** has **three** questions and only **two** questions are to be attempted. Each question carries 20 marks.
6. Please, read further instructions on the answer book before attempting any question.

SECTION A

Question 1

- (i) The following are examples of private law **EXCEPT**:
- (a) company law.
 - (b) constitutional law.
 - (c) law of contract.
 - (d) law of torts.
- (ii) Which of the following statements is/are correct?
- (i) A crime is an act that is punishable by state sanction.
 - (ii) In criminal offences the burden of proof on the prosecution is beyond reasonable doubt.
 - (iii) The burden of proof on the prosecution is on balance of probabilities.
- (a) (i).
 - (b) (ii).
 - (c) (i) and (ii).
 - (d) (i), (ii) and (iii).
- (iii) Consideration is:
- (a) the price by each party to the contract for the other party's promise.
 - (b) an exchange by one person for doing something in a business.
 - (c) an act or forbearance on the part of one party to the contract to confirm his/her commitment.
 - (d) given where a promise is made in return for the performance of an act in a company.
- (iv) Which of the following is **NOT** a right of an agent against the principal?
- (a) To account to the principal for all the money and property received.
 - (b) To claim remuneration or commission for services performed.
 - (c) To claim for indemnity against the principal for all expenses reasonably incurred in carrying out his/her obligation.
 - (d) To exercise lien over the principal's property.
- (v) Which of the following is **FALSE** about the rights of partners in a firm?
- (a) Sharing capital, profits and losses of the business equally.
 - (b) To be indemnified by the firm for any liabilities incurred in the ordinary course of business.
 - (c) Taking part in the management of the business on part-time basis.
 - (d) Having access to the firm's books.

- (vi) In a company limited by guarantee, the liability of members is limited to:
- (a) the shares they acquired while incorporating the company.
 - (b) the contributions made by the contributories of the company.
 - (c) the shares acquired by past members.
 - (d) such amounts as they undertake to contribute to the assets in event of its being wound up.
- (vii) At what stage is the company considered to be formally and legally incorporated?
- (a) When application for registration is lodged with the Registrar of Companies.
 - (b) On the date of its certificate of incorporation.
 - (c) After receiving certificate of entitlement to do business.
 - (d) On the date on its certificate of trade.
- (viii) The following are common types of shares **EXCEPT**:
- (a) ordinary shares.
 - (b) irredeemable shares.
 - (c) deferred shares.
 - (d) non-voting shares.
- (ix) A debenture, in company law, is defined as including:
- (a) debenture stock, bonds or other securities of a company whether constituting a charge on the assets of the company or not.
 - (b) debenture holders and shareholders that provide finance to the company.
 - (c) people or businessmen who are creditors of the company anticipating interest on capital.
 - (d) evidence of any loan to a company.
- (x) The minimum number of directors in a public limited company is:
- (a) one.
 - (b) two.
 - (c) three.
 - (d) four.
- (xi) Which of the following statements is **FALSE** about duties of a company secretary?
- (a) To file company annual returns with the Registrar of Companies.
 - (b) To write minutes of board meetings and general meetings and to keep them securely.
 - (c) To receive correspondences on behalf of the company.
 - (d) To receive and review the reports of external auditors and make recommendations to the board of directors.

- (xii) What is the statutory minimum time for a written notice for an annual general meeting?
- (a) Fourteen days.
 - (b) Eighteen days.
 - (c) Twenty one days.
 - (d) Thirty days.
- (xiii) Under what circumstances may a voluntary liquidation occur?
- (a) If the company resolves by extra-ordinary resolution that it cannot, by reason of its liabilities, carry on in business and that it is advisable to wind up.
 - (b) Where the company resolves by special resolution that the company be wound up voluntarily for the benefit of directors.
 - (c) If the company has by special resolution resolved that it should be wound up by the court.
 - (d) Where the number of members falls below two except in the case of single member company.
- (xiv) Which of the following is **FALSE** about the duties of an employer?
- (a) To pay reasonable remuneration.
 - (b) To provide a safe system of work.
 - (c) To give reasonable notice of termination of employment.
 - (d) To exercise reasonable care and skill.
- (xv) The statutory duty to inform the shareholders on whether the company's accounting records have been properly maintained lies with the:
- (a) Company Secretary.
 - (b) external auditors.
 - (c) Chairman of the board of directors.
 - (d) internal auditors.
- (xvi) The constitutional court in Uganda is presided over by the:
- (a) Supreme Court judges.
 - (b) Court Martial judges.
 - (c) Court of Appeal judges.
 - (d) High Court judges.
- (xvii) The minimum membership of a public limited company is people.
- (a) 2
 - (b) 7
 - (c) 20
 - (d) 50

- (xviii) Under Table A of the Companies Act, a director shall vacate office if he:
- (i) becomes bankrupt.
 - (ii) is absent for more than two months without permission of the directors.
 - (iii) resigns by notice in writing to the company.
- (a) (i).
 - (b) (ii).
 - (c) (i) and (ii).
 - (d) (ii) and (iii).
- (xix) The is in charge of the estates of the deceased persons in Uganda.
- (a) Attorney General.
 - (b) Registrar General.
 - (c) High Court.
 - (d) Administrator General.
- (xx) Which of the following statements is **FALSE**?
- (a) A preference share generally confers the right to receive a dividend up to a specified amount.
 - (b) The right to a preference dividend is inexhaustive.
 - (c) A preference shareholder is only entitled to receive a dividend out of available profits.
 - (d) If a company goes into liquidation with arrears outstanding of preference dividends, the right to receive arrears lapses.

SECTION B

Question 2

Kanda Supermarket retails in music systems. Recently, it advertised a Christmas sale in a local newspaper as follows: 'Grand Christmas Sale: Music systems at giveaway prices. Music systems to be sold at Shs 700,000 each to the first five customers who reply enclosing a cheque of Shs 700,000.

The day the advert was placed in the newspaper, Mapengo, a well known musician and DJ in Kampala posted a letter to Kanda Supermarket, enclosing a cheque for Shs 700,000. Mapengo was one of the first five customers to respond to the advert. However, due to reasons best known to Kanda Supermarket, they could not deliver the music systems.

On the following day, Kanda Supermarket placed another advert in the same newspaper announcing the cancellation of the Grand Christmas Sale. The special offer of music systems was, therefore, no longer available.

Two days later, Mapengo's letter which had delayed in the post, was delivered to Kanda Supermarket's address. Kanda Supermarket refused to supply Mapengo with a music system.

In a related development, Kanda Supermarket had placed a large notice in its showroom which read "Modern Phones; Only Shs 100,000 each for the first two customers in the showroom when the shop opens on Monday at 8.00 a.m. Pandagari, who was interested in the cheap modern phones, spent the whole night outside the showroom to ensure that he was the first person in the showroom when it opened. Five minutes to the opening of the showroom, a supermarket's representative emerged from the showroom and announced that the sale had been cancelled.

Required:

Raise and resolve the issues involved in the above scenario and advise Mapengo and Pandagari on their legal rights against Kanda Supermarket.

(20 marks)

Question 3

Bakole and Kariuki are the only directors of Tukule Limited, a company incorporated in 1997. Each director holds 18% of the company's issued share capital. The remaining 64% of the shares are held by their uncle, Binyonkondo, who happens to be the founder of the company. Binyonkondo is no longer a director but continues to have a lot of influence over the policy and management of the company.

Due to the global economic crisis, there was a serious drop in turnover and profits of the company. Bakole and Kariuki were aware of this problem. An extraordinary general meeting was convened to discuss the situation. Binyonkondo warned the directors that insolvency appeared inevitable. They, however, did not take heed hoping that the profitability of the company would be restored in line with the expected turnaround in the economy generally.

Binyonkondo was persuaded to support the directors' proposal to continue trading, in return for their promise to arrange for Tukole Ltd to make an early repayment of Binyonkondo's unsecured loan of Shs 400 million.

In another development, Tukole Ltd's bankers cancelled the company's overdraft facilities and, at an extra-ordinary general meeting, the shareholders were reluctant to pass a resolution placing Tukole Ltd in creditors' voluntary liquidation.

Required:

Discuss whether Bakole, Kariuki or Binyonkondo have acted in breach of company law, and if so, the possible consequences of the breach.

(20 marks)

Question 4

For two months, Akot, a fresh university graduate, was desperately searching for a job. Her uncle, who is a director with Koka Kola Ltd, a manufacturer of soft drinks, based in Kampala, persuaded the manager of the company to offer her a job. The manager invited Akot to his office and verbally offered her a job.

One month later, Akot was offered a part-time job by Ongole, the owner of a big warehouse for Sweet Kola products in Gulu. She accepted the offer. Sweet Kola Ltd is a rival company, also engaged in the manufacture of soft drinks based in Kampala. Her job is to keep his books of accounts during her free time. She also accepted to occasionally sit in the monthly strategic meetings of Sweet Kola Ltd that are held in Kampala.

Required:

Discuss whether Akot's new assignments with Sweet Kola Ltd are in breach of her contract of employment with Koka Kola Ltd.

(20 marks)

SECTION C

Question 5

Discuss the rights and duties of an agent.

(20 marks)

Question 6

Describe the circumstances under which a partnership may be dissolved.

(20 marks)

Question 7

Discuss the statutory and common law exceptions to the rule in Foss-V-Harbottle (1843) which allow a minority shareholder to bring a legal action to redress a wrong which has been done to the company of which he is a member.

(20 marks)