

Fundamentals Level – Skills Module

Corporate and Business Law (Botswana)

Tuesday 2 June 2009

Time allowed

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

The Botswana Institute of Accountants

Paper F4 (BWA)

ACCA



ALL TEN questions are compulsory and MUST be attempted

- 1 Explain the distinction between the following terms in relation to the doctrine of precedent in the Botswana legal system:**
- (a) *ratio decidendi* and *obiter dictum*;** (5 marks)
 - (b) reversing, overruling and distinguishing.** (5 marks)
- (10 marks)**
- 2 In relation to the law of contract, explain the general meaning and effect of breach of contract, paying particular attention to repudiation as a form of breach of contract.**
- (10 marks)**
- 3 In relation to partnership law, discuss the essentials that will distinguish the partnership agreement from other agreements.**
- (10 marks)**
- 4 In relation to close companies law, explain the fiduciary duties and duties of care and skill owed by the members to their company.**
- (10 marks)**
- 5 In relation to company law, explain and distinguish between:**
- (a) companies limited by guarantee; and** (5 marks)
 - (b) companies limited by shares.** (5 marks)
- (10 marks)**
- 6 (a) In relation to company law, explain what is meant by 'winding up'.** (2 marks)
- (b) Distinguish between:**
- (i) voluntary winding up;** (4 marks)
 - (ii) compulsory winding up.** (4 marks)
- (10 marks)**
- 7 (a) Explain the term 'money laundering' and how such activity is conducted.** (5 marks)
- (b) Explain how the Proceeds of Crime Act 1990 seeks to control money laundering.** (5 marks)
- (10 marks)**

8 Tony decided to sell his horse *Please Be True*. He wrote to his friend Jimmy as follows:

'Dear Jimmy

I trust all is well with you old chap. *Please Be True* is for sale. The price is P7,000·00. If you are interested, come to the house with the money and you can take her away with you.'

Jimmy received Tony's letter and replied as follows:

'My good friend Tony, many thanks for the offer. I would dearly love to buy *Please Be True*. However P7,000·00 is rather too high a price for a horse. I will pay you P5,000·00 for her.'

Tony did not reply to Jimmy's letter. Two days later Jimmy phoned Tony stating that he was now willing to buy *Please Be True* for P7,000·00. However by then Tony had already sold the horse to Amanda.

Jimmy wishes to sue Tony for breach of contract.

Required:

(a) Advise Jimmy as to the legal position. (7 marks)

(b) State whether your answer would be different if Jimmy had replied inquiring whether Tony 'could not go any lower than P7,000·00'. (3 marks)

(10 marks)

9 Thembi is a director of Okavango Ltd, but she also carries out her own business as a wholesale supplier of specialist metals under the name Savuti Ltd.

Last year Okavango Ltd entered into a contract to buy a large consignment of metal from Savuti Ltd. Thembi attended the board meeting that approved the contract and voted in favour of it, without revealing any link with Savuti Ltd. The contract price was considerably above the market price and Savuti Ltd and Thembi made a considerable profit from it.

Nevertheless the previous year was a particularly good year for Okavango Ltd and it was revealed at a board meeting on 20 March 2008 that it had made larger than expected profits.

On learning this Thembi immediately bought more shares in Okavango Ltd, before the news of the profits was announced on 1 April.

Required:

Analyse the situation explaining any potential liability that Thembi may have in relation to:

(a) the sale of the metal to Okavango Ltd by Savuti Ltd; (5 marks)

(b) her purchase of the shares. (5 marks)

(10 marks)

10 Sonic Coach Tours Ltd is concerned about the number of accidents caused by careless driving, and a notice is therefore displayed in the garage stating that any driver who is involved in an accident will be instantly dismissed. The following day, two drivers, Kgabo and Morena, cause minor accidents and are dismissed without notice. Kgabo has been employed for ten years and Morena for one year and both have clean driving records.

Required:

(a) Advise Kgabo and Morena as to their possible rights arising from their dismissal. (7 marks)

(b) State whether your answer would be different if Sonic Coach Tours Ltd has also discovered that both Kgabo and Morena have been keeping some of the fares paid by passengers. (3 marks)

(10 marks)

End of Question Paper