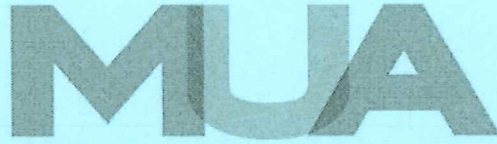


The
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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF MANAGEMENT AND

LEADERSHIP/BACHELOR OF COMMERCE

BML 210/BCM 223: COMPANY LAW

DATE: 9TH DECEMBER 2024

DURATION: 2 HOURS

MAXIMUM MARKS: 70

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **SIX (6)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **THREE** questions.
6. Question **ONE** carries **25 MARKS** and the rest carry **15 MARKS** each.
7. Write all your answers in the Examination answer booklet provided.

QUESTION ONE

Read the Case Study below carefully and answer the questions that follow:

GOTTILOCKS LIMITED

In 2015, Gotti Otieno and his friend Carlos started GottiLocks as a humble sole proprietorship in their college dorm room. GottiLocks evolved into a general partnership when Gotti Otieno and Carlos became business partners. In exchange for Carlos's financial support, the two partners agreed to split their respective owners 70/30 with Gotti Otieno receiving 70 percent stake in the new business.

In 2019, Gotti Otieno launched GottiLocks Limited, a private company limited by shares registered in Kenya. The nominal share capital of the company was Kshs 100,000/= divided into 1000 shares of Kshs 100/= each. Gotti Otieno and Carlos were allotted and paid for one (1) share each.

Registration of private limited company was relatively easy and inexpensive in Kenya. It involved submission of the application for registration with the Business Registration Services (BRS) accompanied by personal documents of the applicants and the beneficial owners, the memorandum and articles of association and other registration documents. Upon payment of the requisite fees, the BRS team thoroughly review the application. On successful verification, a certificate of incorporation was issued to GottiLocks Limited and accessed through eCitizen account.

Upon incorporation, Gotti Otieno as the Managing Director signed a five-year lease agreement with the landlord. The landlord demanded for a personal guarantee, and on 16th May, 2019 Carlos signed a personal guarantee to secure payment of the rent. One year into the lease, GottiLocks Limited had a downturn in business due to the Covid 19 pandemic. Gotti Otieno and his friend could not raise the rent of Kshs 100,000/= and the company was in rent arrears. They decided to vacate the offices hoping to convert to an online business model. The landlord became concerned that the rent arrears would not be paid, and filed suit against the company to recover his rent of Kshs 600,000/= and against the Gotti Otieno and Carlos.

Required:

- a) Discuss five characteristics of a partnership under the Kenyan law. (10 marks)
- b) Advise Gotti Otieno on whether he is personally liable to pay the rent arrears incurred by GottiLocks Limited. (5 marks)
- c) Discuss the purpose of the Memorandum and Articles of association of a company. (5 marks)
- d) Briefly explain the difference between nominal share capital and issued share capital. (5 marks)

QUESTION TWO

- a) In relation to company meetings, discuss the procedure that must be followed when convening an Annual General Meeting. (10 marks)
- b) Briefly discuss three circumstances that might lead to unlawful distribution of dividends under The Companies Act, 2015. (5 marks)

QUESTION THREE

- a) On 23rd January this year, the High Court granted a liquidation order against Karone Limited. Explain the legal implication (10 marks)
- b) Wanderi was issued with a certificate of incorporation for his company in 2023. Briefly explain any five characteristics of incorporation of the Company. (5 marks)

QUESTION FOUR

- a) Elaborate on any five ways a person can cease to be a Director of a private company. (5 marks)
- b) In relation to company membership, discuss any five privileges of an ordinary member of a company. (10 marks)

QUESTION FIVE

- a) In relation to business entities, define a sole proprietorship. (5 marks)
- b) Discuss any five circumstances that may result in the lifting of the corporate veil of a Company in Kenya. (10 marks)

QUESTION SIX

- a) Briefly explain how a director's duties change when the Company is in financial difficulties. (6 marks)
- b) In relation to insolvency, discuss the process of entering into a company voluntary arrangement. (9 marks)