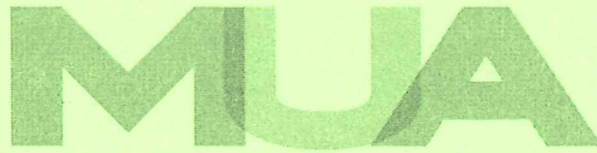


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UNDERGRADUATE UNIVERSITY EXAMINATIONS
SCHOOL OF MANAGEMENT AND LEADERSHIP
DEGREE OF BACHELOR OF ARTS IN DEVELOPMENT STUDIES

BDS 324/BDS 102: LEGAL ASPECTS OF DEVELOPMENT

DATE: 6TH AUGUST 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:

WHEAT CONTRACT

In 2019, KM & Co. Limited through a letter of appointment dated 23rd January 2023 appointed William to act as its agent. William was authorised to buy barley from Narok farmers at Kenya Shillings sixty per kilogram (Kshs 60/= per kg). When William could not find any wheat to buy at the specified price, he entered into a contract to buy the wheat at a higher price from several farmers, without authority from KM & Co. Ltd.

The contract was made between the sellers and William in his own name and did not mention that he was purchasing the barley on behalf of the principal whatsoever. He entered into a contract for 500 tons of barley at Kshs 75 per kg.

He subsequently had an interview with one of the three Directors of KM & Co. Ltd, and informed him of the purchase, whereupon the Directors told William that he had given too much, but they thought that the barley was worth it, and told him to go ahead with the purchase.

Six months after delivery of the barley to a warehouse belonging to William, the Company declined to pay for the barley and the farmers filed a civil suit in the Chief Magistrates Court in Narok Law Court against William and KM & Co. Ltd claiming for the price.

The farmers argue that when William entered into a contract, he intended to act on behalf of KM & Co. Ltd. They also argued that the company subsequently ratified the contract, and was therefore liable under the contract.

KM & Co. Ltd in their filed defence to the Plaintiffs' claim stated that it was not a party to the contract between William and the farmers, and that the company should be absolved from blame. A Board of Directors' meeting held two months after the filing of the defence resolved to terminate William's services.

Required:

- a) Advise the Narok farmers on the requirements applicable under the concept of ratification, and whether they have a claim against KM & Co. Ltd. (10 marks)
- b) In view of the excerpt, discuss the unpaid seller's right to maintain an action for the price against a buyer. (5 marks)
- c) Briefly explain any **five** duties of Directors of KM & Co. Ltd. (10 marks)

QUESTION TWO

- a) Elaborate any **five** implied terms under the Sale of Goods that are designed to ensure that a buyer benefits from a contract of sale of goods in Kenya. (10 marks)
- b) David was appointed as an agent of Fiddle Tea Company in 2010 with authority to sell and distribute tea in Nakuru on behalf of the principal. In September, 2023, his appointment was terminated but he continued acting on the Company. Advise Fiddle Tea Company. (5 marks)

QUESTION THREE

- a) 'Contract differ in form and nature'. In view of this statement, discuss any **four** types of contracts used by entrepreneurs in Kenya. (8 marks)
- b) Elaborate on the extent of the liability of promoters for pre-incorporation activities. (7 marks)

QUESTION FOUR

- a) In relation to the tort of defamation, enumerate any **three** categories of qualified privilege under the law. (10 marks)
- b) In relation to the functions of law, describe the role of public law. (5 marks)

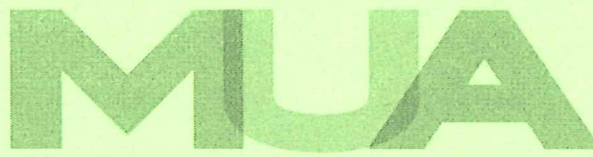
QUESTION FIVE

- a) Explain any **five** rights of partners under a partnership agreement. **(5 marks)**
- b) Discuss any **five** factors that may vitiate a contract. **(10 marks)**

QUESTION SIX

- a) Outline any **five** key terms in succession and estate planning. **(10 marks)**
- b) 'Perhaps the most important feature of a limited liability company is the limited liability of its members'. Explain **(5 marks)**

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BDS 311: ETHICS AND DEVELOPMENT

DATE: 31ST JULY 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:

THE DILEMMA AT XYZ PHARMACEUTICALS

XYZ Pharmaceuticals is a leading company in the development of innovative medications. Dr. Sarah Thompson, a renowned researcher in the field of neurology, has been leading a team focused on a groundbreaking treatment for a rare neurological disorder. The company has invested heavily in this research, and promising results have started to emerge. As the research progresses, it becomes apparent that the success of the new medication could significantly boost XYZ Pharmaceuticals' stock value. Dr. Thompson, who holds a substantial number of shares in the company as part of her compensation package stands to gain financially from the success of the medication. Simultaneously, Dr. Thompson's team is under pressure to publish their findings in a prestigious medical journal to secure the necessary regulatory approvals. The pressure is not only from within the company but also from external stakeholders eager for positive news.

Dr. Thompson finds herself facing a conflict of interest. On one hand, her personal financial interests align with the success of the medication and the subsequent rise in the company's stock value. On the other hand, she is responsible for ensuring the accuracy and integrity of the research findings. Any rushed or biased reporting could have severe consequences for patient safety and the company's reputation. Dr. Thompson could disclose her financial interests to the company and the medical journal. This would be a transparent approach, but it might lead to questions about the objectivity of the research. Dr. Thompson could consider recusing herself from the publication process, letting another researcher lead the effort. This may address the conflict but might also raise concerns about the project's leadership. Pharmaceuticals could establish an independent ethical oversight committee to review the research and publication process, ensuring that it meets the highest standards of integrity.

After careful consideration, Dr. Thompson decides to disclose her financial interests to both the company and the medical journal. She suggests establishing an ethical oversight committee to monitor and review the research and publication process. This decision is aimed at maintaining transparency, upholding the integrity of the research, and avoiding any perception of impropriety. While the disclosure raises eyebrows among some stakeholders, the establishment of the ethical oversight committee helps reassure both internal and external parties. The research ultimately proceeds under increased scrutiny, but the medication successfully navigates regulatory approvals, benefiting patients and securing XYZ Pharmaceuticals' reputation for responsible and ethical research practices. Dr. Thompson's commitment to transparency and ethical conduct becomes a model for handling conflicts of interest in the pharmaceutical industry.

Required:

- a) Evaluate how the potential financial gain from the success of the medication impact Dr. Thompson's objectivity in overseeing the research **(10 Marks)**.
- b) Explain five potential consequences for patient safety and the company's reputation if there is a compromise in the accuracy and integrity of the research findings **(10 Marks)**
- c) Evaluate five options Dr. Thompson had for addressing her conflict of interest. **(5 Marks)**

QUESTION TWO

- a) Consider a scenario where you are hired as a consultant to assess and improve the organizational culture of a technology company facing challenges with employee collaboration and innovation. Describe five specific strategies and interventions you would recommend to positively influence and reshape the organizational culture **(10 marks)**
- b) Define ethical Development and explain ethical strategies of development **(5 Marks)**

QUESTION THREE

- a) Evaluate Kohlberg's six stages of moral development (6 marks)
- b) The Gandhian approach to development, influenced by the philosophy of Mahatma Gandhi, emphasizes certain principles and values that contribute to holistic and sustainable development. Discuss the role of Ganddhian approach in development (9 marks)

QUESTION FOUR

- a) In the context of contemporary business practices, discuss ways in which incorporating and promoting good business ethics positively influences the success and sustainability of a business. Provide practical examples in each answer you give. (10 Marks)
- b) Consider a multinational corporation operating in diverse regions with varying legal frameworks. Discuss how the adherence to international principles for whistleblower legislation disclosure procedures can benefit such a corporation. (5 Marks)

QUESTION FIVE

- a) Explore the potential challenges that the corporation might face in implementing CSR programs across different cultural contexts and propose strategies to overcome these challenges. (10 marks)
- b. Explain Five common holdups in policy making in a government perspective (5 marks)

QUESTION SIX

- a) Imagine you are tasked with developing a training program for stakeholders of a firm to instill good corporate governance practices. Discuss specific strategies and practices you would include in this program to ensure stakeholders; including employees, investors, and board members, actively contribute to fostering good corporate governance. (8 marks)
- b) Evaluate core issues related to wellbeing at community level (7 marks)