



UNIVERSITI KUALA LUMPUR BUSINESS SCHOOL

FINAL EXAMINATION
JANUARY 2016 SEMESTER

SUBJECT CODE : EIB20803
SUBJECT TITLE : COMPANY LAW
LEVEL : BACHELOR
TIME DURATION : 2:00 PM - 5:00 PM (3 HOURS)
DATE : 30 MAY 2016

INSTRUCTIONS TO CANDIDATES

1. Please read the instructions given in the question paper CAREFULLY.
2. This question paper is printed on BOTH (2) sides of the paper.
3. This question paper consists of TWO (2) sections; SECTION A and SECTION B
4. Answer ALL question in SECTION A and THREE (3) question in SECTION B
5. Please write your answers on the answer booklet provided.
6. Students are allowed to bring and refer to the Companies Act 1965.
7. All questions must be answered in English (any other language is not allowed).
8. This question paper must not be removed from examination hall.

THERE ARE FOUR (4) PAGES OF QUESTIONS, EXCLUDING THIS PAGE.

CONFIDENTIAL

SECTION A (TOTAL: 40 Marks)

INSTRUCTIONS: Answer ALL questions.

Question 1

To what extent do you think businessmen who incorporate their business can actually gain advantage out of incorporation?

Discuss with reference to relevant statutory provision and decided case.

(20 marks)

Question 2

a) Syarikat Maju Jaya Bhd was incorporated in August 2015. In July 2015 Wong supplied goods to Syarikat Maju Jaya Bhd on the written request of its present directors Jalil and Samad. The goods were ordered on note paper bearing the name "Syarikat Maju Jaya Bhd". To date, Syarikat Maju Jaya Bhd has not paid Wong for the goods supplied. Wong seeks your advice whether he may recover the price of the goods from

- i) Syarikat Maju Jaya Bhd;
- ii) Jalil and Samad

(10 marks)

b) The memorandum of association of Salju Segar Sdn Bhd states that the company's object is to sell dairy product. The board of directors has decided to expand the company's business into manufacturing clothes. This decision was objected by one of the shareholders, Amy, who wishes to take an action against the board of directors.

With reference to Malaysian Company Law, advise Amy as to whether manufacturing clothes caused an ultra vires of its object clause.

(10 marks)

[20 marks]

SECTION B (TOTAL: 60 Marks)

INSTRUCTION: Answer THREE (3) questions only.

Question 1

Raju is the sole auditor of XYZ Bhd, a company dealing in food and health products. During the course of the audit of XYZ Bhd's accounts, Raju discovered certain transactions which may be in breach of the Companies Act 1965. The directors of XYZ Bhd had not been satisfied with the way Raju had been conducting the audit of the company's accounts and wish to replace him.

- a) Advise the company on the procedure to remove Raju as the auditor.
(10 marks)
- b) Discuss the nature and scope of the duty of care of a company auditor in the auditing of the company's accounts.
(10 marks)

[20 marks]

Question 2

Using the Companies Act 1965 as a guide, explain the following terminology:

- a) Shares;
- b) Debentures;
- c) Fixed Charge;
- d) Floating Charge;
- e) Crystallization

(20 marks)

Question 3

Izah and Aman are directors of a company, Bakti Bhd. The other directors of the company are Salleh, Afiq, Azra and Dora.

In July 2015, Salleh, Afiq, Azra & Dora decided to increase the capital of the company. Pursuant to a resolution at a board meeting, they issued 100,000 one ringgit shares to the employees of the company at par value. This was done on the understanding that those senior management staff who were issued shares would vote in favor of the directors when the need arose. Izah and Aman were opposed to such issuance of shares.

In August 2015, the company entered into a contract with Cekap Sdn Bhd for the purchase from them of RM1 million worth of office equipment. It has recently been discovered that Salleh and Afiq are the majority shareholders of Cekap Sdn Bhd. This fact was however not disclosed either at the board meeting or the general meeting.

CONFIDENTIAL

Two months ago, Azra and Dora negotiated a contract on behalf of the company with Teraju Bhd under which Bakti Bhd would earn a profit of RM 5 million. Last month, Azra & Dora diverted the benefit of the contract to another company, A&D Sdn Bhd, a company which was set up by Azra and Dora and the shareholders of which were none other than the four directors, Salleh, Afiq, Azra and Dora.

Izah and Aman voiced their concerns to Salleh, Afiq, Azra and Dora about the three transactions above. Following this, Izah and Aman were then removed from the Board of Directors with immediate effect. The removal was done during the board meeting in the absence of Izah and Aman.

Izah and Aman seek your advice as to whether there have been any breaches of director's duties to the company by any or all of the directors in respect of the above three matters. They also seek your advice on whether their removal as directors is valid.

Advise them.

(20 marks)

Question 4

- a) The articles of association of Sejati Sdn Bhd give its managing director power to approve transactions below RM 50,000 without the approval of the Board of Directors. Their Board's prior approval is however, required for any transaction beyond RM 50,000.

Salim, the new managing director of the company, bought machinery worth RM 60,000 from Baz Sdn Bhd without the approval of the Board of Directors. Baz Sdn Bhd delivered the machinery in January 2016. It has not to date received payment from Sejati Sdn Bhd.

Baz Sdn Bhd wishes to take legal action against Sejati Sdn Bhd.

Advise Baz Sdn Bhd.

(10marks)

- b) Explain the meaning of the 'proper plaintiff' rule in the case of *Foss v Harbottle* (1843) 67 ER 189

(10 marks)

[20 marks]

Question 5

- a) With reference to decided cases, explain the situations where a court is likely to order a winding up on the ground that it is just and equitable to do so. (10 marks)
- b) Section 365 of the Companies Act 1965 provides that dividends shall only be paid out of available profits.

With reference to the above provision, discuss the rules governing the payment of dividends.

(10 marks)

[20 marks]

Total: 100 Marks

END OF QUESTION PAPER

1900

1900

1900

1900

1900

1900

1900

1900

1900