



**ZIMBABWE EZEKIEL GUTI UNIVERSITY  
FACULTY OF LAW**

**EXAMINATION PAPER**

**COURSE CODE** : LLB 306  
**COURSE TITLE** : Company and Corporate Law  
**DURATION** : 3 Hours  
**DATE** : 19 JAN 2023 19 JAN 2023

**INSTRUCTIONS TO CANDIDATES:**

1. Answer ALL questions.
2. Do not separate subsections of questions.
3. Refer to case law, statute and/or any relevant authority, where applicable. Underline all your references to cases and statutory provisions.
4. Pay careful attention to marks allocated.
5. **WRITE LEGIBLY.** If in doubt as to whether your hand writing is easy to read, consider writing some of your words or points in large caps.

### QUESTION 1

- (a) State three differences between a public company and a private company? [3]
- (b) Give a brief explanation of how a shareholder's liability is limited. [2]
- (c) What is the significance of the court's decision in *Dadoo Ltd v Krugersdorp Municipal Council*? [2]
- (d) What is the public interest or policy motivation behind the strict regulations pertaining to company names? [3]
- (e) Name the sources of company law in Zimbabwe [3]
- (f) What is a share? [2]
- (g) What is a debenture? [2]
- (h) Explain the liquidity test and the solvency test. [3]

[20 marks]

### QUESTION 2

In the corporate law of Zimbabwe, the veil of incorporation will be lifted (or pierced) in several instances. Enumerate those instances and explain what happens in each one of them.

[15 marks]

### QUESTION 3

- (a) Write an essay on the content and effect of the 'business judgment rule' as set out in the Companies and Other Business Entities Act [Chapter 24:31] 4 of 2019. [15 marks]
- (b) Silus, Rodgers and Joel are law graduates of the Zimbabwe Ezekiel Guti University who have been close friends from their days in primary and secondary school. In 2007, after working for approximately five years, they decided to establish a computer products manufacturing and distribution company under the name "Sirojo Computers (Pty) Ltd" (SCL). The three friends were the founding shareholders and directors of SCL. In addition, Silus became the Chief Executive Officer (CEO) of SCL, Rodgers was appointed Chief Financial Officer (CFO), and Joel took up the position of Chief Marketing Officer (CMO). In order to secure operating capital, they obtained a loan of US\$150 000 from First Capital Bank based on their personal reputation and a business proposal prepared for SCL by a firm of business consultants. Between 2008 and December 2011, SCL flourished and accordingly, over that four-year period, paid out substantial amounts as dividends to Silus, Rodgers and Joel. However as a result of Silus' wrongdoing, the company has lost over US\$20 000. Silus is a very close friend of Rodgers and

as such Rodgers is not really worried about taking any legal action against Silus. Joel intends to institute derivative litigation on behalf of the company.

Advice Joel on whether he can legally commence derivative action on behalf of the company. In your response, you must critically discuss all the relevant locus standi aspects that Joel must comply with.

[20 marks]

#### QUESTION 4

What must a person who has a personal financial interest in respect of a matter to be considered at a meeting of the board of the company or meeting of the members of the private business corporation, or knows that an associate has a personal financial interest in the matter do in terms of section 57 of the Companies and Other Business Entities Act [Chapter 24:31] 4 of 2019 do? In your response, discuss the directors' duty of loyalty and the duty to disclose conflicts of interest. Provide some examples of transactions involving conflict of interest according to the Act.

[15 marks]

#### QUESTION 5

“It is time to revisit and amend Zimbabwe’s code of corporate governance”. Critically discuss this statement citing relevant and credible authorities.

[15 marks]

2 AAA PM