



**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS**

**DEPARTMENT OF LAW AND LEGAL SERVICES**

**EXAMINATION PAPER**

**MODULE CODE : LLB 325 & LLB 007**

**MODULE TITLE : BANKING LAW AND NEGOTIABLE INSTRUMENTS**

**SPECIAL REQUIREMENTS:**

**DURATION : 3 HOURS**

**LEVEL : 3.2 & 5.2**

**12 OCT 2023**

**INSTRUCTIONS TO CANDIDATES:**

1. This paper contains **5** Questions.
2. Answer **ALL** questions.
3. Start each question on a new page.
4. This question paper comprises of **3** printed pages including cover page.

### Question one

With reference to case law discuss the following

- i. The unilateral termination of the banker-customer relationship by a customer, the bank, due to liquidation of the bank and due to mental illness. **(8 marks)**
- ii. Tinashe alleges that he made several unsuccessful attempts to withdraw money from a CBZ bank ATM. He reported the problem to the bank. However, the ATM recorded debts. CBZ Bank argues that Tinashe actually withdrew his money. Advise Tinashe. **(6 marks)**
- iii. The banker- customer relationship is solely based on the contract which revolves around the *mutuum* concept. Discuss this statement and distinguish the concept of *mutuum* from *commodatum* and *depositum* **(6 marks)**

### Question two

Tich is a farmer who benefited from Zimbabwe's fast-track land reform programme (FTLRP). As a result of the government of Zimbabwe's efforts to enhance farmers' security over the farms awarded to them, Tich received a 99-year lease. Briefly discuss the various sources of security for banker's advances. In your discussion determine whether Tich can use the 99-year lease to secure financial assistance (loan) from First Capital Bank. **(20 marks)**

### Question three

The introduction of mobile money in Zimbabwe has helped marginalized groups such as those dwelling in rural areas and informal settlements, low-income earners, women and the youths to access several financial services.

Critically discuss the above statement. With reference to relevant legislative provisions, highlight some of the challenges faced by Zimbabwe regarding the regulation of mobile money **(20 marks)**

### Question four

Thomas is a well-known wealthy businessman who holds a current account with First Capital Bank. His wife Wodumo is suspicious that her husband could be seeing other women. This could be due to the fact that she once saw Thomas trending on Instagram where he was being referred to as "Blessor". As a self-proclaimed Good Samaritan, Thomas regularly withdraws money from his account not just to meet the needs of certain women but also to spoil them every weekend. However, this is just Wodumo's suspicion since she does not have any concrete evidence in this regard. Wodumo also thinks that she can no longer keep up with Thomas' infidelity

and she is pondering on divorcing him. Nonetheless, she needs credible evidence of his infidelity and she thinks his bank statements could be decisive. To this end, Wodumo hires a private investigator who goes to First Capital Bank and requests for information on Thomas' bank account. The banker who happens to be a student intern happily gives the bank statements to the private investigator without hesitation. Consequently, Thomas' marriage with Wodumo collapses due to the information discovered by his wife on the bank statements. Wodumo's property claims in the divorce suit are also based on information she obtained from the bank statements. Thomas approaches you for legal advice.

Provide Thomas with a written legal opinion which includes general explanations on the banks' obligations regarding disclosure of information pertaining to a client.

**(20 marks)**

#### **Question five**

There has been rapid developments in the use and adoption of cryptocurrency as legal tender around the globe. Some jurisdictions have adopted the use of cryptocurrency as legal tender while Zimbabwe has not done so yet. Critically discuss the role of the Reserve Bank of Zimbabwe in the regulation of banks and consider some of the legal issues that the RBZ may face in the regulation of cryptocurrency if Zimbabwe is to adopt it as legal tender. **(20 marks)**

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