



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF COMMERCE

DEPARTMENT OF ACCOUNTING & MARKETING

COURSE NAME : Commercial Law II

COURSE CODE : CAC 104

JUNE\JULY EXAMINATION 2017

3 HOURS

INSTRUCTIONS

- 1. Answer ALL questions.**
- 2. Each question carries marks allocated at the end of each question**
- 3. Total marks: 70**



Question 1

Robert is a sculptor at Shingai Sculptors, a partnership of five sculptors. The members serve a six-month term each as Chairman. The Chairman's duties include making contracts for the purchase of stone and sale of finished sculptures.

Robert has just completed his term of office as Chairman. When his successor, Morgan, took over, he discovered that Robert had entered into a contract for the delivery of two tons of assorted rock from Germinston Quarries; and further, that Robert had entered into an agreement with a visiting Texas businessman, Digger Barnes, for the supply of 1,000 assorted stone sculptures for sale in a Dallas gift shop (the 'Barnes contract').

When the stone was delivered it was obvious that, although suitable for general sculpture work, it was totally unsuitable for the style of sculpture carried out at Shingai Sculptures. Morgan has further discovered that Robert is filling the entire 'Barnes contract' from his work and has not brought it to the notice of the partnership.

In relation to partnership law, advise Morgan as to:

- a) the essential elements of a valid partnership in relation to partnership law. [10 marks]
- b) Whether or not the partnership can rescind the 'rock' contract with Germinston Quarries. [5 marks]
- c) The possible grounds that he can use in order to terminate the Partnership. [5 marks]

Question 2

In relation to insolvency law, explain the following:

- (a) Voluntary winding up [10 marks]
- (b) Compulsory sequestration [10 marks]



Question 3

Jane, a dentist who stayed on the fifth floor was coming out of her apartment heading for work. When she was now on the ground floor going to her car, Anita who was at the 2nd floor poured down a pot of half boiling porridge down without checking if it was safe to. The porridge fell on Jane and she sustained minor injuries and failed to go to work for a week.

Jane wants to claim for the damage that was done to her. Advice Jane on the requirements that should be proved for an award of damage to be made.

[10 marks]

Question 4

Discuss the following

- | | |
|--------------------------------|-----------|
| a) Sole trader | [5 marks] |
| b) Contract of depositum | [5 marks] |
| c) Pre-incorporation contracts | [5marks] |
| d) The object clause | [5marks] |

“...THE SOUL OF THE DELIGENT IS RICHLY SUPPLIED. ”

PROVERBS 13:4

