

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY  
FACULTY OF COMMERCE  
DEPARTMENT OF BANKING  
BACHELOR OF COMMERCE HONOURS DEGREE IN  
BANKING  
LAW RELATING TO BANKING I  
CIN 2103**

**FINAL EXAMINATION**

**FEBRUARY 2010**

**TIME: 3 HOURS**

**INSTRUCTIONS TO CANDIDATES**

- The paper contains **SIX (6)** questions.
- Answer any **FOUR (4)** questions.
- All questions carry equal marks [**25 marks**].
- Start the answer to each question on a fresh page of the answer sheet.
- Indicate on your answer booklet whether you are in the conventional or parallel programme.

**INFORMATION FOR CANDIDATES**

**Questions may be written in any order, but must be legibly numbered.**

**The businesses in this question paper are intended to be fictitious.**

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**Turn Over**

### **QUESTION ONE**

- a) Hilda, a teacher who lives in a remote part of Zimbabwe, has an account with the nearest branch of XYZ Bank. Her husband, John, has been in the habit of collecting her statement from the bank at the beginning of each month. Hilda now informs the bank that she and her husband recently separated and complains that this month's statement was handed to him without her authority. Advise the bank. **[14 marks]**
- b) When does the banker-customer relationship commence? Why is it important from a banker's viewpoint to be able to fix this moment?  
**[11 marks]**

**TOTAL**

**[25 MARKS]**

### **QUESTION TWO**

- a) Mr Bishop has maintained a satisfactory account at your branch for five years. During the past few months, however, it has become overdrawn without arrangement and now stands at \$587 Dr. You have written to him on two occasions, asking for the debt to be cleared or put on a proper footing, but no reply has been received and no action taken. In the post today is a letter from Mr Bishop, enclosing a banker's draft of \$850 in his favour and containing instructions that the draft is to meet a cheque for a similar amount he has drawn in favour of Emabhizeni Limited. Explain the action you would take, giving reasons for your action. **[16 marks]**
- b) What are the legal principles governing a banker's right to set off a customer's credit and debit balances?  
**[9 marks]**

**TOTAL**

**[25 MARKS]**

### **QUESTION THREE**

- a) Mr Bee has two current accounts designated "1 account" and "2 account". The "1 account" is always in credit and the "2 account" overdrawn. You have agreed a net limit of \$250. Today, with the balances of the "1 account" \$100 Cr and the "2 account" \$200 Dr, a cheque drawn on the "2 account" for \$200 is presented for payment. Would you be justified in returning the cheque? **[17 marks]**

- b) In what circumstances can a banker's lien arise? Explain with the aid of decided legal cases. **[8 marks]**

**TOTAL**

**[25 MARKS]**

#### **QUESTION FOUR**

- a) A company cheque, in standard form, is signed "E Jones" under the company's name, by E Jones, one of the directors of the company. Giving full reasons for your answer, state whether the director is liable on the cheque if the company does not pay. **[13 marks]**
- b) Danzig Ltd is a customer of Umhlabathi Bank. What action, if any, should the bank take if it is informed that a bankruptcy petition has been made against Dumani, who is one of the two directors of Danzig Ltd, each of whom is authorized to sign, by himself, cheques drawn on behalf of the company? **[12 marks]**

**TOTAL**

**[25 MARKS]**

#### **QUESTION FIVE**

- a) What legal points should you consider and what action would you take, when you receive notice of the death of one of your joint account holders, in respect of:
- i) Items held jointly in safe custody, and **[5 marks]**
  - ii) One joint account, to which the deceased was a party, and which was either in credit or in debit. Give full legal reasoning for your answers. **[11 marks]**
- b) Explain, quoting decided legal cases, circumstances in which the banker's duty of confidentiality does not hold. **[9 marks]**

**TOTAL**

**[25 MARKS]**

## **QUESTION SIX**

- a) Sipho promises \$500 to his sister, Nozipho, when she passes her Institute of Bankers of Zimbabwe examinations. When Nozipho does so, Sipho hands her a cheque for \$500 payable to “Nozipho Khumalo”. Nozipho endorses the cheque to her poor fiancé, Never, as a present. Never uses it to pay for a rare first edition of a book on Treasury Management, sold to him by Hwamanda, to whom the cheque is endorsed. Consider who is liable to whom in both of the following alternative cases:
- i) Hwamanda presents the cheque for payment, but finds that Sipho has stopped payment, because he disapproved of Never having the cheque. **[8 marks]**
  - ii) The cheque is stolen by Sela who pretends to be Hwamanda and forges an endorsement to Rich to pay for goods received, and Rich transfers the cheque to Gody for value. **[10 marks]**
- b) Discuss the customer’s major duties under the banker-customer relationship. **[7 marks]**

**TOTAL**

**[25 MARKS]**