

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
BACHELOR OF COMMERCE HONOURS DEGREE**

COMMERCIAL LAW I - CIN 1103

JANUARY 2004 FIRST SEMESTER EXAMINATION

DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES

- 1. ANSWER ALL QUESTIONS IN SECTION A. THESE ARE COMPULSORY.**
- 2. ANSWER ANY FOUR (4) QUESTIONS FROM SECTION B.**

SECTION A

Answer all questions in this section. Each question carries 5 marks.

Question 1

Dennis sees a pair of shoes in the window of Gerald's shop priced at \$20,000. He tells Gerald that he will have the shoes and produces the money. However, Gerald discovers that the shoes are wrongly priced and tells Dennis that \$50,000 is the correct figure. Dennis says that it is too late to change the price and threatens to sue Gerald for breach of contract if he refuses to sell for \$20,000.

Advise Gerald as to the correct legal position, giving reasons for your advice.

(5 marks)

Question 2

Bernard finds a diamond ring in the street and hands it in to the police station. Afterwards he learns that the owner, Dorothy, has offered a reward of \$10,000 for the recovery of the ring. He contacts Dorothy and claims the reward, but she says that she can no longer afford to pay.

Advise Bernard whether he can successfully sue for the \$10,000, giving reasons for your advice.

(5 marks)

Question 3

Anne writes to Emily making a firm offer to sell her car for \$8,000,000 but stipulates that Emily must accept by return of post if she wants to have it. Anne receives a fax from

Emily two hours later saying that she accepts the offer but Emily has in the meantime decided not to sell her car.

Is there a binding contract between the two? Give a reason for your answer.

(5marks)

Question 3

Sarah offers to sell her car to Jane for \$9,000,000 and gives her 7 days in which to make up her mind. Three days later Jane learns, from Kate herself, that Sarah has withdrawn the offer and sold the car to Kate instead.

Explain briefly whether Jane has any rights against Sarah.

(5marks)

Question 4

Rupert put his house on the market because he wishes to move into an old age home. Daphane views the house and sends Rupert a letter in which she informs him that she will purchase the house for \$25,000,000. Rupert passes away before he receives the letter.

Advise Daphane on her correct legal position.

(5 marks)

TOTAL MARKS FOR SECTION A: 25 MARKS

SECTION B

Answer any four questions from this section. Each question carries 20 marks.

Question 1

- a) Define a contract. **(5 Marks)**
- b) Who may make a contract? **(5 Marks)**
- c) Distinguish between express terms and implied terms in a contract. **(10 Marks)**

Question 2

Distinguish between a contract which is void ab initio and a contract which is merely voidable. **(20 Marks)**

Question 3

Mrs. A selects certain items in a supermarket, takes them to the checkout and offers to pay for them. The total bill is more than she has in her purse, and she regretfully has to leave two items behind. These are returned to the shelves by the assistant.

Explain the following terms by reference to the above events:

- a) invitation to treat
- b) offer
- c) acceptance
- d) revocation of offer **(20 Marks)**

Question 4

- a) Distinguish between the various types of mistake. **(10 Marks)**
- b) In what ways might a contract be rendered illegal? What is the effect of illegality? **(10 Marks)**

Question 5

- a) Distinguish between duress and undue influence. What is the effect of duress and undue influence upon a contract? **(10 Marks)**
- b) A offers to sell his car to B for \$1,000,000. B has seen A driving an impressive modern vehicle which he considers well worth \$1,000,000 and accepts the offer. On

delivery the vehicle proves to be a different vehicle altogether. B refuses to take delivery, or to pay the price. Advise A. **(10 Marks)**

Question 6

- a) What are the various types of misrepresentation, and how do they differ? **(6 Marks)**
- b) Distinguish between a puff and a misrepresentation. **(4 Marks)**
- c) X says: 'This is the finest little car in Zimbabwe.' Y says: 'I will take it in part exchange for my own vehicle, which is a two year old Ford Sierra, and \$800,000 to settle the rest'. X agrees.

Both statements about the cars prove to be untrue. Advise X of his legal position.

(10 Marks)

Question 7

M completes an application form for life assurance which asks the question: 'Has any insurance company ever refused to cover you?' In fact, many years ago, as a young motorcyclist who had bought a high-powered motorcycle, cover had been refused. M does not answer the question, leaving the space blank.

Despite this a premium is agreed and paid for several years, when M is killed in a road accident. The insurance company refuses to pay, claiming misrepresentation. Advise M's wife, the beneficiary, with regards to the above scenario, in relation to the statement 'Silence is not misrepresentation'. **(20 Marks)**

Question 8

- a) Under the law of agency what is meant by the following terms?
- i) Authority
 - ii) Estoppel
 - iii) Ratification **(6 Marks)**
- b) What is the difference between 'an agent' and 'a principal'? **(4 Marks)**
- c) Discuss the concept of ostensible authority. **(10 Marks)**

END OF EXAMINATION PAPER