



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A

MAIN EXAMINATION

AUGUST – DECEMBER 2015 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 302: COMPANY LAW

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Date: DECEMBER 2015

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. a) Victor and Bob are partners in a business that sells video games, hardware and software. The business is successful and they opened up a number of branches in the local area. In order to limit their liability they instruct their advocate to incorporate the business calling the new company “Capital Gaming Ltd”.

Around the same time, Soony are about to release a new game console. The game station 4. Victor and Bob are eager to acquire as many of these consoles as possible as they are likely to prove highly profitable. Victor hears of a potential source (Soony Console Supplies Ltd) and is offered 50 consoles. Eager to purchase the console, Victor does not wait until the company is incorporated and enters into a contract for and on behalf of Capital Gaming Ltd with Soony Console Supplies Ltd.

Bo also is offered a number of consoles and prior to incorporation enters into an agreement with Gaming Hardware Ltd to purchase 40 consoles. Bob signs the agreement Capital Gaming Ltd pp Bob Rees (a director). The certificate of incorporation is issued and at first board meeting of the new company vic and Bob ratify both agreements shortly after, Soony Console Supplies Ltd refuses to deliver the consoles. Bob is concerned that Gaming Hardware Ltd will also refuse to deliver the goods.

Advice Vic and Bob, basing your decisions under both common law and statute.
(15 marks)

- b) Describe the various ways through which a person's membership of company may come to an end. **(15 marks)**
- Q2. The rule is Foss Vs Harbottle would create grave injustices if the majority were allowed to commit those wrongs against the company and benefit from those wrongs at the expense of the majority simply because no claim could be brought in respect of that wrong. This thus is a major and somewhat ill – defined exception referred to as “fraud on minority”.
- Using decided cases, discuss the nature and scope of the above exception. **(20 marks)**
- Q3. OHO – Khan-Freund famously described Salomon Vs Salomon as a “calamitous decision”. Discuss the impact and importance of the case justification behind the decision of the various courts. **(20 marks)**
- Q4. a) Discuss the relevance of the rule in Turquand's case in company law. **(6 marks)**
- b) When can a share warrant be issued? What is the effect of the issue of a share warrant? **(6 marks)**
- c) Discuss the process of allotment of shares. **(8 marks)**
- Q5. Citing relevant case law, discuss the following:
- a) Statutory duties of directors. **(5 marks)**
- b) Difference between extra-ordinary and special resolution meeting. **(5 marks)**
- c) Underwriting commission. **(5 marks)**
- d) Effects of a winding up order. **(5 marks)**

END