



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A

P.O. Box 62157
00200 Nairobi - KENYA
Telephone: 891601-6
Fax: 254-20-891084
E-mail: academics@cuea.edu

MAIN EXAMINATION

JANUARY – APRIL 2014 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 210: BANKRUPTCY AND COMMERCIAL SECURITIES

Date: APRIL 2014

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. a) Mulwa is a prominent businessman with vast commercial interest in Kenya. His net worth is estimated at about Ksh. 4,000,000. Since 2012 he has incurred liabilities from financial institutions and friends of over Ksh. 1,000,000. Most of these debts have been incurred while quietly campaigning to be governor of Nyamira County at the forthcoming general elections. He has moved residence about four times since then to avoid his creditors. He has also transferred three prime properties to his sweetheart Jane.

His creditors now want to jointly move against him in bankruptcy proceedings.

What acts(s) of bankruptcy are available to them? Explain.

(6 marks)

b) Explain the bankruptcy process they would follow from the inception of the proceedings to adjudication of bankruptcy. **(24 marks)**

Q2. The Bankruptcy Act, Cap 53 laws of Kenya spells out various kinds of misconduct by an adjudicated bankrupt which will justify his prosecution for

crime. What are these offences under bankruptcy law and how are they prosecuted? **(20 marks)**

Q3. a) Prepare a draft affidavit that must accompany an application to set aside a statutory demand. **(10 marks)**

b) Explain the various categories of commercial securities. **(10 marks)**

Q4. What is a securities market? Explain the various types of markets. **(20 marks)**

Q5. Write explanatory notes on the following:

a) Public examination of the debtor.

b) Investigation into the bankrupt's affairs.

c) Grounds for petitioning.

d) The creditor's committee. **(5 marks each)**

END