

Fundamentals Level – Skills Module

Corporate and Business Law (Botswana)

Tuesday 3 June 2008

Time allowed

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

The Botswana Institute of Accountants

ACCA



Paper F4 (BWA)

ALL TEN questions are compulsory and MUST be attempted

- 1 In relation to the Botswana legal system, explain the rules and presumptions used by the courts in interpreting statutes.**

(10 marks)

- 2 In relation to contract law, distinguish between an offer and an invitation to treat, and explain why it is important to make such a distinction.**

(10 marks)

- 3 In relation to employment law:**

 - (a) Describe how the courts distinguish between contracts of service and contracts for services.** (7 marks)
 - (b) Explain the importance of the distinction between contracts of service and contracts for services.** (3 marks)

(10 marks)

- 4 Discuss the main duties of an agent towards his principal.**

(10 marks)

- 5 Explain the distinction between a limited company and other forms of business organisation.**

(10 marks)

- 6 In relation to the formation of a company, explain what is meant by the terms:**

 - (a) promoter; and** (5 marks)
 - (b) pre-incorporation contract.** (5 marks)

(10 marks)

- 7 In relation to company law, describe the characteristics of preference shares.**

(10 marks)

- 8** Dudu is a keen birdwatcher whose house is near a dam on which some rare birds have taken up residence. Unfortunately her neighbour's wall and large tree prevented her from getting a good view of the dam.

She entered into a contract with Jabulani to build a special 12-metre high observation tower that would enable her to see the dam. It had to be at least 12 metres high to give her an unobstructed view of the dam. Unknown to Jabulani, Dudu also entered into an agreement with Diskom (Pty) Ltd to permit them to use the tower to transmit their cellular phone signals. The agreement provided that Dudu would be paid P20,000·00 on installation, and an annual rent of P10,000·00 per year.

When the tower was finished it was only 10 metres high and, although Dudu could see over the wall, the tree still partially obscured her view. Also, the height of the tower was too low for Diskom (Pty) Ltd to make use of it.

As it stands the tower cost P30,000·00. Had Jabulani built it to the specified height it would only have cost a further P2,000·00. However, because of the special construction its height cannot now be increased.

Required:

Analyse the rights that Dudu has in contract law against Jabulani.

In particular advise her with regard to:

(a) whether she can get an order for specific performance to require Jabulani to rebuild the tower; and (5 marks)

(b) the extent to which she can claim damages from Jabulani. (5 marks)

(10 marks)

- 9** Boitumelo, a qualified engineer, was a managing director of Molapo Ltd. The company was engaged in the business of offering certain engineering services to low cost housing development companies in Gaborone. Boitumelo had in the past successfully acquired several such contracts for Molapo Ltd. While negotiating another such contract with Savuti (Pty) Ltd, Boitumelo was informed by the board of directors of Savuti (Pty) Ltd that they had no desire to do business with Molapo Ltd but would be prepared to offer the contract to Boitumelo in her personal capacity. As a result, Boitumelo resigned as managing director of Molapo Ltd and accepted the offer from Savuti (Pty) Ltd.

Required:

Explain whether Molapo Ltd would be entitled to claim from Boitumelo the benefits that accrued to her under her contract with Savuti (Pty) Ltd.

(10 marks)

10 Okavango (Pty) Ltd, a company which both designs and retails female clothing, needs extra finance to expand its activities. Tiro, the company auditor, negligently audits the company accounts, which show the company operating profitably, and gives an unqualified report. The accounts and report are duly published and approved. The company is actually operating at a small loss.

- (a) Ayanda, a shareholder in the company, invests a further P20,000·00 in the company on the strength of the company's apparent profitability.
- (b) Whizz Ltd, which specialises in menswear, wishes to expand into the female clothing market. The board of Whizz Ltd considers Okavango's accounts and auditor's report and believes that, although there are more profitable companies than Okavango (Pty) Ltd similarly specialising in female clothing, Okavango (Pty) Ltd has potential. Whizz Ltd purchases a controlling interest in Okavango (Pty) Ltd.

Later, the true financial position of the company is revealed. The effect is that credit and borrowing facilities are withdrawn, the company's trading position deteriorates and the value of its shares falls dramatically. Within nine months the company goes into liquidation.

Required:

Advise Ayanda, Whizz Ltd and the liquidator whether they have a claim against Tiro, the company's auditor.

(10 marks)

End of Question Paper