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**UNIVERSITY OF LONDON**

**279 0027 ZB**

**BSc degrees and Diplomas for Graduates in Economics, Management, Finance and the Social Sciences, the Diploma in Economics and Access Route for Students in the External Programme**

**The Law of Business Organisations**

Thursday, 1 June 2006 : 2.30pm to 5.30pm

Candidates should answer **FOUR** of the following **EIGHT** questions. All questions carry equal marks.

PLEASE TURN OVER



1. Eric and Stanley have been carrying on business in partnership as building contractors in a small town for some years. They carry out most of the work themselves and only occasionally employ labour. They have no plans to enlarge the area of their operations. It has been suggested to them that they ought to trade as a private registered company limited by shares. They ask your advice on the following matters:
  - (a) What are the alleged advantages of trading as a private registered company limited by shares? Are there any disadvantages in so trading?
  - (b) At present they trade as 'Eric Stay'. They would like to retain the name because of the business connection attached to it. Advise them on their suggested choice of name and the common law and statutory limitations on choice of name if they decide to register a company under that name.
  - (c) They have been informed that as a registered company they will need a certificate to commence business. Advise them whether such a certificate is necessary and the effect of such a trading certificate.
2.
  - (a) 'There are occasions when the courts will look behind the formality of legal personality and will appear to disregard it, but it is impossible to find any consistent principle upon which they will do so'. Discuss.
  - (b) Walter is employed as a Managing Director of Eclipse Ltd whose main object is to retail office equipment. His contract of employment contains a clause which states that in the event of his leaving his employment with Eclipse Ltd, he will not solicit their customers for a period of three years. He resigns his employment, and together with his wife Jean, forms a new company, Desks Ltd, whose main object is also retailing office equipment. Bill is a salesman employed by Desks Ltd. He is given customer lists by Walter and immediately begins soliciting Eclipse Ltd's customers.

Discuss in the context of the separate legal entity principle.
3.
  - (a) Are shareholders adequately protected by minority protection provisions in the UK?
  - (b) Lenny is a minority shareholder in Superior Plastics Ltd. He has discovered that the directors, Peter, Roger and Mary, all of whom are also shareholders, have recently allowed a contract offered by Superior Plastics Ltd to be taken up by All Weather Materials Ltd, 60% of whose shares are owned by Peter, Roger and Mary. In addition, Lenny has learned that a factory sold by Superior Plastics Ltd to Richmond Estates Ltd ten months ago has just been sold by Richmond Estates Ltd for twice the amount they paid to Superior Plastics Ltd.

Advise Lenny the minority shareholder.

4. Archie, Bertie and Charlie are directors of Trees Furniture Ltd, a small private company which has been trading very profitably for the past five years.

Bertie, who devotes hardly any of his time to the company, negotiates a contract with Marsh Forests Ltd to buy 1000 trees and has now discovered that the wood is unsuitable for any kind of furniture manufacture, resulting in a loss to Trees Furniture Ltd of £8,000.

Charlie has agreed to sell 500 large kitchen units to Pine Kitchens Ltd at a 25% discount on Trees' normal prices, resulting in a £50,000 loss to Trees Furniture Ltd. Charlie received £5,000 from Pine Kitchens Ltd for helping to secure the discounted sale.

Archie wishes to move to a more affluent area and finding a shortfall in his mortgage arranges for a contract to be entered in his personal name instead of in the name of Trees Furniture Ltd. He completes the transaction and makes a substantial profit which enables him to proceed with the house purchase.

Discuss.

5. Compare and contrast the rules relating to the termination of an unincorporated and unregistered organisation to a company registered under the Companies Act 1985.
6. Compare and contrast the extent to which the rules of Agency Law affect the power of the partners to bind the partnership firm compared to directors of a registered company. Use legal authority to support your answer.
7. Section 9 of the Companies Act 1985 requires that an alteration of the articles of association must be by special resolution. However, the courts have additionally imposed a requirement that the majority must act 'bona fide' for the benefit of the company as a whole and thereby introduced equitable considerations to the legislative requirements imposed under Section 9.

Explain the effect of Section 9 of the Companies Act 1985 and the equitable rules relating to the 'bona fide' requirement.

8. Why, and to what extent, does the law recognise the creation of different types of business organisations?

END OF PAPER