

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATIONS, JULY 2009

TITLE OF PAPER : **COMMERCIAL LAW (F/T)**

COURSE CODE : **AC 202**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS :
a) **THE PAPER CONSISTS OF SIX QUESTIONS.**
b) **ANSWER ANY FOUR QUESTIONS.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

QUESTION 1

Explain and critically discuss the law pertaining to the regulation and control of the insurance industry in Swaziland.

[25 MARKS]

QUESTION 2

Joe bought a fridge from Best Electric Ltd, Manzini at E3500. After paying the price, he was presented with a receipt to sign, which he did. Right above the signature was a statement in bold characters which read thus:

“The sale is subject to conditions and terms overleaf.”

Behind the receipt were the following terms:

- “(a) Goods sold shall not be returnable; neither shall Best Electric Ltd refund any money paid to them for any goods or services whatsoever.
- (b) All warranties, common law or otherwise, express or implied, are hereby expressly excluded”.

Joe signed the receipt without reading, and was given possession of the fridge.

At home, however, he found that the fridge could not function as it had a major electrical fault. He thus immediately returned it to Best Electric and demanded to get back his money. In return, the salesman at Best Electric showed him the terms at the back of the receipt, and refused to help him.

Advise Joe as to his rights and remedies.

[25 MARKS]

QUESTION 3

Highlight and critically discuss the law pertaining to acceptance by post in Swaziland.

[25 MARKS]

QUESTION 4

Mnisi is in the process of promoting Mnisi Taxi Investments (Pty) Ltd, a touring taxi hire company. He wants to purchase cars in order to get the company on its feet quickly. He is prepared to use hiw own

funds for this purpose. But he would like the company to reimburse him after it has been formed.

Referring to relevant authority, advise him fully on the possibility of Mnisi Taxi Investments (Pty) Ltd. ratifying or adopting the contract when it is formed; and as to what he should do to ensure that ratification is, in fact, legally possible.

[25 MARKS]

QUESTION 5

Highlight and defend four MAJOR reforms you would like to see effected in the Hirepurchase Act 11/1969.

[25 MARKS]

QUESTION 6

Fikile, a qualified teacher, was married out of community of property to one Muzi, an Accountant in government. Fikile agreed, at the instance of her husband, to stay at home and devote herself entirely to the upbringing of their two sons. It was also agreed between the two spouses that Muzi should resign from his position in government and begin running a small restaurant.

Fikile withdrew E20,000 from her personal savings and gave it to Muzi to start the restaurant. Muzi added E30,000 from his account, and started the business. With an annual net income of E3000,000, the business has been a great success.

However, due to Muzi's marital infidelity, Fikile has commenced divorce proceedings against Muzi. She demands for an equal apportionment of the net proceeds and assets of the partnership business between herself and Muzi. Her argument is that the business is a family partnership run jointly by her and Muzi, and that because mutual trust and confidence has been irreparably damaged, the partnership should be dissolved.

Advise Muzi, referring to authority.

[25 MARKS]