

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN COMMERCE
EXAMINATION PAPER – MAY 2015
(MAIN)

TITLE OF PAPER:	COMMERCIAL LAW
COURSE CODE:	AC 102
TIME ALLOWED:	THREE (3) HOURS
MARKS ALLOCATED:	100 MARKS

INSTRUCTIONS:

1. Answer Question 1 (ONE) which is compulsory, & any three (3) questions of your choice.
2. Each question carries 25 marks
3. In answering your questions, note that the quality of the content, proper use of case law authorities (where applicable), clarity of expression and legibility of handwriting are absolutely essential. Presentation is of essence.
4. Begin each question in a new page.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSSION HAS BEEN
GRANTED BY THE PROCTOR.**

Question 1

Just before exams at the University of Swaziland, a burglary at the Book Store is made and the thugs get away with cash and stock for the total sum of E90, 000.00. Word gets around that the thugs are the same ones who have recently robbed the Total Filling Station at the Matsapha Complex getting away with E110, 000.00 cash. The University issues a reward of E10, 000.00 to any student who will give the Police information that will lead to the arrest of these most wanted criminals.

Stan, a bar attendant at the popular nightclub KK (Koze Kuse) behind the University overhears Ndoda while enjoying his drinks and very drunk bragging about the score they have made with his friends at the University Book Store. Stan secretly calls the Police and advises them that he has the suspect of a crime and he has made a confession of the robberies. The Police come quickly and arrest Ndoda, and true to Stan's discovery, Ndoda admits committing both crimes and even more in the Matsapha area.

A few days later inside the premises of the University of Swaziland while on his way to visit his girlfriend Zinto a first year student, Stan sees the Reward Notice. He forgets about Zinto and rushes to the Administration Block to make his demand for the reward.

Advise the University Administration on the claim made by Stan.

[25 marks]

Question 2

[A] Carefully discuss the essentials of a legal Partnership with reference to *Jourbet v Tarry & Co.* Case.

(15 marks)

[B] Write short notes on the 3 (*three*) forms of legal rights that can be used as rights of security.

(10 marks)

[25 marks]

Question 3

(i) Distinguish between Indemnity and Non-Indemnity Insurance

(10 marks)

(ii) Distinguish between Right of pre-emption and Option.

(10 marks)

(iii) What is Agency?

(5 marks)

[25 marks]

Question 4

[A] Agency places a duty of utmost good faith i.e. *uberrima fides* on the agent.

With reference to case law carefully explain this legal principle.

(15 marks)

[B] Carefully and critically discuss the duty of disclosure expected on the insured by the insurer.

(10 marks)

[25 marks]

Question 5

Write short notes on the following contractual terms:

i) *Mora Debitoris* (5 marks)

ii) *Cession Securitatem debit* (5 marks)

iii) Extra-ordinary Partnership (5 marks)

iv) *Vacou Possessio* (5 marks)

v) Misrepresentation (5 marks)

[25 marks]