

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN COMMERCE
EXAMINATION PAPER – MAY 2018
(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 PERMISSION HAS BEEN
GRANTED BY THE PROCTOR.**

Question 1

Nate is a professional accountant with serious experience in forensic audit for huge financial firms. She is based in Botswana, and has been head hunted by your company Moxie here in Swaziland for a 6months contract to assist with a special forensic audit. You have been tasked to ensure that you arrange for her accommodation needs for her period while in Swaziland.

You then contact Craigs, an estate agent based in Mbabane and you tell them that you looking for a house from the 1st of June to lease for a period of 6months which must be fully furnished, with 3 bedrooms ensuite, kitchen, lounge and a study or home office facility. Nancy who works for Craigs returns back to you and lets you know that she has found the right house for you from a landlord who has a house in Mbabane for E45, 000.00 per month and only requires a 2 month's rental fee being a refundable deposit, as security before moving in. Nancy discloses that the deposit will be refunded after the lease period and an inspection has been made of the premises to ensure that it is in good condition.

As it is the 15th May, you quickly arrange to have the deposit paid, as Nate will be arriving on the 1st of June to get into the house you have found for her. Nate books her flights and pays for her travel to arrive on the 1st June at King Mswati III International Airport accordingly.

On the 31st May Nancy calls you and tells you that the landlord has changed his mind and is no longer interested in leasing out his property. When you inform your boss of this new development, he tells you, "This is your responsibility, make it happen!!! I do not want to hear problems, I want to hear solutions!"

Clearly and carefully discuss all the legal issues raised and possible remedies available to this case before you.

[25 marks]

Question 2

With the aid of case law where applicable, carefully discuss the requirements that every offer and acceptance must satisfy and or comply with to be valid.

[25 marks]

Question 3

Write short notes on the following

- a) Ultra Vires in Agency (5 marks)
- b) *Metues* (5 marks)
- c) Mortgage (5 marks)
- d) Pledge (5marks)
- e) Misrepresentation (5 marks)

[25 marks]

Question 4

[A] With reference to case law, where applicable discuss 5 (five) prerequisites that must have been complied with for agency to be created by ratification.

(15 marks)

[B] With reference to case law, where applicable, discuss the 3 (three) requirements for Agency by Estoppel.

(10 marks)

[25 marks]

Question 5

Tim is a young Pastor in Mbabane, after years of praying for the right lady to marry, he then meets Dr. Zany a qualified Orthopedic Surgeon who agrees to marry him as they are deeply in love. Pastor Tim desirous to pro his love, goes to his bank and secures a loan of E22, 000.00 to buy what he believes is the perfect wedding ring at Swiss Gold for his love.

His bank, First National Bank approves the loan to be repaid over a period of 5years. Upon receiving the money he quickly rushes to Swiss Gold and purchases the 18

karat gold ring for his fiancé. The couple gets married out-of-community of property on a lovely summer day, and Pastor Tim is happy to put the ring on Dr. Zany.

After the wedding Pastor Tim decides to go and insure the ring against theft and loss, due to its high value. One year later, Dr. Zany loses the wedding ring during one busy day at the theater where she performed 8 different surgeries:

Pastor Tim quickly files a claim with his insurer and the insurer denies his claim on the grounds that it is not his ring, and that he never told the insurer that his wife works under such risky conditions.

Carefully and critically discuss all the legal issues raised in this case and advise Pastor Tim accordingly, with reference to case law where applicable.

[25 marks]