

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION JULY, 2014

TITLE OF PAPER : COMPANY LAW AND PARTNERSHIPS

COURSE CODE : L 303

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

1. ANSWER FOUR (4) QUESTIONS INCLUDING QUESTION ONE
2. QUESTION ONE IS COMPULSORY.

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

QUESTION ONE

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The Crown Property Company (Pty) Ltd was incorporated in June, 2000. Its objects have been stated in the company's memorandum of association as follows:

- 1) To buy and sell land and houses.
- 2) To engage in the construction industry
- 3) To do any other act incidental to the attainment of the foregoing objects.

In May, 2004 the board of directors met and adopted a resolution approving a loan of three million emalangi to Design Arts Contractors (Pty) Ltd, a company which supplies building materials to the construction industry in the country. In reaching this decision, the board would yield a 30% interest, and a preferential allocation of cement, iron rods, and other building materials from Design Arts Contractors (Pty) Ltd.

Discuss the merits of the case of the aggrieved shareholders. (25 MARKS)

QUESTION TWO

- a) What do you understand to be the gist of the concept of "corporate Governance"? What does the King Report III recommend with regard to the manner in which a company ought to be managed, as well as the composition of the board of directors? (15 marks)
- b) Discuss the requirements of a pre-incorporation contract according to the Companies Act 2009. Compare these to those provided by the South African Statute. (10 marks)

(TOTAL: 25 MARKS)

QUESTION THREE

Briefly discuss the following:

- i) Sole Proprietorships (12 ½)
- ii) Partnerships (12 ½)

(TOTAL: 25 MARKS)

QUESTION FOUR

Discuss the concept of "lifting the Corporate Veil". With the use of decided cases, define the circumstances under which the courts will lift the corporate veil. (25 MARKS)

QUESTION FIVE

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- a) Define the concept of a share. (5 marks)
- b) Distinguish between a share and a debenture. (5 marks)
- c) Who must sign the memorandum of Association, and what information should be included in the memorandum? (5 marks)
- d) Write on the allotment of shares. (10 marks)

[TOTAL: 25 MARKS]

QUESTION SIX

- a) Explain when a Company will be deemed to be unable to pay its debts. (5 marks)
- b) Discuss winding up on just and equitable grounds. (20 marks)

[TOTAL: 25 MARKS]