

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW
DIPLOMA IN LAW**

MAIN EXAMINATION PAPER, MAY 2016

TITLE OF PAPER : LAW OF EVIDENCE II
COURSE CODE : DL040
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR TO DO SO.**

Question 1

A person who claims to represent a company based in Manzini approaches your client and states that his company deals in imported cars. He tells your client that his company imports directly from Malaysia and that their cars are in perfect condition. He states that the way they work is that the prospective customer will go online to a specified website, view the selection of cars and choose a car. The customer will then approach a sales representative of the company specifying which car he or she wants and then pay a deposit which is equivalent to half of the purchase price. Your client tells you that six (6) months ago he ordered a car in the manner described above and paid E40 000.00, but has not received possession of the car. He tells you that the person who was claiming to represent the company is now denying that he represents the company and refuses to refund your client. Your client shows you a receipt which has the name and signature of the alleged company representative indicating that he received the said amount of money from your client.

Advise your client fully.

(25 marks)

Question 2

You are an officer in the Chambers of the Director of Public Prosecutions. Police approach you requesting assistance in relation to a matter they are investigating. They tell you that the person who committed the robbery against the complainant is not known to the complainant. However, the complainant states that she would be in a position to identify him if she were to see him again.

(a) Advise the police on how to proceed with the investigation. (10 marks)

(b) If any of the complainant's items would be found in possession of the suspect how would you advise the police to deal with such evidence and how would you classify such evidence? (15 marks)

(Total marks = 25)

Question 3

Briefly discuss the following:

- (a) Presumptions applicable to marriage. (10 marks)
 - (b) The privilege against self-incrimination as it applies in criminal proceedings. (10 marks)
 - (c) Who begins presenting evidence in a civil trial? (5 marks)
- (Total marks = 25)

Question 4

How do courts deal with the following?

- (a) False evidence given by a witness. (10 marks)
- (b) Credibility. (10 marks)
- (c) Voice identification. (5 marks)

Question 5

- (a) In the event an accused person denies making an informal admission how does a court determine the existence or otherwise of the admission and whether or not it is admissible? (10 marks)
 - (b) Under what circumstances is an informal admission admissible?(15 marks)
- (Total marks = 25)

Question 6

How is evidence presented on commission in criminal proceedings? (25 marks)