

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

**MAIN EXAMINATION PAPER, MAY 2017**

**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**

During a criminal trial before the High Court, a witness testifies that on a certain date, the accused came to him and told him about how he had committed the offence he is charged with. The accused is charged with operating a ponzi scheme. The witness further testifies that he had gone to the offices of the ponzi scheme run by the accused person but never got inside. He tells the court that he saw a number of people going into the offices in groups and they were talking about how much money they will make by putting money into the scheme. During cross-examination the attorney for the accused puts it to the witness that his client denies that he was running a ponzi scheme.

- (a) Is the evidence by the witness that the accused had told him about how he had committed the offence admissible? (10 marks)
  
- (b) Is the evidence of the witness about the people who were going into the offices and what they were saying admissible? (8 marks)
  
- (c) For the prosecution to be said to have discharged its onus what burden must it discharge at the close of its case? (7 marks)

(Total marks = 25)

### **Question 2**

In a civil trial before the High Court, the plaintiff is the son of a man who died after falling from a moving bus. The circumstances of the fall are that whilst the bus was still moving but about to stop, the deceased had opted to jump off the bus before it came to a complete stop. He fell and got injured. Whilst in hospital he made a statement that the driver of the bus should not be blamed for his fall. The eldest son, as the deceased's heir, then sued the bus company.

What are the prospects of success for the son? (25 marks)

### Question 3

Would a court convict on the basis of the following:

- (a) The evidence of a single accomplice witness. (10 marks)
  - (b) A plea of guilty at the High Court. (5 marks)
  - (c) A confession. (10 marks)
- (Total marks = 25)

### Question 4

What is a confession and which requirements should be met before a statement may be regarded as a confession? (25 marks)

### Question 5

A married woman is testifying in court. During cross-examination she is asked questions which require her to disclose information that she obtained from her husband.

Discuss whether she may legally avoid answering the questions and whether or not she is precluded from disclosing such information even if she wanted to. (25 marks)

### Question 6

- (a) What is the order of evidence? (10 marks)
  - (b) How is evidence presented on affidavit? (15 marks)
- (Total marks = 25)