

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 2019

TITLE OF PAPER : COMPANY LAW II

COURSE CODE : LAW 312

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

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

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

QUESTION 1

Menzi, Musa and Bheki are directors of Wakha (Pty) Ltd, a Company which is involved in the construction industry. The company's board of directors has moved that a piece of land be purchased so that the company may expand its business to include a blockyard. Ten months later, it comes to the attention of the board that Menzi made a secret profit of E30,000.00 because he made a deal with the seller of the land which they bought, that he will convince the other members of the board to buy the land, if the seller will pay him half the difference between the price that the land actually costs (300,000.00) and the amount which the company eventually paid for the land (360,000.00).

(25 marks)

QUESTION TWO

- a) Define the concept of a share with reference not only to the companies Act, 2009, but also case law. (10 marks)
 - b) Distinguish between a share and a debenture. (5 marks)
 - c) Write on the allotment of shares. (10 marks)
- (25 marks)

QUESTION THREE

- a) Discuss winding up on the Just and Equitable ground. (20 marks)
 - b) Explain when a company will be deemed to be unable to pay its debts. (5 marks)
- (25 marks)

QUESTION FOUR

- 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 types of meetings a company may have and the proceedings to be adopted prior to the meetings. (10 marks)
- (25 marks)

QUESTION FIVE

Busa is the Managing Director of Bambanani (Pty) Ltd. The memorandum of association of the company states that the main business of the company is construction. However, the company is now exporting mineral water to Asia.

The Board of Directors instructed Busa to approach Standard bank for a loan of E500,000.00 in order to purchase stock to meet customer demand. The Board has taken the decision knowing full well that Bambanani (Pty) Ltd. will not be able to pay the money back, as the company is on the brink of insolvency. This information is withheld from Standard Bank.

Now Bambanani (Pty) Ltd, has been placed under liquidator. Advise the bank.

(25 marks)