

**BUSINESS LAW**  
**PILOT QUESTIONS AND SOLUTIONS**

**MULTIPLE CHOICE QUESTIONS**

1. The following courts are of co-ordinate jurisdiction **except**
  - A. National Industrial Court
  - B. Sharia Court of Appeal
  - C. Court of Appeal
  - D. Federal High Court
  - E. Customary Court of Appeal
  
2. Which of the following indicates partnership?
  - A. Joint tenancy
  - B. Tenancy in common
  - C. Receipt of annuity
  - D. Sharing of profits
  - E. Sharing of gross returns
  
3. The following clauses must be in the memorandum of association of a Company **except**
  - A. The name of the Company
  - B. That the company is a private or public company
  - C. The name of the secretary and auditors
  - D. That the registered office of the company shall be situated in Nigeria
  - E. That the liability of members is limited by shares or guarantee or unlimited
  
4. A director of a company must be at least of the age of
  - A. 18
  - B. 21
  - C. 25
  - D. 28
  - E. 35
  
5. Under the Companies and Allied Matters Act, the tests for insolvency do **not** include
  - A. Inability of a company to pay a debt exceeding ₦2,000, three weeks after demand
  - B. The existence of court process issued in respect of a judgment debt
  - C. A court ruling that the company is unable to pay its debts
  - D. The existence of company's liability in excess of its assets
  - E. Outstanding debts owed the company in excess of one billion naira
  
6. Which meeting must a public company hold within six months of incorporation?
  - A. Commencement meeting
  - B. Promoters' meeting

- C. Creditor's meeting
  - D. Statutory meeting
  - E. General Meeting
7. For how many years must a financial institution preserve the record of customer's identification under the Money Laundering (Prohibition) Act?
- A. 5 years
  - B. 8 years
  - C. 10 years
  - D. 12 years
  - E. 14 years
8. The physical element of an offence is known as
- A. Intention
  - B. *Actus reus*
  - C. Strict liability
  - D. *Mens rea*
  - E. *Obiter dicta*
9. Which of the following is **not** an invitation to treat?
- A. Display of goods in a shop window
  - B. Auction
  - C. Invitation to tender
  - D. Advertisement of goods in periodicals
  - E. Sale of necessities
10. Winding up of a company may take any of the following forms **except**
- A. Creditors' winding up
  - B. Members' winding up
  - C. Winding up by the court
  - D. Winding up subject to supervision by the court
  - E. Winding up at the complaint of the liquidator
11. The appointment of a director of a company at a general meeting is by
- A. Extra-ordinary resolution
  - B. Ordinary resolution
  - C. Special resolution
  - D. Business resolution
  - E. Director's resolution
12. The Financial statements of a company shall include the following **except**
- A. The balance sheet as at the last day of the year
  - B. A profit and loss account, or in the case of a company not trading for profit, an income and expenditure account for the year
  - C. Notes on the account
  - D. Auditors' reports
  - C. Audit Committee's report

13. Under the Money Laundering (Prohibition) Act except in a transaction through a financial institution no corporate body shall make or accept cash payment of a sum greater than
- A. ₦500,000
  - B. ₦1,000,000
  - C. ₦5,000,000
  - D. ₦7,500,000
  - E. ₦10,000,000
14. Agency of necessity may be created in all the following circumstances **except** where it is
- A. An emergency
  - B. Impossible to communicate with the principal
  - C. Retain customers
  - D. An action in good faith
  - E. To prevent irreparable loss
15. The rights of a buyer of goods include the following **except**
- A. Action for damages for non-delivery
  - B. Specific performance
  - C. *Stoppage in transitu*
  - D. Action for detinue
  - E. Repudiation
16. The hirer in a contract for hire purchase has the following rights except
- A. Use the goods
  - B. Quiet possession of the goods
  - C. Know the exact instalments to be paid
  - D. Choose the insurer if the goods is motor vehicle
  - E. Repossess the goods
17. In law, no one has an insurable interest in
- A. His own life
  - B. The life of his spouse
  - C. The assets of a company in which he is a shareholder
  - D. An event the loss of which will prejudice him
  - E. A personal building
18. Which of the following are parties to a cheque?
- A. The bank and its customer
  - B. The drawer and the drawee
  - C. The bank, drawee and payee
  - D. The drawee, payee, and drawer
  - E. The bank, its customer and the drawer
19. Which of the following is NOT a duty of a personal representative?
- A. Gathering and realization of assets
  - B. Application to court

- C. Payment of debts and other liabilities
  - D. Payment of estate tax
  - E. Compounding of assets
20. A non-adversarial process through which parties to a dispute seek amicable settlement is referred to as
- A. Mini-trial
  - B. Conciliation
  - C. Arbitration
  - D. Negotiation
  - E. Ombudsman

## OPEN-ENDED QUESTIONS

### Question 1

(a) Explain the term 'Judicial precedent' and state two of its advantages. **(5 marks)**

(b) Kayode and Abinga had an agreement by which they contributed ₦500,000 each as deposits for the purchase of spare parts. By the agreement, they are to share the spare parts equally on continuous basis. Kayode recently received a consignment of spare parts at the cost of ₦600,000. Abinga demanded that the spare parts be shared equally with Kayode on the ground that, by their agreement, they are partners. However, Kayode has sold two-thirds of the spare parts. Abinga, therefore, demands an account from the Kayode of the sales by him of the spare parts. Kayode insists that he cannot account to Abinga because they are not partners.

**Required:**

Advise Abinga on the status of his relationship with Kayode.

**(10 marks)**

(c) The powers of the Board of Directors in running the company differ from those of the General Meeting in nature and limit.

**Required:**

Explain succinctly the nature and extent of the powers of the Board of Directors.

**(5 marks)**

**Total 20 Marks**

### Question 2

(a) Isokari agreed to sell a cocoa plantation to Niger Cocoa Processing Industry Plc ("Niger") for ₦25 million. Just a few weeks after the agreement, the price of cocoa increased globally. Isokari decided not to sell the cocoa plantation to Niger any longer. Instead, Isokari formed Isokari Global Merchandising Limited ("Iso Global") and sold the plantation to it. Isokari and his wife are the only shareholders of Iso Global.

**Required:**

As the Company Secretary of Niger, explain the legal issues and remedy to the board of directors of Niger.

**(10 Marks)**

(b) Kure, Falilat and Adaku agreed to form and finance an estate company to be named KFA Limited. The company would have four other members. The three were given various procurement assignments. Kure, who was to buy a mini-estate for the proposed company, sold his estate in Ikeja to it at a profit of ₦10 million. Falilat bought a Cinema Hall on Lagos Island for the proposed company and got a personal discount of ₦2 million from

the transaction due to his exceedingly great negotiation skills. After the incorporation of KFA Limited, Adaku learnt of the outcomes of the two transactions, and has approached you for advice.

**Required:**

Advise Adaku on the issues and remedies involved, with the aid of statutory provisions and decided cases.

**(10 marks)**

**Total 20 Marks**

**Question 3**

- (a) Electronic evidence is a means by which the commission of some offences may proved.

**Required:**

State **five** ways of authenticating an e-mail message.

**(5 marks)**

- (b) Section 3(1) of the Money Laundering (Prohibition) Act provides, *inter alia*, that a Financial Institution and Designated Non-Financial Institution shall verify its customer's identity before opening an account for, issuing a passbook to, entering into a fiduciary transaction with, renting a safe deposit box to, or establishing any other business relationship with the customer.

**Required:**

Explain the mode of verifying the identity of

- (i) An individual; and
- (ii) A corporate body.

**(5 marks)**

- (c) Sunday is a dealer in Mercedes Benz cars spare parts. He purchased a carton of piston and rings from Chukwuma, a seventeen-year old shop assistant of Mr. Emeodi. Chukwuma, who was not in the shop when Mr. Emeodi brought in the goods, gave Sunday a carton of Nissan car piston and rings instead of that of Mercedes Benz. Sunday has just discovered that the goods he bought on credit were not what he ordered for. His counsel is of the opinion that there was no contract *ab initio* as there are vitiating elements.

**Required**

Advise Sunday on the status of his contract with Mr. Emeodi.

**(10 marks)**

**(Total 20 marks)**

**Question 4**

- (a) Alternative Dispute Resolution (ADR) has some advantages.

**Required**

State **FIVE** advantages of ADR over litigation

**(5 marks)**

- (b) Under Section 32 of the Bills of Exchange Act, negotiation of a bill must satisfy some requirements of endorsement.

State **THREE** of the requirements.

**(6 marks)**

- (c) Liman is an employee of Asuka Limited (“Asuka”). Liman supervises all the distributors of Asuka’s products. Konga also works in the haulage department of Asuka. The Police are interrogating Konga for alleged possession of illicit drugs while driving a truck belonging to Asuka and have impounded the truck. A distributor of Asuka has lodged an official complaint with the company secretary, alleging that Liman diverted some products of Asuka to a warehouse that belongs to Liman.

**Required**

Explain briefly the remedies that Asuka has against Konga and Liman respectively under employment law.

**(4 marks)**

- (d) Three Certainties are mandatory for the validity of an express trust.

**Required**

Explain briefly **two** of the three Certainties.

**(5 marks)**

**(Total 20 marks)**

**Question 5**

- (a) The directors of Kante Bank Plc intend to please the shareholders of the bank by ensuring that they distribute all the profits of the bank as dividends without any fund conservation. They plan to do that, so that shareholders may vote to retain them in office. The bank’s paid up capital is less than its reserve.

**Required**

As the Company Secretary of Kante Bank Plc, with knowledge of the Banks and Other Financial Institutions Act, advise the bank on reserve funds.

**(5 marks)**

- (b) Agents have some rights in law.

**Required**

State **five** of the rights of an agent

**(5 marks)**

- (c) There are implied conditions in all contracts of sale of goods.

**Required**

Which conditions are implied where goods are sold by sample?

**(3 marks)**

- (d) A hirer of goods has some remedies against the owner.

**Required**

State **two** remedies of a hirer in a hire purchase contract

**(2 marks)**

- (e) A contract of insurance has elements of offer and acceptance.

**Required**

Explain briefly the making of offer and acceptance in insurance contract.

**(5 marks)**

**Total 20 marks**

**Question 6**

- (a) Letters of administration is to administrators what a will is to testators.

**Required**

Explain the **three** situations that call for application for letters of administration. **(6 marks)**

- (b) Hassan has just been appointed the receiver and manager of Sterling Innovation Limited, a private limited company in receivership. This is his first experience of this kind of appointment after obtaining the requisite professional qualification. He has approached you for advice on the powers deemed to have been conferred on him by the debentures of the company.

**Required**

Advise Hassan on his power on:

- (i) Control of the properties of the company;
- (ii) Disposal or restriction on disposal of the property;
- (iii) Appointments that he may make;
- (iv) Bills of exchange; and
- (v) Lease and tenancy.

**(10 marks)**

- (c) Define negligence and state its elements.

**(4 marks)**

**Total 20 marks**

## SOLUTIONS

### MULTIPLE CHOICE QUESTIONS

1. C
2. D
3. C
4. A
5. E
6. D
7. A
8. B
9. E
10. E
11. B
12. C
13. E
14. C
15. C
16. E
17. C
18. E
19. E
20. C

## OPEN-ENDED QUESTIONS

### Solution 1

(a) **Judicial precedent** refers to a decision of a court that establishes a principle of law. This source of law is also known as case law. Judicial precedent is an application of the principle of *stare decisis* which, loosely translated, means 'stand by what has been decided and do not unsettle the established'. In other words, lower courts are bound to follow the decisions of superior courts in cases that have similar facts. This promotes certainty of law, among other advantages. **(3 marks)**

#### **The advantages of judicial precedent include the following**

- (i) It makes law certain as it enables people to know the law on a particular subject matter and how it may affect them;
- (ii) It makes law consistent and fair since similar cases are decided similarly; and
- (iii) It saves the time of the court. **(1 mark x 2 = 2 marks)**

(b) The elements of a valid partnership are

- (i) the existence of a business;
- (ii) carrying on the business by or on behalf of the partners; and
- (iii) making and sharing of profits by the partners. **(3 marks)**

The relationship between Kayode and Abingadoes does not involve the sharing of profits, but, sharing of spare parts. It could also not be said that there is a business that is being carried on by or on behalf of the partners. **(4 marks)**

In the case of *Ugojiv. Uzoukwu (1975) 1 All NLR 289*, the Supreme Court interpreted "sharing of profits." In that case, two persons had an agreement by which they contributed ₦500 each as deposits for the purchase of books from Oxford University Press (OUP). By the agreement, the books received from the press were to be shared equally. Thereafter, the defendant went to the OUP and brought back book worth ₦3,200. The plaintiff wanted the book to be shared equally on the ground canvassed by him that a partnership existed between them. He also demanded an account from the defendant of the sales by him of the books that he brought back.

The Supreme Court held that agreement between the parties was to share books and not profits. Therefore, in the circumstances, no partnership existed between the parties. **(3 marks)**

(c) The board of directors shall manage the business of the company and exercise such powers of the company that the Companies and Allied Matters Act (CAMA) and articles do not reserve for the general meeting (S. 63(3), CAMA). **(2<sup>1</sup>/<sub>2</sub> marks)**

Unless the articles shall otherwise provide, the directors, when acting within their powers and in good faith, shall not be bound to obey, or take instructions from, the members in general meeting (S. 63(4), CAMA). **(2<sup>1</sup>/<sub>2</sub> marks)**

**Total 20 marks**

## Solution 2

- (a) The issues involved in the hypothetical case are (a) the effect of incorporation; and (b) one of the situations in which the distinct legal personality may be disregarded and the veil of incorporation lifted by the court.

Isa planned to breach his agreement to sell the cocoa plantation to Niger Cocoa Processing Industry Plc (“Niger”) for ₦25 million. He then formed Isokari Global Merchandising Limited (“Iso Global”) and sold the plantation to it. **Isa is different from Iso Global because, on incorporation, a company becomes a distinct legal but artificial personality from its members on incorporation (Salomon v Salomon).** Based on this, Isokari differs from Iso Global because of the fact of incorporation of Iso Global. Therefore, Iso Global should ordinarily not be regarded as being one and the same person with Isokari in an action for breach of the agreement to sell the plantation to Arewa. **(5 marks)**

However, Niger may approach the court for an order to lift the veil of incorporation, that is, disregard the separate personality of Iso Global. The ground is the fact that since Isa and his wife are the only members of Iso Global, **Isokari is deemed to have incorporated Iso Global so as to avoid his legal obligation to Niger (Jones v Lipman).** **(2 marks)**

Thus, Niger should apply to court to lift the veil of incorporation of Iso Global so as to treat Isokari and Iso Global as one and the same person for the purpose of liability. **(3 marks)**

**(10 marks)**

- (b) **The first issue in the legal status of Kure and Falilat.** Both of them are promoters – Persons who undertake “to take part in forming a company with reference to a given project and to set it going and who take necessary steps to accomplish that purpose...” – **Section 61, Companies and Allied Matters Act(CAMA).** **(3 marks)**

**The second issue is the duties that Kure and Falilat owe in this scenario.**

Kure was duty bound to disclose his interest in the estate to the company after incorporation since he owned the estate. He is also bound to disclose the profit he made from the transaction **(Erlanger v New Sombrero Phosphate Company); Section 62, CAMA.** Failing this, the company may rescind the transaction or recover the profit made. **(3<sup>1/2</sup> Marks)**

Falilat was duty bound to disclose the profit she made from the transaction, failing which the company may recover it as secret profit **(Gluckstein v Barnes); Section 62, CAMA.** **(3<sup>1/2</sup> Marks)**

**(10 marks)**

**Total: 20 Marks**

### Solution 3

- (a) An e-mail message could be authenticated by
- (i) the testimony of the author;
  - (ii) comparing the e-mail message with other self-authenticating e-mail messages;
  - (iii) some peculiar features of the very disputed e-mail message such as the existence of an e-mail address on the print out;
  - (iv) a witness who has knowledge of the exchange of e-mail, just as if he had knowledge of exchange of written letters;
  - (v) oral evidence of the recipient of the e-mail that he actually received the disputed mail; or
  - (vi) evidence that the message in the e-mail tallies with other admitted telephone discussions involving that party.

**(Any 5 = 5 marks)**

- (b) By virtue of section 3(1) of the Money Laundering (Prohibition) Act, a Financial Institution and Designated Non-Financial Institution shall verify its customer's identity before opening an account for, issuing a passbook to, entering into a fiduciary transaction with, renting a safe deposit box to, or establishing any other business relationship with the customer, and during the course of the relationship with the customer as follows:

- (i) An individual shall be required to provide proof of his identity by presenting to the Financial Institution or Designated Non-Financial Institution a valid original of an official document bearing his names and photographs or any other identification documents as the relevant regulators may from time to time approve;

**(2<sup>1/2</sup> marks)**

- (ii) A body corporate shall be required to provide proof of its identity by presenting its certificate of incorporation and other valid official documents attesting to the existence of the body corporate.

**(2<sup>1/2</sup> marks)**

- (c) Sunday is a customer of Mr. Emeodi who assumed that Mr. Emeodi and his boy knew the goods he buys from them. Okechukwu was under the wrong impression that the pack of piston and rings that he gave to Sunday were the goods he usually purchases from their shop.

In the circumstances, two elements that could vitiate this contract are mistake and misrepresentation.

- (i) Mistake in contract could vitiate a contract where parties are under mistaken assumptions that are fundamental to the contract. The mistake could be a common mistake where both parties (as in this case) have the same intention but share a common mistake as to a term of the contract.

**(5 marks)**

- (ii) Misrepresentation involves a material statement of fact in a contract, which is false and has induced the other party to enter into the contract. In this case, the misrepresentation on the part of Chukwuma that the parts were Mercedes Benz parts while they

were actually Nissan parts amounted to innocent misrepresentation and vitiated the contract.

**(5 marks)**

**(10 marks)**

**Total 20 marks**

#### **Solution 4**

- (a) The advantages of Alternative Dispute Resolution (ADR) include the following:
- (i) ADR affords a more cordial and peaceful environment than the adversarial system of the law courts;
  - (ii) The opportunity, which parties have to appoint an expert on the particular subject matter in dispute to hear and decide the issue, is an important asset to ADR;
  - (iii) When it comes to overall cost, ADR is cheaper than litigation as a means of resolving conflicts;
  - (iv) ADR proceedings are usually faster than the court proceedings that are more prone to frequent adjournments. Thus, it suits commercial and business transactions where time is of essence since there are no pleadings and award comes within 90 days;
  - (v) ADR is much more given to privacy unlike civil litigation that attracts undue publicity; and
  - (vi) Proceedings in ADR are less tortuous and technical than those of litigation in court.

**(5 marks for any 5 points = 5 marks)**

- (b) The following are the requirements of a valid endorsement of a bill of exchange so as to make it negotiable under Section 32 of the Bills of Exchange Act:

- (i) The endorsement must be written on the bill itself and signed by the endorser; and the simple signature of the endorser on the bill, without any additional words, is sufficient;
- (ii) An endorsement written on an *allonge* or on a copy of a bill issued or negotiated in a country where copies are recognized is deemed to be written on the bill itself;
- (iii) The endorsement must be an endorsement of the entire bill. A partial endorsement, that is to say, an endorsement, which purports to transfer to the endorsee a part only of the amount payable, or which purports to transfer the bill to two or more endorsees severally does not operate as a negotiation of the bill;
- (iv) Where a bill is payable to the order of two or more payees or endorsees who are not partners, all must endorse the bill, unless the one endorsing has authority to endorse for the others; and
- (v) The endorsement may be made in blank (i.e. to no named person) or special. It may also contain terms making it restrictive.

**(2 marks each for any 3 = 6 marks)**

- (c) Since Kongais is in the process of being investigated for an alleged commission of an offence, Asuka Limited could interdict him pending the conclusion of the investigation.

**(2 marks)**

Asuka could suspend Limanon on the basis of the allegation of diversion of

its products until the truth is established.

**(2 marks)**

(d) The three Certainties required for the validity of an express trust are:

- (i) **Certainty of word or intention:** The creator of the trust known as the settlor must by his words show a clear intention to create a trust. In showing that clear intention, the words used by the settlor must indicate a positive and unambiguous command that something specific shall be done and a trust shall be created. The settlor must not equivocate and the words used by him must not be precatory;
- (ii) **Certainty of subjectmatter:** The particular property to be held on trust and the particular interest in the property that the beneficiaries are to take must be clear or unambiguous. An attempt, for instance, to create a trust in which the settlor conveys "some" of his houses to some persons and "the rest" to other persons will fail for uncertainty; and
- (iii) **Certainty of objects:** The settlor must identify clearly the beneficiaries or purpose of the trust. The objects i.e. the persons who are to benefit under the trust, must be ascertained or capable of being ascertained from the words used by settlor.

**(2<sup>1/2</sup> marks each for any 2 = 5)**

**Total 20 marks**

### **Solution 5**

- (a) Kante Bank Plc will violate Section 16 of the Banks and Other Financial Institutions Act by paying out all its profits to its shareholders. **(1 mark)**  
By virtue of the provision above, every licensed bank must, out of its annual net profits and before dividends are declared, transfer not less than 30% of its profits to its reserve fund where the fund is less than its paid up capital, or 15% where the reserve fund is equal to, or is in excess of the paid up capital. **(3 marks)**  
The penalty for non-compliance is ₦500,000. **(1 mark)**

(b) The rights of an agent include the following:

- i. Right to be indemnified by the principal for any cost reasonably incurred in the performance of his duties;
- ii. Right to reward for work done;
- iii. Right to have the principal ratify his lawful actions;
- iv. Right to hold the principal liable for all acts authorised by him;
- v. Right to enforce a contract against a third party; and
- vi. Right of lien over her principal's goods for commission due to her.

**(5 Marks for any 5 points= 5 marks)**

(c) Where goods are sold by sample, it is implied that

- i. the bulk will correspond to the sample;
- ii. the buyer would have reasonable opportunity to compare the sample with the bulk; and
- iii. the goods are free from apparent defect.

**(3 marks)**

- (d) The remedies of a hirer include the following:
- i. Repudiation of the contract;
  - ii. An action for damages where the breach is due to defect in the owner's title. **(2 marks)**

- (e) In an insurance contract, the insurer makes an invitation to treat to the applicant or proposer when she gives him the proposal form to fill.

**(2 marks)**

The applicant makes an offer when he submits the form he has completed.

**(1<sup>1/2</sup> marks)**

The insurer indicates her acceptance by accepting the filled proposal form.

**(1<sup>1/2</sup> marks)**

**Total 20 Marks**

### **Solution 6**

- (a) **Three** situations that call for application for letters of administration are as follows:

- (i) Where a person dies leaving a Will but fails to name an executor in the Will or names an executor who is unable or refuses to obtain probate (a certificate issued from the Probate Division of the High Court to the executors of a Will certifying that the Will is valid and that the executors are authorised to administer the estate of the deceased testator), or for any reason the named executor predeceases the testator. In this kind of situation, the Will is annexed to the application for letters of administration which is then known as letters of administration *cum testament annexo*, that is, letters of administration with the Will annexed; or
- (ii) Where a person dies without making a Will at all; or
- (iii) Where a person leaves a Will but nonetheless dies intestate as to some beneficial interests in his real or personal estate. In other words, his Will did not cover some of his properties and he is intestate in respect of them. **(6 marks)**

- (b) The powers deemed to have been conferred on Hassan a receiver and manager by the debentures of Sterling Innovation Plc in respect of the stated issues are powers of:

- (i) Control of company property: To take possession of, collect and get in the property of the company and, for that purpose, to take such proceedings as may seem to him expedient;
- (ii) Disposal of property: To sell or otherwise dispose of the property of the company by public auction or private contract;
- (iii) Borrowing: To raise or borrow money and grant security therefore over the property of the company;
- (iv) Appointments: To appoint a solicitor or accountant or other professionally qualified person and agents to assist him in the performance of his functions; and

(v) Bills of Exchange: To draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company. **(10 marks)**

**(c)** Negligence is a breach of a legal duty to take care by the defendant, which results in damage to the plaintiff. **(1 mark)**

For an act or omission to be declared negligent, three elements must be present:

- (i) A legal duty to take care by the defendant must exist;
- (ii) There must be a breach of that legal duty; and
- (iii) A consequential damage must have been done to the plaintiff or his interest by the breach. **(3 marks)**

**Total 20 marks**