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FOR PLEASANT

NORMAN MANLEY LAW SCHOOL
Council of Legal Education

NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION
MONA, KINGSTON 7, JAMAICA

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATION 1979

LAW OF ASSOCIATIONS

Wednesday, June 13, 1979

Instructions to Students

- a) Time: 3½ hours.
- b) Answer FIVE questions only.
- c) Except where otherwise instructed on the paper, in answering any question a candidate may reply by reference to the law of Jamaica, the Bahamas, or Belize, but must state at the beginning of the answer the name of the relevant territory.
- d) Students are expected to answer questions, where necessary, by reference to Table A of the Jamaica Companies Act, 1965, or of the U.K. Companies Act, 1948.
- e) It is unnecessary to transcribe the questions you attempt.

QUESTION 1

Outline the procedural steps to be taken in any three of the following:

- ✓a) Scheme of Arrangement and Re-Construction under s. 192 - 194
- ✓b) Debenture-holder's Action ✓
- c) Voluntary Liquidation of a Company ✓
- ✓d) Commencing legal action on behalf of a firm ✓
- e) Changing the name of a Company. ✓

QUESTION 2

Mary Hugup, a member of the Slick Chicks Club, states that she has just learnt from another member who attended a Special General meeting of the Club last night that the following resolutions were passed:

- (a) WHEREAS the Club has been incorporated by registration with the Registrar of Companies, BE IT RESOLVED that all the property of the Club be transferred to Slick Chicks Club Ltd. as of 1st July, 1979.
- (b) WHEREAS the President/Treasurer has spent \$400 of her own money in purchasing drinks for a breaking-up party of the Club on 30th June, 1979 BE IT RESOLVED that -
 - (a) she be reimbursed \$200 out of the funds of the Club;
 - (b) each member of the Club contribute \$5 to make up the remainder;
 - (c) any member who fails to contribute her share by 14th June, 1979 be suspended from the activities of the Club until the amount is paid.
- (c) WHEREAS the Secretary, Miss Patsy Lovemore and Mr. B. Eager, a guest, have brought actions against the Club for damages for personal injuries sustained when a sofa collapsed with them, BE IT RESOLVED that the said actions be settled by the payment of \$500 to each claimant.

Mary Hugup does not agree with these resolutions and wishes to take legal action. Advise her.

QUESTION 3

A notice has appeared in yesterday's Daily Gleaner that Pandex Trading Ltd. has been placed in liquidation, and Mr. Andrew Griman was appointed Liquidator. Advise the following persons as to their legal position:

- (a) Aston Sykes who has just been appointed Receiver by the J.D.B. under powers contained in a Debenture issued by the Company.
- (b) Paul Benbow who had settled a claim against the company for the sum of \$8,000.

- (c) Tom Finney, the sales manager, who is paid by commission but is owed one year's commission amounting to \$10,000. Mr. Finney is very suspicious of Mr. Griman who is a close friend of the managing director and majority shareholder.
 - (d) Hazel Pretty, to whom the Managing Director had endorsed a Company's cheque for \$10,000 as a Christmas present; she had deposited it into her Bank account, then drew a cheque for \$8,000 to pay for her motor car; the balance on her account now stands at \$1,000.
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QUESTION 4

Advise Bob Clarke who wishes immediate legal action in the following matters:

- (a) In November 1976, Tim Brown's share in Brown, Black & Co. was assigned to him as security for a loan of \$2,000, but the accounts for that firm have been showing a loss for the past five years.
 - (b) His secretary has just found an old unpaid bill for \$5,000 dated 1st November, 1976 for goods supplied to Green & Sons, a firm with which he has been dealing over the past 15 years; the Green family has since emigrated and are no longer partners in the firm.
 - (c) He has just been served with a Writ seeking damages in respect of an accident in March 1977 caused by a defective tool supplied by a salesman employed by Murray Clarke & Co. a firm from which he had retired in January 1977.
 - (d) He has an unsatisfied judgment against M. Jones of the firm of Jones, Williams & Co. Mr. Jones cannot be found but Mr. Williams has just won a large amount of money on the Racing Pools.
 - (e) He wishes to dissolve the firm of Clarke & Clarke because his partner has entered into a 70:30 profit and loss sharing scheme with his wife's brother whom he detests.
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QUESTION 5

Sandover Ltd. has a Nominal Capital of \$100,000 divided into \$1 shares as follows:

- | | | |
|-------|---------|-------------------------------------|
| (i) | Class A | 70,000 Ordinary Shares |
| (ii) | Class B | 10,000 Preference Shares |
| (iii) | Class C | 20,000 Redeemable Preference Shares |

The Board of Directors wishes to do the following:

- (a) to give back the Class C shareholders their \$20,000 out of the profits of 1978;
- (b) to use \$40,000 of the remainder of the profits of 1978 to issue as Bonus Shares to the Class A shareholders;
- (c) to transfer the remaining \$40,000 of the profits of 1978 to Reserve;
- (d) to convert the Class B shares into Redeemable Preference shares;
- (e) to borrow \$100,000 to pay a dividend to the Class B shareholders.

Advise them.

QUESTION 6

The following document has been presented to you for your comments and advice:

SUIT NO. C.L.T. 210 of 1979
IN THE SUPREME COURT OF JUDICATURE
IN COMMON LAW

BETWEEN	JOHN TRUSTY	PETITIONER
A N D	MARY WILES	DEFENDANT

THE HUMBLE PETITION OF JOHN TRUSTY sheweth

1. That on the 7th day of January, 1979, your Petitioner was induced by the Defendant to invest \$40,000 in HOME SERVICES LTD. on the understanding that your Petitioner would be given -
 - (a) 60% of the shares of the said Company;
 - (b) a Debenture for the remainder of \$38,000
 - (c) the post of Co-Managing Director

2. That on the 10th day of January, 1979 relying on the abovementioned inducement your Petitioner paid the said Company the sum of \$40,000.
3. That for the first 3 months your Petitioner and the Defendant managed the business of the said company and made a profit of about \$100,000.
4. That on the 1st day of June, 1979 at a Directors' meeting of the said Company your Petitioner and the Defendant had a quarrel over the presence of one Martin Sharpe whom she had invited to the meeting.
5. That since then your Petitioner has been excluded from the management of the said Company by the Defendant and the said Martin Sharpe and your Petitioner has discovered the following facts:

Particulars

- (i) Your Petitioner's name has not yet been placed on the Register of Members.
 - (ii) Share Certificate for 100 shares has been issued to the said Martin Sharpe.
 - (iii) In January 1979 the Defendant and the said Martin Sharpe went on an all-expenses paid (\$40,000) business trip to a Trade Fair in Tokyo on behalf of the said company.
 - (iv) The aforementioned Debenture is not yet registered.
6. In the circumstances, your Petitioner submits that the affairs of the Company are being conducted in a manner oppressive to him. Your Petitioner has lost faith in the commercial integrity of the said Defendant. It is therefore just and equitable that an order should be made with a view to bringing to an end the matters complained of by your Petitioner.

(Sgd.) Hopeful & Bright
ATTORNEYS-AT-LAW

FILED by Hopeful & Bright etc.

QUESTION 7

Advise Henry Rich.

(i) On 10th February, 1979 he purchased 10,000 shares in a public company in reliance on a full page advertisement in the Daily Gleaner. He now understands that of the \$500,000 needed to get the company off the ground only \$400,000 has been obtained and a statement to the effect that lands purchased by the company as copper-bearing has been proven false by the Geological Survey Department. The statement, purported to be signed by one P. Miller, was included in the advertisement.

(ii) One of his family companies is in need of \$50,000 for a new project and he has placed a small note in the Classified Ad column of the Daily News this morning inviting persons to buy \$100 Debentures redeemable after 3 months.

(iii) He wishes to transfer 50% of his shares in another public company to his son.

QUESTION 8

Advise the Financial Trust on the following matters:

In November 1978 they lent N & W Enterprises Ltd., a company with very excellent prospects, \$500,000 to build a steel plant. The loan contract was signed by B. Steele, the Managing Director, and the Debenture issued by the Company was signed by M. Jones and P. Bond, Directors, and M. Linton, Secretary.

L. Brown, one of the signatories of the memorandum who has been off the island for the past year, has now returned and is claiming that -

- (i) The Company's Memorandum was altered to include steel manufacture as an object at the Annual General Meeting in August 1978 when the present Board of Directors was elected.
 - (ii) He was not present at the meeting as he was not served the notice for that meeting on time.
 - (iii) Persons who attended the meeting ought not to have been present for although their names have been in the register of members they had not yet paid for their shares.
 - (iv) He is named in the Articles of the Company as a Director.
 - (v) The only other signatory of the Memorandum was B. Steele for 10% of the shares; but the Register of Members now shows B. Steele to have 90% of the shares as the Share Capital was increased at an Extraordinary General Meeting held in December 1978.
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