

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 EXAMINATIONS, 1982

LAW OF ASSOCIATIONS

Friday, May 21, 1982

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 any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
- d) Unless otherwise stated, answers should be given on the basis that the forms of Articles of Association set out in Table "A" of the Companies Act of the relevant territory selected at "c" above are applicable where necessary.
- e) It is unnecessary to transcribe the questions you attempt.

QUESTION 1

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

- i) Issuance of bonus shares.
- ii) Reduction of share capital.
- iii) A private company going public.
- iv) Changing the name of a company registered under the Companies Act.
- v) Scheme of arrangement to amalgamate two companies registered under the Companies Act.
- vi) The transfer of 50% of a block shareholding in a public company registered under the Companies Act.

QUESTION 2

A notice of the appointment of Anthony Cox as liquidator of Carvor Ltd. has appeared in the Daily News dated 17th January, 1981. Advise the following persons:

- (a) Dahlia May, to whom David Big the chairman of the board had endorsed the company's cheque for \$30,000. She had deposited it in her account which at that time had a balance of \$10,000; she had since then drawn several cheques and now the balance is again \$10,000.
  - (b) The Bank of Kingston, to which had been issued a debenture with a floating charge to secure a loan of \$100,000. The debenture is in the usual form and for some time now the Bank has been considering the appointment of a Receiver.
  - (c) Paul Drew, a contributory, who has reliable evidence that Anthony Cox is defrauding the company.
  - (d) Nicholas Box, who has a claim for faulty work done by the company.
- 

QUESTION 3

On 1st January, 1981, The Peoples Finance Corp. Ltd. lent:

- i) \$1,000,000 to Construct Ltd., an overseas company which has been doing business in Jamaica for a number of years, to finance the construction of a housing scheme in August Town. Construct Ltd. has a share capital of \$10,000,000.
- ii) \$1,000,000 to Crops Estate Ltd. to improve its sugar estates in Manchester. Crops Estate Ltd. has a share capital of \$200.

Mr. Charles, a director of The Peoples Finance Corp. Ltd. has now brought the following documents for your advice:

- (a) the loan agreement dated 1st January, 1981 signed by Mr. Donald Edwards as director and Miss Sandra White, secretary, and stamped with the seal of Crops Estate Ltd.

- (b) A debenture issued to The Peoples Finance Corp Ltd. dated 1st January, 1981; it is stamped with the seal of Construct Ltd., signed by John Jones, secretary, and countersigned by Roy Dickens, director; this debenture contains a fixed charge on 100 acres of land in August Town.
- (c) A debenture dated 1st February, 1981 issued to The Peoples Finance Corp. Ltd. and conferring a floating charge on all the assets of Crops Estate Ltd. It is signed by Mr. Martin Black, the Managing Director of Crops Estate Ltd.
- (d) A bill of sale dated 1st February, 1981 on several pieces of farm equipment given by Crops Estate Ltd. to the Bank of Manchester to secure a loan of \$500,000.
- (e) The Memorandum of Association of The Peoples Finance Corp. Ltd. which expressly prohibits any loan to overseas companies.

Advise Mr. Charles.

---

QUESTION 4

The following document has been sent to you by instructing Attorney for vetting before it is filed in the Registry of the Supreme Court. Advise him.

" Suit No. C.L.B of 1981

IN THE SUPREME COURT OF JUDICATURE

IN COMMON LAW

BETWEEN MARC BRICE

PLAINTIFF

AND SHARON DOVE

RESPONDENT

AND

CONRAD BEATTY

RESPONDENT

THE HUMBLE PETITION OF MARC BRICE SHEWETH:

1. That on the 6th day of April, 1980, your Petitioner was induced by the first Respondent to invest his life savings of \$50,000 in CHIQUE SALON LTD. on the understanding that your Petitioner would be given:

- (a) 70% of the shares of the said company;

(b) a debenture with a floating charge on the assets of the company to secure the remainder of \$40,000;

(c) the post of Co-Managing Director.

2. That on the 7th day of April your Petitioner gave the first Respondent a cheque for the said sum of \$50,000 and she assured your Petitioner that she would see to it the matters set out above would be duly done.
3. That for the first year of the company's operations your Petitioner and the first Respondent managed the affairs of the Company on the basis that the said matters were done and the Company made a profit of \$200,000.
4. That on the 7th day of April, 1981 your Petitioner and the first Respondent had a quarrel over the appointment of one Conrad Beatty the second Respondent, as advertising manager.
5. That since then the affairs of the company have been conducted in a manner oppressive to your Petitioner and the following facts have come to light:
  - (i) Your Petitioner's name has not yet been placed on the Register of Members;
  - (ii) On 7th April, 1981 a share certificate for 50% of the shares has been issued to the second Respondent;
  - (iii) the locks on the doors of the Salon have been changed;
  - (iv) The Respondents have used all the profits of the company to buy an apartment in their own names;
  - (v) the said debenture though duly executed has not yet been registered.

WHEREFORE this Honourable Court will be moved for the following reliefs to put an end to the aforesaid oppressive conduct and to correct the state of affairs:

- (i) The Register of the Members be rectified to indicate that your Petitioner is the holder of 70% of the shares;
- (ii) The said debenture be registered;
- (iii) The Respondents be declared a trustee of the said apartment for the company.

Dated 18th May, 1981

To the Registrar  
Supreme Court  
Kingston  
AND TO the Respondents  
or their Attorneys-at-Law

Filed by S. Mingus, Attorney-at-Law for the Applicant."

---

QUESTION 5

The share capital of Artem Ltd. consists of 200,000 non-voting \$1 preference shares and 1,000, \$1 ordinary shares. Max, Beary and Green hold 90% of the ordinary shares and 10% of the preference shares. The terms of issue of the preference shares state:

The preference shares shall

- (1) bear a preferred dividend of 25% and
- (2) be non-voting.

The company's financial statements for 1981 show the following figures inter alia:

capital reserve	\$500,000
unappropriated profits 1981	\$600,000
loss brought forward from 1980	\$1,000,000

A note to the financial statements explains that the \$500,000 arose on the revaluation of the company's high-rise office building.

Advise the Board of Directors on the following:

- (a) whether after paying the preferred shareholders their 25% dividend, they should pay them any further dividend when a dividend is being paid to the ordinary shareholders;
- (b) as no dividend had been declared in 1979 or 1980, whether the arrears should be declared this year;
- (c) whether any portion of the amount of \$200,000 to be used for dividend this year can be debited from the capital reserve;

- (d) whether they can repay the preferred shareholders or reduce the 25% preferred dividend to a more reasonable figure, say 15%;
  - (e) how should they treat the remainder of the unappropriated profits after any amount is used for the payment of dividend?
- 

QUESTION 6

The citizens of your area wish to form an association. Advise them.

---

QUESTION 7

Advise Martin Henry, the Secretary of Papine United, a cricket club on the following:

- (a) The 1981 accounts of the club show that Thomas Manley had reimbursed himself the sum of \$3,000 out of the club's funds to cover moneys spent on behalf of the club during 1980. He wants all the members to replace that money.
  - (b) A resolution has just been passed to expel Paul Mighty, a rather obnoxious and pugnacious player who is noted for his assaults on any umpire who gives an lbw decision against him.
  - (c) The club is being sued by one Tim Jones who suffered personal injuries when a chair collapsed under him at the club's headquarters.
  - (d) The club wishes to amalgamate with all the game clubs in the area to form a larger club to be incorporated as the Liguanea Recreational Club.
  - (e) The club wishes to donate to a basic school in Tavern \$200 to be used for recreational purposes.
-

QUESTION 8

Hall, Fisher, Wright & Company has been in business as architects for over 50 years. On 1st November, 1978, 20th December, 1980 and 1st February, 1981, Mr. Andre Hall, Mr. Ted Fisher and Mr. Roy Wright were respectively replaced by Mr. Gary Hall, the son of Mr. A. Hall, Mr. Pat Fisher, the son of Mr. T. Fisher, and Mr. Edward Harris.

Mr. Pat Fisher seeks your advice on the following matters:

- (a) The company is being sued for damages in respect of faulty work done in 1979.
- (b) Mr. Wright is insisting that his son, John replaces Mr. Harris in the company.
- (c) He has just received a writ of summons endorsed with a claim in respect of a debt owed since January 1980. The plaintiffs are Acme Traders, which have been supplying the company with goods on a credit over the past 50 years.
- (d) Mr. Gary Hall spends most of his time helping his father to establish himself as an architect in Port Antonio, his home town.
- (e) Mr. Alfred Davis, an assignee of Mr. Wright's share of the profits, is questioning the accuracy of the books and supports Mr. Wright's insistence that John Wright joins the company.

Advise him.

---