



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW, DEPARTMENT OF COMMERCIAL LAW
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja

2023_2 EXAMINATIONS

COURSE CODE: CLL804

COURSE TITLE BUSINESS AND COMPANY LAW

CREDIT UNITS: 4

- INSTRUCTIONS:**
- (a) Indicate your Matriculation Number clearly
 - (b) Attempt Question one (1) and any other three (3) questions
 - (c) Question one (1) is compulsory and carries 25 marks; while the other questions carry 15 marks each.
 - (d) Using appropriate statutory and judicial authorities, present all your points in a straightforward, coherent and orderly manner.
 - (e) **Total available score is 100%** of which: TMA carries **30%**; Exam carries **70%**

TIME ALLOWED: 3 Hours

QUESTION 1

Lady Jasmine Abiola holds Master of Business Administration from the National Open University of Nigeria. Desirous of putting to practical use the learning and skills she acquired from the postgraduate programme, she decided to incorporate and register sole trading business (Lady Jasmine Fashions Ventures) as a company. Luckily, it is now possible to form and register a one-person company in Nigeria. Thus, she registered “**The Jasmine Fashions Nigeria Company Limited.**” The company has minimum share capital of ₦1,000,000 divided into 1,000,000 ordinary shares of ₦1.00 per share. Lady Jasmine is the only shareholder and director of the company. She was employed by the company as Chief Designer and was paid salary for the position. While running the business as a company the following issues and your advice has been sought for their resolution:

- (a) The business of the company experienced a downturn. The creditors of the company are SME Bank Ltd (₦2.250 million), fabric suppliers (₦500,000) and sundry creditors (₦280,000). Records showed that Lady Jasmine has only paid for 30% of her shares. The value of company’s assets was assessed at ₦550,000.00. Since the loan was not secured, the bank has threatened to sue her if she fails to repay the loan to the full amount, because, according to the bank, “there is really no difference between her and the so-called company.” Lady Jasmine is worried and confused. She does not want to sell her personal property, which was a gift from her father. With reference to the debts of the company, advise Lady Jasmine. (10 marks)
- (b) Lady Jasmine consulted a senior advocate of Nigeria over the issues she is facing. The senior lawyer advised to keep her cool because as a married woman she lacked a contractual right and disqualified from joining in the formation of the company. Do you have any contrary view? (5 marks)
- (c) List at least five subject matters of a company’s articles of association. (5 marks)
- (d) Lady Jasmine believes that the best way out for her is to convene a statutory meeting of the company. What do you think of this proposition? (5 marks)

QUESTION 2

Write short notes on the following:

- (a) Steps for commencing members’ voluntary winding up. (7 marks)
- (b) The difference between an Official Receiver and a receiver. (8 marks)

QUESTION 3

Messrs Abubakar, Onome, Busari and Akpan are friends and directors of Pan African Technologies Limited (PAT Ltd). Onome, Busari and Akpan decided to ditch and sever all business relations with Abubakar. PAT Ltd is a reputable services supplier to MTN, Glo and Airtel. This is because PAT has performed creditably in all contracts it entered with any of the network providers. Usually, one or more of the directors would negotiate the contract with any of the network providers. PAT recently negotiated the deployment of payment services with MTN. However, when it was time to sign off the contract, the trio of Onome, Busari and Akpan took the contract in their own names and not in the name of PAT Ltd.

On the above facts, Abubakar has consulted with the following posers:

- (a) Is there anything wrong with the action of friends? (4 marks)
- (b) The friends had executed the contract and got payment. Is it late for Abubakar to take any action against the friends? (3 marks)
- (c) What are the powers of directors under Companies and Allied Matters Act? (8 marks)

QUESTION 4

Discuss the differences, if any, between partnership and sole proprietorship as forms of business organisation capable of being established in Nigeria. (15 marks)

QUESTION 5

According to Professor R.C. Clark (1986), “The most general formulation of corporate law’s attempted solution to the problem of managerial accountability is the fiduciary duty of loyalty... The overwhelming majority of particular rules, doctrines, and cases in corporate law are simply an explication of this duty or of the institutional arrangements involved in implementing it. The history of corporate law is largely the history of the development of operational content for the duty of loyalty.”

Identify and discuss the content of the fiduciary duty of directors under Companies and Allied Matters Act. (15 marks)

QUESTION 5

Discuss exhaustively the statutorily permitted grounds capable of convincing and drawing the Court to give effect to an application seeking the winding up of a registered company. (15 marks)