



ZCAS UNIVERSITY

COMMERCIAL AND BACHELOR OF LAWS

MID-SEMESTER EXAMINATIONS

LLB 112 BANKING LAW BANKER CUSTOMER RELATIONS

OCTOBER 2023

TIME ALLOWED: THREE (3) HOURS (plus FIVE (5) minutes reading time)

INSTRUCTIONS

1. Answer four (4) questions, Question One from Part A is Compulsory. Answer any Three Questions from Part B.
2. The examination paper carries a total of 20 marks.
3. Candidates are allowed to bring the following statutes in the examination:
The Banking and Financial Services Act No.7 of 2017.
4. Candidates must not turn this page until the invigilator tells them to do so.

PART A: THIS QUESTION IS COMPULSORY AND MUST BE ATTEMPTED

Question 1

You are the Legal Counsel for ZANACO Plc, the biggest bank in Zambia. ZANACO, has been sued by Honourable Bull Dozer, Member of Parliament for Njala Constituency (Eastern Province), who was recently called by the Anti-Corruption Commission (ACC) to explain to them the source of his USD2 million which has been sitting idle (untouched) in his bank account held at Kabwe Branch since August 2020. Mr. Bull Dozer is one of the bank's rich customers whose accounts are all VIP Private Banking Accounts. Mr. Bull Dozer is perturbed to know that several employees at the Anti-Corruption Commission now know about his prized secret wealth which not even his lovely wife knew about. Now that his secret US Dollar account held at ZANACO has been known to his wife, she has threatened to divorce him because she cannot trust him anymore. The wife was shocked to hear about this secret bank account holding a huge US Dollar sum which her husband never disclosed at home even when they were undergoing serious financial troubles together as a couple. Mr. Bull Dozer is also in a state of confusion but he is very sure that only a ZANACO employee could have leaked this precious private banking information to outsiders. That is why he has now taken court action against ZANACO for causing him unnecessary havoc both at home and in the eyes of general members of the public.

The CEO of ZANACO has now asked for a legal opinion from you on how ZANACO can defend itself in this legal suit. Advise the CEO accordingly without delay.

[TOTAL:40 MARKS]

PART B: ANSWER THREE (3) QUESTIONS FROM THIS SECTION

Question 2

- a) Define a bank using the common law definition as stated in the case of **United Dominions Trust v Kirkwood [1966] 2QB 431**. How different is this definition from the statutory definition? **(10 marks)**
- b) Briefly discuss at least 5 (Five) obligations that the case of **Joachimson v Swiss Bank Corporation (1921) 3 KB 110 at 127** as established by Lord Atkin L.J in the case **(10 marks)**

[TOTAL: 20 MARKS]

Question 3

Attempt any three of the following:

1. Explain what is mean by bank as Bailee (5 Marks)
2. **Thai Hing Cotton Mills Ltd v Liu Chong Hing Bank Ltd and Ors [1985] 2 All ER 947.** (5 Marks)
3. Discuss the various kinds of liens and their uses. (5 Marks)
4. Compare and contrast Combination and Appropriation. (5 Marks)

[TOTAL: 20 MARKS]

Question 4

What is the significance of the Rule in Claytons Case? Discuss the rule in detail using appropriate case law to support your position and indicate where this rule operates to the benefit and the detriment of the bank. To show your understanding give practical examples to show the use of the rule.

[TOTAL: 20 MARKS]

Question 5

Pamela is a young lady who is well known in the Zambian society due to her having been in the Zambian media industry for several years. Pamela has been linked to illegitimate business deals with some politicians of the former Zambian government that was ousted out of power in the August 2021 general elections. A few days ago, the police and other law enforcement agencies, acting on a tip off from some members of the public, conducted a lawful search on Pamela's house. This search resulted in the recovery of about K65,000,000 (Sixty-Five Million Kwacha) cash and some tens of thousands of United States dollars cash. The police now want to get evidence from Pamela's accounts held with her bank. Using the case of **Tournier v National Provincial and Union Bank of England [1924] 1 KB 461** and the four exceptions to duty of confidentiality, advise the bank on how to proceed with the request from the police.

[TOTAL: 20 MARKS]

END OF EXAMINATION

[Minimum Cases Expected: 10]