



FACULTY OF BUSINESS

FINAL EXAMINATION

Student ID (in Figures) :

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Student ID (in Words) : _____

Course Code & Name : **LAW2513 CORPORATE LAW**
 Trimester & Year : May - August 2023
 Lecturer/Examiner : Ms Amalina Mustaffa
 Duration : 3 Hours

INSTRUCTIONS TO CANDIDATES

1. This question paper consists of:
 Part A: 60 marks : FIVE (5) structured questions. Answer ALL questions.
 Part B : 40 marks : THREE (3) Essay questions. Answer only TWO (2) questions..
 All answers must be written in the answer booklet(s) provided using ENGLISH LANGUAGE only.
2. Candidates are not allowed to bring any unauthorized materials except writing equipment into the Examination Hall. Electronic dictionaries are strictly prohibited.
3. This question paper must be submitted along with all used and/or unused rough papers and/or graph paper (if any). Candidates are NOT allowed to take any examination materials out of the examination hall.
4. Only ballpoint pens are allowed to be used in answering the questions, with the exception of multiple choice questions, where 2B pencils are to be used.

WARNING: The University Examination Board (UEB) of BERJAYA University College regards cheating as a most serious offence and will not hesitate to mete out the appropriate punitive actions according to the severity of the offence committed, and in accordance with the clauses stipulated in the Students' Handbook, up to and including expulsion from BERJAYA University College.

INSTRUCTION(S) : ANSWER ALL QUESTIONS.

Question 1

Identify the effects of **section 21** of the Companies Act 2016. (5 marks)

Question 2

Explain the legal principles on company law established by the case **Salomon v Salomon & Co Ltd [1896] UKHL 1 [1897] AC 22.** (9 marks)

Question 3

One of the pertinent issues in liquidation of a company is the “undue preference” given to a creditor. Explain what “undue preference” is as well as its elements. (10 marks)

Question 4

Explain the following:

- i. Definition of a promoter; (7 marks)
- ii. **THREE (3)** duties of a promoter; and (6 marks)
- iii. **ONE (1)** decided case relating to (ii) (5 marks)

Question 5

- i. Describe the types of shares that can be issued by a company and its relevant section; (6 marks)
- ii. **THREE (3)** rights for each share mention in (i); and (6 marks)
- iii. **ONE (1)** case for each variation of shares. (6 marks)

END OF PART A

PART B : THREE (3) ESSAY QUESTIONS. EACH QUESTION CARRIES 20 MARKS.
INSTRUCTION(S) : Answer ONLY TWO (2) questions. (40 marks)

Question 1

Discuss the grounds of winding up under **section 465(1)(e)** and **FOUR (4)** grounds under **section 465 (1)(h)** of the Companies Act 2016. State also **FOUR (4)** parties that may petition for a company to be wound up under **section 464(1)** of the Companies Act 2016.

(20 marks)

Question 2

Miller (M) Sdn Bhd (“Miller”) was the sub-contractor in the Maju CT Mall project, a project to construct a 10-storey shopping mall and business complex in Pusat Bandar Melawati, Kuala Lumpur (“Project”). Their claim was for monies due and owing to them for works done in the Project.

The Project was initially awarded by the Project owner to Lina Puri Holdings Berhad (“Lina Puri”). Lina Puri then sub-contracted the works to Perfect Collection Sdn Bhd (“Perfect Collection”) and it was subsequently sub-contracted to KS Bina Sdn Bhd (“KS Bina”). Dony Ong was the majority shareholder of both KS Bina and Perfect Collection.

When Miller was first offered to be a sub-contractor in the Project by KS Bina, relevant searches was conducted on KS Bina which revealed that the company was newly incorporated and had no track record in doing the relevant works. As such, Miller decided against accepting the Project.

However, Dony Ong later convinced and assured Keller that he knew the major shareholder of Lina Puri, Tan Sri Kee (“TSK”), and represented that TSK had a vested interest in KS Bina. It was on this representation that Miller agreed to execute the agreement and was made sub-contractor to PS Bina.

Sometime during the subsistence of the Project, Miller stopped receiving progressive payments for their work. Upon further inquiry, it was discovered that in the contract between Perfect Collection and Lina Puri, it was stated amongst others, that Perfect Collection would not be paid for the works carried out by Miller. Hence, Perfect Collection was unable to pay KS Bina for the works and in turn, the payment was not made to Keller. This was clearly a breach of the agreement between Miller and KS Bina.

Miller filed a claim against all the parties on the basis of their fraudulent behavior as well as for the monies owed.

Explain the situations where the court can lift the corporate veil based on the ground of judicial decision under the common law and the how it can be applied to the case above. Include **FIVE (5)** decided cases in your explanation.

(20 marks)

Question 3

Discuss the solvency test required under **section 112** of the Companies Act 2016 and its exceptions.
(20 marks)

END OF EXAM

CASE LIST

A

Abardeen Railway Co v Blaikie Bros (1854) 1 Macq 461
Aspatra Sdn. Bhd. v Bank Bumiputra Malaysia [1988]MLJ 97
Automatic Self-Cleansing Filter Syndicate Co Ltd v Cunninghame [1906] 2 Ch 34,
Avel Consultants Sdn Bhd v Mohd Zain Yusof & Ors [1985] 2 MLJ 209

B

Belmont Finance v Williams Furniture (NO 2) [1980] 1 ALL ER 393
Boardman v Phipps [1967] 2 AC 46 at p 124
Borland's Trustee v Steel Bros & Co. Ltd [1901] 1 Ch 279

C

Canadian Aero Service Ltd v O' Malley [1974] SCR 592
Carlill v Carbolic Smoke Ball Co [1893] 1 QB 256
Chan Choon Ming v Low Poh Choon & Ors [1995] 1 CLJ 812
Chung Khiaw Bank Ltd v Hotel Rasa Sayang Sdn Bhd & Anor, [1990] 1 MLJ 356
Charterbridge Corp Ltd v Lloyds Banks Ltd [1970] Ch 62
Cook v Deeks [1916] 1 AC 554
Cosmic Insurance Corporation Ltd. v Khoo Chiang Poh [1981] 1MLJ61

D

Daimler Co. Ltd. v Continental Tyre & Rubber Co. (GB) Ltd. [1916] 2 AC 307
DHN Food Distributors Ltd. v Tower Hamlets London Borough Council [1976]3All ER 462
Dawson v African Consolidated Land & Trading Company [1898] 1 Ch 6
Daniels v Anderson (1995) 13 ACLC 614

E

Erlanger v New Sombrero Phosphate Co. [1878] 3 App Cas 1218
Ebrahimi v Westbourne Galleries [1973] AC 360
Electro CAD Australia Pty Ltd v Metaji RCS Sdn Bhd [1998] 3 CLJ Supp 196
Eh Dey Pty Ltd v Dey [1996] VR 464

F

Furs Ltd v Tomkies (1936) 54 CLR 583
Foss V Harbottle [1843] 2 Hare 461

G

Gilford Motors Co v Horne 1933 Ch 935
Horne
Gluckstein v Barnes [1900] AC 240
Greenhalgh v Arderne Cinemas Ltd [1946] 1 All ER 512; [1951] Ch 286

H

Habib Abdul Rahman v Abdul Cader [1808 – 1890] 4 Ky 193
Hotel Royal Ltd v Tina Travel & Agencies Sdn Bhd [1990] 1 MLJ 21
Howard Smith Ltd v Ampol Petroleum Ltd [1974] AC 821,
Hogg v Cramphorn Ltd [1967] Ch 254

I

Industrial Development Consultants Ltd v Cooley [1972] 1 WLR 443

J

John Shaw & Sons (Salford) v Shaw [1935] 2 KB 113
Jones v Lipman 1962 1 WLR 832

K

Kea Holdings Pte Ltd v Gan Boon Hock [2000] 3 SLR 129
Kesar Singh v Sepang Omnibus [1954] 1 MLJ 122
Kelner v Baxter [1866] LR 2 CP 174

L

Lagunas Nitrate Co. v Lagunas Syndicate [1899] 2 Ch 392
Lee v Lee's Air Farming Ltd [1960] UKPC 33
Loch & Anor v John Blackwood Ltd (1924) AC 783
London and Mashonaland Exploration Co Ltd v New Mashonaland Exploration Co Ltd [1891] WN 165
Lori (M) Sdn Bhd (Interim Receiver) v Arab-Malaysian Finance Bhd [1999] 3 MLJ 81

M

Macaura v Northern Assurance Co [1925] AC 619
Mahesan v Government of Malaysia [1978] 1 MLJ 149
Marchesi v Barnes & Keogh [1970] VR 434
Mills v Mills (1938) 60 CLR 150
Mookapillai v Sri Saringgit Sdn Bhd & Ors [1981] 2 MLJ 114.

N

Newborne v Sensolid (Great Britain) Ltd [1954] QB 45
NRMA Ltd v Parker (1986) 6 SSWLR 517

P

Peso Silver Mines Ltd v Cropper (1996) 58 DLR (2d) 1
Phonogram v Lane [1982] QB 938

R

Regal (Hastings) Ltd v Gulliver [1967] 2 AC 134
Re Northern Engineering Industries Pls [1994] 2 BCLC 704
Re German Date Coffee (1882) 20 Ch D 169
Re Thomas Edward Brinsmead & Sons Ltd (1897) 1 Ch 45
Re Yenidje Tobacco Co Ltd [1916] 2 Ch 426
Re London Country & Coal Co. (1867) LR
Re Darby [1911] 1 KB 95
Re Bugle Press Ltd. [1961] Ch.270
Re Brazilian Rubber Plantation & Estate Ltd (1911) 1 Ch. 405
Re City Equitable Insurance Co Ltd [1925] Ch 40
Re Forest of Dean Coal Mining Co (1878) 10 Ch.D 450
Re Smith & Fawcett [1942] 1 All ER 542
Re W & M Roith Ltd [1967] 1 WLR 43
Re Leeds & Hanley Theatres of Varieties Ltd. [1902] Ch 809
Re Noel Tedman Holdings Pty Ltd [1967] QDR 561

S

Salomon v A Salomon & Co Ltd [1896] UKHL 1, [1897] AC 22
Smith, Stone & Knight Ltd. v Birmingham Corporation [1939] 4 AllER 116

T

Tai Choi Yu v Sykt Tingan Lumber Sdn. Bhd [1998] 4 AMMR 3807
Tay Bok Choon v Tahansan Sdn Bhd [1987] 1 WLR 413
Tan Lai v Mohamed Bin Mahmud [1982] 1 MLJ 338
Trevor v Whitworth (1887) 12 Apps cas 409
Tengku Dato' Ibrahim Petra bin Tengku Indra Petra v Petra Perdana Bhd and Another (Appeal) [2018] 2 MLJ 177
Tesco Supermarkets Ltd. v Natrass [1972] AC 153
Twycross v Grant [1877] 2 CPD 469
Tracey v Mandalay Pty Ltd [1953] 88 CLR 215

V

Voo Nyuk Fah @ Peter Tawau City Motors Sdn Bhd v Lam Yat Kheong & Anor [2002] MLJU 224

W

Whaley Bridge Calico Printing Co. v Green and Smith [1879] 5 QB 109
White v Bristol Aeroplane Co [1951] Ch 65

Z

Zaharen Hj Zakaria v Redmax Sdn Bhd & Other Appeals [2016] 7 CLJ 380