

CLA2602 (469073)
CLA202W
RCL202Y (491024)

May/June 2011
 Mei/Junie 2011

COMMERCIAL LAW 2B
KOMMERSIELE REG 2B

Duration : 2 Hours
 Tydsduur : 2 Uur

100 Marks
 100 Punte

EXAMINERS / EKSAMINATORE :
FIRST / EERSTE MRS/MEV AN WAGENER
SECOND / TWEEDE : MS/ME AJ LEONARD

This paper consists of 26 pages plus instructions for the completion of a mark reading sheet.
 Hierdie vraestel bestaan uit 26 bladsye plus instruksies vir die voltooiing van 'n merkleesblad.

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INSTRUCTIONS

1. This paper consists of 26 pages and you have to answer ALL the questions.
2. The paper is divided into 4 **SECTIONS**
SECTION A consists of 3 **questions** worth 50 marks in total, and has to be completed in the space provided on the examination paper itself
SECTION B consists of 10 **true/false questions** (1 mark each). Your answers have to be completed in the space provided on the examination paper itself.
SECTION C consists of 10 **mix & match questions** (2 marks each). Your answers have to be completed in the space provided on the examination paper itself.
SECTION D consists of 10 **multiple choice questions** (2 marks each). The answers to the multiple choice questions have to be filled in on the mark reading sheet provided to you.
3. At the end of the examination you have to hand in both this examination paper as well as the mark reading sheet containing your answers to the multiple choice questions.
4. The use of a calculator is not permissible.

INSTRUKSIES

1. Hierdie vraestel bestaan uit 26 bladsye en u moet **AL** die vrae beantwoord.
2. Die vraestel bestaan uit 4 **AFDELINGS**:
AFDELING A, wat uit 3 vrae wat 50 punte werd is bestaan, moet op hierdie vraestel self voltooi word in die ruimte voorsien.
AFDELING B behels 10 waar of vals vrae (1 punt elk). U antwoorde moet op hierdie vraestel self voltooi word in die ruimte voorsien.
AFDELING C behels 10 kies die korrekte stelling vrae (2 punte elk). U antwoorde moet op hierdie vraestel self voltooi word in die ruimte voorsien.
AFDELING D, bestaan uit 10 meerkeusevrae (2 punte elk). Die antwoorde op die meerkeusevrae moet ingevul word op die merkleesblad wat aan u voorsien is.
3. Aan die einde van die eksamen moet u beide hierdie eksamenvraestel, sowel as die merkleesblad wat u antwoorde op die meerkeusevrae bevat, inhandig.
4. Die gebruik van 'n sakrekenaar is nie toelaatbaar nie.

SECTION A
AFDELING A

QUESTION 1 - NEGOTIABLE INSTRUMENTS AND OTHER METHODS OF PAYMENT
VRAAG 1 - VERHANDELBARE DOKUMENTE EN ANDER BETALINGSMETODES

- (a) With reference to the following scenarios, explain fully in each case whether the cheque is transferable or not
- (i) A draws a cheque on B Bank in favour of "C or order". The cheque is uncrossed and marked "not negotiable" (2)
 - (ii) A draws a cheque on B Bank in favour of "C or order". The cheque is crossed and marked "not negotiable" (3)
 - (iii) A draws a cheque on B Bank in favour of "C or order". The cheque is crossed and marked "not negotiable - account payee only" (3)
- [8]**
- (a) Met verwysing na die volgende scenarios, bespreek volledig in elke geval of die tjek oordraagbaar is al dan nie.
- (i) A trek 'n tjek op B-bank, betaalbaar aan "C of order". Die tjek is ongekrus en is "nie verhandelbaar nie" gemerk. (2)
 - (ii) A trek 'n tjek op B-bank, betaalbaar aan "C of order". Die tjek is gekrus en "nie verhandelbaar nie" gemerk. (3)
 - (iii) A trek 'n tjek op B-bank, betaalbaar aan "C of order". Die tjek is gekrus en "nie verhandelbaar nie - rekening nemer alleen" gemerk. (3)
- [8]**

[Lines on following page/Lyne op volgende bladsy]

(i)

(ii)

(iii)

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(b) A draws a cheque for R5 000 on B Bank in favour of "C or order". The cheque is crossed and marked "not negotiable". At C's request A posts the cheque to him D intercepts and steals the cheque before it reaches C D forges C's signature and negotiates it to E who takes it in good faith and for value. E gives the cheque to his messenger, F to pay it into his (E's) account at G Bank. E owes G Bank R10 000. Therefore, G Bank applies the deposited cheque of R5 000 towards the reduction of E's debt. B Bank pays G Bank in good faith and without negligence.

Discuss whether or not C can institute a legal action against the following parties:

- | | | |
|-------|--------|-------------|
| (i) | B Bank | (3) |
| (ii) | D | (2) |
| (iii) | E | (5) |
| (iv) | G Bank | (3) |
| | | [13] |

- (b) **A trek 'n tjek vir R5 000 op B-bank ten gunste van "C of order". Die tjek is gekruis en gemerk "nie verhandelbaar nie". Op C se versoek pos A die tjek aan hom. D onderskep die tjek en steel dit voordat dit C bereik. D vervals C se handtekening en verhandel dit aan E wat dit te goeder trou en vir waarde neem. E gee die tjek aan sy bode, F, om dit in sy (E) rekening te betaal by G-bank. E skuld G-bank R10 000. Gevolglik gebruik G-bank hierdie gedeponeerde tjek van R5 000 om E se skuld te verminder. B-bank betaal G-bank te goeder trou en sonder nalatigheid.**

Bespreek of C enige regsaksie teen die volgende partye kan instel:

- | | | |
|-------|--------|-------------|
| (i) | B-bank | (3) |
| (ii) | D | (2) |
| (iii) | E | (5) |
| (iv) | G-bank | (3) |
| | | [13] |

(i) _____

(ii) _____

- (c) Name **FOUR** examples of electronic fund transfer systems which are activated by the bank's client (4)
- (c) **Noem VIER voorbeelde van elektroniese fondsoordragstelsels wat deur die bank se kliënt geaktiveer word.** (4)

(i) _____

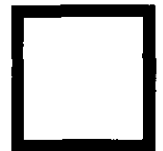
(ii) _____

(iii) _____

(iv) _____

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TOTAL FOR QUESTION 1: 25 MARKS
TOTAAL VIR VRAAG 1: 25 PUNTE



QUESTION 2 - THE LAW OF TRUSTS / ADMINISTRATION OF ESTATES

VRAAG 2 - DIE REG INSAKE TRUSTS / BOEDELBEREDDERING

(a) Lucy is terminally ill and approaches you for advice regarding a will. Lucy is uncertain as to whom she wishes to appoint as executor in her will. Advise Lucy as to who may NOT be appointed as executor. (4)

(a) **Lucy ly aan 'n terminale siekte en nader u vir advies oor haar testament. Lucy is onseker oor wie sy wil aanstel as eksekuteur in haar testament. Adviseer Lucy oor wie sy NIE as eksekuteur mag aanstel nie.** (4)

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(b) Lucy decided that her sister Janet should be appointed as executor in her will. You explained to Lucy that the executor has many rights, powers and duties. Name any 5 (FIVE) of these rights, powers and duties. (5)

(b) **Lucy het besluit om haar suster Janet as eksekuteur van haar bestorwe boedel aan te stel in haar testament. U het aan Lucy verduidelik dat die eksekuteur oor verskeie regte, bevoegdhede en pligte beskik. Noem enige 5 (VYF) van hierdie regte, bevoegdhede en pligte.** (5)

(i)

(ii)

(iii) _____

(iv) _____

(v) _____

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(c) Lucy created a trust in her will to provide for her 15 year old son, Tyrone. Lucy appointed her brother Gary as the trustee of the trust Name the type of trust that Lucy created. (1)

(c) **In haar testament skep Lucy 'n trust om haar 15 jarige seun, Tyrone voorsiening te maak. Haar broer, Gary is as die trustee van die trust aangestel. Noem die tipe trust wat Lucy geskep het?** (1)

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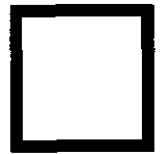
(d) Upon Lucy's death, her sister Janet approaches you for advice. She advises that Gary is failing to comply with his duties as trustee. Advise Janet what the consequences are for Gary for failing to comply with his duties as a trustee. (5)

(d) **Nadat Lucy afgesterf het, nader haar suster Janet u vir advies. Sy adviseer u dat Gary nie sy pligte as trustee nakom nie. Adviseer Janet oor die gevolge vir Gary vir sy versuim om te voldoen aan sy pligte as trustee.** (5)

[More lines on following page/Meer lyne op volgende bladsy]

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TOTAL FOR QUESTION 2: 15 MARKS
TOTAAL VIR VRAAG 2: 15 PUNTE



- (b) ABC Suppliers is successful in obtaining a sequestration order against Mr X and his (Mr X) estate is sequestrated. As a result, Mrs X's property is vested in the trustee of Mr X's insolvent estate. Mr and Mrs X are married out of community of property Mrs X wants to apply to Court for the release of her property. Advise Mrs X of the following:
- (i) Which four categories of Mrs X's property have to be released by the trustee? (4)
 - (ii) What happens to Mrs X's property which is not released by the trustee? (3)
- (b) **ABC Leweransiers was suksesvol om 'n sekwestrasiebevel teen Mnr X te verkry en sy (Mnr X se) boedel is gesekwestreer. Gevolglik gaan Mev X se eiendom oor op die kurator van Mnr X se insolvente boedel. Mnr X en Mev X is buite gemeenskap van goedere getroud. Mev X wil by die hof aansoek doen vir die vrygawe van haar eiendom. Adviseer Mev X oor die volgende:**
- (i) **Watter vier kategorieë van Mev X se eiendom moet deur die kurator vrygegee word? (4)**
 - (ii) **Wat sal gebeur met Mev X se eiendom wat nie deur die kurator vrygegee word nie? (3)**

[More lines on following page/Meer lyne op volgende bladsy]

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TOTAL FOR QUESTION 3 10 MARKS
TOTAAL VIR VRAAG 3: 10 PUNTE

TOTAL FOR SECTION A: 50 MARKS
TOTAAL VIR AFDELING A: 50 PUNTE

SECTION B
AFDELING B

Indicate which of the following statements are either TRUE or FALSE by placing a cross in the appropriate boxes below

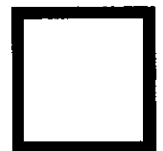
Dui aan welke van die volgende stellings WAAR of VALS is deur ? kruis te teken in die oorstemende blokkie hieronder

		TRUE WAAR	FALSE VALS
1	A cheque is payable to order if it is payable to "cash or order" or to the order of "cash" 'n Tjek is aan order betaalbaar indien die tjek betaalbaar is aan "kontant of order" of aan die order van "kontant"		
2	Section 79 of the Bills of Exchange Act protects the collecting bank if it has made payment according to the crossing, in good faith and without negligence Artikel 79 beskerm die invorderingsbank indien dié bank betaal het ooreenkomstig die kruising te goeder trou en sonder nalatigheid.		
3	In terms of the Bills of Exchange Act, if there is a difference between the amount written in words and numbers on a cheque, the amount payable is the amount written in words. Ingevolge die Wisselwet, indien daar 'n verskil is tussen die die betaalbare bedrag in woorde en syfers op 'n tjek, is die bedrag in woorde die betaalbare bedrag.		
4	A bearer cheque is negotiated by the endorsement of the holder, completed by delivery 'n Toondertjek word verhandel deur 'n endossement van die houer, wat deur lewering aangevul word.		
5	In the case of a forged signature, the signatory signs on behalf of another person but does not have that person's permission to do so In die geval van vervalste handtekening teken die ondertekenaar namens 'n ander persoon maar sonder daardie persoon se toestemming.		
6	Trust property includes both movable and/or immovable property. Trustgoed sluit roerende en/of onroerende goed in.		
7	Only the court has the power to order that a trust be created. Slegs die hof het die bevoegdheid om te beveel dat 'n trust geskep word.		

8	<p>If it is found that the value of an estate does not exceed R125 000, the Master has a discretion to do away with the appointment of an executor and, instead to give instructions for the administration of the estate.</p> <p>Indien dit blyk dat die waarde van 'n boedel nie R125 000 te bowe gaan nie, het die Meester 'n diskresie om af te sien van die aanstelling van 'n eksekuteur en om in die plek daarvan instruksies vir die afhandeling van die boedel te gee.</p>		
9	<p>The Master of the area in which the deceased was ordinarily resident before his or her death has jurisdiction over that deceased estate.</p> <p>Die Meester van die regsgebied waarin die oorledene voor sy of haar dood gewoonlik woonagtig was, het jurisdiksie met betrekking tot daardie bestorwe boedel.</p>		
10	<p>The court has a discretion to either grant or refuse the application for rehabilitation of an insolvent.</p> <p>Die hof het 'n diskresie om die aansoek vir rehabilitasie van die insolvent óf toe te staan óf te weier.</p>		

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TOTAL FOR SECTION B: 10 MARKS
TOTAAL VIR AFDELING B: 10 PUNTE



SECTION C AFDELING C

Match **EACH** the statements below with **ONE** of the concepts/terms listed below:

Koppel ELKE van die stellings met EEN van die konsepte/terme wat hieronder gelys is:

Holder/ Houer	Bearer/ Toonder	Issue/ Uitgifte	Conditional/ Voorwaardelike
Special/ Spesiale	General/ Algemene	Special/ Besondere	Restrictive/ Beperkende
Blank/ Blanko	Order/ Toonder	Heir/ Erfgenaam	Trustee/ Trustee/Kurator
Legatee/ Legataris	Executor/ Eksekuteur		Assumption/ Assumpsie
Subrogation/ Subrogasie			
S75A non-transferable/ A75A(1)- onoordraagbare			
Partial sell-out/ Gedeeltelike uitverkoop		Undue preferences/ Onbehoorlike voorkeure	
Making over in specie/ Toekenning in spesie		Holder in due course/ Reëlmatige houer	
Not negotiable/ Nie verhandelbaar		Payment in due course/ Reëlmatige betaling	
Traditional non-transferable cheque/ Tradisionele onoordraagbare tjeks			
Collusive dispositions/ Vervreemdings waarby samespanning 'n rol speel			

	STATEMENT STELLING	CONCEPT/TERM KONSEP/TERM
1	The payee or endorsee in possession of a bill, or the bearer thereof Die nemer of geëndosseerde van 'n wissel wat in besit daarvan is, of die toonder daarvan.	
2	The first delivery of a bill or note, complete in form, to the person who takes it as holder Die eerste lewering van 'n wissel of promesse wat volgens vorm volledig is, aan iemand wat dit as houer neem.	
3	This type of endorsement does not specify an endorsee to which payment must be made, and consequently the cheque is payable to bearer. Hierdie soort endossement spesifiseer nie enige geëndosseerde aan wie betaling gemaak moet word nie, en gevolglik word die tjek aan toonder betaalbaar.	

4	The type of crossing that consists of two parallel transverse lines drawn on the face of the cheque, with or without the words "not negotiable" Die tipe kruising wat bestaan uit 'n byvoeging op die voorkant van die tjek van twee parallelle dwarslyne, hetsy met of sonder die woorde "nie verhandelbaar nie".	
5	The type of cheque that is drawn payable to the named payee only (for example, pay Allie Leonard only). Die tipe tjek wat getrek is en is slegs aan die benoemde nemer betaalbaar (byvoorbeeld, betaal Allie Leonard alleen).	
6	The person responsible for administering a deceased estate. Die persoon wat aangestel is om die bestorwe boedel te beredder	
7	If there is a shortage of cash in the deceased estate, some of the assets would have to be sold by the executor to meet the debts of the estate Indien daar 'n kontanttekort in die boedel is, sal die eksekuteur sekere van die bates te gelde moet maak ten einde die skulde van die boedel te delg.	
8	A beneficiary of a specific testamentary bequest of goods or money Die bevoordeelde van 'n spesifieke testamentêre bemaking van goed of geld.	
9	Where insolvent made a disposition with the intention to prefer one or more creditors above another Waar die insolvent 'n vervreemding gemaak het met die bedoeling om een of meer van die skuldeisers daardeur bo die ander te bevoordeel.	
10	The power of appointing additional trustees. Die mag om addisionele trustees aan te stel.	

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TOTAL FOR SECTION C 20 MARKS
TOTAAL VIR AFDELING C: 20 PUNTE

**SECTION D
AFDELING D**

QUESTION 1

Which **ONE** of the following definitions of a cheque is **INCORRECT**?

- (1) A bill drawn on a bank and payable on demand
- (2) An unconditional order in writing, addressed by one person to a bank, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to a specified person or his order, or to bearer.
- (3) An unconditional order in writing, addressed by one person to a bank, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, a sum certain in money to a specified person or his order, or to bearer.
- (4) An unconditional order in writing, addressed by one person to a bank, signed by the person giving it, requiring the bank to pay on demand, a sum certain in money to a specified person or his order, or to bearer
- (5) None of the above.

VRAAG 1

Welke **EEN** van die volgende definisies in verband met 'n tjek is **INKORREK**?

- (1) 'n Wissel getrek op 'n bank en betaalbaar op aanvraag.
- (2) 'n Onvoorwaardelike skriftelike opdrag, gerig deur een persoon aan 'n bank en onderteken deur die opdraggewer, waarin van die persoon aan wie die opdrag gerig is, vereis word dat hy op aanvraag of op 'n bepaalde of bepaalbare toekomstige tydstip 'n vasgestelde bedrag geld aan 'n vermelde persoon of sy order, of aan toonder betaal.
- (3) 'n Onvoorwaardelike skriftelike opdrag, gerig deur een persoon aan 'n bank en onderteken deur die opdraggewer, waarin van die persoon aan wie die opdrag gerig is, vereis word dat hy op aanvraag 'n vasgestelde bedrag geld aan 'n vermelde persoon of sy order, of aan toonder betaal.
- (4) 'n Onvoorwaardelike skriftelike opdrag, gerig deur een persoon aan 'n bank en onderteken deur die opdraggewer, waarin van die bank aan wie die opdrag gerig is, vereis word dat hy op aanvraag 'n vasgestelde bedrag geld aan 'n vermelde persoon of sy order, of aan toonder betaal.
- (5) Geen van die bogenoemde nie.

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QUESTION 2

If the payee of an order bill is a fictitious person, the bill may be treated as a .

- (1) bearer bill.
- (2) order bill.
- (3) promissory note.
- (4) "not negotiable" instrument
- (5) "not transferable" instrument

VRAAG 2

Indien die nemer van 'n orderwissel 'n denkbeeldige persoon is, mag die wissel behandel word asof dit 'n ... is.

- (1) **toonderwissel**
- (2) **orderwissel**
- (3) **promesse**
- (4) **"nie-verhandelbare" instrument**
- (5) **"nie-oordraagbare" instrument**

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QUESTION 3

Which **ONE** of the options listed below **MOST CORRECTLY** completes the following statement?

Alvereen Leonard draws a cheque on Trust Bank in favour of "Eesa Fredericks or bearer" and delivers it to him (Eesa). Before Eesa can present this cheque for payment, it is stolen from Eesa by Michelle Kelly.

When Michelle is in possession of this cheque, she is ...

- (1) only the holder of the cheque.
- (2) the holder and the holder in due course of the cheque
- (3) the holder, the holder in due course and the possessor of the cheque.
- (4) only the possessor of the cheque.
- (5) only the holder in due course of the cheque.

VRAAG 3

Welke **EEN** van die keuses hieronder gelys voltooi die volgende stelling op die mees **KORREKTE** wyse?

Alvereen Leonard trek 'n tjek op Trust-bank ten gunste van "Eesa Fredericks of toonder" en lewer dit aan hom (Eesa). Voordat Eesa die tjek kan aanbied vir betaling, steel Michelle Kelly die tjek.

Toe Michelle in besit van hierdie tjek was, is sy

- (1) slegs die houer van die tjek.
- (2) die houer en die reëlmatige houer van die tjek.
- (3) die houer, die reëlmatige houer en die besitter van die tjek.
- (4) slegs die besitter van die tjek.
- (5) slegs die reëlmatige houer van die tjek.

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QUESTION 4

Which **ONE** of the options listed below **MOST CORRECTLY** completes the following statement?

Alvereen Leonard draws a cheque on Trust Bank in favour of "Eesa Fredericks or order" and delivers it to him (Eesa). Before Eesa can present this cheque for payment, it is stolen from Eesa by Michelle Kelly.

When Michelle is in possession of this cheque, she is ...

- (1) only the holder of the cheque
- (2) the holder and the holder in due course of the cheque.
- (3) the holder, the holder in due course and the possessor of the cheque
- (4) only the possessor of the cheque.
- (5) only the holder in due course of the cheque

VRAAG 4

Welke **EEN** van die keuses hieronder gelys voltooi die volgende stelling op die mees **KORREKTE** wyse?

Alvereen Leonard trek 'n tjek op Trust-bank ten gunste van "Eesa Fredericks of order" en lewer dit aan hom (Eesa). Voordat Eesa die tjek kan aanbied vir betaling, steel Michelle Kelly die tjek.

Toe Michelle in besit van hierdie tjek was, is sy

- (1) slegs die houer van die tjek.
- (2) die houer en die reëlmatige houer van die tjek.
- (3) die houer, die reëlmatige houer en die besitter van die tjek.
- (4) slegs die besitter van die tjek.
- (5) slegs die reëlmatige houer van die tjek.

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QUESTION 5

X's credit card is stolen and he immediately notifies the card issuer, B Bank, of the loss. After B Bank has notified the various suppliers of the stolen card (including ABC Stores), ABC Stores accepts the credit card as payment for goods purchased by the thief. The relationships between X, B Bank and ABC Stores are governed by a standard contract. Who bears the loss incurred when the thief purchased goods at ABC Stores with X's credit card?

- (1) X.
- (2) B Bank.
- (3) ABC Stores.
- (4) X and ABC Stores
- (5) X and B Bank.

VRAAG 5

X se kredietkaart word gesteel en hy stel dadelik die kaartuitreiker, B-bank, van die verlies in kennis. Nadat B-bank verskeie leweransiers van die gesteelde kaart in kennis gestel het (insluitend ABC-handelaars), aanvaar ABC-handelaars die kaart as betaling vir die goedere wat deur die dief gekoop is. Die verhoudings tussen X, B-bank en ABC winkels word deur 'n standaardkontrak gereël. Wie dra die verlies wat gely is toe die dief goedere by ABC-handelaars met X se kredietkaart gekoop het?

- (1) X.
 - (2) B-bank.
 - (3) ABC-handelaars.
 - (4) X en ABC handelaars.
 - (5) X en B-bank.
-

QUESTION 6

Alvereen and John were married on 23 March 2009. In terms of the antenuptial contract that they entered into before their marriage, John had to purchase a R500 000 motor car for Alvereen on their first wedding anniversary. Although John was in severe financial difficulties at this time, he still purchased the car and gave it to Alvereen on their first anniversary. At that time, Alvereen was unaware of John's financial position. Six months later, John's estate is sequestrated.

Which **ONE** of the following types of impeachable dispositions would best characterise the above scenario?

- (1) A collusive disposition.
- (2) An undue preference.
- (3) A disposition made without value.
- (4) A voidable preference.
- (5) A voidable transfer.

VRAAG 6

Alvereen en John is op 23 Maart 2009 getroud. Volgens die huweliksvoorwaardekontrak wat deur hulle aangegaan is voor hulle troue, moes John 'n R500 000 motor vir Alvereen koop te herdenking van hulle eerste huweliksherdenking. Alhoewel John gedurende hierdie tydperk ernstige finansiële probleme ondervind het, het hy nog steeds die motor gekoop en dit aan Alvereen gegee op hul eerste huweliksherdenking. Alvereen was onbewus van Johan se finansiële posisie. Ses maande later is John se boedel gesekwestreer.

Welke EEN van die volgende vernietigbare vervreemdings is die beste omskrywing van die scenario hierbo?

- (1) **Vervreemding waarby samespanning 'n rol speel.**
- (2) **Onbehoorlike voorkeur.**
- (3) **Beskiking sonder teenwaarde.**
- (4) **Vernietigbare voorkeur.**
- (5) **Vernietigbare oordrag.**

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QUESTION 7

Which **ONE** of the following statements about legal proceedings not yet finalised at the time of sequestration of the insolvent's estate is **INCORRECT**?

- (1) As a general rule, civil proceedings instituted by the insolvent are generally stayed until the appointment of a trustee.
- (2) As a general rule, civil proceedings instituted against the insolvent are generally stayed until the appointment of a trustee.
- (3) The insolvent may be sued in his own name without reference to his trustee (in certain instances).
- (4) A sequestration order does not affect criminal proceedings pending against the insolvent.
- (5) A sequestration order does not stay pending matters where judgment already has been taken against the insolvent.

VRAAG 7

Welke **EEN** van die volgende stellings oor siviele en strafregtelike verrigtinge wat nog nie afgehandel is ten tye van die sekwestrasie van die insolvent is **VERKEERD**?

- (1) Oor die algemeen, alle siviele verrigtinge wat deur die insolvent aangevoer word, word gestaak totdat 'n kurator aangestel is.
- (2) Oor die algemeen, alle siviele verrigtinge wat teen die insolvent aangevoer word, word gestaak totdat 'n kurator aangestel is.
- (3) Die insolvent mag in sy eie naam gedagvaar word, sonder verwysing na sy kurator (in sekere gevalle).
- (4) 'n Sekwestrasiebevel raak nie strafregtelike verrigtinge hangende teen die insolvent nie.
- (5) 'n Sekwestrasiebevel staak nie hangende verrigtinge waar vonnis reeds teen die insolvent geneem is nie.

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QUESTION 8

Which **ONE** of the following is **NOT** a consequence of the rehabilitation of an insolvent person?

- (1) The insolvent's status is restored.
- (2) All the insolvent's debts which arose before the sequestration are discharged, including those which arose out of fraud on the insolvent's part.
- (3) Where all claims have been paid in full, the property left in the insolvent's estate at the time of rehabilitation reverts to the insolvent.
- (4) The insolvent may resume acting as a director of a company or doing business as a general dealer or manufacturer.
- (5) None of the above.

VRAAG 8

Welke **EEN** van die volgende stellings is **NIE** 'n gevolg van die rehabilitasie van 'n insolvente persoon nie?

- (1) Die insolvent se status is herstel.
- (2) Alle skulde van die insolvent wat voor sekwestrasie aangegaan is, is uitgewis, insluitend skulde wat deur bedrog aan die insolvent se kant ontstaan het.
- (3) Indien alle eise ten volle betaal is, sal die eiendom wat oorbly in die insolvente boedel ten tye van die rehabilitasie op die insolvent oorgaan.
- (4) Die insolvent mag weer die amp van maatskappydirekteur beklee of die besigheid van 'n algemene handelaar of fabrikant bedryf.
- (5) Geen van die bogenoemde nie.

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QUESTION 9

Which **ONE** of the following is **NOT** an essential requirement for the creation of a valid trust?

- (1) The trust property must be transferred to the trustee
- (2) The trust property must be defined with reasonable clarity
- (3) The trust object must be lawful.
- (4) The trust object must be defined with reasonable certainty
- (5) The founder must intend to create a trust

VRAAG 9

Welke **EEN** van die volgende is **NIE** 'n essensiële vereiste vir die oprigting van 'n geldige trust nie?

- (1) Die trustgoed moet aan die trustee oorgedra word.
- (2) Die trustgoed moet met redelike duidelikheid omskryf word.
- (3) Die trustdoel moet wettig wees.
- (4) Die trustdoel moet met redelike duidelikheid omskryf word.
- (5) Die oprigter moet die bedoeling hê om 'n trust op te rig.

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QUESTION 10

Which **ONE** of the following statements is applicable for the administration of estates below R125 000?

- (1) The Master will handle the liquidation and distribution of the estate himself.
- (2) The majority of the beneficiaries will handle the administration of the estate jointly
- (3) The Master has a discretion to do away with the appointment of an executor
- (4) The value of an estate does not play any role in the administration thereof.
- (5) None of the above.

VRAAG 10

Welke **EEN** van die volgende stellings is van toepassing op die bereddering van boedels wat minder as R125 000 werd is?

- (1) Die Meester sal self die likwidasie en distribusie van die boedel waarneem.
- (2) Die meerderheid van die begunstigdes sal die bereddering van die boedel gesamentlik handhaaf.
- (3) Die Meester het 'n diskresie om af te sien van die aanstelling van 'n eksekuteur.
- (4) Die waarde van die boedel speel nie 'n rol in die bereddering van die boedel nie.
- (5) Geen van die bogenoemde nie.

TOTAL FOR SECTION D: 20 MARKS
TOTAAL VIR AFDELING D: 20 PUNTE

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PART 1 (GENERAL/ALGEMEEN) DEEL 1

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INITIALS AND SURNAME
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DATE OF EXAMINATION
DATUM VAN EKSAMEN

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For use by examination invigilator
Vir gebruik deur eksamenopsiener

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| <p>IMPORTANT</p> <ol style="list-style-type: none"> USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET MARK LIKE THIS CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED DO NOT FOLD | <p>BELANGRIK</p> <ol style="list-style-type: none"> GEBRUIK SLEGS N HB-POTLOOD OM HIERDIE BLAD TE VOLTOOI MERK AS VOLG KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS VUL U STUDENTENOMMER VAN LINKS NA REGS IN KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VERSTREK HET KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS MOENIE YOU NIE |
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PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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