



CCP PART III SECTION 6

DEBT RECOVERY

FRIDAY: 27 November 2020.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

- (a) Assess any four debt instruments that an organisation could use to raise capital. (4 marks)
- (b) Examine four attitudes that could be avoided by credit control staff in order to enhance debt collection. (4 marks)
- (c) Rachel Mali is embroiled in a dispute with her friend over unpaid debts. She is considering two options; mediation or litigation, to sort out the dispute.

Advise her on the following:

- (i) The difference between “conflict” and “dispute”. (2 marks)
- (ii) Five reasons why mediation is not an appropriate method of dispute resolution. (5 marks)
- (iii) Five advantages of litigation over negotiation. (5 marks)

(Total: 20 marks)

QUESTION TWO

- (a) In the context of debt recovery through legal process:
- (i) Outline five particulars that a statement of claim should contain when being lodged in a small claims court. (5 marks)
- (ii) Evaluate five grounds upon which a person can lodge a claim before the small claims court. (5 marks)
- (b) Explain five factors that an organisation should consider before writing-off a business debt. (5 marks)
- (c) Nate and Kim are professional accountants carrying on a limited liability partnership business under the name Nate and Kim Associates. The partnership is in a dire financial situation and some of its creditors have applied to the court for an administration order. Nate and Kim have opposed the application, but are clueless about the power of the court to appoint an administrator under these circumstances and they have approached you for legal advice.

Required:

In the context of the above facts, summarise five orders that the court might make, upon hearing the application.

(5 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Distinguish between “debt protection insurance” and “credit insurance”. (4 marks)
- (b) If a claim is contested, the burden lies on the plaintiff to prove it.
- Describe three types of proof required to sustain a claim. (3 marks)



- (c) Analyse three circumstances under which the court may issue a garnishee order. (6 marks)
- (d) Hellen is an undischarged bankrupt who owes Miriam a sum of Sh.800,000. Hellen intends to make an application to the official receiver for a summary instalment order allowing her to pay Miriam's debt by way of instalments.

**Required:**

Describe the information that Hellen might be required to state in her application in order for her to convince the official receiver to rule in her favour. (7 marks)

**(Total: 20 marks)**

**QUESTION FOUR**

Ben Juma has been adjudged bankrupt by the High Court. He owed his creditors and employees amounts in excess of Sh.10,000,000. The bankruptcy trustee intends to pay debts in the order prescribed in the law.

**Required:**

Discuss the payment of the said debts under the following headings:

- (a) First priority claims. (8 marks)
- (b) Second priority claims. (8 marks)
- (c) Four alternatives to bankruptcy. (4 marks)

**(Total: 20 marks)**

**QUESTION FIVE**

- (a) Debt management and recovery follows a well thought process that enhances collection.

Appraise the four point procedure that is used by firms in debt recovery. (4 marks)

- (b) Discuss eight disadvantages of receivership within the context of insolvency law. (8 marks)

- (c) Evaluate four functions of the liquidator in a creditors' voluntary winding up of a company. (8 marks)

**(Total: 20 marks)**

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