MACHAKOS UNIVERSITY

University Examinations for 2018/2019 Academic Year

SCHOOL OF BUSINESS AND ECONOMICS

DEPARTMENT OF BUSINESS ADMINISTRATION

FOURTH YEAR SPECIAL/SUPPLEMENTARY EXAMINATION FOR BACHELOR OF EDUCATION

BBA 401 COMPANY LAW

DATE: 23/9/2019 **TIME: 2.00-4.00 PM**

INSTRUCTIONS: Answer Question ONE and any other TWO Questions

QUESTION ONE

The law treats companies in company law distinctively from partnership. Company law consists partly of ordinary rules, common law, and equity. Therefore, fundamental rules and principles are contained in the memorandum of association and numerous decided cases.

One of such cases is the case of Salomon v. Salomon & Co (1897)

Salomon was leather Merchant. In 1892 he formed a company Salomon and Co. Ltd. Salomon, his wife and five children held on share each in the company. The newly incorporated company purchased the sole trading leather business. Salomon valued the leather business at $39,000 price paid in $10,000 worth of debentures giving a charge over all the companies' assets, plus $20,000 in $1 shares $9,000 cash. Salomon held 20,001 shares in the company with his family holding six remaining shares. Because of the debentures, he was a secured creditor.

Within one year of incorporation, the company ran into financial problems and consequently placed in insolvent liquidation. The liquidator appointed alleged that the company was a sham a mere agent for Salomon and that Salomon was therefore personally liable for the debts of company.

The House of Lords disagreed and found that:

A company formed in compliance with the regulations of companies act is a separate person and not agent or trustee of its controller. As a result, the debts of a company were its own and not those of the members. The member liability was limited the amount prescribed in the Companies Act. The significance of the decision was the establishment of the legality of one-man company, the incorporation of small private partnership to a company and possibility of a trader to limit liability by subscribing for debentures rather than shares.

In connection with the Salomon case:

a) Explain the types of companies Salomon would have formed if he was in Kenya today (5 marks)
b) Highlight the consequences of incorporation as demonstrated in Salomon case.(5 marks)
c) Analyze the characteristics of a company. (10 marks
d) Differentiate a company from a partnership (6 marks)
e) Identify contents of memorandum of association that Salomon would have made for his company. (4 marks)

QUESTION TWO

Members have voted you as a director in a company during the A.G.M

a) Analyze five powers and five duties of a director of a company (10 marks)
b) The rivals have accused your friend of not running a company properly. Guide to Identify the statutory offences in conducting a company affairs (10 marks)

QUESTION THREE

a) Identify Five advantages and Five disadvantages of incorporation. (10 marks)
b) Explain the procedures involved in winding up of a company. (10 marks)

QUESTION FOUR

a) Outline five cases where the court may lift the company veil of incorporation (10 marks)
b) Explain five rights and five duties of an auditor. (10 marks)

QUESTION FIVE

Your friends who have just completed a degree course wish to start a company. However their finances is limiting

a) Advice on the methods of raising share and loan capital (10 marks)
b) You have recently bought shares in a blue chip media company. However, you fear for the liabilities.
Discuss the liabilities of a member (10 marks)