

**BOWEN UNIVERSITY, IWO**  
**FACULTY OF SOCIAL AND MANAGEMENT SCIENCES**  
**DEPARTMENT OF BANKING AND FINANCE**  
B.Sc. DEGREE PROGRAM  
SECOND SEMESTER EXAMINATION, 2013/2014

COURSE TITLE: PRACTICE OF BANKING 1

COURSE CODE: BFN 323      TIME ALLOWED: 2½ HOURS

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INSTRUCTION: ANSWER QUESTION ONE AND ANY OTHER THREE

1. Mr Ade is a solicitor and has been banking with you for over 15 years without any disturbance on the account. He is very friendly with the bank and has introduced many profitable accounts. At 11.48 in the morning 1<sup>st</sup> of May, 2014 you received an unlimited garnishee order nisi from the Lagos High court naming Mr. Ade as the judgment debtor. The judgement creditor was named As Mr. Sanda, a trader in another town of about 100km away. The balance on the various accounts of Mr. Ade as at the receipt of the garnishee order were as follows:

Mr. Ade:	Personal Current Account	N 10,000 CR
Mr. Ade	Practising Current Account	N 62,000 CR
Mr. Ade	Client current Account	N 29,000 CR
Mr. & Mrs Ade	Joint Deposit Account	N100,000 CR
	Loan Account (Next Repayment Due In a Month's Time)	N50,000 DR
Mr. Ade,		
Mr. Sanda:	Executor of Mr. Darex"	N 25,000 CR
Mr. Ade:	Foreign domiciliary Account	£25,000 CR

Further investigation on matters in which the name of Mr. Ade appeared revealed the following:

- (a) Mr. Ade had paid a cheque for N5,000 proceeds of which was yet to be credited to the account Because the clearing period has not expired.
- (b) Mr. Ade paid in a cash of N7,500 into his account with you on 25<sup>th</sup> April, 2014 but the cash was yet to be credited into his account as it was paid in at another branch of your bank.
- (c) Two cheques, one for N4500 and the other for N1000 issued by Mr. Ade came in through clearing yesterday and had been debit to the account. You have 2 days to determine their fate and the one for N4500 in favour of the judgment creditor.

- (d) At about 9.35 this morning a cheque for N7,500 had been presented by specially clearing for which your bank issued bankers payment. This cheque has not been debited into the account
- (e) Mr. Ade gave you an irrevocable instruction to transfer N2500 to the account of a friend monthly. This months remittance fell due on 1<sup>st</sup> May, 2014 and all the entries have prepared before the garnishee order but have not been posted. The friend is aware that the money will come every month.
- (f) Mr. Ade paid N1,750.00 recently to buy foreign bank draft for the membership fee of a foreign professional body but as you are yet to receive central bank's approval, this money still in your suspense Account.
- (g) Mr. Ade maintained a Current Account domiciled at Barclays Bank London, balance on which is £1,100 credit. The current exchange rate is N125 = £1.
- (h) Bower Bank plc in the same locality with your bank, phoned you this morning and asked if a cheque for N2,000 drawn by Mr. Ade on your bank would be paid if presented as they were about to give value for it and you answered "Yes, if in order". The cheque was presented after the receipt of the garnishee order.
- (i) It was detected later that Mr. Ade had a deposit account in his sole name for N5000 withdrawable with 7 days notice.

### Required

- i. What steps will you take in respect of each account and how will the additional information affect your action?
- ii. Assuming the garnishee order is limited to N7500 inclusive of cost, will your actions been different?
- iii. Mr. Ade came to the bank and told you that the order arose from a debt of N2500, which he refused to pay out of annoyance. He showed you his own copy of the court summons showing the amount, still leaving substantial balance on the account. He told you that he had in fact issued a cheque to pay off the judgment creditor as in (1) above. How will you reply to Mr. Ade's request?
- iv. Assuming the garnishee order in error contains Mr. Tade as the judgment debtor but the solicitor to the judgment creditor comes to tell you the correct name is "Ade". Before he brings an amended court order, Mr. Ade comes to withdraw. Will you pay him?



2. Discuss the regularity or otherwise of the following: Kola has a power of attorney granted him by Bola to operate the account when Bola was abroad. Kola, acting under this power, issued a cheque to Kunle on Sola's account for ₦2,500:00 which the bank wrongly returned because the credit balance was wrongfully computed. Kola sued the bank for wrongful dishonor. You read in one of the daily newspapers that your customer, Janduku, has been arrested by the police and is being held in custody on charges of fraud. A police Officer calls the next day and asks for a copy of Janduku's statement of account for the past six months. This he says will be required in the court proceedings. He adds, for your information that "the charges are very serious". Explain how you would deal with the situation.
  
3. (a) Your customer, Mr. Felix, made arrangement last year for Mr. Obiz to operate his account while Mr. Felix was away on a business trip. These arrangements were cancelled on Felix's return, but you now receive a letter from Mr. Obiz asking you to send a cheque for ₦1,000:00. He explains that during the period that he was operating the account he paid ₦1,750:00 of his own money, and only drew cheques totaling ₦750:00 in respect of his own liabilities. The balance of the account is now N550 in credit, and, on examining the vouchers you find credit for ₦625:00 and ₦1,125:00 which are marked "Obiz". What action would you take in response to the letter?  
 (b) What is meant by "Appropriation in payment" and how in law is such right exercised? What is the default rule of appropriation (the rule in Clayton's case). Give examples stating how this rule can operate:
  - (i) in the bank's favour
  - (ii) against the bank?
 Are there any exceptions to the rule?
  
4. You read in one of the daily newspapers that your customer, Janduku, has been arrested by the police and is being held in custody on charges of fraud. A police Officer calls the next day and asks for a copy of Janduku's statement of account for the past six months. This he says will be required in the court proceedings. He adds, for your information that "the charges are very serious". Explain how you would deal with the situation.
  
5. Printmore Nig. Enterprises whose current account has always carried substantial credit balance has been banking with you since the opening of the branch five years ago. The enterprises sells on cash basis, hence it usually lodges huge cash deposits through its senior accounts officer. Last week Tuesday the account officer brought in cash the sum of N150, 750.00 to deposit. While the cash was being counted by the cashier, the branch was invaded by armed gang and the whole money with others was carted by the robbers. Printmore Enterprises has now submitted a claim to the bank and has asked for its account to be credited with the money stolen by the robbers as the money was in the hand of the cashier when the robbers struck.  
Required  
 What is the bank's position? Explain what action you will take
  
6. (a) What do you understand by banker's duty of secrecy? Of what importance is the case of Tournier V. National Provincial and Union Bank of England Ltd (1924) to bankers.  
 (b) Under what circumstances can a bank set itself up as a holder for value?.