

BOWEN UNIVERSITY, IWO, OSUN STATE

COLLEGE OF LAW

SECOND SEMESTER EXAMINATION, 2022/2023 ACADEMIC SESSION

PCL 504 – LAW OF BUSINESS ASSOCIATIONS II

INSTRUCTION: ANSWER ANY FOUR QUESTIONS. TIME ALLOWED: 3 HOURS

EACH QUESTION IS WEIGHTED 17^{1/2} MARKS

1. Over the past five years, a significant number of trade debtors of Gambi PLC have failed to pay up their indebtedness to the company. That failure has affected the ongoing expansion programme of the company, and it is becoming real that the company will soon have to downsize its work force or begin to trade at a loss. The minority shareholders of the company are of the opinion that the directors of the company are slack in instituting an action in Court to recover the debts. Therefore, the minority shareholders held what they classified as a special meeting of the company at which they resolved to institute an action for the recovery of the debts. The company's Legal Adviser is of the opinion that the minority is not competent to institute the action.

Advise the minority shareholders of Gambi PLC, stating the legal rationale for your advice. In so doing, explain to them the grounds on which they could institute an action on the affairs of the company.

2. Unifred PLC ("Unifred") is a major manufacturer of chemical and allied products while Chemoloid Limited ("Chemoloid") is the major supplier of raw materials to Unifred. The latter plans an expansion that should give it dominance of the Nigerian market and expand its horizons to other West African countries. As a practitioner of corporate law who is an external solicitor to Unifred, your preliminary discussion with the officers of Unifred discloses that the company intends to explore a merger with its major supplier of raw materials. However, you are aware of regulatory issues that may arise when a company plans a merger with the objectives that Unifred has.

Advise Unifred PLC on:

- a. The meaning of merger
 - b. The statutory types and other classifications of merger;
 - c. The reasons for which corporate business organisations could merge;
 - d. The regulatory agency for mergers; and
 - e. The factors that the regulatory agency would consider in determining whether or not to approve the proposed merger.
3. The strategic planning committee of a proposed public company, Gold PLC, an alternative energy service company, is charged with the duty of drawing up the articles of association of the company, among other obligations. The committee has invited you to educate it on the following:
 - (a) Proceedings of board of directors and its committees; and

(b) Appointment, functions, and remuneration of the Managing Director as well as other directors.

Write your brief.

4. Immaculate PLC has just appointed you as the Secretary of the company, which has a new board of directors, and your first assignment is to reorganize the internal operations of the company. You have met on ground records of a divided former board of directors whose members were struggling for the control of the company. Company meetings could not be held as and when due because of stalemating conduct of the members of the board and some substantial shareholders of the company. The majority camp of the former board was in the habit of holding board meetings to take important decisions without notifying the members of the minority camp. The company has not held an Annual General Meeting for 19 months.

The new board of Immaculate PLC desires to be well guided on the issues in the facts before you, and seeks your advice on the applicable law and practices. Advise the board.

5. Insignia Limited has not been making sufficient profits that could be distributed as dividends over the past three financial years. The company has a growing list of secured and unsecured creditors. A group of the shareholders of the company is of the opinion that the company is no longer a going concern and exists only for the purpose of being wound up. This group is apprehensive of the opposing view of the other shareholders and the position of the creditors of the company. The group is aware also that the creditors of the company have been meeting on the options that are available to them. Some shareholders outside the two groups are of the opinion that the financial situation of the company may not be very bad, but it may be necessary to wind it up and move to a line of business in another sector of the economy.

Advise all the groups, explaining the options they have in winding up and the procedures under the applicable law.

6. A company's implied power to borrow money could be by creating a fixed charge or a floating charge.

Explain and distinguish a fixed charge from a floating charge, emphasizing the advantages and disadvantages of each.