

**UNIVERSITY OF COLOMBO, SRI LANKA**

**FACULTY OF LAW**

**MASTER OF LAWS DEGREE EXAMINATION – 2017**

**BANKING LAW**

**(Three Hours)**

**Total number of questions: 04**

Answer any **THREE** questions including question No. 01 and no more.

(Candidates will be penalized for illegible handwriting.)

- I. (a) “If a third party suffers a loss due to an action or omission of bank when dealing with its customer, the bank is not liable to that third party”.

Critically discuss the validity of the above statement with reference to the true owner’s remedy for conversion against the collecting bank for wrongful payment.

- (b) (i) Kamal a customer of Royal Bank draws a cheque on the bank. Due to an oversight the Royal Bank refuses to honour the cheque citing insufficient funds when there were sufficient funds available in Kamal’s account. Kamal wishes to bring an action against the bank for defamation.

Advise the Royal Bank the measures the bank should undertake to avoid the action. Support your answer with reference to relevant case law.

- (ii) Amal, a Customer of Trust bank draws a cheque for Rs. 900 inadvertently leaving blanks before the amount both in figure and in words. The amount is fraudulently altered by the payee to Rs 9,900. The cheque is presented and cashed.

Discuss with reference to the relevant legal principles and case law the position of the bank.

- (c) “ The Relationship of banker and customer is a relationship of confidence which includes a duty to maintain secrecy”.

In light of the above statement critically analyse the scope, purpose and limitations of the duty of confidentiality.

- (d) "Not negotiable crossing does not restrict the transferability of a negotiable instrument".

Do you agree with the above statement? Critically evaluate with a comparison to the effect of the 'account payee' crossing.

**(40 Marks)**

2. (a) With the increasing diversity of the business of banking, a modern day banker has different relationships in various capacities with customers. Consequently, there is an assumption of a new and wider proposition of responsibility, causing a broader range of dangers to which the banker is exposed.

Critically evaluate the above statement. Support your answer with reference to the relevant legal principles and case law.

**(20 marks)**

- (b) Since a collateral loan lessens the risk of the bank it may be easier for the customer to obtain funding. However when looking at the practical aspect on securities it is difficult to rely on securities since in all of them have its own unique practical issues.

Discuss the requirements of collaterals used by the Banks for lending and its practical issues. Justify your answer by using your practical/ theatrical knowledge and case law on accepting collateral as securities. Give solutions and recommendations to overcome such issues.

**(10 marks)**

**(30 marks)**

3. "Corporate Governance collapses are not a new experience in the business world. Such collapses badly affects all the stakeholders of bank".

In the light of the above statement, critically examine how Banking Direction 11 of 2007 on Corporate Governance for Licensed Commercial Banks in Sri Lanka and the Basel 11 accord attempt to address this issue. Further, recommend solutions for future corporate governance challenges that banks will encounter. You are also required to relate local as well as foreign examples on major governance collapses to justify your answer.

**(30 marks)**

4. (a) “ The illegal use of banking as a channel by criminals for the transfer and safeguarding of funds originating through crimes has captured worldwide attention. Sri Lanka, upon realization that money laundering and terrorist financing can have devastating consequences to the entire community introduced various measures to deter money laundering”.

Critically discuss the law enforcement efforts which seek to combat money laundering in Sri Lanka, appraising actions taken so far and setting out measures needed to deter and defeat the menace.

(20 marks)

(b) “ By strictly implementing and following sound KYC principles, a bank can mitigate serious risks that can affect itself and its staff ”.

Discuss with reference to the key steps which must satisfy to ensure perfect compliance on KYC procedures.

(10 marks)

(30 marks)

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