

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

DEGREE OF MASTER OF LAWS IN COMMERCIAL LAW- 2023/24

SEMESTER I END EXAMINATION

Banking Law – TLLM 1132
(Three Hours)

Total number of questions: 04

Answer **THREE (03)** questions and **no more**
(Candidates will be penalized for illegible handwriting.)

1. Answer **Both** (a) and (b)

- (a) Saman, a wealthy businessman, approached Royal Bank to obtain a substantial loan to expand his business. After a thorough review, the bank approved the loan and issued the funds. As part of the loan agreement, Saman provided sensitive business documents to the bank for review. During the loan processing, Lal, a bank employee, discovered confidential information about Saman's business strategies that could significantly impact the market if disclosed. Intrigued by the potential financial gains, Lal shared this information with his friend, Malik, who worked for a competing firm. Malik exploited this confidential information to the advantage of his firm, resulting in significant financial advantages. Saman, upon learning about the breach of confidentiality, sued Royal Bank for the unauthorized disclosure of his sensitive business information.

Analyzing the above situation in terms of the duty of confidentiality in banking, discuss the remedies and damages that Saman can seek under Sri Lankan law. Support your answer with reference to statutory provisions and decided cases.

(10 Marks)

- (b) Fernando is a financial advisor working for a reputable investment firm. He has been handling the financial portfolio of a new client, Mahen, for several months. Recently, Fernando noticed some unusual transactions in Mahen's account, including large cash deposits, rapid movement of funds between various accounts, and transactions involving high-risk jurisdictions. Fernando, concerned about potential money laundering activities, decides to investigate further. During this investigation, he discovers that Mahen has been providing inconsistent information regarding the source of his funds and the nature of his business activities. Fernando is uncertain about the best course of action. He wants to ensure compliance with anti-money laundering legislation but is concerned about compromising duty of confidentiality.

Advise Fernando on the legal factors he should consider and recommend a course of action to address the potential money laundering risk associated with Mahen's account. Support your answer with relevant authorities.

(10 Marks)

(Total 20 Marks)

2. Victoria, a customer of Trust Bank, instructed the bank to transfer Rs.10,000 from her account to pay a supplier, Shoe Mart Enterprises (SME). However, due to an error by a Trust Bank employee, Rs100,000 was mistakenly transferred to SME. When SME realized the error, it promptly withdrew the funds from its account. Victoria approached Trust Bank, demanding the return of the excess Rs. 90,000 transferred to SME. Trust Bank claims that the funds have been withdrawn and that it cannot compel SME to return the money.

Discuss the legal principles involved, citing relevant case law and advise Victoria on her potential legal options. Your answer must reflect whether the Trust Bank is obligated to indemnify Victoria for the losses, whether the bank has any other options available and whether there are any circumstances in which the bank will be unable to recover the money from Shoe Mart Enterprises (SME).

(Total 20 Marks)

3. Answer **Both** (a) and (b)

- (a) The **Brown v. Westminster Bank, Ltd.** case [1964] 2 Lloyd's Rep. 187, addressed the potential implications for the bank's duty of care, where the concept of estoppel applies. Some critics argue that, given the circumstances, the bank should have exercised a higher level of diligence in fulfilling its duty of care towards its customers in this specific case.

Critically discuss the validity of the above statement citing relevant authorities.

(08 Marks)

- (b) Discuss and critically evaluate the appropriateness of the Central Bank of Sri Lanka Act No. 16 of 2023 as the legal framework governing the Central Bank of Sri Lanka (CBSL), with specific reference to its main roles and functions. Consider the implications of the Act on the effectiveness, transparency, and autonomy of CBSL in fulfilling its monetary and financial system stability objectives.

(12 Marks)

(Total 20 Marks)

4. "The advent of electronic banking has marked a paradigm shift in the traditional banking industry, presenting multifaceted challenges and opportunities for banking institutions".

Do you agree with the above statement? Examine the complex interplay between technological advancements, customer expectations, regulatory frameworks, and the evolving competitive landscape, as well as the strategic adjustments that banks must make to thrive in this dynamic electronic banking ecosystem. Your answer must critically evaluate the cybersecurity challenges and overall resilience of the banking sector in adapting to the rapidly evolving digital environment.

(Total 20 Marks)

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