



National University of Ireland, Galway
Ollscoil na hÉireann, Gaillimh

FACULTY OF LAW

SEMESTER 1 EXAMINATIONS 2002/2003

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PAPER.**

MODULE CODE: LW377

MODULE TITLE: COMPANY LAW I

LECTURER: MS. CATERINA GARDINER

COURSE GROUPS: THIRD B.A. LEGAL SCIENCE
OCCASIONAL / ERASMUS STUDENTS

EXAMINERS: MS. CATERINA GARDINER
PROF. D PRENTICE

TIME ALLOWED: TWO HOURS
ERASMUS STUDENTS HAVE 2½ HOURS

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THIRD B.A. LEGAL SCIENCE
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COMPANY LAW (LW377)

Professor D. Prentice
Ms. Caterina Gardiner

Time Allowed: **2 hours**. (Erasmus Students 2½ hours as appropriate.)

Please answer any **THREE** questions

1. Discuss the attitude of the courts towards recognising exceptions to the Salomon principle (*Salomon v. A. Salomon & Co. Ltd* [1897] AC 22), and in particular to disregarding the separate personalities of related companies in a group.
2. Super Systems Ltd. (the "Company") is a private company limited by shares which supplies office software systems which serve various elements common when running a business such as sales order purchasing, sales forecasting and materials requirement planning. The directors of the Company are Donal, Paul and Niamh. They have not appointed a Managing Director, however, Donal carries on the day to day running of the company, managing employees and negotiating contracts. Paul and Niamh attend Board Meetings but do not usually become involved in day to day company affairs. The Articles of Association of the Company are in the form of Model Table A, with one exception: "The Company shall not enter into any loan agreement exceeding €100,000 unless approved by the Company in general meeting." Donal decides that the Company needs to expand its existing facilities and production capacity, and therefore negotiates a loan agreement for €200,000 between the Company and Large Bank plc. (the "Bank"). To secure the loan, a mortgage was executed in favour of the Bank over the company's premises.
There is no evidence of any resolution being passed at general meeting approving the loan.

The Company is now in financial difficulties and a liquidator has been appointed. The liquidator claims that the loan is invalid as Donal had no authority to enter the agreement and because the loan was not approved by the company in general meeting.

Advise the Bank.

3. Discuss the extent to which a company can be made liable for criminal activity.
4. Answer (a) **OR** (b)
 - a) The issued share capital of Ancient Antiques Ltd (The "Company") consists of 200,000 shares of €1 each. Anthony is the managing director of the Company and holds 150,000 shares. Another company, Fine Old Furniture Ltd, holds 30,000 shares. The remaining 20,000 shares are held by Adrian. Anthony has agreed to sell his shares in the Company to Arthur, who, at the same time acquired control of Fine Old Furniture Ltd. However, the Articles of Association of Ancient Antiques Ltd. contain pre-emption rights so that a member cannot transfer his shares to a non-member without first offering them to other members. In order to give effect to the agreement he has entered with Arthur, Anthony wants to alter the Articles to provide that sales to non-members are permissible where sanctioned by ordinary resolution without the transferor having to offer them to existing members. Adrian objects to this alteration. Advise Adrian.

OR:

- b) Discuss the nature and consequences of the S.25 Contract. (S.25 Companies Act 1963)
5. The Ultra Vires doctrine provides little if any protection to shareholders, has operated to the detriment of creditors and leads to a denial of legitimate expectations that bargains will be enforced. Discuss.

END