

1085

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

SEMESTER 1 Examinations, 2004/2005

Exam Code(s)	34BC, 234LL.B, 10A, 1EM, 1OL1.
Exams(s)	Third & Fourth Bachelor of Commerce Second Third & Fourth LL.B. Erasmus & Occasional
Module Codes(s)	LW377
Module(s)	Company Law I
Paper No.	1
External Examiner(s)	Prof. Henry Ellis
Internal Examiner(s)	Dr. O. Mills
Instructions	Answer THREE questions All questions and part questions carry equal marks unless otherwise indicated.
Duration	TWO Hours
Requirements:	
<i>Handout</i>	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	None
Department(s)	Law

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1. Peter has been operating a restaurant business as a sole trader for several years. Because of the success of the business over the years Peter has had to employ not only his wife but also his four children. The children are now grown and are seeking a share in the business. Peter is reluctant to change the legal structure of the business. However, he also wants to give his children a sense of responsibility while at the same time minimising the financial risk to the family as a whole.

Advise Peter as to which type of legal framework he should adopt in order to best accommodate the demands being made upon him.

2. Where the legislature decrees or a court decides to look behind the corporate screen and identify the company with its owners, it is said that the law "*pierces the corporate veil*".

Explain, outlining relevant law in support of your answer.

3. Although a company's *articles of association* are deemed to be a contract binding the company to its members, they are subject to change by majority vote (75%).

Examine the extent to which the rights and interests of a member who voted against an alteration of the articles, are protected at common law and by statutory provision.

4. James is both a director and shareholder in a number of successful companies. He is aware that since the 1990 Company's Act the duties imposed upon directors are more onerous than previously, therefore, he seeks your advice on the following:

- (a) John, a land owner, approached Building Ltd. with an offer to sell it some prime real estate which he owned just outside of Dublin. James is a member of the board of directors and joined with the majority of the board in rejecting the offer as not being compatible with the company's development plan. Sometime later, James approached John and negotiated the sale of the land to him in his private capacity with a view to development.

AND

- (b) James is a director of two companies, Milk Ltd. and Cream Ltd., both are in the same line of business. The board of Milk Ltd. has resolved to make a bid for the shares of Cream Ltd. and suggests to James that he use his influence to recommend acceptance of the offer to the board of Cream Ltd. James agrees.

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5. Explain the rule in *Foss v Harbottle* and outline its exceptions. Use relevant law in support of your answer.

6. The main object of Entertainment Ltd. was the business of renting TV's and CD's. However, the business was not successful and is now closed. The company did however have subsidiary objects that included authorisation to borrow money and permitted the directors to "carry on any business which the board of directors believes to be profitable". The directors are now contemplating taking out a loan from Western Bank Ltd. of Euro 300,000 to build a sports centre in Galway.

Discuss the legal implications that might arise from the scenario outlined above.

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