

SEMESTER II EXAMINATIONS - SUMMER 1999/2000

DIPLOMA IN BUSINESS STUDIES

BUSINESS LAW (LW208)

Mr. Ray Friel  
Ms. C. Gardiner

Time Allowed: Two Hours  
Answer THREE Questions

1. Parker, Platt & Perkins is a partnership which is in the textile manufacturing business. Recently some problems have arisen with regard to the partnership. These problems are as follows:-
  - a) Last month, Peter, one of the partners, set up his own business, a wholesale fabric outlet on the same street as Parker, Platt & Perkins. The other partners have now discovered that he has bought supplies of fabric cheaply and sold it to the firm at market price. They were not aware that Peter was selling on his own account.
  - b) It has also recently been discovered that Peter without the consent of his fellow partners, contracted to buy a new state of the art computerised garment manufacturing system for the firm from Texco Ltd, costing £7,000. The partnership agreement of Parker, Platt & Perkins provides that '*....no partner shall without the previous consent of the others, purchase goods in the name of or on behalf of this firm to an amount exceeding £2,000.*' So far, the other partners have refused to take delivery of the goods but Texco Ltd. have now written to the firm demanding payment.

The firm has asked you to prepare a memorandum setting out its legal position with regard to each of these situations.

2. The courts have frequently said that they will not allow the privilege of incorporation and in particular the concept of corporate personality to be used for a fraudulent or improper purpose. If this occurs, the judge has the power to 'lift the corporate veil'.
  - (i) explain the concept of corporate personality; and
  - (ii) outline the circumstances in which the veil of incorporation can be lifted by the courts. What happens when the court lifts the corporate veil?

In your answer, refer to any relevant case law.

3. Harry Molloy has been in business for the last 10 years as a sole trader. The business is the sale and repair of motor vehicles. The business is a prosperous one. Harry does not intend to retire for some years although he feels that he should provide for the possible entry into the business of his only daughter, Lorraine. Secondly, Jimmy Doyle, his highly valued and hard-working employee has recently indicated that he is tempted to leave and seek employment elsewhere unless Harry lets him take a share in the profits of the business. Harry would like to retain control of the business himself for the time being. Thirdly, Harry is considering buying another garage which has just come on the market and will need to borrow a considerable amount of money in order to do this. Harry comes to you for your advice as to the most appropriate business structure to adopt in these circumstances. Please also advise him on the formal steps to be taken in order to set up this structure.
4. Explain with reference to decided cases how the courts make the distinction between a *contract of service* and a *contract for services*. Why is it important to make this distinction?

5. Gloria had been employed by Karlsbeer Ltd., a well-known brewing company for ten years. She was a marketing manager and her work for the company was highly regarded. At the office Christmas party in 1998, she got seriously drunk and made loud derogatory comments about several of her work colleagues. She promised that this would not happen again. However, in December 1999, she concluded an agreement with a supplier and spent the rest of the day drinking with him in the bar of a nearby hotel. Later that evening, she was seen by several colleagues and some important customers of the company sliding down the first floor banisters of the hotel. She fell and fractured her skull. The following day, she was sent a letter informing her that she had been dismissed for "conduct unbecoming to a member of Karlsbeer's management team." Gloria now claims that she has been unfairly dismissed. Advise Karlsbeer as to their legal position.