


KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

THIRD YEAR EXAMINATION FOR THE AWARD OF
THE DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2023/2024
(AUGUST-DECEMBER, 2023)

LLBK 318: BANKING LAW AND PRACTICE

STREAM: Y3 S1

TIME: 2 HOURS

DAY: MONDAY, 12:00 – 2:00 PM

DATE: 27/11/2023

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE (COMPULSORY) and any other TWO questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

Mary graduated with a degree in Law in 2015. In anticipation of her first job, she opened an account with BIRO Bank Limited within the Republic of Kenya, and she applied for an ATM card. On the day she went to pick her card, she went with her then boyfriend, Tony, who stayed by her side throughout the day. Even when Mary was keying in her PIN number the boyfriend saw the PIN and even asked Mary why she put her birth year as the PIN. Mary noted this and at the back of her mind, told herself that in any case she didn't have any money in the account yet and promised herself to change the PIN number as soon as she could. Mary, however, forgot all about it. She later broke up with Tony and she married David. Five years after opening the account, Mary got a job in one of the leading law firms and decided to use the account to save a percentage of her earnings as she had opened yet another account with the same bank, BIRO Bank) for her salary. Unbeknownst to Mary, Tony has gotten into crime and still remembers her PIN number. One day, when she was going to work, her purse was stolen without her knowledge and her savings in her old BIRO Bank cleared. Due to the suspicious nature of the transactions in the BIRO Bank savings account, the bank called Mary to inquire if indeed it was her making the withdrawals. When her phone rang, her husband David picked it up and the bank went ahead to tell him that Mary's 5-year-old bank account,

which had over Ksh. 2 Million in it had been cleaned and a further Ksh. 1 million withdrawn as overdraft, and they were wondering whether it was Mary who was making the withdrawals. The husband promised to inquire the same from Mary and the bank promised to call later. Mary's husband was furious because he had been undergoing financial challenges and did not know that Mary had so much cash in the bank. He left Mary and initiated divorce proceedings citing lack of trust. When Mary learned what had happened, she rushed to the bank and filled a withdrawal slip for Ksh. 700,000 which the bank declined to honor. Her salary was later in the evening deposited to her salary account, but the bank took it all to settle the overdraft in her savings account.

Mary is aggrieved and feels that the bank is the cause of all her troubles, her savings, her salary and her marriage. She wants to sue and has come to you for legal advice on the extent of liability by BIRO bank.

Advice her.

(30 Marks)

QUESTION TWO

- a) Discuss the distinction between the Central bank and the Commercial banks. **(6 marks)**
- b) Analyze FOUR functions of the Central Bank of Kenya. **(8 Marks)**
- c) Discuss the key components of Basel III accord. **(6 marks)**

QUESTION THREE

- a) Discuss the protection available to the Collecting Bank in negotiable instruments **(6 Marks)**
- b) Explain FOUR prerequisites of a valid endorsement of a bill **(8 Marks)**
- c) Explain THREE types of holders of a bill **(6 Marks)**

QUESTION FOUR

- a) Explain FOUR functions of the Deposit Protection Fund in Kenya **(8 Marks)**
- b) Hustlers DTM Limited is a microfinance institution licensed by the Central Bank of Kenya to carry out deposit-taking business. You have been recently

appointed as an officer in the legal and compliance department of DTM Limited. During one of the stakeholder engagements, you are tasked with the explanation of the SIX Circumstances under which the Central Bank might by notice, revoke the license of Hustlers DTM Limited.

Discuss them.

(12 Marks)

QUESTION FIVE

Write Short Notes on the following

a) The International Monetary Fund

(6 Marks)

b) The World Bank

(7 Marks)

c) The African Development Bank

(7 Marks)