

The Institute of Chartered Accountants [Ghana]



**MAY 2005
EXAMINATIONS**

Part 2

**COMPANY AND PARTNERSHIP LAW
(Paper 2.3)**

Answer Any Five (5) Questions

Time Allowed: 3 Hrs.

QUESTION 1

- a) Who may apply for a partnership firm to be wound up under an order of the Court?
(4 marks)
- b) On what grounds may the court order such winding up?
(10 marks)
- c) What are the requirements on the Registrar on his satisfaction that the winding up of the firm is completed?
(3 marks)
- d) State two other ways by which a firm may be wound up?
(3 marks)
- (Total: 20 marks)**

QUESTION 2

Devour is a restaurant owned by four partners. Joe, one of the partners gave a written notice to the firm of his resignation. Skido, a friend of Risky one of the partners, was noticed taking part in the activities of the partnership without any word to the partners. Subsequently Joe resumed his activities as a partner. At a meeting of the partnership both Skido and Joe participated and voted together with Risky as against Smart and Alert to have the nature of the firm's business changed. Smart and Alert are aggrieved and have consulted you. What legal issues come to the fore?

(20 marks)

QUESTION 3

Delicious is the name of a company that deals in frozen meat. Delicious entered an oral agreement for the supply and sale on credit basis of all its frozen meat to Madam Kaa Worry. The affairs and business of Delicious were undertaken by its Managing Director and Mr. Ebeyeyie who though never appointed by the company as a director, acted on behalf of the company as if he were a director and Chief Executive of the company. Mr. Ebeyeyie's name appeared on the company's letterhead as one of the directors. Directors were given allocation of the frozen meat as bonus. Mr. Ebeyeyie and the managing director gave their supplies to Madam

Kaa Worry. Madam Kaa Worry on the instructions of Mr. Ebeyeyie made payments into the accounts of Mr. Ebeyeyie's private firm. Madam Kaa Worry paid various sums of money to both the Managing Director and Mr. Ebeyeyie for which no valid receipts were given. At the close of the business for the year there was a deficit balance of twenty million cedis against Madam Kaa Worry for which the company sued Madam Kaa Worry counter claimed for thirty-five million cedis. The company argued that Mr. Ebeyeyie was not its director.

Discuss the chances of success of Madam Kaa Worry and the legal implications for Mr. Ebeyeyie and the company as a whole.

(20 marks)

QUESTION 4

- a) Distinguish between equity share and preference shares.

(8 marks)

- b) The creation by companies of charges over their properties to secure their debentures has now become the rule rather than the exception. Discuss debentures and the usual charges created by companies.

(12 marks)

(Total: 20 marks)

QUESTION 5

Under what circumstances may the Registrar by a written order call on a company to produce for inspection all or any of the books of the company?

(20 marks)

QUESTION 6

In Ghana, an ultra vires act, convergence or transfer is not necessarily invalid simply because it exceeds its powers. Discuss the ultra vires doctrine and the reason and practical significance of this modification.

(20 marks)

QUESTION 7

- a) How may official Liquidation be commenced. (4 marks)
- b) A company during the process of Liquidation had a judgment ordered against it. A company director brought an application before the court for an order to set aside the judgment.

Discuss the legal status of the judgment against the company and the application by the director.

(16 marks)