
GENERAL INSTRUCTIONS TO STUDENTS

1. The paper consists of FOUR questions.
 2. Answer All the questions.
 3. Begin each question on a new page.
 4. Write legibly.
 5. Number your answers carefully.
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Question 1

Stick (Pty) Ltd and Stone (Pty) Ltd incorporated a joint venture company (JV) named Stick-n-Stone (Pty) Ltd in which Stick (Pty) Ltd holds 49% and Stone (Pty) Ltd 51% of the shares. The purpose of Stick-n-Stone (Pty) Ltd is to render services in the construction industry. Stick (Pty) Ltd has now discovered that Stone (Pty) Ltd is being investigated by the Competition Commission for price fixing over a period prior to the formation of Stick-n-Stone (Pty) Ltd. The damage this could do to the reputation of Stone (Pty) Ltd and consequently also to Stick-n-Stone (Pty) Ltd has led to Stick (Pty) Ltd regretting its association with Stone (Pty) Ltd. However, it has spent a considerable sum of money on advisors in setting up the structure and Stick-n-Stone (Pty) Ltd has further incurred costs in tendering for several large projects. Stick (Pty) Ltd would thus not like to exit from the joint venture. It argues that Stone's conduct is not only harming Stick-n-Stone (Pty) Ltd but is also prejudicial to it as a shareholder.

Advise Stick (Pty) Ltd regarding the appropriate remedy, explain the requirements and identify relevant orders the court could make in the particular circumstances. [15]

Question 2

Happy Drinks manufactures and sells soft drinks. The company is facing strong competition from other companies in the same business. Because of this Happy Drinks decides to explore other opportunities in the soft drink business. Tattler, the managing director of Happy Drinks, negotiates with Imitation Drinks Ltd on behalf of Happy Drinks to acquire the exclusive rights to manufacture and sell "strawberry explosion", a well-known soft drink. However, Happy Drinks has some difficulty in raising the capital required to conclude the contract. Tattler tells his friend Sneaky, who is involved in a similar business, about her negotiations with Imitation Drinks Ltd and about Happy Drinks' problem. Sneaky then manages to acquire the executive rights to manufacture and sell "strawberry explosion": One month later Tattler resigns as managing director of Happy Drinks and joins Sneaky as a partner in their new business.

Advise Happy Drinks whether Tattler has breached any duties and what type of orders the court could make if Tattler is found to have breached any duties. Also discuss the possible liability of Tattler (if applicable). Refer to relevant principles, legislation and case law in your answer. [15]

Question 3

Ghost Wasties Ltd carries on the business of domestic refuse removal. Granter is a non-executive director of Ghost Wasties Ltd. His wife, Felicia, recently bought some shares in Plants and All (Pty) Ltd, which is in the garden refuse removal business. Granter receives notice of a board meeting and notices that the agenda includes an item: "*Possible expansion of business - invitation to tender for garden refuse removal contract*". It appears that one of Ghost Wasties Ltd's largest clients has now invited Ghost Wasties Ltd to submit a tender to also handle their garden refuse removals in future. Ghost Wasties Ltd wants to appoint Plants and All (Pty) Ltd as sub-contractor to handle the garden refuse removal of this client. The executive directors of Ghost Wasties Ltd have already entered into negotiations with Plants and All (Pty) Ltd.

Advise Granter on the correct way of dealing with this situation in order to avoid breaching his duties as a director. Refer to the Companies Act 71 of 2008 and relevant case law. [15]

Question 4

Discuss the validity of the following clauses:

4.1 Clause 1 of the Memorandum of Incorporation of Bambi (Pty) Ltd provides as follows:

"1. Directors of the company must be removed from office by special resolution." (3)

4.2 Clause 2 of the Memorandum of Incorporation of Bambi (Pty) Ltd provides as follows:

"2: An ordinary resolution requires the support of shareholders holding at least 45% of the voting rights exercised on the matter." (2)

[5]

End of paper.