

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 16 – THE PRACTICE OF COMPANY & PARTNERSHIP LAW

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Company Law 2021-2022, 25th edition, Derek French, Oxford University Press, 2021.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

Question 1

Floris and Smyth Sparkle Cleaning (trading as Sparkle Cleaning)

Reference: Question relates to **Documents 1 and 4** of the case study materials.

Abigail Floris informs you that the relationship with Hugo Eaton has recently deteriorated. It has been discovered that, while at a convention for cleaning products, he placed an order to the value of over £135,000. The ordering of supplies is outside Hugo's current remit, and the supplier does not meet the Covid-safe sourcing standards that the Partnership seeks to apply on the sourcing of products. This order could impact adversely on the Partnership's reputation.

Advise Abigail with regard to:

(a) whether the partners will be bound by the order placed by Hugo; **(15 marks)**

(b) whether, and if so how, she and Demi Smyth may terminate the Partnership with Hugo and carry on the business without him. **(12 marks)**

(Total: 27 marks)

Question 2

Reference: Question relates to **Documents 1, 2 and 3** of the case study materials.

The issues with Hugo have now been satisfactorily resolved. Abigail and her fellow partners have now completed their negotiations with PNY Investments. The partnership is to be incorporated, using the shelf company Kempston Shelf Co 201505 Limited. The new company will be called Sparkle Cleaning Limited ('the Company').

All three partners, Abigail, Demi and Hugo, together with Richard Batch, are to become directors of the Company. Abigail will be awarded a fixed-term service contract of five years.

Advise Abigail with regard to:

(a) the documents and formalities required to comply with the Companies Act 2006 in respect of her appointment as a director and the award of her proposed service contract; **(15 marks)**

(b) how Abigail could be removed as a director and how she might be protected from removal as a director. **(8 marks)**

(Total: 23 marks)

Question 3

Reference: Question relates to **Documents 1, 2, 3 and 4** of the case study materials.

Following the appointment of the new directors, the two subscriber shares in the Company will immediately be transferred to Abigail and Demi, each taking one share.

Abigail, Demi and Hugo will transfer their respective interest in the Partnership assets to the Company. The consideration is to be £2 million for the assets of the Partnership, payable by the Company in £1 ordinary shares, to be issued as fully paid.

Abigail, Demi and Hugo will each receive shares in accordance with their Contribution and Division of Capital in the Partnership Deed [Third Schedule of **Document 4**].

Advise Abigail with regard to:

(a) approving the transfer of the Partnership assets to the Company;

(17 marks)

(b) the liability of the directors to contribute to the assets of the Company in the event that the Company were to become unable to pay its trade creditors while continuing to trade.

(10 marks)

(Total: 27 marks)

Turn over

Question 4

Reference: Question relates to **Documents 1, 2 and 3** of the case study materials.

PNY Investments has agreed to invest a total of £3,500,000 in the Company. In return, it will receive:

- 2,500,000 ordinary shares of £1 each; and
- 1,000,000 preference shares of £1 each.

The preference shares will be non-voting, cumulative, with a limit on the amount that can be received in a distribution but will pay a cumulative fixed dividend of 3.4%.

Advise Abigail with regard to:

- (a) the permissions required to enable the directors lawfully to allot the additional ordinary and preference shares to PNY Investments as set out above;

(11 marks)

- (b) the formalities that will be required to comply with the Companies Act 2006 in respect of such allotment of ordinary and preference shares to PNY Investments.

(12 marks)

(Total: 23 marks)

End of Examination Paper

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