

**INSTITUTE OF BANKERS IN MALAWI**

**DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: TRUSTEE ACCOUNTS (IOBM – D209)**

**Date: Friday, 16th November 2018**

**Time Allocated: 3 hours (13:30 – 16:30 hours)**

**INSTRUCTIONS TO CANDIDATES**

1 This paper consists of **TWO** Sections, A and B.

2 Section A consists of 4 questions, each question carries 15 marks.

Answer **ALL** questions.

3 Section B consists of 4 questions, each question carries 20 marks. Answer **ANY TWO** questions.

4 You will be allowed **10 minutes** to go through the paper before the start of the examination, you may write on this paper but not in the answer book.

5 Begin each answer on a new page.

6 **Please write your examination number on each answer book used. Answer books without examination numbers will not be marked.**

7 All persons writing examinations without payment will risk expulsion from the Institute.

8 If you are caught cheating, you will be automatically disqualified in all subjects seated this semester.

9 DO NOT open this question paper until instructed to do so.

**SECTION A (60 MARKS)**

Answer **ALL** questions from this section.

**QUESTION 1**

Zaya, a trustee of Leasehold Property, directs the tenant in the said leasehold property to pay all rentals on account of the trust to Apawo Bank Limited, the leading bank in the area. The rentals are accordingly paid by the tenant to Apawo Bank Limited, and Zaya leaves the money with Apawo Bank Limited, only till wanted. Before the money is drawn out, Apawo Bank Limited becomes insolvent and the money is not recovered. Discuss Zaya’s liability to the beneficiaries of the trust. **(Total 15 marks)**

**QUESTION 2**

Discuss **five** duties which the law imposes on an executor. **(Total 15 marks)**

**QUESTION 3**

With illustrations, discuss **three** ways in which a constructive trust differs from other trusts? **(Total 15 marks)**

**QUESTION 4**

It has long been established in equity that a trustee should exercise his judgment and perform his duties personally. In other words, a trustee may not allow a stranger to participate in the management or control of the trust. This is called the duty to act personally. Discuss any **three** exceptions to the duty to act personally. **(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

One of the distinguishing obligations of a trustee is the obligation of loyalty.

1. Explain the extent of loyalty. *(4 marks)*
2. Discuss **fou**r core obligations. *(16 marks)*

**(Total 20 marks)**

**QUESTION 6**

In the case of Freeman v Fairlie(1817), it was said that a trustee must keep an accurate account of the trust property, and must be always ready to render it when required. Elaborate on the trustees’ duty to keep and render accounts and the remedies that beneficiaries may have in the event of breach of that duty. **(Total20 marks*)***

**QUESTION 7**

A partnership can be dissolved by the parties outside the court settings. However, it can also be dissolved with courts’ involvement. Name and briefly discuss **five** sets of circumstances in which a court may, on application by a partner, order the dissolution of a partnership. **(Total 20 marks)**

**QUESTION 8**

Five years ago, Mapundi and Kapsala were in partnership. Kapsala opened a partnership account in his own name with Equity Bank. The account has now become overdrawn and Equity Bank seeks to recover the amount owing under the overdrawn account from Mapundi. With justifications for you answer, advise Equity Bank on the issue of Mapundi’s liability. **(Total 20 marks)**

**END OF EXAMINATION PAPER**