



**RIARA LAW SCHOOL
UNIVERSITY EXAMINATIONS
SECOND SEMESTER EXAMINATION 2015
THIRD YEAR EXAMINATIONS FOR BACHELOR OF LAWS (LLB)
RLLB 313: FINANCIAL SERVICES LAW**

INSTRUCTOR: Roseline Njogu

Date: December 16, 2015

Time: 3 hours

INSTRUCTIONS:

1. This is the Financial Services Law FINAL examination. It contains THREE (3) pages including this one.
2. This exam comprises of two (2) questions. Please answer **both**.
3. This exam covers 70% of your final grade. You have already earned up to 30% by CAT and class participation.
4. The time allowed for this exam is **THREE (3) HOURS**.
5. DO NOT WRITE ON THIS QUESTION PAPER. All rough work must be done in your answer booklet and crossed out.
6. This is a CLOSED BOOK examination. No illicit materials whatsoever (books, statutes, copies of the Constitution, notes, computers, cell phones, MP3 players, etc) are allowed, and this rule shall be enforced with **strict liability** upon you. You may bring pens, pencils, rulers, correction fluid, sharpeners, erasers, watches, medicine (if required), water and non-pungent food (e.g. cookies, fruit and candy). These materials should be carried at all times in your hands or in a **CLEAR PLASTIC BAG** such as a Ziploc® or other bag. **If you have any illicit materials, raise your hand now and the invigilator will collect them from you.**

Question 1 (30 marks)

Amani Yetu opens a savings account with Mashambani Bank, and deposits Kenya Shillings sixty three thousand (KES 63,000/-) representing her total savings. While signing the lengthy account opening forms, the relationship officer, Moses Kimbelembele, promises that the bank will invest her money and she could rest assured that she would be rich! Kimbelembele also undertakes to ensure that her bank statements are sent to her regularly, and to “take care of her account” very well. Three months later, Amani is disappointed. Not only has Kimbelembele not sent her any statements, he will not take her calls or reply to her “WhatsApp” messages. She decides to go to the branch and make enquiries. While speaking to the branch manager, she demands, *inter alia*, to see comprehensive accounts showing how her KES 63,000/- was invested, and what returns it has made. She asserts that Mashambani Bank is her investment agent and has a fiduciary duty to account to the principal.

The branch manager, who is long on personality and short on intellect, is dumbfounded. He runs to you for advice. You are the newly appointed general counsel to Mashambani Bank. While dealing with Amani’s concerns, explain to the Bank Manager the nature of the banker-customer relationship AND the obligations that attach to it. Ensure that your opinion analyzes relevant case law and statute.

35 Marks

Question 2

Aoko is a fashion designer. After 3 years in law school, she has decided to quit and follow her passion. After years of running a very

successful blog on fashion, she has decided to try her hand at actually creating clothes, instead of commenting about them. After showing a few shops her designs, she has received orders from three major fashion houses in Nairobi. She urgently needs financing to buy fabric, sewing machines and other equipment to design and sew clothes, pay salaries, and meet other operational and capital expenditure. Her parents have refused to loan her the money (they did not pay extravagant law school fees for their only daughter to turn into a lowly tailor!). Her bank is equally unimpressed- she only has KES 6,000/- in her account, and no business expertise whatsoever.

While mulling over her issues over a cup of coffee, she bumps into you- now a legal officer at a local Islamic Bank. You advise her to come to the bank and meet with the manager in hopes of securing financing. She has only recently heard of Islamic banking- and thinks it is a “pyramid scheme”. Explain to her:

- (i) the themes and doctrines of Islamic banking;
- (ii) three products that the bank can offer her to meet her specific financing needs (be sure to explain how they would be structured); and
- (iii) the regulatory problems the Bank faces due to conflicts between its financing structures and banking regulation, and how the Bank is overcoming them

(35 marks)