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**NATIONAL UNIVERSITY OF LESOTHO**  
**FACULTY OF LAW**  
**LL.B FINAL EXAMINATIONS**  
**L595 – INSOLVENCY LAW**

**MAY 2018**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS:**

1. Answer any **FOUR (4)** questions.
2. All questions carry equal marks.

**QUESTION 1**

(a) Tatolo is married in community of property to Pabala. They have six creditors that they have been struggling to pay since Pabala lost her job as a Sales Manager for Maseru Telecomms. They decided to write a letter to Masoabi who is one of the creditors they owe an amount of M 4,500.00. In the letter, the couple stated that they have been experiencing financial difficulties and are unable to pay.

Discuss the significance of the letter and the steps that any of the creditors including Masoabi may take against the couple.

**10 Marks**

(b) Moeketsi has recently been experiencing financial difficulties and is behind with payment of his debts by about six months. He has been considering surrender of his estate as a possible option. He is however reluctant to lodge the application for surrender because he does not have full knowledge of what will be the effect of the sequestration order on his sports car, his house at Moyeni suburb, furniture, his designer clothing and music system which he uses in his profession as a DJ.

Advise Moeketsi.

**15 Marks**

**[25 MARKS]**

**QUESTION 2**

Mosala, a *Curator Bonis*, of Chere's estate has been managing the estate for two years since Chere became insane after his car and house were repossessed by Mejametalana Bank for failing to make the required payments on the property. Mosala is considering applying for voluntary surrender of the estate. He is

however concerned about whether the court will consider the mental status of Chere as a factor in deciding whether to grant the sequestration order.

Advise Mosala.

**[25 MARKS]**

### **QUESTION 3**

Makhasi holds investments bonds as security for a debt owed by B Furn, a sole trader business owned by Miss Dotty, for an amount of M24,000.00. Miss Dotty's estate was sequestrated before she could pay Makhasi the outstanding M20,000.00. Ts'eliso is appointed as trustee of Miss Dotty's estate.

- i) What type of creditor is Makhasi? **2 Marks**
- ii) Indicate the advantage that Makhasi has by virtue of holding the security. **3 Marks**
- iii) Discuss the procedure for realization of the investment as stated in Section 84 of the Insolvency Proclamation, 1957. **20 Marks**

**[25 MARKS]**

### **QUESTION 4**

Discuss the procedure for valid election and appointment of a Trustee of an insolvent estate as provided for in the Insolvency Proclamation, 1957. In your discussion, indicate the categories of persons disqualified from appointment as trustees.

**[25 MARKS]**

### **QUESTION 5**

Lebelo has been appointed as trustee of Paki's estate. It is the first sequestration that Paki has experienced. Lebelo met with Paki to briefly discuss the estate. In



their discussion Lebelo mentioned that there will be meetings of creditors held during the process of administration of the estate. Paki wants to know more on these meetings and comes to you for advice.

Explain to Paki fully the relevance of the meetings of creditors and the different aspects pertaining to the meetings, including but not limited to types, calling of meetings, voting, resolutions, interrogation, and purpose of meetings.

**[25 MARKS]**

### **QUESTION 6**

Discuss in detail rehabilitation as part of the sequestration procedure. Include in your answer the periods in which the insolvent may apply for rehabilitation.

**[25 MARKS]**