

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May,2019

Course: Equity and Trust Law
Programme: Banking, Finance & Insurance Law specialization
Time: 03 hrs.

Semester: VI
CC:LLBL312
Max. Marks: 100

SECTION A

S. No.	Statement of question – decide, if the following are true or false?	Marks	CO
Q	Statement of question – decide, if the following are true or false?		
1.	Settlor can be an incorporate company.	2	CO1
2.	The beneficiary can be only a natural person.	2	CO1
3.	An artificial person cannot be a trustee.	2	CO1
4.	There is no distinction between the constructive trust and resultant trust.	2	CO1
5.	If the beneficiaries have no rights enforceable against the trustees there are no trusts.	2	CO1

SECTION B

Q	Statement of question – Short Answer type questions		
6.	What is the distinction between the trust and waqf.	5	CO1
7.	Illustrate five sections in Law of Contract or Companies Act, 2013 Act where you can apply the principles of equity.	5	CO3, CO2
8.	What do you understand with the trustee's duty to disclosure? What is your opinion about the Laws relating to beneficiary's right to access the trust documents.	5	CO1, CO2

9.	Critically analyze the relationship between the settlor's reservation of power and mitigation of agency principles.	5	CO1, CO2
SECTION-C			
Q	Statement of question – answer any two		
10.	What are the roles of the of the trust protectors in the offshore jurisdictions? Does it pose any threat to the traditional approach of the trusts as prevalent in the onshore jurisdictions?	10	CO1
11.	In accommodating the interest of the settlor, the offshore trust have been compromising the with the interest of the beneficiaries. Do you agree?	10	CO1
12.	What are the basis of classifying the trusts? Distinguish between the resultant trusts, constructive trusts and proprietary estoppel.	10	CO1
SECTION-D			
Q	Statement of question		
13.	<p>Mr. Richie Jack is a rich industrialist of London who owns many factories, building and land in the prime location of London. Since he has no children, he made certain arrangements by creating various arrangements in the trust. You are required to decide the validity of the trust on the basis of the below mentioned information –</p> <p>a. He set aside the income from a factory situated in south London for the purpose of awarding the best performing students of London University, though fails to mention the number of beneficiaries, but allocates a fixed amount for this purpose.</p> <p>b. He settled a trust for two of his sisters, A & B, and allocates one building for each of them. But the trust deed provides the withdrawal of such facility given to his sisters basing on his discretion. He also retains the right to change the beneficiaries.</p>	10X2 =20	CO3, CO2

14.	A bequeaths certain property to B and C, and directs them to sell it and invest the proceeds for the benefit of the D. B and C accordingly sell the property, and the purchase money is received by B and retained in his hands, C pays no attention to the matter for two years and then call on B to make the investment. B is unable to do so, becomes insolvent and the purchase – money is lost. Decide the liability of “c.”	10	CO1
15.	ABC Technology Ltd (ABC) is a public company listed on the Stock Exchange of Mumbai (incorporated in Tokya). ABC's core business is the manufacture and distribution of computer components. Late last year, Wong, as Executive Chairman of ABC, received and entertained a delegation from ABC's largest customer from China, China Computers Ltd (CCL). Over a dinner hosted by Wong in honor of CCL's Chairman and CEO, Pang, the latter suggested to Wong that ABC and CCL should set up a joint venture company in Shanghai to manufacture and distribute computer components in China in order to cement the two companies' close business relationship for the long term. Subsequently, Wong brought this to the attention of ABC's board of directors and suggested that he was not in favor of the proposal as such a joint venture would over-stretch ABC's management and financial resources. After some discussion the other members of the board agreed with Wong that ABC should decline the proposal. A few weeks later, however, following a discussion between Ong (ABC's non-executive Deputy Chairman), Lam (an executive director of ABC in charge of manufacturing operations), and Mong (an independent director of ABC), it was decided between them that such a joint venture opportunity with CCL could be very profitable given the potential demand for computer components and size of the China market. Accordingly, they decided that they should approach Pang directly with the view that CCL should go into joint venture with a company that Ong, Lam and Mong would own and control. As Ong, Lam and Mong anticipated that with such a joint venture in place, CCL would in future cease to buy their computer components from ABC and direct all their purchase requirements to the joint venture, Wong, whose family owned 60% of the voting shares of ABC, was likely to disapprove of their entering into this joint venture with CCL. Ong, Lam and Mong therefore decided that before proceeding further they should obtain a legal opinion to ensure that they could take up this joint venture opportunity without running into legal problems with ABC and Wong. They also decided that should the proposed joint venture with CCL proceed as planned they would resign as directors of ABC. Ong, Lam and Mong seek your legal opinion on this matter. Advise them on the basis of the prevailing Common Law Propositions.	20	CO2, CO2

Name:

Enrolment No:



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May, 2019

Course: Equity and Trust Law

Programme: Banking, Finance & Insurance Law specialization

Time: 03 hrs.

Semester: VI

CC:LLBL312

SECTION A

S. No.		Marks	CO
Q	Statement of question – decide, if the following are true or false?	2	CO
1.	A trust will fail if there is no trustee.	2	CO1
2.	A duty of the trusteeship is onerous in nature.	2	CO1
3.	The content of this irreducible core is undebatable and need not to have any further clarifications.	2	CO1
4.	Trustee exemption clauses protect trustees against (the threat of) vexatious litigation.	2	CO1
5.	Settlor's reservation of power has no adverse tax consequences.	2	CO1

SECTION B

Q	Statement of question – Short Answer type questions		
6.	Devise the relationship between equity, trust and law with the help of the relevant cases.	5	CO1, CO2, CO3
7.	Under the Trustee Act, 1882 what are the liabilities of the trustee?	5	CO1
8.	Critically analyze the Settlor's reservation of power and mitigation of agency principles.	5	

			CO1
9.	What do you understand with the trustee's duty to disclosure? What is your opinion about the Laws relating to beneficiary's right to access the trust documents.	5.	CO1
SECTION-C			
Q	Statement of question – answer any two		
10.	Critically analyze the statutory innovations on Trust Protector and Trust Enforcer in the common law jurisdictions if they are satisfactory.	10	CO1
11.	In accommodating the wishes of the settlors, to what extent the offshore common law trusts jurisdiction moved the conventional English trust doctrines to one that resemble a tripartite contractual arrangements.	10	CO1, CO2
12.	What are the various types of trusts? Distinguish between the resultant trusts, constructive trusts and proprietary estoppel.	10	CO1
SECTION-D			
Q	Statement of question		
13.	The Mr. X was acting as an agent for both the borrower as well as the lender for the purchase of a house. The lender agreed to allow the loan to the borrower on the condition that the balance of the money would be arranged by the buyer from his own account and no second loan would be taken against the house. But the borrower created a second charge against the residential property which was in the knowledge of the Mr. X but he failed to inform the same to the lender company. Later, the borrower defaulted in payment of the money and the house was sold. The lender was not able to recover its loan amount and sued Mr. X. Decide the fiduciary liability of Mr. X explaining its historical development in England.	20 Marks	CO3, CO2
14.	D & K are two directors in XYZ Infra Ltd. based in London. The company undertakes the contract to supply heavy machinery to the East and south Asian nations for the development of infra structure projects. D & K both went to Hong Kong with their families on a vacation where they met the managing director of Hong Kong infra Ltd., Mr. P. Hong Kong infra had won the contract to make fast railway in India and for that purpose it required the supply of heavy machineries. Mr. P allowed a two months	20 Marks	CO1, CO3, CO2

	<p>period to study the feasibility to supply the equipment. The directors, D & K duly sent the message to the Managing Director of XYZ and they stayed in Hong Kong. But even after passing the two months period the Managing Director of XYZ failed to reply. Now, D Started negotiating the agreement for his son T's company (AMD Infra Ltd.) which also supply the heavy infrastructure equipment. The contract was allowed to AMD. XYZ sued D for the breach of duty. Decide the liability of the director/s in terms of being fiduciary to the company, while tracing its history and development in equity.</p>		
15.	<p>A is a trustee of a leasehold property. He directs the tenant to pay the rents on account of the trust to a banker, B. The rents are accordingly paid to B, and A leaves the money with B only till wanted. Before the money is drawn out B becomes insolvent. A, having had no reason to believe that B was in insolvent. Decide.</p>	<p>10 Marks</p>	<p>CO1</p>