



جامعة السلطان الشريف علي الإسلامية  
UNIVERSITI ISLAM SULTAN SHARIF ALI  
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

**Faculty of Shariah and Law**  
**Semester II, 2016/2017 Academic Session**

**Final Examination Question Paper**

**Course Code : LB 5304**  
**Course Name : Professional Practice II**  
**Course Level : Bachelor of Laws (LL.B) & Bachelor of**  
**Shariah Law (BSL)**  
**Time : 3 hours**

**Reference allowed:**

Probate & Administration Act (Cap.11)  
Bankruptcy Act (Cap 67)  
Insolvency Order 2016  
Syariah Courts Act (Cap 184)

**Notes:**

1. Answer **all** questions in PART 1 and any **two** questions in PART II
2. All answers, wherever relevant, must be supported by statutory provisions and case laws.

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**PART ONE**

**QUESTION 1 (15 Marks)**

Ali had opened a joint account at Bank Islam Brunei Darussalam with Ahmad, his only adopted child. At the time of Ali's death, a sum of \$100,000.00 had been deposited in the said joint account. Ali was also survived by his only brother, Ismail. Ahmad was subsequently appointed as the Administrator of Ali's estate and wish to seek your legal advice in the following matters:

- (a) Advise Ahmad on his legal rights to the monies in the Joint-Account with specific reference to the decision in (i) Hussaimah Binti Abdullah vs Hjh Jamilah Binti Haji Mohd Hussain (as the administratrix of the Estates of Hj Mohd Hussain Bin Taram, deceased) and (ii) The Islamic Development Bank of Brunei Berhad and The Personal Representatives of Dyg Hjh Salmah Binti Abdullah (Deceased) (Originating Summons No.61 of 2004). **(5 Marks)**
- (b) What would be the basis of the decision on the monies if the matter is under the jurisdiction of the Syariah Courts? Can Ali's brother, Ismail, claims the monies and if so on what grounds? **(3 Marks)**
- (c) What is your advice to Ahmad following the decision in Latifah Mat Zin V Rosmawati Sharibun & Anor (2007) 5 MLJ 101 with regard to the jurisdiction of the High Court? Explain the decision in Latifah Mat Zin's case. **(3 Marks)**
- (d) Advise Ahmad if he is entitled to be paid for expenses which he had incurred in the administration of the Ali's estate under the Probate and

Administration Act (Cap 11) by referring the relevant provisions under the Act as well as whether Ahmad is entitled to sell the estate properties if the monies left by the estate are not sufficient to pay all the expenses in the course of the administration of the estate.

**(4 Marks)**

**QUESTION 2 (15 Marks)**

Awang currently owned several rented properties including shophouses. Awang had rented one of the shophouses to Ariffin for a restaurant business at a monthly rental of \$5,000.00. Ariffin had defaulted in payments of the rental for 1 year totaling \$60,000.00. Awang has approached you for advice to recover the amount of \$60,000.00. Awang specifically needs your advice on the filing Bankruptcy Proceedings against Ariffin under the Bankruptcy Act (Cap 67). Advice Awang:

(a) The procedures of filing Bankruptcy Proceedings against Ariffin.

**(4 Marks)**

(b) Explain what amount to the acts of bankruptcy in a Bankruptcy Proceeding with reference to decided cases.

**(5 Marks)**

(c) Explain the meaning of Creditors Meeting.

**(2 Marks)**

(d) Explain the effect of Receiving Order.

**(2 Marks)**

(e) Explain the Rescission of Receiving Order.

**(2 Marks)**

## **PART TWO**

### **QUESTION 3 (15 Marks)**

Adam wants to develop his property into residential and commercial units. Adam, however, has different names in both his Birth Certificate and Identity Card. Adam approaches you for advice in respect of the development of his property:

- (a) Advise Adam on the preparation of Power of Attorney in relation to the Development Agreement by explaining the purpose of the Power of Attorney and the terms of the powers given to the Developer.  
**(6 Marks)**
- (b) Advise Adam on the making of Statutory Declaration to show that his two names referred to the same person i.e. Adam. Explain the significance of this Statutory Declaration under the Statutory Declaration Act Cap 12.  
**(6 Marks)**
- (c) Explain and clarify the relevant sections on the penalties provided under the Penal Code if a false declaration is made by Adam.  
**(3 Marks)**

### **QUESTION 4 (15 Marks)**

Mohamad has recently been appointed as the Administrator of the estate of his late father, Omar. There are two (2) beneficiaries of the estate namely Mohamad and his elder sister Hasnah. In the course of the administration of the estate Mohamad discovered one Statutory Declaration purportedly a Will (Wasiat) leaving \$100,000.00 from the monies in the ABC Bank to his sister, Hasnah and the balance to be distributed as in accordance to the Faraidh Certificate. There is,

however, only \$150,000.00 in the ABC Bank's account. Mohamad now seek your advice on the validity of the alleged Will (Wasiat) under the Syariah Law.

- (a) Explain (i) whether the Will (Wasiat) is valid under the Syariah Laws and (ii) the procedure for the Application of the Validity of Will (Wasiat) in the Shariah Courts. **(5 Marks)**
- (b) If the Will is not valid, what will be the process of the division of property of the deceased's estate. **(3 Marks)**
- (c) Assuming that the Will is a non-Muslim Will, advise whether the Will is Valid? If so, why? **(3 Marks)**
- (d) Explain the duties and responsibilities of Mohamad as the administrator of the deceased's estate before the properties are to be divided by him between himself and his sister, Hasnah. Kindly refer to the relevant sections of the Probate and Administration Act (Cap 11). **(4 Marks)**

**QUESTION 5 (15 Marks)**

Amin runs a construction company limited by shares with projects both in public and private sectors. To sustain the operating costs of his company, Amin had secured banking facilities with ABC Bank in the sum of \$1,000,000.00. Due to the economic downturn, Amin was unable to service the balance of banking facilities in the sum of \$500,000.00. Due to failure of Amin's company to pay the judgment sum, ABC Bank then obtained judgment against Amin's company for the said \$500,000.00 and later proceeded to file Winding-up Petition against Amin's company. Amin approaches you for legal advice on the following:

- a) What is a Winding-Up Petition. Explain the grounds for a Winding-up Petition? **(6 Marks)**
- b) Outline the procedures for filing a Winding up Petition. **(4 Marks)**
- c) Explain two (2) of the following under the Insolvency Order 2016:
- (i) Proposal for Voluntary Arrangement. **(2.5 Marks)**
  - (ii) Judicial Management. **(2.5 Marks)**
  - (iii) Moratorium **(2.5 Marks)**

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