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**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 4D**

**JAMAICA**

This is the **summative (formal) assessment** for **Module 4D** of this course and must be submitted by all candidates who **selected this module as one of their elective modules**.

**The mark awarded for this assessment will determine your final mark for Module 4D**. In order to pass this module, you need to obtain a mark of 50% or more for this assessment.

**INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT**

**Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.**

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.

2. All assessments must be submitted electronically in **Microsoft Word format**, using a standard A4 size page and an 11-point Arial font. This document has been set up with these parameters – **please do not change the document settings in any way**. **DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.

3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).

4. You must save this document using the following format: **[studentID.assessment4D]**. An example would be something along the following lines: 202122-336.assessment4D. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words “studentID” with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked**.

5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words**.

6.The final submission date for this assessment is **31 July 2022**. The assessment submission portal will close at **23:00 (11 pm) BST (GMT +1) on 31 July 2022**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.

7. Prior to being populated with your answers, this assessment consists of **7 pages**.

**ANSWER ALL THE QUESTIONS**

**QUESTION 1 (multiple-choice questions) [10 marks in total]**

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and mark your selection on the answer sheet by highlighting the relevant paragraph **in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

**Question 1.1**

The holder of which office is empowered to designate Judges to constitute the Insolvency Division?

1. The Governor General of Jamaica.
2. The Prime Minister of Jamaica.
3. The Minister of Justice.
4. The Chief Justice of the Supreme Court.

**Question 1.2**

The Jamaican Insolvency Act is modelled on the insolvency laws of which jurisdiction, and what law in that jurisdiction?

1. The United States of America and the Bankruptcy Code.
2. Canada and the Companies’ Creditors Arrangement Act.
3. England and Wales and the Insolvency Act.
4. Canada and the Bankruptcy and Insolvency Act.

**Question 1.3**

Which of the following **best describes** the rights granted by a debtor company in favour of a creditor when the debtor company grants the creditor a debenture?

1. The debtor company has given the creditor a security interest over specific assets.
2. The debtor company has given the creditor a security interest over all its assets (tangible and intangible) and undertakings.
3. The debtor company has given the creditor a security interest over all its fixed assets only.
4. All of the above are correct.

**Question 1.4**

Which of the following persons **may not** make a proposal on behalf of an insolvent person that has entered the JIA’s rescue modality?

1. A creditor of the insolvent person.
2. The insolvent person.
3. The trustee.
4. A receiver.

**Question 1.5**

A first time individual bankrupt whose discharge is not challenged will receive an automatic discharge from bankruptcy after how many months?

1. 3 months.
2. 6 months.
3. 12 months.
4. 24 months.

**Question 1.6**

Which of the following **is not** one of the duties of a trustee appointed pursuant to a Notice of Intention to File a Proposal or a Proposal:

1. To take possession of all property, books and records.
2. Giving notice to all creditors within five (5) days of their appointment.
3. Providing an opinion whether the cash flow statement is reasonable.
4. All of the above.

**Question 1.7**

Indicate whether the statement below is **True or False**:

A debtor facing financial difficulties must access either the Proposal Provisions or the Bankruptcy Process under the JIA.

1. True
2. False

**Question 1.8**

Indicate whether the statement below is **True or False**:

A Proposal may provide for the payment of equity claims, but only if other claims are first paid in full.

1. True
2. False

**Question 1.9**

Indicate whether the statement below is **True or False**?

In relation to Eligible Financial Contracts, the rights of the counter-party are not subject to a stay based on either triggering the Proposal Provisions or the Bankruptcy Process.

1. True
2. False

**Question 1.10**

Indicate whether the statement below is **True or False**:

A trustee of a bankrupt may assign a real property lease even if the lease was non-assignable.

1. True
2. False

**QUESTION 2 (direct questions) [10 marks]**

**Question 2.1 [maximum 3 marks]**

What are the policy objectives of the Jamaican Insolvency Act?

[Type your answer here]

**Question 2.2 [maximum 3 marks]**

Briefly describe the two methods a debtor may use to access the Proposal Provisions of the Jamaica Insolvency Act?

[Type your answer here]

**Question 2.3 [maximum 4 marks]**

Describe the process by which a Judge in the Insolvency Division will determine whether to give recognition to foreign insolvency proceedings in Jamaica.

[Type your answer here]

**QUESTION 3 (essay-type questions) [15 marks in total]**

**Question 3.1 [maximum 7 marks]**

Set out the process by which a Proposal that has received the requisite creditor approval will be deemed to be accepted and the considerations a Judge will consider in determining whether to approve that Proposal?

[Type your answer here]

**Question 3.2 [maximum 8 marks]**

Briefly set out the duties of a receiver as required by the Jamaican Insolvency Act.

[Type your answer here]

**QUESTION 4 (fact-based application-type question) [15 marks in total]**

**Question 4.1 [maximum 15 marks]**

Big Lots Limited (Big Lots) is a commercial landlord. Among their tenants is Bright Stitch Limited (Bright Stitch). Bright Stitch is a clothing retailer resident and operating in Jamaica. Due to supply-chain issues which caused significant delays in receiving goods from its overseas suppliers and the effects of COVID-19 restrictions, Bright Stitch has seen a substantial shortfall in meeting its monthly expenses. Big Lots is owed over JMD 600,000 in rental arrears by Bright Stitch and Big Lots is concerned that Bright Stitch will be unable to make up its rental arrears and meet its continued obligations under its lease, which still has three years remaining. Before Big Lots could take any action to recover possession of its property, it was served with a Notice of Intention to File a Proposal from Bright Stitch.

**Using the facts above, answer the questions that follow.**

**Question 4.1 [maximum 5 marks]**

What is the effect of the Notice of Intention to File a Proposal on the rights of Big Lots under the lease?

[Type your answer here]

**Question 4. 2 [maximum 5 marks]**

Assuming that a stay on enforcement actions came into effect once the above notice had been served, Big Lots now wishes to have the stay of enforcement lifted. What is the purpose of the stay and what is required for Big Lots to have the stay lifted?

[Type your answer here]

**Question 4.3 [maximum 2 marks]**

Big Lots wishes to understand the creditor voting requirements for Bright Stitch to successfully pass a proposal. Explain to Big Lots what the requirements are.

[Type your answer here]

**Question 4.4 [maximum 3 marks]**

If the Bright Stitch proposal fails and Bright Stitch enters the bankruptcy process, what right(s) does a trustee in bankruptcy have in relation to the lease?

[Type your answer here]

**\* End of Assessment \***