CENTRE FOR OPEN AND LIFELONG LEARNING

BUSINESS LAW (BLW512S)

FEEDBACK TUTORIAL LETTER FOR ASSIGNMENT 02/2019
Dear Student

I trust that, by the time you are reading this Second Tutorial Letter of 2019 for Business Law, you have received and perused your marked Assignment number 2.

To those of you that did well – CONGRATULATIONS! It is a pleasure to mark assignments that have obviously been completed with care. To those of you that fared poorly – remember that your marks are often a reflection of your attitude; if you try to complete an assignment in the shortest time possible you cannot expect to do well.

It is apparent that many students still do not know how to study on distance mode. The study guide contains a detailed introduction with recommendations about how to use the guide. You do not learn anything by simply scratching around to find the page in the study guide that appears to have the answer to a particular question in the assignment. You need to work systematically from the beginning of the semester; otherwise you will be unable to master the subject.

Please feel free to contact me for assistance while you are studying. I prefer e-mail as method of communication, and will try my best to respond as soon as possible. Very few students approached me for assistance while they were completing their assignment. Yet during the week before the exam I am inundated with students crying that they do not understand the work. By then it is too late! I must unfortunately make it clear that I will NOT be available to explain the entire semester’s work within a couple of hours to students who have not made the effort to work during the semester.

The purpose of this letter is, inter alia, to make certain observation regarding your answers to the questions as contained in the aforesaid assignment in an attempt to guide you to find the most appropriate answers and/or solutions. (In these explanations, references to page numbers refer to page numbers in the only study guide for Business Law, which you received upon registration.)

Business Law is a difficult course, especially so if you are not proficient in the English language. However, it is not impossible to pass, or even to do exceptionally well. All it takes is hard work and commitment.
Remember that tutorial letters form part of your study material for examination purposes.

Firstly, some general comments:

1. Some students tend not to read a question in order to establish exactly what is asked and, as a result, you have lost marks. Also observe the mark allocation in order to decide how many facts to include in your answer.

2. **Read your answer!** Carelessness costs marks!

3. Make sure that you have answered all the questions. In an assignment there is no excuse to omit questions.

4. Make sure of the **spelling of words**. You were already requested to do so in the First Tutorial Letter. There is therefore no excuse if you have lost marks as a result thereof. It is really alarming to note that tertiary students misspell words even when copying from the study guide!

5. The use of **telegram-style answering** is not accepted. Again, it is evident that most of you have not read the First Tutorial Letter where these issues have been addressed. A mere “Yes” or “No” answer also does not deserve any marks, as you were warned that such an answer requires a proper motivation in addition.

6. On the other hand, if the question asks you to “name” something, an explanation is not required, and you will waste valuable time in the exam writing unnecessary long paragraphs.

7. Keep your answers concise and to the point. In the examination the markers do not have time to wade through pages of jumble in order to search for one correct key word. In fact, we do not mark on key words at all; if the context in which you use the words does not show understanding no marks will be allocated.

8. Please do not copy the questions into your assignment book; the tutors have a copy of the assignment and it wastes time to have to figure out where the question ends and the answer starts.

9. Note that in the exam you will be penalized if the first part of your answer is wrong, but your motivation is perhaps correct (or vice versa). The reason for this way of marking is that if you contradict yourself in your answer it gives the impression that you do not understand the study material properly.
10. Read the instructions in each question carefully. The following terms appear frequently in the phrasing of questions. You should know their meaning and answer accordingly.

- **Analyse:** Separate the topic into parts and examine each part critically.
- **Compare:** Look for qualities or characteristics that resemble each other. Emphasise similarities but also mention differences.
- **Contrast:** Stress the differences between concepts, qualities, events or problems.
- **Criticise:** Assess and evaluate. Point out correct and incorrect aspects.
- **Define:** Give a concise, clear and authoritative meaning. Details are not required.
- **Describe:** Recount, characterise, sketch or relate in sequence or story form.

Please feel free to contact any one of your marker-tutors at the following numbers:

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QUESTION 1
Always read your questions carefully and answer only what is asked of you. The question stated clearly that no motivation is required. Make sure you understand WHY the statements are either true or false.

1.1 True
1.2 False
1.3 True
1.4 False
1.5 False
1.6 True
1.7 False
1.8 False
1.9 False
1.10 False

QUESTION 2
2.1 The statement is not correct. Although a partner is generally not entitled to compensation for his contribution to the partnership, partners are entitled to come to a different arrangement and agree to pay compensation for the various contributions. Also, if a partner has performed extra tasks he will be entitled to claim remuneration for such services.

2.2 The statement is not correct. If a partner enters into a contract on behalf of a partnership without authority the partnership will not be bound. The other partners can choose to ratify the contract, but they are not compelled to do so (it is not a must).

2.3 The statement is not correct. Partners are required to take reasonable care. It is not a particularly strict standard.
QUESTION 3

3.1

Note the following:

Revis Commercial Law 1A! A thorough knowledge of the work studied in Commercial Law 1A presupposed for the successful study of Business Law.

Please distinguish carefully between implied authority, the mutual mandate, ostensible authority (estoppel) and authority granted retrospectively (ratification). These concepts are mutually exclusive. So PLEASE do NOT give an answer in the following vein: “The partner acted in terms of the mutual mandate because the contract is within the scope of the business. The third party can therefore use estoppel to hold the partnership liable and the partners must ratify the contract.” Even if you (accidentally) used one or two correct keywords you will get ZERO marks, as your confused answer indicates a total lack of understanding of the relevant legal concepts. Similarly, it is wrong to say “the contract is valid because it is in the scope of the business” – “scope of the business” is not a requirement for the validity of a contract.

The contract appears to be valid and was entered into on behalf of the partnership. Blossom did not have express authority; due to the provisions of the partnership agreement, she also did not have implied authority. The contract is in the scope of the business of the partnership and Lipstick Manufacturers CC are bona fide. They can rely on the mutual mandate to hold the partnership to the contract.

3.2

No, the partners are jointly liable for the debts of the partnership and action should be instituted against the partnership.

3.3

Powerpuff Beauty Products. A single partner is not permitted to institute action for the recovery of a debt owed to the partnership on his/her own; legal action must be instituted by the partnership.
3.4
No. The partners remain co-creditors in respect of claims of the former partnership. Legal action against a debtor of the former partnership must be instituted jointly.

3.5
Assets are liquidated, debts are paid and the balance (if any) is distributed amongst the partners.

**QUESTION 4**

The answer to this question can be found in Unit 13 Paragraph 2 of your study guide. **PLEASE NOTE: If you are required to “discuss” something DO NOT USE BULLET POINTS. In the examination you will be penalised for this.**

Please do not hesitate to contact me if you have any queries regarding the work covered in the assignment.