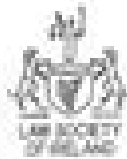


LAW SOCIETY OF IRELAND



FINAL EXAMINATION - FIRST PART

TUESDAY 14 MARCH 2023

10.00AM – 1.00PM

COMPANY LAW

EXTERNAL EXAMINER: PROFESSOR BRIAN HUTCHINSON
INTERNAL EXAMINER: DR THOMAS B COURTNEY

ANSWER FIVE QUESTIONS

All questions carry equal marks. Questions in two or more parts have an equal allocation of marks for each part, except where otherwise stated.

QUESTION ONE

"The members of a company can give their sanction to a proposed course of action in four distinct ways:

- by a resolution passed at a general meeting of the company, duly convened and held (whether physically or virtually);
- by a unanimous written resolution or in the case of a single member company, by the written decision of the sole member;
- by a majority written resolution; and
- by an entree, created through their unanimous informal agreement."

You are required to explain the operation of each of these four means and you must cite all relevant case and statute law in your answer.

QUESTION TWO

Brian is a director of Alpine Cars Limited (the "Company") which operates a car sales business. Brian is not a shareholder in the Company which is owned by a family consortium headed-up by George although Brian has worked in the Company for 10 years; first as a car salesman before being promoted on a number of occasions until finally being appointed a director of the Company with responsibility for sales. There are three other directors (all family members, making four directors in total).

George, the majority shareholder and Managing Director of the Company approaches you for advice. It has come to his knowledge that Brian has been "double-dealing" for the last two years selling second-hand cars through a website fronted by his wife, Helen. Specifically, George has heard that Helen has been buying cars from Brian that were traded in to the Company at a discounted price before they sell them on for a significant profit on their website and Brian has been using the Company's garage-workshop to service the cars late at night and on Sundays when the garage-workshop is closed. He has used spare parts belonging to the Company but has not reimbursed the Company for these.

You are required to advise George on the following:

- whether you believe there have been any breaches of the duties owed to the Company by its director, Brian, under Part 3 of the Companies Act 2014; **and**
- the remedies that are available to the Company arising from any breach of duties.

In your answer you must cite all relevant case and statute law and attempt to apply these to the facts provided above.

QUESTION THREE

Toby, Rosco and Maya are equal shareholders, holding 90 shares each in Dripps Enterprises Limited (the "Company"). The Company was established by their late mother Midge and each

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