

COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION
TO THE ROLL OF ADVOCATES

ATP 105: PROFESSIONAL ETHICS & PRACTICE

FRIDAY 21ST OCTOBER, 2022.

DURATION: 3 HOURS

Instructions to Candidates:

- (a) This paper contains SIX (6) printed pages including the cover page, with a total of Six (6) questions.
- (b) Candidates MUST answer FIVE (5) questions.
- (c) Question ONE is compulsory and carries 20 marks.
- (d) All other questions carry 10 marks each.
- (e) Answers MUST be supported by relevant case law and statutory provisions where required.

PLEASE TURN OVER

QUESTION ONE

Okundo was sued for trespass into the parcel of land in which he resides with his family. He promptly instructed Kalweso, the Managing Partner of the Firm of J Kalweso & Associates Advocates to act for him in the matter. Okundo was subsequently served with an interim order requiring him not to trespass or enter into the disputed land pending the hearing and determination of the case. The Order amounted to being evicted from his premises, where he resides with his family before all relevant evidence has been presented and evaluated by the court. The interim order was issued after Kalweso failed to inform Okundo of the application for interim relief by the Plaintiff, or even respond to that application.

Upon being served with the order, Okundo promptly headed to the Firm. The Receptionist informed Okundo that Kalweso was away and he would have to wait for about an hour. He tried to call the Advocate who neither picked the phone call nor called back. He had actually been constantly trying to call Kalweso the previous two days without his calls being picked, or the Advocate calling back.

As a cost cutting measure, the Firm shares its office with a salon. As Okundo sits at the reception, he is constantly interrupted by staff and clients of the Salon as the two enterprises share the waiting room.

Kalweso finally arrived and Okundo was ushered in to meet her. He is directed to sit on a rickety chair and had to balance himself to avoid falling. The table separating him and his Advocate is also wobbly, and he is concerned that some files placed on it may fall down. Without any greeting or welcoming gesture, Kalweso shouted at Okundo informing him that he opted not to attend court or handle his matter as he had declined to pay legal fees.

The allegation was a shock to Okundo who had promptly settled the invoice that had been sent to him. Nonetheless, Kalweso was not aware of the payment since she does not maintain distinct and updated client accounts records. In addition, she maintains a single Firm Bank account in which all transactions including payments by clients are made into, and thus failed to take note of the payment by Kalweso. It is only after Okundo insisted that he made the deposit payments and would actually provide his Bank transaction slip evidencing the deposit that Kalweso calmed down.

Disgusted by the turn of events, Okundo demanded that he be given his file to enable him get alternative legal representation. After leaving the Firm, Okundo subsequently conducted an online search on Kalweso at the Law Society of Kenya website and realized that she had not even taken a practicing certificate for the previous three years.

- (a) Making reference to any relevant regulatory provisions, discuss the prohibited conduct or omissions of Kalweso that amount to unprofessional conduct rather than professional misconduct. (4 marks)

- (b) If Okundo opts to file a suit in Court for negligence, discuss the particulars that he has to prove for the tortious claim to succeed. (3 marks)
- (c) Suppose Okundo institutes proceedings against Kalweso at the Advocates Disciplinary Tribunal and she is found guilty of professional misconduct. What punishment is she likely to be subjected to? (5 marks)
- (d) What is the rationale or justification of the statutory and regulatory requirements that only persons qualified as advocates should provide legal services? (8 marks)

QUESTION TWO

Wakili Jitegemee Kamili was admitted to the Roll of Advocates on 23/11/2021 by the first female Chief Justice of the Republic of Kenya. He had very high hopes and planned to get a placement at the prestigious city law firm of Kula Yote & Company Advocates where he had undertaken his pupillage programme. He had served with high degree of diligence and commitment and had been promised employment. Since admission, no favourable word on the prospects of a job placement is forthcoming from the firm or other quarter. He has resolved to start his own law firm effective 1/1/2023 although he does not have capital and does not see any forthcoming. He is moving forward by faith but plans to secretly borrow and invest in the law firm, any clients' funds that comes in first.

- (a) State at least four items he has to put in place notwithstanding lack of capital, if he is to avoid running into trouble with the Law Society of Kenya. (4 marks)
- (b) Should he receive and proceed to secretly borrow client money, what are some of the professional misconduct charges he is likely to face at the Advocates Disciplinary Tribunal. State at least three and explain the rationale for each. (6 marks)

QUESTION THREE

- a. James Hotboy (JH) is a brilliant legal mind. He is currently working as a State Counsel in the Office of the Attorney General. He has a thriving legal practice, where he practices, on the side and is rolling in the monies. He is also the chairperson and legal advisor of Masaa society which is notorious for critiquing the government of the day. Masaa Society consistently sues the Government and JH in his capacity as legal advisor takes up the matters in his law firm which he then attends to in consult with his second in command, Counsel Geshi Hotgal.

Discuss the ethical issues arising from the above scenario making reference to relevant Statutes. (6 marks)

- b. Lucky Kijana is a wealthy young millionaire who recently inherited two vast properties in the leafy suburbs of Nairobi from his deceased tycoon father. Unfortunately, Banki Big is suing him. Banki Big claims that his father charged the two properties to it in exchange for a massive loan of which loan is still outstanding. Banki Big wants its money back.

Lucky Kijana approaches Advocate Mjanja Mwepesi (MM) and enters into an agreement for legal services. Advocate MM assures him that he will ably represent him, and keep him abreast of all the proceedings. He tells Lucky Kijana to rest easy because he has never lost a case. He enters appearance in the matter and despite being served, he neither makes any court appearances nor file any submissions. Since the suit is undefended, Judgment is rendered in favor of the bank. Lucky Kijana is in utter shock when he is informed that auctioneers are at his properties waving a Court Order. His attempts to reach Advocate MM are futile. His shock escalates further when he is reliably informed that Advocate MM drew up the charge documents for Banki Big and is still the advocate the bank uses for its conveyancing transactions. Lucky Kijana has come to you, a newly admitted advocate with great passion in professional ethics and practice.

Explain to Lucky Kijana the ethical issue that faced Advocate MM when Lucky Kijana approached Advocate MM to represent him against Banki Big. (4 marks)

QUESTION FOUR

Cornelius, a Partner at CSM Advocates is in the process of preparing a legal fees invoice in respect to a matter in which he is representing his client in a joint venture project with a Chinese Corporation. Under the joint venture agreement, his client will provide his parcel of land situated at Parklands, Nairobi, in which the Chinese Corporation will construct apartments. In return, his Client will be granted 40% shareholding in the development.

- (a) Evaluate the factors that Cornelius will put into consideration in the preparation of the invoice, assuming that the charging is not below that prescribed by the Advocates Remuneration Order. (5 marks)

- (b) Cornelius has developed a Legal Fees Charging Policy for the Firm. Part of the Policy is as follows:

"The Firm encourages conclusion of retainer agreements with our corporate clients. Under the retainer agreements, regular corporate clients will be charged at 70% of the fees prescribed under the Advocates Remuneration Order. Charging of legal fees may be on an hourly basis. Fees may also be charged on the basis of the value of the subject matter. The staff of the corporate clients who refer matters to us will be given a token in the form of 10% of the fees earned. The

Firm will require clients to consent to it retaining a further 2% of the amount awarded in successful suits. For purposes of motivating the Firm staff, they will be awarded a bonus if the annual net earnings are in excess of Kshs 30,000,000.00, but this undertaking is not to be contained in any retainer agreement with our clients.”

Assuming that Cornelius proceeds to enter into retainer agreements with various clients under the above terms, evaluate the implication of such agreements on the professional requirements of Cornelius. (5 marks)

QUESTION FIVE

At her inaugural Advocates Admission ceremony on 23/11/2021, Kenya's Chief Justice, Lady Justice Martha K. Koome delivered an address titled “AN IDEAL LAWYER” to the 500-strong Newly Admitted Advocates. Part of her reflections were as follows: -

“An Ideal Lawyer is one driven by and conduct themselves in conformity with values of Professional, Personal and Social Ethics.

We invite you to breathe life and spirit to the Constitution, which includes living by higher standards of Lawyering. It means as lawyers, you must be part of the process of developing the constitutional decreed Indigenous Social Justice Jurisprudence. That is what we aim for in the judiciary. To get to this Indigenous Social Justice Jurisprudence, you must avail to judges and judicial officers, arguments and relevant legal materials on the latest learning in the law that would help develop this indigenous jurisprudence. You must be part of the solution to the problems that we face of case backlog and delayed delivery of justice by ensuring that we abandon the old-age practice of adjournments that delay the hearing of cases...”

- (a) You are committed to assisting the courts in this quest to develop Indigenous Social Justice Jurisprudence and decide cases in a timely manner. How will you exhibit this commitment while representing an accused person in a highly emotive murder trial before Justice Kaa Ngumu, known for occasional temper flares during such proceedings? (6 marks)
- (b) Notwithstanding your commitment to assist the court in developing Indigenous Social Justice Jurisprudence and expeditious disposal of cases, explain at least two obligations to your client that you cannot compromise. (4 marks)

QUESTION SIX

- a. The continued proliferation and unpredictable nature of the social media platforms presents both opportunities and challenges to the legal profession. Aware that social media is potentially perilous to advocates, the Law Society of Kenya (LSK) Code of Standards of Professional Practice and Ethical Conduct specifically cautions advocates regarding diverse issues in respect to their use of such platforms.

Making reference to the regulation of the legal profession in Kenya under statute and other regulatory instruments, highlight the emerging issues that advocates should be cautious about, or refrain from, in their use of the social media.

(5 marks)

- b. Stuart Henderson Britt, a Canadian marketing author once said:

"Doing business without advertising is like winking at a girl in the dark. You know what you are doing but nobody else does."

What ethical considerations should advocates comply with when advertising?

(5 marks)

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COUNCIL OF LEGAL EDUCATION
EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

UNIT CODE: **A T P I O S** SUBJECT/UNITPROFESSIONAL ETHICS.....

REGISTRATION NUMBER: [REDACTED]

DATE: 21/10/2022

INSTRUCTIONS TO CANDIDATES

1. Enter the Unit code, Subject of the Examination, Admission Number and Date in the spaces provided. The admission number should be as it appears on the Examination Card.
2. Do not write your name anywhere in this booklet.
3. Attempt each question on a fresh page of the booklet.
4. If an additional booklet is used, it MUST be fastened at the END of this booklet.
5. Insert in the column headed 'Question Number' the numbers of questions answered in the order in which you have attempted them.
6. Kindly ensure your handwriting is LEGIBLE.

Question Number	Examiner		Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials
1	20✓	HND				
2	08✓	HND				
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4	5✓	TM				
5	8✓	TM				
6	8✓	TM				
TOTAL MARKS	49					

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Questions ... 1(a)

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either margin

It is imperative to first evaluate what amounts to unprofessional conduct as opposed to professional misconduct. While unprofessional conduct refers to conduct that falls below the standards expected of a professional which in this case is a lawyer, professional misconduct is conduct that breaches the regulations and the law. Kalweso now conducts himself herself unprofessionally through the following conduct/omissions:

i) Having the firm sharing an office with the salon.

The UN Basic Principles on Conduct of Lawyers requires those within legal profession to conduct themselves to the highest standard. This not only relates to the person but also the environment in which the advocate receives his client. Surely, such a place with the noise and crowding is unwelcoming and frankly below standards. This amounts to Unprofessional conduct.

ii) Failure to communicate.

Professional ethics as well as the LSK Digest on Professional Conduct and Etiquette requires an advocate to promptly communicate with the client and keep them abreast of the developments in the case. Kalweso has failed to do the same.

iii) Unsatisfactory performance.

The legal professional is regarded highly and clients expect the best. Doing otherwise is to put the profession into disrepute. Kalweso infringes on Okundo's right to quality services under Article 46 of the Constitution.

iv) Shouting and Unwelcoming gesture.

The LSK Code of Standards of Professional Practice and Ethical Conduct requires advocates to conduct themselves

With honesty and integrity. Integrity goes to how one conducts themselves. Kalwes conduct herself without decorum and professionalism by being rude and swearing at the client. Such a conduct is deemed unprofessional.

4
4

1(b)

In the event that Okundo opts to file a suit for negligence, he has to prove the key elements of negligence as espoused in the case of *Donoghue v Stevenson*:

i) A duty of care -

He must show that there existed a fiduciary relationship between him and his advocate. That fiduciary relationship creates a duty of care as was held in the case of *Caparo Industries v Dickman*. There must therefore be an obligation of care based on trust relationship.

ii) Breach of duty

Okundo was to prove that Kalwes contravened the contractual duties and obligation that were in place.

iii) Loss and damage

There must be adverse consequences arising from breach of that duty which in this case is the eviction of Okundo.

iv) Causation

There must be a causal link between the actions/omissions of Kalwes and the loss/damage suffered by Okundo.

MaxMerr

Section 68 of the Advocates Act empowers to file a complaint against an advocate. The Advocates Complaints Commission established under section 53 of the Advocates Act will handle such a complaint. If found guilty of professional misconduct, punishment will be prescribed by the Disciplinary Tribunal established under Section 57. Likely punishment include;

i) Getting disbarred.

The Advocates Act empowers the Tribunal with the power to ~~strike~~ Strike the name of an advocate found guilty of professional misconduct from the Roll of Advocates.

ii) Payment of Damages.

Kalweso might be ordered to pay damages to Okundo as reparation for harm done.

iii) Fine.

The Disciplinary Tribunal has the power to fine a culpable advocate fine not exceeding Kshs. 100,000/-

iv) Imprisonment.

Where the misconduct is found to be grave, the Tribunal may transfer the matter to court where the advocate, Kalweso, runs the risk of facing jail time for professional misconduct.

v) Restriction from Practice.

Kalweso may have her license revoked and barred from practicing for a period not exceeding five years. This is in accordance with the Advocates Act.

- i) Prevent commercialization and privatization - ~~of the profession~~ Statutory and regulatory requirements for qualification ensure the profession is dedicated towards service rather than profit. Having unqualified people practicing will provide opportunities to make money rather than improved service.
- ii) Abide by strict requirements - ~~A restriction due to~~ qualification limits the number of advocates and thus ~~make~~ maintain professionalism.
- iii) Regulated performance - ~~By~~ having only qualified persons practicing, performance in the profession can be maintained to high standards.
- iv) Guard against losses to the public - Having unqualified people practicing will resort to mediocre services in the name of profit. People will rely on such services and thereby incur losses!
- v) Ensure professional operation - ~~Such restrictions~~ create boundaries in which professionalism can grow. The standards will improve.
- vi) Protect the image of the profession - With only qualified people, the profession's image will not be put into disrepute.
- vii) Qualification means quality services - This protects the right of consumers to get the highest attainable standards of quality through people who are actually learned in law. This is in line with Article 46 of the Constitution.

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Questions 1(d)

vi) Protect fiduciary duty to clients.

Qualified advocates will uphold this duty of trust as sacrosanct. As such, the client is protected from breaches of duty and consequent losses arising from conduct by unqualified advocates.

(8/8)

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/20

Ethical issues arising include;

i) Conflict of Interest.

James Hotboy works in the Office of the AG. The Constitution of Kenya 2010 authorizes the Attorney General as the Advocate of the Government. By acting against the government in his private firm, JH is facing a conflict of interest. He is representing defending as well as prosecuting the Government. This is a clear conflict of interest, an issue covered in the Advocates Act, and the Rules of SDCPSC as well as in the holding of the case of Re A Firm of Solicitors.

ii) Fiduciary duty.

The Advocates (Practice) Rules and the LSK Code of Standards of Professional Practice and Ethical Conduct places premium on the place of fiduciary duty. It is the cornerstone of the legal profession. By privately suing his client, James Hotboy breaches this duty. The duty is undergirded in the case of Caparo Industries v Dickman.

iii) Confidentiality.

Section 124 of the Evidence Act takes of advocate-client privilege and its implication on confidential information. Further the case of Tom Ojenda v AG regards privilege as belonging to the client and confidential information cannot be divulged unless the privilege is waived by the client. James Hotboy by working at the AG and having the Government as a client cannot utilize that information in his work of

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Questions 3(a)

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either margin

Critiquing the government at Macau society or
 Use the information in suing the government in
 partnership with Counsel Giesli Hotgol at their
 firm.

i) Honesty and Integrity:

The LSK SOPPEC demands advocates to conduct themselves with honesty and integrity. Through his conduct, James Hotboy fails to abide by this rule.

ii) Duty to the public:

This is a critical ethical issue that James Hotboy undermines through his conduct. The UN Basic Principles on Conduct of Lawyers demands conduct of the highest standards. The case of Rondel v. Weider also states that the duty to the Court and to the public takes precedence. As such, James Hotboy must conduct himself in a way decorum, not just focusing on "rolling in the monies".

iii) Professionalism:

SOPPEC outlines the need for professionalism in legal conduct. Further, the holding in the case of Aaron Ringera v Paul Muite is to the effect that LSK and its members should not engage in politics or any conduct that risks putting the profession into disrepute. James Hotboy continually critiques the government and such publicity goes against the tenets of professionalism.

The primary ethical issue that faces Advocate Mjanga Muvesi in his representation of Lucy Kijana is conflict of interest. Conflict of interest arises where there is an impropriety or the possibility of embarrassment in representing a client. This is mainly due to an existent relationship with the opponent or the likelihood that the advocate may be called as a witness for the opposing side.

SOPPEC dedicates a rule on conflict of interest among its 12 rules and also lists it as an overriding principle. Similarly, Civil Procedure Rules dictate that conflict of interest is a principle consideration in suits. Advocate MM faces such conflict given that he has Banki Big as a client. The case of Uhuru Highway Development v CBK analyzes conflict of interest and places validity on whether a party will be prejudiced based on that conflict. Lucy Kijana will surely be prejudiced and as such it is proper for MM to refuse the brief. This serves as an exception to the infamous Cab Rank Rule.

Further, MM drew up the charge documents that pursue the subject matter of Lucy Kijana's woes. This raises the issue of privilege and confidential information as expressed in Article 134 of the Evidence Act. Advocate MM has a fiduciary duty with Banki Big and Rule 8 of the Advocates (Practice) Rules mandates him to protect the relationship and carry out his duties without divulging the said confidential information. This goes back to conflict of interest as defined in Re A firm of Solicitors.

(3/4)

8/10

In preparation of legal fees, Cornelius has to consider the following factors:

- 1) Complexity of the work.
- 2) Value of the subject matter.
- 3) Any special instructions from the client.
- 4) Number of documents prepared.
- 5) Issues of cost of service, travels and disbursements.

Question 4(b)

i) The Advocates Act bars advocates from entering into contingent contracts where fees are based on whether one wins. The implication of acting otherwise might be the invalidation of such contracts.

ii) Any professional undertaking entered into must be upheld and satisfied. This was the position in the case of Kenya Re-insurance v Mwiri. In the event that Cornelius fails to satisfy the terms of the undertaking, the implication will that he will be held personally liable with possibility of being charged with professional misconduct.

iii) Disregarding honesty and integrity rules in achieving targets.

iv) Possibility of unreasonable charges which is disallowed.

v) Sharing of profits to staff of corporate clients. This is clear professional misconduct for which he will be punished by the Disciplinary Tribunal.

- i) Practicing honesty and integrity - This means that I will ensure I am modest and Civil in my conduct before Justice Kaa Ngomo.
- ii) Presenting with decorum and professionalism expected of an advocate. This means abiding the rules of conduct and etiquette.
- iii) Observing dress code. I will be professionally dressed in line with the Advocate Rules of practice.
- iv) Ensuring veracity of pleadings - This ensures I do not present cases that are malicious, frivolous or vexatious.
- v) Presenting all documents and information. I will not hide any documents and as such living true to the rules of discovery and fair trial.
- vi) Effective communication. This will not only relates to the time I will be addressing the Judge in court but also when I am absent. In that case, I will inform him prior to the date of hearing or availing a colleague to hold my brief.

(HP/6)

(81/1)
Obligations to my client that cannot be compromised include :

- 1) Fiduciary Duty of confidentiality.
- 2) Duty to inform the client of any conflict of interest.

5(b)

Obligations to my client that cannot be compromised include :

1) Duty of confidentiality.

This means keeping any documents or advice given to the client confidential. Maintenance of this privileged relationship is paramount and an obligation under section 134 of the Evidence Act.

2) Duty to inform the client of any conflict of interest.

This means promptly informing the client of any situation that might affect my ability to offer effective representation. There must be possible mischief and the risk of embarrassment in court.

This is in line with upholding the fiduciary duty I have with the client as is provided for in the LSK Digest on Professional Conduct and Etiquette.

(4/4)

i) Advertising and toasting

While the case of *Oralunga George v AG* provides allowing a level of advertising, Section 38 of the Advocates Act forbids toasting. The Advocates (Marketing and Advertising) Rules also look to oblige advocates to refrain from such acts. Social Media platforms such as Twitter and Facebook provide avenues for advertising and toasting and it is up to the advocates to be cautious.

ii) Politics in the age of social media.

Social media is full of propaganda and untrue political statement. A simple retweet of vile statements that erode the political foundation is a cause for professional misconduct and the same should be avoided.

iii) Disrespectable statements:

As an avenue for communication, social media is convenient. However, posting stories that could incite violence, bias, political intolerance and hatred must be avoided. An advocate should not post statements that risk putting the profession in disrepute.

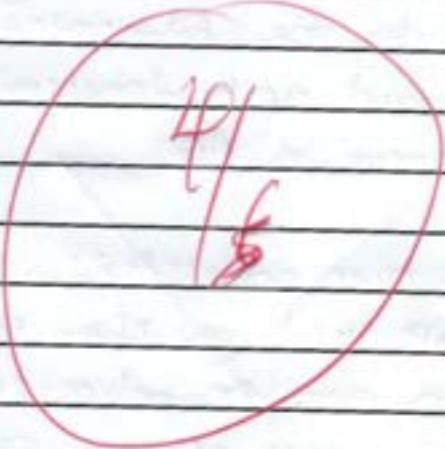
iv) Risk to confidentiality of information.

An advocate has to avoid utilizing social media in to divulge private information told to him by a client. Everyone has a right to privacy under Article 31 of the Constitution. Section 134 of the Evidence Act seeks to protect privacy of confidential information from infringement. Advocates must therefore be careful not to break confidentiality.

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✓ Declining professionalism.

We have seen social media posts of professionals caught in rather embarrassing situations. From judges having implicit relations with parties to a suit to advocates posing naked or drunk. Such behavior should not be condoned. Advocates must be professional and act with decorum and civility. This ought to extend to their personal lives. They must act to the required standards of the legal profession.



49/60

Advocates should comply with the following ethical considerations :

i) Avoid tooting

Tooting is solicitation and excessive persuasion. This is not only prohibited under section 38 of the Advocates Act but also against Rule 2 of the LSK Code of Standards of Professional Practice and Ethical Conduct (SOPPEC). An advocate should refrain from this over-the-top advertising which is evidently prohibited by the Advocates (Ad Marketing and Advertising) Rules and aptly discussed in the case of Omwansa George v AG.

ii) Comparing Services with other advocates:

It is unethical to purport that you offer exemplary services better than another advocate. Trying to discredit others in pursuit of your selfish gains is not allowed.

iii) Offering unattainable expectations:

It is unethical to create a false image and by offering clients ridiculous expectations. It will be a breach of fiduciary duty once those expectations are met.

iv) Unreasonable charges / undercutting:

All legal fees must abide by the provisions of the Advocate Remuneration Order. It is unethical to charge unreasonably high fees or undercut fees to a scale lower than that provided for in the Advocate Remuneration Order. This was highlighted in the case of Ahmednasir Abdi Kadir.

and Company Advocates v National Bank of Kenya. Further, understanding is an ethical issue as per section 26 of the Advocates Act.

v) Commercialization of the profession

In advertising, one must maintain the profession as one driven towards service delivery rather than an aspiration towards greed and riches. One must be attentive to the issue of offering exemplary legal service. Doing otherwise is unethical.

(A/S)

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COUNCIL OF LEGAL EDUCATION
EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

UNIT CODE: **A T P I O 5** SUBJECT/UNIT PROFESSIONAL ETHICS AND PRACTICE

REGISTRATION NUMBER: DATE: 21/10/2022

INSTRUCTIONS TO CANDIDATES

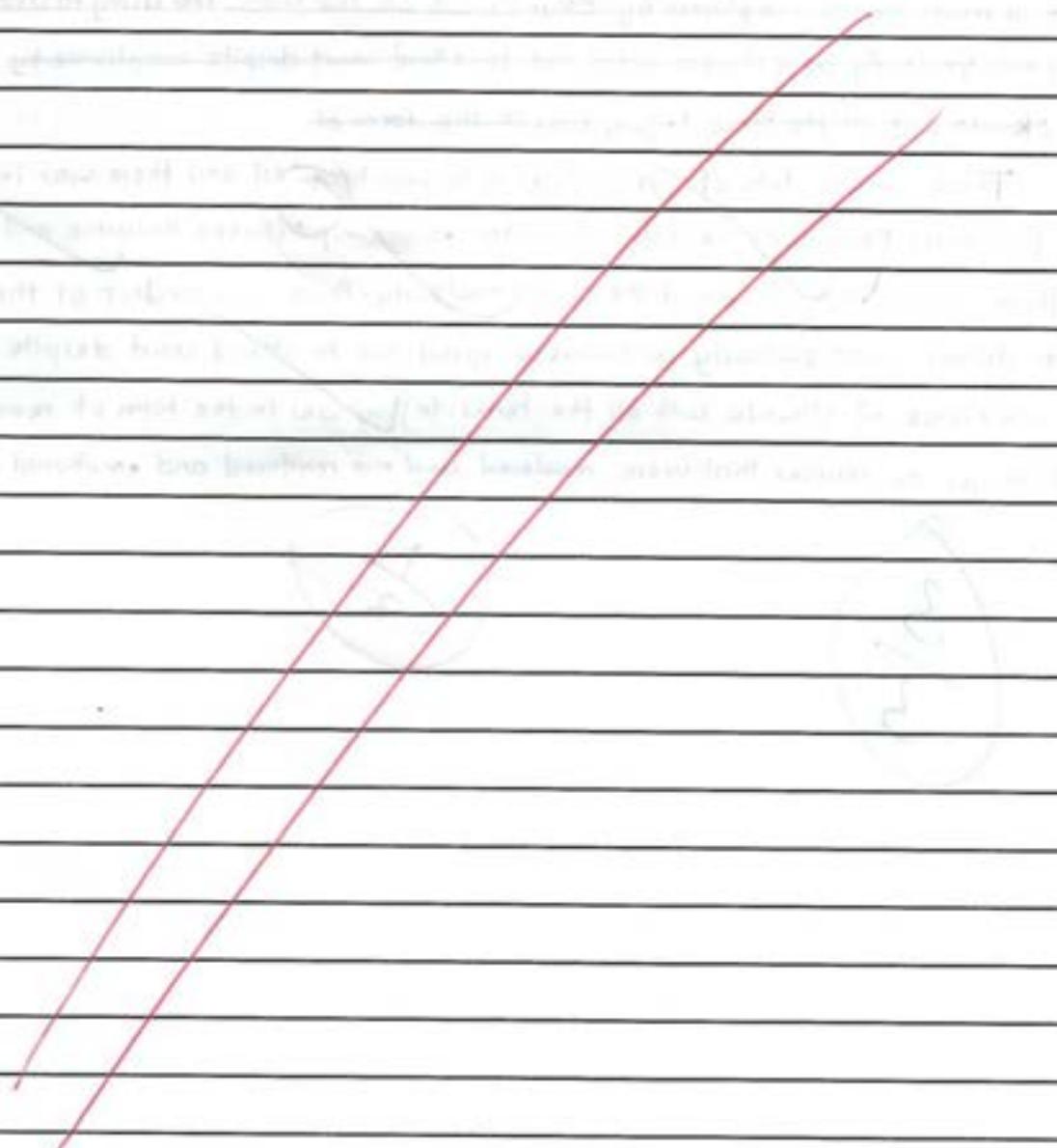
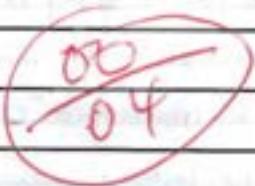
1. Enter the Unit code, Subject of the Examination, Admission Number and Date in the spaces provided. The admission number should be as it appears on the Examination Card.
2. Do not write your name anywhere in this booklet.
3. Attempt each question on a fresh page of the booklet.
4. If an additional booklet is used, it MUST be fastened at the END of this booklet.
5. Insert in the column headed 'Question Number' the numbers of questions answered in the order in which you have attempted them.
6. Kindly ensure your handwriting is LEGIBLE.

Question Number	Examiner		Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials
1	02	HNO	4-	CVS		
2	02	HNO	2-			
3(a)	1	HNO	32			
5	06	TM	6 -			
6	03	TM	3 -			
3(b)	1	HNO	1 -			
TOTAL MARKS	15		18			

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Questions 1(a)

1a?



There was a duty of care, duty of care was breached and there was injury. In this case, there is a duty to owe a duty to account to the client and and a duty to defend the client zealously. This arises because of the advocate-client relationship between Kalweso and Okundo. Duty of care in this case was breached as Kalweso neglected to account to Okundo. This is because he did not give a record of the funds as required. There was a duty to defend the client zealously. There was neglect of this duty as Kalweso opted not to attend court despite compliance by Okundo with all the terms. The duty to defend client zealously as Kalweso opted not to attend court despite compliance by Okundo with all the terms. Injury was in the form of monetary damages for services that were rendered and not rendered and emotional distress.

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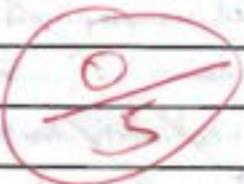
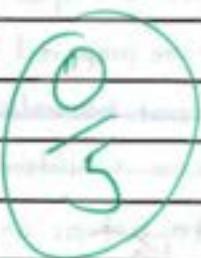
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One may be struck off the roll of advocates. Kalweo may be struck off the roll of advocates.

1c?



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Questions ... 1 (d) ...

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People qualified only people qualified should act as advocates. This is because documents that are prepared by a person will not be valid. This is the Ndolo case considers matters on qualification to act as an advocate. This is because documents that are prepared by a person who is not qualified to act as an advocate may not be valid are not valid instances in certain instances. The Ndolo case considers matters on acting as an advocate while one is not qualified to act as an advocate are not valid in certain instances. The Ndolo case considers matters on acting as an advocate while one is not qualified. Proceeds gotten from acting as an advocate while one does not qualify to do so may be required to be returned.

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REGISTRATION NUMBER:

Questions ... 2(a)

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Certificate of registration

Practising certificate

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Questions ... 2 (b)

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REGISTRATION NUMBER:

Questions 3 (a)

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There is an issue with James Hotboy acting against having interests that go against those of an entity that could be considered a client which in this case is government. This goes against the requirement that there be no conflict of interest.

James Hotboy is promoting unauthorized practice of law. This goes against the duties of James to the profession. This is because James is running a private practice which results in conflict of interest while he is a civil servant.

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Questions 5(a)

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Advocates are required to put the court first. Advocates are also required not to mislead courts meaning that they ought to give accurate information. Advocates are required not to entertain perjury meaning that they ought not to allow witnesses to lie underneath. Advocates are required to be skilful. Advocates are also required to follow court etiquette including dress and address that is proper before the court.

(6) 10

(6) 10

(2) 6

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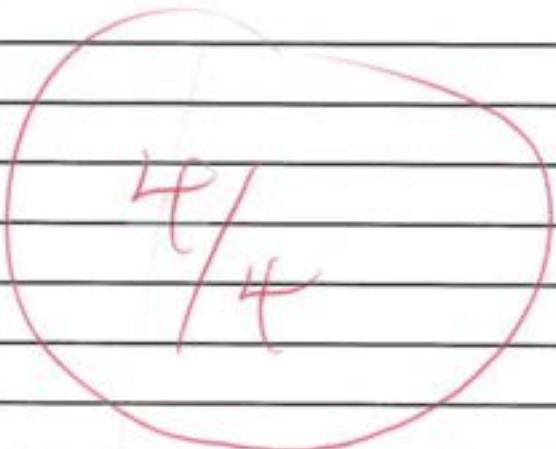
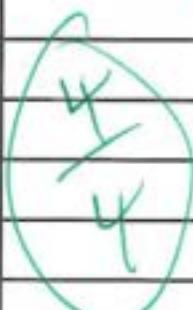
Write on both sides of the paper



Duty of confidentiality. Advocate-client communication is confidential unless with the express consent of the client as outlined in section 134 of the Evidence Act. Communication between the advocate and the client can be disclosed under exceptions such as when communication is in furtherance of an illegal act as outlined in section 134 of the Evidence Act or when communication is a fact observed as proof that an illegal act has been committed in the course of employment of an advocate as in section 134 of the Evidence Act. Consent can be waived if the privilege of communication between the advocate and client can be waived where the advocate is called as a witness under section 136 of the Evidence Act or where any of the parties to a case acts as a witness as outlined under section 136 of Evidence Act.



Duty to Account to the client. This occurs when handling the funds of the client. Separate accounts are required to be kept for money belonging to the client and the office while transactions are required to be recorded.



(3/10)

Do not write in either margin

Questions ... 6 (a) ...

(3/10)

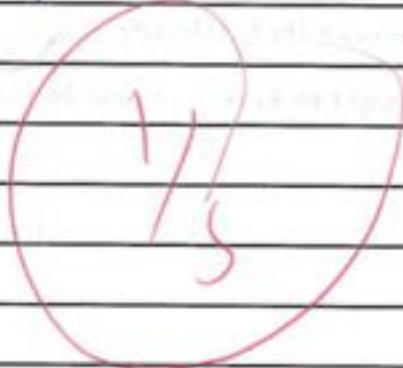
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Advocates should refrain from advertising in a manner that is inconsistent with prescribed ^{statutory framework} regulations. Advocates should refrain from advertisement that show the picture of the Advocate, promise by the advocate to achieve a particular outcome and clients of the Advocate. What is allowed in advertisement include the identity of the advocate, qualifications of the advocate and the address. Advocates should refrain from disrespecting courts on social media

(2/5)

(2/5)

One should advertise the identity. Advocates should avoid advertisement that goes against the existing statutory framework on advertising. Advocates should avoid advertising the picture, promise by the client by the advocate to achieve a particular outcome and clients. Advocates can advertise the identity of the advocate, the address and qualification of the Advocate.



Do not write in either margin

Questions 3(b)

Write on both sides of the paper

Advocate Mjanja Muwepsi was faced with issues regarding conflict of interest. There was conflict of interest in this case as the interests of lucky Kijana who is a client, are against those of Mjanja Muwepsi. This means that interests are against those of a client. lucky Kijana who is a client, were against those of Banki Big who is also a client. This means that interests are against those of a client. Advocate Mjanja Muwepsi ought to have refused to take up the case on the basis of conflict of interest.

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