

INDEPENDENT EXAMINATION COMMITTEE

GENERAL LEGAL COUNCIL

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PROFESSIONAL LAW COURSE

FINAL EXAMINATION 2017/2018 ACADEMIC YEAR

**DATE:** MONDAY, 18 JUNE 2018  
**SUBJECT:** ADVOCACY AND ETHICS  
**TIME ALLOWED:** THREE (3) HOURS 10:00am – 1:00pm

**INSTRUCTIONS TO CANDIDATES:**

1. Read the instructions **very carefully** before beginning your answers.
2. **ANSWER QUESTION ONE AND TWO WHICH ARE COMPULSORY AND ANY TWO (2) OTHER QUESTIONS.**
3. Credit will be given for legible handwriting, clarity of expression and orderly presentation of answers.
4. **Do not** write or sign your name on the Answer Booklet. **Only write your index number.**
5. Adhere strictly to the instructions on the front cover of your Answer Booklet.

**THIS QUESTION PAPER MUST NOT BE REMOVED FROM THE EXAMINATION HALL**

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**QUESTION ONE**

Edwina was a quiet and reserved person who loved to read. She had a voracious appetite for reading, with the ancient Greek mythologies being a particular favourite. At a certain point in time, she even wanted her parents to change her name from Edwina to Corialanus. Thus, when she chose to read law at St. Ignatius Loyola University, it came as no surprise to her family and friends.

She was called to the Bar in 1996 and had her pupillage at Timitimi Chambers where she gained a practical feel of the law. To her parents' dismay, after her pupillage, she joined the Council for Law Reporting as a law reporter. Edwina performed her job excellently and rose to the position of Editor in 2000. Five months after she took on the mantle as Editor, she decided that her wig and gown were getting dusty and that she hadn't seen much courtroom action. She therefore decided to work part time at Timitimi Chambers. Each day, after finishing her work at the Council for Law Reporting, she went to the Chambers

where she met clients, drafted conveyances and responded to correspondence on behalf of the Chambers.

Alhaji Moro needed legal representation in court as he was being ejected unlawfully by his landlord. He complained that his former lawyer did not speak forcefully on his behalf at the last adjourned date. He therefore approached Edwina to represent him.

Edwina appeared in court the next morning on his behalf and announced herself as appearing for Alhaji Moro. The judge told her that she was a stranger to the case and that he would not hear her. Edwina cheekily responded that it was the prerogative of a client to choose his lawyer. This did not sit well with the judge resulting in a heated verbal exchange between the two of them during which Edwina became emotional, described what was happening in court that day as "justice for sale" and said many unpalatable things about judges as a whole. It took the intervention of one of the senior lawyers at the Bar to get Edwina to back out of the verbal intercourse.

Due to her court appearance that day, Edwina missed an important meeting of the Board of the Council for Law Reporting which was very unusual of her. One of the Board members later got to know through the grapevine that she had been going to court in the mornings in recent times. She was queried for this, whereupon she decided to quit working at Timitimi Chambers. She decided that she was going to see her clients from her office at the Council for Law Reporting. She advised her clients who attended the offices of the Council of Law Reporting to see her, to enter the reason for any visit to her in the Visitors Log Book as 'official'.

She drafted and prepared pleadings on behalf of her clients from her office. Under the guise of attending a meeting, she would quickly go to court to conduct a case or two for a client. One day, one of her clients needed her to file an application for an injunction on his behalf. She had a series of meetings that day so she asked Mensima, an intern from the Kokroko Faculty of Law who was at the Council for a long vacation internship, to prepare the motion and affidavit and give it to the client, Mrs. Domale to sign her portion and then file at the court. Unknown to Edwina, even though the heading of the motion was that of an application for injunction, the substance of the document was an application for bail.

Hajia Muni had been refused a Canadian visa by the Canadian High Commission in Accra. She approached Edwina to assist her process her appeal. The appeal process required that Edwina gave a personal reference on the character of the appellant. Hajia assured Edwina that if she gave her a glowing

reference, she would pay her an amount of GH¢15,000,000 and that money was not a problem for her. Edwina was in dire need of money to purchase shock-absorbers for her rickety Toyota Corolla car. Although Edwina did not know Hajia very well, Edwina obliged and wrote a brilliant reference for Hajia using a letterhead from Timitimi Chambers. Hajia was eventually successful in her appeal against the refusal to granted her a Canadian Visitors visa as she was given a 5 year multiple visa.

Boateng needed a lawyer to defend him in a debt recovery matter. Edwina had been highly recommended to him by one of her clients who happened to be his classmate. Upon hearing the facts of the case, Edwina was incensed at such 'daylight robbery'. She therefore decided to issue a writ against the said Alhaji Moro who owed Boateng \$20,000 and as usual, she used the Council for Law Reporting office as the address for service. Unknown to her, this Moro she sued was the same person she had acted for as a client in the landlord-tenant matter while working at Timitimi Chambers.

Alhaji Moro is incensed by the writ issued against him by the same lawyer who represented him some time ago in the landlord-tenant matter and has filed a petition at the General Legal Council to direct the Judicial Secretary to strike off Edwina's name from the roll of lawyers without holding a disciplinary hearing.

Immediately Edwina was served with a copy of Alhaji Moro's petition, she panicked and hatched a plan to raise the defence of alibi. She therefore arranged with two of her friends who live abroad to file affidavits to state that it was another Lawyer Edwina who sued Alhaji Moro and that at the time the said writ was issued, Edwina was on vacation in London with her friends. The two friends agreed with the plan proposed by Edwina and signed an affidavit for her deposing to those fact. In the Defence Edwina prepared for the Disciplinary Committee of the General Legal Council, she raised the defence of alibi. When Alhaji Moro received Edwina's Defence, he was so shocked that he decided never to trust any lawyer again.

**Identify and discuss the EIGHT issues raised with particular reference to the Code of Ethics of the Ghana Bar Association and relevant legislation affecting the Legal Profession in Ghana.**

[28 Marks]

## QUESTION TWO

Gabriel Atsu, a lawyer of 10 years standing at the bar has been frequently advertising his Chambers, Sika Chambers on Facebook and other social media platforms offering free legal advice to clients after which he would invite his clients to Sika Chambers. Gabriel operates a bookshop near the Law Complex Accra and often times, his clerk can be seen handing out flyers advertising Sika Chambers to customers. In February 2018 after offering free legal advice to Comsul Company Limited on Facebook, Gabriel was engaged by the Company to act as their Lawyer and to represent them in court in a defamation suit filed against Premier Media Company. Gabriel successfully obtained judgment against Premier Media Company for GH¢500,000.00 damages and filed an Entry of Judgment which was served on Premier Media Company who refused to pay the judgment debt. Before Gabriel could file the Writ of *Fi Fa* to recover the GH¢500,000.00, Joe De Burger a non-executive director of Premier Media Company, consulted Gabriel for free legal advice on Facebook and subsequently engaged Gabriel's services to represent him in a debt collection suit. Gabriel charged a legal fee of 40% of the total sum claimed and asked Joe De Burger to deposit 25% of the sum claimed before he would commence work. Joe De Burger immediately issued a cheque for the said 25% of the amount sought. Gabriel's representation of Joe De Burger has come to the notice of Comsul Company Limited who have indicated their disapproval.

- a) Is Comsul Company Limited entitled to make a case against Gabriel?
- b) What evidence can Comsul Company rely on in support of its case.  
Discuss.

[14 Marks]

## QUESTION THREE

The Supervising High Court Judge in your region has assigned a criminal brief from the legal aid office to you. You agreed to represent the accused, Mr Johnson in the criminal matter due to be heard in Tema on June 28<sup>th</sup>. In the meantime, another case comes in for you, a civil matter, which if argued very well, is likely to be a fairly substantial brief. The civil case is listed on the same day in the Ashiaman Court. The potential client in the civil case insists that you be present at the first hearing. **What do you do and why?**

[14 Marks]

## QUESTION FOUR

After the dismissal of his client's case in court, a lawyer granted a lengthy interview to a newspaper reporter which included the following statements:

*"This decision is a mockery of justice. It stinks to high hell. It says it is okay to break the law and you are immune so long as someone above you says you should do it. My client and I are wondering what is the point of appealing and continuing this charade of the Courts in this country which are warped in favour of protecting the Police?"*

Is there anything ethically wrong with the above?

[14 Marks]

## QUESTION FIVE

"However emotionally overheated one may be, members of the legal fraternity have a duty to conform to the time honoured practice of comporting themselves always with decorum and dignity. This must be reflected in the language they employ which should be of measured elegance and sobriety" Per Francois, JSC in *Odonkor v Amartey* [No 2]. **Discuss**

[14 Marks]

## QUESTION SIX

a) What is the purpose of questioning in advocacy? Below is a question from a lawyer to his client:

"You are going to buy a Banker's draft for yourself you told us, if you remember, after all this time, how much you were to buy it for, I mean how much was the Banker's draft to be for? Now prior to your going to get the money orders or to cash or buy them, you told us that a friend of yours, I think you said he was a friend, asked you to buy one for him.

Now do you remember the name of this friend or have you forgotten after all this long time that has elapsed? Now this Banker's draft that you wanted him to get, or rather that he wanted you to get, how much was it for? Do you remember that? Just say no if you can't remember”?

(a) What if anything is wrong with this question and why?

[8 Marks]

b) Re-draft this question to conform to the proper communication skills of a lawyer.

[6 Marks]

[Total 14 Marks]

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