

**THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW**

**PROFESSIONAL LAW PART II EXAMINATION
THURSDAY 12TH JUNE 2014**

LAW OF ADVOCACY AND LEGAL ETHICS

TIME ALLOWED: THREE (3) HOURS - 10:00 A.M. to 1:00 P.M.

INSTRUCTIONS TO CANDIDATES

1. Read the instructions very carefully before beginning your answers.
 2. Answer **QUESTION ONE (1)**, which is compulsory, and **THREE** other questions
 3. Credit will be given to eligible handwriting, clarity of expression and orderly presentation of material.
 4. Do not write your name on the answer book. Write only seat or index number.
 5. Adhere strictly to the instructions on the front cover of your answer book. Non-compliance with any of the instruction may result in the rejection and cancellation of your answer paper.
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QUESTION ONE

The practice of law has been the dream profession of Helen-Lois. She had admired the way lawyers dressed in suit and sometimes wig and gown and had aspired from childhood to be one. What attracted Helen-Lois the most was the way lawyers were able to assemble words together as quickly as the rapid firing of a machine gun when on their feet in court. Helen-Lois, therefore, took her academic work seriously from her secondary school days through to the university and later the law school.

Apart from her ambition and commitment to be a lawyer, Helen-Lois received much encouragement from her uncle Matemehog Togbe Amegashie II, the paramount chief of Kwabre Traditional Area. Most of the assistance from Nana came in the form of books, provisions and air tickets abroad. In October 2000, Helen-Lois completed her law course at the Benissan School of Law and was enrolled the same month into the Ghana Bar. As provided by law and practice, Helen-Lois did her six months' pupillage at the Bianca Law Firm and after the pupillage, following a recommendation from Lawyer Miracle, the head of the Bianca Law Firm, Helen-Lois was issued a Solicitor's Licence to practice law in Ghana. Helen-Lois practised law successfully with Bianca Law Firm until 2005 when she resigned and joined a legal Firm which her late father founded with his childhood friend, classmate and partner, Jaladeen. To ensure that the memory of her late father was kept alive, Helen-Lois decided to name the chamber Nkwantabisa Jaladeen and Nkwantabisa Law Consult, a combination of the names of her late father,

herself and the dad's childhood partner with whom he had founded the firm. These names were displayed boldly on the name plate of the firm in the heart of the city of Accra.

During the 2006 Annual Conference of the Ghana Bar Association, Helen-Lois was accused of engaging in full time Private Legal Practice as well as Minister of Religion. Evidence was led by some members of the Bar to show that Helen-Lois is the Head Pastor of the Christo Archangel Faith International Worship Centre and in addition to Pastoral Counselling performed other Pastoral functions such as weddings, funerals and preaching during weekdays when the courts were in session. Helen-Lois also featured every Sunday morning to preach on the Local TAGBOR FM Radio and hosted on the same Radio Station on Thursdays the popular "You and the Law" programme.

When questioned about the allegations, Helen-Lois admitted that she had been called by God into the full time pastoral Ministry but God in his infinite love and mercy had also called her into the legal profession and blessed her with two professions. After a heated debate on the issue, members of the Bar invited the President of the Association to rule on whether Helen-Lois could be a full time Reverend Minister and a practising Lawyer at the same time.

The President ruled against Helen-Lois and gave her the option to choose one of the Professions but Helen-Lois disagreed and even challenged the authority of the President to rule on the matter.

Dionne Fast Foods Limited, a reputable company in the city of Accra had supplied food items to a lot of companies and customers in Accra but the recovery of their money had been a major problem to them. Dionne Fast Foods Limited therefore retained the services of Helen-Lois to recover money from 80 of their customers. Helen-Lois was able to recover a substantial sum from 50 customers and paid the monies into her Firm's bank account. The cedi at the time was depreciating fast so Helen-Lois invested about 75% of the money recovered for Dionne Fast Foods Limited in a 90-day treasury bills to enable her (Helen-Lois) earn some interest on the money recovered. It was the intention of Helen-Lois that if he had a good return on the investment from her Firm's account, she will reduce her legal fees substantially for Dionne Fast Foods Limited.

Helen-Lois soon attracted several clients to her Law Firm. Opanyin Tijani Ndego was a litigant who had read about Helen-Lois in the Crusading Genesis and therefore called at her offices with a claim against Lawyer Miracle. The story of Opanyin Tijani Ndego is that he gave an Insurance Case with all the documents to Lawyer Miracle but the case was negligently handled; exhibits were not tendered and potential witnesses were not called leading to the loss of the case. Opanyin Tijani Ndego therefore wanted a writ issued for negligence and damages against Lawyer Miracle. Helen-Lois explained to Opanyin Tijani Ndego her predicament in suing Lawyer Miracle, the Lawyer who trained her. When the two could not see eye to eye, Helen-Lois handed over Opanyin Tijani

Ndego's documents to him and advised him to look for another Lawyer. This advice did not go down well with Opanyin Tijani Ndego. He wrote a stinker to Helen-Lois and copied the Media accusing her of bias, stupidity and conduct unbecoming of a Lawyer.

After the challenges Helen-Lois met from her professional colleagues at the Ghana Bar Association conference, Helen-Lois decided to leave private practice and the Pastoral work to the Ministry of Interior. Whilst there Naa Adjeley, one of her classmates at Secondary School was arrested by the Police for Defrauding by False Pretences and arraigned before the Circuit Court. Helen-Lois appeared in Court to ask for Bail but her oral application was refused by the trial Judge and Naa Adjeley was remanded in custody. Helen-Lois made a formal application to the High Court for Bail on behalf of Naa Adjeley. The case was argued by Helen-Lois in the absence of a representative of the Attorney-General's Department and the bail was granted. The Attorney-General displeased at the grant applied to the Court to set aside the Bail on the grounds that the lawyer who argued the application was incompetent to apply for Bail and secondly the Department was not served.

During the hearing of the application by the Principal State Attorney, Helen-Lois raised an objection against the court hearing and dealing with the Attorney-General's application because the Principal State Attorney, Onesimos had not been issued with a Solicitor Licence by the General Legal Council for that year and therefore incompetent to appear in court and ague the application. The learned trial judge Mr. Justice Agbamabiese after hearing lengthy arguments from the two lawyers including authorities cited from the Supreme Court ruled that Onesimos was incompetent to appear in court because of his failure to apply for and be issued with a Solicitor Licence.

In 2009 Opanyin Tijani Ndego went on a business trip to Japan where, glancing through the local Daily Mail Tribune, he saw the names of persons who had been convicted for drug trafficking since the country attained independence. Among the names Opanyin Tijani Ndego saw was Helen-Lois who the Daily Mail Tribune revealed was arrested, tried, convicted and sentenced to a day's imprisonment and a fine of US\$2,000 in 2007. Opanyin Tijani Ndego brought a copy of the paper and a certified true copy of the conviction to Ghana and wrote to the Disciplinary Committee of the General Legal Council informing them about the conviction of Helen-Lois in 2007. The Disciplinary Committee of the General Legal Council has written to Helen-Lois to close down her practice but she has argued that the rule of Natural Justice required that any person accused of a crime should be given a hearing.

Identify and discuss the eight issues raised in this problem with particular reference to the Code of Ethics of the Ghana Bar Association and the relevant legislation affecting the legal profession in Ghana.

[28 MARKS]

QUESTION TWO

"Advocacy is primarily about an advocates verbal and written persuasive prowess and has very little or nothing to do with non-verbal communication". Discuss
[14 MARKS]

QUESTION THREE

Re-examination can serve no useful purpose once a witness is badly mauled under cross-examination. In practice lawyers out of abundance of caution re-examine any witness who is subjected to cross-examination. Is this approach justified? Discuss the circumstances under which it may be safe to re-examine.
[14 MARKS]

QUESTION FOUR

"Counsel for both the Prosecution and Defence have a duty to assist the Court to come to a just decision in all criminal as well as civil cases". Per Akamba J.A. Expatiate on the lawyer's duty to the Court.
[14 MARKS]

QUESTION FIVE

Discuss the significance and or role of the following in Advocacy:

- a) Practice and Industry
- b) Expert witness
- c) The case of WATALAH V. GHANA PRIMEWOOD PRODUCTS LIMITED
[1973] 2 GLR 126
- d) Eliciting favourable testimony to advance your case
[14 MARKS]

QUESTION SIX

"Lawyers, just like judges and magistrates should endeavor at all times (especially in all their pleadings and processes filed before the courts and in their viva voce submissions in court) to use word advisedly and use words that are very descent and appropriate as the circumstances demand. A lawyer can still make his point very forcefully with the best of meanings without the use of offensive, intemperate, clumsy and insulting language". Per Dotse J.S.C. Examine the role language plays in Advocacy
[14 MARKS]