

**THE INDEPENDENT EXAMINATIONS COMMITTEE
GENERAL LEGAL COUNCIL**

(All rights reserved)

**2020 PROFESSIONAL LAW COURSE PART 2 /POST-CALL LAW
COURSE**

PART 1 REFERRED & REPEAT 2020

DATE: 21 AUGUST 2020
SUBJECT: ADVOCACY & LEGAL 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 (1) WHICH IS COMPULSORY AND ANY OTHER THREE (3) 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.

Question 1

The Central Region is the former government centre of the Gold Coast. Cape Coast was the seat of the British colonial administration up until 1877. The coastline is famous for its ancient forts and castles built by early European traders, and three of them at Elmina, St. Jago and Cape Coast have been identified as World Heritage Monuments by the World heritage Foundation under UNESCO.

The Region is also famous for its palm-fringed beaches, fascinating fishing villages and historic towns, and rich natural attractions. Kakum National Park, just 30km north of Cape Coast, is the foremost nature reserve in Southern Ghana and well worth a visit. Almost untouched virgin rainforest has been preserved as a habitat for birds, butterflies and rare local animals, and Kakum is most accessible, as it is very easy to reach from Accra.

The Region's culture is depicted through its many exciting festivals which are held throughout the year. Some of the best known festivals are 'Bakatue', literally the opening up of Benya Lagoon into the sea, which symbolised the beginning of the fishing season for the people of Elmina; 'Edina Buronya', a native version of Christmas celebrated by the people of Elmina on the first Thursday of the New Year; 'Aboakyer' or game hunting, one of the most famous festivals celebrated by the chiefs and people of Winneba on the first Saturday in May; and 'Fetu Afahye' celebrated with a durbar of chiefs by the people of Cape Coast on the first Saturday of September. Another famous festival is 'Odambea' celebrated on the last Saturday in August in Saltpond Traditional Area, and reflecting a migration of the local people centuries ago.

The historic towns in the region include Winneba, traditionally known as 'Simpa'; Kromantsej Abanze, the site of Fort Amsterdam; Duakwa and Mensa Krom, home of some of the Region's best woodcarvers; Ajumako aware where the carvers specialize in royal regalia, stools, linguistic staffs and clan totems.

In one small but very beautiful town called Jukwa in the Central Region is a family of four (4) known as the Mensah-Trump family. Mr. & Mrs. Mensah-Trump raised their children with strict moral and ethical doctrines. Their daughter, Baaba Mensah-Trump is a medical doctor at the Cape Coast Hospital and their son Yoofi Mensah-Trump is a lawyer.

Yoofi Mensah-Trump is a well-known lawyer in the region and among his colleagues at the Bar. Yoofi is acclaimed to be the lawyer for the rich. However, in recent times, Yoofi has been worried about the decline in the number of "big" briefs he usually handles. Whilst contemplating what to do after work one Friday night, Yoofi heard on the radio that there was going to be a live band concert at the "Elite's Lounge" which is a social corner for the rich and prestigious in Cape Coast. Yoofi knew that this was his opportunity to meet and connect with influential people hence he decided to attend the concert.

At the Elite's Lounge, Yoofi sat behind a table of about six (6) men made up of politicians and international business men. He ^{overheard} one man named Tony describe how he made a bad business call and was duped of US\$150,000. Tony mentioned that as a staunch Christian, he had decided to let go without pursuing the matter any further even though he knew the persons involved. Hearing Tony's ordeal, Yoofi knew he had to find a way to meet Tony so he followed Tony when Tony excused himself

to the washroom. After managing to exchange pleasantries with Tony and introducing himself as a lawyer, Yoofi impulsively volunteered advice to Tony to sue the people involved since he had overheard their conversation. Tony seemed disinterested initially, however, after Yoofi had convinced him that he will handle the case very well and had assured him that he could recover the US\$150,000 plus interest, Tony agreed.

Yoofi managed to persuade Tony to schedule a meeting with his friends who had also been duped so they could be joined to the action. Tony agreed to do that on condition that Yoofi waives legal fees for him and also that Yoofi pays him twenty (20%) percent of the legal fees payable by his friends if they agreed. Yoofi agreed and the meeting was arranged. At the meeting, Kofi Badu and Kwame Matthews, Tony's friends, were of the opinion that litigation is a waste of time and money and since they had already lost enough of both, they were not prepared to sue. Once again, Yoofi convinced them that if they sued, they would not only recover their money but the court will award interest on the money. Kofi Badu and Kwame Matthews also agreed and Yoofi instituted the action in the High Court, Cape Coast, on their behalf.

After several months of litigation, Yoofi true to his words, was able to recover all the money due in the lawsuit. Kofi Badu and Kwame Matthews then paid \$20,000 each as legal fees due Yoofi. One week later, Tony went to cash the cheque of \$8,000 which Yoofi wrote for him as his share of the legal fees paid by Kofi Badu and Kwame Matthews but the cheque was dishonored due to insufficient funds in Yoofi's account. Yoofi knowing what he had done, refused to answer Tony's numerous calls and avoided any meeting with him. Furious, Tony went to his lawyer Kojo Joe and instructed him to sue Yoofi to recover his money. However, Kojo Joe refused to accept instructions to proceed against Yoofi because Yoofi is well-respected and Kojo Joe is a junior to Yoofi.

Two weeks later, Tony met Asantewaa who is his neighbor's daughter and also a lawyer. After a short conversation with her, Tony told her about his intention to sue Yoofi and instructed her to represent him, which she agreed. Unbeknown to Tony, Asantewaa was Yoofi's fiancée. Asantewaa quickly called Yoofi and informed him of Tony's impending suit against him and although Yoofi advised her not to take the brief, she disregarded his caution and instituted proceedings against Yoofi in the High Court. However, Asantewaa never attended court nor arranged for a responsible member of her firm, staff, agent or another lawyer to be present

throughout in court proceedings after Tony had made full payment of the legal fees charged.

Tony went back to Kojo Joe and narrated his experience with Asantewaa to him and asked him to help him make a report about Yoofi and Asantewaa's conduct to the Disciplinary Committee of the General Legal Council. Again, Kojo Joe refused because he was afraid to report the misconduct of his seniors at the bar.

Meanwhile, it has now come to the attention of Kofi Badu and Kwame Matthews that the legal fees Yoofi charged was over and above the approved Ghana Bar Association Scale of fees because their friend Tony had a share in the legal fees.

Identify and discuss the ethical issues in the above with particular reference to the Ethos and the Code of Ethics of the Ghana Bar Association and the relevant legislation affecting the legal profession in Ghana.

(28 marks)

Question 2

Esi Moyo led her witness, Zigi to successfully present the substance of her case to the court in a complete and convincing form. However, after opposing counsel Richards cross-examined Zigi, the testimony has been badly mauled.

Discuss the techniques Esi Moyo can adopt to restore the confidence of her witness, Zigi and the credibility of the testimony to the jury.

(14 marks)

Question 3

By using a combination of different types of questioning techniques, you will be able to obtain all the information which is necessary, and which will enable you to advise your client. *Discuss*

(14 marks)

Question 4

What in your view makes for an effective Statement of Case? Is it the wording, the organisation of the text or the presentation? *Discuss*

(14 marks)

Question 5

"The ability to listen is central to the role of advocacy. Discuss the role of the various kinds of listening skills in Advocacy."

(14 marks)

Question 6

"Successful cross-examination is founded on the three-fold techniques of confrontation, probing and insinuation". Discuss the role of these techniques in advocacy.

(14 marks)