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THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW

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PROFESSIONAL LAW PART II EXAMINATION

TUESDAY, 21ST JUNE 2005

LAW OF ADVOCACY AND LEGAL ETHICS

TIME ALLOWED:

THREE (3) HOURS

9:30am to 12:30pm

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 legible 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 1

'Brazil Lodge' in James Town British Accra houses the well-known Lamptey family, a family of renowned lawyers. All the four children of Nii Lante Lamptey a.k.a. 'Agbaadzeena' a former boxer were all distinguished and wealthy lawyers in their own right. You only had to see the line up of the latest cars on Sunday afternoons to know that the children had come visiting. The celebration of the annual Homowo festival in August was another thing altogether.

It was to this prestigious family that Nii Camfor-Dumas was born on 6th January 1974. Right from his infancy the legal world was no strange place to him. He had at an early age had the opportunity of accompanying his father and uncles, at one point in time or the other, on their court rounds - carrying their books or their wigs and gowns. At the tender age of ten, he knew what it meant when a case was said to be 'adjourned sine die'.

Thus it came as no surprise when he chose to read law at the University of Blagooee, with the support of his father and uncles, by the supply of the latest textbooks and journals, as well as the provision of ample pocket money to make his stay on campus comfortable, he engaged in serious academic work. He passed out with a first class Bachelor of Laws degree from the University. So ecstatic was his father that the latest BMW 5 series was put at his disposal to make his sojourn in the Clinton School of Law easier.

At the law school he was very popular with the fairer sex and many a time he was seen in the classiest restaurants with one lady or the other. His evening and nights were not spent burning the midnight oil but carousing at his favourite pubs in Osu. It was no wonder that his

brilliant academic performance took an alarming nosedive. It took some hard talking from his father to get him back on track. In October 1998 he managed to pass his Bar examinations and was enrolled into the Ghana Bar. After a lavish dinner party his father put at his disposal an Accra-London-Accra ticket and \$2000 spending money for a three-month holiday.

Upon his return he did his pupillage for 6 months in his father's law firm 'Gaglozoo Consult'. After the successful completion of his pupillage the General Legal Council issued him with a Solicitor's licence. His father immediately ensured that Nii Camfor-Dumas's name, qualifications and area of specialization was added to the list of Associates of Gaglozoo Consult listed in the Martindale Hubbell Directory, an international legal directory with its headquarters in London.

A year later Nii Camfor-Dumas chanced upon one of his childhood friends, Swanzy-Essien at 'Woarawobeba' a popular eating-place in Accra. Upon learning that his one time good friend was now a Commissioner of Police C.I.D., he told him that he would introduce him to some juicy clients. Subsequently Swanzy-Essien introduced one Rasheed, the CEO of Ajasa Company Limited, importers of chicken products to Nii Camfor-Dumas. Four other suspects in drug related offences whose dockets were with Swanzy-Essien were also introduced. Rasheed had been arrested, charged and arraigned before the Fast Track High Court for attempting to smuggle to North America cocaine hidden in the belly of dried 'Koobi', a delicacy loved by Africans in the Diaspora. Nii Camfor-Dumas agreed to represent Rasheed in court for a fee of C300,000,000 representing five percent of the value of the cocaine. On the first hearing day Nii Camfor-Dumas' oratorical skills and flamboyant use of the English language and Latin maxims dazzled the judge to grant his Client bail. Subsequently he met Swanzy-Essien at Oops, a popular nightclub in Accra where he rewarded him with one plot of land at North Legon for introducing him to Rasheed and a deal was sealed by the two to do business together.

Lawyer Bawumia, a good friend of Nii Camfor-Dumas's father one day asked him to hold his brief in a matter he was handling at the Osu Magistrate Court, since he had another matter in the Court of Appeal at the same time. It was a debt recovery case, which Lawyer Bawumia had to instruct Nii Camfor-Dumas because he had no juniors and his practice was a one-man show. Moreover the magistrate had indicated his displeasure at the frequent delays at the request of Lawyer Bawumia. On the said date Nii Camfor-Dumas was again at his best and managed to secure an interlocutory judgment in favour of Lady Sowah. So impressed was she that two days later she telephoned Nii Camfor-Dumas to continue the remaining aspect of the case on the assessment of damages in court for her. She agreed to pay him ten percent of the claim as his legal fees. At the next adjourned date Nii Camfor-Dumas appeared on behalf of Lady Sowah and successfully completed the case.

Lady Sowah, impressed at Nii Camfor Duma's performance, first made him a Director of her company, Afawubo Homes Limited. She also referred her eldest son, Ahiakpor, to him to write a reference to enable him be admitted into the Ghana Army. The requirements given were that the person writing the reference should be a lawyer among others and the applicant must have a first degree from a recognized university. Nii Camfor-Dumas recalled meeting Ahiakpor several times during his undergraduate days on the University campus but when

Ahiakpor came to Nii Camfor-Dumas's office, he confided in him that he only came to Campus to perch like a bird with his friend to study for his professional Marketing examinations. He further told Nii Camfor-Dumas that he had a friend at the Registry of the University who had been able to procure a transcript for him to meet the minimum requirement. He therefore only needed the reference to add to his documents and present to the Admissions Office of the Ghana Army. Nii Camfor-Dumas not willing to jeopardize the future of Ahiakpor and to keep the healthy client – solicitor relationship with Lady Sowah, wrote an inspiring reference for Ahiakpor highlighting on his academic brilliance and character during his undergraduate course on the university campus.

Meanwhile Lady Sowah and Nii Camfor-Dumas had fast become friends. She being recently divorced, Nii Camfor-Dumas became the object of her attention and he was often found at her home on Sunday afternoons enjoying sumptuous meals of fufu and omo tuo. Thus it came as no surprise to her workers when following a one year study leave granted the Managing Director of the Company, Nii Camfor-Dumas was appointed as acting Executive Chairman of her company, Afawubo Homes Limited. She also bought him the latest model of the Mercedes Benz range.

The Attorney General's Department became seriously understaffed at the beginning of the 2000 legal year prompting the Attorney General to pass an Executive Instrument EI 28 of 2000 to hire private legal practitioners as public prosecutors. Nii Camfor-Dumas happens to be one of the lawyers hired. He was assigned a case of Republic vs. Ali Gondah, a high profile case involving a lawyer who served as a Minister of State in the former GAD Government. Ali Gondah was arraigned before the Fast Track High Court for causing financial loss to the State. He engaged the services of Lawyer De-Medeiros to represent him. The prosecution started with their witnesses. Though the main case against Lawyer Ali Gondah was that he acted recklessly in some contracts he approved for payment, the prosecution came across a due diligence report on one of the contracts which if tendered would inure to the benefit of the accused. Every lawyer is trained to win his case by a combination of tactics, skills and legal ingenuity. To win his case Nii Camfor-Dumas put aside the due diligence report. Judgment was eventually delivered in the case and lawyer Ali Gondah was found guilty, convicted and sentenced to four years imprisonment with hard labour. Counsel for Ali Gondah, De-Medeiros, surprised at the decision of the Fast Track High Court appealed immediately to the Court of Appeal. Some few hours after the appeal, representatives of all the press houses sought audience with lawyer De-Medeiros in his office and sought his opinion on the judgment as well as the merit of the appeal. The interview caught banner headlines in almost all the print media. Other press houses had lived telephoned interviews with De-Medeiros who contended that the judge was wrong, his client was innocent and that the Appeal Court will no doubt reverse the findings of the trial court.

Lawyer Ali Gondah was however taken to Batanye Maximum Security Prisons where after serving two years, he was granted amnesty by the President on the occasion of the 50th independence day of the country. Lawyer Ali Gondah has decided not to enter politics again and has renovated one of his properties he acquired whilst a minister into an office for his legal firm, Gondah Cisse & Chireh Consult to launch chapter 2 of his legal practice. Mate-Teye, a sworn enemy of lawyer Ali Gondah who was refused some contracts during Ali

Gondah's term as minister has heard about the attempt by Ali Gondah to practice Law again and has petitioned the General Legal Council to disbar Lawyer Ali Gondah on account of his conviction.

Identify and discuss the ethical issues raised in this problem, 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.

QUESTION 2

How effective is the use of language as a tool for the *Lawyer*?

QUESTION 3

Delali Cleaners Ltd used an electronically powered machine called a hydro-extractor in their laundry business. When the power was switched on the extractor revolved at high velocity. It was stopped by stepping on a foot brake, which combined with an interlocking device to bring the extractor to a rest. Following a fault, which made the footbrake inoperative, Adabayeri, an employee of the company responsible for operating the machine had to use a sack to stop the extractor. On one occasion, when he was trying to stop the machine with a cocoa sack, the rolling basket threw him down and thereby sustained very serious injuries. Adabayeri was rushed to the Save our Souls Hospital where he was admitted for six months.

The doctors diagnosed his injuries to be compound fracture of his leg and arm, contusion of the head and abrasions all around the body. After his discharge from the hospital, Adabayeri attended the hospital weekly as an outpatient for review. He has not been to work since the accident and he has lost his part time job with Haikins Industries Ltd. Adabayeri now walks with the aid of a stick and suffers occasional loss of memory. Delali Cleaners has repudiated liability for Adabayeri's injuries on the grounds that Adabayeri sustained his injuries by using unauthorized means to stop the machine.

The Delali Cleaners have instructed you to defend them in a suit by Adabayeri.

Based on the strict chronological presentations of evidence, frame not more than 15 questions you would ask Adabayeri in *cross-examination* to enable Delali cleaners present the key elements which establish or support their defence.

QUESTION 4

The Odododiodio District Assembly runs a large city park, which they hire out for funerals, durbars, picnics and other social functions. The Agyeman-Dua family booked and paid for a section of the park generally thought to be the best and well located. On a Saturday morning at 6am, four members of the Agyeman-Dua family were detailed to weed and clear that

section of the park in readiness for a big family re-union and grand Akwaba Celebration for Akwasi Obroni, a member of their family who had lived in the United States for over 30 years and returning home in grand style for a short visit. His American wife, their three children and two other tourists accompanied Akwasi Obroni. After two hours of manual work, the family members who did the cleaning left for home to organize a few other things and came back around 12 noon with a truck load of chairs, tables, and canopies only to find to their surprise and annoyance, the park taken up by 30 members of a rival family, the Obiri Yeboah family. The Obiri Yeboahs had fixed canopies, chairs, tables, public address and sound system for a funeral of a rich industrious and benevolent member of their family. They were expecting a fairly large crowd of important sympathizers from Accra.

In their anger and surprise, they approached Nana Obiri Yeboah and Agyeman Dua Jnr said, "Excuse me sir! We have already set up, this section of the park. I think you are mistaken! Can you please leave our space, and maybe go to the next sections" Nana Obiri Yeboah, replied that he had paid and reserved section 14 of the park, and was surprised that somebody has cleaned it before they got there. He states that he has the right to be there. Agyeman Dua Jnr replied that his group did pay and reserved section 12, adding that Nana Obiri Yeboah was in the wrong section. In the midst of the confusion, Nana Obiri Yeboah and Agyeman Dua Jnr went to the City Park's mini office to ascertain the true location of sections 12 and 14. They returned about 10 minutes later without any luck. The offices were closed. Both insist that the other party should leave the disputed section.

You have been appointed a Mediator to assist the parties' resolve their differences.

- a. Identify the position of the parties.
- b. State the interest behind the positions of the two families.
- c. Generate four possible options to resolve the conflict.
- d. Explain any two qualities of a Mediator.

QUESTION 5

What are the main aims of examination-in-chief and re-examination?

QUESTION 6

Discuss the law in Ghana on the rights of a *Lawyer* to recover fees from his clients.