

THE BOARD OF LEGAL EDUCATION  
GHANA SCHOOL OF LAW

PROFESSIONAL LAW PART II EXAMINATION

FRIDAY 8<sup>TH</sup> JUNE 2012

LAW OF ADVOCACY AND LEGAL ETHICS

TIME ALLOWED: THREE (3) HOURS - 10:00am to 1:00pm

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 your index number at the back of the Answer Book.
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.

QUESTION ONE

'Akyaa Lodge' in Akropong Akwapim houses the well-known Abu-Bonsrah family, a family of renowned lawyers. All the four children of Nana Abu-Bonsrah a.k.a. 'Odimafo' a former cab driver turned Advocate 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 Odwira festival in September was another gargantuan thing altogether.

It was to this prestigious family that Boi-Bi-Boi was born on 6<sup>th</sup> 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 gown. 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 Marcus. 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 on being admitted to the law school to pursue his practical course, the latest BMW 5 series was put at his disposal to make his sojourn in the El-Alawa 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 Oxford Street. 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-New York-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 'Rosemberg Legal Consult'. After the successful completion of his pupillage the General Legal Council issued him with a Solicitor's license. His father immediately ensured that Boi-Bi-Boi's name, qualifications and area of specialization was added to the list of Associates of Rosemberg Legal Consult and subsequently advertised in the Martindale Hubbell Directory, a world wide legal directory with its headquarters in Johannesburg.

Boi-Bi-Boi engaged the services of Plange-Rhule to work as her court clerk and secretary. Plange-Rhule felt so proud working in an office of a lawyer and often dressed to office like a lawyer. Boi-Bi-Boi trusted Plange-Rhule so much that he left the keys to his offices with him. Plange-Rhule was smart and often interviewed clients who flocked to the chambers about their private and personal lives. On one occasion Plange-Rhule proposed love to a lady client of the firm whose divorce case was being handled by the office. He further made additional income by leaking information in the files of some of the firm's clients to third parties and on a few occasions had smuggled the office official stamp out of the office to stamp indentures prepared by officials of the Lands Department.

Lawyer Watkins, a senior colleague at the Bar one day asked Boi-Bi-Boi to hold his brief that morning in a matter at the Osu Magistrate Court because he had another matter clashing with the Osu case at the Court of Appeal. Apart from the clash, Lawyer Watkins had to instruct Boi-Bi-Boi 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 Watkins. On the said date Boi-Bi-Boi was again at his best and managed to secure an interlocutory judgment in favour of the client, Lady Naa Lamle Mills. So impressed was she that two days later she telephoned Boi-Bi-Boi 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 Boi-Bi-Boi appeared on behalf of Lady Naa Lamle Mills and successfully completed the case.



Lady Naa Lamle Mills, impressed at Boi-Bi-Boi's unprecedented performance, first made him a special adviser to her company, Sefakor Homes Limited. She also referred her eldest son, Bakhita, 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. Boi-Bi-Boi recalled meeting Bakhita several times during his undergraduate days on the University campus but when Bakhita came to Boi-Bi-Boi'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 Boi-Bi-Boi 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. Boi-Bi-Boi not willing to jeopardize the future of Bakhita and to keep the healthy client – solicitor relationship with Lady Naa Lamle Mills, wrote an inspiring reference for Bakhita highlighting on his academic brilliance and character during his undergraduate course on the university campus.

Meanwhile Lady Naa Lamle Mills and Boi-Bi-Boi had fast become friends. She being recently divorced, Boi-Bi-Boi became the object of her attention and she regularly invited him to her home on Sunday afternoons for sumptuous meals of fufu and omo tuo. Thus it came as no surprise to her workers when following a one year leave of absence granted the Chair of the Board of the Company, Boi-Bi-Boi was appointed as acting Chairman of her company, Sefakor Homes Limited, a job he creditably distinguished himself despite his busy legal practise.

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. Boi-Bi-Boi happens to be one of the lawyers hired. He was assigned a case of Republic vs. Akpanga, a high profile case involving a lawyer who served as a Minister of State in the former GAD Government. Akpanga was arraigned before the Fast Track High-Court for causing financial loss to the State. He engaged the services of Lawyer Jinapour to represent him. The prosecution started with their witnesses. Though the main case against Lawyer Akpanga 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 Boi-Bi-Boi put aside the due diligence report. Judgment was eventually delivered in the case and lawyer Akpanga was found guilty, convicted and sentenced to four years imprisonment with hard labour. Counsel for Akpanga, Jinapour, 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 Jinapour 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 Jinapour 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 Akpanga was however taken to Tuaruka Maximum Security Prisons where after serving two years, he was granted amnesty by the President on the occasion of the 50<sup>th</sup> independence day of the country. Lawyer Akpanga, a believer in the "all die-be die" empowerment 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, Akpanga Cisse & Chireh Consult to launch chapter 2 of his legal practice. Akonno, a sworn enemy of lawyer Akpanga who was refused some contracts during Akpanga's term as minister has heard about the attempt by Akpanga to practice Law again and has petitioned the General Legal Council to declare that Akpanga is prima facie unfit to continue on the Roll of lawyers on account of his conviction.

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

The three-fold techniques of Confrontation, Probing and Insinuation are said to be germane in any successful cross-examination. What role do these techniques play in Advocacy?

**[14 MARKS]**

### QUESTION THREE

A duly qualified applicant for enrolment and call to the Bar of Ghana is required to give an undertaking that so long as he remains a legal practitioner in Ghana, he would abide by the four fold PRECEPTS enjoined in and practice the profession in accordance with the Legal Profession (Professional conduct and Etiquette) Rules prescribed by the General Legal Council and the code of ethics of the Ghana Bar Association and further in everything he does he will uphold the honour and dignity of the Legal Profession.

a. What are these PRECEPTS?

b. How can a lawyer uphold the duty to the Legal Profession?

**[14 MARKS]**

#### QUESTION FOUR

What dangers does anticipation in thought otherwise known as 'Preconception' pose to Judges and Lawyers in the course of their career in the Justice delivery system? Discuss how the challenge can be dealt with by the stakeholders for efficient administration of Justice.

[14 MARKS]

#### QUESTION FIVE

Patmos, a solicitor acted for both Pertey and Pobih and drew four agreements involving them and two other individuals. A dispute arose between the Pertey and Pobih as to the interpretation of documents drafted by the Patmos. Pertey has hired the services of Patmos to act for him in this dispute. Can Patmos act?

[14 MARKS]

#### QUESTION SIX

What is the role of the following in Advocacy?

- a. Storytelling
- b. Practice and Industry
- c. Amateur Lawyer
- d. Closing speech

[14 MARKS]