

CHUKA UNIVERSITY
MAIN EXAMINATION
JANUARY - APRIL 2023 ACADEMIC YEAR
DEPARTMENT OF LAW
BLAW 122 – PROFESSIONAL ETHICS & PRACTICE

APRIL 2023

DURATION: 2 HRS

INSTRUCTIONS

Question ONE is COMPULSORY and answer any other two questions.

QUESTION 1

Jeuri is one of the partners in the law firm of Hekima, Jeuri & Juaji Partners. The firm has a vibrant criminal and commercial law practice. One of their clients, Mr. Mkora has informed them that he managed to make some money selling narcotics and sent it by RTGS to the law firm's account. He is asking for advice on how to clean the money. Jeuri gives a lengthy opinion on the matter and proposes amongst other things that Mkora purchases assets with the funds. Jeuri being a wily lawyer, remembers that he has a property that he has no use for and offers it to Mkora for double its value, without disclosing that he is the owner. He also charges Mkora a hefty "finders commission". Hekima is so mad about these developments that he decides to report the matter to the police who then arrest Mkora and call Jeuri as a witness.

- a) In light of these facts, discuss relying on relevant case law and provisions of the Advocates' Act, the duties an advocate owes:
- i) the profession (8 marks)
 - ii) their client (7 marks)
- b) Discuss relying on relevant case law and provisions of the Advocates' Act, and including the facts from this case:
- i) what amounts to professional offences by Jeuri in this case (8 marks)
 - ii) what disciplinary mechanisms can be used against Jeuri in this case (7 marks)

QUESTION 2

"An advocate, in the discharge of their duty, knows but one person in all the world, and that person is their client. To save that client by all means and expedients, and at all hazards and costs to other persons, and amongst them, to themselves, is their first and only duty; and in performing this duty they must not regard the alarm, the torments, the destruction which they may bring upon others. Separating the duty of a patriot from that of an advocate, they must go on reckless of consequences, though it should be their unhappy fate to involve their country in confusion." Lord Henry Broughman, 1820 (quoted by David Luban, *Legal Ethics and Human Dignity* (CUP 2009) 22)

- a) Relying on relevant provisions of the Advocates Act, Cap 16, Laws of Kenya, and relevant case law, critically discuss:
- i) The accuracy of this statement in the Kenyan legal profession (10 marks)
 - ii) The role of an advocate in the legal profession in Kenya (10 marks)

QUESTION 3

Relying on relevant provisions of the Advocates Act, (Cap 16) and the Law Society of Kenya Act, (Cap 18) discuss how a client can have recourse against an advocate:

- i) Through the Complaints Committee (10 marks)
- ii) Through the Disciplinary Commission (10 marks)

QUESTION 4

Relying on the provisions of the Advocates Act, Cap 16, and Law Society Act, Cap 18, Laws of Kenya, critically discuss:

- i) Rights of an Advocate (8 marks)
- ii) Privileges of an Advocate in the legal profession (8 marks)
- iii) Composition of the legal profession in Kenya (4 marks)

QUESTION 5

Write elaborate notes on the following:

- a) Characteristics of a profession (5 marks)
- b) The Role of the Council of Legal Education in Kenya (5 marks)
- c) Unqualified Persons under the Advocates' Act, Cap 16 (5 marks)
- d) An Advocate as an Agent of their Client (5 marks)