



**NIGERIAN LAW SCHOOL**

**BWARI - ABUJA**

**BAR EXAMINATION-PART II FINAL**

**PROFESSIONAL ETHICS & ETHICS**

**FRIDAY 17TH JANUARY, 2016**

**TIME ALLOWED: 3 HOURS**

**INSTRUCTIONS:**

**THIS PAPER IS DIVIDED INTO TWO SECTIONS. TWO ANSWER BOOKLETS ARE PROVIDED. QUESTIONS FROM EACH SECTION SHOULD BE ANSWERED ON A SEPARATE ANSWER BOOKLET. QUESTIONS 1 AND 4 ARE COMPULSORY. ONE OTHER QUESTION FROM EACH SECTION SHOULD BE ATTEMPTED.**

**WRITE YOUR EXAMINATION NUMBER ON EACH ANSWER BOOKLET.**

**SECTION A**

**QUESTION 1**

Chief Danlami is the owner of Plot 15, Road 79, Gwarinpa, Abuja. He was issued a Certificate of Occupancy over the property in 2009 by the Honourable Minister of the Federal Capital Territory and he erected a perimeter fence as well a bedroom duplex on the property. Recently, d. Federal Capital Development Authority (FCDA) published a Notice of revocation of the property. Chief Danlami being apprehensive that

FCDA will make good his threat to demolish the property, approached Uche Akinwunmi, a legal practitioner to file an action at the High Court of the Federal Capital Territory against the revocation order. Uche conducted initial client interview, prepared the necessary processes and filed the action.

**Answer the following questions:**

(a) List three classes of legal literature that Uche ought to consult in carrying out his legal research in handling the brief. Give an example of each class;

(b) The case has been heard and is now fixed for judgment and Uche is fairly certain that judgement will be in his client's favour. In his excitement, he is tempted to bring in television crew to the court premises for the purposes of interviewing him, as he exits the courtroom in victory. Advise him, using relevant authorities.

(c) Assuming that judgement is delivered in favour of Chief Danlami and Uche has asked you as a junior Counsel in the law firm to write a letter to the client, informing him of the court's judgement in his favour and also forwarding the bill of charges, write the letter. Your name for the purpose is A.B. Smart, Esq.

(e) Draft the bill of charges to be attached to the letter in (d) above.

**QUESTION 2**

Mr. Jackson Sum, a legal practitioner, was invited by Chief Angus Chilsom, an influential politician to his house and briefed to represent him in a money laundering case, instituted against him by the Economic

and Financial Crime Commission (EFCC). Chief Chilsom confessed to committing the Offence but asked Jackson Dum to help him falsify some documents to cover his tracks. He also informed Jackson Dum that he had paid some men of the underworld to kidnap the key witnesses for the prosecution in the case.

Whilst the matter was pending in court before Hon. Justice Chad,, Chief Chilsom gave Jackson the sum of N10 million to be paid into the Judge's account as a gift for his summer holiday in the United Kingdom, Jackson Dum finally won the Case and Chief Chilsom paid him the sum of N5 million as his legal fees, Jackson rented a big signboard at the Junction of the road leading to his office with the inscription "Jackson Dum, LL.B, BL, Solicitor and Advocate . The Best Advocate in money laundering cases and winner of the landmark case of EFCC v. Chilsom

Chief Chilsom was also impressed with the way Jackson Dum handled his matter that he has handed over his estate at Lekki to him to manage on his behalf. Jackson Dum collected a total sum of N70 million rent on the properties and paid the money into his personal account because Chief Chilsom had travelled out of the country on holiday.

#### **QUESTION 4**

The following Scenario occurred in a matter before the High Court recently:

**Court:** Registrar, please call the first case,

**Registrar:** Suit NO. HC/LD/P/1550/2014 between Ayo Francis Vs Olanipo Macaulay. Parties present My Lord.

**Court:** Appearances.

**Funmi Abe:** Respectfully. My Lord, Funmi Abe (Miss).

Olu Moore: With utmost humility coupled with kind and sincere pleasure Olu Moore announce appearance for the defendant/respondent

**Court:** (With an astonished look) Yes, Counsel?,

**Funmi Abe:** Two sittings ago My Lord, this Honourable Court ordered the defendant respondent to remove his demolition equipment from the piece of land, the subject matter of this Suit pending the determination of the substantive suit. He promised the Court that he would do so but failed to keep his promise which caused the matter to be adjourned to the last sitting. At the last sitting again, Counsel gave an excuse that his client's wife was delivered of twins in the United States of America and could therefore not comply with the Court's instructions. As I speak with you, My Lord, the respondent is yet to comply with the instructions Of the Court. It seems Counsel and his clients are up to Some pranks

**Court:** Is this true, Mr. Moore?

**Mr. Moore:** (Stammering) Yes, it is true, My Lord. It is just that it is obvious that the said land belongs to my client.

**Court:** That is for the Court to decide. If by the next adjourned date the respondent fails to move those equipment as instructed, the Court shall have no choice but to descend heavily on him. Counsel, agree on a convenient date.

**Answer the following questions:**

(a) Comment on the mode of announcing appearance by

(i) Miss Funmi Abe.

(ii) Mr. Olu Moore

(b) Assuming that on the next adjourned date, the defendant/respondent fails move the demolition equipment as ordered by the Court; how would you classify the failure? State the type and nature.

(c) If the Court were to "descend heavily on the defendant/respondent, what should it do?

(d) What standard of proof would be applied in the event that defendant/respondent is tried?

(e) State briefly, the procedure that would be followed in the course of such trial

(f) Mrs. Florence Ajadi, a legal practitioner acted for both parties in the negotiation of a loan agreement between Union Bank Plc and Owunaro Nigeria Limited. Using the table below, compute the part of Mrs. Florence Ajadi's remuneration to be paid by Owunaro Nigeria Limited for successtully negotiating the loan transaction. The loan is for #10,000,000.00

### Scale 1

(1) Transaction conducted	(2)For the first N1,000 per N100	(3)For the first and second	(4)For the fourth and each	(5)For the remainder without
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		N1,000 per N100	Subsequent N1,000 up to N20,000 per per N100 N100	limit
Purchaser's legal practitioner for negotiating a purchase and vendor's legal practitioner for negotiating a sale by public auction	22.50	3.75	3.62	2.80
Mortgagee's legal practitioner for negotiating a loan	22.50	22.60	7.70	5.00

(1) Transaction conducted	(2)For the first N1,000 per N100	(3)For the first and second N1,000 per N100	(4)For the fourth and each Subsequent N1,000 up to N20,000 per per N100 N100	(5)For the remainder without limit
Purchaser's legal practitioner for investigating title to lease, hold and preparing legal documents	As in Part II	3.75	3.62	2.80
Mortgagee's legal practitioner for negotiating a loan	22.50	22.60	7.70	5.00

**COUNCIL OF LEGAL EDUCATION**

**NIGERIAN LAW SCHOOL**  
**BAR PT II EXAMINATIONS**  
**JANUARY 2020**  
**CORPORATE LAW PRACTICE**  
**MARKING SCHEME**  
**SECTION A**

**QUESTION 1(a)**

**(i) Primary Sources**

Examples include: statutes, case laws, regulations, by-laws, rules, guidelines etc.

The candidates should cite any one of these: 1999 CFRN as amended, LFN 2004, Land Use Act 1978, CAMA 1990; ACJA 2015, A Penal Code; Criminal Code, various Law reports and statutes

**1 MK**

**(ii) Secondary Sources**

Examples: Text: books on law, journals, law dictionaries Thesaurus, journals, law dictionaries thesaurus

**(where a student cites examples of text book that will suffice.**

**Example: Bhadrans 'on Corporate law.**

**(iii) Tertiary Sources**



Examples: Index to law reports, Digests, Case Citations, Dictionaries, Encyclopedia, etc. **1MK**

1(b)

- i. To form an attorney-client relationship;
- ii. Need to ascertain why the client requires the assistance of a lawyer;
- iii. To learn the goals of the client;
- iv. To reduce the client's anxiety over his matter;
- v. It enables the lawyer to have detailed information about the facts of the matter.
- vi. It helps the lawyer to analyze the facts and the legal problem presented by the client.
- vii. The facts elicited from the client helps the lawyer in offering legal advice to the client concerning the matter;
- viii. It also helps the lawyer to choose the particular option to adopt in order to solve the client's problem.

## QUESTION 2

(a) Jackson Dum's visit to Chief Chilsom's house is a breach of the **RULES OF PROFESSIONAL CONDUCT IN THE LEGAL PROFESSION (RPC), 2007. RULE 22** stipulates that a counsel should always take instructions from his client in the counsel's law office and not in client's house or place of business. However, in special circumstances..(e.g infirmity or illness of client or some other reason which may prevent a Client from

coming to the law office), counsel may go to client's home to take instructions.

**2MKS**

(b) My answer to (a) above would be different if Chief Chilsom was ill and bedridden. This is because **RULE 22 RPC** permits a lawyer to visit the client's home to be briefed or take instructions in or for some other urgent reason which may prevent his coming to his law office.

Consequently, in this case where Chief Chilsom is very ill it will fall under the exception to the rule and so, Jackson Dum would not be guilty of a breach of the RPC if he visited such a client's home for the purpose of taking instructions.

**2MKS**

(c) This raises issues relating to the duty of the lawyer where his client confesses guilt and the lawyer's duty to uphold the law and not to assist his client in the violation of the law.

**(i) DUTY WHERE THE CLIENT CONFESSES GUILT**

Generally, a confidential disclosure of guilt alone (by the client) does not justify the lawyer's refusal to accept brief. Rule 24 RPC. However, if the accused who has confessed insists that he shall give evidence (of innocence) or that such positive evidence to falsely establish his innocence shall be called, the lawyer must refuse to represent him- **Rule 37(3) RPC 2007.**

The lawyer must NOT take part in putting forward a case which on the prisoner's confession he knows will be a false

one supported by perjury. **RULE 15(3)(E) RPC 2007.**

Mr Jackson Dum can therefore accept the brief from his

client despite his confession to having committed the offence, however he is under an obligation under the rules not to put forward a perjured or false evidence before the court- **Rule 37(3), Udofia v State (1988) 7 S.C.425**

In this case Mr. Jackson Dum ought to advise his client against falsifying documents because it is against the law, however if Chief Chilsom insists on breaching the law and going ahead with such illegality, then Jackson Dum is under a professional obligation to withdraw from representing his client in the case. **RULE 15 (2) (A) and RULE 21, RPC** permits a lawyer to withdraw from representing the client where the client insists on an unjust or immoral course in the conduct of his case.

(d) Rule 15(2) provides that a lawyer must use his best endeavours to restrain and prevent his client from committing misconduct or breach of the law.

A lawyer shall not counsel or assist in the conduct he knows to be illegal or fraudulent. **Rule 15(3)(g).**

Where a client persists, the lawyer shall withdraw his services-**Rule 15(2). Rule 19(3)(c)** also provides that such information may be revealed: **2MKS**

(e) Chief Chilsom giving money to Jackson Dum for the judge is unethical. This is because it offends Rule 15(3)(a) which, provides that a lawyer shall not get involved in the corruption of public office holders

(Judge or Judicial officer). The conduct also offends Rule 34 which forbids a lawyer from doing anything conducting himself in a way calculated to gain or has the appearance of gaining special personal consideration or favour from a judge. **2MKS**

(f)

i. Jackson Dum is in breach of Rule 39(2)-(a-d) of RPC because the inscription on the bill board includes a statement about the quality of his work and the success rate of his practice.

ii. The location and size of the sign board also offends rule 41 of RPC. The rule provides that the sign post should be at the entrance of the office and should be of reasonable size and sober design. **2MKS**

(g) Under the **Legal Practitioner's Account Rules, 1964**, a lawyer must maintain a "client", bank account for the banking of client's money, and separate from the legal practitioner's own bank account(s). Besides, the lawyer must keep proper accounts containing particulars of amount of Clients---Rule 3 of **Legal Practitioner's Account Rules, 1964**. RULE 23 (2) RPC. 2007 also provides that "where a Lawyer collects money for his client or, is in a position to deliver property on behalf of his client, he shall promptly report and account for it and shall NOT mix, such money or property with, or use it as his own. Jackson Dum is clearly in breach of both the 1964 Rules and the RPC 2007 in having paid the money he collected on his client's account for behalf into his personal account. **2MKS**

(h) In respect of the allegations of professional misconduct against Mr Jackson Dum, the controlling body that would be responsible for

disciplinary actions against him is the Legal Practitioners Disciplinary Committee (LPDC) (see section 10, LPA).

**2MKS**

(h)(i.)

1. Striking out of the lawyer's name from the roll of legal practitioners at the Supreme Court
2. Admonition or caution him to be of good behavior
3. Suspension from practice for a definite period of time
4. Refund of the client's property or money in his possession; **Re: W.C. Abuah, Akintokun v LPDC; section 12 LPA**

## **CURRICULLUM VITAE**

### **PERSONAL DATA**

NAME: Kenechi Julius Agu

ADDRESS: PLOT 2360 KABO WAY, KANO.

EMAIL ADDRESS: [Gofuadams@yahoo.com](mailto:Gofuadams@yahoo.com)

PHONE NUMBER: 090789823 17

STATE OF ORIGIN: KANO STATE.

DATE OF BIRTH: 22ND SEPTEMBER 1972.

MARITAL STATUS: MARRIED

NATIONALTY: NIGERIAN

LOCAL GOVERNMENT AREA: KANO NORTH EAST

**SCHOOLS/INSTITUTIONS ATTENDED WITH DATES.**

<u>Institution</u>	<u>Date Attended</u>
i) Bayero University Kano	2006-2007
ii) Nigerian Law School	2003-2004
iii) University of Jos	1997-2002
iv) comprehensive Secondary School, Jos	1991-1998
v) Foundation Primary School, Jos	1985-1990

**QUALIFICATIONS/ CERTIFICATE OBTAINED WITH DATES**

<u>Qualification</u>	<u>Year Obtained</u>
i) Master of Laws	2007
ii) Barrister-at-Law	2004
iii) Bachelor of Laws	2002
iv) Secondary School Certificate	1996

v) First School Leaving Certificate      1990

#### WORK EXPERIENCE.

Company	Position Held	Date
Gofure, Mena and Waje Abuja	Senior Partner	2010-- Date
Owoniboy LP, Lagos	Legal Associate	2008-2010
Ministry of Justice, Abuja	Legal Officer	2007- 2008

**½ mark**

#### HOBBIES.

Cycling

Soccer

Reading.    **½ mark**

#### REFEREES

i) Mr. Mena Esq-

Legal Practitioner and Senior Partner at Gofu, Mena and Waje LP, Kobo  
Way, Kano. 09078316787.

ii) Mi Goje Danjuma (Esq.)

Attorney-General Kano State,

09098890001            **½ mark**

Signature

Date:    **¼ mark**

Ken, Bros & Ame Legal Partners

Plot 2360 Kabo way,

Kubwa, Abuja. **½mark**

2nd September, 2016. **½**

**mark**

The Chairman

FCT Judicial Service Commission,

Plot 800, Gudi Street



Abuja. ½ mark

Dear Sir, ½ mark

**APPLICATION FOR APPOINTMENT AS A JUDGE OF THE HIGH**

**COURT OF THE FEDERAL CAPITAL TERRITORY, ABUJA . ½ mark**

In response to the recent notice put out by the President of the National Industrial Court on 26th July 2016. I hereby express my interest to be appointed as a judge of the honourable Court.

I am an experienced lawyer of fifteen (15) years postcall. Kindly find attached to this application letter, a copy of my curriculum; vitae.

I shall be grateful if my application is favourably considered.

Thank you. **1 Mark**

Yours faithfully,

*Signature*

Justice Kenechi Esu

Encl:

curriculum vitae

Photocopies of credentials

**½ mark**

**4 Marks**

**3(A)ii.**

**ADVANTAGES OF PARTNERSHIP**

- i. Sharing of financial responsibility
- ii. No professional isolation
- iii. High quality decisions
- iv. Sharing of profits and losses
- v. Room for specialisation
- vi. Easier to get clients because of professional competence of more people involved
- vii. More time for relaxation
- viii. Easier to raise capital to set up.
- ix. Division of labour

**2 MKS**

**3B**

**LONG TITLE**

A BILL FOR AN ACT TO ESTABLISH SPECIAL ANTI-CORRUPTION COURTS,  
SETUP BY THE NATIONAL ANTI CORRUPTION ADVISORY COMMISSION  
AND OTHER CONNECTED MATTERS. **1MK**

**ENACTING CLAUSE**

NATIONAL ASSEMBLY OF THE FEDERAL REPUBLIC OF NIGERIA

ENACTS as follows

**1MK**

**SHORT TITLE**

This Act may be cited as the Special Anti - Corruption Court and  
National Anti-Corruption Advisory Commission (Establishment) Act  
2016.

**INTERPRETATION ACT**

In this Act, Court practices includes..... **1 MK**

**COMMENCEMENT**

This Act shall come into force on a date the Honourable Attorney-  
General of the Federation and Minister of Justice shall Specify

**1 MK**

#### **vi: ESTABLISHMENT CLAUSE**

There shall be established/ There is hereby established a body to be known as Anti Corruption Advisory Commission hereinafter referred to in this Act as the 'Commission'. **1 MK**

#### **a) Subject to contract:**

This is a word of negotiation used by parties at the negotiation stage of a contract. This is one of the phrases that have the effect of suspending the binding nature of a contract under consideration. **See Maja Junior v. UAC (unreported Suit) 1MK**

b) Generally, any document made in the course of negotiation with a view to settlement of a dispute with a caption address "without prejudice" is inadmissible in evidence.

**S. 26 & 196 Evidence Act; Fawehinmi v NBA (No. 2); Olukoya v CFAO; Kolo v. FBN.**

#### **QUESTION 4**

(a) (i) Miss Funmi Abe has not fully announced her appearance. She did not state the party on behalf of whom she is appearing.

(ii) The way Mr. Olu Moore announced his appearance is verbose. **The proper way is "May it please the Honourable Court". 3 MKS**

**(b)** If on the next adjourned date, the defendant/respondent fails to remove the demolition equipment as ordered by the Court he would be in contempt of the court. The act of disobedience would constitute Contempt committed ex facie curie- **Awobukun v Adeyemi (1968)**  
**NMLR 3 MKS**

**(C)** contempt Committed outside the face of the court (ex facie curie) is dealt with summarily: The facts constituting such contempt must be referred to the police for investigation and prosecution or a court may suo motu make an order for committal of a person for civil contempt **3 MKS**

**(d)** All contempt, whether civil or Criminal, must be proved beyond reasonable doubt before the contemnor may be convicted **Awobukun v. Adeyemi; Agbachum v State**

**3MKS**

**(e). PROCEDURE:**

- The court would summon the condemnor to appear, before it and show Cause why he should not be committed for contempt
- When he appears the court will order him to enter the witness box and show cause why he should not be committed for contempt.
- If he wants to give evidence, he will move to the witness box.

- If the Contemnt is proved beyond reasonable doubt, he will be Convicted and, sentenced.
- However, if the contempt is not proved beyond reasonable doubt, he will 'be discharged and acquitted.

OR

he contempt is referred to the Police for investigation.

Arrest is made

- Charge is drafted
- The accused party is arraigned before another court
- A full criminal tirial takes place, that is: plea is taken, evidence is led and iudgment is given.
- Where contempt is proved beyond reasonable doubt, accused will be convicted and sentenced.
- However, if not proved beyond reasonable doubt, accused will ibe

discharged and acquitted.

f) Stage 1

First  $N1,000/100 \times N11.25/1$

$N10 \times N11.25$

$N100$

$N112.50$

Stage 2

Second and Third  $N1000 = N2000/N100 \times N11.25/1$

$N20 \times N11.25$

N225

OR

$2,000/1,000 \times 11.22/1$

$2 \times 11.25$

$=22.50$

Stage 3

Fourth and each subsequent

Fourth and each subsequent

$1000 \text{ up to } N20000 \text{ per } N100 = N17000 \times N3.75$

$N100$

$N170 \times 3.75$

$N637.50$

Stage 4

$\text{Remainder without limit} = N9,980,000/N100 \times N2.50$

$N99,800 \times 2.50$

$= N249,500$

Stage 5

Mrs Florence Ajadi's fee from Owunaro Nigeria Limited is

$112.50 + N225 + N637.50 + N249,500 = N250,475.00$

$N250,475.00$

$= N125,237.50$

OR

Mrs Florence Ajadi's fee' from Owanäro Nigeria Limited is:

$NI\ 12,50 + N22.50 - + N637,50 + N249,500$

$N250.792.50/2$

$= N125,136.25$