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LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1990

STATUS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(Monday, May 21, 1990)

Instructions to Students

- a) Time: 3½ hours
 - b) Answer FIVE questions
 - c) In answering any question a student may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
 - d) It is unnecessary to transcribe the questions you attempt.
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QUESTION 1

(a) A was arrested and charged with the offence of larceny. He is an old client of yours and has come to you for you to represent him at the trial. He informed you that, at the time of his arrest, he gave the police officer a wrong name and address. He also confessed to you that he is guilty of the offence, but would be pleading "not guilty."

As his attorney what is the proper course for you to take both before and at his trial?

(b) Would it make any difference if A said that he would plead "guilty" but wanted you to put in a plea of mitigation?

QUESTION 2

In a criminal case the responsibilities of the advocate acting for the prosecution are different from those of the advocate acting for the defence. Discuss

QUESTION 3

(a) Helius, an attorney-at-law, was charged with:-

1. conspiracy to defraud the Inland Revenue authorities;
2. failing to file his income tax returns within the time stipulated;
3. disorderly behaviour in a public place, to wit, the offices of the said authorities.

The third charge was dismissed on a technicality, but he was convicted on the other two charges.

On appeal, however, the conviction on the first count was reversed because it was defective but the conviction on the second count was affirmed.

The Disciplinary Committee is contemplating disciplinary proceedings against Helius on the basis of the charges brought against him and seeks your opinion.

Write an opinion.

(b) The judge who tried the matter is also keen on taking disciplinary action against Helius but is not sure if he can do so.

Advise the judge.

QUESTION 4

(a) Zia consults Brian, an attorney-at-law, with a view of instituting legal proceedings against Bacchus. Brian knows that the case is a hopeless one but nonetheless proceeds with it. The action fails and the judge adjourns the matter commenting that the case was a scandalous waste of the court's time and that he would take time to consider what order he should make against Brian.

What order, if any, may the judge make against Brian and what principles should guide him?

(b) In the same action, Brian made several visits to a distant village for the purpose of interviewing witnesses in order to secure evidence for the trial. Zia was never informed of those visits. On those visits a great deal of expenses were incurred. No useful evidence was obtained from the visits but Brian submitted a bill for reimbursement of the expenses and his costs for the visits. Zia does not wish to pay this bill and seeks your advice.

Advise Zia.

QUESTION 5

Hezekiah was an elderly attorney-at-law who had always represented Doobay a widower, aged 82.

Doobay's assets consist of his residence and \$200,000 in cash.

Doobay consulted Hezekiah for the purpose of making a new will. He wanted to give his residence and a bequest of \$10,000 to Hezekiah in appreciation of his long and faithful service. He also wanted to give \$75,000 to Hezekiah's wife, Myrtle and \$50,000 to his own grandchild, Mera.

With regard to the gift of the residence, Hezekiah suggested that this should be given instead to Louise a neice of Hezekiah. To this Doobay agreed.

The will was prepared by Hezekiah and duly executed by Doobay. One of the witnesses who attested the will was Vishnu, the husband of Mera. Hezekiah was appointed the sole executor.

Doobay has died and Hezekiah has obtained probate of the will and started administering the estate.

As a result of Vishnu's attestation of the will, the bequest to Mera was void.

Mera seeks your advice as to the propriety of Hezekiah's conduct.

Advise her.

QUESTION 6

(a) It is the duty of an attorney-at-law to preserve his client's confidences. Discuss.

(b) Communications written by Albert to his attorney-at-law Jacob fell into the hands of Ramon. Ramon brought an action against Albert for libel on the basis of the contents of the communications. Jacob has applied for an injunction to restrain any further proceedings of the action on the ground that the communications were privileged. As the judge hearing the application what order would you make? Give reasons.

QUESTION 7

(a) Ted an attorney-at-law, who has recently been admitted, was retained by Judith to bring an action against Clare for personal injuries and damage to her motor car due to Clare's negligent driving.

In her instructions to Ted, Judith informed him of certain matters which were relevant to the success of her claim. At the hearing of the action Ted failed altogether to lead evidence on those matters. As a result, the action was dismissed and Judith was ordered to pay Clare's costs in the matter.

Judith is very unhappy over the loss she has suffered and in the way Ted handled the matter, resulting in her having to pay Clare's costs. She consults you as to what action she can take against Ted.

Advise Judith.

(b) Hilda was a member of the Happy Wanderers Club, the members of which decided to take legal action against the owner of the premises occupied by the club. Though Hilda had just recently been admitted as an attorney-at-law, she volunteered to represent the members.

The statute under which the action was brought was very difficult to interpret, but Hilda had failed to realise this and assured the members of success.

Hilda failed on all grounds, including that taken by the

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attorney-at-law for the landlord that the action was brought outside the limitation period.

The members are very annoyed especially since Hilda has assured them of success and have consulted you with a view to taking legal action against Hilda.

Advise the members.

QUESTION 8

Angus, an attorney-at-law, was orally engaged by Bernard to transact a number of legal transactions in order to extricate himself from certain difficulties. After Angus had successfully completed some of those transactions, he sent Bernard a bill covering his fees for those transactions.

Bernard refused to pay anything, contending that Angus was not entitled to any payment until all the transactions were completed.

Angus thereupon informed Bernard that he was terminating the retainer and promptly sued Bernard for his fees. Bernard consults you and seeks your advice.

- (a) Advise Bernard on all relevant issues.
 - (b) Would it have made any difference, if Angus had evidence that Bernard was about to emigrate to Canada.
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