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1 <sup>st</sup> Verifier	
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**COUNCIL OF LEGAL EDUCATION**

**EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES**

REGISTRATION NUMBER:

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VENUE: Co-operative University

JKUAT

**ATP105: PROFESSIONAL ETHICS**

Examination Series: April 2025

Date: 11<sup>th</sup> April 2025

Time: 09:00AM-12:00PM

Duration: 3 hours

**Instructions to Candidates:**

- Enter your registration number and tick the exam venue in the space provided.
- Answer **FIVE (5)** questions, including question **ONE** which is **COMPULSORY**.
- Question **ONE** carries **20 Marks**. All other questions carry **10 Marks** each.
- Attempt each question in the space provided. Additional space is provided at the back of the booklet.
- Answers **MUST** be supported by relevant statutory provisions and case law where required.
- Do not write your name in the booklet.
- Ensure your handwriting is **LEGIBLE**.

**FOR EXAMINER'S USE ONLY**

Question Number	Examiner		Internal Moderator		External Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials	Mark	Initials
1.								
2.								
3.								
4.								
5.								
6.								
<b>Total Marks</b>								



## QUESTION ONE

Justine Lexon is the Managing Partner of Lexon & Associates Advocates based in Nairobi, Kenya. Some 5 years ago, he represented Kokoto Ngumu, the Administrator of the Estate of Kwetu Kora (deceased) against Daxto International, in a claim for negligence and wrongful death attributed to carcinogenic ingredients in a product by the Company. The suit was filed in the United Republic of Nats, where the Corporation's parent entity is registered, and where the subject product was manufactured. The matter was settled through an out-of-court agreement that contained broad non-disclosure provisions that prohibited sharing any information regarding its terms with third parties.

In an interview in the *Daily News*, a leading newspaper in Kenya, Justine stated that it was due to his 'skillfulness and versatile nature' that the Corporation compensated his client Kshs 567,000,000.00. He also pointed out that his client was willing to settle for far much less but his 'extensive experience litigating and negotiating such negligence claims' resulted in him prevailing upon Kokoto on the need to push on, and in the Company willingness to settle the claim at higher amounts.

Perturbed by the disclosures, Kokoto writes to Advocate Lexon requiring that he retracts the statements relating to the matter as reported in the *Daily News*. Lexon responds by stating that there was no wrong doing on his part given the substantial passage of time from when the matter was settled and compensation made.

- a) Supporting your answer with any relevant statutory or regulatory provisions, or case law, evaluate whether Advocate Lexon is guilty of professional misconduct. (4 marks)
- b) The Kshs 567,000,000.00 compensation was deposited into the account of Advocate Lexon by the Company, who then transferred the amount, less part legal fees and disbursements, to Kokoto's Bank Account. Part of legal fees and disbursements remained unsettled. Discuss the various circumstances that can permit the disclosure, by Advocate Lexon, of the amount received by him, and the funds that he eventually disbursed to Kokoto, to third parties. (4 marks)
- c) Suppose Kokoto files a complaint under the Advocate's Complaint Commission (ACC) against Advocate Lexon alleging professional misconduct by disclosure of the amount of settlement, and the intricacies involved in the prosecution of the claim and its settlement. Discuss the ACC's options upon receiving the complaint. Support your answer with any relevant statutory or regulatory provision(s), or case law. (6 marks)
- d) Explain the rationale for the prohibition of disclosure of privileged information obtained by an advocate in the course of legal representation in the Kenyan society. (2 marks)
- e) From a marketing and advertising perspective, the conduct of Advocate Lexon amounts to prohibited touting and solicitation of clients. In your view, why do regulations proscribe advertising that constitutes touting and solicitation by advocates? (4 marks)











**QUESTION SIX**

Mr. Kim is an advocate employed at the Copyright Tribunal, whose practicing status according to the LSK portal is “inactive”. He has filed a response to an appeal against the decision of the Copyright Tribunal. An advocate in the case has filed an application within the appeal challenging the validity of the documents filed in court. Write a detailed opinion supported by case law addressing:

- a) Who are the officers entitled to act under section 10 of the Advocates Act without a practicing certificate? (4 marks)
- b) The conduct of Mr. Kim and the validity of legal documents prepared. (4 marks)
- c) If Mr. Kim was in private practice, practicing in partnership, what do the rules of professional indemnity cover require from him. (2 marks)

REGISTRATION NUMBER

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