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EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

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CENTRE: Co-operative University JKUAT Kenya School of Law

ATP105: PROFESSIONAL ETHICS

Examination Series: April 2026

Date: 10th April 2026

Time: 09:00AM - 12:00PM

Duration: 3 hours

Instructions to Candidates:

- Enter your registration number and tick the exam Centre 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.
- 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**.

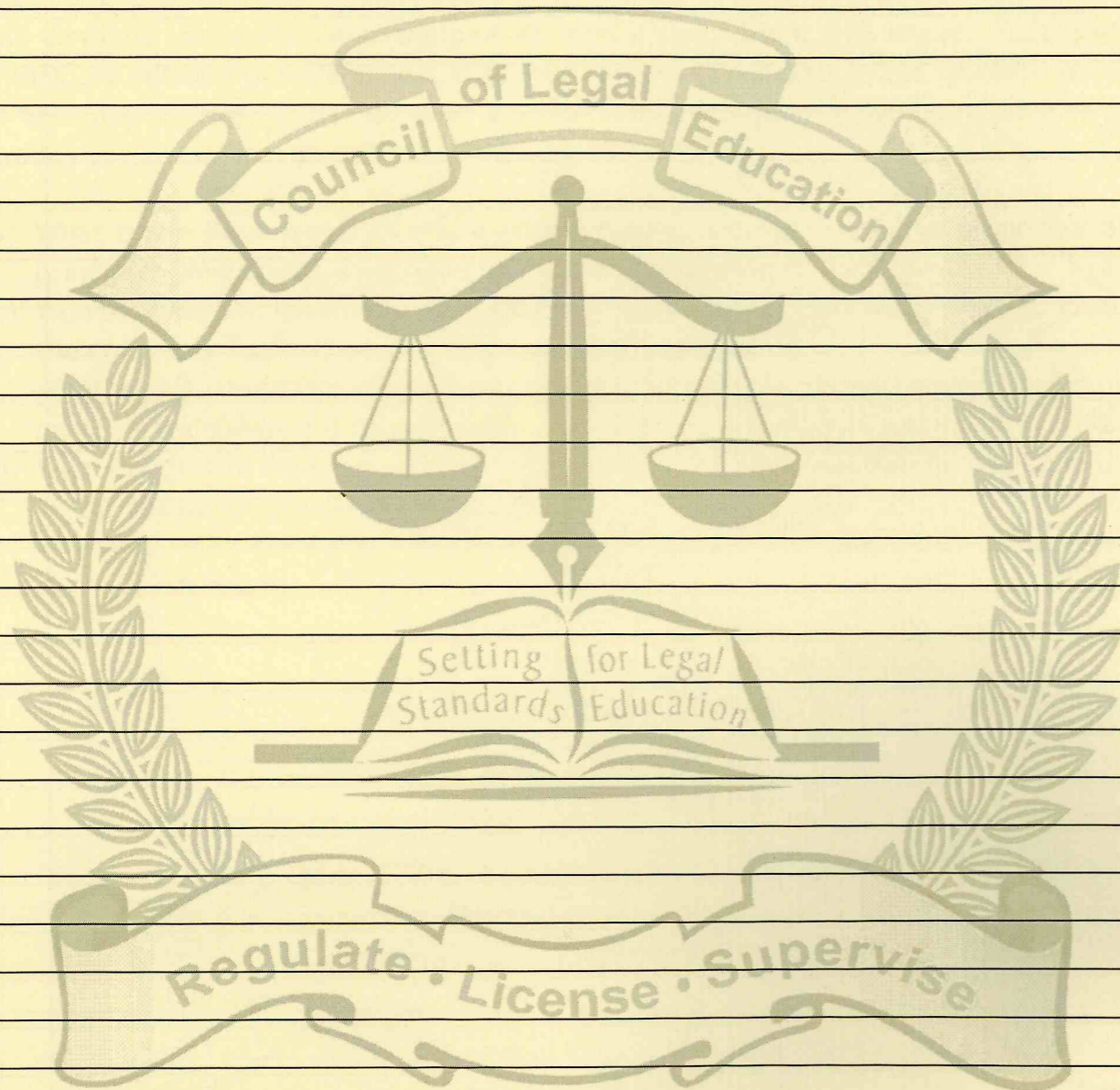
FOR EXAMINER'S USE ONLY

| Question Number | Examiner | | Internal Moderator | | External Moderator | | Quality Assurer | |
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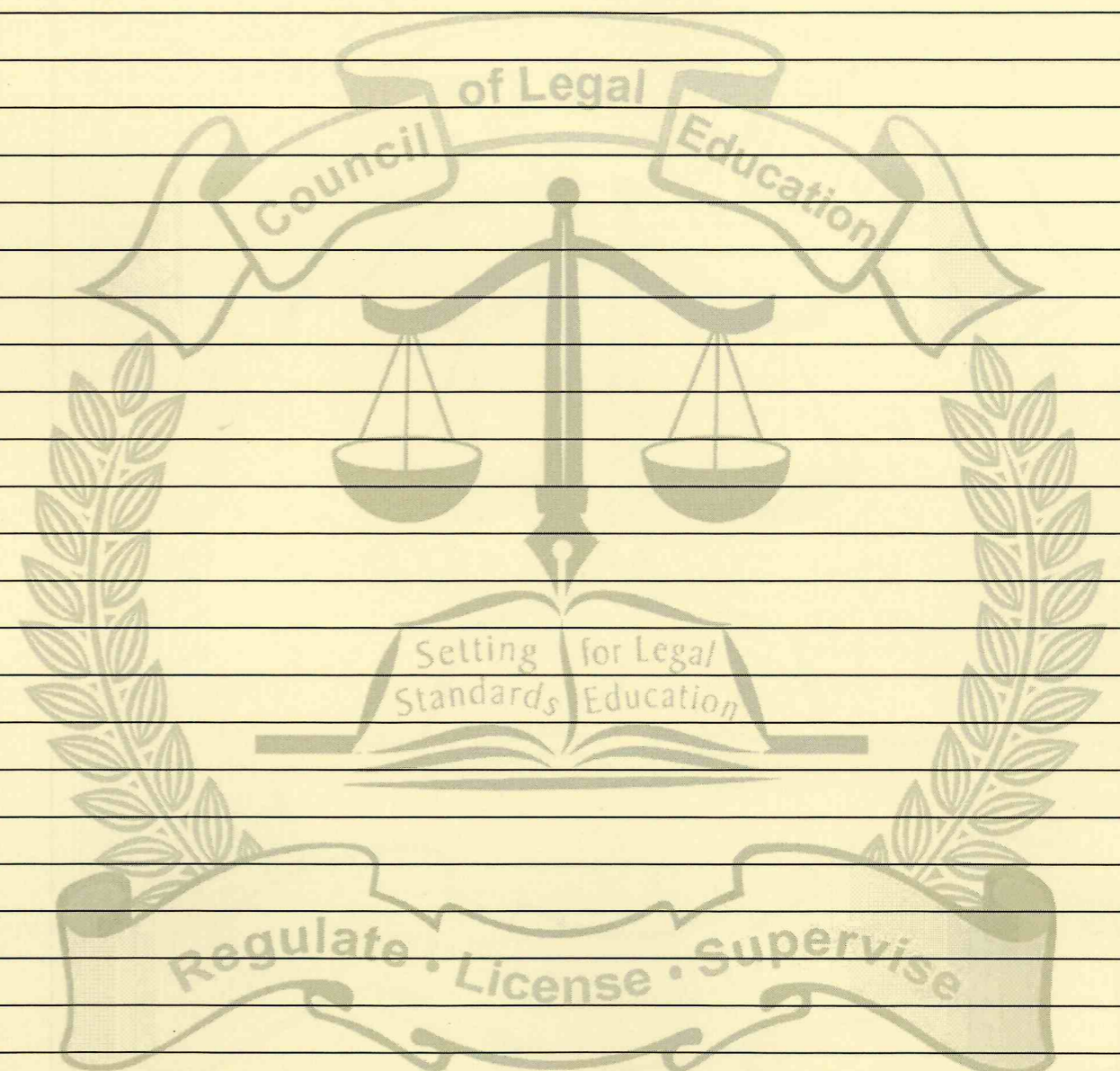
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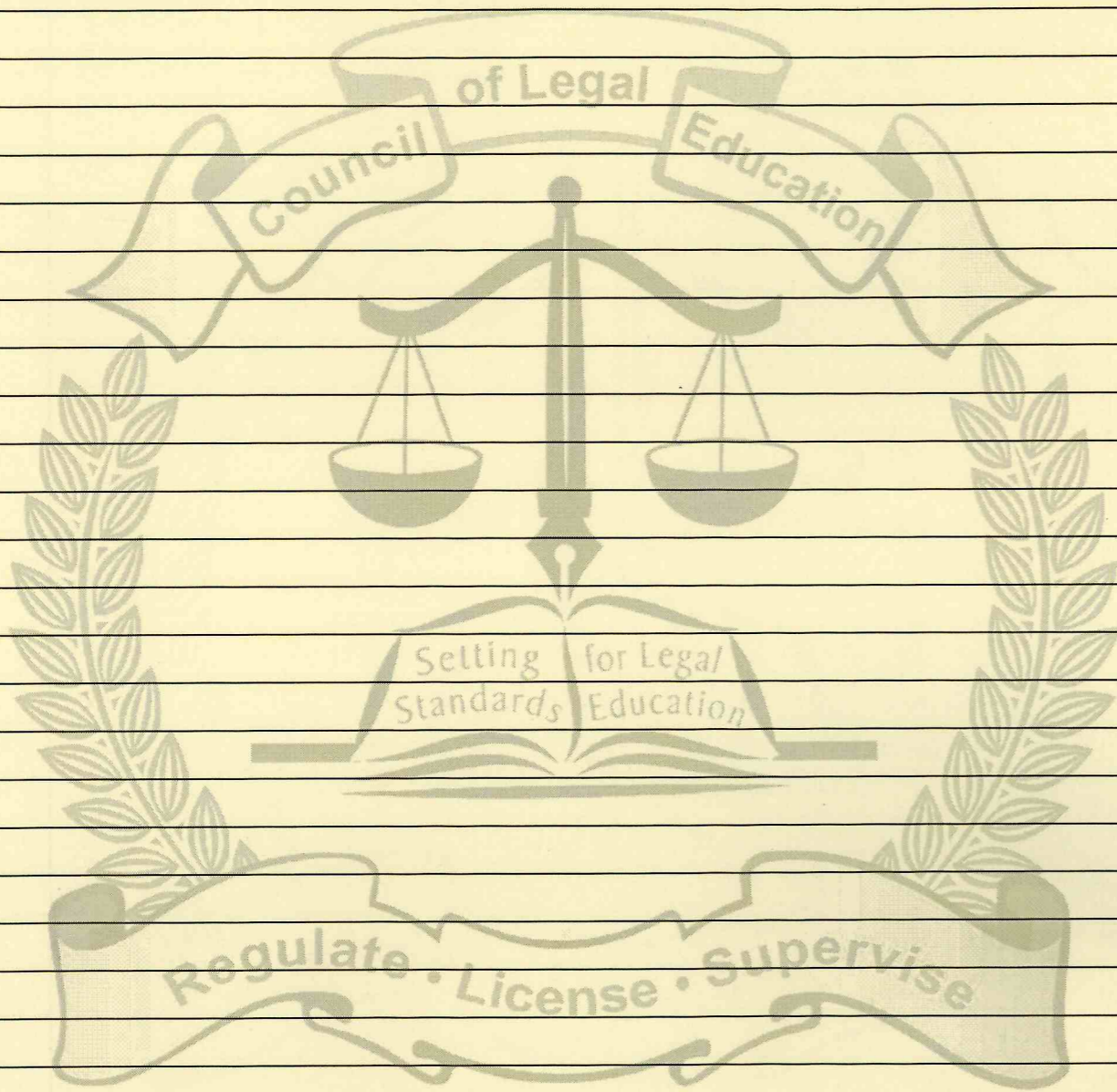
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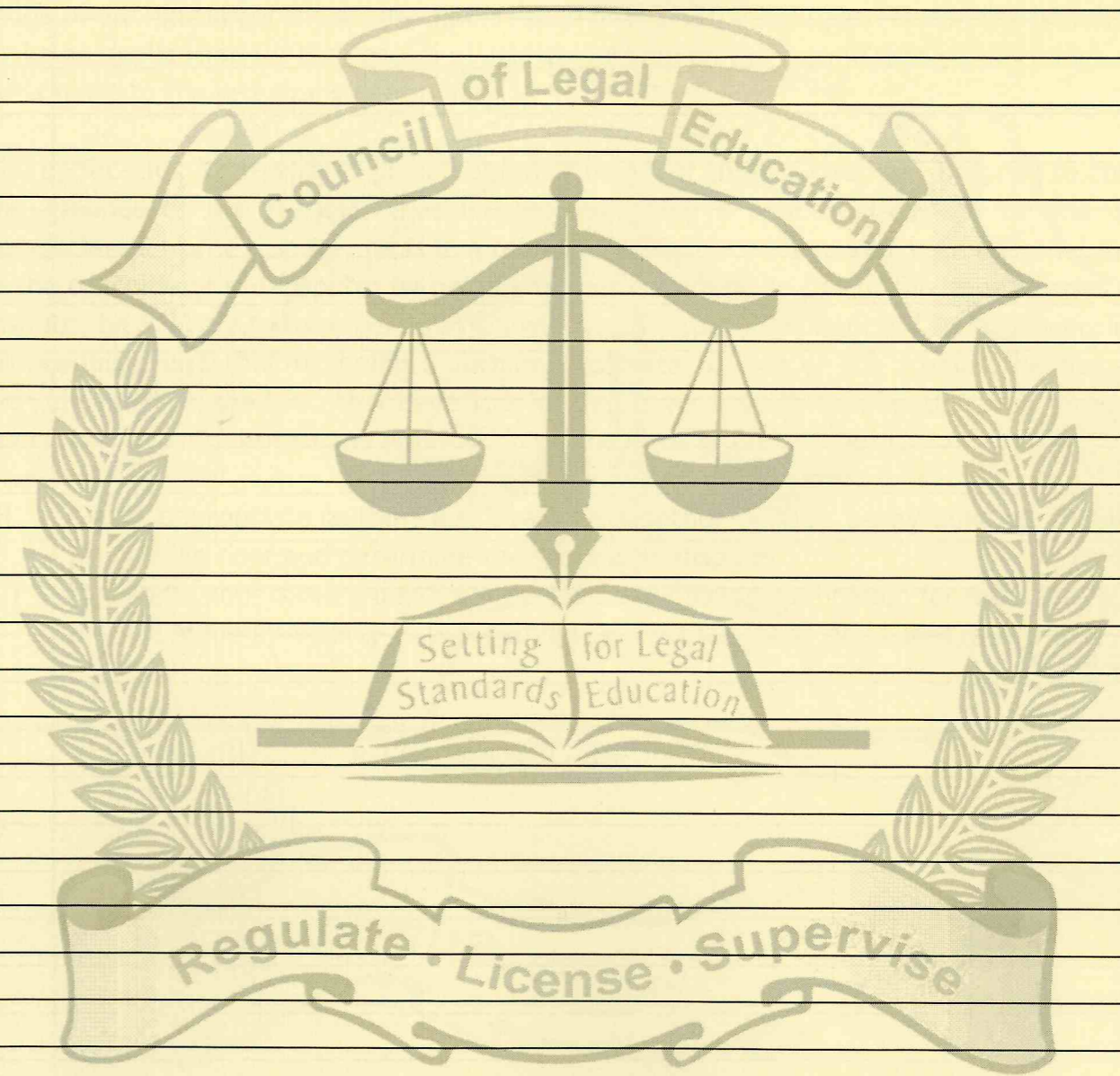
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QUESTION TWO

a) Your friend, Lisa Montana, is a highly competent Estate Agent, and seems to know everything about land law and conveyancing in Kenya. In the course of her conversations with you, she wonders why, with all her knowledge and skills, it is not permissible for her to practice land law and conveyancing like advocates do. Evaluate four reasons to justify the restrictions against unqualified persons from practicing law? **(4 marks)**

b) Justice Lenny Jukumu has been transferred to the Nyeri High Court, where he is to take over the resolution of a succession dispute involving three beneficiaries. The dispute relates to the mode of distribution of the estate that is worth over a billion shillings. Two of the beneficiaries make an application for the recusal of Justice Jukumu on the ground that he was a high school class mate to the remaining beneficiary.

The application for recusal is placed before a bench of three judges who proceed to consider the grounds of the recusal, that include: by being a former classmate to one of the beneficiaries to the dispute, he is in a relationship with a person who has a personal interest in the outcome of the dispute; by being a former classmate to one of the beneficiaries to the dispute, he is likely to have personal knowledge of disputed evidentiary facts concerning the proceedings; and that by being a former classmate to one of the parties, he has actual prejudice against the two other beneficiaries that have made the application. The three judge bench proceeds to dismiss the application on the basis of lack of merit.

- (i) Citing appropriate authorities, evaluate whether Justice Lenny Jukumu should still proceed to hear and determine the succession dispute? **(3 marks)**
- (ii) Highlight other three grounds on the basis of which an application for recusal by a judge may be made by a party to proceedings, other than those presented in this case. **(3 marks)**

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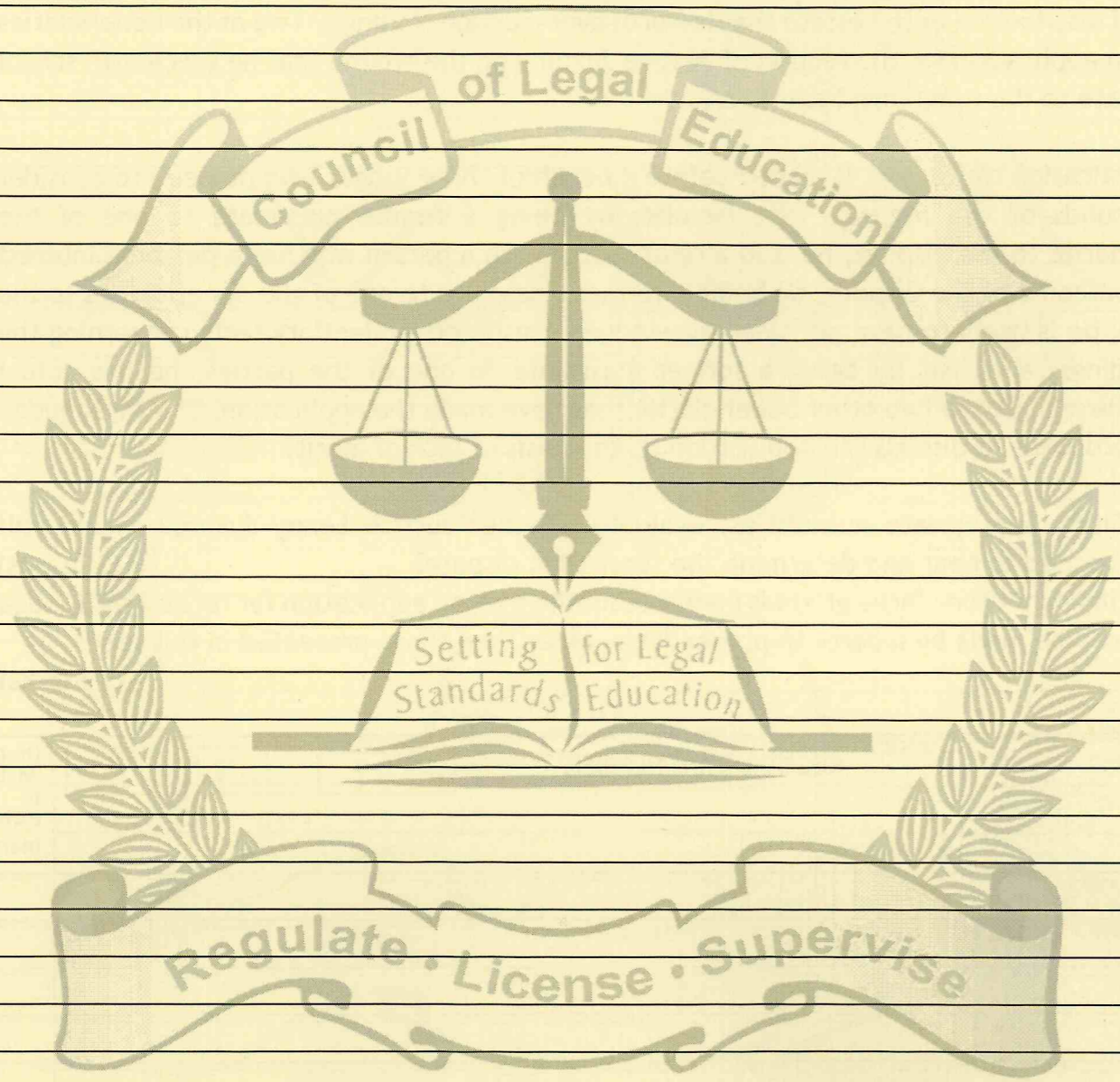
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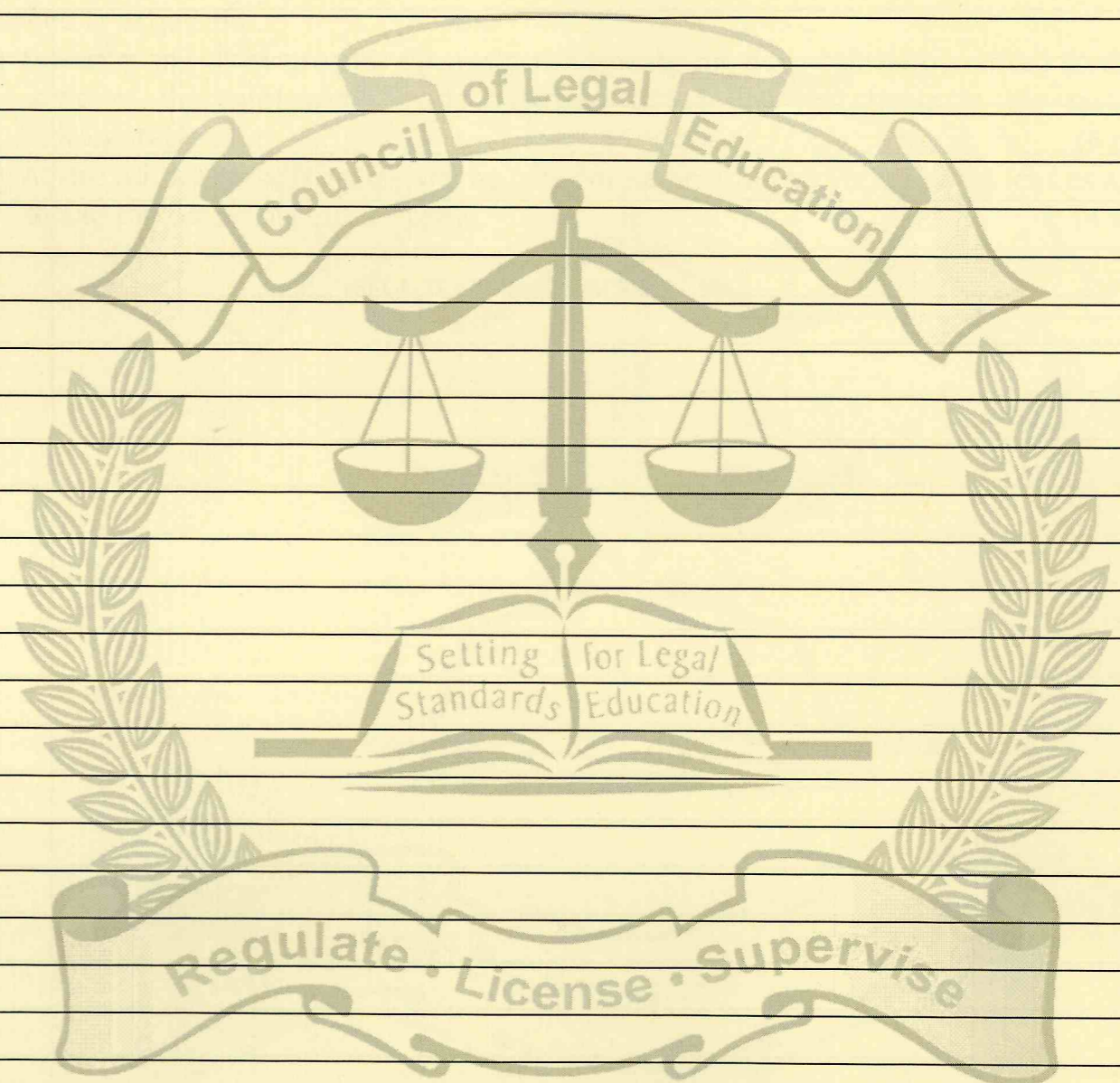
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QUESTION THREE

Governor Kula Yote was arrested by the Ethics and Anti-Corruption Commission on 12/12/2022. He was charged with various offences ranging from corruption, abuse of office, unjust enrichment, money laundering and nepotism among others. He has immense wealth with real properties spread across East Africa. He has given a full inventory of the assets to his lawyer, Advocate Big Bang. The Commission is unable to trace the full extent of the Governor's empire and have summoned Advocate Big Bang to their offices for purposes of completing investigations. He has chosen not to cooperate because he is expecting a very hefty legal fees, which was verbally agreed upon to be calculated on the basis of the total estimated value of the empire, as long as the Governor is discharged or acquitted.

- a) Evaluate any three grounds upon which Advocate Big Bang can be permitted to disclose some of the information made available to him by his clients in the course of representation. **(6 marks)**
- b) Advise Advocate Big Bang on why he may not be able to recover the legal fees as agreed, should the Governor refuse to pay. **(4 marks)**

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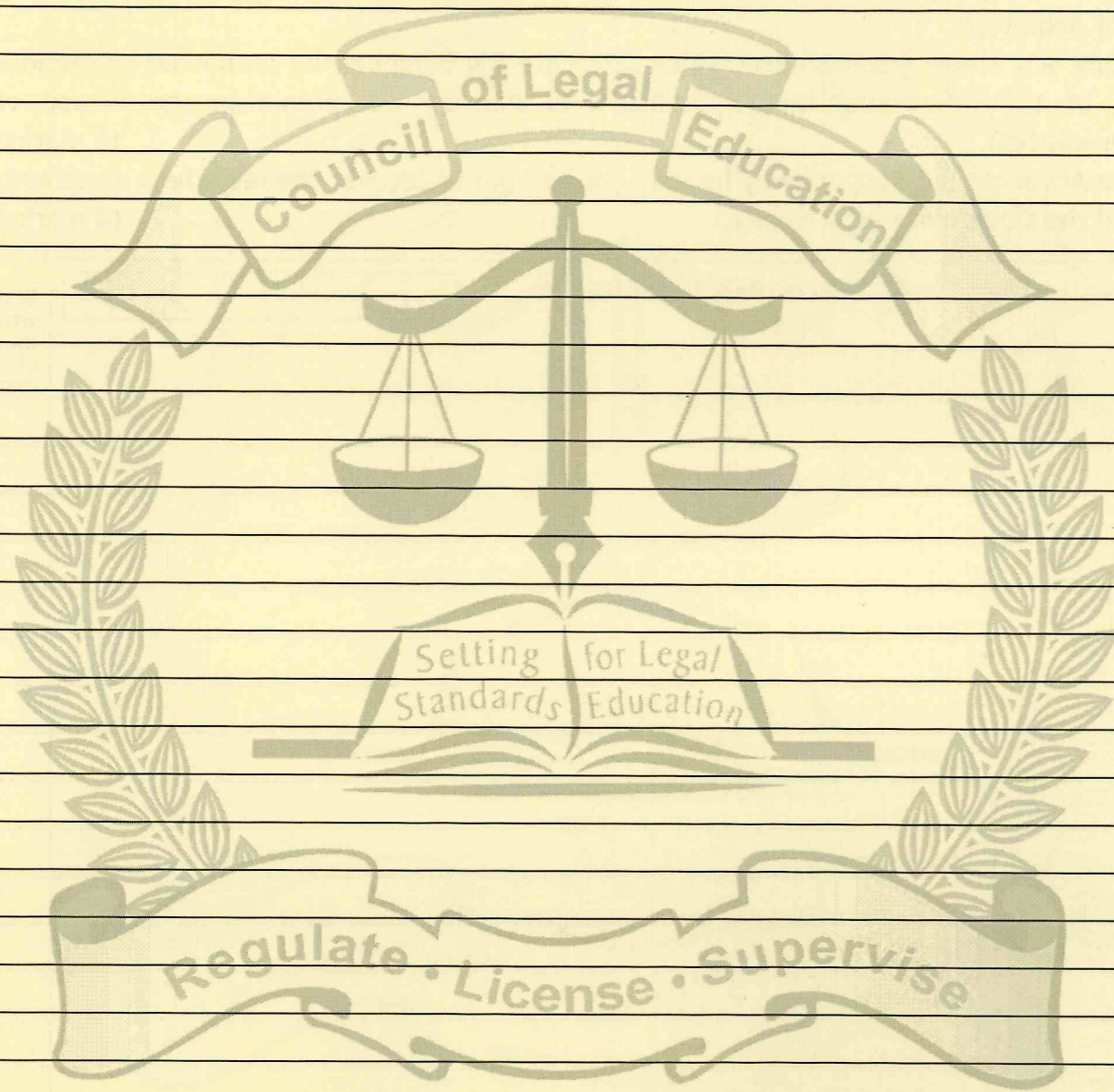
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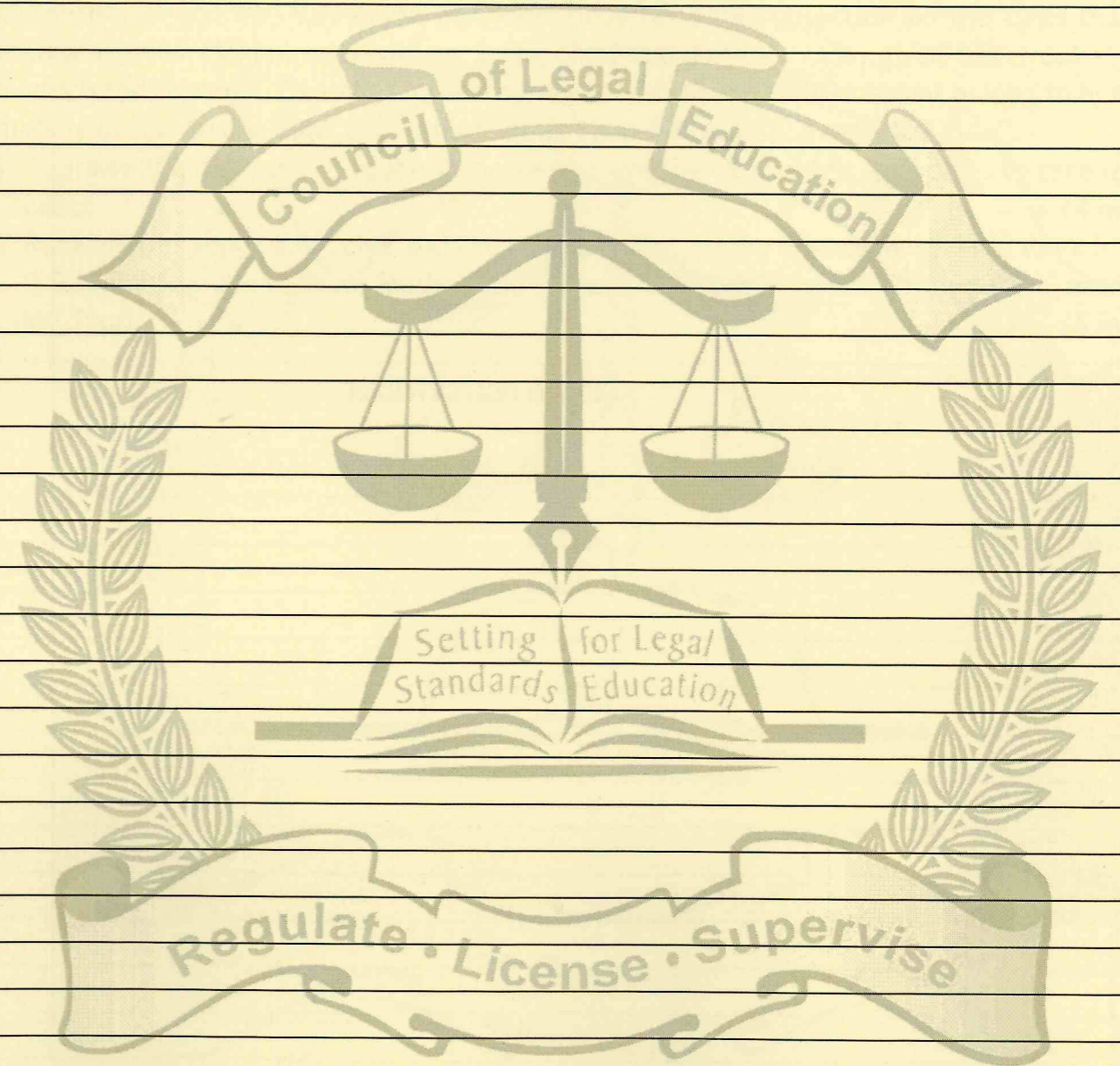
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QUESTION FOUR

Ms. Hekima was retained by Ms. Mashamba and Mr. Ploti as their advocates in a conveyance transaction involving the sale of 25 acres of land within Nairobi. Ms. Hekima had previously been the advocate for Ms. Mashamba and has acted for her in several matters. In the present transaction, it is Mr. Ploti who is to pay Ms. Hekima her legal fees. As a result of this connection, a relationship ensued between Mr. Ploti and Ms. Mashamba out of which a child was born. Mr. Ploti not only defaulted in payment of the purchase price which was to be paid within 5 years but also stopped supporting Master Mzuri, a child claimed to be born out the relationship with Ms. Mashamba. Mr. Ploti has approached Ms. Hekima who has accepted to act for him in a child maintenance suit and Ms. Mashamba's advocate has raised an objection on the basis that she intended to call Ms. Hekima as a witness in the child maintenance case, given the circumstances under which the two met. Overall, his instructions are that the child does not belong to him. Ms. Hekima's response to the objection is that she is "just following the cab-rank rule"

- a) Appraise the cab-rank rule, its rationale and whether it compels advocates to take up any case? **(4 marks)**
- b) Reciting the applicable rules and the principles set out by Justice Musinga in Francis Mugo & 22 Others v James Bress Muthee & 3 Others, is Ms. Hekima disqualified from acting for Mr. Ploti. **(6 marks)**

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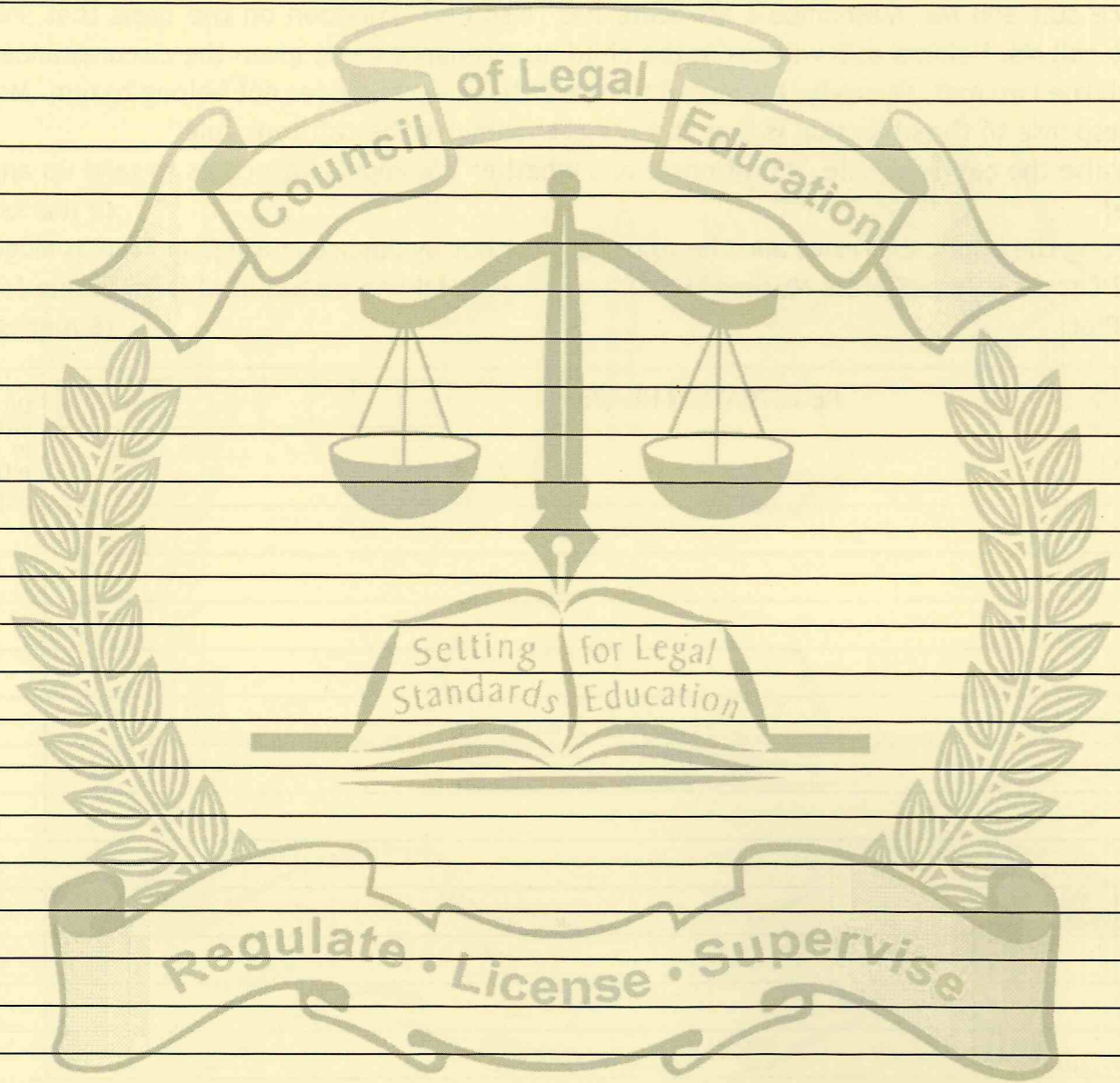
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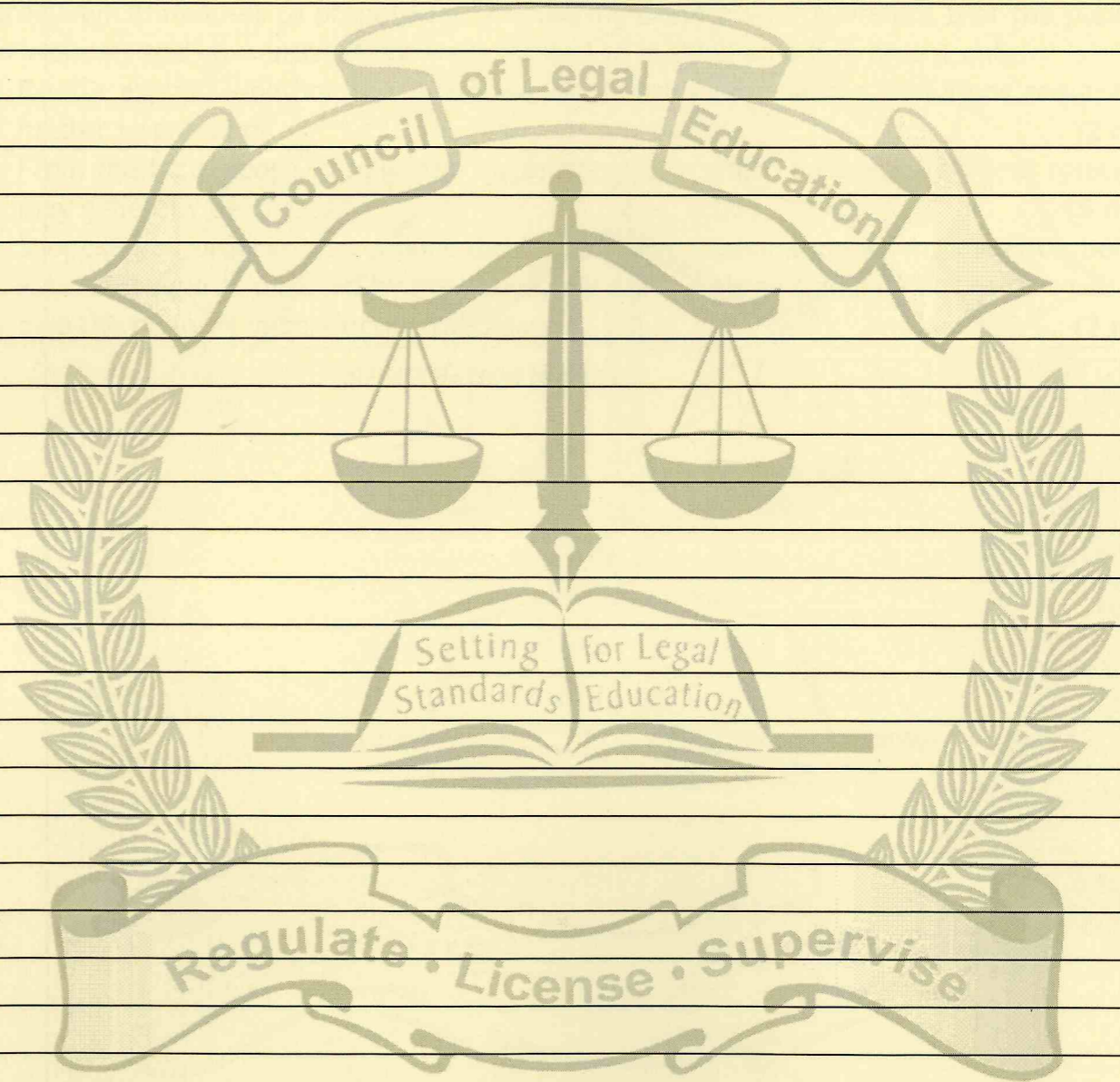
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QUESTION FIVE

You are an Advocate and have been requested to hold brief for your colleague who is acting for the plaintiff in a suit for breach of contract at the High Court. The matter is slated for a hearing and your colleague has requested that you request the High Court to adjourn the case to the afternoon as he is conducting another case before the Court of Appeal. The Judge, upon confirming that the four witnesses slated to testify are in attendance, declines to adjourn the hearing to the afternoon due the many matters listed for similar hearing and four previous adjournments.

The Judge directs that you must proceed with the examination of the witnesses for the plaintiff. You are given 30 minutes to prepare for the hearing despite your averment that the plaintiff is not your client, and your instructions were limited to seeking an adjournment only.

- a) Briefly explain whether the judge was justified in issuing the directions requiring the matter to proceed? **(2 marks)**
- b) From the facts above, discuss the circumstances in which an advocate-client relationship may generally be created. **(5 marks)**
- c) Suppose you proceed to conduct the hearing and examination of witnesses on behalf of your colleague as directed by the Judge, outline any three fiduciary duties that you would owe the plaintiff in conducting the hearing. **(3 marks)**

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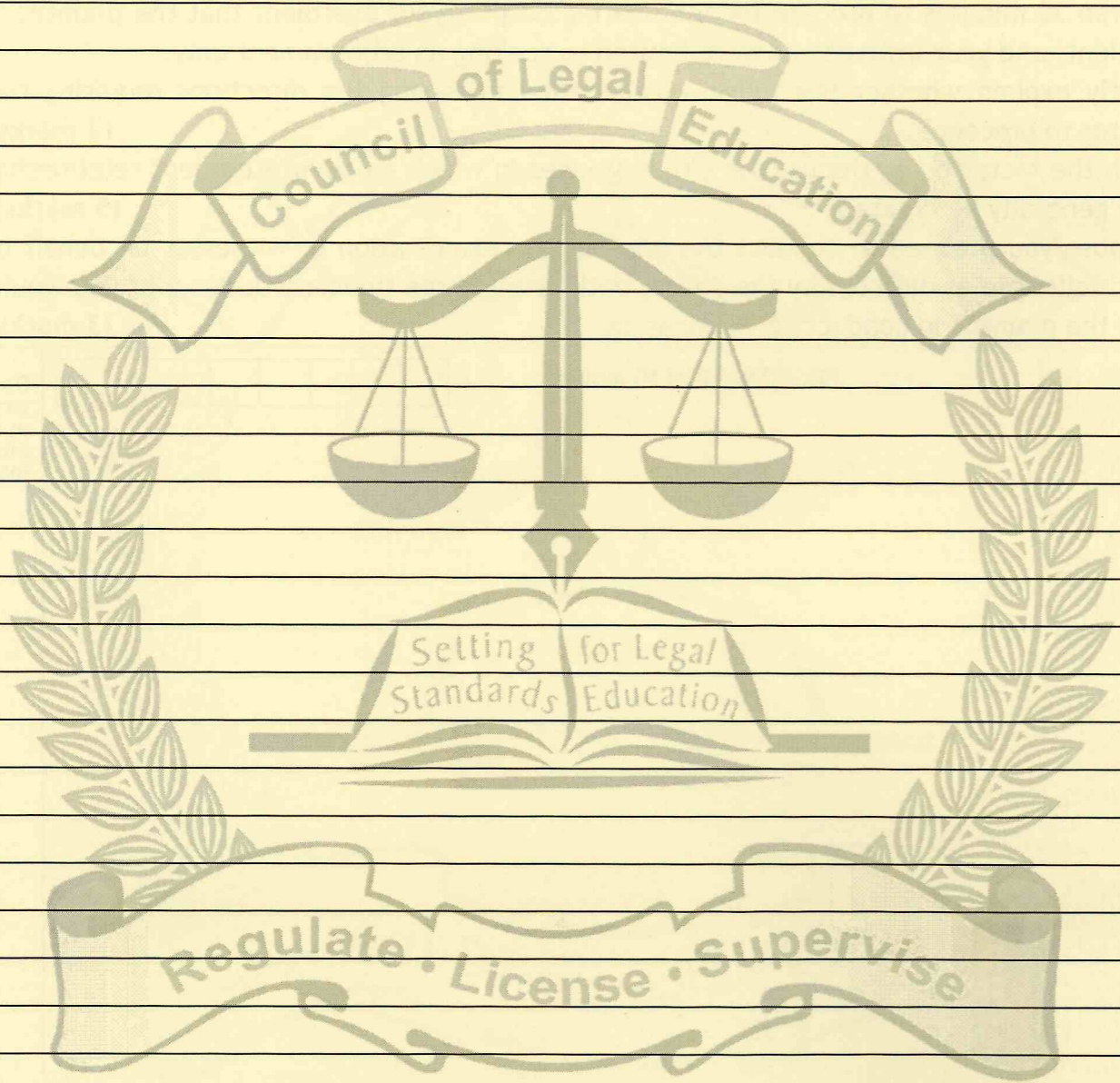
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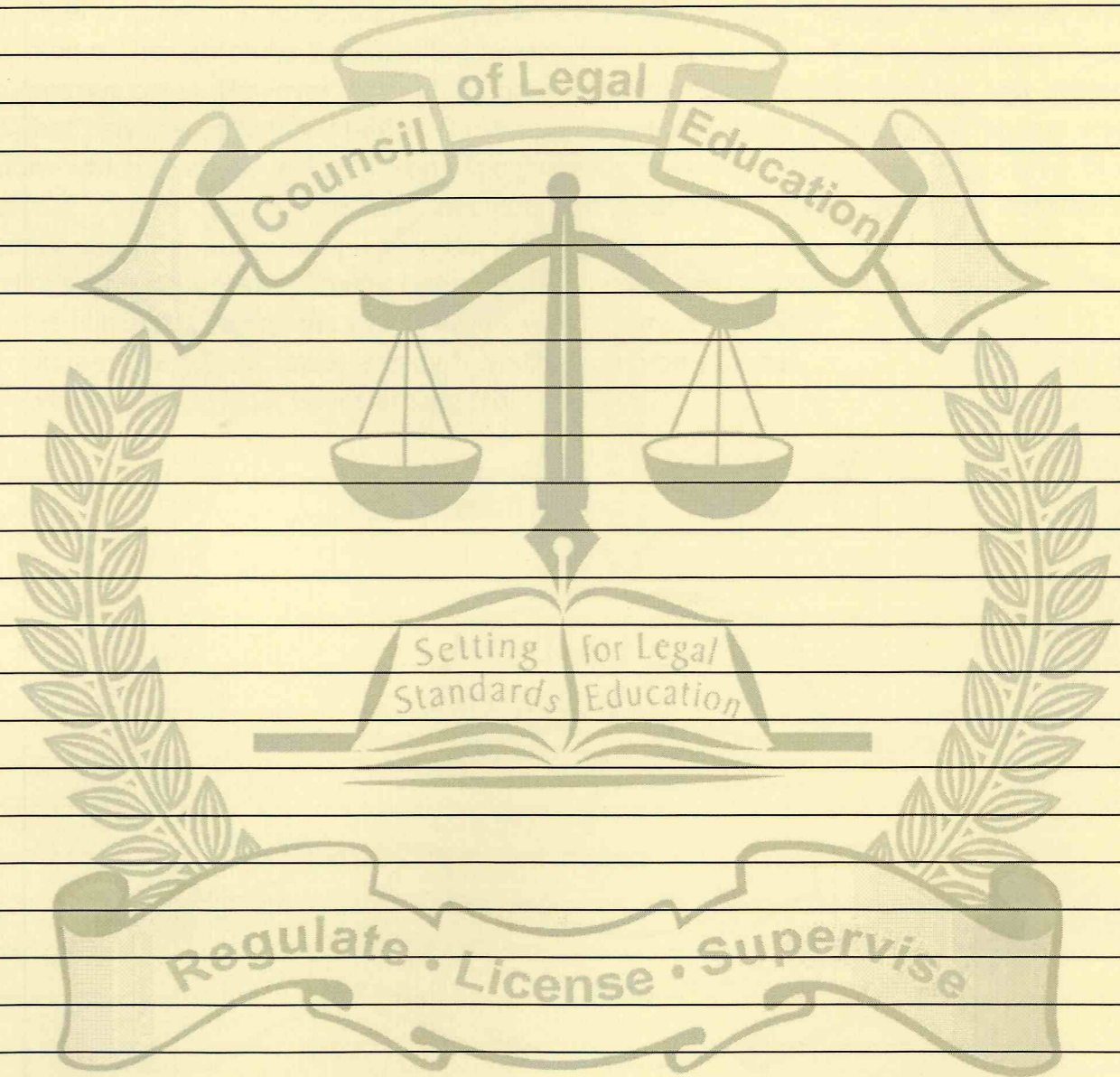
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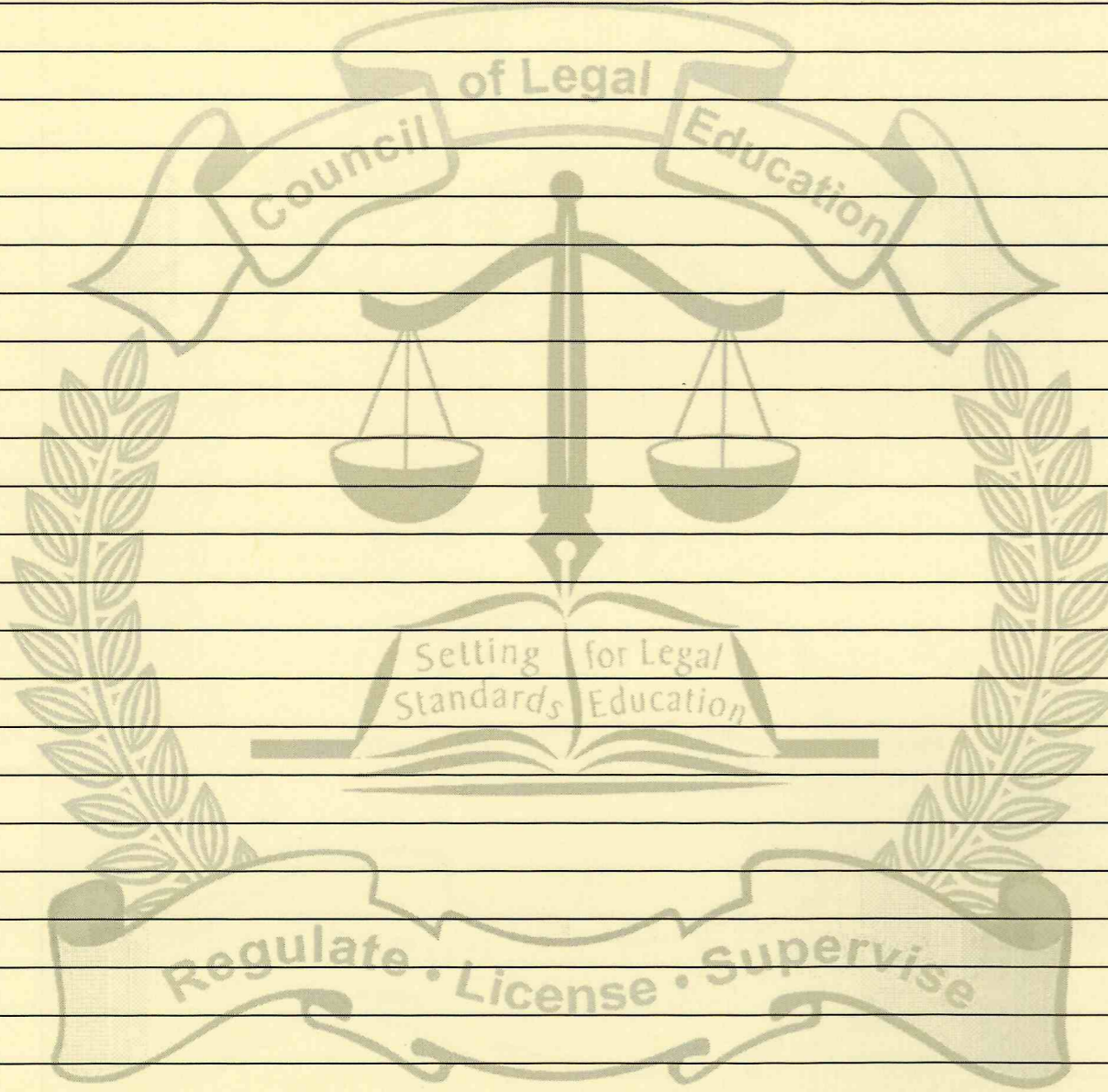
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QUESTION SIX

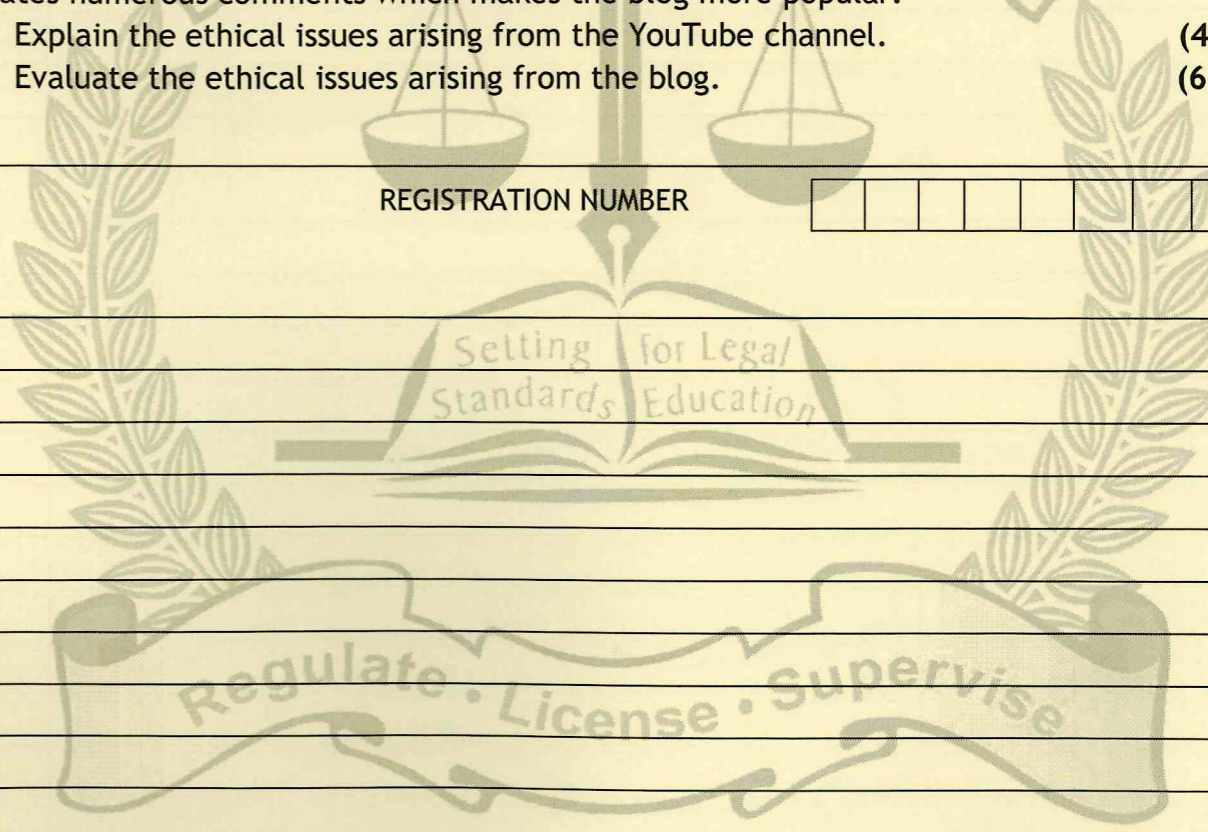
Annah a practicing advocate of six years standing runs a law firm. Over the years she has represented many prominent Kenyan musicians. However, she has not had any new clients for over a year and she is on a mission to change this trend through the opportunities presented through the internet. Towards this end, she started a YouTube channel. To give her channel credibility and appeal, she has a catchy introduction where she explains the legal services she offers, states names and pictures of the musicians she has represented, and displays photographs of her fellow partners and other advocates she has employed and the various roles they play in the firm. Sure enough, this gives her channel traction and soon she has a whole new client base. Her channel is quite interactive and it becomes extremely popular. Riding on this wave, she starts a paid blog on her absolute favorite: Succession Law. She is brilliant at Succession Law and has won numerous cases. However, the selling point of the blog is the cases she has lost because she thinks that this makes her relatable. The blog generates a flurry of online comments and legal questions which leads to Annah posting spontaneous responses. The comments on the blog also berate the various Judges who have decided the cases she has lost. Annah is considered the influencer guru of Succession Law. Her followers always thank her for the legal advice. Sometimes, she deliberately makes her responses controversial because she has noticed that this generates numerous comments which makes the blog more popular.

- a) Explain the ethical issues arising from the YouTube channel. (4 marks)
- b) Evaluate the ethical issues arising from the blog. (6 marks)

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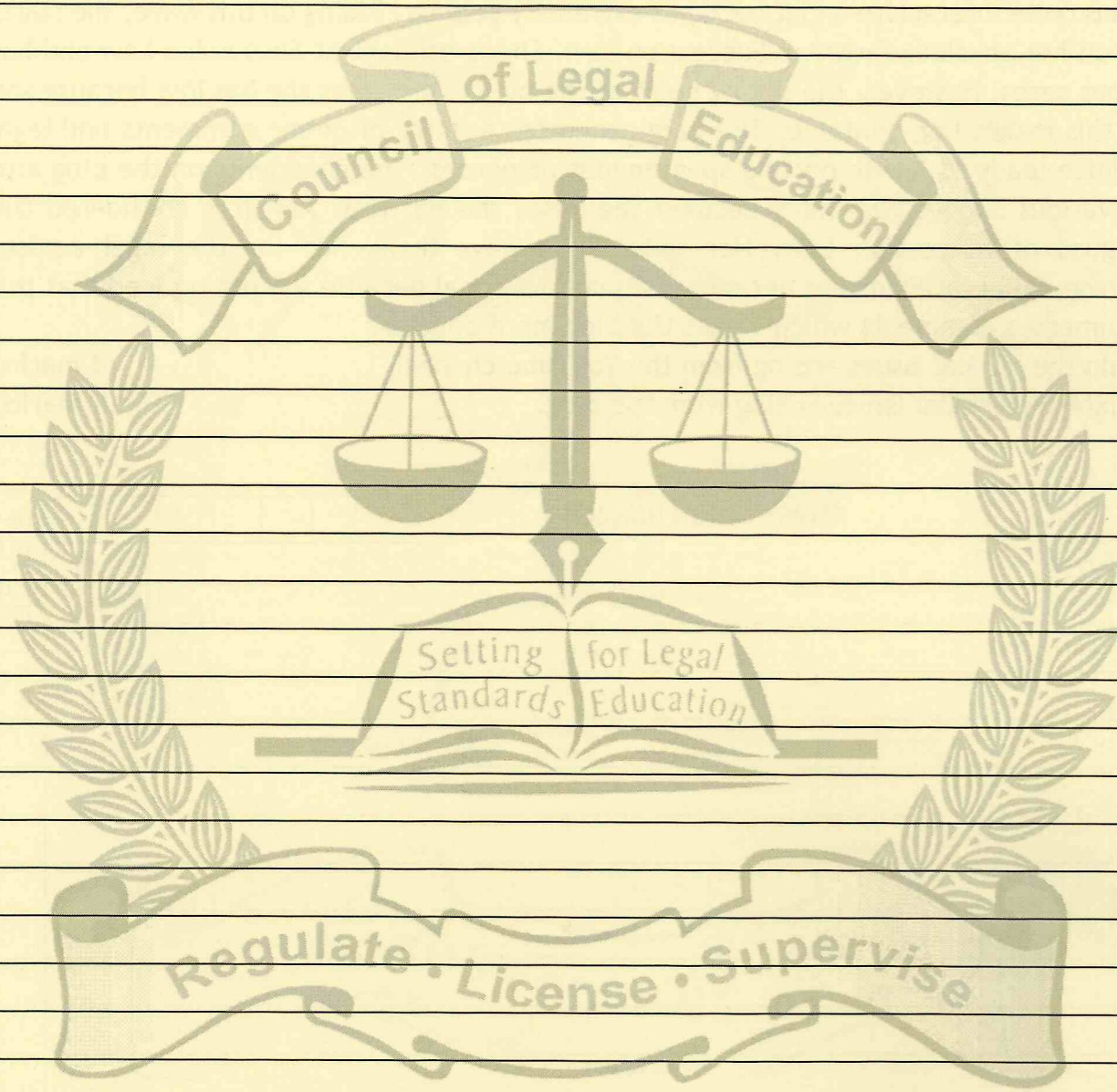
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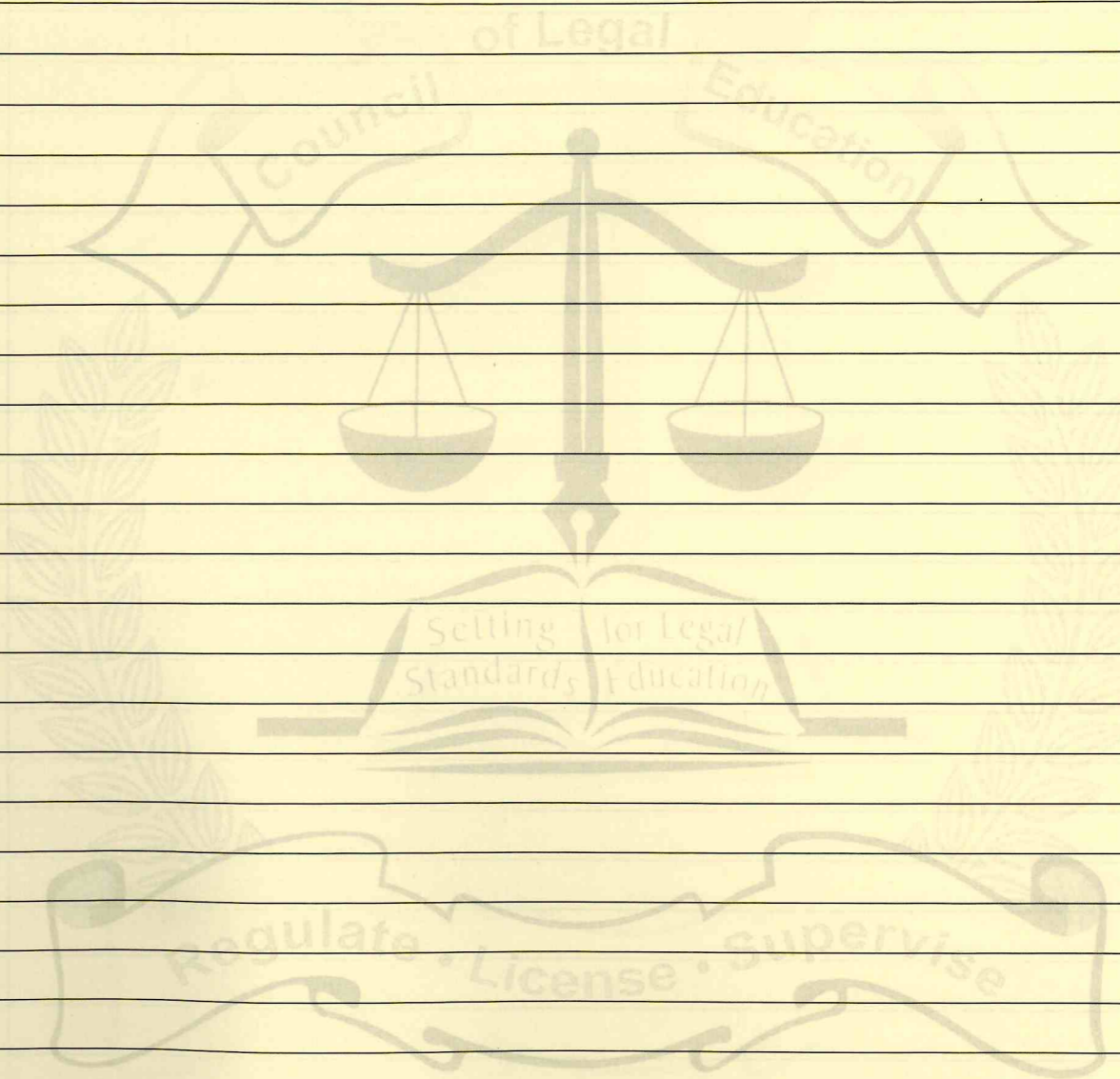
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