

PROKUREURSEKSAMEN

DEEL 1 HOFPROSEDURES

15 AUGUSTUS 2000

09:00-12:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 3 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Die vrae mag in Afrikaans of Engels beantwoord word.
3. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
4. Waar nodig, moet kandidate hulle eie feite versin.
5. Skryf asseblief slegs op die regterkantse bladsye.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 1 COURT PROCEDURES

15 AUGUST 2000

09:00-12:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 3 hours then follows.

1. Candidates must answer all the questions.
2. The questions may be answered in English or Afrikaans.
3. Candidates must remember that marks are awarded for good draftsmanship.
4. Candidates must invent their own facts wherever necessary.
5. Please write only on the right-hand pages.
6. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [10]

U word gekonsulteer deur u kliënt, mnr Pieter Smith, wat 'n tjek aan u oorhandig getrek deur XYZ (Edms) Bpk, welke tjek deur hom gedeponeer is, maar terugontvang is gemerk "Verwys na Trekker". Hy wil 'n aksie instel teen die trekker van die tjek.

1.1 Sit uiteen welke prosedure u sal volg ten einde betaling op die tjek namens u kliënt af te dwing. Bespreek die verskil in die bewyslas in die prosedure wat u sou voorstel in teenstelling met ander beskikbare prosedures.

(4)

1.2 Stel die gedeelte van die besonderhede van vordering op wat die skuldoorsaak uiteensit ten einde gevolg te gee aan u advies. Gebruik denkbeeldige feite soos nodig om die dokument te voltooi.

(6)

VRAAG 2 [10]

Stel die indeks op tot 'n aansoek vir die aanstelling van 'n kurator bonis tot 'n pasiënt wat geestelik onstabiel is. Aanvaar dat al die nodige dokumente wat ter ondersteuning van die funderende beëdigde verklaring geliasseer moet word, daarby aangeheg is. Die kopstuk moet ingesluit word. Aanvaar dat die dokumente gereed is vir die verlening van 'n finale bevel.

VRAAG 3 [3]

3.1 Watter regshulp kan gevorder word in 'n aansoek *pendente lite* ingevolge reël 43 in 'n huweliksgeding in die Hooggeregshof?

(2)

3.2 Kan 'n party wat ontevrede is met die beslissing van die hof in so 'n aansoek appelleer teen die bevel?

(1)

VRAAG 4 [5]

U tree op namens 'n eiser in 'n aksie wat in die hooggeregshof ingestel is. Die dagvaarding is behoorlik beteken en die *dies induciae* het verstryk.

Watter stappe moet u doen om vonnis by verstek ten gunste van u kliënt te verkry waar die eis is vir:

QUESTION 1 [10]

You are consulted by your client, Mr Peter Smith, who hands you a cheque drawn by XYZ (Pty) Ltd, which cheque was deposited by him but was returned marked "Refer to Drawer". He wishes to institute action against the drawer of the cheque.

1.1 Describe the procedure which you would follow in order to enforce payment on the cheque on behalf of your client. Discuss the difference between the onus in the procedure which you would recommend as opposed to other available procedures.

(4)

1.2 Draw that portion of the particulars of the claim which establishes the cause of action in order to give effect to your advice. Use such imaginary facts as may be necessary to complete the document.

(6)

QUESTION 2 [10]

Draft the index to an application for the appointment of a curator bonis to a patient who is mentally unstable. Assume that all the necessary documents which have to be filed in support of the founding affidavit are annexed thereto. The heading must be included. Assume that the papers are ready for a final order to be granted.

QUESTION 3 [3]

3.1 What relief can be claimed in an application in terms of rule 43 *pendente lite* in a matrimonial action in the High Court?

(2)

3.2 Can a party who is dissatisfied with the ruling of a court in such an application appeal the order given?

(1)

QUESTION 4 [5]

You act for a plaintiff in an action instituted in the High Court. The summons has been properly served and the *dies induciae* has expired.

What steps would you take to obtain a judgment by default in favour of your client where the claim is one for:

- 4.1 betaling van die koopprys van goedere verkoop en gelewer? (1)
- 4.2 skadevergoeding vir persoonlike besering? (2)
- 4.3 Hoe sou u antwoord ten opsigte van bogenoemde verskil indien die aksie ingestel is in die landdroshof? (2)

VRAAG 5 [10]

U tree op namens die verweerder in 'n siviele geding waarin vonnis deur die landdros teen hom verleen is vir betaling van die bedrag van R50 000,00.

- 5.1 U kliënt is ongelukkig met die beslissing en gee aan u opdrag om teen die vonnis te appelleer. **Beskryf die stappe wat u sou neem tot die datum van verhoor van appèl in die Hooggeregshof ten einde uitvoering te gee aan sy opdrag.** Dit is nie nodig om te verwys na die tydbeperkings waarbinne hierdie stappe ingevolge die reëls gedoen moet word nie. (8)
- 5.2 Indien u kliënt ontevrede is met 'n beslissing gelewer in die Hooggeregshof deur 'n enkele regter wat as hof van eerste instansie gesit het en verlof tot appèl geweier is, watter regshulp is tot u kliënt se beskikking? (2)

VRAAG 6 [5]

Dui aan of die volgende stellings waar of onwaar is. Motiveer u antwoorde kortliks.

"Die Landdroshof (of die spesifieke hof waarna in die vraag verwys word) het jurisdiksie in die volgende omstandighede":

- 6.1 Eiser se eis is vir die lewering van 'n motorvoertuig ter waarde van R150 000,00; (½)
- 6.2 Die eiser, woonagtig in Pretoria, stel aksie in in die landdroshof vir die distrik van Pretoria teen die verweerder wat in Johannesburg, Gauteng woon, vir die oordrag van 'n plaas geleë in die distrik van Durban, Kwa-Zulu Natal. Die markwaarde van die plaas is R500 000,00. (½)

- 4.1 payment of the purchase price of goods sold and delivered? (1)
- 4.2 damages for personal injury? (2)
- 4.3 How would your answer in respect of the above difference if the action was instituted in the magistrate's court? (2)

QUESTION 5 [10]

You act on behalf of a defendant in a civil action who has judgment granted against him by a magistrate for payment of the sum of R50 000,00.

- 5.1 Your client is dissatisfied with the ruling and instructs you to appeal against the judgment. **Describe the steps which you would take in order to carry out his instruction up to the date on which the appeal is heard in the High Court.** It is not necessary to refer to the time limits within which the steps have to be taken in terms of the rules. (8)
- 5.2 If your client is dissatisfied with a judgment handed down in the High Court by a single judge sitting as court of first instance and leave to appeal has been denied, what remedies are available to your client? (2)

QUESTION 6 [5]

Indicate whether the following statements are true or false. Briefly motivate your answers.

"The Magistrate's Court (or the specific court referred to in the question) has jurisdiction in the following circumstances":

- 6.1 Plaintiff's claim is for the delivery of a motor vehicle to the value of R150 000,00; (½)
- 6.2 The plaintiff, resident in Pretoria, institutes action in the magistrate's court for the district of Pretoria against the defendant who resides in Johannesburg, Gauteng, for the transfer of a farm situated in the District of Durban, Kwa-Zulu Natal. The market value of the farm is R500 000,00. (½)

- | | |
|---|---|
| 6.3 Die applikant bring 'n substantiewe aansoek vir uitsetting van die respondent uit 'n huis wat hy aan die respondent verhuur. Die huurkontrak is gekanselleer as gevolg van wanbetaling van huurgeld deur die respondent.
<p style="text-align: right;">(½)</p> | 6.3 The applicant brings a substantive application for the ejectment of the respondent from a house leased by him to the respondent, the lease having been cancelled by reason of non-payment of rental by the respondent.
<p style="text-align: right;">(½)</p> |
| 6.4 In 'n aansoek vir likwidasie van XYZ Beslote Korporasie.
<p style="text-align: right;">(½)</p> | 6.4 In an application for liquidation of XYZ Close Corporation.
<p style="text-align: right;">(½)</p> |
| 6.5 Die eiser stel aksie in teen die verweerder vir die vasstelling van 'n reg van weg op die veronderstelling dat die waarde hiervoor R75 000,00 is.
<p style="text-align: right;">(½)</p> | 6.5 The plaintiff institutes action against the defendant for the determination of a right of way on the assumption that the value of the right of way is R75 000,00.
<p style="text-align: right;">(½)</p> |
| 6.6 Die applikant doen aansoek vir 'n verklarende bevel aangaande die geldigheid van 'n kodisil.
<p style="text-align: right;">(½)</p> | 6.6 The applicant applies for a declaratory order on the validity of a codicil.
<p style="text-align: right;">(½)</p> |
| 6.7 Eiser se eis teen verweerder is gegrond op 'n oonteerdte tjek ten bedrae van R105 000,00.
<p style="text-align: right;">(½)</p> | 6.7 Plaintiff's claim against defendant is based on a dishonoured cheque for the amount of R105 000,00.
<p style="text-align: right;">(½)</p> |
| 6.8 Eiser het die verweerder gedagvaar op 'n dekkingsverband vir R90 000,00 en vir 'n bevel wat die verbandbeswaarde eiendom spesiaal uitwinbaar verklaar.
<p style="text-align: right;">(½)</p> | 6.8 Plaintiff has sued the defendant on a covering mortgage bond for the sum of R90 000,00 and for an order declaring the property mortgaged in terms of the bond to be specially executable.
<p style="text-align: right;">(½)</p> |
| 6.9 Die applikant doen aansoek vir 'n tussentydse interdik om die respondent te verhoed om 'n motorvoertuig, wat die onderwerp is van 'n aksie wat die applikant gaan instel, te gebruik.
<p style="text-align: right;">(½)</p> | 6.9 The applicant applies for an interim interdict to prevent the respondent from using a motor vehicle which is the subject matter of an action to be instituted by applicant.
<p style="text-align: right;">(½)</p> |
| 6.10 Die eiser het aksie ingestel in die landdroshof van Kaapstad teen twee vennote wat besigheid bedryf in vennootskap in Port Elizabeth maar een van die vennote is in Kaapstad woonagtig.
<p style="text-align: right;">(½)</p> | 6.10 The plaintiff has instituted action in the magistrate's court of Cape Town against two partners who carry on business in partnership in Port Elizabeth but one of the partners reside in Cape Town.
<p style="text-align: right;">(½)</p> |

VRAAG 7 **[32]**

U word geraadpleeg deur 'n weduwee wie se eggenoot oorlede is drie weke nadat hy ernstig beseer is in 'n motorongeluk. Hy is oorlede as gevolg van die beserings wat hospitalisasie en intensiewe mediese behandeling geveer het. Sy beskik nie oor enige fondse om vir litigasie te betaal nie, maar wil graag eis vir die verlies aan onderhoud wat sy en haar minderjarige kind gely het as gevolg van die dood van die broodwinner asook vir die begrafniskoste. Sy deel u mee dat tydens die verhoor van 'n onlangse siviele aksie ingestel deur die eienaar en bestuurder van die ander motorvoertuig wat in die ongeluk betrokke was, die hof bevind het dat beide bestuurders ewe aanspreeklik was vir die ongeluk.

QUESTION 7 **[32]**

You are consulted by a widow whose husband died three weeks after being seriously injured in a motor collision from such injuries which required him to be hospitalised and to receive intensive medical treatment. She is without funds to finance litigation but wishes to claim for the loss of support that she and her minor child will suffer as a result of the death of the breadwinner and also for the funeral expenses. She tells you that at the hearing of a recent civil action instituted by the owner and driver of the other vehicle in the collision, the court made a finding that both drivers were equally to blame for the collision.

Beantwoord die volgende vrae wat slegs betrekking het op die kwantum van skade.

- 7.1 Watter dokumente sou u u kliënt versoek om aan u te voorsien vir latere insluiting by die eisvorm?
(4)
- 7.2 Watter gebeurlikhede (indien enige) behoort in berekening gebring te word by bepaling van die kwantum van die eise van die weduwee en die minderjarige kind?
(4)
- 7.3 Wat is die algemene formule wat u sou toepas by berekening van die wyse waarop die oorledene se inkomste verdeel behoort te word ten einde die verlies aan inkomste deur u kliënt en die minderjarige kind gely, te bereken? Sy kan nie vir 'n aktuariële berekening betaal nie.
(2)
- 7.4 Moet die opbrengs van enige pensioenvoordele en versekeringspolisse wat u kliënt sal ontvang as gevolg van haar eggenoot se dood in berekening gebring word by die vasstelling van verlies aan inkomste gely? Motiveer u antwoord.
(2)
- 7.5 Wat is die posisie in hierdie geval ten opsigte van enige erflating wat u kliënt en die minderjarige kind sal ontvang uit die oorledene se boedel? Sal die erflating u berekening van verlies van onderhoud beïnvloed en, indien wel, op welke wyse?
(2)
- 7.6 Vir hoeveel jaar sal die kind geregtig wees om verlies van onderhoud te eis?
(2)
- 7.7 Stel die beskrywing op van die eiseres in die dagvaarding ten opsigte van beide haar en die kind se eise.
(2)
- 7.8 Stel slegs daardie bewerings op wat u moet maak in die besonderhede van vordering tot u kliënt se dagvaarding met betrekking tot die eise vir verlies aan onderhoud.
(5)
- 7.9 Sal die Fonds geregtig wees om 'n verdeling van skade toe te pas ten opsigte van die eise of om enige verhaalsreg teen die oorledene uit te oefen met inagneming van die bevinding wat gemaak was dat die oorledene, wat een van die voertuie bestuur het, ewe aanspreeklik was vir die ongeluk? Motiveer u antwoord volledig.
(3)

Answer the following questions, which relate to quantum of damages only.

- 7.1 Which documents would you ask your client to provide you with that will have to accompany the claim form in due course?
(4)
- 7.2 In assessing the quantum of the claims of the widow and the minor child, what contingency factors (if any) should be taken into account?
(4)
- 7.3 What is the general formula that you would apply in calculating the manner in which the deceased's income should be apportioned in assessing the loss of support which your client and her child have suffered? She cannot pay for an actuarial assessment.
(2)
- 7.4 Must the proceeds of any pension benefits and insurance policies that your client will be receiving as a result of her husband's death be taken into account when calculating the loss of support suffered? Motivate your answer.
(2)
- 7.5 What is the position in this instance in regard to any inheritance that your client and the minor child will receive from the deceased's estate? Will such inheritance affect your calculation of the loss of support and if so, in what manner?
(2)
- 7.6 For how many years will the child be entitled to claim for loss of support?
(2)
- 7.7 Draft the citation of the plaintiff in the summons in respect of both her claim and the claim of the child.
(2)
- 7.8 Draft only the averments that must be made in the particulars of claim to your client's summons relating to the claims for loss of support.
(5)
- 7.9 Will the Fund be entitled to apply an apportionment of liability to any of the claims or effect any recovery from the deceased bearing in mind the finding that has been made to the effect that the deceased who drove one of the vehicle's was equally to blame for the accident? Motivate your answer fully.
(3)

7.10 Dagvaarding word uiteindelik uitgereik en nadat die pleitstukke gesluit het, het die Padongelukkefonds aanspreeklikheid op die meriete toegegee maar doen geen aanbod ten opsigte van kwantum nie. Met inagneming van u kliënt se swak finansiële posisie (sy het alle mediese, hospitaal- en begrafnisonkoste van R110 500,00 betaal).

7.10.1 Is daar enige stappe wat u haar sou adviseer om te doen ten einde haar finansiële posisie te verbeter?
(3)

7.10.2 Watter nodige bewerings moet gemaak word in die dokument wat u sou opstel ten einde uitvoering te gee aan u advies?
(3)

VRAAG 8 [11]

U kliënt, mnr Naidoo, het 'n motorvoertuig ND345 op die pad tussen Pietermaritzburg en Mooirivier bestuur. Hy is tydens 'n roetine padversperring gestop en nadat die verkeersbeampte alkohol aan sy asem geruik het, is mnr Naidoo na die plaaslike distriksgeneesheer geneem waar 'n bloedmonster uit sy liggaam getrek is. Die distriksgeneesheer het gevind dat hy ligtelik onder die invloed van alkohol was. Dit blyk later dat die alkoholinhoud van die bloedmonster uitgedruk in gramme per 100 ml bloed, 1,1% was. Hy is daarna aangekla van bestuur onder die invloed van sterk drank en, in die alternatief, bestuur van 'n motorvoertuig terwyl die alkoholinhoud van sy bloed 0,08% oorskry het.

8.1 Welke faktore sal u onder die aandag van die openbare aanklaer bring in 'n poging om hom te oorreed om die klag van dronkbestuur terug te trek en om 'n pleit van skuldig te aanvaar op die alternatiewe klag?
(3)

8.2 U poging is suksesvol. Stel 'n volledige artikel 112(2)-verklaring op namens u kliënt.
(8)

VRAAG 9 [4]

U ontvang opdrag van John Sharp wat aangekla is dat hy die plaaslike bank beroof het. Hy ontken ten sterkste dat hy by die insident betrokke was. Later ontvang u opdrag van die Regshulpraad om ene Alex Smith te verdedig en u besoek hom in die plaaslike gevangenis. Hy vertel u van 'n rooftog wat 'n tydjie gelede plaasgevind het en beskryf in detail hoe hy en 'n medepligte 'n bank beroof het en die opbrengs verdeel

7.10 Summons is eventually issued and after pleadings close the Road Accident Fund concedes liability on the merits but makes no offer in respect of quantum. Bearing in mind your client's poor financial situation (she has paid all the medical, hospital and funeral expenses which amount to R110 500,00 in all).

7.10.1 Are there any steps that you would advise her to take to alleviate her financial problem?
(3)

7.10.2 What necessary averments must be made in the document you would draw to give effect to this advice?
(3)

QUESTION 8 [11]

Your client, Mr Naidoo, was the driver of motor vehicle ND345 on the road between Pietermaritzburg and Mooi River. He was stopped at a routine roadblock and when the traffic official detected the smell of alcohol on his breath Mr Naidoo was taken to the local district surgeon where a blood sample was drawn from his body. The district surgeon furthermore found him to be lightly under the influence of alcohol. It subsequently transpired that the alcohol content of the blood sample, expressed in grams per 100 ml of blood, is 1,1%. He was subsequently charged with drunken driving and, in the alternative, driving a motor vehicle whilst the alcohol content of his blood exceeded 0,08%.

8.1 Which factors would you bring to the attention of the public prosecutor in an attempt to persuade him to withdraw the charge of drunken driving against your client and to accept a plea of guilty in respect of the alternative charge?
(3)

8.2 Your efforts are successful. Draw a complete section 112(2) statement on behalf of your client.
(8)

QUESTION 9 [4]

You receive instructions from John Sharp who is charged with robbing the local bank. He vehemently denies any participation in the event. Sometime later you receive instructions from the Legal Aid Board to attend the defence of Alex Smith and you consult with him at the local jail. He tells you about a robbery which took place some time ago and vividly describes how he and his accomplice robbed a bank and shared the

het. Hy vertel u dat hy skuldig gaan pleit en dat hy die volle waarheid aan die hof gaan vertel. Uiteindelik vertel hy u van die datum en plek van die voorval en dat sy medepligtige John Sharp was. **Sal u geregtig wees om namens beide beskuldigdes of enigeen van hulle op te tree? Motiveer u antwoord.**

VRAAG 10 [7]

U tree op namens Zola Matu wat aangekla is van gewapende roof. Vandag is sy 5^{de} verskyning in die Streekshof en hy is aangehou as vehooraftagting vir die afgelope 7 maande. Die klag is aan hom gestel tydens sy 3^{de} verskyning en hy het onskuldig gepleit. By daardie geleentheid sowel as tydens sy 4^{de} verskyning kon die Staat nie voortgaan nie omdat die staatsgetuies nie teenwoordig was nie. Die staatsgetuies is vandag weer eens nie teenwoordig nie en die aanklaer versoek die hof vir 'n uitstel van drie maande om die Staat 'n verdere geleentheid te gee om die getuies op te spoor.

10.1 Welke submissies kan u voorlê ter opponering van die aansoek om uitstel? (4)

10.2 Die hof weier die Staat se versoek om uitstel en gelas dat die aanklaer moet voortgaan met die verhoor. Die Staat kan geen getuies hoegenaamd voorlê wat u kliënt aan die misdaad koppel nie. Wat is die mees waarskynlike koers wat die verhoor sal volg? (3)

VRAAG 11 [3]

U kliënt is 'n 45-jarige professionele man. Hy is getroud en onderhou drie skoolgaande minderjarige kinders. Sy eggenoot werk nie en behalwe vir die feit dat hy 'n alkoholis is, is u kliënt 'n voorbeeldige lewe. U kliënt vind homself in die ongelukkige posisie dat hy moet skuldig pleit op 'n 4^{de} klag van 'n motorvoertuig bestuur terwyl hy onder die invloed van alkohol was. Voorheen is hy twee boetes en 'n opgeskorte vonnis van twaalf maande gevangenisstraf opgelê vir soortgelyke oortredings. Die opgeskorte vonnis is vyf jaar terug opgelê ten opsigte van sy laaste oortreding. Hy benodig sy bestuurslisensie om sy besigheid te kan doen.

Welke vorme van vonnis sal u aan die landdros voorstel wanneer u hom moet toespreek in die verband?

loot. He states that he intends pleading guilty and being open and frank with the court. He eventually discloses the date of the incident, the place where same occurred and names his accomplice as being John Sharp. **Will you be entitled to act on behalf of both or any one of the accused? Motivate your answer.**

QUESTION 10 [7]

You act on behalf of Zola Matu who has been charged with armed robbery. Today is his 5th appearance in the Regional Court and he has been in custody for the past 7 months awaiting trial. On his 3rd appearance the charge was put to him and he pleaded not guilty. On that occasion, and as well as on the 4th appearance, the State could not proceed as a consequence of the absence of state witnesses. Today, once again, the witnesses of the State are absent and the prosecutor requests the court to postpone the matter to a date 3 months hence in order to allow the State a further opportunity to trace the whereabouts of the witnesses.

10.1 What submissions could you advance in opposing the granting of a further postponement? (4)

10.2 The Court refuses the State's application for a further postponement and orders the prosecutor to proceed with the trial. The State can produce no evidence whatsoever linking your client to the offence. What is the most likely course that the matter will follow? (3)

QUESTION 11 [3]

Your client is a professional man of 45 years. He is married and supports three minor children all of whom are at school. His wife is unemployed and, save for his being an alcoholic, he leads an exemplary lifestyle. Unfortunately he now finds himself obliged to again plead guilty to a 4th offence of drunken driving. To date he has received two fines and a suspended sentence of twelve months imprisonment which was imposed when he was convicted on the last occasion five years back. He requires his driver's licence in order to conduct his business.

What forms of sentences would you suggest that the magistrate should consider imposing on your client when you address him in this regard?

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

15 AUGUSTUS 2000

14:00-16:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Die vrae mag in Afrikaans of Engels beantwoord word.
3. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
4. Waar nodig, moet kandidate hulle eie feite versin.
5. Skryf asseblief slegs op die regterkantse bladsye.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 2 ESTATES

15 AUGUST 2000

14:00-16:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.
2. The questions may be answered in English or Afrikaans.
3. Candidates must remember that marks are awarded for good draftsmanship.
4. Candidates must invent their own facts wherever necessary.
5. Please write only on the right-hand pages.
6. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [27]

D sterf sonder om 'n testament na te laat. Hy was binne gemeenskap van goed getroud met sy tweede vrou (W2). Sy eerste vrou (W1) is voor hom oorlede. D word oorleef deur W2 en twee minderjarige kinders uit hierdie huwelik met W2, naamlik 'n seun A en 'n dogter B. Hy word ook oorleef deur C, 'n meerderjarige seun van sy eerste vrou (W1). C is buite-egtelik gebore voordat W1 en D mekaar ontmoet en getrou het en C is nooit wettig deur D aangeneem nie, hoewel C by D gewoon het en altyd deur laasgenoemde as 'n lid van sy gesin beskou is. Die netto waarde van D en W2 se gemeenskaplike boedel is R360 000,00 en bestaan uit die woonhuis waarin die familie bly wat vir R200 000,00 gewaardeer is, meubels en huishoudelike toebehore ter waarde van R75 000,00, 'n motorvoertuig ter waarde van R40 000,00 en kontantbeleggings ter waarde van R45 000,00.

- 1.1 **Hoe sal u die boedel tussen die intestate erfgename verdeel?** Dui die bedrag/bedrae aan en die regsbasis van u verdeling(s). [8]
- 1.2 W2 wil graag die huis met die inhoud, asook die motorvoertuig behou. Sy is geadviseer om by die Meester aansoek te doen om die hele boedel oor te neem. Die Meester het sy toestemming daartoe verleen. **Stel die distribusierekening op.** [15]
- 1.3 W2, A, C en Z (een van die krediteure van die boedel) is almal vir aanstelling as eksekutuer genomineer. **Aan wie van hulle sal die Meester voorkeur verleen vir aanstelling as eksekuteur en op welke basis?** [4]

VRAAG 2 [22]

John Smith kom op 10 Julie 1999 te sterwe en sy sake sien soos volg daar uit:

- a. Die totale waarde van sy woonhuis, meubels, motorvoertuie en kontantbeleggings beloop R1 310 000,00.
- b. Tydens sy leeftyd het John die volgende lewensversekeringspolis op sy lewe uitgeneem, waarkragtens die volgende bedrae uitbetaal is:
- R200 000,00 deur Sonskyn Versekerings Bpk. Hierdie bedrag is geregistreer deur die maatskappy aan die oorledene se dogter Susan uitbetaal, aangesien sy as begunstigde in die poliskontrak benoem is.

QUESTION 1 [27]

D dies without leaving a will. He was married in community of property to his second wife (W2), his first wife (W1) having predeceased him. He is survived by W2 and two minor children from this marriage, a son A and daughter B. He is also survived by C, a major son of his first wife (W1). C was born out of wedlock before W1 met and married D. C was never formally adopted by D, although C resided with D and was always regarded by D as a member of his family. The nett value of D and W2's community estate is R360 000,00 and consists of the house where the family resides, valued at R200 000,00, furniture and household effects to the value of R75 000,00, a motor vehicle to the value of R40 000,00 and cash investments of R45 000,00.

- 1.1 **How will you divide the estate among the intestate heirs?** Indicate the amount(s) and the legal basis of the award(s). [8]
- 1.2 W2 wishes to retain the house with its contents and also the motor vehicle, and is advised to apply to the Master to take over the whole estate. The Master sanctions the take-over. **Draw the distribution account.** [15]
- 1.3 W2, A, C and Z (one of the creditors of the estate) have all been nominated for appointment as executor. **Who will be preferred for appointment by the Master and upon what basis?** [4]

QUESTION 2 [22]

John Smith dies on 10 July 1999 and his affairs are as follows:

- a. The total value of his house, furniture, motor vehicles and cash investments amount to R1 310 000,00.
- b. During his lifetime John took out the following life insurance policies, pursuant to which the following amounts were paid out upon his death:
- R200 000,00 by Sunshine Insurers Ltd. This amount was paid directly to the deceased's daughter Susan, who had been nominated as beneficiary in terms of the policy.

- R450 000,00 deur African Insurance Co Ltd. Daar is geen begunstigde in die poliskontrak aangewys nie.
- c. Uit hoofde van sy diens by sy werkgewer is die volgende bedrae regstreeks aan die oorledene se weduwee, W, uitbetaal:
- 'n Enkelbedragvoordeel ten bedrae van R350 000,00 ooreenkomstig die reëls van die pensioenfonds;
 - 'n Bedrag van R450 000,00 kragtens die reëls van 'n groeplewensversekeringskema.
- d. Die oorledene was buite gemeenskap van goed met sy vrou W getroud en die huwelik was onderhewig aan die aanwasbedeling kragtens die toepaslike bepalinge van die Wet op Huweliksgoedere 88 van 1984. Dit blyk dat W 'n aanwasvordering ten bedrae van R210 000,00 teen die boedel het.
- e. Behalwe vir W word John ook deur sy dogter Susan en sy seun James oorleef.
- f. Die oorledene se testament bevat die volgende bemakings:
- 'n Bedrag van R50 000,00 aan die Law Society of South Africa vir die aankoop van rekenaars vir gebruik deur kandidaatprokureurs by die praktiese opleidingskursusse;
 - Die woonhuis gewaardeer teen R500 000,00 aan sy nagelate eggenote W.
 - Al sy ander bates aan sy kinders.
- g. Die laste in die boedel, insluitend alle administrasiekoste, beloop R32 150,00.
- 2.1 **Stel 'n boedelbelastingaddendum ooreenkomstig regulasie 5(1)(h) van die Boedelwet op.**
- [18]
- 2.2 **Indien u berekeninge toon dat boedelbelasting wel betaalbaar is, noem die partye wat vir betaling van die belasting verantwoordelik is en dui in elke geval die eiendom aan wat tot aanspreeklikheid aanleiding gee.**
- [4]
- R450 000,00 by African Insurance Co Ltd. No particular party had been nominated as beneficiary in the policy document.
- c. Arising out of his employment the following amounts were paid directly to John's surviving spouse, W:
- A lump sum of R350 000,00 in terms of the rules of the pension fund;
 - An amount of R450 000,00 in terms of the rules of a group life insurance scheme.
- d. The deceased was married out of community of property to his wife W subject to the accrual system in terms of the relevant provisions of the Matrimonial Property Act, 88 of 1984. It appears that W has an accrual claim in the amount of R210 000,00.
- e. Apart from his surviving spouse W, John is also survived by his daughter Susan and his son James.
- f. The deceased's will contains the following bequests:
- An amount of R50 000,00 to the Law Society of South Africa, to buy computers for use by candidate attorneys attending the practical training courses;
 - The house valued at R500 000,00 to the surviving spouse W.
 - His remaining assets to his children.
- g. The liabilities including all administration costs amount to R32 150,00.
- 2.1 **Draw an estate duty addendum in terms of regulation 5(1)(h) of the Administration of Estates Act.**
- [18]
- 2.2 **In the event of estate duty being payable, name the parties liable for the payment of the duty and indicate the property which gives rise to liability in each instance.**
- [4]

VRAAG 3 [26]

Mnr H en mev W is binne gemeenskap van goed met mekaar getroud. Hulle het 'n minderjarige kind wat twee jaar oud is. U as hulle prokureur kry opdrag om hulle testament op te stel. Hulle wense is die volgende:

- (a) Die langsewende van hulle erf die hele boedel van die eerssterwende.
- (b) By gelyktydige dood erf hulle kind. Indien die kind jonger as 25 jaar is, moet sy erfenis deur jou in jou diskresie tot voordeel van die kind ge-administreer word. Jy moet verantwoordelikheid vir die kind se finansiële behoeftes aanvaar.
- (c) Jy moet die eksekuteur wees.

Stel 'n gesamentlike testament vir mnr H en mev W op. Dit is nie nodig om enige administrasie-bevoegdhede te spesifiseer nie. Maak voorsiening vir die moontlikheid van die geboorte van verdere kinders.

VRAAG 4 [3]

'n Egpaar wat binne gemeenskap van goed met mekaar getroud is, wil hulle gemeenskaplike boedel by die dood van die eerssterwende aan hulle kinders nalaat, onderhewig aan 'n lewenslange vruggebruik ten gunste van die langsewende gade. Stel die klousule in die egpaar se gesamentlike testament op waarin u aan bogemelde gevolg gee.

VRAAG 5 [12]

U word geraadpleeg deur 'n weduwee wie se eggenoot 'n week gelede oorlede is. Sy oorhandig die volgende aan u.

- (a) Die gesamentlike testament van haar en haar oorlede eggenoot, waarkragtens die langsewende van hulle as die enigste erfgenaam en as eksekuteur aangewys word.
- (b) Die huweliksertifikaat, waaruit dit blyk dat die oorledene binne gemeenskap van goed getroud was.
- (c) Die oorledene se identiteitsdokument.
- (d) Die sterftesertifikaat.

Die weduwee deel u mee dat die enigste bates in die gemeenskaplike boedel meubels en huishoudelike toebehore ter waarde van R15 000,00, 'n motor ter waarde van R20 000,00 en 'n spaarrekening van R10 000,00 is. Die laste van die boedel bedra R5 000,00. Die weduwee was by die sterfbed teenwoordig.

Rig 'n brief aan die Meester waarin u die boedel rapporteer. Gee 'n lys van die dokumente wat u by u brief aan die Meester sal aanheg ten einde hom in staat te stel om die nodige aanstelling te maak.

QUESTION 3 [26]

Mr H and Mrs W are married to each other in community of property. They have a minor child who is two years of age. They instruct you as their attorney to draw their will. Their wishes are as follows:

- (a) The surviving spouse is to inherit the whole estate of the first-dying.
- (b) In the event of simultaneous death they want their child to inherit. If the child is under the age of 25 years, they desire his inheritance to be administered by you in your discretion for the benefit of the child. You are to assume responsibility for the child's financial needs.
- (c) You are to be the executor.

Draw a joint will for Mr H and Mrs W. It is not necessary to specify any powers of administration. Make provision for the possibility of further children being born to your clients.

QUESTION 4 [3]

A husband and wife, who are married to each other in community of property, wish to leave their joint estate to their children upon the death of the first dying, subject to a usufruct for life in favour of the surviving spouse. Draft the clause in their joint will giving effect to the above.

QUESTION 5 [12]

You are consulted by a widow whose husband died a week ago. She hands the following to you.

- (a) The joint will of her late husband and herself in terms of which the surviving spouse is the sole heir and executor.
- (b) The marriage certificate from which it appears that the deceased was married in community of property.
- (c) The deceased's identity document.
- (d) The death certificate.

The widow informs you that the only assets in the joint estate are furniture and household effects to the value of R15 000,00, a motor car with a value of R20 000,00, and R10 000,00 in a savings account. The liabilities of the estate total R5 000,00. The widow was at her husband's bedside when he died.

Write a letter to the Master reporting the estate. List the documents which you would attach to your letter to enable the Master to issue an appointment.

VRAAG 6 [10]

- 6.1 Binne welke periode moet die boedelrekening in 'n bestorwe boedel by die Meester ingedien word? (2)
- 6.2 Indien boedelbelasting betaalbaar is, op welke tydstip moet dit betaal word? (2)
- 6.3 Dit blyk dat u nie in staat gaan wees om 'n boedelrekening betyds in te dien nie. **Doen aansoek by die Meester van die Hooggeregshof vir 'n verlenging van die tydperk waarbinne die rekening ingedien moet word.** Gebruik u eie redes. (6)

QUESTION 6 [10]

- 6.1 Within what period must the estate account in a deceased estate be lodged with the Master? (2)
- 6.2 If estate duty is payable, when must it be paid? (2)
- 6.3 You are unable to lodge the estate account timeously. **Apply to the Master of the High Court for an extension of time within which to lodge the account.** Use your own reasons. (6)

PROKUREURSEKSAMEN

DEEL 3 PROKUREURSPRAKTYK

16 AUGUSTUS 2000

09:00-11:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Die vrae mag in Afrikaans of Engels beantwoord word.
3. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
4. Waar nodig, moet kandidate hulle eie feite versin.
5. Skryf asseblief slegs op die regterkantse bladsye.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 3 ATTORNEY'S PRACTICE

16 AUGUST 2000

09:00-11:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.
2. The questions may be answered in English or Afrikaans.
3. Candidates must remember that marks are awarded for good draftsmanship.
4. Candidates must invent their own facts wherever necessary.
5. Please write only on the right-hand pages.
6. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [45]

U word geraadpleeg deur die eienaar van 'n woonhuis wat u opdrag gee dat hy ooreengekom het om dit te verhuur vir 'n periode van drie jaar. Hy is bereid om die huurder 'n opsie te verleen om die eiendom vir 'n verdere periode van twee jaar te huur. Ten tye van die konsultasie is daar geen ooreenkoms oor die huur wat betaalbaar sal wees gedurende die verlengingsperiode of hoe dit bepaal sal word nie. U kliënt gee u opdrag om die huurkontrak op te stel. Stel slegs daardie klousules op wat u sal insluit in die kontrak wat voorsiening sal maak vir:

- 1.1 Die betaling van die huurgeld en die plek van betaling. (10)
- 1.2 'n Huuraanpassing ingeval die munisipale erfbelasting ten opsigte van die eiendom verhoog word. (5)
- 1.3 U kliënt se remedieë ingeval die huurder kontrakbreuk pleeg. (10)
- 1.4 Die verlening en manier van uitvoering van die opsie. (10)
- 1.5 Die bepaling van die huurgeld wat betaalbaar sal wees indien die opsie uitgeoefen word. (10)

Versin u eie ander feite waar nodig.

VRAAG 2 [10]

U word geraadpleeg deur 'n vrou wat u meedeel dat sy buite gemeenskap van goed getroud is met 'n man wie se boedel onlangs gesekwestreer is. Sy vertel u dat sy aansienlike bates besit en dat sy bang is dat haar man se kurator hulle mag opeis. Sy vra u om haar te voorsien van 'n skriftelike mening met betrekking tot haar posisie en welke stappe sy kan doen om haar bates te beskerm en om haar regte ten opsigte daarvan af te dwing. Stel die opinie in briefvorm op.

VRAAG 3 [10]

Welke prosedure moet 'n Kommissaris van Ede volg wanneer hy 'n beëdigde verklaring attesteer.

VRAAG 4 [5]

U is 'n jong prokureur wat onlangs 'n nuwe praktyk begin het. U vader is 'n ryk sakeman wat die eienaar is van 'n seegaande seiljag waarop hy sy sakekennisse luuks onthaal. U vader

QUESTION 1 [45]

You are consulted by the owner of a dwelling house who instructs you that he has agreed to let if for a period of three years. He is prepared to grant the tenant an option to renew the lease for a further period of two years. At the time client consults you there is no agreement as to the rental that will be payable during the renewal period or how it will be determined. Your client instructs you to prepare the lease. Draw only those clauses which you will include in the lease to provide for:

- 1.1 The payment of the rental and the place of payment thereof. (10)
- 1.2 An adjustment in the rental in the event of an escalation in the municipal assessment rates. (5)
- 1.3 Your client's remedies in the event of the tenant breaching the contract. (10)
- 1.4 The granting and manner of exercising the option. (10)
- 1.5 The determination of the rental that will be payable in the event of the option being exercised. (10)

Use your own additional facts where necessary.

QUESTION 2 [10]

You are consulted by a woman who advises you that she is married out of community of property to a man whose estate has recently been sequestrated. She tells you that she has substantial assets and is afraid that her husband's trustee may lay claim to them. She asks you to give her written advice as to her position and what steps she can take to protect her assets and enforce her rights in regard thereto. Draw this opinion in letter form.

QUESTION 3 [10]

What procedure must be followed by a Commissioner of Oaths who attests an affidavit.

QUESTION 4 [5]

You are a young attorney who has just started practice. Your father is a wealthy business man who owns an ocean going yacht on which he entertains his business acquaintances on a

stel voor dat u die boot mag gebruik om voornemende kliënte te onthaal en dat hy u ook sal voorstel aan sy sakevriende aan boord sodat u u praktyk aan hulle kan bemark. **Sal sodanige optrede aan u kant aanvaarbaar wees? Bespreek kortliks.**

lavish scale. Your father suggests that you can use the boat to entertain prospective clients and that he will also introduce you to his friends on board to enable you to market your practice to them. **Would such conduct on your part be acceptable? Discuss briefly.**

VRAAG 5 [30]

QUESTION 5 [30]

5.1 **Mag 'n prokureur konsulteer met 'n persoon wat hy/sy weet is 'n staatsgetuie in 'n strafszaak? Bespreek kortliks.**

5.1 **May an attorney consult with a person who he/she knows is a state witness in a criminal trial? Discuss briefly.**

(4)

(4)

5.2 **Mag 'n prokureur met sy/haar eie kliënt konsulteer terwyl laasgenoemde onder kruisverhoor is in 'n siviele geding? Bespreek kortliks.**

5.2 **May an attorney consult with his/her own client in a civil case while that client is being cross-examined? Discuss briefly.**

(4)

(4)

5.3 **Mag 'n prokureur toelaat dat 'n sekretaresse onderhoude voer met kliënte en hulle opdragte neem terwyl hy/sy afwesig is? Bespreek kortliks.**

5.3 **May an attorney allow a secretary to consult with clients and take instructions during his/her absence? Discuss briefly.**

(4)

(4)

5.4 **Mag 'n prokureur ooit inligting wat 'n kliënt in vertroue aan hom/haar oordra, openbaar? Bespreek kortliks.**

5.4 **May an attorney under any circumstances divulge information given by his/her client in confidence? Discuss briefly.**

(4)

(4)

5.5 **Mag 'n prokureur 'n beskuldigde wat erken dat hy skuldig is aan die betrokke oortreding, verdedig? Motiveer u antwoord.**

5.5 **May an attorney defend an accused person who admits that he is guilty of the offence charged? Motivate your answer.**

(5)

(5)

5.6 **U tree op vir 'n kliënt in 'n MVO-eis en die eis verjaar as gevolg van 'n oorsig aan u kant. **Beskryf kortliks welke advies u aan u kliënt sal gee nadat hierdie feit onder u aandag gekom het.****

5.6 **You act for a client in a MVA claim and you inadvertently allow the matter to prescribe. **Describe briefly what advice you will give your client after this has come to your attention.****

(5)

(5)

5.7 **U het 'n konsultasie gereël met 'n advokaat en u kliënt om die besonderhede van vordering wat aangeheg sal word by 'n gekombineerde dagvaarding op te stel. U kan nie die konsultasie bywoon nie. **Mag dit in u afwesigheid plaasvind? Bespreek kortliks.****

5.7 **You have arranged a consultation between your client and an advocate with a view to preparing particulars of claim to be attached to a combined summons. You cannot attend the consultation. **May it take place without you? Discuss concisely.****

(4)

(4)

PROKUREURSEKSAMEN

DEEL 4 BOEKHOU

16 AUGUSTUS 2000

14:00-16:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryfnie. Die eksamen van 2 uur volg dan.

1. Die vrae mag in Afrikaans of Engels beantwoord word.
2. Kandidate mag sakrekenaars gebruik.
3. By beantwoording van vrae moet die betrokke inskrywings duidelik geïdentifiseer, omskryf en uiteengesit word.
4. Afsonderlike besigheids- en trustkasboeke, asook kliëntegrootboekrekeninge moet geopen word en moet nie gekombineer word nie. Joernaalinskrywings moet behoorlik beskryf en geïdentifiseer word.
5. Skryf asseblief slegs op die regterkantse bladsye.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 4 BOOKKEEPING

16 AUGUST 2000

14:00-16:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. The questions may be answered in English or Afrikaans.
2. Candidates may use calculators.
3. In answering the questions you should ensure that the relevant entries are clearly identified, narrated detailed.
4. Separate business and trust cash books and clients' ledger accounts must be opened and are not to be combined. Journal entries must be properly identified and narrated.
5. Please write only on the right-hand pages.
6. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [30]

- 1.1 Definieer watter gelde betaal mag word:
(a) in 'n prokureur se trustrekening (4)
(b) uit 'n prokureur se trustrekening (4)
- 1.2 Hoe bereken 'n prokureur die bedrag wat op enige gegewe tyd van Trust na Besigheid oorgeplaas mag word? (7)
- 1.3 Hoe bereken 'n prokureur watter bedrae in 'n trustbeleggingsrekening ingevolge van artikel 78(2)(a) belê mag word? (3)
- 1.4 Definieer die boeke van eerste/primêre inskrywing wat 'n prokureur moet aanhou en verduidelik ook die gebruik van elke sodanige boek. (8)
- 1.5 Hoe gereeld moet 'n prokureur 'n uittreksel maak van trustsaldo's? (2)
- 1.6 Vir watter periode is 'n prokureur verplig om rekeningkundige rekords te bewaar? (2)

VRAAG 2 [30]

U ontvang die volgende verrekeningstaat en tjek van u korrespondent ten opsigte van sake wat hy ingevolge u opdrag hanteer het.

Currie vs Rice

Kontant gevorder		2 500
Betaal advokaat	500	
Inkomsteseëls	50	
Ons foie	300	
BTW teen 14%	42	
U 1/3 toelaag		100
BTW teen 14%		14

Ngwenya vs Nsomi

Kontant gevorder		900
Betaal opsporsingsagent	150	
Ons foie	150	
BTW teen 14%	21	
U 1/3 toelaag		50
BTW teen 14%		7
Tjek hiermee	2 358	
	<u>3 571</u>	<u>3 571</u>

QUESTION 1 [30]

- 1.1 Define what monies may be paid:
(a) into an attorney's trust account (4)
(b) out of an attorney's trust account (4)
- 1.2 How does an attorney determine what amount can be transferred at any given time, from Trust to Business? (7)
- 1.3 How does an attorney determine what amounts may be invested in a trust investment account in terms of section 78(2)(a)? (3)
- 1.4 Define the books of first/primary entry which an attorney is obliged to keep and also explain the use of each such book. (8)
- 1.5 How often must an attorney extract a schedule of trust balances? (2)
- 1.6 For how long is an attorney obliged to retain accounting records? (2)

QUESTION 2 [30]

You receive the following accounting statement and cheque from your correspondent in respect of matters dealt with on your instructions.

Currie vs Rice

Cash collected		2 500
Paid advocate	500	
Revenue stamps	50	
Our fees	300	
VAT at 14%	42	
Your 1/3 allowance		100
VAT at 14%		14

Ngwenya vs Nsomi

Cash collected		900
Paid tracing agent	150	
Our fees	150	
VAT at 14%	21	
Your 1/3 allowance		50
VAT at 14%		7
Cheque herewith	2 358	
	<u>3 571</u>	<u>3 571</u>

Teken die bovermelde transaksies in u rekeningboeke aan en verreken volledig aan u kliënte. Plaas die bedrag oor waarop u geregtig is. Dit is nie nodig om verrekeningstate op te stel nie.

VRAAG 3 [40]

U kliënt, mev Kennedy, gee u opdrag om soos volg namens haar op te tree.

A. KOOP VAN HUIS

1. Mev Kennedy het 'n huis gekoop van mnr Verkoper vir R280 000. Sy betaal u firma 'n deposito van R100 000 en magtig u om die bedrag te belê in 'n rentedraende rekening. U belê die geld namens haar.
2. Mev Kennedy gee u firma 'n verdere R12 000 in kontant synde 'n deposito vir u verwagte fooie, die hereregte en ander uitgawes.
3. U betaal hereregte van R6 800.
4. 'n Maand later onttrek u die belegging en ontvang R101 500.

B. SKIKKINGSAANBOD

1. Mev Kennedy het 'n skikkingsaanbod gemaak ten opsigte van 'n besigheidstransaksie. Sy betaal R62 000 aan u firma om in trust gehou te word hangende die goedkeuring van die aanbod deur die hof.
2. U besluit om R45 000 in 'n rentedraende rekening by u bank te belê.

C. EGSKEIDING

1. Mev Kennedy het besluit om van haar man te skei. Sy deponeer 'n bankgewaarborgde tjek vir R12 500 by u firma om u fooie en uitgawes, insluitende advokaatsfooie, te dek.
2. U gee opdrag aan die advokaat en betaal sy rekening van R1 200.
3. U debiteer 'n tussentydse fooi van R500.

D. ANDER

1. U besluit om 'n verdere bedrag van R10 000 te belê in 'n rentedraende rekening by u bank.

Daar word van u verlang om die bogemelde transaksies in u rekeningboeke aan te teken. Afsonderlike rekeninge moet vir elke aangeleentheid gehou word.

Wanneer fooie gedebiteer word, moet voorsiening gemaak word vir BTW, indien van toepassing. U hoef net een oorplasing te doen.

You are required to enter the above transactions in your accounting records and account fully to your client. Transfer whatever you are entitled to. It is not necessary to prepare accounting statements.

QUESTION 3 [40]

Your client, Mrs Kennedy, instructs you to act in the following matters on her behalf.

A. HOUSE PURCHASE

1. Mrs Kennedy has purchased a house from Mr Seller for R280 000 and pays your firm a deposit of R100 000, which you are authorised to invest in an interest-bearing account. You invest the money on her behalf.
2. Mrs Kennedy has also given your firm a further R12 000 in cash as a deposit to cover your expected fees, transfer duty and other disbursements.
3. You pay the transfer duty of R6 800.
4. A month later you withdraw the investment and receive R101 500.

B. COMPROMISE OFFER

1. Mrs Kennedy has made an offer of compromise on a business deal and pays your firm R62 000 to be held in trust pending the sanctioning of the offer by the court.
2. You decide to invest R45 000 in an interest bearing account with your bank.

C. DIVORCE

1. Mrs Kennedy has decided to divorce her husband and deposits with your firm a R12 500 bank guaranteed cheque to cover your fees and disbursements including counsel's fees.
2. You instruct the advocate and pay his account of R1 200.
3. You debit an interim fee of R500.

D. OTHER

1. You decide to invest a further R10 000 in an interest bearing account with your bank.

You are required to record all the above transactions in your accounting records. Separate accounts should be kept for each matter.

When recording fee debits, provision must be made for VAT, if applicable. Only one transfer needs be made.