

COURT PROCEDURES / HOFPROSEDURES
15 AUGUST 2000 / 15 AUGUSTUS 2000

PART 1/DEEL 1

ANSWERS/ANTWOORDE

NOTE TO EXAMINER: *This guideline records the views of the drafters. There may be justifiable variations in practice which are brought out in the answers. When this happens the examiner should apply his discretion in marking the answer.*

QUESTION 1

[10]

1.1 I would proceed by way of a provisional sentence summons.

The other procedures available to the client would be:

1. to issue a simple summons;
2. to issue a combined summons;
3. to launch an application for payment.

In the first two instances were the matter to become defended the plaintiff could launch an application for summary judgement. All that the defendant would have to do is to set out in an affidavit a defence to the action. The court would accept it at face value and without reference to the probabilities and if the affidavit constituted a proper defence would grant leave to defend. If an application were launched the court would, where the probabilities are not decisive accept the allegations made by the respondent in his opposing affidavit for the purposes of deciding whether the applicant is entitled to payment. In provisional sentence matters however the onus would be on the defendant to indicate that on the balance of probabilities were the matter to proceed to trial he would ultimately be successful or differently put that his defence would succeed.

1.2 Plaintiff's claim against defendant is for payment of the sum of R500 000,00 which sum is due and owing by the defendant to the plaintiff by virtue of the fact that the plaintiff is the holder of a cheque made by the defendant in his favour drawn on ABC Bank which cheque was duly presented for payment and dishonoured by non-payment and marked Refer to Drawer. Notice of dishonour is dispensed with by virtue of the provisions of Section 44 of Act 44 of 1964 wherefore plaintiff prays for judgment against defendant for payment of the sum of R500 000,00 together with interest thereon from date of presentation to date of payment at 15,5% per annum.

Cost of suit.

Further and/or alternative relief.

**IN THE HIGH COURT OF SOUTH AFRICA
(Transvaal Provincial Division)**

Case no

In the ex parte application of.....

APPLICANT

for the appointment of a curator bonis to:

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NOTE TO EXAMINER: A further supporting affidavit can be included. The sequence of the document is irrelevant. Give two marks for the heading and 8 marks for the content of the index.

QUESTION 3

[3]

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- 3.1 Maintenance pendente lite, a contribution towards the cost of the pending action, interim custody, and interim access to any child. (2)
- 3.2 No. (1)

QUESTION 4**[5]**

-
- 4.1 You would file the summons and the return of service together with an application for judgment with the registrar.
- 4.2 You would set the matter down for hearing by default before a judge and arrange to have expert evidence led in support of the quantum of your claim.
- 4.3 The request for default would be accompanied by an affidavit by an expert in support of the quantum (or viva voce evidence may be led).

QUESTION 5**[10]**

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- 5.1 5.1.1 Ask for reasons if full reasons have not been furnished by the Magistrate.
5.1.2 File a Notice of Appeal.
5.1.3 File with the clerk of the court security for costs.
5.1.4 Prosecute the appeal in the High Court by filing with the Registrar two copies of the record and serving a further copy on your opponent.
5.1.5 File with the Registrar a Power of Attorney.
5.1.6 Apply for a date for hearing of the appeal.
5.1.7 On receipt of the notification of the date on which the appeal will be heard from the Registrar; deliver a notice of set down to the other side and give notice in writing thereof to the clerk of the court appealed from.
5.1.8 File your heads of argument.
5.1.9 Arrange for appearance on the date on which the matter will be heard either personally or through counsel.
- 5.2 You would petition the Chief Justice for special leave to appeal which could be granted either to a full bench or to the Supreme Court of Appeal.

QUESTION 6**[5]**

-
- 6.1 False. It exceeds the jurisdiction in regard to amount. (½)
- 6.2 False. It exceeds the jurisdiction in regard to amount. (½)
- 6.3 False. A substantive application cannot be brought in the Magistrate's Court for this relief. (½)

- 6.4 True. Both the Magistrate's Court and the High Court can hear applications of this nature. (½)
- 6.5 True. The relief of this nature is specifically provided for in terms of section 29(1)(c). (½)
- 6.6 False. The Magistrate's Court has no jurisdiction in respect of testamentary dispositions and is specifically excluded in terms of the Act. (½)
- 6.7 False. The amount exceeds the jurisdiction of the Magistrate's Court. (½)
- 6.8 True. The amount claimed and the relief fall within the jurisdiction of the Magistrate's Court. (½)
- 6.9 True. The interim interdict of this nature is permitted in terms of the provisions of section 30 of the Act. (½)
- 6.10 True. As long as one of the partners is ordinarily resident within the jurisdiction of that Magistrate's Court. (½)

QUESTION 7**[32]**

-
- 7.1 The documents which must accompany the claim form are the following:
- 7.1.1 Marriage certificate.(½)
 - 7.1.2 Deceased's death certificate.(½)
 - 7.1.3 Birth certificate of the deceased, his wife and the child.(1½)
 - 7.1.4 The inquest record, alternatively, the charge sheet in respect of any criminal proceedings arising out of the collision.(½)
 - 7.1.5 Certificate of earnings of the deceased.(1)
- (4)
- 7.2 The contingencies which should be taken into account are:
- 7.2.1 A general contingency that the deceased may have died before reaching retirement age in any event;
 - 7.2.2 The prospects of the widow remarrying;
 - 7.2.3 The prospect of the deceased and his wife having had further children but for the accident;

- 7.2.4 The risk of the deceased being re-trenched and unable to find alternative employment for a period; (4)
- 7.3 The general formula or rule of thumb procedure that one follows is to allocate two parts of the deceased's income to himself, two parts to his wife and one part to the child. (2)
- 7.4 No. Payment of any pension or insurance benefits are specifically excluded by the provisions of the assessment of Damages Act. (2)
- 7.5 Regard must be had to any inheritance that the widow and the child will receive from the deceased's estate. (1) One has to deal here with what is termed an accelerated benefit (1) and is a calculation which the actuary takes into account when assessing the loss of support.
- What he does is place a value on the widow and her child receiving the inheritance sooner than they would have but for the accident. (2)
- 7.6 The child will be entitled to claim for loss of support until she attains the age of eighteen (18) years (1) or is able to establish that she was entitled to further tertiary education in which event her claim will be until such time as she qualifies from the tertiary education. (1). [In other words, when she becomes self-supporting.] (2)
- 7.7 The plaintiff is Mrs E Jones, an adult female, a widow who resides at 10 Plain Street, Cape Town (½) who uses and sues herein in her personal capacity (½) and in her capacity as the mother and natural guardian of the minor child (½)(1) (here the name of the child can be set forth with her date of birth). Alternatively one can cite the child individually but assisted by her mother, the First Plaintiff, in her capacity as her mother and natural guardian.(½) (2)
- 7.8 The essential allegations to be made are the following:
- (a) That the deceased was married to the Plaintiff;
 - (b) The minor child were born of the marriage between the First Plaintiff and the deceased;
 - (c) That the deceased had a duty during his lifetime to support his wife and the child;
 - (d) That the deceased did, in fact, support them;
 - (e) They have been deprived of such support and therefore suffered damages. (5)
- 7.9 No. The appointed agent cannot apply any apportionment in respect of the deceased's negligence to the claims. (1) They are "innocent claimants" and only have to prove a degree of negligence on the part of the other driver to succeed in full. (1)

The Fund can, however, recover from the deceased's estate but in that event it must be joined in the proceedings but obviously only if this is economically viable. (1) (3)

7.10 7.10.1 Yes. You would advise her that a letter be addressed to the Fund (1) requesting an interim payment in respect of the hospital, medical, funeral expenses which have been properly vouched. (1)

If the Fund refuses to pay then you would advise your client to bring an application for an interim payment in terms of rule 34(A). (1) (3)

7.10.2 Necessary averments to be made are:

- (a) that there has been an admission of liability on the merits by the fund. (1)
- (b) that the amount claimed is only in respect of the aforesaid special damages, ie. the amounts already paid by your client. (1)
- (c) that the fund is financially able to pay the amount claimed. (1) (3)

QUESTION 8

[11]

8.1 The attorney would point out to the prosecutor that client was stopped at a roadblock and there is no evidence of drunken driving;

That the alcohol content in his blood was low; and

That the district surgeon found him to be lightly under the influence of liquor at the time when the blood was drawn.

(3)

8.2 In the Magistrate's Court for the District of PIETERMARITZBURG held at PIETERMARITZBURG. (Or Mooi River)

Case No 123/99

In the matter between

THE STATE

and

MR NAIDOO

**STATEMENT IN TERMS OF SECTION 112 (2) OF THE
CRIMINAL PROCEDURE ACT, 1977**

I, Mr Naidoo do hereby declare that:

1. I am the accused in this matter and I understand the nature of the charge against me.
2. I admit that on the 23rd of March 1998 I was the driver of motor vehicle ND 345 and I was driving same on the road between Pietermaritzburg and Mooi River, a public road within the area or jurisdiction of the above Honourable Court.
3. I furthermore admit that the said vehicle was brought to a halt by myself at a road block and that within 2 hours of driving the said vehicle a blood sample was drawn from my body and was correctly analyzed.
4. The alcohol content of the said blood sample, expressed in grams per 100ml of blood, was ,11%.
5. I admit that at the time of driving and at all relevant times hereto I was aware of the fact that it is an offence to drive a motor vehicle whilst the alcohol contents of ones blood exceeds ,08 per cent.
6. I accordingly plead guilty to the charge.

DATED at PIETERMARITZBURG on this the 10th of June 1998.

MR NAIDOO
(8)

QUESTION 9**[4]**

You will, as a consequence of there being a conflict of interest between the two accused, not be able to act on behalf of either of them. The information which you have received from both parties is directly in conflict with that of the other and, besides being privileged, one would not be able to cross-examine either of the parties because of this clash of interests. Furthermore a statement made by one accused can not be used against another accused. You will accordingly be obliged to withdraw from acting on behalf of both parties.

QUESTION 10**[7]**

-
- 10.1
1. I would advise the Court that the accused is entitled to a speedy finalization of his trial;
 2. The matter has been postponed on a number of occasions as a consequence of the State witnesses not being present and once again they have failed to attend Court;
 3. The accused is being prejudiced in that this is the 5th occasion on which he has appeared in Court;
 4. The accused has already been in custody for 7 months and will be severely prejudiced by a further postponement of three months;
 5. Other personal circumstances of the accused can be placed on record - eg. his inability to work, support his family, legal costs etc.
 6. It is highly unlikely that after this period of time the State will be in a position to locate their witnesses. It also indicates a lack of interest on the witnesses side relating to this matter.
- (4)

- 10.2 As the accused has already pleaded to the charge the Prosecutor can no longer withdraw same. The State will accordingly have to lead evidence and close the case thereafter. If no witnesses are available it will most probably occur that the State will close their case whereafter an application for the discharge of the accused can be brought or one can close the case on behalf of the accused.
- (3)

QUESTION 11**[3]**

All attempts would be made to keep your client out of jail. You would accordingly suggest that the court impose a heavier fine than the one before as well as a lengthier period of suspended

imprisonment. This is however highly unlikely and you may have to resort to requesting the court to consider correctional supervision in terms of section 276(1)(h). This would have the effect of allowing your client to continue with his employment.

One may furthermore be obliged to request the court to consider a suspended term of imprisonment subject to strict conditions eg your client having to undergo certain forms of treatment. You may furthermore request the court to commit your client to an institution in order to receive the required treatment.

As far as his driver's licence is concerned a request will be made that same not be suspended or cancelled but endorsed.

ESTATES / BOEDEL
15 AUGUST 2000 / 15 AUGUSTUS 2000

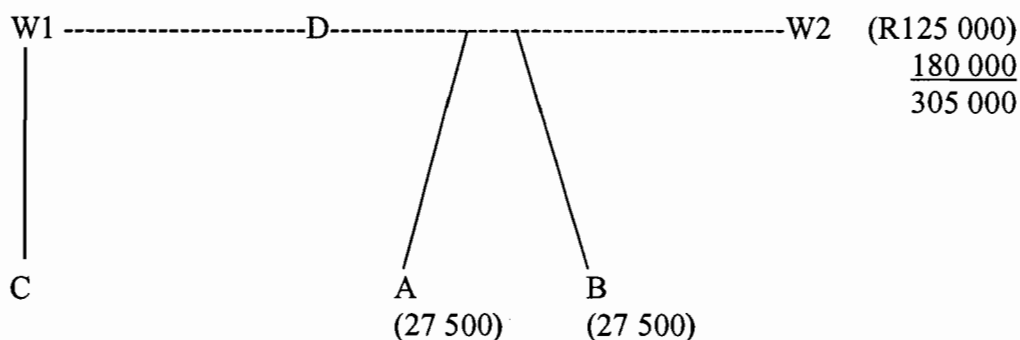
PART 2/DEEL 2

ANSWERS/ANTWOORDE

NOTE TO EXAMINER: *This guideline records the views of the drafters. There may be justifiable variations in practice which are brought out in the answers. When this happens the examiner should apply his discretion in marking the answer.*

QUESTION 1

[27]



- 1.1 In view of the fact that D and W2 were married in community of property, (1) one half of the nett estate of R360 000 belongs to W2. The estate of D to be divided between his intestate heirs therefore amounts to R180 000.

According to the provisions of the Intestate Succession Act, 1987, the surviving spouse (W2) is entitled to an amount of R125 000 or a child's share, whichever (2) is the greater. A child's share is calculated by dividing the monetary value of the estate by the number of children of the deceased who have survived him (1) (A and B in this instance) plus one (section 1(4)(f) of the Act.) A child's portion would therefore amount to $R180\,000 \div 3 = R60\,000$ which is less than R125 000. W2 will therefore be entitled to R125 000 in addition to her half (1) share amounting to R180 000, and A and B to R27 500 each. C does not inherit (2) anything from D's estate, because he is not a descendant of D and therefore not an intestate heir of D. The fact that C resided with D and had been regarded by the latter as a member of his family, is irrelevant. If C had been formally adopted by D, (1) it would have been a different matter and C would rank as an intestate heir together with W2, A and B (sections 1(4)(d)(i) and 1(5) of the Act.)

[8]

1.2 DISTRIBUTION ACCOUNT

1. Balance for distribution		360 000-00	(1)
2. Awarded to W2, one half in terms of the marriage in community of property, and one half in terms of the take-over in terms of Section 38		305 000-00	(3)
<i>The Award Comprises:</i>			
Family home	200 000-00		(1)
Furniture and household effect	75 000-00		(1)
Motor vehicle	40 000-00		(1)
Cash Investments	<u>45 000-00</u>		(1)
	360 000-00		
Less owing to A and B and secured by a mortgage bond in favour of the Master of the High Court over the family home	<u>55 000-00</u>		(3)
	305 000-00		
3. Awarded to A and secured as stated above		27 500-00	(2)
4. Awarded to B and secured as stated above		<u>27 500-00</u>	(2)
		<u>360 000-00</u>	<u>360 000-00</u>

[15]

1.3 W2 as surviving spouse will be preferred by the Master in terms of (1) section 19 of the Administration of Estates Act. This section provides (1) that if more than one person is nominated as executor for recommendation to the Master, the Master shall give preference to the surviving spouse or his nominee. (1)

However the Master may appoint two or more of them as co-executors, or he may pass them all by and appoint a fit and proper person of his choice (1).

[4]

QUESTION 2**[22]**

ESTATE DUTY ADDENDUM

PROPERTY IN TERMS OF SECTION 3(2)

Total assets as per liquidation account	1 760 000-00	(1)
Less: policy payable to estate	<u>450 000-00</u>	(1)
	1 310 000-00	

Plus: PROPERTY DEEMED TO BE
PROPERTY IN TERMS OF
SECTION 3(3) (1)

Proceeds of Life Insurance Policies:

African Insurance Co Ltd (estate)	450 000-00	(1)
Sunshine Insurers Ltd (daughter)	200 000-00	(1)
Bright Metals Group Insurance (spouse)	<u>450 000-00</u>	1 100 000-00 (1)

Payment by Funds:

Bright Metals Employees' Pension Scheme	<u>350 000-00</u>	(1)
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GROSS VALUE 2 760 000-00

Less: Allowable deductions in terms of section 4: Section 4(a) to 4(d)	32 150-00	(1)
Section 4(h): Law Society of SA	50 000-00	(1)
Section 4(lA): accrual claim surviving spouse	210 000-00	(1)

Section 4(q): bequests and accruals to
surviving spouse:

Pension Fund:	350 000-00	(1)
Group Life Insurance	450 000-00	(1)
Fixed property (house)	<u>500 000-00</u>	<u>1 300 000-00</u> (1)
		<u>1 592 150-00</u> (1)

NETT VALUE 1 167 850-00 (1)

Less: Rebate in terms of section 4 1 000 000-00 (1)

DUTIABLE AMOUNT 167 850-00 (1)

Estate duty therefore (2)

R167 850 x 25% = R41 962-50

[18]

PARTIES LIABLE FOR PAYMENT OF DUTY

1. Daughter: in respect of the proceeds of life insurance policy in the amount of R200 000 payable to her as beneficiary. (2)
2. The executor (estate): in respect of all other property in the estate. (2)
[4]

QUESTION 3

[26]

This is the last Will and Testament of us H and W spouses married in community of property.
(2)

1. We cancel all wills or acts of a testamentary nature made by either of us. (1)
2. We appoint AB as executor of each of our wills and trustee of any trust that may come (2) into existence as a result of the provisions of this will. We grant to our executor and trustee all such powers as are allowed in law and especially the power of assumption. (1) We direct that our executor and trustee or anyone assumed by him/her shall not be (1) required to provide security for the due performance of such office. We specially empower our executor or trustee to sell any asset in our estate by public auction, tender or private treaty. (1)
3. The first dying of us bequeaths his or her estate to the survivor of us. (1) Should we die simultaneously or should the survivor of us die within 30 days of the death of the first dying without having made a further valid will, we leave the estates of both of us to the child or children born of our marriage. (4)
4. In the event of any beneficiary being under the age of 25 years at the date of death of the last dying of us, (1) we direct that that beneficiary's share shall be retained in a trust (1) by our trustee to be dealt with in his entire discretion (1) and the income used for the maintenance, education and advancement in life of the beneficiary. (1) We specially empower our trustee to use portion or the entire capital of the trust for the aforesaid purposes should he/she deem it in the best interests of the beneficiary. (1) On the beneficiary attaining the age of 25 years to terminate the trust and hand over to the beneficiary whatever remains of the trust fund. (1) Should the beneficiary have died before attaining the age of 25 leaving issue, such issue shall inherit by representation.(1)

Should the beneficiary die without leaving issue, that beneficiary's share shall devolve upon his or her siblings with representation per stirpes. (1)

AS WITNESSES

.....
.....

5. We direct that any bequest or inheritance shall be free of the community of property that may attach to any marriage that a beneficiary may contract. (1)
- 6.
7. In the event of any of our children being minors at the date of death of the last dying of (1) us, we appoint X as the guardian of such minor child. We direct that X shall not be required to provide any security for such appointment. (1)

Signed by the Testator and Testatrix in the presence of the undersigned witnesses and of each other, all being present together at Pretoria this 10th July 1999. (1)

AS WITNESSES

..... (1)
Testator
.....
Testatrix

QUESTION 4

[3]

We hereby mass our respective estates on the death of the first dying of us (1) and we leave the massed estate to our children, (1) subject to the life-long usufruct of the survivor of us. (1)

QUESTION 5**[12]**

Jackson Attorneys
P O Box 105
Bloemfontein

29 July 1999 (1)

The Master of the High Court
Bloemfontein (1)

Dear Sir

ESTATE LATE J A KEMP (1)

We wish to report the above estate and attach for this purpose the following: (1)

1. Death notice (1)
2. Inventory of assets to the value of R45 000 (2)
3. Original will dated 1 July 1990 (1)
4. Undertaking and Acceptance of Master's Directions by the surviving spouse who is the sole heir and executor in terms of the will (2)

Kindly issue and forward to us your appointment of the surviving spouse in terms of section 18(3) of Act 66 of 1965. (2)

Yours faithfully

JACKSON ATTORNEYS

QUESTION 6**[10]**

- 6.1 Six months from date of issue of Letters of Executorship (2)
- 6.2 30 days as from the date of assessment. Within 12 months from date of (1)
death (1)

Dear sir

re: ESTATE P KOEN NO 123/99

The estate account in the above estate is due on the 31st July 1999. We request an extension of two months within which to lodge the account. (1)

1. There is a disputed claim against the estate that has not been settled and it will materially affect the distribution, which is why an interim account cannot be lodged. (2)
2. All other creditors have been paid and all cash assets in the estate collected. (1)
3. We are currently holding R10 000.00 in a savings account for the estate and R500 in the estate bank account. (1)
4. The estate is solvent. (1)

We await to hear from you.

Yours faithfully

ATTORNEY'S PRACTICE / PROKUREURSPRAKTYK
16 AUGUST 2000 / 16 AUGUSTUS 2000

PART 3/DEEL 3

ANSWERS/ANTWOORDE

NOTE TO EXAMINER: *This guideline records the views of the drafters. There may be justifiable variations in practice which are brought out in the answers. When this happens the examiner should apply his discretion in marking the answer.*

QUESTION 1

[45]

Candidates will answer this question in a number of different ways. Examiners must use their discretion when marking. The content of each clause should carry 2/3 of the marks whilst draftmanship, clarity of thought and logical presentation should carry one third of the marks in each case.

QUESTION 2

[10]

Dear

Further to our consultation I must inform you that your husband's sequestration may have a bearing on your assets and estate.

Section 24 of the Insolvency Act provides that where an insolvent is in possession of any property, such property may be claimed by the insolvent's trustee and this property is deemed to be the property of the insolvent and may be disposed of for the purpose of settling claims against the insolvent estate.

Your husband's trustee may also claim assets which are in your possession and the onus would be upon you to establish your ownership therein.

If your husband is in possession of any of your assets you should take immediate steps to take charge thereof. In regard to assets in your possession you must collect or obtain proof that you have acquired them with your funds.

Should your husband's trustee demand your assets you will have to claim their release by way of an affidavit in which you must establish your ownership therein. In this affidavit you will have to prove your ownership by production of proof of acquisition and payment by you.

Should the trustee refuse to release your assets you will have to bring an application in the High Court for an order ordering the trustee to release the goods to you.

Should you need assistance in preparing the affidavit required to please contact me.

Yours faithfully

NOTE TO EXAMINER

This letter is only one way of approaching the matter and candidates must be given marks for other acceptable opinions.

QUESTION 3

[10]

1. A deponent may either swear to an affidavit or attest to it.
2. When administering the oath or affirmation the attorney must:
 - 2.1 Ask the deponent whether he knows and understands the contents of the affidavit.
 - 2.2 Whether he has any objection to taking the oath or making the affirmation.
 - 2.3 Whether he considers the oath or affirmation binding on his conscience.
3. Once the deponent has acknowledged the foregoing the Commissioner of Oath must ask the deponent to say in the case of swearing "I swear that the contents of this affidavit are true so help me God" and in the case of an affirmation "I truly affirm the contents of this declaration".
4. Thereafter the deponent must sign the affidavit in the presence of the commissioner who must certify below the deponents signature that the latter has acknowledged that he knows and understands the contents of the affidavit.
5. The Commissioner of Oaths must in writing indicate the date and place of signature. He must also print his full names, designation, and address below his signature. He must also state the area for which he holds his appointment.

QUESTION 4

[5]

An attorney, in the normal course meets many people who could be come valuable clients or whose business's could become clients. An attorney in entertaining these people should avoid creating the impression that he is doing so to tout their business. The attorney should also not try to solicit work from people who he should reasonably believe already have an attorney. If the scale of entertainment is beyond what the attorney can afford is obviously aimed at soliciting work and that it is not permissible. - It is a matter of degree. The conduct envisage in the question would amount to touting.

NOTE TO EXAMINER

The question of what is and what is not touting can be a difficult one to answer. If the candidate shows a good perception as to which is right and wrong he should be given appropriate marks.

QUESTION 5

[30]

-
- 5.1 An attorney may not interview a state witness. He may however get permission from the presiding magistrate to do so. If this is refused that ends the matter. (4)
- 5.2 Once your client is under cross examination you may not consult with him at all. The reason for this is obvious namely that you may advise him how to answer questions or how to rectify evidence already given. (4)
- 5.3 The secretary may interview the client to take formal instructions. In all other cases this should not happen because the client is entitled to professional advice and service. (4)
- 5.4 Yes in very limited circumstances. Eg. To the client's executor after his death and to his curator if the client is placed under curatorship. Of course if the client waives his privilege the information may be disclosed. (4)
- 5.5 It is not unethical to defend a person who the attorney knows to be guilty. The onus is on the state to prove guilt. The attorney may not mislead the court or allow the client to give evidence which the attorney know to be untrue. The attorney may however test the state witnesses by cross examination in regard to matters of identification etc. (5)
- 5.6 You must be absolutely honest with your client and the facts and particularly the fact that the claim has prescribed must be told to your client immediately you become aware thereof. You should advise your client to seek independent advice in respect of a possible claim against you and if necessary you should assist him in obtaining such advice. You should however not admit liability as this may prejudice your professional indemnity insurance. You should report the matter to your insurer at once. (4)
- 5.7 An attorney may not arrange a consultation with counsel if he knows that he cannot attend it. Should the attorney be prevented from attending the consultation because of unforeseen circumstances he/she must arrange for a partner, professional assistant or candidate attorney in his employ to attend, the consultation. If the client insists that the attorney should attend the consultation should be postponed. (4)
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BOOKKEEPING / BOEKHOU
16 AUGUST 2000 / 16 AUGUSTUS 2000

PART 4/DEEL 4

ANSWERS/ANTWOORDE

NOTE TO EXAMINER: *This guideline records the views of the drafters. There may be justifiable variations in practice which are brought out in the answers. When this happens the examiner should apply his discretion in marking the answer.*

QUESTION 1

[30]

- 1.1 (a) Money held or received on account of client; (1)
Money for replacement of any such monies which may by error have been drawn from your Trust Account; (1)
A cheque or a bank guarantee received in lieu of payment of Trust and Business monies; (1)
Deposit on account of fees and disbursements. (1)
(4)
- (b) Money required for payment to or on behalf of a client or towards payment of a debt due to an attorney from a client; (1)
Money drawn on a client's mandate; (½)
Money due to an attorney; (½)
Money paid into the Trust Account in error; (1)
Deposit for fees and disbursements once such services are rendered. (1)
(4)
- 1.2 The attorney must carry out a detailed comparison of all client's Trust credit balances (2) with the client's Business debit balances (1) and transfer those amounts representing debit balances in business (2) provided there are Trust credit balances to cover such debit balances. (2)
(7)
- 1.3 The attorney examines his/her Trust Creditors (1) and determines which credit balances are not required for payment (1) immediately or in the immediate future. Those amounts which are not so required will be available for investments in terms of Section 78(2)(a). (1)
(3)

- 1.4 (a) Trust Cash Book (1)
 Business Cash Book (1)
 Trust Journal (1)
 Business Journal (1) (4)
- (b) Trust and Business Cash Books used for recording all cash transactions (receipts and payments). (2)
 Trust and Business Journals are used to record all non cash transactions, and transfers. (2) (4)
- 1.5 Every 3 months. (2)
- 1.6 5 Years. (2)

QUESTION 2

[30]

NOTE TO EXAMINER

One mark must be given for each entry. Total of entries = 30.

TRUST CASH BOOK

Correspondent	2 358	Currie	1 608
		Ngwenya	579
		Business Account	171
	<u>2 358</u>		<u>2 358</u>

CORRESPONDENT (T)

Clients - collections	3 400	Bank	2 358
Transfer to Business	171	Clients - fees and disbursements	1 213
	<u>3 571</u>		<u>3 571</u>

CURRIE (T)

Correspondent fees & disbursements	892	Correspondent - Rice	2 500
Bank self	1 608		
	<u>2 500</u>		<u>2 500</u>

NGWENYA (T)

Correspondent fees & disbursements	321	Correspondent - Nsomi	900
Bank self	<u>579</u>		
	<u>900</u>		<u>900</u>

CORRESPONDENT (B)

Allowances	<u>171</u>	Transfer ex Trust	<u>171</u>
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TRUST JOURNAL

Correspondent (T)	3 400	
Currie (T)		2 500
Ngwenya (T)		900
Transfer cash collected from debtors		
Currie (T)	892	
Ngwenya (T)	321	
Correspondent		1213
Transfer correspondent's gross fees and disbursements		

FEES JOURNAL

Correspondent (B)	171	
Fees		150
Output VAT		21
Correspondents allowances		

TRANSFER JOURNAL

Correspondent (T)	171	
Correspondent (B)		171
Transfer allowances		

FEES

	Correspondent allowances	150
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OUTPUT VAT

	Correspondent	21
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BUSINESS CASH BOOK

Transfer ex trust	171
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QUESTION 3

[40]

NOTE TO EXAMINER

One mark must be given for each entry. Total of entries = 37. 3 marks must be given for general presentation.

TRUST CASH BOOK

Kennedy		Building Soc. Investment	100 000
- Deposit	100 000	Receiver of Rev.	
- Costs	12 000	Transfer duty	6 800
- Compromise offer	62 000	Building Soc. Investment	45 000
- Divorce	12 500	Advocate - Kennedy	1 200
Dreyer - Kennedy	900	Building Soc. Investment	10 000
Building Society	101 500	Transfer to Business	570
	<u>288 900</u>	Balance	<u>125 330</u>
			<u>288 900</u>

MRS KENNEDY - TRUST ACCOUNT - HOUSE PURCHASE

Receiver of Rev.		Deposit received	100 000
transfer duty	6 800	Deposit for costs	12 000
Balance	<u>106 700</u>	Interest on investment	<u>1 500</u>
	<u>113 500</u>		<u>113 500</u>

TRUST INVESTMENT - KENNEDY - SECTION 78(2A)

Building Society	100 000	Building Society withdrawn	100 000
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MRS KENNEDY - TRUST ACCOUNT - COMPROMISE OFFER

		Cash - self	62 000
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TRUST INVESTMENT - SECTION 78(2)(a)

Building Society	45 000		
Building Society	10 000		

FEES JOURNAL

Mrs Kennedy Divorce (B) Fees VAT Output Interim divorce fee	570	500 70
Mrs Kennedy Divorce (T) Mrs Kennedy Divorce (B) Transfer fees and disbursements	570	570

MRS KENNEDY - TRUST ACCOUNT - DIVORCE

Paid to Advocate	1 200	Deposit	12 500
Transfer to Business	570		
Balance	<u>10 730</u>		
	<u>12 500</u>		<u>12 500</u>
		Balance	<u>10 730</u>

MRS KENNEDY - BUSINESS ACCOUNT - DIVORCE

Interim fee	<u>570</u>	Transfer ex Trust	<u>570</u>
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FEES

		Kennedy divorce	500
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BUSINESS BANK BOOK

Transfer ex trust	570		
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VAT - OUTPUT

		Kennedy - divorce	70
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