

# Tutorial letter 201/2/2018

## PROFESSIONAL ETHICS

LJU4802

Semester 2

Department of Jurisprudence

**IMPORTANT INFORMATION:**

This tutorial letter contains important information  
about your module.

BAR CODE

## CONTENT

- 1 FEEDBACK ON YOUR ASSIGNMENTS
- 2 PREPARATION FOR THE EXAMINATION

---

### 1 FEEDBACK ON THE ASSIGNMENTS

---

**ASSIGNMENT 1: 30 / 3 = 10 MARKS (10% of the semester mark)**

***Ex parte: Mdyogolo (55/15) [2016] ZAECGHC 118 (28 October 2016)***

- 1.1 **What does section 15(1)(a) of the Attorneys Act 53 of 1979 provide? Who bears the onus of proof? (3)**

[1] "...section 15(1)(a) provides that a person may only be admitted and enrolled if he or she, 'in the discretion of the court, is a fit and proper person to be so admitted and enrolled'. An onus rests on an applicant to satisfy the court that he or she is, indeed, a fit and proper person."

- 1.2 **Name and briefly discuss the 3 criminal offences committed by the applicant (6)**

[3] and [4] The first was a conviction of theft. The applicant stole a cassette tape from a shop. He was sentenced to two months imprisonment.

The second was a robbery with aggravating circumstances. He was armed with a semi-automatic rifle, robbed a petrol filling station.

The third offence was driving a motor vehicle while his blood alcohol level exceeded the legal limit. He was fined R1 500.

- 1.3 **Is the mere fact that a person has committed an offence a bar to his or her admission or a trigger for his or her name to be struck from the roll? Discuss referring to examples as mentioned in the case. (8)**

[30] The mere fact that a person has committed an offence is not a bar to his or her admission or a trigger for his or her name to be struck from the roll. Examples are: the Mandela case and the Krause case.

*Mandela*: "The sole question that the Court has to decide is whether the facts which have been put before us on which the respondent was convicted show him to be of such character that he is not worthy to remain in the ranks of an honourable profession..."

[31] *Krause*: In this case it was held that it was not the mere fact of a criminal conviction that was relevant to whether a person should not be admitted as an advocate or attorney. ...in most cases the fact of the criminal conviction shows the man to be of such a character that he is not worthy to be admitted to the ranks of an honourable profession.”

#### 1.4 Discuss the handling of the matter by the Cape Law Society (10)

[36] – [40] The Cape Law Society did not take part in the proceedings as requested but filed an affidavit in which it endorsed the application. They found the applicant to be fit and proper for the profession as they viewed his transgression (the robbery) politically motivated. This was unacceptable as the founding affidavit should have raised a red flag. The date of the robbery was two months after the dawn of the new democratic South Africa. The explanation by the applicant that he committed the offence in the course of the armed struggle was unlikely to be true. The Law Society should have investigated the matter more before a decision could be taken. Reference was made to the case of *Moseneke*. In *Mtshabe* it was stated that the legal profession should maintain professional and ethical standards for the interest of the profession and the public. The Court found it extraordinary that the Cape Law Society did not consider an investigation necessary.

A Law Society should fulfill the role of an *amicus curiae* in an application to be admitted. The Cape Law Society failed this and therefore the Eastern Cape Society of Advocates appeared in this role. The application was dismissed.

**Three marks are awarded for neat and systematic work!**

### ASSIGNMENT 2 – MULTIPLE CHOICE ASSIGNMENT (Counted 10% of the semester mark)

#### Question 1

3 was the correct answer

#### Question 2

2 was the correct answer

#### Question 3

2 was the correct answer

#### Question 4

1 was the correct answer

#### Question 5

3 was the correct answer

### Question 6

3 was the correct answer

### Question 7

1 was the correct answer

### Question 8

4 was the correct answer

### Question 9 (Disregarded!)

2 was the correct answer

### Question 10

2 was the correct answer

---

## 2 PREPARATION FOR EXAMINATION

---

It is your responsibility to ensure that you check with the University as to whether you qualify to sit for the examination or not. Check your Tutorial Letter 101/2018 for examination admission information in this course.

When preparing for the examination, bear in mind the following:

- You have received two tutorial letters (including this one).
- You have all the study material prescribed in your **Professional Ethics Study Guide LJU413J (LJU4802)**. PLEASE WATCH THE YOU TUBE VIDEOS UNDER "ANNOUNCEMENTS" ON *myUNISA*.
- You will be required to answer all the questions in the examination. The total of the examination is 100.
- **Please note: You need to plan your time well.**
- The duration of the examination will be two hours – **you will have to write fast!!!!**
- We expect you to use good language and structure your answers well.
- There is nothing like an exam scope. Every prescribed reading material in this module is examinable.

**PLEASE NOTE!**

For a varied number of reasons, students do well in assignments. Be warned! If you obtained a good mark for your assignments, it does not necessarily mean that you will obtain a good mark in the examination. The examination is written under very different circumstances, there is a time limit, and your knowledge is tested without you having your study material in front of you. **There will be no multiple choice questions in the examination!**

With best wishes

**PROF M SLABBERT  
DR MM MSWELA**