



# The Legal Luminary

## In-house E-Newsletter of the Legal Department

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### From the Editor!

Good day and welcome to another edition of the Legal Luminary. In this edition we review the ethics of the Legal profession. As we all know the Legal profession is considered as noble and the ethics are principles, conventions, practices guidelines which regulate the attitude, conduct and behavior expected by lawyers at all times.

As we reach the half year mark of 2012 it is s important to re- assess your goals and achievements. How much of your set goals have you been able to achieve in six months? Do not be discouraged by any set backs, instead continue with efforts to reach the mark and with determination coupled with prayers you will succeed. Please send in your comments and questions and enjoy this month's package.

### Q. What is non-interest banking ?

**A.** Non Interest banking otherwise popularly known as Islamic banking, as the name implies is an interest free type of banking. Islamic concepts influence the packaging of instruments that can be introduced in the domestic financial market. The most important being the prohibition against the payment and receipt of a fixed or predetermined rate of interest (Riba), as in conventional banking system. This is replaced by a Profit-and-Loss Sharing (PLS) arrangement, whereby the rate of return on assets held is not known and not fixed prior to the undertaking of each transaction. Other important principles upon which the modern Islamic financial framework rests are: Prohibition of Uncertainty or Speculation: Everybody participating in

any financial transaction must be adequately informed and not cheated or misled; Prohibition of Financing Certain Economic Sectors: Investment is forbidden in what are considered to be socially detrimental activities, such as gambling, pornography, alcohol and armaments; Importance of Profit and Loss Sharing: The investor and investee must share the risk of all financial transactions; and, Asset-Backed Principle: Financial transactions should be underpinned by an identifiable and tangible underlying asset.

Nigeria's first licensed Non-Interest Bank, Jaiz Bank Plc has commenced full operation having three branches in Abuja, Kaduna and Kano. The introduction of Islamic banking is part of a drive by the Central Bank of Nigeria to propel Nigeria's economy and promote financial inclusion

### THE ETHICS OF THE LEGAL PROFESSION

### Inside this issue:

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### Jokes & Quotes



### NEWS

A Dana Air plane with 153 passengers and crew on board crashed in a residential area in the Iju-Ishaga Alagbado area of Lagos on June 3rd killing some residents. Several staff of CBN and other eminent Nigerians were on board the flight.

The President has immortalized the acclaimed winner of the June 12, 1993 Presidential election, Chief MKO Abiola by re naming the University of Lagos after the late sage.

National Security Adviser, Gen. O. A Azazi was removed from office on the 22nd of June along with the Minister of Defence Alh. Haliru M. Bello.

Law is an indispensable tool in the transformation and reformation of the society and it is therefore said to be *otios* (hub of the society). It has been established by various schools of thought that without law there is bound to be anarchy (e.g. violation of human rights, abuse of rule of law etc). It also regulates human activities and conducts in the society.

In legal profession, the players and stakeholders are the courts, lawyers and the society at large. In search of justice, members of the society have direct access to the courts. It is trite law that under S.36 of 1999 CFRN, a person shall be entitled to a fair hearing by representing himself in person or through counsel of his choice.

In reality, a person who is not professionally trained as a lawyer has little or no chance to effectively fight his own legal battle. In fact he/she will be overwhelmed by the extensive exercise of legal technicalities and expansive procedures that are associated with the legal profession. Therefore the only viable option of approaching the court to seek justice is through a legal practitioner though it is a costly affair.

Law being a noble profession, the lawyer is expected to be an indefatigable defender of the oppressed with an independent spirit and great sense of justice. Without mincing words, I will describe law as a blessing of the Lord that maketh rich and added no sorrow. It is also like wine, that gets better with age. The profession of law is rightly regarded as holding the key to societal ethics, norms and values. As a lawyer puts on his wigs he/she has come to the end of the first stage of his training and begins his last journey into the noble profession which demands the highest degree of impeccable conduct as a lawyer is expected to live a disciplined life. The

legal profession emphasizes good conduct both at the Bar and the Bench, which must be maintained inside and outside the court. Therefore, lawyers are expected to imbibe and equip themselves with the following ethics:

- A lawyer being a disciple in the temple of justice, is an officer of the court and ipso facto has a duty not to do any act or conduct himself in any manner whatsoever that may obstruct, delay or adversely affect determination or disruption of justice - [see Rule 10-RPC].
  - The legal profession does not encourage sharp and illicit practices. (the recent case of former AGF/Minister of Justice, Chief Andoaka and LPDC is a case in point);
  - The Lawyer should establish an honest practice because his reputation above every other thing comes first. He must therefore, maintain a high degree of integrity;
  - He should avoid all forms of infamous conduct (see the case of Charles Okike Vs Legal Practitioners Disciplinary Committee - LPDC) (2005)15 NWLR Pt.949Pg.471. Infamous conduct was defined in the case of Thomas Richard Allison V General Council of Medical Education & Registration (1894) 1QB P.750 as - where a professional man in pursuit of his profession has done anything which would be reasonably regarded by his professional brethren of good repute and competency to be disgraceful. Therefore, where your colleagues see your conduct as disgraceful it is an infamous conduct going by the reasonable man assessment
- Contd on next page....



Some of the victims of the ill fated Dana flight



### SOCIAL DIARY

Trending now in NDIC:

The luminary felicitates with all successful candidates for 2011/2012 promotion exams especially members of the Legal Department Mr. A. E. Anyadiegwu, Mr. O.O. Kushimo, Mr. Marcus, Mrs. Ramatu Makinde and Mr. Tanko who got elevated to different positions.

The Corporation via its Legal Department in conjunction with Abba Global Legal Service successfully organised a one-day sensitization seminar for Judges tagged "THE CHALLENGES TO DEPOSIT INSURANCE LAW AND PRACTICE IN NIGERIA". which held on 27<sup>th</sup> June, 2012.

The Corporation received with deep sense of loss and sadness the sudden passing away of our staff, colleague and friend Mrs. Grace Orojinmi, which sad event occurred on the 12<sup>th</sup> of June, 2012. May her gentle soul rest in perfect peace.

It should be noted that for a charge of infamous conduct to succeed, there must be a serious infraction of acceptable standard of behavior or ethics of that profession. For instance in the legal profession, misappropriation of clients money is taken seriously as an infamous conduct, A lawyer occupies a fiduciary position of trust to his client. In the case of Onitiri V Fadipe Charge No.LPDC/TI/82 there was misappropriation of clients money which amounted to infamous conduct. A Legal Practitioner should adhere to the following principles;

- He should maintain a high level of social interaction with people of different sectors and segments of the society. He/She must also possess the ability to lead an exemplary life and exhibit particular traits worthy of emulation.
- Counsel should maintain a cordial business relationship with his colleagues; and must be transparent and trustworthy.
- Furthermore, Counsel should endeavour to pay his practicing fees yearly, immediately he is called to the Bar. Where a Legal Practitioner fails to pay his practicing fees, he will not be accorded the right of audience in the court and the right to sign legal documents will be removed from him. [see S.8 (3) LPA].

It is worthy of note that in several situations, clients trust their entire investments, their future and even their lives and those of their entire family or generation to their lawyers and once a lawyer is identified to be untrustworthy, he is doomed and the image of the profession is dragged in the mud. It should be noted that the Body of Benchers and the Disciplinary Committee of the Bar are the watch dogs for the offenders who breach the ethics of the legal profession. Any Lawyer found guilty of the above offences will be meted with the punishment of either striking off his name from the Register of Solicitors and Advocates in the Supreme Court; suspension for a number of years depending on the weight of the offence; and admonition or warning. Lawyers should therefore ensure they imbibe the above ethics for the interest of the profession and administration of justice in our society.