Balancing act between CAs and principals

Kim Hawkey – Editor

The relationship between candidate attorneys (CAs) and principals is, by nature, open to conflict. The power dynamic between the two groups is unequal and their interaction can affect the CA's success or failure in the profession.

A CA's experience during his articles forms the base for his legal career. If he is treated professionally and is able to observe client interactions, attend court hearings and become actively involved in matters, this will impact on the type of lawyer he becomes.

In turn, for a CA who is treated as the firm's photocopier and/or messenger, running from firm to firm delivering documents and standing in court queues for the greater part of the day, with no exposure to the substance of the law, his experience of articles will no doubt impact on his career prospects.

Currently there are more law graduates than there are CA positions, especially at firms that provide valuable training for candidate practitioners.

As an essential component to becoming a member of the attorneys' profession, a scarcity of CA positions can all too easily create an environment that lends itself to exploitation of such candidates, many of whom are desperate for a position – anywhere, at any price.

Two letters in this issue of *De Rebus* (p 4) highlight the animosity that can take place between CAs and their principals, and they bring into question the role the provincial law societies should play in disputes between the two.

In the first of these letters, a Durban CA has written to *De Rebus* in the hope of broadcasting the plight of exploited CAs. In her letter she lists the abuses that some CAs are exposed to and claims that she has no recourse other than writing to *De Rebus* due to what she perceives as an unhelpful provincial law society.

'[N]o matter how much we complain, we are told by our law society that it does not intervene in internal conflicts between principals and candidate attorneys,' she writes.

The 'abuses' she refers to include –

• being denied leave, including sick leave, study leave and to attend practical legal training;
• poor salaries and late payment of these; and
• general exploitation.

In the second of the letters referred to above, the KwaZulu-Natal Law Society (KZNLS) responds to the CA's claims. It states that, had it received the complaints on affidavit, it would have investigated them.

Further, in response to the complaint regarding salaries, the society states that while principals are encouraged to pay fair salaries, 'this depends on the principal's financial means' and '[t]he salary should not be the main concern of the CA'.

In respect of work hours, the KZNLS points out that the legal profession 'will not suit clock-watchers' and adds: 'A request from the principal to work beyond normal office hours is not unreasonable given the nature of the profession. Attorneys work long hours every day and a CA must be prepared to work beyond normal office hours in order to acquire the necessary training and be groomed into the discipline, values and ethics of the profession.'

These are fair comments, which also address the unreasonable expectations of some graduates.

Many of the prospective CAs currently entering, or wishing to enter, the profession are part of a generation termed the 'millenials', born between 1980 and 2001 and who are often viewed as having an inflated sense of entitlement.

In an article in *The Wall Street Journal*, the following was said about millenials in the work environment: 'If there is one overriding perception of the millennial generation, it's that these young people have great – and sometimes outlandish – expectations.'

Another extract reads:

‘Although members of other generations were considered somewhat spoiled in their youth, millennials feel an unusually strong sense of entitlement. Older adults criticise the high-maintenance rookies for demanding too much too soon. “They want to be CEO tomorrow,” is a common refrain from corporate recruiters’ (R Alsop ‘The “trophy kids” go to work’ *The Wall Street Journal* 21-10-2008 (http://online.wsj.com/article/SB122455219391652725.html, accessed 5-2-2013) adapted from R Alsop *The Trophy Kids Grow Up: How the Millennial Generation Is Shaking Up the Workplace* (San Francisco: Jossey-Bass 2008)).

There is, however, a difference between ‘outlandish expectations’ and what is fair and reasonable in the workplace, especially in a training environment. Abuse must be addressed regardless of perceptions – whether justified or not – of CA’s demands.

Aside from the labour law issues, these two letters thus highlight a simmering conflict situation that is unlikely to disappear without intervention from the profession.

Over the years I have heard horror stories of CAs being paid less than my monthly petrol bill and of others who have received absolutely no practical training after two years of articles.

Attorneys who take on CAs should be held accountable where they shirk their responsibilities.

What role then should the provincial law societies, who are often stuck between a rock and a hard place, be playing?

How best do they take a measured approach that is sensitive to both sides?

What is clear is that the issue needs debate by all members – and prospective members – of the legal profession.

Tell us: What role should the law societies play in disputes between CAs and principals? E-mail your comments to derebus@derebus.org.za.

Legal Practice Bill – the latest

On 31 January the Justice Portfolio Committee announced that public hearings on the Legal Practice Bill (B20 of 2012) would take place on 19 and 20 February, shortly after this issue of *De Rebus* went to print.

Among those who submitted written comments on the Bill were the Law Society of South Africa (LSSA) and the General Council of the Bar. *De Rebus* will be attending the parliamentary hearings and our next issue will contain a full report on what transpires during the hearings.

• See p 10 of this issue for an overview of the LSSA’s submissions on the Bill.