IMPLICATIONS OF UNETHICAL BUSINESS PRICING AND ACCOUNTING PRACTICES IN THE LEGAL PROFESSION IN KENYA: A CASE OF MEMBERS OF THE LAW SOCIETY OF KENYA

BY

CYNTHIA NJERI GITHUA

UNITED STATES INTERNATIONAL UNIVERSITY-AFRICA

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A Research Project Report Submitted to the School of Business in Partial Fulfillment of the Requirement for the Degree of Masters in Global Business Management (GMBA)

UNITED STATES INTERNATIONAL UNIVERSITY-AFRICA

SUMMER 2019
DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other college, institution or university other than the United States International University in Nairobi for academic credit.

Signed: ________________________ Date: _____________________

Cynthia Njeri Githua (ID 657127)

This project proposal has been presented for examination with my approval as the appointed supervisor.

Signed: ________________________ Date: _____________________

Dr. Zachary Mosoti

Signed: ________________________ Date: _____________________

Dean, Chandaria School of Business
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ABSTRACT

The main objective of the study was to examine the implication of unethical business pricing practices in the legal sector with emphasis on the Members of the Law Society of Kenya. The study was guided by the following specific objectives: To examine the nature of the current unethical practices in the legal sector in Kenya. To evaluate the implications of the unethical pricing practices in the legal sector in Kenya and finally, to determine mitigation strategies against the unethical pricing practices in the legal sector.

The study adopted a case study research design approach. The scope of the study was members of the Law Society of Kenya who are practicing in law firms based in the Nairobi Business District and Upperhill area. This study applied stratified random sampling technique. Questionnaires were used to collect the data. SPSS software was used to analyze the data. The analysis was descriptive and quantitative in nature. The descriptive analysis was involved in calculation of percentages, means and frequencies. Analysis of variance (ANOVA) was employed to determine the relationship between the independent variable which are overcharging, undercutting, misappropriation of client funds and billing fraud whereas the dependent variable is the in the unethical business pricing and accounting practices.

From the study it was also very clear that undercutting, overcharging, misappropriation of clients account and billing fraud were positively correlated to unethical business pricing and accounting practices in legal profession in Kenya. This concluded that an increase in these practices directly increases increased underperformance in legal profession in Kenya.

The study showed that the four independent variables are mainly caused by the following factors with greediness of lawyers leading as the major factor. Undercutting mainly being caused by stiff competition from other law firms, overcharging mainly being caused by greediness of legal practitioners, misappropriation of client accounts and billing fraud also mainly being caused by greediness.
The study showed that there are various mitigation strategies that can be used to curb the causes of unethical business pricing and accounting practices in the legal profession. Overcharging can be mitigated by diligent billing of cost for taxation by courts. Other practitioners’ unethical practices can be mitigated by reporting them anonymously by other practitioners. Clients aiding unethical practices can be mitigated by sanctioning clients engaging in unethical practices. Also, accurate and systematic oversight checks by law firms and disciplinary sanctions carried out by relevant regulation authorities are effective in mitigating unethical business pricing and accounting practices in the legal sector in Kenya. Other mitigation strategies include the prohibition of law firms from setting explicit or unspoken targets or unspoken targets for associates and partners.

The study recommended the Law Society of Kenya and other legal regulatory bodies to be aware and take these four factors leading to unethical business pricing and accounting practices seriously and to be intentionally aggressive to fight these factors leading to unethical practices in the legal profession. The study also recommended the Law Society of Kenya should be strict and carry out severe punishment to firms and lawyers found with professional misconduct through the relevant regulatory bodies. The study also recommended creation and provision of new law to fill the lacuna that is present in which many have used to be exploitive to the ignorant and unaware.

The study recommended further study on more of these factors that affect the legal profession which lead to increased unethical business pricing and accounting practices.
ACKNOWLEDGEMENT

I would like to give my sincerest gratitude first and most importantly to God for being my ever present help and guide throughout my entire research project. His grace has surely been sufficient. I would also like to acknowledge my supervisor Professor Zachary Mosoti for being supportive and encouraging as he guided me through the project. Further gratitude to my beloved parents Paul Githua Njoroge and Lilian Wambui Githua alongside my dear sister Lynette Wagio Githua for their immense encouragement and unwavering support. I would also want to appreciate all my close friends who supported and encouraged me during this process. Deepest gratitude to my dear friend George Kariuki for his unwavering support and encouragement that was unfettered.
DEDICATION

I dedicate this research project to my dearest parents Paul Githua Njoroge and Lilian Wambui Githua for their unfettered support throughout my entire research study. They have selflessly sacrificed to sponsor my studies.
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CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of the Study

For businesses to thrive in a conducive environment there are a number of factors that need to be observed and encouraged by the stakeholders. These factors include ethical business practices, quality regulatory reforms, stringent legal reforms, fewer cumbersome procedures, shorter time periods for goods and service delivery among others. Ethical business practices have been known to facilitate success. They promote profitable growth, increase stakeholder’s trust and support fair competition and equality (Merko Ehitus Group, 2014).

The legal sector just as other sectors holds great economic power in the society and promotes great business opportunities. Despite the fact that the practice of law is a means of economic livelihood, it is not solely a commercial activity (Romine, 1977). The legal profession has its backbone as being a branch of the administration of justice as it helps the judicial system function impartially, ensure the public has the opportunity to be justly heard and represented before a court of law (Romine, 1977).

If the legal profession is to honor its responsibilities to public service, it is essential that the society which it serves should not view the professional abilities of lawyers as representing avaricious and purely personal efforts to obtain wealth. Instead, the goal of the profession should be to impart to all segments of society the understanding that lawyers are primarily devoted to public service and to the pursuance of justice and are allowed compensation commensurate with professional efforts. If an attorney ignores this philosophy his imprudence should warrant discipline (Romine, 1977).

In the legal profession, business is carried out as an exchange of services takes place. Over the years the profession has gained popularity as more opportunities that required legal services have arisen. Like every booming business, there are a few individuals who make the choice of using unethical means as a shortcut to getting successful deals which are quite lucrative. Globally, the
The legal profession has had to fight various unethical practices that threaten to undermine the integrity, nobility, great standards and moral standing of the profession (Romine, 1977).

A lawyer who offers himself to practice the vocation of representing the people in their legal battles; a professional who, for a deserved fee for his skilled labour, offers himself as an advocate to intercede for his clients in the legal crossfire of litigation or prosecution — must do so with the full understanding and complete commitment to observe and uphold the profession’s creed and doctrine of ethics (Ogoola, 2014).

According to (Cap 16, 2014) there are various professional misconducts that are highlighted that when engaged in, are deemed to be an offence. They include sharing profits with an unqualified person or other duly qualified legal practitioner, touting; which is whereby an unqualified person procures or attempts to procure the employment of an advocate in any matter or solicits from the advocate any such payment or advantage and undercutting.

It is also professional misconduct for advocates to directly and indirectly to seek professional business in a way which can be reasonably regarded as touting or advertising beyond the extent permitted in the Advocates( Marketing and Advertising ) Rules (Code of Ethics and Conduct for Advocates, 2015).

It is equally unethical for a legal professional not to observe confidentiality of Advocate-Client communication. In fact, unauthorized disclosure of client confidential information amounts to professional misconduct. It is unethical for an advocate to represent both sides of dispute or continue where there is a conflicting interest, unless he/she makes adequate disclosure to both clients and obtains their consent (Code of Ethics and Conduct for Advocates, 2015).

An advocate who engages in another profession, business or occupation concurrently with the practice of law must take care and ensure that such outside interests do not jeopardize the Advocate’s professional integrity, integrity, independence or competence or the standing of the legal profession (Code of Ethics and Conduct for Advocates, 2015).

Advocates that acquire wealth the right way typically acquire wealth over a long period time. Advocates charge for the work they perform. Therefore, fees must be earned task by task. Often
times the fees that an advocate is entitled to charge increases as an advocate’s reputation and expertise increase. To grow wealth steadily, the practice of law requires patience, honesty and trust. The more trustworthy the lawyer, the more the lawyer’s clientele will grow and economic opportunities will increase (Ogoola, 2014).

Therefore, it is this lack of patience, overwhelming greed and ignorance to moral standards already set that pushes individual advocates to unethical business practices such as undercutting and overcharging of legal fees (Ogoola, 2014).

Undercutting is the unethical pricing strategy in which a product or service is set at a very low price with the intention to drive competitors out of the market or create business barriers to entry for potential new competitors. Some lawyers price their services below the prescribed fee in order to outcompete others. Overcharging on the other hand is inflating fees unjustifiably particularly to unsuspecting clients who are unaware of the extent of inflation. This undermines confidence in the professionalism and integrity of the advocate (Code of Ethics and Conduct for Advocates, 2015).

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client’s ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all (American Bar Association, 1908).

Overcharging of legal fees has raised global debate and the question as to what constitutes reasonable or unreasonable charging of fees is yet to be determined. Attorneys are entitled to fees which adequately compensate them for their service, and an attorney has a right to contract for any fee he chooses so long as it is not excessive. A review of the leading cases involving excessive fees ought to establish conclusive principles which courts apply in determining the reasonableness or unreasonableness of an attorney’s fee. This however, is not the case, there this so much uncertainty in this area of legal ethics (Romine, 1977). It is this grey area that has been a well exploited loophole by greedy attorneys bringing about unethical pricing practices that have cheapened the trade.
This unethical business is happening widely in Africa as a continent too. In Nigeria for instance, it is stated that a lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee (Nigerian Bar Association, 2007). Despite this being the law, Nigeria has had several cases of lawyers undercutting fees and compromising the integrity of the noble trade. It happens in the legal environment when a lawyer charges a client a particular professional fee for legal service to be rendered and the client says ‘I know a lawyer who will do it for less the price’. The sad reality is when you let those clients go, they actually get the services of a lawyer who would offer the same service for less the price (Bulusson, 2017).

In Uganda, the legal profession is also guided by a few statutes which stated clearly that undercutting is unlawful. No Advocate shall accept or agree to accept remuneration at less than that provided by these Rules except where the remuneration assessed under these Rules would exceed the sum of twenty thousand shillings, and in that event the agreed fee shall not be less than twenty thousand shillings (Cap 267, 2002). This is further reiterated when stated that under section 74 (1) (g) and (h) makes it unlawful for an Advocate to undertake professional business for any fee or consideration which shall be less than the scale of charges, if any, for the time being in force (Cap 267, 2002).

Here in Kenya, undercutting has been rampant and has proved to be a challenge despite the plethora of laws being enacted year in year out. Former Chief Justice Willy Mutunga in April 2014 published the Advocates (Remuneration) (Amendment) Order 2014 whose main aim was to review lawyers’ fees in light of the increased demand for their professional services in various sectors of the economy. The regulations raised the fees charged by advocates by about 40 per cent especially in services such as conveyance, filing of suits, registration of trademarks and debt collection (Odhiambo, 2015).

The new regulations prohibit advocates from getting into agreements with clients who allow the former to charge fees at a scale lower or higher than the prescribed fees to avoid unnecessary price wars. Insiders said deals in real estate and land transactions are some of the hardest hit by the price undercutting because they are more regular and involve high price values. Due to these lucrative returns gotten form some lawyers and law firms are allegedly charging as low as a third
of the prescribed fee to maximize on the number of deals bagged and boost their overall earnings (Odhiambo, 2015).

The legal profession is regulated by a number of statutes which provide guidelines for the legal business practice. These statutes include the Advocates Act Cap 16, Advocates Remuneration Order of 2014, Advocates Code of Conduct and Ethics 2015.

1.2 Statement of the Problem
The legal profession is both a noble calling and a business which benefits not only the lawyers but also the public who are the clients who obtain these legal services. The legal profession is governed by regulatory framework comprising of statutory provisions, a series of subordinate legislation, Digest of Professional Conduct and Etiquette and a number of guidance documents issued by the Law Society of Kenya (Code of Ethics and Conduct for Advocates, 2015).

Undercutting and overcharging of legal fees have been practices that have created unfavorable business environment to the trade. This also includes billing fraud practices by lawyers. This paper shall also address the unethical practices concerning client accounts and how lawyers have been on the limelight over distasteful theft and economic manipulations against the clients. There is a need to create solutions to the loopholes that have fuelled the growth of these unethical practices. Overcharging is also an offence but it is a controversial one since the Act does not stipulate the maximum amount one can charge (Warira, 2013).

To the best of my knowledge, there has not been much study done to find out the implications of unethical business practices in the legal sector. This particular study hoped to explore the lacunas in the legal profession and find mitigating solutions that will help curb these unethical practices so as to preserve the dignity, integrity and uphold the values of the noble profession and business.
1.3 General Objective

The general objective of the study was to study the implication of unethical business pricing and accounting practices in the legal profession in Kenya with emphasis on the members of the Law Society of Kenya.

1.4 Specific Objectives

1.4.1 To examine the nature of the current unethical pricing and accounting practices in the legal profession in Kenya.

1.4.2 To evaluate the implications of the unethical pricing and accounting practices in the legal profession in Kenya.

1.4.3 To determine mitigation strategies against the unethical pricing and accounting practices in the legal profession in Kenya.

1.5 Significance of the Study

1.5.1 Law Society of Kenya

This particular study will increase the awareness of the Law Society of Kenya and its members in particular, in regards to the unethical business pricing and accounting practices in the legal profession. It will also promote transparency among the members and encourage them to have integrity. This study will increase the much needed knowledge to the members of the Law Society of Kenya. This study will encourage the members of the Law Society of Kenya to be of high moral and ethical standing and most importantly be an honorable face of the profession.

1.5.2 The Clients

The clients will increase their knowledge from the contents of this study. The clients will also be more informed and empowered to know their rights which will in turn protect them from greedy lawyers with the intention of exploiting the uninformed public. This study will greatly increase awareness of clients.
1.5.3 Policy Makers

This study will help policy makers with information that will increase their awareness to the current lacunas in the law. It will also greatly help them come up with effective policies which create well informed solutions that can be of beneficial use to the legal sector and the public at large. The knowledge will encourage policy makers to create policies that are practical and implementable.

1.5.4 The Researchers

The researchers will benefit from the study by discovering and having new data and information. This study shall help them to have a reference source of information for future research. The study will increase knowledge for the researchers and more awareness of the topic at hand.

1.6 The Scope of the Study

This study focused on the members of the Law Society of Kenya who are practicing in law firms based in Nairobi. The study was done in August 2019.

1.7 Definition of Terms

1.7.1 Undercutting

This is charging less than the prescribed scale fees as provided in the Advocates Remuneration Order (Advocates Renumeration Order, 2014).

1.7.2 Overcharging

This includes inflating fees and disbursements incurred, misleading the client as to the client fees, generating unnecessary work as a basis for extra fees, misrepresent the amount of complexity of the work involved and claiming that that the work took time to carry out than it did and so on (Code of Ethics and Conduct for Advocates, 2015).
1.7.3 LSK

These are initials that stand for Law Society of Kenya. It is Kenya’s premier bar association, with membership of all practicing advocates (LSK, The Law Society of Kenya, 2018).

1.8 Chapter Summary

Chapter one of this study covered the introduction to the study topic giving the background of the study. It was followed by the statement of the problem, the purpose of the study which was also the general objective was given together with the specific objectives of the study. It was then followed by the significance of the study clearly spelling out the benefits of this particular study. There was also scope of the study and finally the definition of terms. Chapter two covered the literature review. Chapter three has the research methodology, chapter four has results and findings and finally, chapter five covered the discussion, conclusions and recommendations of the study.
CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction
The general objective of this chapter was to establish the significance of this study by studying the nature of the current unethical pricing and accounting practices in the legal sector, the implications of the unethical pricing and accounting practices in the legal sector and to determine the mitigation strategies against the unethical pricing and accounting practices in the legal sector in Kenya thereby, identifying an area where a new contribution could be made. The bulk of this chapter critically evaluated the different sources of secondary data relevant to this study, to establish a greater understanding of the research objectives highlighted in the previous chapter.

The legal profession has over the years been faced with a conundrum of dealing with unethical practices and professional misconducts which have increased the suspicion levels of the general public who are potential clients, consequently undermining the reputation of the noble profession. These unethical practices include undercutting and overcharging of legal fees by the lawyers, billing fraud and unethical manipulation and dishonoring client’s accounts.

2.2.1 Undercutting
Undercutting refers to charging for legal services at a lower scale than the prescribed under the Advocates Remuneration Order. According to (Cap 16, 2014) any advocate who holds himself out or allows himself to be held out, directly or indirectly and whether or not by name, as prepared to do the professional business at less than the remuneration prescribed by Advocates Remuneration Order shall be guilty of an offence. The rationale for this provision is that advocates are supposed to attract work not because of their low charges but because of the quality of legal services that they provide (Ojienda & Juma, 2011).

The unethical practice of undercutting has been rampant with the rise of very stiff competition from law firms in Kenya. According to Ndurya (2015), the Law Society of Kenya has expressed
concern about professional misconduct involving some law firms that charge far less than the recommended legal fees to undercut their competition.

The new regulations (Advocate Remuneration Order) prohibit advocates from getting into agreements with clients who allow the former to charge fees at a scale lower or higher than the prescribed fees to avoid unnecessary price wars. Insiders said deals in real estate and land transactions are some of the hardest hit by the price undercutting because they are more regular and involve high price values. Due to these lucrative returns gotten from some lawyers and law firms are allegedly charging as low as a third of the prescribed fee to maximize on the number of deals bagged and boost their overall earnings (Odhiambo, 2015).

If advocates comply with the provisions of the Advocates Act, which prohibit on undercutting on legal fees the dignity of the profession would be upheld. The standards of practice would then become the sole measure of the fees which any particular advocate could charge, over and above the prescribes minimum fees (Ahmednasir Abdikadir & Co Advocates v National Bank of Kenya Ltd, 2006)

Accordingly, an agreement between a client and an advocate where the advocate agrees to undercut is illegal ab initio (at first instance). This is because the advocate ought to know better and the courts will find him guiltier than the client since the advocate is deemed to be more knowledgeable on the law than the client (Ojienda & Juma, 2011).

2.2.2 Overcharging

Another unethical practice that has been a challenge to curb in the legal profession is that of overcharging of legal fees by advocates. A review of the leading cases involving excessive fees ought to establish conclusive principles which courts apply in determining the reasonableness or unreasonableness of an attorney's fee. This however, is not the case, there this so much uncertainty in this area of legal ethics (Romine, 1977). It is this grey area that has been a well exploited loophole by greedy attorneys bringing about unethical pricing practices that have cheapened the trade. This is seen when the Remuneration Order will clearly stipulate the lowest scale under which an advocate should not charge below. However, as far as overcharging is
concerned, it is not regulated as that of the undercutting vice hence the high exploitation by the advocates.

According to Ojienda & Juma (2011), there are three points to be considered in determining whether the fees charges are reasonable and unconscionable. These include whether the client made an informed decision in entering into the contract, whether fees charged are within the acceptable range charged in transactions of similar nature and lastly whether the circumstances have changes since the making of the contract and have made the contract unreasonable. Advocates are supposed to take their bill of costs for taxation in court. The rationale for this is to protect the clients especially those who are unsophisticated in matters of a lawyer’s compensation when the lawyer has overcharged.

According to American Bar Association (1908), factors that ought to be considered to determine the reasonableness of lawyers’ fees include the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; the experience, reputation, and ability of the lawyer or lawyers performing the services; and whether the fee is fixed or contingent. It should be noted that no single factor controls the reasonableness of a fee. The weight to be assigned to any given factor depends on the facts of the case.

Beyond those basic principles, there is no precise measure of reasonableness. A key element in determining the reasonableness of a fee is whether the lawyer disclosed to the client the “material elements of the fee agreement and of the lawyer’s billing practices.” Fees will likely be deemed unreasonable in cases where lawyers overreach with clients or abuse their relationships, where lawyers charge for duplicative services or tasks, where lawyers attempt to charge for overhead expenses without prior disclosure and client consent, or where lawyers are not candid in discussing the bases for the fee. Fees are also likely to be judged to be unreasonable if they
significantly exceed an initial estimate given by the lawyer without any explanation or justification for the difference, or where another competent lawyer performs the same services at a far lower cost (Richmond, 2008).

2.2.3 Billing Fraud

Fraudulent billing is another unethical practice that advocates have indulged in that has been a source of havoc in the legal profession. Gross (1996) states that between the two extremes of outright thievery and unfailing honesty, however, is the continuum of customary billing practices that is “legal but unethical” and the many lawyers who “are so blinded by self-interest” that they see no ethical difficulty in their billing habits. The very integrity of the legal profession is at stake when issues of overcharging are considered.

According to Richmond (2008), fraudulent billing plays a significant role in creating an unfavorable public image of lawyers. Billing unethically is clearly perilous for the individual lawyers involved because there is a reasonable chance that disciplinary authorities or courts will view their misconduct as equivalent to misappropriating client funds, and the presumptive sanction for misappropriation is disbarment or indefinite suspension.

Fraudulent billing entails activities such as padding bills, billing two clients for the same time, doing unnecessary work to run the meter, and failing to disclose the basis of the bill (Lerman, 1990). This is further expounded by Lerman (1998), when billing fraud took various forms such as some lawyers are just sloppy about keeping time records. Some systematically "pad" timesheets, or bill one client for work done for another. Some create entirely fictitious timesheets. Some record hours based on work done by other lawyers, paralegals or secretaries, representing that they did the work. This may result in non-billable time being billed, or in work being billed at a rate higher than that of the person who actually did the work. Some lawyers bill for time that their clients would not regard as legitimately billable. The methods of expense fraud are equally diverse; the lawyers who engage in expense fraud may be stealing from their clients or their partners or both.
2.2.4 Misappropriation of Client Accounts

Misappropriation of client accounts is also a very rampant unethical practice that has raised concern over the years and recent times. LSK (2002) states under section 11 that if a cheque drawn on a client account is dishonored professional misconduct is disclosed and disciplinary action will follow. Failure to produce an Accountant Certificate (or statutory declaration in lieu thereof) pursuant to the Advocates (Accountant’s Certificate) Rules is professional misconduct in Kenya.

Attorneys hold money in a variety of circumstances, including possession of settlement checks, deposits for real estate transactions, and advances for attorneys' fees and costs. The funds usually are not secured, particularly because attorneys are not bonded. Only the profession's reputation and the honor of the individual attorney provide the security for client funds and the attorney's signatory power (Wolfram, 1986).

The Advocate shall not appropriate or convert any funds of the client held in trust or otherwise under the Advocate’s control without the express authority of the client. Any unauthorized appropriation or conversion shall be treated as professional misconduct (LSK, 2015). Advocates have become increasingly greedy and manipulative towards their client as they have higher knowledge of the law compared to their clients hence exploiting the opportunity to become unethical for their own benefit.

According to LSK (2015), improper handling of client’s funds contrary to the rules and good practice will be dealt with as professional misconduct. An Advocate has an obligation to promptly transfer to the client or third person funds received or being held on behalf of the client of third person. An Advocate may not use a client’s funds or property to set off payment of outstanding fees or expenses except with the prior agreement of the client. Refusal or other delay in transferring funds to the client or use of the funds for the Advocate’s own purposes amounts to misappropriation or conversion, both of which are criminal offences and amount to professional misconduct.
2.3 Implications of the Unethical Pricing and Accounting Practices in the Legal Sector in Kenya.

The unethical pricing and accounting practices carried out by the legal professionals in Kenya have had multiple effects to the society and the profession as a whole. These effects are not only experienced here at home in Kenya but similarly in other jurisdictions worldwide.

2.3.1 Implications of Undercutting to the Legal Profession in Kenya.

According to LSK (2015) undercutting brings about misunderstanding about fees and failure to adhere to the provisions of the Advocates (Remuneration) Order is a common cause of complaints against Advocates. The perception by a client that the fees charged are inflated or that the Advocate seeks to take advantage of the client will undermine the client’s confidence in the professionalism and integrity of Advocate. If such undercutting becomes widespread it poses the risk of bringing the legal profession into disrepute and undermining the administration of justice.

Advocates are supposed to attract work not because of their low charges but because of the quality of legal services that they can provide. Accordingly, the prohibition against undercutting is intended to ensure that the standards of legal services do not deteriorate (Ojienda & Juma, 2011). Clients or potential clients should not be in the position of doubting the honorability of advocates because one advocate has charged very low compared to another. Undercutting creates price wars and unfair competition between members of the legal profession.

Another effect of undercutting is that an agreement between a client and an advocate where the advocate agrees to undercut is illegal at first instance. The law holds an advocate to such agreements guiltier than the client since the advocate is deemed to be more knowledgeable on the law than the client (Ojienda & Juma, 2011). This creates distrust in the society as the very people clients expected to entrust are the very advocates willing to jeopardize the nobility of the legal profession.

2.3.2 Implications of Overcharging to the Legal Profession in Kenya.

Overcharging as an unethical practice has its effects to. Unjustifiably overcharging a client is to be discouraged, even if the client has agreed to the fee proposal, since in many instances the
client looks to the advocate to advise the client properly on the fees chargeable for the brief (LSK, 2015). If a client is overcharged and later comes to realize that the advocate greedily accepted or asked for me, there is a gap created and mistrust of the advocates and the legal profession as a whole surely sets in. The legal profession suffers as those expected to uphold the integrity and ethical standards of the profession cause its disrepute. However to inflate fees unjustifiably, particularly in respect of vulnerable clients, can undermine confidence in the professionalism and integrity of the Advocate. It can also undermine confidence in the legal profession (LSK, 2015).

Overcharging is also an offence but it is a controversial one since the Act does not stipulate the maximum amount one can charge (Warira, 2013). With such a looming lacuna, most unethical advocates have used this gap as a way to exploit clients and satisfy their appetite for money. The Remuneration Order 2014 acts as a floor as it stipulates the least fees on is legally allowed to charge. However, there not being a cap to the excessiveness of legal fees, this creates a temptation unethical advocates are unable to resist.

2.3.3 Implications of Billing Fraud to the Legal Profession in Kenya.

Beyond being blind to their own unethical billing practices, lawyers are thought to underreport abuses by their peers. “Unfortunately,” a veteran practitioner contends, “it must be recognized that billing abuses are widespread and are not confined to the few who have been prosecuted for fraudulent billing” (Phillips, 2002). Fraudulent billing plays a significant role in creating an unfavorable public image of lawyers. Unethical billing practices are corrosive in a variety of ways. They impair client relationships and bruise law firms' reputations. There is immeasurable risk that lawyers who bill unethically will behave dishonestly in other ways, and lawyers who see colleagues engage in unethical billing practices with impunity may become disaffected (Richmond, 2008).

Billing unethically is clearly perilous for the individual lawyers involved because there is a reasonable chance that disciplinary authorities or courts will view their misconduct as equivalent to misappropriating client funds, and the presumptive sanction for misappropriation is disbarment or indefinite suspension. Even lesser penalties, such as definite suspensions, can be
ruinous. A number of lawyers have faced serious criminal consequences for their billing fraud (Richmond, 2008).

According to Lerman (1998) billing fraud is far more difficult to detect than expense fraud, unless the lawyer is foolish enough to bill more than twenty-four hours per day. But regulation of this type of conduct is very difficult because no one except the lawyer really knows how much time or money was spent and how much was billed. Because this arena involves such a wide degree of personal discretion, those tempted to cheat may perceive, quite accurately, that the odds of getting caught are close to zero.

Ethics rules are not the only constraints on lawyers’ billing practices. The attorney–client relationship is fiduciary. The “defining characteristic” of this fiduciary relationship is the special relationship of confidence or trust that the lawyer assumes. Consistent with this special confidence and trust, lawyers owe their clients a fiduciary duty of loyalty. Lawyers who knowingly charge an excessive fee are disloyal and, therefore, breach their fiduciary duty to the client. Clients who believe their lawyers have fraudulently billed them or have knowingly engaged in unreasonable billing practices may sue for breach of fiduciary duty. Lawyers are presumed to know the rules governing their behavior. Unethical billing practices attributable to ignorance may be punished less harshly than those attributable to dishonesty, but they are punishable nevertheless (Richmond, 2008).

Self-interested lawyer deception of clients causes several types of harm. First, the professional reputation of individual lawyers and of the bar as a whole is damaged by the widespread use of small deceptions. It is widely recognized that people do not trust lawyers. Usually when lawyers lie to their clients, they are not confronted. The client may be entirely unaware of the deception, or may sense that something is amiss but not know exactly what. A second type of harm that results from lawyer deception of clients is damage to lawyers' internal standards of integrity. The maintenance of high standards of personal integrity in the context of sometimes intense business pressure requires clear individual and institutional values and constant vigilance, because so many problems and complaints could be avoided through the use of deception (Lerman, 1990).
Many law firms evaluate and compensate lawyers primarily on the basis of the number of hours they bill. The preoccupation with income has led some firms to set billable hour requirements so high that they virtually require billing fraud. Civil suits have been brought against many lawyers and firms for malpractice, breach of fiduciary duty or wrongful discharge. Lots of the law firms have reimbursed clients and then sued their former partners. Many lawyers have been ordered or have agreed to pay damages for their billing and expense fraud (Lerman, 1998).

2.3.4 Implications of Misappropriation of Client Accounts in the Legal Profession.

Complaints arising from misappropriation and or conversion of client’s funds constitute the majority of complaints for professional misconduct lodged against Advocates. Often these complaints are categorized as “failure to account” or “withholding of funds” but the underlying problem is misappropriation or conversion of funds. Not only does it undermine confidence in the legal profession as a whole but it undermines the administration of justice (LSK, 2015).

According to LSK (2015) , issuing a cheque drawn on Client’s Account which is dishonored (that is, returned unpaid) for lack of funds; failure to produce an Accountant’s Certificate (or statutory declaration in lieu thereof) pursuant to the Accountant’s (Certificate) Rules; failure to maintain a separate client’s account and evidence of co-mingling of funds or use of client’s funds to finance office or personal expenses; trading with client’s money, through for instance delaying payment of the funds to the client to enable the Advocate earn interest on the money contrary to the Advocate’s (Deposit Interest) Rules which all amount to misappropriation of client funds result to professional misconduct and is an offence.

2.4 Mitigation Strategies Against Unethical Practices in the Legal Sector in Kenya.

Unethical practices conducted by the very people the society has been made to believe will protect them from has raised great concern to the legal regulatory bodies and an urgency to mitigate such unethical practices and effects needed.

The Law Society of Kenya has expressed concern about professional misconduct involving some law firms that charge far less than the recommended legal fees to undercut their competition. “It has come to the attention of the Council of the Law Society of Kenya that some law firms and
advocates are undercutting by charging fees less than what is provided for under the Advocates
Remuneration Order” (Ndurya, 2015).

2.4.1 Invalidation of Agreements Obtained Through Unethical Means from its First
Instance.

According to the Act, the Advocates Remuneration Order is reviewed periodically, taking into
account, among other things, inflation and other costs associated with providing legal services.
The Advocates Order is very clear and gives the Council powers to invalidate an agreement
where someone has been able to prove that a professional colleague has undercut them.

It is acknowledged that it had not been easy identifying culprits because some of the aggrieved
lawyers are afraid to report their colleagues, who might end up being dismissed from legal
practice. Members of the legal profession have been called upon to report any professional
misconduct that is executed in the legal practice lawyers cannot charge less than what is
recommended in the remuneration order but they are allowed to ask for more depending on the
complications involved in a suit (Ndurya, 2015).

2.4.2 Billing of Costs for Taxation in Court.

Another mitigation strategy is stated by Ojienda & Juma (2011). Advocates are supposed to take
their bill of costs for taxation in court. The rationale for this to protect the clients especially those
who are unsophisticated in matters of the lawyer’s compensation, when a lawyer has
overcharged. This arises because clients do not know how the lawyers charge and cannot
effectively bargain at an arm’s length with the lawyers. This strategy should be carried out
diligently by the courts so as ensure overcharged bills are normalized by court orders.

A review of the leading cases involving excessive fees ought to establish conclusive principles
which courts apply in determining the reasonableness or unreasonableness of an attorney's fee.
This is not, however, the case. Instead, there is a considerable amount of uncertainty in this area
of legal ethics (Romine, 1977). In Kenya, we have regulatory statute which prescribes the lowest
amount of fees to charge but as for how much is excess is unclear as this is settled by court and it
varies with each case. A charging cap should be put in place as that which stipulates the highest fee to be charged.

2.4.3 Disciplinary Sanctions by the Disciplinary Authorities.

Billing and expense fraud may be the number one ethical problem in our profession. The growing financial pressure in firms has gravely damaged collegial relationships and mentoring and is partly responsible for the low esteem in which our profession is held. Lawyers who engage in billing and expense fraud should be fired, disbarred and prosecuted on criminal charges sued for malpractice. If all the relevant public and private organizations that have some responsibility for this problem take it seriously, I believe that we can change the norms in the profession so that lawyers are more candid and more truthful in billing clients (Lerman, 1998). This will motivate legal professionals to be ethical and more intentional in upholding the moral standards of the legal profession.

There is need for public and private regulatory responses that not only receive and investigate complaints, but also provide education, prevention, proactive monitoring, and remediation. This is a mitigation strategy that will help curb the unethical practices conducted in the legal profession (Lerman, 1998).

Because the articulated rules on billing are so vague, many lawyers are caught in a bind where they are under pressure from their firms to increase their billings, and they don't have any clear guidance telling them what is or is not okay. There should be clearer regulations that stipulate the extent in billing (Lerman, 1998).

2.4.4 Accurate and Systematic Oversight Checks by Law Firms.

Opportunity and lack of oversight appears to be a significant contributing factor. Many of the managing partners had unfettered discretion in their own billings and expenses, and in "editing" the timesheets of others. Firm culture is another major culprit. Many of the lawyers appear to have been affected by competitive pressures, and by adopting lifestyles that required more income than they could generate honestly. All these are contributing factors can be mitigated.
The effort involved in investigating and prosecuting these cases cannot be underestimated. Filing charges against a partner in a large firm is a resource intensive undertaking. But criminal prosecution, even of a small number of cases, may provide an effective deterrent to other lawyers. Lawyers, like other professionals, usually have jobs, families and reputations to protect. Most have never been arrested or charged with a crime. Deterrence may be more effective in dealing with white collar offenders than with criminals who have less to lose. (Lerman, 1998).

2.4.5 Prohibition of Law Firms from Setting Explicit or Unspoken Targets for Associates and Partners.

Prosecution and disciplinary action are necessary, but this problem cannot be solved without some other regulatory changes and dramatic changes in law firms. One way to discourage billing fraud would be to prohibit law firms from setting explicit or unspoken annual targets for associates and partners, and prohibiting the use of data on hours billed as a factor in retention, promotion, compensation or bonus decisions. The firms are putting enormous pressure on employees to bill more hours. Should we be surprised that some of them become cavalier about whether they actually work the hours they bill? Many corporate clients and government agencies have begun auditing legal bills. But the external auditors only catch a tiny fraction of the misconduct that occurs. It would be useful to have random audit programs to monitor billing and expense fraud. One could begin by auditing those who billed over 3,000 hours per year (Lerman, 1998).

2.4.6 Reporting of Unethical Practices and Conduct of Advocates by Advocates.

Law firms need to become more intolerant of billing fraud, and courts need to provide remedies for lawyers who are fired for raising concerns about unethical conduct. One way to discourage tolerance of billing and expense fraud would be to do what has been done in Illinois, and enforce the reporting rules against lawyers who know about and fail to report such conduct by other lawyers. Lawyer reporting of misconduct increased enormously after the Himmel decision, both in Illinois and in branch offices of Chicago law firms (Lerman, 1998).
In September 1988, the Illinois Supreme Court issued an opinion in a disciplinary case, suspending a lawyer for one year because the lawyer failed to report another lawyer’s misconduct. The decision rocked the legal profession in Illinois and beyond. For Illinois practitioners, the name of the unfortunate lawyer disciplined in the case of In re Himmel, has become synonymous with the reporting obligation set forth in Rule 8.3 of the Illinois Rules of Professional Conduct. Indeed, in Illinois legal vernacular, “Himmel” is a verb, as in “to Himmel another lawyer” by reporting her misconduct (Robinson, 2007).

Consideration of the impact of the Himmel decision on Illinois discipline must begin with the particulars of the Himmel case. Mr. Himmel agreed to represent a client whose former attorney, John Casey, had settled the client’s personal injury case and then converted the entire $23,233.34 portion of the settlement due to the client. On behalf of the client, Himmel negotiated an agreement with Casey whereby Casey promised to pay the client $75,000 and the client agreed not to initiate any criminal, civil, or attorney disciplinary action against Casey. Himmel’s agreement with the client entitled him to be paid one-third of any amount collected beyond the $23,233.34 Casey had initially converted. Due to Himmel’s efforts, the client recovered about $10,000 from Casey, but when Casey failed to pay any more, Himmel sued and the lawsuit was reported to the Attorney Registration and Disciplinary Commission (ARDC). Himmel insisted that he did not make a report to the Attorney Registration and Disciplinary Commission because his client directed him not to do so. The Illinois Supreme Court gave that argument short shrift, observing that a client cannot absolve a lawyer of a duty imposed by the Court. In aggravation, the Court found that Himmel’s failure to report had interfered with a timely Attorney Registration Disciplinary Commission investigation, with the result that Casey had converted funds from other clients after Himmel learned of, and decided not to report, Casey’s misconduct. The Court was particularly incensed that Himmel had bargained away his duty to report in return for economic concessions from Casey, which, the Court held, ran afoul of the criminal proscription against compounding a crime (Robinson, 2007).

Lawyers faced with potential disciplinary exposure make prompt reports, and particularly in cases where offending lawyers have high volume practices or are spending client funds, that promptness makes it possible for discipline to intervene more swiftly and limit the potential
damage that might be done by the offending lawyer. Enforcing a lawyer’s obligation to report enhances the public protections goals of attorney discipline (Robinson, 2007).

According to (Robinson, 2007) it is her belief that enforcing the reporting rule creates a leveling effect in terms of which lawyers are subjected to discipline. Jurisdictions which have published statistics, including Illinois, acknowledge that the overwhelming number of lawyers disciplined are sole practitioners. One reason is that a sole practitioner’s clients are more likely to complain to discipline. Clientele of a solo practice tend to be individuals, often of lesser means, who have little leverage if a lawyer fails to live up to their expectations, and most feel that complaining to discipline is their only hope.

In contrast, major corporate clients of a large firm tend to avoid complaints to discipline, and many resist becoming involved in discipline cases. It is much more efficient and palatable for them to seek a resolution of their grievances directly from the firm. Firms that become aware of serious breaches by their lawyers, for example, fraudulent billing of fees or expenses typically go to substantial lengths to quickly make the client whole (Robinson, 2007).

Many reports reflect a mixture of reluctance and relief, reluctance at finding oneself in the role of informer, relief that one is required to do something about conduct which all of one’s professional instincts say warrants attention. The Illinois experience suggests that as uncomfortable and even painful as a reporting obligation can be, enforcement of a duty to report precisely defined misconduct can play a significant role in enhancing the efficacy and fairness of lawyer discipline (Robinson, 2007).

Well, in all honesty, as much as lawyers have an obligation to report the professional misconducts of their fellow lawyers to the disciplinary bodies of the legal profession, there is still a lot of resistance to do so as professionals tend to protect each other as the industry players know each other. The disciplinary system cannot rely on clients as the sole source of reports of ethical violations. The people most likely to know of violations of ethical rules are other lawyers. Instead of requiring lawyers to report violations to the bar grievance committee, the disciplinary should require a lawyer who learns of an ethical violation to confront the violator. The Rules should require a lawyer to report a violator to the bar only if the violator fails to take adequate
corrective measures. A similar duty of confrontation is part of the ethical code used in the field of clinical psychology (Robinson, 2007).

### 2.4.7 Sanctioning of Clients.

Another strategy that can be imputed is that of sanctioning clients. Clients should be sanctioned for or in connection with their lawyers' misconduct in only two situations. The first is where the client is complicit in the lawyer's misconduct. Courts that sanction clients in this situation often describe a "coordinated effort" or a "concerted effort" between the lawyer and the client. The second is where a sanction will be meaningful only if it affects the client, or it is impossible to remedy the lawyer's misconduct without sanctioning the client (Richmond, 2012).

It is good practice for the Advocate to put in place systems and measures to safeguard against the use of his client account for money laundering activities. Such measures include: Ascertaining the identity and authority of the persons transferring funds into the Advocate’s account and the legitimacy and purpose of the funds transfer; Maintaining complete records of funds received from clients and third parties; Where there is reason to do so, making appropriate inquiries of the client and third parties as to the course or origin of the funds; Declining instructions where there is reasonable cause for concern that the acting of the client’s instructions will lead to possible contravention of the law against money laundering. These strategies will help maintain ethical and professional standards of the legal profession when dealing with client accounts (LSK, 2015).

The legal profession aspires to many ideals. Most lawyers are genuinely committed to professionalism and client service. But some lawyers don't share these values. They may or may not be educable, but even if one cannot sell them on integrity, one might be able to raise the price of misconduct high enough to change their behavior (Lerman, 1998).

### 2.5 Chapter Summary

This chapter covered literature review that was centered on supporting the research topic. It was based on literature with thoughts on the research objectives which were on the nature of the current unethical pricing and accounting practices in the legal profession in Kenya, the
implications of the unethical pricing and accounting practices in the legal profession in Kenya and the mitigating strategies against unethical practices in the legal profession in Kenya. Chapter three will cover the research methodology.
CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 Introduction

The purpose of this study was to study the implications of unethical business pricing and accounting practices in the legal profession in Kenya based on the case of members the Law Society of Kenya. This chapter describes the blueprint for the collection and analysis of data. This includes a discussion of the research design, the population and sampling design, data collection methods, research procedures and the data analysis methods.

3.2 Research Design

(Schindler & Cooper, 2014) defines research design as the overall plan adopted by the researcher to carry out the research. For the purpose of this study, descriptive correlation research design will be used. This research design leverages the advantages of both descriptive research approaches and correlational research designs in order to explain the natural occurrence of phenomenon as well as explain the relationships between the variables of a study (Tavakoli, 2013). The independent variable in this study is unethical business pricing and accounting practices whereas the dependent variable is the performance in the legal profession in Kenya. This research design was chosen because of the need to identify the implications of unethical business pricing practices have on the legal profession.

3.3 Population and Sampling Design

Population and sampling designs are concerned with the way the sample is constituted and how individuals in the sample are selected from the target population. A sampling design provides a detailed plan for arriving at a representative sample and specifies the type of sample used, the sampling frame, units needed from the population and the precise technique of selecting the units (Schindler & Cooper, 2014).
3.3.1 Population

(Saunders, Lewis, & Thornhill, 2012) the term “population” means all the subjects about which the researcher wishes to draw some inferences. Population is a larger collection of all subjects from where a sample is drawn. A target population is a well-defined collection of individuals or objects known to have similar characteristics (Serakan & Bougie, 2013). Rather than meaning everyone who lives in a country, it refers to all the items in the category of things that are being researched. It means a research population (Denscombe, 2010).

This research depended on data that was obtained from law practicing firms which are located within the Nairobi City Centre and Upperhill in Nairobi. The scope targeted will be ten law firms within the stated locations. The population scope is that of a total of 3700 persons.

Table 3.1 Population Size

<table>
<thead>
<tr>
<th>Practising Status</th>
<th>Population</th>
<th>Percentage %</th>
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</thead>
<tbody>
<tr>
<td>Active</td>
<td>2220</td>
<td>60%</td>
</tr>
<tr>
<td>Inactive</td>
<td>1480</td>
<td>40%</td>
</tr>
<tr>
<td>Total</td>
<td>3700</td>
<td></td>
</tr>
</tbody>
</table>

3.3.2 Sampling Design

3.3.2.1 Sampling Frame

A sampling frame is an objective list of all the subjects from which the researcher wishes to make some inferences (Denscombe, 2010). Welman & Kruger (2008) define sampling frame as a list that constitutes the population. The basic idea of sampling is that by selecting some of the elements in population, one can draw conclusions about the entire population. (Washington, Cunningham, & Pittenger, 2012). It can be thought of as the realistic version of the population, the ones which can be identified and accessed. Sampling frame as the listing of the elements in
the population from which the sample maybe drawn. Ideally the sampling frame would be a complete list of every member of the population, but in reality it is usually a subset of the target population to which the researcher has or can gain access (Zikmund, Carr, Babin, & Griffin, 2013).

Ideally, the sampling frame would be a complete list of every member of the population, but in reality it is usually a subset of the target population to which the researcher has or can gain access. The final sample itself is often a random selection from the sampling frame or another subsample of the population that is based on convinience . Ideally, the sample that a researcher settles on is as a representative subset of individuals drawn from the sampling frame which is hopefully a representative subset of the more general population (Washington, Cunningham, & Pittenger, 2012).

The list is sources from the LSK data base. The LSK maintains a regularly updated roll containing all the names of LSK members including those active, inactive, suspended, struck off, deceased and unknown (Law Society Of Kenya)

3.3.2.2 Sampling Technique

This study applied stratified random sampling technique. This technique takes into consideration the different subgroups of people in the population to guarantee that the sample fairly represents the population on specific characteristics (Saunders, Lewis, & Thornhill, 2012).

This is an improved type of random or probability sampling. In this method, the population is sub-divided into homogenous groups or strata, and from each stratum, random sample is drawn (Krishnaswami & Satyaprasad, 2010).

This method was able to give data on the various unethical practices and how rampant the cases are in numbers. The samples will give information on undercutting, overcharging, billing fraud and misappropriation of client accounts. This technique was used in the various law firms whereby through the data given on certain homogenous groups will aid in deriving conclusions at the end of the whole research process.
3.3.2.3 Sample Size

(Tavakoli, 2013) defines sample size as the subjects selected from the population to constitute a sample. Sample size is defined as the number of units, which can be the people accessible to the study (Sachdeva, 2009).

Calculation of an appropriate sample size depends upon a number of factors unique to the study and its down to the researcher to make the decision regarding these factors. The three most important are how accurate you want to be, how confident you are in the results to be and what budget you have available. The sample is the group of people selected to be in the study (Sachdeva, 2009).

(Gill & Johnson, 2010) proposed the following formula which will be used in this study to determine a representative sample:

\[ N = \frac{P(100-P)Z^2}{E^2} \]

Where; N = sample size required

P = the percentage occurrence of a state or condition, always recommended at 50%

E = the percentage maximum error required. This denotes the level of precision or the risk the researcher wishes to accept. In this case, 9% margin of error was allowed.

Z = the Z value corresponding to level of confidence required. This is the confidence that the results revealed by the study findings are accurate. Z is the statistical value corresponding to the level of confidence required, typically 95% (equal to 1.96). This would imply, for instance, that if the population were to be sampled repeatedly, the average value of a variable obtained would be equal to the true population value by 95%. Substituting for the above formula;

\[ N = \frac{50(100-50)1.96^2}{9^2} \]

\[ N = 118 \]
Therefore, the total sample was 118 LSK members. This was proportionately allocated based on the population size of the strata as shown in table 3.2

Table 3.2 Sample size distribution

<table>
<thead>
<tr>
<th>Practising Status</th>
<th>Population</th>
<th>Percentage</th>
<th>Sample size</th>
</tr>
</thead>
<tbody>
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</tr>
<tr>
<td>Total</td>
<td>3700</td>
<td></td>
<td>118</td>
</tr>
</tbody>
</table>

3.4 Data Collection Methods.

Primary data is defined as data used in research originally obtained through the direct efforts of the researcher (Krishnaswami & Satyaprasad, 2010). A questionnaire is described as an objective method of obtaining information from members of a population. Questionnaires are popular and fundamental tools for acquiring information. In most cases, the researcher will ask participants to answer a series of questions for assurance of confidentiality to the respondents (Washington, Cunningham, & Pittenger, 2012). Questionnaire is a cost effective way of gathering quantitative data for further analysis. They offer anonymity thus encouraging the respondents to answer. It provides a channel for the standardized collection of data that can be compared easily (Saunders, Lewis, & Thornhill, 2012). A structured questionnaire will be used as the data collection tool. This is simply a predetermined set of questions designed to capture data from the research subjects in order to measure key characteristics of a phenomena, answers of which are often limited to a few predetermined, mutually exclusive and exhaustive outcomes (Hair, Wolfinbarger, Money, & Samouel, 2011). That is, each answer has a separate response category and each response category has been included for every possible answer. According to (Schindler & Cooper, 2014) this form of questioning allows researchers to learn the opinions, intentions and expectations of respondents.

A questionnaire with a 4-point Likert rating scale will be used to collect data. The questionnaire
was divided into four sections. The first section comprised of respondents” demographics such as gender, age, education, practicing status and number of years in practice. It contained items seeking perceptions about the legal profession and members’ professional conduct. The second section comprised of a set of items that will be related to the first research objective which seeks to examine the nature of the current unethical pricing and accounting practices in the legal profession in Kenya. The third section contained items with respect to the second research objective concerned with evaluating the implications of the unethical pricing and accounting practices in the legal profession in Kenya. The last section was made up of items with regards to the third research objective, which seeks to determine mitigation strategies against the unethical pricing and accounting practices in Kenya.

The questionnaire structure captured both closed and open ended questions for the benefits they both possess. The advantage of ‘open’ questions is that the information gathered by way of the responses is more likely to reflect the full richness and complexity of the views held by the respondent. Respondents are allowed space to express themselves in their own word. The main advantage of closed ended questions is that the structure imposed on the respondents’ answers provides the researcher with information which is of uniform length and in a form that lends itself nicely to being quantified and compared. The answers, in fact, provide pre-coded data that can easily be analyzed (Denscombe, 2010).

3.5 Research Procedures

Consent was obtained from the law firms. This consent was obtained from the managing partners to ensure due process had been followed and that the practicing firms were aware that a study was being carried out with the aid of data gotten from the firms and that the information would be used for academic purposes only.

The identity of the respondents was kept confidential and the respondents were made aware that their participation in the study would be voluntary and they reserved the right to withdraw their participation at any moment without consequences.
A pilot test of the questionnaire was done on a sample of 5 respondents to determine the validity of the instrument and establish whether the instrument was reliable. The data collected from the pilot-test was analyzed to determine the validity of the instrument and review questions that needed further refinement. It also provided an indication of how long a questionnaire would take to be administered. As (Morsen & Horn, 2007) attests, “pilot testing can show whether the individuals in the sample can read and understand the survey questions”. This process is useful in improving the validity of the data collected. The questionnaires were updated with any necessary requirements identified by the pilot test. The updated questionnaires were distributed to the respondents. After pilot test, the answers to each question in the questionnaire were checked by the researcher for relevance in achieving the study objectives. The final instrument was administered through drop and pick method. Follow ups were then made with each individual participant through telephone in order to increase response rate.

3.6 Data Analysis Methods

The data collected from the questionnaires were carefully inspected for errors and gaps. It was then be coded before being entered into the Statistical Package for Social Sciences [SPSS] which the data analysis tool was used. Quantitative data in a raw form, before these data have been processed and analyzed, convey very little meaning to most people. These data, therefore, need to be analyzed using descriptive statistics to make them useful, that is, to turn them into information. Quantitative analysis techniques such as graphs, charts and statistics allow us to do this; helping us to explore, present, describe and examine relationships and trends within our data (Saunders, Lewis, & Thornhill, 2012).

The analysis was both descriptive and inferential in nature. Descriptive statistics includes frequencies, percentages, mean and standard deviation. Inferential statistics which includes correlations and regression analysis, \( Y=B_0 + B_1X_1 + B_2X_2 + B_3X_3 + e \), was used to test for the relationship between dependent and independent variable. The results of the study were then presented using tables and figures. Based on regression analysis the following model was used;
\[ Y = \beta_0 + \beta_1O + \beta_2U + \beta_3M + \beta_4B + \epsilon \]

Whereby;

\( Y \): Unethical business and accounting practice in legal profession

\( \beta_0 \): is the y intercept

\( \beta_1- \beta \): are the regression (beta) coefficients

\( O \): Overcharging

\( U \): Undercutting

\( B \): Billing Fraud

\( M \): Misappropriation of clients account

\( \epsilon \): Stochastic term or error term

\( \epsilon \): Error term - Regression standard error (Std. Error of the Estimate) is the average forecast error (difference between actual and values predicted by the estimated equation). Small values indicate that the estimated model closely fits the observed data.

### 3.7 Chapter Summary

Chapter three discusses the research methodology to be followed in the study. It discusses the research design, population and sampling plan, data collection method, research procedure and data analysis method. Chapter four will present the study results and findings.
CHAPTER FOUR

4.0 RESEARCH FINDINGS AND DISCUSSION

4.1 Introduction
This chapter presents data analysis, findings and discussion of the results of the study. The chapter begins with the results of descriptive statistics of the demographic information of respondents and LSK as presented. These are followed by results of descriptive statistics of the study variables. Finally, the chapter presents discussion of the results of the study.

4.2 Demographic Information.
This section presented and discussed the results of the descriptive statistics of demographic information of the respondents. It also presented descriptive analyses results of the study variables for the project.

4.2.1 Response Rate
From the data collected, out of 95 questionnaires administered, 58 were filled and returned, which represent 61.05% response rate. This response rate is considered satisfactory to make conclusions for the study. Mugenda and Mugenda (2003) observed that a 50% response rate is adequate, 60% is good, while 70% rated very good. This implies that based on this assertion, the response rate in this case of 61.05% is good. The recorded good response rate can be attributed to the data collection procedures, or instance the researcher pre-notified the potential participants for the survey, the researcher administered the questionnaires through drop and pick method and follow up calls were made to clarify queries as well as to prompt the respondents to fill the questionnaires. This method facilitated the whole process of data collection hence good response rate.

4.2.2 Gender of the Respondents
The researcher sought to identify the gender of the respondents to avoid biasness in gender distribution of the respondents. It was reflected an even distribution of the respondents with male and females having a proportion of 46.6% and 53.4% respectively. This shows a slight
dominance of females compared to males in the respondents. This can clearly be seen in the table 4.2.2 below;

**Table 4.2.2 for Gender Distribution of the Respondents.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>Male</td>
<td>27</td>
<td>46.6%</td>
<td>46.6%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>31</td>
<td>53.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Author

4.2.3 Age Distribution of the Respondents

From the analyzed data it was found out that most of the respondents are aged below 30 years with a proportion of 70.7% and least were aged above 50 years with a proportion of 5.2% as seen vividly in the table 4.2.3 below;

**Table 4.2.3 for Age Distribution of the Respondents.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid less than 30 years</td>
<td>41</td>
<td>70.7%</td>
<td>70.7%</td>
<td>70.7%</td>
</tr>
<tr>
<td>Between 30-50 Years</td>
<td>14</td>
<td>24.1%</td>
<td>24.1%</td>
<td>94.8%</td>
</tr>
<tr>
<td>50 Years and More</td>
<td>3</td>
<td>5.2%</td>
<td>5.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.2.4 Cross Tabulation of Age and Gender showing the Percentage Within each Gender

This helps the researcher to know percentage of each age group within each gender. In this research we see a larger percentage of females compared to males aged below 30 years (39.99% and 31.03% respectively). Also in above 50 years’ females dominated compared to male with respective proportion of 5.17% and 3.44%. We therefore carry out inferential statistics of Chi-
Square test to see how likely we see those differences of percentages we see by chance. It can be seen in table 4.2.4.

Table 4.2.4 Age and Gender Cross Tabulation.

<table>
<thead>
<tr>
<th>Age</th>
<th>Gender</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>female</td>
</tr>
<tr>
<td>less than 30 years</td>
<td>18(31.03%)</td>
<td>23(39.66%)</td>
</tr>
<tr>
<td>Between 30-50 Years</td>
<td>7(12.07%)</td>
<td>7(12.07%)</td>
</tr>
<tr>
<td>50 Years and More</td>
<td>2(3.44%)</td>
<td>1(1.72%)</td>
</tr>
<tr>
<td>Total</td>
<td>27(46.55%)</td>
<td>31(53.45%)</td>
</tr>
</tbody>
</table>

Source: Author

The association is not statistically significant as it can be seen in the table below with $p=0.715>0.05$. Hence the association is not by any chance of depiction.

Table 4.2.5 Chi-Square Tests

<table>
<thead>
<tr>
<th></th>
<th>Value</th>
<th>df</th>
<th>Asymp. Sig. (2-sided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pearson Chi-Square</td>
<td>.670$^a$</td>
<td>2</td>
<td>.715</td>
</tr>
<tr>
<td>Likelihood Ratio</td>
<td>.675</td>
<td>2</td>
<td>.714</td>
</tr>
<tr>
<td>Linear-by-Linear Association</td>
<td>.590</td>
<td>1</td>
<td>.442</td>
</tr>
</tbody>
</table>

N of Valid Cases: 58

a. 2 cells (33.3%) have expected count less than 5. The minimum expected count is 1.40.

4.2.6 Highest Level of the Education of the Respondents

The researcher was interested to determine the level of education of the respondents. Frequencies and percentages were used to examine the distribution of the respondents’ level of education. As depicted in Table 4.2.6 majority (58.6%) were postgraduates followed by 41.4% who were at undergraduate level. Given the results it can be concluded that the respondents were highly educated and thus able to make sound decisions.
Table 4.2.6. Highest Level of the Education of the Respondents

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Undergraduate Level</td>
<td>24</td>
<td>41.4%</td>
<td>41.4%</td>
<td>41.4%</td>
</tr>
<tr>
<td>Valid Postgraduate Level</td>
<td>34</td>
<td>58.6%</td>
<td>58.6%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

It’s also very clear that among the respondents there are more educated females in both undergraduate level compared to male and at the same time there are more males in postgraduate level compared to females as it can be seen in the classified table below;

Table 4.2.7 Gender and Education cross tabulation table.

<table>
<thead>
<tr>
<th></th>
<th>Education</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Undergraduate Level</td>
<td>Postgraduate Level</td>
<td>Total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender male</td>
<td>8</td>
<td>19</td>
<td>27</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>female</td>
<td>16</td>
<td>15</td>
<td>31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>24</td>
<td>34</td>
<td>58</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.2.8 Practicing Status of the Respondents in LSK

The researcher sought to establish the status of the respondent and it was established that most of them were active with a proportion of 79.3% while 20.7% were inactive. This can be verified in the table 4.2.8 below;
### Table 4.2.8. The Practicing status of the respondents.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active</td>
<td>46</td>
<td>79.3%</td>
<td>79.3%</td>
<td>79.3%</td>
</tr>
<tr>
<td>Inactive</td>
<td>12</td>
<td>20.7%</td>
<td>20.7%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

### 4.2.9 The Number of Years of Service (Practice) at LSK

The researcher sought to know the number of years each of the respondent has been practicing law as a lawyer. It was established that majority (65.5%) of the respondents had less than 5 years of practice followed by 24.1% who have an experience of between 5-10 years. Those with more than 10 years of experience were approximately 6.9%. This is clearly seen in table 4.2.9 below;

### Table 4.2.9 Number of Years in Practice(LSK)

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 5 years</td>
<td>38</td>
<td>65.5%</td>
<td>67.9%</td>
<td></td>
</tr>
<tr>
<td>Between 5-10 Years</td>
<td>14</td>
<td>24.1%</td>
<td>25.0%</td>
<td>92.9%</td>
</tr>
<tr>
<td>More than 10 Years</td>
<td>4</td>
<td>6.9%</td>
<td>7.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>56</td>
<td>96.6%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>System</td>
<td>2</td>
<td>3.4%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Author
4.2.10 Years of Membership in (LSK).

It found out that 65.5% of the respondents had less than 5 years of membership in LSK. Only 5.2% has more than 10 years of membership with 25.9% having a membership of between 5-10 years. This can be seen in table 4.2.10 below;

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
<td>Less than 5 Years</td>
<td>38</td>
<td>65.5%</td>
</tr>
<tr>
<td></td>
<td>Between 5-10 Years</td>
<td>15</td>
<td>25.9%</td>
</tr>
<tr>
<td></td>
<td>More than 10 Years</td>
<td>3</td>
<td>5.2%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>56</td>
<td>96.6%</td>
</tr>
<tr>
<td><strong>Missing</strong></td>
<td>System</td>
<td>2</td>
<td>3.4%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>58</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Author


The study sought to establish the effect of the unethical business pricing and accounting practices in the legal profession. The respondents were asked to indicate the extent to which they perceive the frequency on the respective statements relating to current unethical business pricing and accounting practice in legal profession. Each statement had a 4-point Likert-type scale ranging from ‘Low’ (1) to ‘Very high’ (4).

4.3.1 Regression Analysis.

Regression analysis was carried out for the four main unethical pricing and accounting practices were regressed against nature of unethical legal profession using the model below;

\[ Y = \beta_0 + \beta_1 O + \beta_2 U + \beta_3 M + \beta_4 B + \epsilon \]

Whereby;
Y: Unethical nature of legal profession

\( \beta_0 \): is the y intercept

\( \beta_1 - \beta \) are the regression (beta) coefficients

O: Overcharging

U: Undercutting

B: Billing Fraud

M: Misappropriation of clients account

\( \epsilon \): Stochastic term

In the equation above, the dependent variable (unethical business pricing and accounting practices in the legal profession) was regressed on the independent variables: Overcharging, Undercutting, Misappropriation of client account and Billing fraud.

The study sought to examine the effect of overcharging, undercutting, misappropriation of client accounts and billing fraud on unethical business pricing and accounting practices in the legal profession in Kenya. The analysis was done using linear regression.

As shown in Table 4.3.1.1 below the R Squared for Model 1 is 0.891, indicating that 89.1% of the variation in unethical business pricing and accounting practices in legal profession in Kenya is explained by variation in the independent variables such as overcharging, undercutting, misappropriation of client accounts and billing fraud.

<table>
<thead>
<tr>
<th>Model</th>
<th>R</th>
<th>R Square</th>
<th>Adjusted Square</th>
<th>R</th>
<th>Std. Error of the Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>.944*</td>
<td>.891</td>
<td>.883</td>
<td>22714</td>
<td></td>
</tr>
</tbody>
</table>

a. Predictors: (Constant), Undercutting, Misappropriation of client account, Overcharging, Billing of Fraud
The ANOVA results in Table 4.3.1.2 indicated that the explained R squared was statistically significant \((F=108.389, p=0.000 < 0.05)\).

<table>
<thead>
<tr>
<th>Model</th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regression</td>
<td>22.369</td>
<td>4</td>
<td>5.592</td>
<td>108.389</td>
<td>.000&lt;</td>
</tr>
<tr>
<td>Residual</td>
<td>2.734</td>
<td>53</td>
<td>.052</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>25.103</td>
<td>57</td>
<td></td>
<td>108.389</td>
<td>.000&lt;</td>
</tr>
</tbody>
</table>

a. Predictors: (Constant), Undercutting, Misappropriation of client account, Overcharging, Billing of Fraud
b. Dependent Variable: Unethical business/accounting practice in legal profession

The standardized regression coefficients shown in Table 4.3.1.3 below for model 1 revealed that for every unit increase in misappropriation of client account, billing of fraud, overcharging and undercutting, unethical business pricing and accounting practices increases by 0.275, 0.270, 0.326 and 0.216 respectively and each of them is statistically significant at \(p=0.000<0.05\) as reflected in the table below.

The above finding shows a positive correlation between the research independent variables and its effect to unethical business pricing and accounting practices in legal profession in Kenya hence an increase in these practices will significantly lead to an increase in unethical business pricing and accounting practices. From the current research findings, the regression equation used to estimate unethical business pricing and accounting practices can be stated as follow:

\[
Y = -0.201 + 0.376O + 0.216U + 0.275M + 0.270B + \varepsilon
\]

Whereby:

- O: Overcharging
- U: Undercutting
- B: Billing Fraud
M: Misappropriation of clients account

Ε: Stochastic term

Generally, the standardized coefficients show that the predictor variable has significant positive correlational effect on unethical business practices and accounting in legal profession starting with misappropriation of client account to undercutting, which are statistically significant. Hence, overcharging, undercutting, misappropriation of client account and billing fraud affect legal profession highly in Kenya leading to an increase in unethical business pricing and accounting practices in legal profession. If this factors are well taken are off, then the cases of unethical business pricing in legal profession in Kenya will significantly be minimized leading to provision of better services to clients.

<table>
<thead>
<tr>
<th>Table 4.3.31.3</th>
<th>Coefficients a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model</td>
<td>Unstandardized Coefficients</td>
</tr>
<tr>
<td></td>
<td>B</td>
</tr>
<tr>
<td>1 (Constant)</td>
<td>-.201</td>
</tr>
<tr>
<td>Misappropriation of client account</td>
<td>.275</td>
</tr>
<tr>
<td>Billing of Fraud</td>
<td>.270</td>
</tr>
<tr>
<td>Overcharging</td>
<td>.326</td>
</tr>
<tr>
<td>Undercutting</td>
<td>.216</td>
</tr>
</tbody>
</table>

a. Dependent Variable: Unethical business/accounting practice in legal profession

4.4 To evaluate the Implication of Unethical Pricing and Accounting Practices in the Legal Profession in Kenya.

4.4.1 Main Cause of Undercutting of Legal Fees in Legal Profession in Kenya.

The researcher sought to find the main reason behind undercutting legal fees. From the descriptive statistics, 62.1% of the clients believe that the main cause of undercutting is due to stiff competition from other law firms, 27.6% believe that its due to greed while 10.3% of the
respondents believe that its due to complaint from the clients. This can be verified from the table 4.4.1 below;

Table 4.4.1. Main cause of Undercutting Legal fees in Legal Profession in Kenya.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent(%)</th>
<th>Valid Percent(%)</th>
<th>Cumulative Percent(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>16</td>
<td>27.6%</td>
<td>27.6%</td>
<td>27.6%</td>
</tr>
<tr>
<td>Stiff Competition from other law firms</td>
<td>36</td>
<td>62.1%</td>
<td>62.1%</td>
<td>89.7%</td>
</tr>
<tr>
<td>Client Complains</td>
<td>6</td>
<td>10.3%</td>
<td>10.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.4.2. Main Cause of Overcharging Legal Fees in the Legal Sector.

From the statistical in the table 4.4.2 below, it’s very clear that 46.6% of the respondents perceive that the main cause of legal fee overcharging in legal sector is greed while 31% believe that its ignorance of clients. 13.6% and 8.6% of the clients believe that the main cause of overcharging is no or poor regulation by legal institutions and payback after being frustrated from exams respectively.

Table 4.4.2 Main Cause of Overcharging Legal Fees in Legal Profession Kenya

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent(%)</th>
<th>Valid Percent(%)</th>
<th>Cumulative Percent(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>27</td>
<td>46.6%</td>
<td>46.6%</td>
<td>46.6%</td>
</tr>
<tr>
<td>Pay back after being frustrated by examination</td>
<td>5</td>
<td>8.6%</td>
<td>8.6%</td>
<td>55.2%</td>
</tr>
<tr>
<td>No or Poor regulation by legal institutions</td>
<td>8</td>
<td>13.8%</td>
<td>13.8%</td>
<td>69.0%</td>
</tr>
<tr>
<td>Ignorance from clients</td>
<td>18</td>
<td>31.0%</td>
<td>31.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author
4.4.3 Main Cause of Billing Fraud by Legal Practitioners

55.2% of the respondents perceive that the main cause of billing fraud is greed followed by 20.7% which is a stiff completion from other law firms and finally pressure from firm partners at a proportion of 19%. It is clearly seen in table 4.4.3 below;

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent(%)</th>
<th>Valid Percent(%)</th>
<th>Cumulative Percent(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure from firms partners</td>
<td>11</td>
<td>19.0</td>
<td>20.0</td>
</tr>
<tr>
<td>Greed</td>
<td>32</td>
<td>55.2</td>
<td>58.2</td>
</tr>
<tr>
<td>Stiff competition from other law firms</td>
<td>12</td>
<td>20.7</td>
<td>21.8</td>
</tr>
<tr>
<td>Total</td>
<td>55</td>
<td>94.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>3</td>
<td>5.2</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.4.4 Extent of Rampantness of Billing Fraud in Legal Sector.

The researcher sought to establish the extent to which billing of fraud is rampant by carrying out descriptive static on frequency of the respondents. 20.7% of the respondents say “Yes” that the billing fraud is rampant while 25.9% says that it’s not rampant. It was also noted that 48.3% and 5.2% takes the stands of most likely and very unlikely respectively. This can be seen clearly in table 4.4.4 below;
Table 4.4.4 Extent of Billing Fraud Being Rampant.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent(%)</th>
<th>Valid Percent(%)</th>
<th>Cumulative Percent(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Yes</td>
<td>12</td>
<td>20.7</td>
<td>20.7</td>
<td>20.7</td>
</tr>
<tr>
<td>No</td>
<td>15</td>
<td>25.9</td>
<td>25.9</td>
<td>46.6</td>
</tr>
<tr>
<td>Most Likely</td>
<td>28</td>
<td>48.3</td>
<td>48.3</td>
<td>94.8</td>
</tr>
<tr>
<td>Very unlikely</td>
<td>3</td>
<td>5.2</td>
<td>5.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.4.5 Curbing Unethical Practices Effectively through Legal Prohibition and Punishment Against Undercutting.

The researcher was extremely interested in knowing the views from the respondents on extent to which legal prohibition and punishment against undercutting is an effective deterrent of the unethical practice. As it can be verified from table 4.4.5 below, it’s clear that 25.9% believe that legal prohibition and punishment against undercutting is the effective way while 27.6% are against. 29.3% believe that it might help to deter undercutting while 17.2% are not sure if can curb undercutting.
Table 4.4.5. Do you think the legal prohibition and punishment against undercutting is an effective deterrent of unethical practice?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent(%)</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Yes</td>
<td>15</td>
<td>25.9</td>
<td>25.9</td>
<td>25.9</td>
</tr>
<tr>
<td>No</td>
<td>16</td>
<td>27.6</td>
<td>27.6</td>
<td>53.4</td>
</tr>
<tr>
<td>Most Likely</td>
<td>17</td>
<td>29.3</td>
<td>29.3</td>
<td>82.8</td>
</tr>
<tr>
<td>Very unlikely</td>
<td>10</td>
<td>17.2</td>
<td>17.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.4.6 Respondent Interaction with the Client Who Was Previously Mishandled by Another Lawyer.

The researcher found that from the descriptive analysis 84.5% of the respondents have met the clients who were once mishandled by another lawyer while 15.5% have never met them. This is a clear indication that most of the clients have been mishandled by other lawyers.

Table 4.4.6. Have you ever interacted with a client who has been previously mishandled by another lawyer?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Yes</td>
<td>49</td>
<td>84.5</td>
<td>84.5</td>
<td>84.5</td>
</tr>
<tr>
<td>No</td>
<td>9</td>
<td>15.5</td>
<td>15.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

4.5. To Determine Mitigation Strategies Against the Unethical Business Pricing and Accounting Practices.

The researcher sought to know and determine the mitigation strategies against the unethical business pricing and accounting practices from the respondent. The response for each strategy proposed by the researcher are analyzed below;
4.5.1. Anonymously Reporting by Other Legal Practitioners

From the respondents’ outcome, it was noticed that 48.3% of the respondents agree that reporting other practitioner’s unethical practices anonymously by other legal practitioners will reduce unethical business pricing and accounting practices. 31.0% disagreed with the researcher that it will curb unethical practice if reported anonymously by other legal practitioners. 12.1% and 8.6% of the respondents strongly agreed and strongly disagreed with that mitigation strategy of unethical practice. This clearly seen in the table 4.5.1 below;

Table 4.5.1 Respondents’ response on anonymous reporting.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>5</td>
<td>8.6</td>
<td>8.6</td>
<td>8.6</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>18</td>
<td>31.0</td>
<td>31.0</td>
<td>39.7</td>
</tr>
<tr>
<td>Disagree</td>
<td>18</td>
<td>31.0</td>
<td>31.0</td>
<td>39.7</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>28</td>
<td>48.3</td>
<td>48.3</td>
<td>87.9</td>
</tr>
<tr>
<td>Agree</td>
<td>28</td>
<td>48.3</td>
<td>48.3</td>
<td>87.9</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

The bar chart below of figure 5.1 well illustrates the response of the respondents on the use of using other legal practitioners’ to anonymously report other practitioners who are engaged with these unethical business pricing and accounting practices;
Overcharging is one of the major unethical practices facing the legal sector in Kenya and the researcher was extremely interested to know if diligent billing of cost for taxation by courts would amicably curb it. From the respondent, 67.2% agreed and 13.8% strongly agreed that overcharging can be curbed through diligent billing of cost for taxation by courts as one way of curbing this unethical business and accounting practice. 17.2% of the respondents disagreed and 1.7% strongly disagreed using this migration strategy to curb overcharging in legal sector. The result can be verified in table 4.5.2 below and its respective bar chart.

4.5.2 Diligent Billing of Cost for Taxation by Courts

Overcharging is one of the major unethical practices facing the legal sector in Kenya and the researcher was extremely interested to know if diligent billing of cost for taxation by courts would amicably curb it. From the respondent, 67.2% agreed and 13.8% strongly agreed that overcharging can be curbed through diligent billing of cost for taxation by courts as one way of curbing this unethical business and accounting practice. 17.2% of the respondents disagreed and 1.7% strongly disagreed using this migration strategy to curb overcharging in legal sector. The result can be verified in table 4.5.2 below and its respective bar chart.
<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Strongly Disagree</td>
<td>1</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
</tr>
<tr>
<td>Disagree</td>
<td>10</td>
<td>17.2</td>
<td>17.2</td>
<td>19.0</td>
</tr>
<tr>
<td>Agree</td>
<td>39</td>
<td>67.2</td>
<td>67.2</td>
<td>86.2</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>8</td>
<td>13.8</td>
<td>13.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

The bar chart of fig 5.2, well and vividly gives out the response of the respondents pertaining diligent billing of cost for taxation by court;
4.5.3 Use of Disciplinary Sanction.

From the respondents, the researcher found from table 4.5.3 with its respective bar chart that 48.3% and 6.9% agreed and strongly agreed respectively that disciplinary sanction carried out by relevant regulation authorities would highly help to curb unethical business pricing and accounting practice. It’s also very clear that 32.8% and 12.1% disagreed and strongly disagreed respectively that disciplinary sanctions by relevant regulation authorities could greatly help in curbing unethical business and accounting practices.
Table 4.5.3 Respondents’ response on using Disciplinary Sanctions

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>7</td>
<td>12.1%</td>
<td>12.1%</td>
<td>12.1%</td>
</tr>
<tr>
<td>Disagree</td>
<td>19</td>
<td>32.8%</td>
<td>32.8%</td>
<td>44.8%</td>
</tr>
<tr>
<td>Agree</td>
<td>28</td>
<td>48.3%</td>
<td>48.3%</td>
<td>93.1%</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>4</td>
<td>6.9%</td>
<td>6.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

The chart in Fig. 5.3 represents the respective response of the respondents.

![Chart showing respondents' response on using disciplinary sanctions.](chart.png)
4.5.4 Use of Accurate and Systematic Oversight Check by Law Firms.

The researcher was highly interested in knowing from the respondents if accurate and systematic oversight check by law firms would be help in curbing unethical business pricing and accounting practices in the legal sector. In table 4.5.4, it was found that 51.7% and 29.3% of the respondents agreed and strongly agreed that accurate and systematic oversight checks by law firms could greatly help in mitigating this kind of risk. Similarly, 10.3% and 6.9% disagreed and strongly disagreed respectively of using accurate and systematic oversight check by law firms.

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>4</td>
<td>6.9</td>
<td>7.0</td>
</tr>
<tr>
<td>Disagree</td>
<td>6</td>
<td>10.3</td>
<td>10.5</td>
</tr>
<tr>
<td>Agree</td>
<td>30</td>
<td>51.7</td>
<td>52.6</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>17</td>
<td>29.3</td>
<td>29.8</td>
</tr>
<tr>
<td>Total</td>
<td>57</td>
<td>98.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>System</td>
<td>1</td>
<td>1.7</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

The bar chart below of Fig 5.4, clearly reflects out that most of the respondents agreed nd strongly agreed that accurate and systematic oversight check by law firms would greatly help to curb unethical business pricing and accounting practices.
4.5.5 Sanctioning of Clients.

From table 4.5.5 below with its respective chart, it has been found that 58.6% and 24.1% agreed and strongly agreed respectively on the use of sanction as a way of deterring clients against unethical practice. Similarly, from the research 15.5% and 1.7% disagreed and strongly disagreed respectively on the use of the mechanism to curb this unethical practice in the legal sector.
Table 4.5.5 Respondents’ response on Use of Sanction on Deterring Clients

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>1</td>
<td>1.7%</td>
<td>1.7%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Disagree</td>
<td>9</td>
<td>15.5%</td>
<td>15.5%</td>
<td>17.2%</td>
</tr>
<tr>
<td>Agree</td>
<td>34</td>
<td>58.6%</td>
<td>58.6%</td>
<td>75.9%</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>14</td>
<td>24.1%</td>
<td>24.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>58</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Author

The bar chart below of Fig 5.5 shows that majority of the respondents agree that sanctioning of client’s found engaging in unethical business pricing and accounting practices would greatly help to minimize these practices.
4.6 Summary

Generally, these are the findings and the output of statistical analysis that was carried out using SPSS so as to have information from the data provided. As it can be seen, the data has been analyzed by using regression analysis, ANOVA, use of frequency tables and bar chart. In chapter 5, we are going into further details to do discussion, conclusion and recommendation based on the analyzed output above.

**Fig. 5.5. Respondents response on sanctioning of clients.**
CHAPTER FIVE

5.0 DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction
This chapter summarizes the research findings, gives conclusions and recommendations based on the three specific objectives of the study. The main objective of the study was to study the implication of unethical business pricing and accounting practice in the legal profession in Kenya.

5.2 Summary
The researcher sought to study the implication of unethical business pricing and accounting practices in the legal profession in Kenya as the main objective. This main objective was guided by three main specific objectives; to examine the nature of the current unethical business pricing and accounting practices in the legal sector, to evaluate the implication of unethical business pricing and accounting practices in the legal sector in Kenya, to determine the mitigation strategies against unethical business pricing and accounting practices in the legal profession in Kenya.

The research adopted a case study of descriptive correlational research design approach. This approach entails descriptive research approach and correlational research design so as to explain occurrence of natural phenomenon as well as to explain the relationship between the variables of study (Tavakoli, 2013). The researcher employed quantitative data collection method where data was gathered using by use of closed ended and open ended questionnaire which were self-administered and picked as well making follow up via phone calls. The data collected through stratified sampling techniques which takes into consideration the different sub-groups of people in a population to guarantee that the sample fairly represent the population on specific characteristics (Saunders, Lewis, & Thornhill, 2012) was analyzed by both descriptive and inferential statistics. Descriptive statistics was mainly used to analyze objective 2 and 3 respectively by using frequency tables and bar charts while inferential statistics was mainly used to analyze objective 1 of study through analysis of Variance (ANOVA) to determine the nature of the relationship between the independent variables such as undercutting, overcharging, billing
fraud and misappropriation of clients account to unethical business and accounting practices in
the legal profession in Kenya.

This legal profession has been frequently faced with a conundrum of dealings which have
increased the suspicion level of the general public who are potential clients as well as
undermining the reputation of the noble professionals. Some of these practices are mainly
undercutting, overcharging, billing fraud and misappropriation of client accounts, hence,
mitigation strategies have to be determined via this study to ensure higher standards of the
services offered by legal professionals in Kenya.

In general the result revealed that the independent variables have statistically significant effect
on unethical business and accounting practice in legal profession in Kenya ($p=0.00<0.05$). The
findings results confirmed that the independent variables (overcharging, undercutting, billing
fraud and misappropriation of client account) explained a statistically significant proportion of
variance association with unethical business pricing and accounting practices. 89.1% of the
proportion was explained and was statistically significant at $p=0.00<0$ hence this research was
quite valid for study.

From the findings it was also very clear that undercutting, overcharging, misappropriation of
clients account and billing fraud were positively correlated to unethical business pricing and
accounting practices in legal profession in Kenya. This implies that an increase in these practices
directly increases increased underperformance in legal profession in Kenya.

5.3 Discussion
5.3.1. Nature of the Current Unethical Business Pricing and Accounting Practices in the
Legal Profession in Kenya.

The researcher sought to examine the nature of the current unethical business pricing and
accounting practices in the legal profession in Kenya by keenly looking into four main practices
which are undercutting, misappropriation of clients account, overcharging and billing fraud. The
researcher carried out analysis of variance (ANOVA) for four independent variables
(undercutting, overcharging, billing fraud and misappropriation of clients account and its nature of the relationship with unethical pricing and accounting practice in the legal profession.

When analysis of variance (ANOVA) was carried out, Table 4.3.1(a) and Table 4.3.1 (b), results showed that the four independent variables (undercutting, overcharging, misappropriation of clients account and billing fraud) were statistically significant and they explained 89.1% of the proportion of unethical business pricing and accounting practice in the legal profession in Kenya. These independent factors had a strong positive correlation which was statistically significant at $p=0.00<0.05$ each hence explanation of 100% validity. This is a clear indication that the research was valid for study. Multiple regression was also carried out for four independent variables (undercutting, overcharging, misappropriation of clients account and billing fraud) against dependent variable (unethical pricing and accounting practices) and it clearly reflected that they had a strong positive correlation, implying that an increase in these four practices will directly lead to an increase in unethical business pricing and accounting practices. Therefore, the regression equation for this model can be justified as;

$$Y = \beta_0 + \beta_1 O + \beta_2 U + \beta_3 M + \beta_4 B + \varepsilon$$

Whereby;

$Y$: Unethical business and accounting practice in legal profession

$\beta_0$: is the y intercept

$\beta_1$-$\beta_4$ are the regression (beta) coefficients

$O$: Overcharging

$U$: Undercutting

$\varepsilon$: Stochastic/Error term

$\varepsilon$: Error term - Regression standard error (Std. Error of the Estimate) is the average forecast error (difference between actual and values predicted by the estimated equation). Small values indicate that the estimated model closely fits the observed data
The above model can be rewritten as:

\[ Y = -0.201 + 0.376O + 0.216U + 0.275M + 0.270B + \epsilon \]

From the analyzed result it is very clear that overcharging, undercutting, billing fraud and misappropriation of clients account affect ethical business pricing and accounting practices negatively this is because they were statistically significant and positively correlated with unethical business and accounting practice in the legal profession in Kenya. This concurs with Nduvya (2015) who expressed concern about misconduct involving some law firms that charge far less than the recommended legal fees to undercut their competition.

If advocates comply with the provisions of the Advocates Act, which prohibit on undercutting on legal fees the dignity of the profession would be upheld. The standards of practice would then become the sole measure of the fees which any particular advocate could charge, over and above the prescribed minimum fees (Ahmednasir Abdikadir & Co Advocates v National Bank of Kenya Ltd, 2006).

5.3.2 Implication of the Unethical Business Pricing and Accounting Practices in Legal Sector in Kenya.

The researcher carried out descriptive statistics on the implications of the unethical business pricing and accounting practices in the legal sector in Kenya which was found out to have multiple effects to the society and profession as a whole. The responses from the clients were analyzed descriptively using frequency tables and bar charts. From the analysis that was carried out it was found that most of the respondents listed the following as the major cause of each of the following four practices; undercutting mainly being caused by stiff competition from other law firms, overcharging mainly being caused by greediness of legal practitioners, misappropriation of client accounts mainly being caused by greediness, billing fraud mainly being caused by greediness.
Undercutting as a factor mainly creates a lot of misunderstanding and distrust to general public which concurs with (Ojienda & Juma, 2011) that the law hold on advocate to such agreement guiltier than the client since the advocate is deemed to be more knowledgeable on the law than the client. Undercutting creates price wars and unfair competition between members of the legal profession.

Advocates are supposed to take their bill of costs for taxation in court. The rationale for this is to protect the clients especially those who are unsophisticated in matters of a lawyer’s compensation when the lawyer has overcharged. (Ojienda & Juma, 2011) Most lawyers who answered the questionnaires agreed with this too as seen in Table 4.5.1 (b).

55.2% of the respondents perceive that the main cause of billing fraud is greed followed by 20.7% which is a stiff completion from other law firms and finally pressure from firm partners at a proportion of 19%. It is clearly seen in table 4.4.3. This concurs with (Gross, 1996) who says that there are many lawyers who “are so blinded by self-interest” that they see no ethical difficulty in their billing habits. The very integrity of the legal profession is at stake when issues of overcharging are considered.

The Advocate shall not appropriate or convert any funds of the client held in trust or otherwise under the Advocate’s control without the express authority of the client. Any unauthorized appropriation or conversion shall be treated as professional misconduct (LSK, 2015). Advocates have become increasingly greedy and manipulative towards their client as they have higher knowledge of the law compared to their clients hence exploiting the opportunity to become unethical for their own benefit.

5.3.3. Mitigation Strategies Against Unethical Pricing and Accounting Practices in the Legal Sector in Kenya.

The researcher sought to establish on the best way to curb each of these unethical practices conducted by the very people the society has been made to believe will protect them against. This raised a great concern to legal regulatory bodies and an urgency to mitigate such unethical practices and effects was seen.
The study revealed that overcharging, undercutting, billing fraud and misappropriation of clients account affect ethical business and accounting practice negatively, this is because they were statistically significant and positively correlated with unethical business pricing and accounting practice in the legal profession in Kenya. Also 89.1% of the factors causing unethical business and accounting practices were amicably explained by the four independent variables above. Therefore, overcharging, undercutting, billing fraud and misappropriation of clients account are among many factors that have greatly affected the business pricing and accounting practices of the legal profession in Kenya leading poor services provision to clients as well. This implies that curbing these problems will greatly improve the quality and integrity of the services offered in the legal sector in Kenya.

Most of the respondents agreed and strongly agreed that each of the following practices can be mitigated by a given strategy; overcharging can be mitigated by diligent billing of cost for taxation by courts, Other practitioners’ unethical practices can be mitigated by reporting them anonymously by other practitioners, Clients aiding unethical practices can be mitigated by sanctioning clients engaging in unethical practices, Most of the respondents also agreed and strongly agreed that accurate and systematic oversight checks by law firms and disciplinary sanctions carried out by relevant regulation authorities are effective in mitigating unethical business pricing and accounting practices in the legal sector in Kenya.

From the respondents’ outcome as seen in Table 4.5.1 (a) it was noticed that 48.3% of the respondents agree that reporting other practitioner’s unethical practices anonymously by other legal practitioners will reduce unethical business pricing and accounting practices. This greatly concurs with (Lerman,1998) who states that one way to discourage tolerance of billing and expense fraud would be to do what has been done in Illinois, and enforce the reporting rules against lawyers who know about and fail to report such conduct by other lawyers. Lawyer reporting of misconduct increased enormously after the Himmel decision, both in Illinois and in branch offices of Chicago law firms.

From the respondents, the researcher found from table 4.5.3 with its respective bar chart that 48.3% and 6.9% agreed and strongly agreed respectively that disciplinary sanction carried out by
relevant regulation authorities would highly help to curb unethical business and accounting practice. This is greatly supported by (Richmond, 2012) who says that clients should be sanctioned for or in connection with their lawyers' misconduct in only two situations. The first is where the client is complicit in the lawyer's misconduct. Courts that sanction clients in this situation often describe a "coordinated effort" or a "concerted effort" between the lawyer and the client. The second is where a sanction will be meaningful only if it affects the client, or it is impossible to remedy the lawyer's misconduct without sanctioning the client.

The growing financial pressure in firms has gravely damaged collegial relationships and mentoring and is partly responsible for the low esteem in which our profession is held. Lawyers who engage in billing and expense fraud should be fired, disbarred and prosecuted on criminal charges sued for malpractice. If all the relevant public and private organizations that have some responsibility for this problem take it seriously, I believe that we can change the norms in the profession so that lawyers are more candid and more truthful in billing clients (Lerman, 1998). This will motivate legal professionals to be ethical and more intentional in upholding the moral standards of the legal profession.

5.4 Conclusion.


From the analysis of variance, it was found that undercutting, overcharging, billing fraud and misappropriation of clients account significantly causes unethical pricing and accounting practices which as statistically significant at p=0.00<0.05. Hence these four independent factors explained a variance of 89.1% hence they study was quite valid. These factors were also strongly correlated positively with unethical pricing and accounting practices in the legal profession in Kenya. Therefore, an increase in the influence of these factors directly leads to an increase in unethical business pricing and accounting practices.
5.4.2 Implications of the Current Unethical Business Pricing and Accounting Practices in the Legal Profession in Kenya.

From the descriptive analysis results we can conclude that the four independent variables are mainly caused by the following factors with greediness of lawyers leading as the major factor; Undercutting mainly being caused by stiff competition from other law firms, overcharging mainly being caused by greediness of legal practitioners, Misappropriation of client accounts mainly being caused by greediness, Billing fraud mainly being caused by greediness

5.4.3 Mitigation Strategies Against Unethical Pricing and Accounting Practices in the Legal Profession in Kenya.

From the descriptive analysis we conclude that the following strategies can be well implemented to curb the following causes of unethical business pricing and accounting practices in the legal profession in Kenya; Overcharging can be mitigated by diligent billing of cost for taxation by courts, Other practitioners’ unethical practices can be mitigated by reporting them anonymously by other practitioners, Clients aiding unethical practices can be mitigated by sanctioning clients engaging in unethical practices also, accurate and systematic oversight checks by law firms and disciplinary sanctions carried out by relevant regulation authorities are effective in mitigating unethical business pricing and accounting practices in the legal sector in Kenya.

5.5 Recommendations.

5.5.1.1 Nature of the Current Unethical Business Pricing and Accounting Practices in the Legal Profession in Kenya.

From the study I recommend the Law Society of Kenya and other legal regulatory bodies to be aware and take these four factors leading to unethical business pricing and accounting practices seriously. They include; overcharging, undercutting, billing fraud and misappropriation of client accounts. They ought to be very intentional and aggressive to fight against them as evidence through the research findings show that these factors amount to 89.1% of the proportion of unethical business pricing and accounting practice in the legal profession in Kenya.
5.5.1.2 Implication of the Unethical Business Pricing and Accounting Practices in the Legal Profession in Kenya

From the study I recommend the Law Society of Kenya should be strict and carry out severe punishment to firms and lawyers found with professional misconduct through the relevant regulatory bodies.

5.5.1.3 Mitigation Strategies Against the Unethical Business Pricing and Accounting Practices in the Legal Profession in Kenya.

From the study I recommend The Law Society of Kenya should continue carrying out awareness to other practitioners’ more so for law firms and advocates in Kenya to be strict against these professional misconduct so as to avoid tainting the image of the Law Society of Kenya and the legal profession itself.

I also recommend the creation of new law that will help fill the lacuna there is on overcharging of legal fees which will stipulate at what extent is one to charge their client.

5.5.2 Recommendation for Further Research.

From the above research findings, recommendation and conclusion I recommend the further research to be done on the other factors affecting ethical pricing and accounting practices other than undercutting, overcharging, billing fraud and misappropriation of client account.
REFERENCES

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American Bar Association: Canons of Professional Ethics. (1908). Retrieved from The Minnesota Legal History Project:

American Bar Association: Canons of Professional Ethics. (1908). Retrieved from The Minnesota Legal History Project:


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APPENDICES
APPENDIX I: Letter of Introduction

TO WHOM IT MAY CONCERN

1ST August 2019

Dear Sir/Madam,

REF: PERMISSION TO CONDUCT RESEARCH- CYNTHIA NJERI GITHUA
STUDENT ID NO. 657127

The bearer of this letter is a student of United States International University (USIU)-Africa pursuing a master’s degree in Global Business Administration.

As part of the program, the student is required to undertake a dissertation on the "Implications of Unethical Business Pricing and Accounting Practices in the Legal Profession in Kenya: A Case of Members of the Law Society of Kenya" requires her to collect data.

Please note that information provided will be treated with utmost confidentiality and will only be used for academic purposes.

Kindly assist the student get the appropriate data and should you have any queries contact the undersigned.

Yours Sincerely

[Signature]

Prof. Amos Nyaguma
Dean School of Graduate Studies, Research and Extension
Tel: 0730 116 442
Email: amnjuguma@usi.ac.ke
APPENDIX II: NACOSTI Research Permit

This is to certify that Miss. Cynthia Gituma of United States International University Africa, has been licensed to conduct research in Nairobi on the topic: Implications of Unethical Business Pricing and Accounting Practices in the Legal Profession: A Case of Members of the Law Society of Kenya for the period ending: 19/August/2019.

License No: NACOSTEP/195941

Date of Issue: 19/August/2019

Ref No. 148556

VERIFICATION QR CODE

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APPENDIX III: QUESTIONNAIRE.

SECTION A

Gender: Male
    Female

Age: Less than 30 years
    Between 30-50 years
    50 years and more

Education: Primary level
    High school level
    Undergraduate level
    Postgraduate level

(Indicate highest level of education)

Practising status: Active
    Inactive

Number of years in practice: Less than 5 years
    Between 5-10 years
    More than 10 years

Years of membership in (LSK): Less than 5 years
    Between 5-10 years
    More than 10 years
SECTION B

1. How do you perceive the frequency of undercutting in the legal sector?
   Very high       High    Moderate   Low

2. How do you perceive the frequency of overcharging of legal fees in the legal sector?
   Very high       High    Moderate   Low

3. How do you perceive the frequency of billing fraud in the legal practice today?
   Very high      High     Moderate      Low

4. How do you perceive misappropriation of client accounts in the legal practice today?
   Very high     High     Moderate      Low

SECTION C

1. What do you perceive to be the main cause of undercutting of legal fees?
   Greed        Stiff competition from other law firms     Client complaints

2. What do you perceive to be the main cause of overcharging of legal fees by legal practitioners?
   Greed      Pay back after being frustrated by exam institutions   No or poor regulation by legal institutions    Ignorance from clients

3. What do you perceive to be the main cause of billing fraud by legal practitioners?
   Pressure from firm partners       Greed       Poor oversight checks by firms

4. Do you think billing fraud is rampant in the legal sector?
   Yes      No      Most likely   Very unlikely

5. Do you think the legal prohibition and punishment against undertaking is an effective deterrent of the unethical practice?
   Yes      No      Most likely   Very unlikely
6. What do you perceive to be the main cause of misappropriation of clients in the legal sector? (kindly give own answer)

7. Have you ever interacted with a client who has been previously mishandled by another lawyer?

Yes  No

8. Do you perceive that unethical business and accounting practices have been rampant with the aid and pressure from clients?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree

SECTION D

1. Do you think if legal practitioners anonymously reported other practitioners’ unethical practices would greatly help to curb them?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree

2. Do you think diligent billing of cost for taxation by the courts would help curb overcharging in legal sector?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree

3. Do you think the disciplinary sanctions carried out by the relevant regulation authorities are effective in curbing unethical business and accounting practices in the legal sector?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree

4. Do you think accurate and systematic oversight checks by law firms could greatly help and mitigate unethical business and accounting practices in the legal sector?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree

5. Do you think sanctioning of clients found in aiding of unethical practices in the legal sector would greatly assist in deterring them from unethical practices?

Strongly disagree  Disagree  Neutral  Agree  Strongly agree