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COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 1998

CONVEYANCING AND REGISTRATION OF TITLE

(Monday, August 10, 1998)

Instructions to Students

- (a) Time 3½ hours
- (b) Answer FIVE questions.
- (c) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
- (d) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

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QUESTION 1

In 1970, Sugar Brown purchased premises, Lot 3, part of New Horizons in the Parish of St. Guinness and registered at Volume 430 Folio 28 of the Register Book of Titles, from James Scatterbrain. Sugar Brown paid to James Scatterbrain the full purchase price of \$25,000 and obtained a receipt and entered into possession. He also has in his possession an unstamped Instrument of Transfer, properly executed by Scatterbrain, but he was never given the duplicate Certificate of Title for the premises. All efforts to trace Scatterbrain have failed and it is believed that he may have left the island or died. Sugar Brown now consults you and tenders the receipt he received from Scatterbrain.

Advise Brown as to the steps that he should take to have the land vested in him and draft an appropriate application.

QUESTION 2

Doke is the owner in fee simple of six acres of land registered at Volume 456 Folio 90 of the Register Book of Titles which he proposes to subdivide into six one-acre lots. He has entered into contract with Philip for the sale to him of Lot 4 of the proposed subdivision for \$1,200,000 cash. The balance on the purchase price is to be paid on completion on June 30, 1998. Philip has made an initial payment of \$180,000 inclusive of the deposit and he has not been put into possession.

Doke has now obtained subdivision approval but he has not taken any steps to date to satisfy the condition to cut the access road to the lots. 98

Philip, who is not prepared to pay the balance of the purchase price on June 30 if there is no Registered Title in his name, now contacts you at this stage as to his rights under the contract. He is worried about the risks of his losing his deposit in the circumstances and wants to know what steps he should take to enforce the contract or recover his money.

- (i) Advise him.
 - (ii) Draft the appropriate notice to Doke.
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QUESTION 3

Sonia is the beneficiary, under the Will of her late father, of three acres of land, being part of a twenty-acre parcel registered at Volume 569 Folio 90 of the Register Book of Titles. The twenty-acre parcel is mortgaged to Cobra Bank Limited to secure the sum of \$1,000,000. Sonia now proposes to sell the land to Greta. The bank has agreed in principle to release her portion of the land from the mortgage.

- (i) Outline in proper sequence the steps that should be taken with a view to vesting title in Greta.
 - (ii) Draft an appropriate Instrument to effect Discharge of Mortgage in respect of Sonia's land.
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QUESTION 4

James, who is the registered proprietor of two acres of land wishes to develop it as a condominium complex. The land is mortgaged to Bank Limited to secure a loan of \$3,000,000.

- (i) Advise James how to proceed.
 - (ii) State how, if at all, your advice would be any different if James instead proposed to develop the land as a townhouse scheme.
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QUESTION 5

You act for Jake who has contracted to purchase freehold property "The Meadows" from Stephen under an open contract. You are being requested by Stephen's attorney-at-law to approve the draft conveyance. The abstract of title shows the following -

- 1931 - Fee simple sale of "The Meadows" Shelly to Fiona subject to an agricultural lease created by Deed recorded LNS 3478 Folio 78.
- 1955 - Death of Fiona, appointing her husband Percival as her executor and devising her real property to Percival and their children Paul and Mia as joint tenants.
- 1974 - Mortgage to Dollar Bank to secure \$6,000.
- 1980 - Death of Mia.
- 1988 - Mortgage to Investment Bank to secure \$400,000.
- 1990 - Receipt evidencing repayment of mortgage loan to Dollar Bank Ltd.
- 1991 - Death of Percival, intestate.

- 1993 - Conveyance of "The Meadows" free from encumbrances from Paul to Benjamin.
- 1994 - Will of Benjamin appointing Joe and Winston executors and Jerry sole beneficiary.
- 1997 - Assent from Winston to Jerry.
- 1997 - Conveyance from Jerry to Stephen.

Advise Jake fully on title, indicating what requisitions and/or objections to title you consider warranted.

QUESTION 6

You act for Paul who proposes to sell his land, 6 May Street in the Parish of St. James and registered at Volume 437 Folio 97 and grocery business conducted thereon, to Percy. Annexed to the premises are the following restrictive covenants -

- (a) Not to erect any building or structure on the said land nearer than twenty feet to any road fronting the land or less than five feet from any other boundary of the said land.
- (b) Not to erect any building of any kind on the said land to be used for commercial purpose.

Paul operates a small shop on the premises from a building which extends to within three feet of the rear boundary of the premises. The main shopping area being some three miles away, the shop is well supported by the residents of the community and the business is very profitable.

- (i) Advise Paul as to how you proceed to obtain modification of the covenants and the likelihood of success of his application.
 - (ii) Draft the proposed modification to be included in the Originating Summons.
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QUESTION 7

On tendering a Transfer for registration on behalf of your client, Pan Brown, you were advised that a caveat was lodged against the title by Cynthia Filligan who claims an interest as a beneficiary under a Will. The land was recently purchased by Pan Brown.

- (i) Outline the procedure that may be followed on behalf of Pam Brown and the duties of the Registrar of Titles in this regard.
 - (ii) If the caveat was discovered prior to the tender of the Transfer for registration, state how, if at all, the procedure could differ.
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QUESTION 8

Pricilla Blake and her husband Samson are joint tenants of land, the matrimonial home, registered at Volume 634 Folio 26 of the Register Book of Titles. Pricilla died recently and Samson now consults you with a view to having the title reflect his infant daughter, Beauty, and himself as the registered proprietors as joint tenants.

- (i) Advise him of the procedure necessary to give effect to his wishes.
 - (ii) Draft the Instrument of Transfer.
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