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LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 1995

CONVEYANCING AND REGISTRATION OF TITLES
(Thursday, May 18, 1995)

Instructions to Students:

- (a) Time: 3 1/2 Hours
- (b) Answer FIVE questions only.
- (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.

QUESTION 1

John Rich entered into an agreement to sell Joe Mean 3 acres of unregistered land. The term of completion simply stated "On or before the 30th day of April, 1995, on presentment of the Deed of Conveyance duly executed by the Vendor and stamped in exchange for the balance of purchase price herein".

On April 15, 1995, Joe Mean contacts John Rich and states that he now requires a registered title for the land and he expects John Rich to pay the costs for investigating the title, the costs of the application and the required stamp duty.

- (a) Advise John Rich of his rights and obligations (if any).
 - (b) List the necessary information and documents for the purposes of the application.
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QUESTION 2

Jack Love, now deceased, and his wife Mary held 2 acres of land part of Harmony, St. Mary and registered at Volume 1134 Folio 56 of the Register Book of Titles, as joint tenants up until the time of his death.

Mary has now located a Will wherein Jack Love appoints her as sole executrix and devises "all my interest in the land part of Harmony to our loving daughter Josephine and her two children Chris and Gillian. Remember dear wife we always discussed our intention for our Josephine and her children to have this land".

Mary now wishes to transfer the entire land to Josephine and her two children, Chris aged 21 and a full time student at the University and, Gillian, aged 4 years.

- (a) Advise Mary, outlining the steps necessary to effect the transfer of the land to Josephine and her children.
- (b) Draft a transfer.

QUESTION 3

Bobby Goodlife owes Finance Limited a balance of \$600,000 on a mortgage loan of \$1,500,000 given on the security of his residence at 17 Homestead Road. The premises is comprised of two titles, the main house registered at Volume 1345 Folio 47 and a small flat to the side being Lot B and registered at Volume 567 Folio 34.

Bobby is twelve months in arrears of his mortgage payment (total arrears \$250,000). He has found a buyer for the flat and promises to give Finance Limited the net proceeds of \$500,000 if they release the flat for sale and not enforce their rights pending completion. The bank has agreed in principle with the proposal.

- (a) As Bobby's attorney-at-law, draft a letter to the bank setting out the appropriate undertaking and soliciting their consent in writing and enclose a draft of the partial discharge of mortgage required.
- (b) The Manager of Finance Limited is adamant, however, that Bobby has been a bad customer. He insists that if the sale falls through then he intends to sell the entire premises to another customer he knows can pay cash for \$3,000,000 or, alternatively will instruct his auctioneer to put it up for sale.

The Manager consults you.

Advise him generally, bearing in mind the obligations of, and steps to be taken by a mortgagee in realizing his security.

QUESTION 4

John and Joan had owned a freehold house known as Lot B as joint tenants, with unregistered title, but Joan died last year. Jack and Jill have now contracted to purchase Lot B for \$5,000,000. The Vendor is Albert, the duly appointed agent of John who is in the U.S.A. The contract for sale provides for the Conveyance to be subject to restrictive covenants contained in a Deed of May 30, 1960, made between Carl Brown and Thomas James, although it is unclear whether the covenants are presently enforceable.

The contract also provides for the Conveyance to include the terms -

- (i) that Jack owns two-thirds and Jill one-third of Lot B;
- (ii) that they will not sell the property for three years; and
- (iii) that thereafter, if either of them wishes to sell, he or she must first offer to sell to the other for two-thirds or one-third, as the case maybe, of the then current value of the entire property to be determined by a valuator of the firm C. D. Limited, acting as an expert and not as an arbitrator.

Draft an appropriate Conveyance.

QUESTION 5

(a) David died in 1994, having by his Will devised Lot A to his executrix and widow, Weda, for life or until their son, Junior, attained the age of 25 years, in which latter event, Lot A is to go to Junior absolutely. Weda executed an assent in her favour as tenant for life and in the assent she declared and/or appointed herself and her lover, John, as trustees under the settlement.

On February 1, 1995, Weda contracted to sell Lot A to Percy for \$3,000,000 and the completion date was set for May 6, 1995. On May 5, 1995, Percy discovered that Junior had attained the age of 25 years on May 1, and refused to complete the transaction. On May 7, Weda, in the presence of her attorney-at-law, Junior and a witness, tendered a Conveyance, executed by herself, to Percy together with a document signed by Junior, agreeing to the sale.

Advise Percy.

(b) Patrick contracted to purchase Lot C from Vernon subject to the existing monthly tenancies of the said premises. On the completion date when all the necessary documents were presented to Patrick and just before he paid the balance of purchase price, he discovered that one of the tenancies previously mentioned as a monthly tenancy was in fact a tenancy with three years then unexpired.

Advise Patrick.

QUESTION 6

(a) You act for Phyllis who contracted to purchase freehold property known as 10 King Street from Vivian.

- (i) What can be done if your requisitions on title are not satisfactorily answered?
 - (ii) If on presentation of the duplicate Certificate of Title and the Transfer, Vivian is informed that a caveat/caution has just been lodged against the Title, what can be done and by whom?
- (b) What are the conditions and requirements for and the procedure on foreclosure under a mortgage?
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QUESTION 7

Daniel by his will appointed C and D his executors and devised Lot A registered at Volume 1 Folio 2 of the Register Book of Titles to Barbara. The Will has been duly probated.

The executors now consult you as to how and when they should pass Lot A to Barbara.

- (i) Advise the executors on the alternative ways of effecting a change of proprietorship;
 - (ii) Prepare in draft an application.
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QUESTION 8

Richard is the registered proprietor in fee simple of a one-acre parcel of land described as Lot E and now known as 5 East Road. The land is part of lands comprised in a Plan of subdivision registered in 1980 and made subject to the following restrictive covenants -

- "(1) The building to be erected thereon shall be a single-family dwelling house.
(2) the land shall not be sub-divided."

Richard consults you with a view to erecting a small building at the back of his house for the purpose of making pharmaceutical products for sale. He is of the view that his land is being wasted when he can benefit the community.

- (i) Explain to Richard the applicable principles and advise him of his chances of success in an application for the purpose.
 - (ii) Outline the procedure.
 - (iii) List the documents to initiate and complete the process.
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