

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2004

LAW OF SUCCESSION

(FRIDAY, AUGUST 6, 2004)

Instructions to Students

- (a) Time: 3 ½ 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.
- (e) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

By his Will dated March 11, 2002, Samuel Grant appointed Joan Lange as his sole executrix. He left his entire estate valued at \$4,500,000 to Lange and to his good friend, Marsha Banks in equal shares. On April 29, 2003, Grant dies at the age of 63, a bachelor without any children or other next of kin surviving him.

On January 15, 2004, Lange was convicted of fraud and is currently serving a five-year sentence. Banks, who wishes to administer Grant's estate, consults you.

- (a) Advise Banks as to the type of grant for which she can apply in order to achieve this objective.
 - (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the relevant grant of representation.
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QUESTION 2

On June 15, 2002, Dexter Went died leaving a Will dated July 18, 2000, in which he appointed his daughter Marilyn Jansen sole executrix and left his entire estate valued at \$3,200,000 to Marilyn and his wife Nora in equal shares.

Marilyn is currently abroad on a job-related assignment and will not be returning home for another year. Nora has indicated her willingness to administer her husband's estate in the interim.

- (a) Advise as to the type of grant to be obtained in the circumstances.

- (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 3

Joseph Wade, a widower, died suddenly in July 2002, a widower, leaving an estate valued at \$3,000,000. Thomas, his son, has applied for probate of a Will dated April 16, 2001, allegedly left by Joseph in which Thomas is the sole beneficiary and sole executor.

Prince, Joseph's only other child, has learnt of Thomas' intention and is surprised as he has in his possession a Will dated April 7, 2002, made by his father and which Joseph had handed to him several weeks before his death. In the 2002 Will Joseph's estate is left to Thomas and Prince in equal shares.

- (a) Advise Prince as to the steps to be taken to prevent Thomas from getting the grant he is seeking.
- (b) Assuming that Prince is successful in (a) (above), advise him as to the procedure to determine the true Will of the deceased.
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QUESTION 4

Phyllis Myers died intestate on August 11, 2000. Her daughter, Susan, applied for a grant of letters of administration of her mother's estate and the application was advertised in the local newspaper.

Doreen, the younger daughter of the deceased who lives in Switzerland, saw the advertisement and subsequently discovered that Phyllis had made a Will and that the deceased's lawyers had it.

Doreen contacted the lawyers who informed her that there was indeed such a Will but that the original was destroyed in a fire and they only had an unsigned duplicate.

- (a) Advise Doreen as to the practice and procedure to give effect to the deceased's Will as contained in the duplicate.
 - (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 5

On January 17, 1999, Sybil Alexander dies leaving a Will dated March 15, 1997. She appoints Phillip Rhoom as the sole executor and leaves the entire estate valued at \$2,000,000 to her only child, Melvin.

Phillip has refused to apply for probate stating that "the soul of the deceased must be allowed to rest for several years before dealing with material things!" Melvin, who is anxious to have the estate wound up, comes to you for advice.

- (a) Advise him as to what steps may be taken to have Phillip wind up the estate or be replaced.
 - (b) Describe the documents to be used (i) in support of the steps taken at (a) above and (ii) to complete the winding up of the estate.
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QUESTION 6

By his Will dated October 6, 2000, Francis Collins, a bachelor and father of two adult daughters, Sandra and Sonia, appoints Jennifer Jones as his sole executrix. Collins leaves his entire estate to his two daughters in equal shares.

On October 3, 2003, Collins dies and Jones, without obtaining the relevant grant of representation, advertises for creditors of the estate. Despite verbal and written requests by Sandra and Sonia, Jones has refused to take out the relevant grant.

Sandra and Sonia, who are anxious to have their father's estate wound up, visit you at your chambers and wish to be advised as to the options available to them to achieve their objective.

Advise Sandra and Sonia.

QUESTION 7

Sheldon Winston, a native of your country, migrated to Canada in 1975 and died on March 15, 2003, leaving property in Canada and in your country. On December 3, 2003, a grant of probate limited until the original or more authentic copy of the will be proved was made to Matthew Graham, the testator's sole executor, whose permanent address is in Canada.

Graham now wishes to take the necessary steps to administer Winston's estate situate in your country and comes to you for advice.

Advise Graham as to the steps to be taken to achieve his objective, describing the documents to be filed in support.

QUESTION 8

- (a) State the different ways in which an insolvent estate can be administered.
- (b) List the order of payment of debts when an estate is insolvent.
