

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2008

LAW OF SUCCESSION

(THURSDAY, AUGUST 7, 2008)

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

Miriam migrated to Canada in 1996 and died in 2003 leaving property in Canada and in her native English-speaking Caribbean Country. Probate of Miriam's Will has been granted in Canada to Dwight and Marston, the deceased's executors. At the time of her death Miriam's permanent residence was in Canada. The executors now wish to take steps to administer the property, valued at \$7,000,000, left by the testatrix in her native Caribbean country.

Advise the executors as to the steps to be taken to accomplish the executors' objectives and list the documents to be prepared and filed.

QUESTION 2

Donald Blue died on January 9, 2002 leaving a Will dated December 14, 1997. Under his Will he appointed Kenny Whyte as sole executor and gave his entire estate to his only child, Delroy Blue.

Kenny obtained probate of Donald's Will and was in the process of discharging the liabilities of the estate when he died in 2005. Kenny left a Will dated August 5, 2003 appointing his best friend, Jerome Williamson, as his sole executor. Jerome instructed his attorneys-at-law to obtain probate in Kenny's estate but before the grant could be issued Jerome was killed by lightning in a freak thunderstorm in 2007.

Delroy is anxious to complete the administration of his father's estate and gives you instructions in this regard.

- (i) Advise him as to the practice and procedure to allow him to complete the administration of his father's estate.

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

Jonathan Watson died intestate in June, 2004 leaving realty valued at \$8,000,000 and personalty valued at \$2,000,000, including personal chattels valued at \$500,000. He is survived by his “honeycomb” Deidre with whom he had shared a common-law relationship for seven straight years up to when he died.

Jonathan though separated from his wife Wilma for eight years, was not divorced until 2001. He left three adult children (Winston, Psyche and Clive) from his marriage to Wilma and a six-year old child, Pearline, with Deidre.

Advise Deidre as to:

- (i) the distribution of the estate, and
- (ii) the type of grant which is relevant and the person(s) entitled to apply for the said grant.
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QUESTION 4

Teresa Grange, a registered nurse for forty years, died while on duty at a nursing home in May, 2001. She left an estate valued at \$6,000,000 and a Will dated July 12, 1989 but no executors were appointed under the Will. Teresa had never married and left no children or any other relative at the time of her death. She left

everything she owned to the nursing home that is run by a very efficient board of directors who wish to have the estate wound up as quickly as possible.

- (i) State the practice and procedure necessary to obtain the relevant grant.
 - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 5

Oliver Brave made his Will on September 22, 1996. He died on April 24, 2004, leaving an estate valued at \$10,000,000. The sole executor under the Will is Oliver's childhood friend Betty Broome.

- (i) List the documents to be filed in support of the application for the relevant grant of representation, and
 - (ii) Detail the contents of the Oath (or other appropriate document corresponding to an Oath) to lead the grant.
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QUESTION 6

In 2003 Phyllis Waite, a widow, died leaving a Will she had made in 1997 in which her only child, Jessica, born in 1989, was the sole beneficiary and sole executrix.

In 2004, Jessica's legal guardian, Maud Clooney had obtained a grant on Jessica's behalf. Jessica is now not happy with how Maud is running the estate and wants to obtain a grant in her deceased's mother's estate in her own right.

- (i) List the documents to lead the grant to Jessica.
 - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 7

Daniel died in August, 1999 leaving real property valued at \$7,500,000 and personalty valued at \$2,300,000. Devaluation of the local currency and other factors had severely affected his once prosperous business and, at his death, he left liabilities amounting to \$12,000,000 including a mortgage debt to Lend-Them-Quick Limited of \$5,000,000 (secured on the said real property) and various unsecured debts totaling \$7,000,000.

Advise the unsecured creditors how the estate may be administered and what steps they have to take to recover their debts.

QUESTION 8

Prudence Willow died on the 11th December, 2004 and left a Will dated the 14th June, 1992 in which she appointed her uncle Jacques Willow as her sole executor. The sole beneficiary is Prudence's church, Save-The-Souls Tabernacle.

Every month since Prudence's death, Jacques has collected rent from the tenants in a tenement yard owned by Prudence (the estate's chief asset) and pays the various expenses associated with the estate from the rental income.

Jacques, an atheist, has refused to apply for a grant of probate as he does not believe that the church should get anything.

Advise the directors of the church as to the steps to be taken to compel Jacques to wind up the estate.
