

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 1997**

LAW OF SUCCESSION

(Thursday, May 22 , 1997)

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

Myron and his daughter Cynthia died in a car crash last year. The car was driven by Myron's only son, Maxwell, who has been convicted of causing their deaths by reckless driving.

Myron's Will which he made in 1989 without professional help provides as follows -

- (i) "I appoint my uncles to be my executors." (This followed by the words "either Sam or Tony" written in pencil).
- (ii) "I give and bequeath my gold Tolex wrist watch to my cousin Jackie". (Myron has two cousins called Jackie and another cousin called Jacqueline affectionately referred to as Jackie by Myron).
- (iii) "My 6,000 shares in Shady Deals Company to my nephew Robin". (At the date of the will Myron had 6,000 shares but subsequently sold 1,000 of them).
- (iv) "My cottage called "The Tradewinds" to my daughter Cynthia". (Myron owned a house called "The Tradewinds" and a cottage called "Land's End").
- (v) "The residue of my lease of 6 Oakvale Road to my niece Frieda". (The lease of Oakvale expired in 1993 and Myron acquired the fee simple in the same year).

- (vi) "The rest of my money to my children in equal shares". (Myron's residuary estate comprises lands, stocks and shares).

Write an opinion on the distribution of Myron's estate.

QUESTION 2

In 1975 Karl Albert, a native of your country, migrates to Canada where he died domiciled, on August 15, 1996. By his Will dated June 5, 1986, Albert appoints Samuel Kenny as his executor and leaves his property in Canada and in his native country to his sons, Brett and Brian. On November 3, 1996 Kenny obtained a grant of probate of Albert's estate.

Kenny now wishes to administer Albert's estate in your country. Kenny's uncle, Edward, who lives in your country, has agreed to do so on Kenny's behalf.

Advise as to the steps which must first be taken in order to enable Edward to administer Albert's estate in your country, describing the contents of the documents used in support thereof.

QUESTION 3

On March 29, 1997, Beulah Biggs, a widow, boards flight No. 268 bound to New York. About twenty minutes after take-off, the aeroplane plunges into the Atlantic Ocean. There are no survivors of this ill-fated flight. Although the bodies of fifty of the ninety-five passengers were recovered, Beulah Biggs' body was not among the fifty.

Her daughters Laura, 24 years and Linda, 22 years who have now come to you for advice, are anxious to obtain the relevant grant of representation of their mother's estate. They also inform you that their mother died intestate.

- (i) Advise Laura and Linda as to the steps which must be taken to obtain the relevant grant of representation of their mother's estate.
 - (ii) Draft the oath/affidavit to lead to the grant of representation.
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QUESTION 4

Joseph Small, having written his Will on one side of a sheet of paper calls Frank and Delia into the room and says to them, "I want you to witness my signature". He then writes "Joe S" half-way down the other side of the sheet of paper, while Frank and Delia are looking out of the window. At this point he goes to answer the telephone in the same room saying, "please sign the sheet". Frank writes his name at the top of the sheet above "Joe S".

Joseph then adds "mall" after "Joe S". Frank goes out of the room and finally Delia writes her name immediately below Frank's.

Joseph has recently died and his Will is discovered with the edges burnt and torn and Joseph's signature obliterated with a black ink pen.

Write an opinion as to whether the document should be admitted to probate as Joseph's Will.

QUESTION 5

Randy Grandy allegedly made a Will dated March 15, 1993, appointing Seymour Jones and John Tom his executors and left his entire estate to Princess Nicey, the proprietress of the nursing home where Randy was a patient at the time of his death. The Will was executed two hours before Randy dies.

Bashmentia Grandy, Randy's widow, who did not know of the existence of this Will, applied for a grant of Letters of Administration in the estate. Her attorneys-at-law discovered, however, that a caveat had been lodged by Nicey's attorneys-at-law preventing the issuing of the grant.

Bashmentia consults you. She has not seen the "alleged Will" but believes that it was not made with the necessary testamentary capacity. She wants to challenge the Will.

Outline the procedural steps to be taken by the parties from the filing of the caveat down to judgment stating what documents should be filed and describing briefly the contents of such documents.

QUESTION 6

Brenton Silk made a Will on September 9, 1995, appointing his only son, Trevor, as sole executor. Trevor and Brenton's two adult daughters, Sophia and Carol, are the only beneficiaries under the Will.

After Brenton's death in 1996 his Will (which was kept by Trevor) cannot be found despite assiduous searches for it. Trevor, however, has found a photocopy of the Will which he had asked his secretary, Della Neat, to make.

- (i) Set out the procedure to be pursued by Trevor to obtain a Grant of Probate in the estate, including any necessary preliminary application, listing the documents to be filed.
 - (ii) Draft the principal Affidavit in support of the preliminary application.
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QUESTION 7

Stefan died on February 8, 1995, intestate leaving four (4) adult children, Gregory, Christopher, Karl and Keisha from his marriage to Sissy, from whom he was divorced in 1993. At the time of his death, Stefan had lived for seven years with Angella in a common-law relationship. He had two children with Angella, Zindzi who is five years old and Charmaine who was born on the June 12, 1995.

Stefan left personal chattels valued at \$300,000 , other personalty valued at \$700,000 and real estate valued at \$5,000,000 .

- (i) Advise Angella as to who is/are entitled to share in or make a claim against the estate and the extent of such entitlement.

 - (ii) Assuming a private individual has obtained a court order authorising him/her to apply for a grant of representation in the estate, draft the Oath (or document corresponding to an Oath) to lead the grant.
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QUESTION 8

Tyrone died in April, 1997, leaving real property valued at \$3,500,000 and personalty valued at \$1,900,000 . A recession had severely affected his business and he left liabilities amounting to \$6,000,000 including a mortgage to Quick Money Limited of \$1,750,000 (secured on the said real property) and unsecured creditors.

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