

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR EXAMINATIONS, 2004

LAW OF SUCCESSION

(TUESDAY, MAY 25, 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

Jerome Boothe, a famous musician, died suddenly in December 2002 while giving a Christmas Recital. He left an estate valued at \$11,000,000 and a Will dated August 12, 1998, appointing Wyclef Thomas and Junior Brown as the executors. Boothe's children, Cordel and Claudia, are the beneficiaries under the Will and wish to have the estate wound up as quickly as possible.

- (a) State the practice and procedure necessary for the executors to obtain a grant.
 - (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 2

By her Will dated May 5, 2000, Anna Stephens left her entire estate valued at \$7,000,000 to her nephew, Kevin Drakes, and appointed her brother Jehu Jones as her sole executor. Anna died in February 2001 and Jehu obtained the relevant grant of representation for her estate in March 2002 but has done nothing since to complete the winding up of the estate. Drakes, who was seventeen years old when Anna died, wishes to obtain his benefits under the Will to assist some family friends who are in dire need.

- (a) Advise Drakes as to what he can do to complete the winding up of the estate, and

- (b) Assuming that Jehu has been removed as executor and Drakes has applied for a grant, detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 3

Precious Wilson died intestate in June 2001 leaving realty valued at \$9,000,000 and personalty valued at \$5,000,000, including personal chattels valued at \$3,000,000. She is survived by her "pudding pie" Garry with whom she had shared a common-law relationship for eleven straight years up to when she died.

Precious, though separated from her husband Devon for twelve years, was not divorced until 1999. She left four adult children (Michael, Nikki, Stephen and Elvis) from her marriage to Devon and a ten-year old child Psyche fathered by Garry.

Advise Garry as to:

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

In December 2001 Hyacinth Muir died leaving a Will dated April 2, 1999, with the following provisions:

- (a) to my brother Wilfred my house at "Seaview";
- (b) to my "sugar corn" the proceeds of my certificate of deposit with Wealthy Bank Limited;
- (c) to my sister Aurora all my jewellery;
- (d) to my son Rupert my red Honda CRV motor vehicle;
- (e) my one thousand shares in Bundem Limited to be divided equally among my friends, Lorraine, Gerard and Almira, and
- (f) \$4,000,000 to be divided equally between the Helpless Girls Foundation and the Fight Aids Hospice.

After Hyacinth's death the following is discovered –

- (a) she has no brother by the name Wilfred but has a good friend (Wilfred Williams) with whom she spent a lot of time;
- (b) she called both her boyfriend Sean-Paul and her son, Rupert, "sugar corn";
- (c) she had sold all her jewellery a week before she died and had invested the proceeds of sale in a company established to explore the medicinal benefits of ganja;

- (d) she had only one Honda CRV but the colour is purple;
- (e) she had only five hundred shares in Bundem Limited, and
- (f) several months before Hyacinth died the Helpless Girls Foundation had changed its name to "Save The Girls Foundation", while the Fight Aids Hospice had ceased operating.

Advise the executors as to the construction of the Will and how the estate should be distributed.

QUESTION 5

In 1996 Rufus Bellamy, a native of your country, migrated to England, dying there in March, 2001. He left an estate valued at \$7,500,000 with the English equivalent of \$4,300,000 being in England and the balance of \$3,200,000 in his native country.

In January 2004 his executor, Desmond Plummer who resides in England, obtained a grant of probate in relation to the property in England. He wants to proceed with the necessary application to wind up the estate in Bellamy's native country but cannot leave England because of personal reasons.

- (a) Advise Plummer as to the practice and procedure to be followed in order for Bellamy's estate to be administered in his native country.
- (b) Detail the contents of the documents to be used in support of the steps to be taken in (a) (above).

QUESTION 6

On September 19, 1997, Jermaine Evans, a widower, died leaving a Will made in 1993 in which his only child, Fatima, born in 1984, was the sole beneficiary and sole executrix.

In 2000, Fatima's legal guardians, Keith and Nancy Solomon, had obtained a grant on Fatima's behalf. Fatima now wishes to obtain a grant for her deceased father's estate in her own right.

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

By her Will dated October 15, 2000, Susan Richards appoints Joseph Welch as her sole executor and makes the following dispositions:

- (a) My BMW-X5 motor vehicle to my nephew John Walters;
[The vehicle is valued at \$2,500,000.]
- (b) my beach house at 23 Bayside Park to my cousin Angela Anderson;
[This property is valued at \$3,000,000. On November 9, 2003, Angela dies.]

- (c) my house at 215 Richplain Drive to David Peters;
[The certificate of title for the house, which is valued at \$4,500,000, was mortgaged to Lend-It Building Society to secure a loan of \$3,500,000 of which \$2,100,000 is still due and owing at Susan's death;]

- (d) my fifteen acres of land at Hidden Valley to Rita Cumberbatch subject to the payment of all my debts and liabilities;
[The land is worth \$1,500,000;]

- (e) \$50,000 to Karl Joseph and \$20,000 to Irma Landers; and

- (f) the residue of my personal property to Graham Griffith.
[The residuary personalty is valued at \$1,600,000.]

On August 8, 2003, six months prior to her death, Susan bought a house at 14 Main Drive valued at \$3,000,000. The funeral and testamentary expenses amount to \$2,200,000 and she left unsecured debts amounting to \$7,800,000.

Advise Susan's executor as to the order in which the assets are to be applied to the payment of the estate's debts and how the surplus ought to be distributed.

QUESTION 8

On February 12, 2000, Vera Arthur made a 3-page Will in which she left all her property valued at \$3,700,000 to her sister Yvonne and appointed Peter Bishop as her executor. On January 19, 2004, Vera dies of a heart attack and Bishop visits your law chambers and informs you of the following:

- (a) the two attesting witnesses signed the Will at the top of the first page;
- (b) at the time when Vera was signing the Will one of the witnesses turned his back to Vera and proceeded to engage in a discussion with one of Vera's employees who was in the room at the time;
- (c) the Will is undated and there is no attestation clause;
- (d) although Vera could sign her name she could not read;
- (e) "Frank", to whom a motor car is given in clause 5, is crossed out and the name "Bertram" substituted. This change was not initialled by anyone although the witnesses maintain that it was made before anyone signed the Will; and
- (f) one of the attesting witnesses is a beneficiary under the Will.

Advise Bishop on the several matters he has raised and how, if at all, they affect the validity of the Will.