

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 2006

**LAW OF SUCCESSION**

(MONDAY, MAY 15, 2006)

**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.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **QUESTION 1**

Julie Browne, a successful businesswoman, died in March 2005 leaving an estate valued at \$16,000,000 including personalty and realty. She left a Will dated April 11, 2003, in which Michael Rowe and Thomas Whyte were appointed executors. Rowe died in 2001 and Whyte has said that he is too busy to assume the responsibilities of executor. The beneficiaries under Julie's Will are her adult children, Noah and Rachel.

- (a) Advise the beneficiaries of the steps to be taken to wind up the estate.
- (b) Assuming that a court of competent jurisdiction has removed Whyte as an executor, detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.

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## **QUESTION 2**

Spencer Charles made a Will on October 9, 2004. This was signed on Spencer's behalf by his friend John Wheeler who signed while Spencer was in the same room but looking through the window at an altercation outside. John, instead of signing Spencer's real name, signed the name "Charlie", a name by which Spencer was affectionately called, at the top of the two-page document.

Four persons signed the Will as attesting witnesses including Simone and Devon two of Spencer's children who are beneficiaries under the Will. The Will has no date or attestation clause.

Advise the executors on the validity of the Will and the other issues arising on the facts.

### **QUESTION 3**

Marcus Simpson, originally from your jurisdiction, died testate in England in April 2003 leaving property there and in your jurisdiction. A grant of probate was obtained in England by Antony and Brutus, Marcus's two executors. The property in your jurisdiction is valued at \$10,000,000 and Gilbert and Hugo, the beneficiaries of the local estate, are anxious to have their gifts transferred to them.

- (a) (i) Advise the executors as to what is to be done so that Gilbert and Hugo can get their benefits, and
- (ii) List the documents to be filed.
- (b) Detail the contents of the Oath (or other document corresponding to an Oath) necessary to lead the grant.

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### **QUESTION 4**

Under his Will dated September 30, 2001, Amos Carter appoints Martin Jack and Russell Sears as his executors. He left his estate to his son, Trevor, who was studying abroad. Jack emigrated to Australia and died there in January 2003. Carter died on March 5, 2004.

Russell Sears, who obtained probate of Carter's Will in September 2005, died in an accident on January 12, 2006, before he could complete the administration of Carter's estate. Under his Will, Sears gave his entire estate to his daughter, Marilyn, and instructed her to pay his "*just debts and funeral expenses*". Marilyn

obtained probate of her father's Will in December 2005. Trevor, who recently returned from abroad, wishes to have the administration of his father's estate completed.

Advise Trevor on:

- (a) the person responsible for winding up his father's estate, giving reasons for your answer, and
  - (b) the procedure that must be followed in the event that Trevor has to administer his father's estate.
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### **QUESTION 5**

Ron Tyson, a widower, makes his Will dated July 4, 2004, which is prepared in duplicate and executed in the presence of Tyson's lawyer Toni Willis and his banker, Verna Whyte. Tyson appoints his son Claude as his sole executor and leaves his entire estate to be divided equally between Claude and Tyson's other child, Jennifer. The lawyer gave the original Will to Tyson and kept the copy.

In August 2004, Tyson calls his children Claude and Jennifer to a family meeting, advises them of his Will and tells them that he keeps it in the filing cabinet in his study.

On December 26, 2005, the entire beach front area where Tyson lives is destroyed by a tsunami. Tyson never took the warnings of impending danger seriously and was swept away by the tidal surge. His body is subsequently

discovered in the ensuing rescue effort but his entire property is destroyed and the original Will cannot be found.

Claude now seeks your advice as to the steps to be taken in order to obtain the relevant grant of representation for his father's estate.

Advise him and detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.

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### **QUESTION 6**

Sharmain Blythe, a widow, is involved in a boating accident and dies instantly on January 17, 2006. By her Will dated April 1, 2000, Sharmain appointed Frida Mellace as her sole executrix and made the following dispositions:

- (a) ***“My house at Rocky Vale together with all effects to my mother Mary.”***

(Apart from antique furniture, expensive china and valuable paintings, Sharmain kept all her title deeds, share certificates and bonds in a safe hidden in the living room.)

- (b) ***“All my shares in Acme Computer Company to my son Sylvester.”***

(At the time of making the Will, Sharmain had 5,000 shares in this Company. *Acme* was subsequently acquired by *New Age Technology Company* and shareholders were issued new shares. At the time of her death Sharmain owned 10,000 shares in *New Age Technology Company* by virtue of the acquisition.)

(c) ***“\$100,000 to my sister.”***

(This is scratched out and a figure of \$10,000 written in pen. Sharmain has two sisters.)

(d) ***“The residue of my estate to my only daughter Wendy.”***

(Wendy died six months before her mother and is survived by her (Wendy's) infant son, Ronnie.)

(e) ***“To my granddaughter Suzie my leasehold interest at 125 Fairways drive.”***

(Sharmain bought the Fairways property six months before she died.)

Advise Sharmain's executrix as to the construction of Sharmain's Will and how the gifts are to be distributed.

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### **QUESTION 7**

By his Will dated July 17, 2005, Fitzroy Day appoints Melvin Blue and Jessica Hew as his executors and makes the following dispositions:

(a) my Range Rover motor vehicle to my friend Junior. (The vehicle is valued at \$3,500,000);

(b) my townhouse at 5446 Xanadu Mews to my uncle Myron Gray. (This property is valued at \$4,000,000. On November 9, 2004 Myron Gray dies);

- (c) my house at 67 Montcalm Close to my niece Miriam. (The certificate of title for the house, which is valued at \$5,000,000, was deposited with Build-It Building Society to secure a loan of \$2,500,000 of which \$1,500,000 is still due and owing at Day's death);
- (d) my ten acres of land at Nirvana Valley to my good friend Judy subject to the payment of all my debts and liabilities. (The land is worth \$2,500,000);
- (e) \$150,000 to Jessica Redd, \$250,000 to Michael Wesley, and \$500,000 to David Crosby;
- (f) the residue of my personal property to Milan Burgess. (The residuary personalty is valued at \$2,750,000).

Day's good friend Percival Plummer, an insurance agent, had convinced him to purchase life insurance worth \$7,000,000 in 2004 and a policy for the sum is in effect at Day's death. Day died in March 2006. The funeral and testamentary expenses amount to \$4,600,000 and he left unsecured debts amounting to \$10,800,000.

Advise Day's executors 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.

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### **QUESTION 8**

On March 15, 2002, Mavis Wynn, a widow, died leaving a Will made in 2001 in which her twin children, Doraine and Doreene, born in 1987, were the sole beneficiaries and sole executors.

In June 2003, the children's legal guardians, Roger and Regina Wisdom, had obtained a grant of representation in Wynn's estate on behalf of the twins but the estate is still to be distributed. The twins, having become adults, wish to obtain a grant in their deceased's mother's estate in their own right.

- (a) Advise them as to the procedure to obtain the grant and list the documents to be filed.
  
  - (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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