

# FINAL DRAFT

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 2007

## LAW OF SUCCESSION

(MONDAY, MAY 14, 2007)

### 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**

On October 7, 2000, Devon Willis, a widower, died leaving a Will made in 1989 in which his only children, June and Junior (then minors) were appointed executors and the sole beneficiaries of the \$7,000,000 estate.

In 2002, Nyron and Shelley Jones, the legal guardians of the children had obtained a grant of representation in Devon's estate. The children, now adults, wish to obtain a grant in their deceased's father's estate in their own right.

- (i) List the documents to lead the grant.
  - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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## **QUESTION 2**

On February 7, 2003, Mary Williams died leaving a Will dated April 4, 1999, in which she appointed her son Frank sole executor and left her entire estate valued at \$5,500,000 to Frank and Jerome (Frank's son) in equal shares.

Frank, a journalist, is currently abroad on a job-related assignment and will not be returning home for another year. Jerome, who is 23 years old, has indicated his willingness to administer Mary's estate in the interim and Frank, who wishes to remain as executor, has agreed.

- (i) Advise as to the type of grant to be obtained in the circumstances; and

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

Peter Browne died intestate on March 1, 2005. His only daughter, Janet, applied in September 2005, for a grant of letters of administration in her father's estate and the application was advertised in the local newspaper. The grant has not yet been issued to Janet.

Peter had another child, an adult son Fred, who was studying in France at the time of his father's death. Fred discovered in October 2005 that Peter had made a Will in 1996 leaving his estate mainly to his two children with a few gifts to some friends. Peter had given the Will to his pastor for safe keeping.

Fred contacted the pastor who confirmed that there was indeed such a Will but that the original was destroyed in a fire a couple of years ago. The pastor said, however, that he still had a photocopy of the Will and it was in "pristine condition".

- (i) Advise Fred as to the practice and procedure to give effect to Peter's Will as contained in the photocopy.
  - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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#### **QUESTION 4**

By her Will dated February 19, 1987, Joan Thomas, a spinster, appointed Derrick Penn and Mabel Green as her executors. Penn is a famous medical doctor while Green is a retired actress who resides overseas. Joan left her entire estate, valued at \$4,000,000 to her two nieces, Feona and Jessica, and her best friend Anne Smythe.

On July 17, 2002, Penn died and Smythe, without obtaining the relevant grant of representation, advertised for creditors of the estate and started to “round up” the assets of the estate.

Feona and Jessica, who are anxious to have their aunt’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 them.

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#### **QUESTION 5**

Zeena Gray, a native of your country, migrated to New Zealand in 1969 and died on June 9, 2003, leaving property in New Zealand, the USA and in your country. On November 20, 2003, a grant of probate was made to Phillip James, the testatrix’s sole executor, whose permanent address is in Wellington, New Zealand. James has wound up the estate in New Zealand.

James now wishes to take the necessary steps to administer the remainder of Zeena’s estate and comes to you for advice.

Advise James as to the steps to be taken to achieve his objective, summarising the contents of the document(s) to be filed in support of the relevant application(s).

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### **QUESTION 6**

- (a) Discuss, briefly, the various ways in which an insolvent estate can be administered.
  - (b) List the order of payment of debts when an estate is insolvent.
  - (c) What is the chief concern of a personal representative when an estate is solvent? Give the reason(s) for your answer.
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### **QUESTION 7**

By his Will dated December 12, 1990, Francis Geffen appointed his best friend, Alex Barnes, as his sole executor and left his entire estate valued at \$6,500,000 to his friend Rupert Biggs who, along with Geffen's neighbour Terry Colle, witnessed the Will.

On September 9, 1995, after a heated argument with Biggs, Geffen put the 1990 Will in his safe and executed another Will before Terry and his butler, Alekhine Rubinstein. The 1995 Will, which contains a revocation clause, appoints Paul

Richards as the sole executor and leaves Geffen's entire estate to Barnes and Richards equally.

On October 29, 2002, Geffen, who has reconciled with Biggs, executed a codicil to his 1990 Will appointing Terry Colle as his sole executor but otherwise confirming his 1990 Will. The codicil was witnessed by Colle and Mary Benson, another of Geffen's neighbours.

On January 21, 2004, Geffen died.

Advise Biggs as to his entitlement, if any, and which document(s) will be admitted to probate.

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### **QUESTION 8**

Melanie Small died intestate in May 2004, leaving realty valued at \$6,000,000 and personalty valued at \$8,000,000, including personal chattels valued at \$2,000,000. She is survived by her "sweetie pie" Keith Pryce with whom she had shared a common-law relationship for eleven continuous years up to when she died.

Melanie, though separated from her husband Melvin Small for twelve years, was not divorced until 2003. She left four adult children (Michael, Nikki, Stephen and Elvis) from her marriage to Melvin and a ten-year old child, Lucita, fathered by Keith Pryce.

Advise Keith Pryce as to -

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