

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND-YEAR EXAMINATIONS, 2005

LAW OF SUCCESSION

(TUESDAY, MAY 24, 2005)

**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**

Jessica died on January 14, 2000, leaving a Will dated November 13, 1997. Her estate was left to her fourteen year-old son, David. No executor was appointed under the Will.

- (a) State the steps to be taken to obtain the relevant grant of administration.
  - (b) List the documents to be prepared and filed in support of the necessary application.
  - (c) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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### **QUESTION 2**

Jonathan died in July, 1999, leaving a Will dated May 21, 1993, and which appointed Fred and Jason as executors. The beneficiaries under the Will are Peter and Susan. Jonathan's daughter Deborah, for whom no provision was made in the Will, intends to challenge the validity of the Will and has lodged a caveat/caution thereby preventing the grant from being issued.

- (a) Advise the executors of the steps to be taken to have the caveat/caution removed;
- (b) Assuming that the grant of probate had been issued before Deborah had done anything, what is the practice and procedure for Deborah to have the grant; and

- (c) List the relevant documents to be filed in answering both (a) and (b).
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### **QUESTION 3**

Franklyn Thomas died on July 14, 2002, leaving an estate valued at \$7,550,000.

His debts and other liabilities are:-

- (a) \$2,500,000 being a judgment debt against him;
- (b) \$3,000,000 in outstanding income taxes;
- (c) \$150,000 for goods supplied to his business;
- (d) \$90,000 owing to his wife which he had borrowed to renovate his business premises;
- (e) \$1,850,000 owing to Ready-Cash Bank Limited secured by a mortgage on a condominium owned by Franklyn;
- (f) \$250,000 owing to the manager of his favourite shoe store, and
- (g) \$550,000 in outstanding salaries to his employees.

Advise Franklyn's creditors as to how they may proceed against his estate and as to the distribution of the assets.

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### **QUESTION 4**

Miriam Smith, by Will dated September 23, 1997, left all her estate valued at \$4,800,000 to her friend Tabitha. Miriam, who died in February, 2002, had no husband, children or other relative. James, the executor under the Will, was

convicted of murdering a business associate, Anthony Broome, in 2003 and is serving a life sentence in prison. Tabitha wishes to have the estate wound up.

- (a) Outline the steps to be taken to obtain the relevant grant.
  - (b) Detail the contents of the Oath (or any document corresponding to an Oath) to lead the grant.
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#### **QUESTION 5**

Joseph Krause died on March 18, 2000, leaving a Will dated April 19, 1995, in which he appointed Errol Whyllie as sole executor and gave his entire estate to his two children, Sophia and Denny. Whyllie obtained probate of Krause's Will and was in the process of discharging the estate's liabilities when he died. Whyllie had left a Will dated June 15, 2003, appointing his son, Junior, as his sole executor.

Junior was in the process of obtaining probate of his father's Will when he was struck by lightning and died. Sophia and Denny are eager to complete the administration of their father's estate and consult you.

- (a) Advise them as to the practice and procedure to allow them to complete the administration of Joseph's estate.
  - (b) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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### **QUESTION 6**

Felicia Bravo died on May 23, 2004. Her older daughter, Primrose, believing her mother to have died intestate, applied for a grant of Letters of Administration of her mother's estate and the application was advertised in the local newspaper.

Venus, the younger daughter of the deceased who lives in Thailand, had earlier discovered that her mother had left a Will dated August 11, 2002. Having seen the advertisement she contacted her sister and told her about the Will. Regrettably, the original Will cannot be found but Venus' lawyers located an unsigned duplicate.

- (a) Advise Primrose and Venus as to the practice and procedure to give effect to the deceased's Will as contained in the duplicate.
  - (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 his Will dated May 22, 1989, Jerome Stuart appointed Heidi Graham and Ingrid Fry as his executors and trustees. As part of his estate, Jerome left a three-bedroom apartment which had been leased to Heidi. The lease had six months to run at the time of Jerome's death on December 31, 2004.

Heidi wishes to purchase the apartment at its current market value. Ingrid also wants to buy the apartment and is prepared to pay \$25,000 above the market value. There are infant and adult beneficiaries.

- (a) Advise the executors if either can succeed in acquiring the property.
- (b) What is the practice and procedure to be pursued before either executor can obtain the property?
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**QUESTION 8**

Millicent, who was blind from birth, made her two-page Will on March 15, 1990, which was principally typed but was also written in ink and pencil. The Will had no attestation clause although at the bottom of the first page Millicent had signed below the signatures of the attesting witnesses, Seymour, Rupert and Andrew. At the time of attestation Seymour was engaged to Ayesha, a beneficiary under the Will.

In 1998 a codicil was executed, with an attestation clause, which appointed new executors and left a parcel of land to Rupert, but otherwise confirmed the earlier Will. This codicil was witnessed by Cynthia and Seymour. Seymour is now married to Ayesha. It now transpires that when the codicil was witnessed, the signatures of the witnesses were affixed to the codicil whilst Millicent was out of the room.

Millicent died in March, 2005.

Advise as to the admissibility of the Will and codicil to probate and the fate of the gifts to Ayesha and Rupert.

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