

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 2018

PROBATE PRACTICE AND PROCEDURE

(MONDAY, MAY 07, 2018)

Instructions to Students

- (a) Time: **3½ 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 black or dark blue ink. Erasable pens are not allowed.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## **QUESTION 1**

Jacinth Montano, a widow, made a Will on September 11, 1993 in which she gifted all her real property to her only child, Jason Montano. The residue of her estate was to be shared equally between Jason and her nephew, Oraine Hightower. Jason was appointed executor under this Will.

As Oraine had a successful career as a pilot in Dubai, on June 20, 2000, Jacinth made another Will, in which she gave her entire estate to Jason. Jason was again named executor. There were no other dispositions in this Will.

The 2000 Will contained no express revocation clause.

Jacinth died in December 2007, without having made any other Will. Both the 1993 and 2000 Wills were found among Jacinth's important documents. The 1993 Will was found intact, however, at the foot of the 2000 Will, the signatures of Jacinth and the two attesting witnesses, Jonathan Carlston and Alexandria Parke, were cut out. The 2000 Will was otherwise intact.

Jason, the executor under both the 1993 and 2000 Wills, consults you for advice as to the validity of both the 1993 and 2000 Wills.

Advise Jason.

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## **QUESTION 2**

William Vanguard prides himself on maintaining his privacy and protecting his personal affairs from intrusive individuals. As such, he prepared his own two-page Will. William then wrote his signature at the foot of the first page of the Will which contained the disposing clauses.

A week later, William invited his sister, Doreen Primrose, and his brother, Travis Vanguard, to his home. While on his balcony, William asked them to be his attesting witnesses to his Will, touching his pocket, in which he had the Will which he had already signed on page one.

William then asked Doreen to follow him into a room where he took the Will from his pocket to reveal his signature. Doreen signed at the top of page one and returned to the balcony where she remained. Travis then went into the room with William and signed the document at the end of the second page.

Advise Tarique, who is the principal beneficiary under the Will, on the several legal issues raised by these facts.

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### **QUESTION 3**

Richard Rich died intestate in February 2016, leaving realty valued at \$25,000,000 and personalty valued at \$13,000,000, including personal chattels valued at \$3,000,000.

He is survived by Rebekah, a single woman, with whom he cohabited for six consecutive years, up to the time of his death. The union produced a child, Anastasia, who is three years old. Richard's name is not on Anastasia's birth certificate. Richard is also survived by his mother, Victoria Benson, and three adult children, Lake, Ivor, and Charis, from his previous marriage to Antonette which ended in divorce in 2005.

Antonette is still alive.

Advise Rebekah as to:

- i. the distribution of the estate;
- ii. the type of grant of representation to be issued; and
- iii. the person(s) entitled to take the grant of representation.

#### **QUESTION 4**

Delores Johnson died in April 2016, leaving an estate valued at \$20 million, comprising money in the bank and life insurance policies. She did not leave a Will.

Delores is survived by Benjamin, her husband of 25 years, and their three adult children, Meisha, Rachael and Rory.

Benjamin now wishes to take the necessary steps to administer Delores's estate.

- (i) Advise him as to the practice and procedure to wind up the estate.
  - (ii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.
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#### **QUESTION 5**

George Alexander died on June 4, 2016, leaving a Will dated May 22, 2011, in which his entire estate, valued at \$13,200,000, was left to his wife Bella and his only child, Meghan, an adult. The Executors named in the Will are Junior Maise and Deidre Henry. Both executors under the Will died in September 2016, in a tragic motor vehicle accident. Bella wishes to wind up George's estate.

- (i) Advise Bella as to the relevant grant to be issued and the practice and procedure to wind up the estate.
  - (ii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.
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#### **QUESTION 6**

Jennifer Burrough made a Will on October 3, 2009. She died on August 17, 2015 after a prolonged battle with cancer, leaving an estate valued at \$10,000,000. The beneficiaries are her mother,

Agatha, and her two adult daughters Kenya and Andrea. The executors, Natalia Thompson and Sarah Israel, came to your law offices for information as to what to do to complete the winding up of the estate.

- (i) Advise them as to the practice and procedure to wind up the estate.
- (ii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

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### **QUESTION 7**

By her Will dated August 3, 2012, Lisa Dixon appointed Marvin Browne and Heidi Samuels, both adults, as the executors of her Will.

On May 1, 2013, Lisa died and left her entire estate, valued at \$6,000,000 to her three adult children, Carla, Cheryl and Paul.

On January 6, 2014, Marvin obtained the relevant grant of representation in Lisa's estate, as one of the Executors of the Will, reserving power to Heidi, as she was residing abroad.

On December 5, 2014, Marvin died, without completing the administration of Lisa's estate.

Heidi now wishes to take the necessary steps to administer the estate, and comes to you for legal advice.

- (i) Advise Heidi as to the type of grant for which she may apply.
- (ii) List the documents to be filed in support of the application for the grant of representation.
- (iii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

## **QUESTION 8**

Cynthia Burke, a native of your country, migrated to Australia when she was 20 years old and became an Australian citizen. She studied extensively in Australia and wrote a number of books on biodiversity and endangered species in Australia including “Kangaroos – One of the World’s Endangered Species”. She died in April 2014, leaving personal estate valued at \$9,000,000 in Australia, and real estate of \$6,000,000 in your country.

Her sole surviving relative and the only beneficiary under her 2013 Will is her only child, Jules, who is also the sole executor. Jules obtained a Grant of Probate in Australia and now wishes to take the necessary steps to administer the estate in your country.

- (i) Advise Jules as to the steps to be taken to administer the assets in your jurisdiction.
- (ii) List the documents to be prepared and filed in the Supreme/High Court.
- (iii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

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**END OF PAPER**