

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS 2024

PROBATE PRACTICE AND PROCEDURE

(MONDAY, MAY 6, 2024)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **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.
- (f) Calculators may be used and are provided.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Barkan Afflex, investor, made a Will in November 2021 in which he bequeathed his fine art collection, detailed in the inventory referenced and attached to the Will, to his daughter Laurissa Afflex and his son Israel Afflex. He devised his real estate portfolio to his wife, Lenna Afflex, with the residue of his estate going to his wife Lenna and children, Laurissa and Israel, in equal shares. Lenna and Laurissa were appointed executrices under Barkan's Will.

With the prospects of cryptocurrency emerging as a prominent and viable investment option, Barkan, in 2022, began making sizeable investments in digital currencies. This resulted in significant growth in Barkan's cryptocurrency portfolio.

Barkan's health started to deteriorate at the beginning of 2023, and he was diagnosed with leukemia. Israel was tasked with the management of Barkan's financial affairs. Barkan soon realized that Israel was becoming quite neglectful in the management of his financial affairs, and had also sold three exquisite pieces from his fine art collection without his knowledge and approval. Barkan was deeply aggrieved by Israel's actions.

In December 2023, Barkan made another Will in which he bequeathed his fine art collection solely to Laurissa. He made another disposition under the 2023 Will, giving all his cryptocurrency investments, crypto-coins, tokens, any form of digital cash and/or anything found in his digital wallets to Lenna and Laurissa in equal shares. Lenna and Laurissa were again named executrices under the 2023 Will. There were no other dispositions in the 2023 Will.

The 2023 Will contained no express revocation clause.

Barkan died on February 14, 2024, leaving 60 pieces from his fine art collection, realty, cryptocurrencies, real estate, bank accounts and other personal property.

Both the 2021 and 2023 Wills were found after the death of Barkan. However, while the 2021 Will was discovered among Barkan's important documents, the 2023 Will was found with the signatures of Barkan and the attesting witnesses cut out.

Lenna and Laurissa, the executrices under both Wills, consult you for advice as to the validity of each Will.

Advise Lenna and Laurissa.

QUESTION 2

Katrinia Bell, spinster and architect, died intestate on August 27, 2022, in your jurisdiction. Katrinia is survived by her adult daughter, Carissa Bell, while her other child, Charles Black, predeceased her, having died in a motor vehicle accident on July 19, 2020. He (Charles) is survived by his adult children, Mizani Black and Samuel Black. Geraldine Fuller, Katrinia's mother, is still alive.

Carissa was formally adopted by Katrinia. However, since the passing of Katrinia, the family has been at 'daggers drawn', as Geraldine has been instigating division among Carissa, Mizani and Samuel. Geraldine claims that Carissa has no legal right to Katrinia's estate, as she was adopted. Furthermore, Carissa, having located her biological mother, has seemingly cut ties with her adoptive family, now that she has obtained a good life and completed her education.

Geraldine remains resolute that Katrinia's estate must be administered by her. Carissa has stated that she knows her rights and that she has equal right to her adoptive mother's estate. Mizani and Samuel have indicated that they have no interest in applying for a grant of representation in their grandmother's estate and they will be guided by Geraldine.

At the time of her death, Katrinia's assets comprised the following:

- Realty valued at \$30,000,000, including an apartment valued at \$10,000,000 which she held as joint tenant with her son, Charles.
- Personalty valued at \$10,000,000, including personal chattels valued at \$2,000,000.

The liabilities of the estate total \$5,000,000.

Geraldine insists that Katrinia's estate belongs to her and the grandchildren, Mizani and Samuel, and consults you for legal advice:

Advise Geraldine as to:

- (i) who can apply for a grant of representation in Katrinia's estate;
 - (ii) the type of grant of representation to be issued;
 - (iii) the distribution of the estate; and
 - (iv) the practice and procedure to wind up the estate.
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QUESTION 3

Karl Prendergrast, a native of your jurisdiction, migrated to Malta, a Commonwealth country, in the 1990s, to pursue his studies in logistics and international maritime law. Karl developed a love for Malta, married, established a family, and became a professor at the University of Malta.

Karl would return to your jurisdiction annually, participating in conferences and was a highly sought-after speaker regarding the development of logistics and its impact on international maritime law. His development of the jurisprudence in international maritime law and its impact on developing states was path-breaking.

With an unquenchable love for the land of his birth, Karl invested significantly in your jurisdiction, owning several beachfront properties, and had monies in local banks.

On or around December 18, 2022, Karl died at home in Valletta, Malta. Karl died leaving a Will naming his adult children, Valentina Prendergrast and Matteo Prendergrast, as the named executors and beneficiaries.

The assets owned by Karl in your jurisdiction comprise realty totalling \$60,000,000 and monies at the bank totalling \$7,000,000. Karl also had liabilities in your jurisdiction mainly for maintenance fees and management fees for his beachfront properties totalling \$500,000.

Valentina and Matteo obtained a Grant of Probate in Karl's estate in Malta and now wish to take the necessary steps to administer the assets that fall under Karl's estate in your jurisdiction. They are desirous of having an agent appointed to act on their behalf in your jurisdiction.

Advise Valentina and Matteo as to the documents that would be required and the procedure to be followed to administer Karl's assets in your jurisdiction and outline the content of the originating document(s) to be filed in the Supreme/High Court of your jurisdiction.

END OF PAPER