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LEGAL EDUCATION CERTIFICATE
SUPPLEMENTARY EXAMINATIONS 1975

STATUS, RIGHTS AND RESPONSIBILITIES
OF THE LEGAL PROFESSION

Instructions to Students

- (a) Time: 3½ hours.
 - (b) Answer FIVE questions only.
 - (c) It is unnecessary to transcribe the questions you attempt.
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QUESTION 1.

There is no rule of law that the marriage of a daughter, coupled with her departure from the parental home, necessarily puts an end to the domination of her parents.

A daughter married at the age of 18 and thereupon left her parental home and lived with her husband. Her mother was very extravagant and frequently borrowed money from a moneylender. When the daughter came of age, at her mother's request, she borrowed \$5,000 from the moneylender on the security of her reversionary interest under her grandfather's will in order to pay off her mother's debts to other moneylenders. The mother and daughter signed a joint and several promissory note for \$2,000 at 25% interest. The mother continued to borrow money from the moneylender and a year later the mother asked the daughter to sign a document so that she (the mother) might be able to borrow some more money. The daughter who did not understand the transaction, signed the document at the request of the mother.

The only advice which the daughter received was that of an attorney-at-law who also acted for the mother and the moneylender and who prepared all the documents.

The moneylender has successfully sued the mother and the daughter in an action claiming the sums actually lent on all the transactions with interest. The daughter is considering an appeal against the judgment and has consulted you.

Write an opinion.

QUESTION 2.

An attorney who had attended the hearing of an application before a judge in chambers in the Supreme Court, immediately after such hearing and while the parties were on their way from the judge's room to the entrance of the building, made use of grossly abusive expressions and threatening gestures to the attorney on the other side in relation to such application.

The question is whether such conduct in relation to proceedings before a judge in chambers is punishable as a contempt of Court.

Write an opinion.

QUESTION 3.

In January 1975 Boyle Rice on behalf of his sisters Olga and Olive Rice consulted an attorney, Rufus Cane, about an investment of trust property. At the interview Mr. Cane advised Mr. Rice not to advertise the houses in question for sale, promising to endeavour to obtain a purchaser. A few days afterwards Mr. Cane presented his brother, Dr. Reuben Cattle, as a purchaser, whose offer of \$40,000 was accepted by the trustees, Misses Olga and Olive Rice, they believing that Dr. Cattle was the only and true purchaser and that Rufus Cane was acting in the matter as their attorney; whereas, in fact, Rufus Cane had previously arranged with his brother Dr. Cattle that he should have, at half the price, two of the four houses, which he afterwards disposed of at a profit.

Advise the trustees whether the sale to Dr. Reuben Cattle can be set aside.

QUESTION 4.

Messrs. Oyle and Pitch were advertising agents, who had placed substantial forward advertising orders for a company on terms by which they were personally liable for the cost of the orders. They asked their attorneys, Messrs. Cocoa and Coffee, to enquire into the company's financial stability and their attorneys made enquiries of Messrs. Wood and Fish, who were the

/company's bankers.

company's bankers. Messrs. Wood and Fish gave favourable references. In reliance on those references Messrs. Oyle and Pitch placed orders which resulted in a loss of \$50,000. They have consulted you about an action to recover their loss.

Write an opinion.

QUESTION 5.

Mr. Spice an attorney practising under a firm name and being also an attorney for estates and secretary for companies and conducting buying and selling property for clients, received in the course of his professional work moneys of clients. Some sums were large, others were small, some might only be with him for a short time. The moneys, save for those put on deposit in the names of particular clients, were paid into the clients' current bank account kept in the firm name. When the amount to the credit of this account approached \$10,000, Mr. Spice would place \$5,000 on deposit receipt in the firm name with the words "for clients" added. Such deposits were not earmarked for a particular client or clients. When interest was paid on the sums so deposited, Mr. Spice, acting in accordance with an opinion of the General Council of the Bar, treated the interest as money he was entitled to retain in his business, that is, as his own. Such a practice had been followed for a long time by other attorneys, but was not universal.

The Attorney General has been asked by the Commissioner of Income Tax whether Mr. Spice's claim for earned income relief with respect to the interest is a valid claim.

Write an opinion.

QUESTION 6.

Messrs. Cotton and Bauxite are officers of the Wayfarers' Club, which desired to move into premises formerly occupied by the Seaview Club, which had been dissolved. Messrs. Cotton and Bauxite retained Mr. Citrus as their attorney to arrange for the transfer of the registration of the Wayfarers' Club. Mr. Citrus sent the necessary documents to the magistrate's clerk who refused the registration on the ground that the Seaview Club was on the register as of that address; but the papers were left at the clerk's

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office. Mr. Citrus never notified Messrs. Cotton and Bauxite of the clerk's refusal and the Wayfarers' Club moved into their new premises. The police raided the club and Messrs. Cotton and Bauxite were prosecuted and fined for supplying alcoholic drinks at an unregistered club.

Do Messrs. Cotton and Bauxite have a right of action?
If so, against whom and for what cause.

QUESTION 7.

A West Indian woman, Ruth Bush, who was of great age and wholly illiterate, executed a deed of gift of farm land in favour of her nephew who had the management of all her affairs. Before executing the deed Ruth Bush had independent advice from an attorney, Mr. John Lemon, who acted in good faith. Mr. Lemon was unaware that the gift constituted the whole of Ruth Bush's property, and he did not bring home to her mind that she could, more prudently, and equally effectively, benefit her nephew by bestowing the property upon him by will.

Advise Ruth Bush whether the gift could be set aside.

QUESTION 8.

John Melon an attorney acted for a widow, Pauline Cassava, in the administration of her husband's estate, of which she was the executrix. For many years the husband had dealings with John Melon and had employed him as his attorney in a number of matters, but Mr. Melon had never delivered any bills of costs to the husband. After the husband's death John Melon delivered to Mrs. Cassava an account of his dealings with her husband showing a balance of \$1,500 due to him from the husband's estate. The account contained a number of items for costs which were statute-barred. Mrs. Cassava, in ignorance of the Statute of Limitations, and without having any independent advice, gave John Melon at his request, acknowledgements in writing of the indebtedness of the estate to him.

Advise John Melon whether he can rely upon the acknowledgements to recover the costs in an action against the estate of the husband.
