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**University Examinations 2014/2015**

FOURTH YEAR, SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF COMMERCE

**HCB 2305: TRUST, EXECUTORSHIP, LAW AND ACCOUNTS**

**DATE: DECEMBER 2014 TIME: 2 HOURS**

**INSTRUCTIONS:** *Answer question* ***one*** *and any other* ***two*** *questions*

**QUESTION ONE (30 MARKS)**

1. Citing an ethnic community with which you are familiar, explain how succession was handled in the African customary practices (5 marks)
2. What is the impact of the matrimonial properties bill (2013) on the law of succession Act Cap 160 laws of Kenya? (5 marks)
3. “A will is a testamentary document which is legal and must be followed to the letter”. Discuss four factors that may vitiate a will (4 marks)
4. Discuss how trust may be created and discharged thereof (6 marks)
5. Ramara dies intestate leaving behind two wives Molly and Polly whom he married under a system that permits polygamy. A third wife, Dolly had predeceased him. Polly has three children, Rasha, Richy and Rose. Dolly had two children Shorty and Mrefu. Molly had no children. All the children survived Mr. Ramara. The value of his personal and household effects was sh. 350,000 and the value of his total estate is sh. 3.6 m, although it is ascertained from reliable sources that he owes equity bank sh. 450,000. During his life time, Mr. Ramara had advanced Rasha and Mrefu a total of sh1m to boost their joint hardware shop.

**Required:**

Prepare a clear statement showing how the deceased’s estate would devolve. (10 marks)

**QUESTION TWO (20 MARKS)**

1. Explain the conditions which a gift in contemplation of death must satisfy in order for it to be effective (5 marks)
2. The law of succession seeks to recognise and protect the interest of dependants of a deceased person. Explain who a dependant is as per sections 29 of the law of succession. (6 marks)
3. Discuss the following powers of a trustee as enumerated in the law of trust Act Cap 167 laws of Kenya:
4. Power to sell subject to appreciatory conditions (3 marks)
5. Power to give receipts (3 marks)
6. Power to compound liabilities (3 marks)

**QUESTION THREE (20 MARKS)**

1. Discuss how a valid will may be revoked effectively (3 marks)
2. Ntongai died on 30 April 2014. His executors having paid all the liabilities of the estate and the expenses of administration were ready with distribution of legacies. At that date, the following items recognised at their fair values were in the deceased’s ownership:

 Sh.

Bank Balance 78,200

Furniture 39,800

Jewellery 6,000

Farm 80,000

Beach plot 120,000

Car: Harrier 1,600,000

 Caldina 1,100,000

sh. 200,000, 6% government stock 180,000

Ntongai was survived by a widow Mercy and two grandchildren, Omera and Dave. By his will, he directed the following

* To my wife Mercy, my personal effects and the net residue effect of my estate
* To my friend Nyambane, my beach plot
* To my cousin Kimaiyu, my car
* To my nephew, Wanaruona, my boat
* To my brother-in-law, sh. 200,000
* To my houseboy, Adam, sh.240,000 if still in my employment
* To the pastor of my church, Fr. Riwa, sh. 100,000
* To my driver, Kubaison, sh. 50,000 if still in my employment
* To my grandchildren, Omera and Dave, sh. 60,000 each and a car.
* To my church sh 20,000 to buy a guitar in memory of my mother
* To Meru Hospice, my house at Gatimene.

You further obtain the following additional information:

1. Wanaruona died on 31 March 2013
2. Ntongai had two brother-in-law surviving at the time of his death
3. Adam was still employed at the time of Ntongai death
4. During his life time, Ntongai had provided his church with a guitar in memory of his mother.
5. Kubaison retired in September 2013
6. Kimaiyu predeceased Ntongai, leaving no wife but a daughter Gacheri
7. The farm had been purchased by Ntongai with proceeds of the sale of a house at Makutano.

**Required:**

Prepare a distribution schedule, giving reasons should you decide that the executors should not assent to any of the legacies. (17 marks)

**QUESTION FOUR (20 MARKS)**

 Mulwa died on 31 October, 2013 and left his estate as follows:

 sh.

Household furniture 90

Cash in hand 2

Cash at bank 250

10 000 ordinary shares @ sh. 20 each in KFC ltd valued at sh. 30 each 300

Investment at 5% on freehold property securities (interest payable on 30 June) 400

Investment in Kimbo ltd valued at death 1226

Sundry debtors 20

Sundry creditors 5

Funeral expenses 10

The following additional information is also available:

* A legacy of sh. 20,000 was bequeathed to his executor and was paid on 28 January 2014
* The residue estate was left in trust for his infant son
* The household furniture was sold on 15 December 2013 for sh. 96,000
* The shares were sold on the same date at sh. 29 exdir; dividend being received on 25 January 2014 at 10% for the year ended 31 December 2013
* Interest on investment in freehold property securities was received on 31 December 2013 on which date the shares in Kimbo ltd was received with interest at 5% per annum.
* The liabilities and funeral expenses were discharged on 20 December 2013 on which date sh. 10 000 of the debts due were received, the balance being unpaid at the date of preparation of accounts.

**Required:**

Prepare the following accounts;

1. Estate cash book ( 4 marks)
2. Estate Income account ( 3 marks)
3. Estate capital account ( 5 marks)
4. Balance sheet; deceased as at 31 January 2014-11-11 (3 marks)

Prepare journal entries to record the above transactions (5 marks)

 **QUESTION FIVE (20 MARKS)**

1. Describe the duties and responsibilities of a personal representative as stipulated in the law of succession Act Cap 160 laws of Kenya (6 marks)
2. Lawi Kiprops will stated that the residue of his estate, after legacies to his sons and daughters, should be held in trust. The trustees were authorized to retain any asset which was included in his estate but was not an authorized investment under the trustee Act (Cap 167 laws of Kenya). The residue of his estate handed over to the trustee on 1 May 2014 comprised the following;

Probate value sh

3000 ordinary shares in E.A .BL(Quoted) 330

6000 ordinary shares in BAT (K) ltd 340

Collection of medals won in athletics: gold, silver and bronze 130

sh. 500,000 6% Nairobi city council stock 300

Leased hold hose in Kinoru (21 years remaining on lease) 3750

Lease hold house in Maua town (20 years remaining on lease 4250

1500 ordinary shares in Laki Ltd (a private company) 450

2500 ordinary shares in Wiro ltd (a private company) 600

Shares in fidelity building society 300

sh. 500,000 12% Kenya stock 2017 1024

sh. 1000000 10% Kenya stoctk 2017 274

Cash at bank 12534

Additional information:

1. The market value of the assets above were the same as the probate values except for the shares in EABL and BAT(K) ltd which were quoted at sh. 118-122 and sh. 94-98 respectively, the 6% Nairobi city council stock which was quoted at sh. 54-58 and the 12% Kenya stock and 10% Kenya stock which were quoted at sh. 108-112 and sh. 98-102 respectively.
2. On May 2014, the trustees decided to divide the trust into the special range, fixed range and wider range parts; any necessary balancing adjustments between the funds should be made firstly in cash and there in 10% Kenya stock 2017.
3. On 15 June 2014, the trustees sold the medals Kirpop had won in athletics for sh. 200,000
4. On 30 September 2014, the tenants of the house in Kinoru moved out of the house. It was sold for sh.39,000,000 on 31 October 2014
5. On 31 December 2014, the tenants of the house in Maua purchased the house, after he obtained an extension of the lease for 50 years from commissioner of lands. The agreed sale price was sh 6,000,000. The tenant paid sh 3,000,000 to the trustees. The remainder of the purchase price was a mortgage loan to the tenant repayable over 6 years, interest being charged at 15% per annum
6. The trustee purchased 45700 ordinary shares in the nation media group at sh. 120 per share on 30 November2014, on which date the market value of all the other investments were the same as on 1 May 2014. In addition, the trustees used the balance of the cash available to purchase Kenya Government Treasury Bills. When matured, they would be rolled over.
7. On 30 November, the trustees liquidated the building society shares account to use the proceeds to pay the university fess of one of the beneficiaries of the trust. This transaction was completed on December 1 with no capital gain or loss being made.
8. On 15 December, the purchases of the Maua house repaid sh. 500000 of the mortgage loan. This amount was immediately invested in treasury bills

**Required:**

1. Prepare a schedule to show the division of the assets on e May 2014 (5 marks)
2. Write up trust cash capital account in column form for the year ended 15 December 2014, commencing with the probate value balance (5 marks)
3. Write up trust cash book for the year ended 15 December, commencing with the balance of cash after the division on 1 May 2014 (4 marks)