

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2010**

**COURSE NAME** : **LAW OF SUCCESSION AND ADMINISTRATION OF ESTATES**

**COURSE CODE** : **L305**

**TIME ALLOWED** : **THREE (3) HOURS**

**INSTRUCTIONS** : **1. ANSWER A TOTAL OF FOUR QUESTIONS INCLUDING QUESTION ONE.**

**2. QUESTION ONE IS COMPULSORY**

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### **QUESTION 1 (COMPULSORY)**

Musa, whilst on his death bed, asked his wife, to whom he is married in community of property, to write his will. Having dictated his will to her, she then read the document back to her husband. Musa, being too weak to summon the energy to sign the document, affixed his thumbprint on the last page. Velile and Sakhile were witnesses, and they duly appended their signatures thereto.

In terms of Musa's will, Velile (his sister) and Sakhile were each to receive a legacy of E15,000.00. The residue of the estate was to go to Kholiwe, and his son Vuka. Vuka was appointed executor.

Vuka wants to know from you:

- a) Whether each beneficiary under his will is indeed capable of benefiting under it as someone had once told him (Vuka) that the law provides that those who were present when his father made his will, were not capable of inheriting under the same will. (15 marks)
  - b) Whether the document is, indeed, valid in terms of the law? Explain also how his father's estate should be divided, if the will turns out to be invalid, or if some of the beneficiaries are found not to qualify. (10 marks)
- Total: 25 marks

### **QUESTION 2**

Your client is Sibongile Matse. Her husband Phila Matse has died. He has not left a will. His estate is quite substantial, comprising of a shopping complex at Beverly Hills, Unit Trusts from African Alliance, various shares and debentures from companies based in Swaziland and in South Africa, and 1000 head of cattle at his farm at Lubulini.

Sibongile wishes the estate to be wound up under the supervision of the Master of the High Court. However, her in-laws insist that the Swazi Law and Custom should be applied.

Advise your client. (10 marks)

**QUESTION 3**

- a) Discuss three ways in which a testator may validly revoke his will. (10 marks)
- b) Discuss why death and survivorship are so important in the law of succession? (15 marks)
- Total: 25 marks

**QUESTION 4**

Discuss the common law duties of an executor (25 marks)

**QUESTION 5**

Critically discuss the purpose and provision of the Intestate Success Act No. of 1953, viewed in juxtaposition with Section 34(1) of the Constitution of Swaziland, 2005. Suggest reforms for implementation by our legislature. (25 marks)

**QUESTION 6**

- a) What are the Master's powers in the event that there is competition for the office of executor? (10 marks)
- b) What are the Master's requirements before he can issue a re-marriage certificate? (5 marks)
- c) Distinguish between a curator and a tutor. (10 marks)
- TOTAL: 25 marks