

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2018

TITLE OF PAPER : ADMINISTRATION OF ESTATES

COURSE CODE : LAW 308

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. QUESTION ONE (1) IS COMPULSORY.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR TO DO SO.

QUESTION 1

Your client is Sibongile Matse. Her husband Phila Matse has died. Whilst on his death bed, he asked his second wife to write his will, and she signed it on his behalf, seeing as he was too weak to summon the energy to sign it himself. Phila Matse's estate is quite substantial as it comprises of a shopping complex at Beverly Hills (a suburb in Mbabane), Unit Trusts at African Alliance, various shares and debentures from companies based in Swaziland and in South Africa, and 4000 head of cattle at his farm at Luve, in Manzini.

Phila married both his wives according to customary rites. Sibongile wishes the estate of her late husband to be wound up under the supervision of the Master of the High Court. However, her in laws insist that although Sibongile is the first wife, she has limited authority in such matters. They insist that the Swazi Law and Custom should be applied in the devolution of this estate.

Advise your client on all this. She informs you that the will, although signed by Phila's second wife, was duly signed by a Commissioner of Oaths.

(25 marks)

QUESTION 2

- 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 legally issue a re-marriage certificate. (5 marks)
- c) Under what circumstances may the Master require payment of Security from a Curator Nominat, or a Tutor Testamentary. (5 marks)
- d) Can the Master validly revoke letter of administration conferred upon a Testamentary Executive? (5 marks)

QUESTION 3

Discuss the Common Law duties of an Executor.

(25 marks)

QUESTION 4

- a) On what grounds would you submit that the Master of the High Court's role is a judicial one? (5 marks)
- b) Certain people are disqualified from holding the office of Executor. Explain who these people are, and give reasons for their exclusion. (20 marks)
(25 marks)

QUESTION 5

Your client Maggie, has been appointed executor testamentary to the estate of her mother, Ms. Ellen Smith. Ms. Smith was a resident of the city of Santiago, Chile, and left a substantial estate in this area as well as in Swaziland.

Your client has furnished you with her letters of Administration (issued to her by the Master of the High Court in Chile). She informs you that she wishes to commence the administration of the portion of her mother's estate that is situated in Swaziland.

Advise your client on the legal requirements as stated in the Administration of Estate Act, 1902. (25 marks)