COUNCIL OF LEGAL EDUCATION

DIPLOMA IN LAW (PARA-LEGAL STUDIES)

LAW OF SUCCESSION

THURSDAY 7TH OCTOBER, 2010

DURATION: 2 HOURS

Instructions to Candidates

(a) Answer Question **ONE** and **ANY OTHER THREE** Questions

(b) Question **ONE** carries **25 marks**

(c) All other questions carry **15 marks** each

QUESTION ONE

(a) Discuss the law relating to construction of wills highlighting the various ways in which a written will may be construed.

{10 marks}

(b) Describe the various ways in which a written will may be revoked.

{15 marks}

QUESTION TWO

Mrs. Anne Kameni whose husband Major Kameni died in a road accident on the 20th of August, 2010 has discovered while going through her late husband's bags, a written will which though it had been executed by her deceased husband, there was no attestation. She has approached the law firm of Maoni Mingi Advocates where you work.

Upon interviewing the client, it has become apparent that Major Kameni had an extra-marital affair with Njeri with whom he had sired two children.

The proprietor of the firm has instructed you to prepare a detailed legal opinion on:

(a) Mrs. Kameni's rights under the circumstances.   {8 marks}
(b) The legal position of Njeri and her children   {7 marks}

QUESTION THREE

Outline the procedural steps that a lawyer would undertake in his/her quest to procure a Grant of Letters of Administration for his client and the correct forum he would approach.

{15 marks}

QUESTION FOUR

Write short explanatory notes on the following:

(a) Doctrine of escheat   {5 marks}
(b) Doctrine of testamentary freedom   {5 marks}
(c) Grant of probate   {5 marks}

QUESTION FIVE

Distinguish between confirmation and revocation of grant.   {15 marks}

QUESTION SIX

Citing relevant case law, discuss the legal position of 'the other woman' as envisaged by Section 3(5) of the Law of Succession Act {Cap 160, Laws of Kenya.}

{15 marks}

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