

## PROKUREURSEKSAMEN

### DEEL 2 BOEDELS

10 FEBRUARIE 2015

14:00-16:15

Totaal: [100]

*Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.*

1. Kandidate moet al die vrae beantwoord.
2. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf asseblief slegs in pen op die regterkantse bladsye.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel drup.

## ATTORNEYS' EXAMINATION

### PART 2 ESTATES

10 FEBRUARY 2015

14:00-16:15

Total: [100]

*Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.*

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

**VRAAG 1**

**[48]**

Ben Dube sterf intestaat op 25 Oktober 2014. Hy word oorleef deur sy vrou Thule (met wie hy buite gemeenskap van goed getroud was), twee kinders uit hulle huwelik gebore, naamlik Alex (ouderdom 20) en Nomsa (ouderdom 15), en 'n seun Thando (ouderdom 24) uit sy vorige huwelik. Ben se vorige vrou is voor hom oorlede.

Ben besit die volgende bates:

- Onroerende eiendom geleë te Malandastraat 63, Greytown met 'n munisipale waarde van R1 650 000.00.
- Huishoudelike inhoud ter waarde van R325 000.00.
- 'n 40% aandeel in Nordic (Edms) Bpk wat Forest Hill Farms besit waarop landbou bedryf is. Die plaas is teen R2 500 000.00 gewaardeer en sy aandeel is deur die maatskappys se ouditeur teen R850 000.00 gewaardeer. Sy aandeel word in die loop van die beredderingsproses van die boedel aan die oorblywende aandeelhouer vir R1 250 000.00 verkoop.
- 2000 Sasol-aandele gewaardeer teen R130 000.00 wat die eksekuteur in die loop van bereddering verkoop teen R100 000.00.
- 3000 Sanlam aandele gewaardeer teen R41 000.00.
- 'n Vaste deposito by Absa Bank teen bedrae van R240 000.00 waarop rente teen 5% op die 25ste dag van elke maand betaalbaar is. Hierdie deposito het op sterfdatum verval.
- Vier beeste by Ben se voorvaderlike tuiste wat teen R8 000.00 gewaardeer word.

Ben het ook die volgende polisse op sy lewe gehad:

- Sanlam-polis vir R2 000 000.00 met Thule as die benoemde begunstigde.
- Ou Mutual-polis, met geen benoemde begunstigde nie, wat R910 000.00 uitbetaal het na aftrekking van 'n lening teen die polis ter bedrae van R40 000.00.

**QUESTION 1**

**[48]**

Ben Dube died intestate on 25 October 2014. He is survived by his wife Thule (to whom he was married out of community of property), two children born of their marriage namely Alex (aged 20) and Nomsa (aged 15), and a son Thando (aged 24) from his former marriage. Ben's former spouse predeceased him.

Ben owned the following assets:

- Immovable property situated at 63 Malanda Street, Greytown, with a municipal valuation of R1 650 000.00
- Household contents valued at R325 000.00.
- A 40% share in Nordic (Pty) Limited which owns Forest Hill Farms on which farming operations were being conducted. The farm was valued at R2 500 000.00 whilst his share was valued by the company's auditor at R850 000.00. His share was sold to the remaining shareholder for R1 250 000.00 during the course of the administration of the estate.
- 2000 Sasol shares valued at R130 000.00 sold by the executor during the course of administration of the estate for R100 000.00.
- 3000 Sanlam shares valued at R41 000.00
- A fixed deposit with Absa Bank in the sum of R240 000.00 on which interest was payable at the rate of 5% p.a. on the 25<sup>th</sup> day of each month. This deposit matured on date of death.
- Four head of cattle at Ben's ancestral home valued at R8 000.00.

In addition Ben had the following insurance policies on his life:-

- Sanlam Policy for R2 000 000.00 with Thule as the nominated beneficiary.
- Old Mutual Policy with no nominated beneficiary that paid out R910 000.00 after deduction of a loan of R40 000.00 against the policy.

- Momentum-polis wat R600 000.00 uitbetaal het. Alex was die benoemde begunstigde van hierdie polis.
- Metropolitan-polis vir R300 000.00 met sy vorige vrou as begunstigde.

Die laste van die boedel is die volgende:

- R670 000.00 ten opsigte van 'n verband ten gunste van Absa Bank oor die onroerende eiendom te Greytown.
- Finale inkomstebelasting-aanslag van SARS vir R16 300.00.
- Begrafniskoste van R12 000.00.
- Voorsiening vir oordragkoste van R27 500.00 en verband-kansellasiekoste van R2 500.00.
- Mediese koste van R11 700.00.
- Waardasiekoste van R2 400.00.
- Verdere administrasiekoste beloop R2 700.00 (uitgesonder Meestersgelde en eksekuteursloon wat u moet bereken).

Daar word van u verlang om slegs die volgende gedeeltes van die likwidasië- en distribusierekening op te stel:

- Likwidasierekening.
- Rekapitulasië-opgawe.
- Distribusierekening.
- Boedelbelastingaddendum.

Gebruik u eie inligting volgens die toepaslike reg om enige ontbrekende inligting aan te vul. Die verdere administrasiekoste van R2 700,00 hoef nie gespesifiseer te word nie. Ignoreer BTW.

## VRAAG 2

[25]

Hector en Dorcas Dawood wat binne gemeenskap van goed getroud is, nader u as hulle prokureur om 'n testament vir hulle op te stel. Hulle wil hulle gehele gesamentlike boedel met 'n waarde van ongeveer R2.4 miljoen aan hulle enigste seun Steve by die afsterwe van die eerssterwende van hulle nalaat. Voorsiening (anders as die skepping van 'n trust) moet vir die langsewende van hulle gemaak word tot sy/haar

- Momentum Policy that paid out the sum of R600 000.00. Alex was the nominated beneficiary of this policy.
- Metropolitan Policy for R300 000.00 with his former spouse as beneficiary.

The liabilities in the estate are:

- R670 000.00 in respect of the bond in favour of Absa Bank over the immovable property at Greytown.
- Final income tax assessment from SARS for R16 300.00.
- Funeral expenses of R12 000.00.
- Provision for transfer fees: of R27 500,00 and bond cancellation costs of R2 500,00.
- Medical expenses of R11 700,00.
- Valuation costs of R2 400,00.
- Further administration expenses amounted to R2 700,00 (excluding Master's fees and Executor's remuneration which you should calculate).

You are required to draft only the following portions of the liquidation and distribution account:

- Liquidation account
- Recapitulation statement
- Distribution account
- Estate duty addendum.

Use your own information according to the applicable law to fill in any information that is lacking. The further administration expenses of R2 700,00 need not be specified. Ignore VAT.

## QUESTION 2

[25]

Hector and Dorcas Dawood who are married in community of property approach you as their attorney to make a will for them. They want to leave their entire joint estate worth approximately R2.4 million to their only son Steve at the death of the first dying of them. They direct that provision (other than the creation of a trust) must be made for the survivor of them until his/her death. Steve is married in community of property to Mary and

dood. Steve is binne gemeenskap van goed met Mary getroud en hulle het twee meerderjarige kinders. Hector en Dorcas laat taktvol blyk dat hulle skoondogter nie betroubaar is nie. Hector is van sy nek ondertoe verlam en versoek u om namens hom die testament te onderteken. Stel 'n toepaslike testament vir u kliënte op wat meer as een bladsy beslaan.

**VRAAG 3 [15]**

Lucky sterf intestaat en word oorleef deur sy twee vrouens Betty en Cindi met wie hy kragtens gewoontereg getroud was, buite gemeenskap vangoed met uitsluiting van die aanwasbedeling. Lucky word ook deur die volgende persone oorleef:

- (i) Sy 16 jarige seun Danny uit sy huwelik met Cindi. Danny doen afstand van sy reg om te erf.
- (ii) Sy meerderjarige seun Jan wat Lucky se dood veroorsaak het en wat sedertdien aan die hele familie om verskoning gevra het.
- (iii) Jan se seun Karel.
- (iv) Alinah, Jan se vrou met wie hy binne gemeenskap van goed getroud is.
- (v) Sy meerderjarige dogter Iris uit sy huwelik met Betty. Iris is sewe maande swanger.
- (vi) Sy meerderjarige aangenome dogter Susan wat afstand doen van enige erfenis uit Lucky se boedel.
- (vii) Susan se seun Albert.

Die waarde van sy netto boedel is R762 000.00 (sewe honderd en twee-en-sestig duisend rand) wat slegs uit kontant bestaan.

Adviseer Lucky se familie oor wie Lucky se erfgename is en welke bedrag elke erfgenaam sal erf. (Maak verduidelikende opmerkings waar nodig).

**VRAAG 4 [12]**

A, 'n wewenaar, maak 'n geldige testament wat deur B en C as getuies onderteken is. Ten tye

they have two major children. Hector and Dorcas tactfully allude to the fact that their daughter in-law is not trustworthy. Hector is paralysed from the neck downwards and asks you to sign on his behalf. Draft a suitable will for your clients which consists of more than one page.

**QUESTION 3 [15]**

Lucky dies intestate and is survived by his two wives Betty and Cindi to whom he was married according to customary law, out of community of property excluding the accrual system. Lucky is also survived by the following people:

- (i) His 16 year old son Danny by his marriage to Cindi. Danny renounced his rights to inherit.
- (ii) His major son Jan who has caused Lucky's death and has since apologized to the entire family.
- (iii) Jan's son Karel.
- (iv) Alinah, Jan's wife to whom he is married in community of property.
- (v) His major daughter Iris by his marriage to Betty. Iris is seven months pregnant.
- (vi) His major adopted daughter Susan who has renounced any inheritance from Lucky's estate.
- (vii) Susan's son Albert.

His net estate is worth R762 000.00 (seven hundred and sixty two thousand rand) consisting of cash only.

Advise Lucky's family as to who are Lucky's heirs and what amount will each inherit. (Make explanatory remarks where necessary).

**QUESTION 4 [12]**

A, a widower, made a valid will which was signed by B and C as witnesses. B, at the time of

van verlyding van die testament was **B** van sy vrou **D** geskei.

Die volgende persone word in **A** se testament bevoordeel:

1. **B** of, by gebreke aan **B**, dan **D**.
2. Sy enigste kind **E**.
3. **E** se dogter **F**.

**E** word skuldig bevind aan moord op **A**.

Welke bevoorreedes sal na **A** se dood van hom erf, en wie nie? Verskaf redes vir u antwoorde.

execution of the will, was divorced from his wife **D**.

**A** benefitted the following persons in his will:

1. **B** or, failing him, **D**.
2. His only child **E**.
3. **E**'s daughter **F**.

**E** is found guilty of murdering **A**.

After **A**'s death which beneficiaries will inherit, and which won't? Provide reasons for your answers.

- DIE EINDE -

- THE END -

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