

GUERNSEY BAR EXAMINATION

9.30AM, 28 APRIL 2017

COMPULSORY PAPER TWO

ETHICS AND PROFESSIONAL CONDUCT

ONE HOUR

CANDIDATES ARE REQUIRED TO ANSWER ALL QUESTIONS

THE MARKS AVAILABLE FOR EACH QUESTION ARE SHOWN BELOW. NOT ALL QUESTIONS CARRY EQUAL MARKS.

- **QUESTION 1 - 13 MARKS**
- **QUESTION 2 - 6 MARKS**
- **QUESTION 3 - 13 MARKS**
- **QUESTION 4 - 12 MARKS**
- **QUESTION 5 - 6 MARKS**

PLEASE WRITE LEGIBLY AND ENSURE THAT YOU ANSWER EACH QUESTION ON A SEPARATE SHEET OF PAPER. PLEASE WRITE ON ONE SIDE OF THE PAPER ONLY AND LABEL EACH SHEET CLEARLY WITH:

- **NAME OF PAPER**
- **CANDIDATE LETTER**
- **QUESTION NUMBER**
- **PART NUMBER OF QUESTIONS (if applicable)**

QUESTION 1

(total marks - 13)

1. Michael attends at your office for a pre-arranged appointment to discuss a guardianship matter. He tells you he wishes to be appointed as the guardian for his elderly mother who is now suffering from dementia. Taking him through the standard form for completion by prospective guardians (you are not expected to know the content of the form), you reach the section requiring details of nearest relatives. He advises you that he has a brother and a sister, but his mother and sister have not spoken for approaching 20 years. He does not wish his sister to be involved in the process as he believes that it would upset his mother if she were ever to learn of the sister's involvement and declines to provide you with details. He asks for his options.

1.1 What advice might you give? What issues arise? **(5 marks)**

1.2 What issues now arise and what, if any, action might you take? **(3 marks)**

1.3 Are you able to assist? **(5 marks)**

QUESTION 2

(total marks - 6)

2. John and Barbara approach you regarding the drafting of wills for them. An appointment is arranged. On the day you are due to meet them, Barbara arrives first and is shown to the meeting room where you are. She tells you John is looking for somewhere to park. Barbara hands you handwritten notes setting out their wishes and starts to ask you about the options open to her to protect her children from her first marriage.

2.1 How do you proceed? **(3 marks)**

2.2 Again, how do you proceed? **(3 marks)**

QUESTION 3

(total marks - 13)

3. George, a retired builder, approaches your firm to act in the sale of a house in the course of construction by him, to his son. His son is engaged and George does not want to charge a commercial price for the property, viewing it as in part a wedding gift, albeit in advance of the wedding. He would like your firm to act for his son.

3.1 Can you or your firm act for the son? **(3 marks)**

3.2 Do any issues arise? **(6 marks)**

3.3 What issues arise? **(4 marks)**

QUESTION 4

(total marks - 12)

4. Bernard, a British citizen who has been living in Germany for the last five years, makes contact with you regarding the purchase of a trust business for sale in Guernsey. He explains that he is a director of a trust business in the Seychelles and would like to merge the two in Guernsey.

4.1 What due diligence will you seek? **(7 marks)**

4.2 Are there any AML issues? **(2 marks)**

4.3 If there were any suspicions in relation to the transaction how would you deal with them and how would you expect your firm to deal with them? **(3 marks)**

QUESTION 5

(total marks - 6)

- 5.1 If your firm provides conveyancing services so as to be considered a relevant business under criminal justice (proceeds of crime) legislation, what should it be registered as by virtue of The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008?
(1 mark)
- 5.2 You are asked by John to act for him in relation to a contract dispute. He has fallen out with his previous advocate. What steps should you take before agreeing to act and then as part of your client take on procedure (as due diligence is dealt with above a full explanation in that respect is not required)?
(5 marks)