

CASE STUDY MATERIALS

June 2018
Level 6
PROBATE PRACTICE
Subject Code L6-21



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 21 – PROBATE PRACTICE*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or textbooks except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

Turn over

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer and you work in the Private Client Department of Kempstons, The Manor House, Bedford, MK42 7AB (DX: BD345987).

Your supervising Chartered Legal Executive and head of department is John Paul.

You arrive at work to find the following awaiting your attention:

- DOCUMENT 1** Briefing note dated 21 May 2018 re: Gregory Simpson
- DOCUMENT 2** Email from John Paul dated 1 June 2018 re: Freddy Baker deceased
- DOCUMENT 3** Freddy Baker's Will dated 6 November 2004
- DOCUMENT 4** Email from John Paul dated 1 June 2018 re: Tom Davis deceased
- DOCUMENT 5** Email from John Paul dated 1 June 2018 re: Kamila Donald deceased
- DOCUMENT 6** Kamila Donald's Will

DOCUMENT 1

Briefing Note re: Gregory Simpson

21 May 2018

Early in 2016, Gregory was diagnosed with cancer and received a full course of chemotherapy. He also underwent occupational therapy assessment, to help with practical tasks.

The results of the assessment indicated that Gregory struggled with everyday tasks and at times suffered from short-term memory loss. These symptoms were not diagnosed by his General Practitioner (GP) and may have been caused by the chemotherapy treatments he received.

Gregory died in April 2018 leaving a Will dated 23 December 2017, under which he divided all his estate equally between his two adult children, Romeo and Godwin. Gregory's Will was prepared professionally by his solicitors. Richard Flynn, Gregory's friend, was appointed in the Will as sole executor.

Lee Smart was Gregory's ex-civil partner, but they remained in an open relationship and were living together in the same household from 2015 until Gregory's death.

Lee is a musician. A year prior to Gregory's death, Lee spent much of his time travelling around the UK on tours with various bands. He had not been able to give Gregory the full support he needed. During this time, Romeo and Godwin became closer to Gregory.

Gregory was 48 years old when he died. Gregory left behind his elderly parents, Marlene and Jasper. His parents have a comfortable lifestyle. Gregory was always worried that his parents might need financial support in the future, if they ever needed to live in a nursing home.

Gregory had two younger siblings, Simon and Abraham. Simon is an IT consultant and has plans to set up his own business. Gregory was keen to support his brother in setting up his business. Abraham is an artist and does not receive regular income. His career in the art industry is precarious and Gregory was keen to support him, if Abraham should ever be out of work for any length of time in the future.

Before his death, Gregory was a very successful entrepreneur. He had sufficient income to secure his future living expenses.

Gregory inherited £350,000 from his uncle three years ago. He never made any lifetime gifts, but intended to use this money to benefit various members of his family when they needed it in the future.

Simon and Abraham do not currently have any children, but Gregory was always willing to support the cost of education for any children they might have in the future.

Richard would like to come and see Mr Paul to discuss Gregory's Will.

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DOCUMENT 2

Email from John Paul re: Freddy Baker deceased

From: John Paul (john.paul@kempstons.co.uk)

To: Trainee Lawyer

Date: 1 June 2018

Re: Freddy Baker deceased

Please look at the file of Freddy Baker deceased. Freddy died on 5 May 2018, having made a Will some years previously. The executors of his Will, Charles Baker and Dean Baker, who are Freddy's two brothers, have instructed us to act in connection with obtaining the grant and administering the estate. Charles and Dean are happy to be executors. They are not willing to swear on the Bible, but are happy to affirm the contents of the Oath, if required.

Dean will be coming into the office on Monday to provide details of Freddy's assets and liabilities. In the meantime, he has delivered the original Will to this office this morning (**Document 3**).

The information with regard to the family so far is as follows:

1. Freddy was born on 10 January 1952, was not married and had no children. He lived in England until his death.
2. Freddy had two brothers (Charles and Dean) and one sister, Jenny Hope, who died in December 2004. Their parents died in 1990.
3. Charles and Dean have no children and are both unmarried.
4. Dean lives at 3 Selby Street Hull HU4 7SW and is a painter and decorator by profession. Charles lives at 22 Old Town Lane York YO4 7AW and is a teaching assistant.
5. Jenny had three children:
 - a. Zalan, who died in a car accident last year. He was not married and had no children.
 - b. Kesh (aged 24). She is married to Wayne and has a son, Mark, born in 2017.
 - c. Allan (aged 15). He lives with his father.

We will need to give full advice as to the administration of the estate, after we have obtained further details from Dean at the meeting tomorrow.

DOCUMENT 3

Freddy Baker's Will

THIS IS THE LAST WILL AND TESTAMENT of me **FREDDY BAKER** of 3 Albert Street Hull HU5 2JB.

I REVOKE all former Wills.

1. I APPOINT my brothers Charles Baker and Dean Baker (hereafter called 'my Executors') to be the executors of my Will.
2. I GIVE my brother Charles Baker all my interest in the property known as 3 Albert Street Hull HU5 2JB free of all duties and taxes.
3. I GIVE one thousand pounds (£1000) free of all duties and taxes to each of my nephews and niece Zalan, Kesh and Allan.
4. I GIVE all the rest and residue of my estate both real and personal whatsoever and wheresoever subject to the payment of my debts, funeral and testamentary expenses and legacies to my sister Jenny Hope absolutely.

IN WITNESS whereof I have hereunto set my hand this **Sixth** day of **November** 2004

Signed by the above-named FREDDY BAKER)
as his last Will in the presence of us both)
present at the same time who at his request in his) **Freddy Baker**
presence and in the presence of each other have)
hereunto subscribed our names as witnesses:)

Tom Davison
3 Goddard Lane Hull.
Library Assistant.

Rob Law
12 De Grey Lane Hull.
Health Care Assistant.

Turn over

DOCUMENT 4

Email from John Paul re: Tom Davis deceased

From: John Paul (john.paul@kempstons.co.uk)

To: Trainee Lawyer

Date: 1 June 2018

Re: Tom Davis deceased

I have been in a meeting with Stephanie Davis. Stephanie's husband, Tom Davis, died last week without leaving a Will. Tom and Stephanie had three children: Bill, Megan and Hanna. Bill died in a car accident a couple of years ago, leaving a widow, Zusan, and their daughter Charlotte, who is aged 17. Megan was adopted by Tom and Stephanie shortly after she was born. She is married to Daniel. They have a son, Adam. Hanna is 17 and is married to Noel. She has no children.

Tom's father died in 1999 and his mother Yvonne is still alive. After his father's death, Tom took out a life policy with the Legal & General and wrote this in trust. The policy proceeds total £70,000.

During the meeting, it was confirmed that Tom had the following assets:

1. A cottage in the Peak District (valued at £100,000) owned jointly with Stephanie. Richard Tai, the Property partner at Kempstons, has the file relating to the purchase. The house contents (valued at £2,000) were all owned jointly with Stephanie.
2. A house in York (valued at £300,000). There is an outstanding mortgage with The Mortgage Works in the sum of £100,000. The house contents (valued at £50,000) were all owned jointly with Stephanie.
3. Current account with HSBC Bank (balance at date of death: £2,000).
4. A savings account with HSBC Bank (balance at the date of death to include unpaid interest: £19,000). The account is in the joint names of Tom and Stephanie.
5. Quoted stocks and shares valued at £450,000.
6. An Audi convertible car worth £6,000.
7. Personal possessions valued at £1,300.
8. Unpaid salary from Kempston Biotechnologies, where Tom worked as a researcher, totalling £2,500.

All these assets were held in Tom's sole name, apart from the jointly held assets mentioned above. Stephanie recalls that Tom made a gift into a discretionary trust, but does not remember the details. He made no other lifetime gifts. The only debts are the funeral expenses totalling £1,500.

Stephanie has now consulted us for advice regarding Tom's estate.

DOCUMENT 5

Email from John Paul re: Kamila Donald deceased

From: John Paul (john.paul@kempstons.co.uk)

To: Trainee Lawyer

Date: 1 June 2018

Re: Kamila Donald deceased

Kamila Donald died in a car accident on 2 May 2018, leaving a Will. Her son-in-law, Martin Black, has instructed the firm. Kamila was married to Christian Donald and had two children. A copy of the Will is attached (**Document 6**).

Martin is one of the executors named in the Will and would like some advice regarding Kamila's estate.

I have made some enquiries and have confirmed that Kamila held the following assets in her sole name:

1. A freehold house in Manchester (valued at: £200,000). There is no mortgage.
2. A NatWest Bank current account (balance at date of death: £5,000) and a deposit account (balance at date of death to include unpaid interest: £12,000).
3. Quoted stocks and shares (valued at: £245,500).
4. A life policy with Prudential in trust for Kamila's children in equal shares (the policy proceeds total: £70,000).
5. Personal possessions valued at:

	£
grand piano	2,500
music tapes	200
CDs	100
Rolex watch	1,500
other personal chattels	1,000

Christian had been spending much of his time at gay clubs and when Kamila found out, he admitted that he was a homosexual. Kamila found his lifestyle unacceptable and last year Christian moved out of the house in Manchester to live in a flat in Salford. They subsequently got divorced.

Kamila made no lifetime gifts.

Kamila has two children, Lisa Black and Derek Donald:

1. Lisa is 29 years old and married to Martin Black. They have no children.
2. Derek is 25 and unmarried with one child, Jack (aged two).

Turn over

DOCUMENT 6

Kamila Donald's Will

THIS IS THE LAST WILL AND TESTAMENT of me **KAMILA DONALD** of 3 Johnson Lane, Manchester M30 0JQ.

I REVOKE all former wills.

1. I APPOINT my husband **Christian Donald** and my son-in-law **Martin Black** of 44 Milford Lane, Salford (hereafter called 'my Executors') to be the executors and trustees of this my Will.
2. I GIVE the following specific legacies free of tax and costs of transfer:
and CDs
 - a. my grand piano ^to my son Derek Donald.
 - b. my music tapes to be divided between the beneficiaries I will name in a list which I will prepare and store in my desk drawer.
 - c. my Rolex watch to my daughter Lisa Black.
 - d. all other personal chattels as defined by Section 55(1)(x) of the Administration of Estates Act 1925 not otherwise specifically bequeathed by this my Will or any codicil hereto to my said husband Christian.
3. I GIVE the following pecuniary legacies free of tax:
 - a. the sum of Sixty thousand pounds (£60,000) to my said husband Christian;
 - b. the sum of Two thousand pounds (£2,000) to my grandson Jack Donald of 13 Button Street, Manchester.
4. I GIVE all the rest and residue of my estate both real and personal whatsoever and wheresoever SUBJECT TO the payment of my debts, funeral and testamentary expenses and legacies to my Executors to be divided equally between my two children Lisa and Derek.

Kamila Donald

Bark Donny

9 Tow Street

Manchester

Professional Cleaner

Gehu Summer

20 James Street

Manchester

Website Designer

End of Case Study Materials