

CASE STUDY MATERIALS

January 2020
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.

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* 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**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer and 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 Marcus Wu.

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

- DOCUMENT 1** Email from Marcus Wu dated 2 January 2020 re: Estate of Ali Khan
- DOCUMENT 2** Will of Ali Khan dated 31 December 2015
- DOCUMENT 3** Email from Marcus Wu dated 2 January 2020 re: Estate of Leo Fox
- DOCUMENT 4** Email from Marcus Wu dated 2 January 2020 re: Estate of Sienna Croxton
- DOCUMENT 5** Email from Marcus Wu dated 3 January 2020 re: Estate of Tomsk Rouge
- DOCUMENT 6** Will of Tomsk Rouge dated 1 December 2014

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DOCUMENT 1

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee Lawyer

Date: 2 January 2020

Subject: Ali Khan deceased

I met with Ester Black today. Her close friend Ali Khan died three weeks ago. He died in a car crash in which his sister Ria was also killed. Ria's son Colin (aged 8) was also in the car and died last week from his injuries. Two people survived the accident – Colin's father Tim and Colin's sister Kelly (aged 18).

Ester has various concerns about Ali's Will (**Document 2**) as follows.

Ali's uncle Jonah is very poorly. He has terminal cancer and is expected to live only another two months. Jonah has recently made a Will, appointing his neighbour Henry Green as his executor.

As you are aware, the current Mayor of Kempstonshire is Oliver Kobe. In December 2015, the Mayor of Kempstonshire was David Smith.

Ali's wife died in 2018 and Ali inherited all her jewellery (worth £180,000). Prior to that, the only jewellery he only owned was a gold sovereign ring worth £5,000.

Ali has one brother, Zack, who got married for the first time in March 2016 to Zoe. After getting divorced in 2017, Zack married Hannah in May 2018.

Donna Green has two children and is eight months pregnant with twins. She is delighted with the gift, as she is planning on having two more children, and the legacies will be a big help.

Ali's car is a Ferrari worth £200,000. He has four godchildren, the eldest of whom is Peter White.

Fatima Guza has two children: a biological daughter Jane (born 30/12/2012) and Sue (born 1/2/2009). Fatima and her husband formally adopted Sue last year, having fostered her since she was 2 weeks old.

Free Army of Norway is a banned terrorist organisation that wishes to overthrow the democratically elected government of Norway.

Ester currently has no children. She is getting married next year and hopes to have children at some point.

I shall want you to help me to obtain a grant and to deal with the administration of the estate.

DOCUMENT 2
WILL OF ALI KHAN

This is the last Will of me Ali Khan of 3 Liverpool Gardens Bedford.

1. I revoke all other Wills
2. I appoint my uncle Jonah Smith as my executor
3. I give £100,000 to my darling nephew Colin Brown of 15 Thorn Drive Bedford
4. I give £150,000 to my solicitor Barbara Patel of 8 Edgware Avenue Bedford
5. I give £500 to the Mayor of Kempstonshire
6. I give all my jewellery to my brother's wife
7. I give £50,000 to each of the children of my neighbour Donna Green of 5 Liverpool Gardens Bedford
8. I give my car to one of my godchildren
9. I give my house at 3 Liverpool Gardens to the Free Army of Norway
10. I give £500 to the eldest child of my friend Fatima Guza of 18 Liverpool Gardens Bedford
11. Subject to the above gifts I give my entire estate to my uncle Jonah Smith for life and then on his death to the children of Ester Black of 66 Cambridge Drive Bedford absolutely

Signed this 31st December 2015
By the Testator in our joint presence
And then by us in his

Ali Khan

Lorna Gunter
5 Mosley Road Bedford

Peter Gunter
5 Mosley Road Bedford

Turn over

DOCUMENT 3

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee Lawyer

Date: 2 January 2020

Subject: Leo Fox deceased

I met with Qimat Fox last week. She is the sister of Leo Fox and the sole executor of his estate.

Eighteen months ago, Leo was playing golf and hit Brendan Shaw with a stray golf ball. Brendan sued Leo and, on 15 December 2019, Brendan was awarded £500,000 against Leo for his personal injury claim. Tragically, Leo killed himself on 16 December 2019, having told no one about the golfing accident.

Leo's Will, made in 2015, specifies that any debts he owed to his estranged wife Petra must be paid first, and then everything is left to Bedford Parrot Sanctuary (Registered Charity 574169).

Leo owned a hairdressing salon business as a sole trader. Qimat worked as an employee in the business, as did Gail Smyth. Qimat did a lot of overtime when Leo went on holiday in the summer. Qimat asked Leo to delay paying her, as she was saving to go to Florida. The salon had to shut as soon as Leo died.

Qimat has compiled a list of assets and liabilities. She initially instructed a local lawyer, but they have recommended that she consult with a probate expert. Brendan's lawyer has already contacted Qimat to demand an interim payment, as interest is incurred on the personal injury award at 8% per annum.

Assets

House at 15 Hardcastle Avenue Bedford	£400,000
Savings with Lloyds Bank	£20,000
Salon premises at 33 Hardcastle Avenue Bedford	£120,000
Cash in wallet	£303

Liabilities

Barclays mortgage secured against 15 Hardcastle Avenue	£80,000
Halifax credit card debt	£12,000
Funeral	£15,000
Personal Injury claim	£500,000
Halifax unsecured bank loan	£5,000
Solicitor's fee for initial advice on estate	£200

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Paid executor's expenses	£303
Unpaid executor's expenses (including copy death certificates and petrol)	£112
Gail Smyth – unpaid wages (for last four months)	£2,000
Accrued holiday pay for Gail Smyth	£1,500
Qimat Fox – unpaid wages (from six months ago)	£1,500
Unpaid debts due to Petra Fox	£50,000

I shall want you to help me to obtain a grant and to deal with the administration of the estate.

Turn over

DOCUMENT 4

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee Lawyer

Date: 2 January 2020

Subject: Sienna Croxton deceased

I met with Nelson Bell last week. He is the sole executor of the estate of his aunt, Sienna Croxton. Sienna was a widow, her husband Andrew having died five years ago, leaving his entire estate to her. She and Andrew had no children.

Nelson has a copy of his aunt's Will. The original was stored at HCE Solicitors, but when he telephoned to inform them of the death, they told him that they had had a serious flood, and it appears that the original Will has been destroyed.

The Will contains one specific legacy of jewellery to Ursula Yang. Ursula is now five years old and is the daughter of Sienna's next-door neighbours. Nelson thinks the jewellery is worth about £12,000.

There is one pecuniary legacy of £5,000 to Sienna's best friend, David Quirke. David has indicated that he would like his legacy to be paid by way of the transfer of Sienna's BP shares to him rather than cash.

The residue of the estate is inherited by Zoe Croxton. Zoe is Sienna's great-niece and a rather awkward individual, but Nelson does not wish to renounce his appointment as executor.

Nelson's father Bob (now deceased) had been Andrew's executor, and Sienna was grateful for all his help. She therefore wanted Nelson to be her executor. Bob made a Will appointing his lawyer Pinny Cohen as his executor.

Nelson has produced a list of his aunt's assets, which are as follows:

- BP shares worth £5,000 at the date of death
- a piano
- three bank accounts
- a house at 17 Acacia Avenue Bedford

The funeral was prepaid, and Nelson wants to pay Kempston's bills himself out of his own pocket. Nelson is a successful businessman and wants to pay our bills as he adored his aunt. There will be no inheritance tax to pay.

I shall want you to help me to obtain a grant and to deal with the administration of the estate.

DOCUMENT 5

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee Lawyer

Date: 3 January 2020

Subject: Tomsk Rouge deceased

I had a meeting today with Winnie Cooper. Her brother Tomsk Rouge died in November 2019, while visiting friends in Spain. They repatriated his body to England, so that he could be buried next to his boyfriend Yug, who died in 2018. Tomsk never married nor entered into a civil partnership.

Winnie gave me Tomsk's original Will. Winnie's daughter Rula was present when it was signed, as they were waiting for a taxi at Tomsk's house to take them to the airport to catch a flight.

Tomsk had a dislike of paying any taxes and he had therefore made a number of dispositions during his life, in order to reduce his estate's inheritance tax liability.

Lifetime planning

2 Hopwood Road Bedford – gifted to his great-niece Xena in 2002 (valued at £100,000 at the time of making the gift).

Discretionary Settlement created using £500,000 cash on 7 April 2016 for the benefit of Yug's nieces and nephews and Rula. On 7 April 2016, Tomsk had a nil-rate band and annual exemptions available, totalling £331,000, and he paid £33,800 in inheritance tax on creating the Settlement.

£50,000 cash was gifted to NPS (Registered Charity number 248613) on 5 April 2012.

Tomsk carried on living at 2 Hopwood Close until his death. He started paying Xena a market rent two months ago, as Xena had lost her job. Prior to that, he lived at the property rent-free. Xena has had the house valued, and it is now worth £500,000. The estate agent has confirmed that the local housing market is static and that the value has not changed at all in the last year.

A prepaid funeral was purchased in 2018.

Assets

- 88 Montpelier Road Peterborough: a flat (currently rented out) worth £500,000
- Cash: £1,000,000
- Lloyds Bank shares: £20,000

Liabilities

There are no debts.

I shall want you to help me to obtain a grant and to deal with the administration of the estate.

Turn over

DOCUMENT 6

WILL OF TOMSK ROUGE

This is the last Will of me Tomsk Rouge of 2 Hopwood Road Bedford and covers my worldwide estate.

1. I revoke all other Wills
2. I appoint my sister Winnie as my executor
3. I wish to share my estate as to 90% for my sister Winnie and 10% for NPS (Registered Charity number 248613)

1.12.2014

Tomsk Rouge

Robert Ball

55 Barclay Road Bedford

Mandy Ball

55 Barclay Road Bedford

End of Case Study Materials

