

## CASE STUDY MATERIALS

June 2019  
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 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 28 May 2019 re: Estates of Cyril Brown and Bibi Smith
- DOCUMENT 2**      Asset Lists for Cyril Brown and Bibi Smith
- DOCUMENT 3**      Email from Marcus Wu dated 28 May 2019 re: Estate of Herbert Fox
- DOCUMENT 4**      Email from Marcus Wu dated 28 May 2019 re: Estate of Omar Khan
- DOCUMENT 5**      Will of Omar Khan dated 21 April 2017
- DOCUMENT 6**      Assets and Liabilities of Omar Khan
- DOCUMENT 7**      Email from Marcus Wu dated 28 May 2019 re: Estate of Ezra Berger
- DOCUMENT 8**      Will of Ezra Berger dated 31 December 2011

***Turn over***

**DOCUMENT 1**

**EMAIL**

From: Marcus Wu (marcus.wu@kempstons.co.uk)  
To: Trainee Lawyer  
Sent: 28 May 2019  
Subject: Cyril Brown deceased and Bibi Smith deceased

I have been consulted by Yolanda Mazur (aged 45), a long-standing client of the firm.

Her father, Cyril Brown, died three weeks ago in a car accident on 7 May. Her half-sister, Bibi Smith, was badly hurt in the car accident and died on 26 May. Bibi never married or entered into a civil partnership, but she had a son, Daniel, eight years ago after undergoing IVF. Daniel survived the accident with minor injuries.

Neither Cyril nor Bibi had ever made a Will.

Cyril was married twice. He was the sole proprietor of a parcel delivery business.

Cyril's first wife, Olga, was Yolanda's mother and they divorced when Yolanda was five years old.

Cyril was then in a relationship with Zoe Smith and they had one child together, Bibi. Zoe already had a son, Ben, and Cyril helped to raise him from the age of three months, although he did not formally adopt him. Cyril and Zoe never married, and the relationship ended 20 years ago.

Cyril married his second wife, Rose, in 2011. It was not a happy marriage and they informally separated after six months and have not lived together since. In 2012, Rose moved to Egypt, where she has remained. In 2013, Rose adopted twins, Adam and Evie.

For the last two years, Cyril has been in a relationship with Peter and they have lived together for 18 months. Cyril proposed to Peter six months ago. Cyril and Rose agreed to divorce, and decided to handle the divorce without using lawyers. The decree nisi was issued six weeks ago.

Yolanda has brought in a list of Cyril and Bibi's assets (**Document 2**). Peter has insisted that he wants to pay for both funerals and to settle any liabilities of both the estates.

**DOCUMENT 2**

**ASSET LISTS FOR CYRIL BROWN AND BIBI SMITH**

**Cyril's assets (date of death values)**

- 41 Purland Road, Lincoln – £300,000 – in his sole name and occupied as his home and used solely for domestic purposes
- 45 Purland Road, Lincoln – 1/3 share – £80,000 – held as legal and beneficial joint tenants with Yolanda and Bibi
- Range Rover – £20,000
- Van used only in Cyril's parcel delivery business – £10,000
- Household contents – £15,000 (all owned by Cyril)
- Watch – £10,000 (an engagement present from Peter)
- Joint HSBC account with Peter – £5,000 total balance

**Bibi's assets (date of death values)**

- 45 Purland Road, Lincoln – occupied as her home – 1/3 share – £80,000 – held as legal and beneficial joint tenants with Yolanda and Cyril
- Household contents – £1,500

**Turn over**

DOCUMENT 3

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)  
To: Trainee Lawyer  
Sent: 28 May 2019  
Subject: Herbert Fox deceased

I met with Simon Fox last week. He is the son of Herbert Fox, who died on 14 May 2019. Simon is the sole executor and sole beneficiary of his father's estate.

Herbert's father, Charles Fox, died in 1990 and in his Will left Herbert a life interest in his estate, with Simon as the remainderman of the Will trust. The Charles Fox Will Trust is currently worth £1,000,000.

Herbert was a bachelor.

Herbert had made the following lifetime gifts for inheritance tax planning purposes:

- Herbert gifted his home at 8 Bluebell View, Bedford, to Simon eight years ago, while continuing to live there. He was advised to do this, to avoid paying care home fees. At that time, the house was worth £1,000,000 and is now worth £1,200,000. Herbert carried on paying all the household expenses and did not pay Simon any rent for living in the property.
- Herbert owned a pair of matching vases worth £10,000 together, but separately only worth £3,000 each. Herbert gifted one of the vases to Simon six years ago, on 15 March 2013.
- Four years ago, on 28 April 2015, Herbert gifted Simon £400,000 and also gifted £10,000 to the charity Save the Children.
- Three years ago, Herbert borrowed £200,000 from the bank to invest in a watch-making business, Timekeepers Ltd, which is an unquoted trading company. Herbert has been paying the interest on the loan and, as security for the loan, there is a legal charge against the boat he owns.

**CASE STUDY MATERIALS**

Herbert made no other lifetime gifts.

Herbert's estate consists of:

**Assets**

Cash in bank	£160,000 (account held in the name Herbie Fox)
Shares in Timekeepers Ltd (an unquoted trading company)	£250,000
Vase	£3,000
Jewellery	£10,000
Boat	<u>£200,000</u>
	<u>£623,000</u>

**Liabilities**

Mortgage	£200,000
Funeral account	£6,000
Other debts	<u>£3,000</u>
	<u>£209,000</u>

I shall want you to help me 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  
Sent: 28 May 2019 11:33  
Subject: Omar Khan deceased

I met with Fatima Khan last week. She is the niece of Omar Khan, who died earlier this month. Omar left a Will dated 21 April 2017 (**Document 5**).

Fatima has no idea who Jessica Bell is. She has called at the address in the Will and was told that Jessica emigrated to Brazil 12 months ago and left no forwarding address.

Ali Khan is her sister Salma's child, and is aged 8. Salma is not good with money and the last time Fatima spoke to her, Salma was being chased by numerous creditors.

Omar had spent many years in America and owned a business in Florida. Two years ago, he moved back permanently to the UK.

There has always been family gossip that Omar fathered one or more children while living in America, but Fatima does not know if there is any truth to this gossip. There were also rumours that he was married, but she does not know her uncle's marital status at the date of his death.

Fatima knows few details about her uncle's assets. She has been through the paperwork in his house and has compiled a list of his assets and liabilities (**Document 6**). She is shocked about how many debts she has discovered so far. She has found paperwork threatening to sue Omar in relation to his business dealings in America.

She is going to make further enquiries, to see if there are any other assets or liabilities.

Due to the size of the estate, I have agreed a fixed fee for assisting her in the administration of £1,500, including VAT and disbursements.

DOCUMENT 5

WILL OF OMAR KHAN

This is the last Will and testament of me Omar Khan of 20 Hardcastle Close, Bedford. I revoke all my previous Wills.

1. I appoint my niece Fatima Khan as the executor of my estate
2. I give inheritance tax free £30,000 to my friend Jessica Bell of 88 London Road, Cardiff
3. I give my gold watch to my great-nephew Ali Khan
4. After payment of debts I give the rest of my estate to my nieces Fatima Khan and Salma Khan in equal shares absolutely.

Signed this 21<sup>st</sup> day of April 2017 )

*Omar Khan*

By the testator in our joint presence)  
and then by us in his

Donna Gunter

5 Mosley Road Bedford

*Peter Gunter*

*5 Mosley Road Bedford*

**Turn over**

**DOCUMENT 6**

**ASSETS AND LIABILITIES OF OMAR KHAN**

**Assets**

20 Hardcastle Close	£200,000
Car	£6,000
Watch	£3,000

**Liabilities**

Mortgage	£150,000
Funeral	£4,000
Credit card 1	£15,000
Credit card 2	£8,000
Bank loan	£5,000
Payday loan	£3,000
Council Tax arrears	£1,500

DOCUMENT 7

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)  
To: Trainee Lawyer  
Sent: 28 May 2019 14:44  
Subject: Ezra Berger deceased

Dov Stedman came to see me last week about his grandfather Ezra Berger's estate. His grandfather died two months ago in tragic circumstances. Ezra's granddaughter Bibi has been arrested on suspicion of murdering him and is currently on bail, and Dov does not know whether she is going to be charged. Bibi has a four-year-old son, Yonni.

Dov had intended to manage the estate administration himself, but he has encountered numerous problems.

His grandfather made a homemade Will dated 31 December 2011 (**Document 8**). Dov found the Will in Ezra's bedside cabinet after Ezra's death. There are two staple holes in the top left-hand corner, but nothing was attached to the Will when Dov found it. There are also two pen lines through the Will, and Ezra has signed the Will twice.

Dov's former wife Kathleen was one of the witnesses of the Will. When the Will was signed, she and Dov were engaged. Dov is still on good terms with Kathleen, despite divorcing her last year.

Dov's best friend, William Smith, was the other witness. Ezra made the gift to his mistress Rebecca Gough via William, as he was concerned that she might spend it all straight away, if she inherited too soon. Rebecca is now 35 years old.

Stored alongside the Will was a list of household contents that is also dated 31 December 2011. This list has no staple holes in it.

Ezra has nine surviving grandchildren. The eldest grandchild, Suzanne, is 28 years old. Dov's Uncle Pinny (Ezra's brother) married late in life. Pinny's wife is eight months pregnant with twins, and Pinny and his wife are close to finalising the adoption of Jennifer, whom they have fostered for three years. The tenth grandchild, Andrew, died last year, leaving an illegitimate daughter, Louise, now aged 18 months. Andrew was also illegitimate.

Two weeks ago, Dov received a Caveat in the post, which has been entered by Rebecca. Rebecca has sent Dov a text, saying that she has blocked the estate progressing, because she has been advised that she has an Inheritance Act claim and she needs time to see a lawyer to discuss this.

**Turn over**

DOCUMENT 8

WILL OF EZRA BERGER

This is the last Will of me Ezra Berger of 3 Highcliffe Gardens Bedford.

1. I revoke all other Wills
2. I appoint my grandson Dov Stedman as my executor
3. I give £100,000 to William Smith of 15 Thorn Drive Bedford for him to hold on trust for my neighbour Rebecca Gough until she reaches 30 years of age
4. I have today made a list of household contents that I will store alongside this Will and these are to go to my neighbour Rebecca Gough
5. Subject to the above gifts I give my entire estate to such of my grandchildren who attain the age of 21 years

Signed this 31<sup>st</sup> December 2011

*E Berger*

Kathleen Brown

5 Purland Road Bedford

William Smith

15 Thorn Drive Bedford

*E Berger* - Cancelled by E Berger on 1<sup>st</sup> May 2018

**End of Case Study Materials**