



June 2022
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

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEX Examination Regulations – Online Examinations or with the CILEX Examination Regulations – Online Examinations with Remote Invigilation.

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CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

DOCUMENT 1 : Email from Marcus Wu to Trainee Lawyer

DOCUMENT 2 : Will Of Matthew Turner

DOCUMENT 3 : Email from Marcus Wu to Trainee Lawyer

DOCUMENT 4 : Email from Marcus Wu to Trainee Lawyer

DOCUMENT 5 : Made up copy signed Will Of Percy Hughes

DOCUMENT 6 : Estate accounts – Estate Of Mrs Elizabeth Jones deceased

DOCUMENT 1

Email from: Marcus Wu (Marcus.wu@kempstons.co.uk)

To: Trainee Lawyer

Re: Mr J Turner

I attach a copy of Mr Turner's Will, which you may recall I sent to him last week. Mr Turner was the client who was unable to attend the office and sent you his instructions using a Will questionnaire.

Mr Turner rang me this morning and I told him that this was a draft Will and not the final version.

Mr Turner said that he was having trouble making sense of it as the Will he had made before was much shorter and written in clear English. He goes on to tell you that he is concerned that if any of his granddaughters were to become a beneficiary but had not reached the age of 21 and were then to go to university, they would need financial support, especially if they were to live away from home.

I managed to calm him down by saying that you could provide him with a commentary of the clauses in the Will if Mr Turner wanted and he thought that was a good idea.

Mr Turner wanted to speak to you anyway and I said you would call him back sometime today.

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DOCUMENT 2
WILL OF JUSTIN MATTHEW TURNER

1. Identification and revocation

I Justin Matthew Turner of 21 High Street Bedford revoke all former wills and declare this to be my last Will ("my Will").

2. Appointment of Executors and Trustees

- 2.1** I appoint as my executors and trustees my wife Marina Turner and my brother Steven Andrew Turner.
- 2.2** In my Will the expression "my Trustees" means my executors and the trustees of my Will and of any trust arising under it.

3. Specific Gift

- 3.1** I give free of tax to my wife my Rolex watch
- 3.2** I give free of tax all of my half share in 21 High Street Bedford to my children in 6.2 below in equal shares

4. Pecuniary Gift

I give free of tax ten thousand pounds (£10,000) to the Bedford Methodist Church Bedford.

5. Gift of Residue

Subject to the above gifts and to payment of my debts, funeral, and testamentary expenses I give all my estate to my wife Marina Turner absolutely.

6. Substitutional gifts of residue

- 6.1** If my wife Marina Turner does not survive me, I give all my estate subject to the gifts in clauses 3 and 4 above to my Trustees on trust to pay my debts, funeral and testamentary expenses.
- 6.2** Subject to clause 6.1, my Trustees shall divide my estate equally between my daughters, Charlene and Esme, in equal shares.
- 6.3** If either of my daughters dies before attaining a vested interest leaving children, whether living at my death or born after, such children shall on attaining the age of 21 years take (equally if more than one) the share of my estate which their mother would have taken had she survived me to attain a vested interest.

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7. Declarations

7.1 Survivorship

Any beneficiary who is not proved to have survived me by twenty-eight days shall be treated as having died before me.

8. Trustees' Powers

My Trustees shall in addition to and without prejudice to all statutory powers have the following powers provided that they shall not exercise any of their powers to conflict with the beneficial provisions of my Will.

8.1 Advancement of Capital

To pay or apply capital for the benefit of any one or more of my children or remoter issue provided that the capital advanced shall not exceed the vested or presumptive share in my estate of the beneficiary to whom it is made, and all advances shall be taken into account on final distribution of my estate.

8.2 Maintenance

To apply or accumulate income in accordance with section 31 Trustee Act 1925 but subject to the following variations:

- 8.2.1** My Trustees may apply income for the benefit of a beneficiary as they think fit.
- 8.2.2** Throughout the section the age of twenty-one shall be substituted for eighteen and infancy shall mean the period before the attainment of twenty-one.

8.3 Investment

To invest as freely as if they were beneficially entitled.

8.4 Purchase of Land

To apply money in the purchase or improvement of land or an interest in land in the United Kingdom or elsewhere on such terms as they may impose in their absolute discretion.

Attestation

Signed this day of 2022

By the Testator in our
presence and then by us in his presence

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DOCUMENT 3

Email from: Marcus Wu

To: Trainee lawyer

I spoke to a client of ours yesterday, Susan Pang, about her sister Pamela Chang's Will. Please see below a summary of her queries. Pamela Chang died last month, leaving a very substantial estate.

Pamela Chang's Will contains the following clauses:

"I give £3,000 to my niece, Rebecca"

"I give my Nissan Micra car and my golfing equipment to my nephew Kevin"

"I give the residue of my estate to my son, George"

I have since learned that the Will had been witnessed by Rebecca's civil partner and Kevin's fiancée, whom he has since married.

Pamela Chang's husband Renshu Chang has not been included in her Will. Susan Chang told me that they were separated but it was all very amicable between them.

A few days before she died, Pamela Chang sold all her golfing equipment online for £1,000. At the date of her death, she was still waiting for payment and so had not delivered the golfing equipment to the buyer.

George died suddenly a month before Pamela Chang. George left no surviving children, but he is survived by the children of Fred, who was Pamela's only other child but who died several years ago. One of Fred's children is adopted.

DOCUMENT 4

Email: from Marcus Wu

To: Trainee Lawyer

Sidney Hughes is a long-term client of the firm, and he came in to see me this week about his brother Percy Hughes who died last month of Covid 19. He told me that Percy's original signed Will had been deposited with the bank but, unfortunately, they could not provide the Will as it could not be found. However, he gave me a signed made-up copy of Percy's Will which he found amongst Percy's papers after his death.

Sidney instructed me to handle the estate from start to finish. His brother's estate comprised a house in a desirable part of Bedford worth £500,000 at the date he died and a bank account with a balance at date of death of £20,000.

He also told me that his brother had put a line through the gift to the charity at the beginning of the Will.

Sidney would also like you to prepare a Will for him. He said he had been putting this off for some time and now was the time to do something about it.

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DOCUMENT 5

WILL OF PERCY HUGHES

THIS IS THE LAST WILL AND TESTAMENT of me Percy Hughes
of 10 High Street Bedford

~~I GIVE free of tax the sum of £12,000 (twelve thousand pounds) to the RSPB Bedford branch~~

SUBJECT to the payment of my debts legacies and funeral and testamentary expenses I GIVE all my estate whatsoever and wheresoever to my brother SIDNEY HUGHES and the local hospice in Bedford in equal shares and I APPOINT my said brother as sole executor of my Will

Dated this 14th day of July 2021

**Signed by the testator }
in our joint presence }
and then by us in his)**

Percy Hughes

Witness 1

Signature: *Danielle Stone*
Full name: Danielle Stone
Address: 18 Harby Avenue, Westbridge
Occupation: Teacher

Witness 2

Signature: *Anna Stephens*
Full name: Anna Stephens
Address: 18 Harby Avenue, Westbridge
Occupation: Designer

DOCUMENT 6

Accounts: Estate of Mrs Elizabeth Jones (Deceased)

Included in these accounts are the following:

1. Synopsis
2. Capital account
3. Estate income account
4. Beneficiary's account – John Jones
5. Beneficiary's account – Grace Dorothy Johnson

Synopsis

Mrs Elizabeth Jones, a widow, late of 45 Ravenswood Road, Romford, Essex, died on 28 August 2020, aged 77. Probate of her will dated 4 October 2002 was granted on 28 October 2020 to her executors Marcus Wu and Simon Smith, partners at Kempstons solicitors.

The estate remaining after payment of debts and testamentary expenses was given to John Jones and Grace Dorothy Johnson the deceased's children.

The net estate for probate purposes amounted to £716,923. For Inheritance Tax (IHT) purposes, the taxable estate amounted to £716,923, none of the beneficiaries being exempt from IHT but a residence nil rate band was claimed. IHT amounted to £16,769.20. There was only one nil rate band available to the widow as her husband's had been used up in his lifetime.

The residue has been divided between the beneficiaries being the deceased's children (John Jones and Grace Dorothy Johnson). The values stated in the beneficiaries' accounts form the acquisition value for the purposes of Capital Gains Tax.

Some of the contents of 45 Ravenswood Road and other chattels, including the car and the jewellery, were divided between the beneficiaries as they agreed to this, and the other items were sold. 45 Ravenswood Road was sold at the agreed probate value of £568,000 on 1 December 2020.

Ref: Jones /MF

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Estate Accounts

Capital Account

ASSETS	£	£
45 Ravenswood Road, Romford		
Probate value	568,000.0	
Net proceeds of sale after costs	564,089.75	
Romford Building Society		
Bonus Account – Capital	11,202.89	
– Interest to date of death	149.79	11,352.68
Oxford Building Society		
Instant Access Account – Capital	44,152.72	
– gross interest to date of death	210.36	44,363.08
Barclays Bank plc Current Account		496.10
Cash in house		286.00
Repayment of loan due from Grace Johnson		9,700.00
National Savings Premium Bonds		72,000.00
Contents of house and personal effects		
Distribution <i>in specie</i> (estimated value)	4,600.00	
Proceeds of sale of rest	2,300.00	
		6,900.00
Legacy due from late sister		<u>8,000.00</u>
 GROSS ESTATE	 £717,187.61	

LIABILITIES

Debts due at death		
Romford Gas Board – Gas Account	86.90	
Barclaycard – Credit Card Account	621.50	
Romford Council – Council Tax	106.00	
		814.40
Funeral expenses		
Romford Funeral Directors	3,360.00	3,360.00
Administration expenses		
Probate court fees	160.00	
Kempstons legal charges – charges for administering the estate		1,913.88

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Inheritance Tax	16,769.20
	18,843.08
	(23,017.48)
NET ESTATE/RESIDUE	£694,170.13

Estate Accounts

<u>Divisible</u>	£	£
Mr John Jones – one half	347,085.06	
Mrs Grace Dorothy Johnson – one half	347,085.07	
		694,170.13

ESTATE INCOME ACCOUNT**Interest received**

Romford Building Society (gross interest shown)	
– interest from death to close of account on 9/11/2020	40.92
Oxford Building Society	
– interest from death to close of account on 11/11/2020	238.88
	279.80
– less Income Tax at 20 per cent	55.96
	223.84

Divisible

Mr John Jones – one half	111.92
Mrs Grace Dorothy Johnson – one half	111.92
	223.84

DISTRIBUTION ACCOUNT**MR JOHN JONES**

Share of residue due to you per Capital Account	347,085.06
Share of residue due to you per Income Account	111.92
Total due to you	£347,196.98

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Retained by you

Car (at agreed probate value)	3,400.00
Household contents (at agreed probate value)	200.00
Interim payment on 14/11/2020	10,000.00
	13,600.00
BALANCE now due to you	£333,596.98

£ £

MRS GRACE DOROTHY JOHNSON

Share of residue due to you per Capital Account	347,085.07
Share of residue due to you per Income Account	111.92
<hr/>	
	£347,196.99
Less:	
Retained by you	
Jewellery (at agreed probate value)	800.00
Household contents (at agreed probate value)	200.00
Agreed remission of loan on 14/11/2020	9,700.00
	10,700.
BALANCE now due to you	£336,496.99

We hereby confirm that we have read and approve the estate accounts.

Signed
Executor

Signed
Executor

Dated