

CASE STUDY MATERIALS

September 2020
Level 6
**THE PRACTICE OF COMPANY AND
PARTNERSHIP LAW**
Subject Code L6-16



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 16 – THE PRACTICE OF COMPANY AND PARTNERSHIP LAW*

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**

ADVANCE INSTRUCTIONS TO CANDIDATES

You work in the Corporate Department of Kempstons LLP Solicitors, The Manor House, Bedford, MK42 7AB. Your supervising lawyer is Kerriane Grange.

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

KEMPSTONS LLP

INTERNAL MEMORANDUM

To: Trainee Lawyer
From: Kerriane Grange
Date: [Today's date]
Matter: Colling Limited

Alice Woods of Colling Limited is coming to see me shortly – please brief yourself on the attached and prepare accordingly, so that you may assist.

Kerriane

You find the following documents attached to the memo:

- DOCUMENT 1** Attendance Note by Kerriane Grange
- DOCUMENT 2** Email from Alice Woods of Colling Limited
- DOCUMENT 3** A copy of the management accounts – balance sheet as at 30 April 2020 for Colling Limited
- DOCUMENT 4** Company search for Colling Limited
- DOCUMENT 5** Email from Kerriane Grange

Turn over

DOCUMENT 1

ATTENDANCE NOTE

Date: [Yesterday's date]
Reference: KG.CAL/CL 763420
Fee Earner: Kerriane Grange (KG)
Time Spent: 50 mins
Client: Alice Woods (AW)
Matter: Colling Limited (Colling)
Client Contact Details: 18 Blackstock Road
Islington
London N4 5GH
Tel: 0207 456 8505

AW explained that she had requested the meeting with KG following the assistance that KG had been providing to her cousin Edward Normanington (EN), a director of Colling, which is a family business.

AW explained more of the background. As a favour to her cousin EN, AW became involved with Colling. Colling had been established in the 1990s by EN's mother, Barbara Normanington (BN), as a specialist recruitment agency, placing exceptionally skilled personal assistants and alike within small businesses and executive offices of larger corporations. As the business expanded, it was incorporated in 2009. The day-to-day running of Colling was taken over by both EN and his brother Sean (SN), once BN retired the following year.

EN was appointed a director on incorporation and was awarded a service contract. On BN's death in 2012, both EN and Sean inherited BN's interest in Colling. However, SN, who lives in Wales, took a step back, generally taking little part in running the business, leaving it to EN. Other family members also became involved in the business after BN's death. For example, AW's other aunt, Jennifer Steel (JS), became a director and shareholder.

AW said that EN approached her for advice about Colling in August 2019, given her experience as a forensic accountant. AW said it was evident on review of Colling's accounts that Colling was not doing well. AW particularly expressed concern that EN was not giving the business the attention it required, particularly as a number of corporate clients had closed their retainer files. AW agreed to assist EN, having regular (monthly) meetings with EN. AW and EN met regularly between August 2019 and April 2020. AW noted that EN was failing to record expenditure correctly, had failed to file audited accounts, and had unrealistic ideas about Colling's profitability. AW's opinion was that EN did not actually have a full understanding of the day-to-day operation of the business and was leaving too much to staff.

CASE STUDY MATERIALS

However, despite AW meeting with EN regularly, Colling's position further deteriorated. In March 2020, AW prepared a business plan for Colling, including recommendations about how the business should be run. EN agreed to act in accordance with the business plan and to continue to consult AW for advice. AW explained that her aunt, JS, had by then all but retired from the business, and left the running of Colling to EN. JS had, as part of her own inheritance planning, transferred some of her shareholding to her children, Alex and Peter.

AW warned EN that Colling was risking heading towards insolvency. AW was aware that its precarious state had become an issue of concern for customers and its reputation had suffered. To counter this, several members of the family increased their shareholdings, to seek to support the business financially. SN was also appointed a director in April 2020 to help support his brother.

KG asked AW how big a part the different directors and shareholders of the company were playing in running the company. AW said that she believed that most of them left the running of the business largely to EN. EN has also told AW that he is being pursued by creditors.

AW will forward a draft Balance Sheet that she is currently working on.

AW wants KG to advise generally.

Meeting ended: 10.50 am.

Turn over

DOCUMENT 2

EMAIL

From: a.woods@collinglimited.co.uk
To: KG@kempstonsllp.com
Date: [Today's date]
Subject: Colling Limited (Colling)

Dear Kerrienne

As requested, I attach the most recent management accounts for Colling. These were prepared for the month ending 30 April 2020 [**Document 3**].

If you require any further information, please let me know, but it's worth noting that much of the value is attributed to the value of the property where the business is based.

Here are a few other points that may be of use. The recent cash injection from family members, including me and my father, in return for the preference shares (4.5% non-cumulative and convertible) certainly helped to pay off some debts. In addition, the family and the Board collectively agreed not to declare a dividend this year, in order to keep funds within the company.

However, slightly more alarming, in my view, is the considerable number of outstanding unpaid invoices. It appears that Edward has not been following up with commissions on placements over the last months, and a number of key clients have not paid their invoices. This is something that came up for discussion in a recent Board meeting – Sean and Edward were arguing about whose responsibility it was, with Sean blaming Edward.

I confess I am still not happy about why Colling is carrying such large amounts of unpaid bills. In any event, I am hoping that we will be able to chase payment and see these settled in the next six to eight weeks.

For example, Colling is owed £23,000 by Tracker & Co LLP, a local firm with whom Colling has placed a number of candidates over the years. A number of partners have recently left the firm and, so I am led to believe, the firm is in financial difficulties, with several creditors pressing it for payment. I was able to speak to Tracker's finance director this morning. He was surprisingly honest about the firm's circumstances. From what I can determine, it does not have sufficient funds to settle these demands. It has over £295,000 non-preferential unsecured creditors and we are likely to receive very little in the event that Tracker goes into liquidation. In addition, I understand that Tracker is making a loss and its investment (orders) book continues to drop.

CASE STUDY MATERIALS

Tracker has assets valued at £498,000, including the freehold office which apparently is valued at £345,000 – the office is centrally located and would potentially make a good office for Colling, should it decide to release capital by selling its current property and start to operate from smaller premises. This has been a serious consideration by the Colling Board as a means to help clear the debts further. I have put Sean in touch with Tracker. Tracker's total liabilities amount to £615,000.

Perhaps we can discuss Tracker as well, when we meet next week?

Best,

Alice

Turn over

DOCUMENT 3

Colling Limited

Management Accounts: Balance Sheet at 30 April 2020

	£
Employment of Capital	
Fixed Assets	
Tangible assets	<u>1,872,000</u>
	1,872,000
Current Assets	
Debtors	825,000
Cash at bank	<u>352,000</u> 1,177,000
Creditors Due Within 1 Year	
Trade creditors	168,000
Other creditors	<u>356,000</u> (524,000)
Net current assets	<u>653,000</u>
Total assets less current liabilities	2,525,000
Creditors due after 1 year	<u>(315,000)</u>
NET ASSETS	<u>2,210,000</u>
Capital & Reserves	
Called up share capital:	
1,000,000 ord £1 shares	1,000,000
1,000,000 pref £1 shares	1,000,000
Profit & loss account	<u>210,000</u>
	<u>2,210,000</u>

DOCUMENT 4

BEDFORD SEARCH AGENCY LIMITED

Company Search

Name of Company	Colling Limited		
Company Number	887765490		
Company Type	Private company limited by shares		
Date of Incorporation	1 December 2009		
Previous Names	None		
Registered Office	One Middle Cheap, London EC2A 1AX		
Date of Last Annual Return	20 December 2019		
Accounting Reference Date	30 September		
Accounts	Last filed	Next due for period to	Overdue
		30 Sept 2020	
Current Directors and Secretary	Directors		Secretary
	Edward Normanington Jennifer Steel Sean Normanington		Edward Normanington
Share Capital	Issued	Class	No. of shares
	£2,000,000		
		Ordinary £1	1,000,000
		4.5% Cumulative Convertible Preference £1	1,000,000

Turn over

CASE STUDY MATERIALS

Shareholding		Name & Class	No. of shares
		Class: Ordinary	
		Edward Normanington	250,000
		Sean Normanington	250,000
		Jennifer Steel	150,000
		Alex Steel	175,000
		Peter Steel	175,000
		Class: 4.5% Cumulative Convertible Preference	
		Sean Normanington	150,000
		Jennifer Steel	150,000
		Alex Steel	150,000
		Peter Steel	150,000
		James Steel	150,000
		Alice Woods	125,000
		David Woods	125,000
Undischarged Mortgages or Charges			
Chargee	Date of charge	Amount Secured	Description of Charge (including assets secured and whether there is a negative pledge)
BTD Bank plc	3 July 2017	All monies	Legal mortgage over land and buildings at various sites, fixed charges over all plant and machinery and floating charge over the undertaking with negative pledge
Memorandum of Association			
Standard			
Articles of Association			
Model Articles for private companies limited by shares		Special article for pre-emption rights on transfer of existing shares to existing members. Quorum for directors' meetings: three (3)	
Unusual documents		Yes/No	(Include copies)
Appointment of receiver/administrator/winding-up order		NO	
Authority to allot shares under section 551 CA 2006		NO	
Any other comments		NO	
Report completed by:		PR	Date: May 2020

DOCUMENT 5

EMAIL

From: KG@kempstonsllp.com
To: traineelawyer@kempstonsllp.com
Date: [Today's date]
Subject: Alice Woods (commercial file)

I had a further telephone call from Alice Woods, this time on a different business venture that she has been involved in.

Approximately 18 months ago, Alice, together with two former colleagues, Jane Price and Lucy Thatcher, entered into business together. They met while working together at a former accountancy firm. The business is focusing on providing accountancy and start-up advice to young female entrepreneurs. The business is not incorporated. No other terms were discussed or agreed between Alice, Jane and Lucy, other than that Lucy and Jane would put £25,000 each into the business, while Alice would contribute £50,000. As Alice had work commitments elsewhere, she agreed to pay in more, whilst Lucy and Jane would work full-time.

While Alice was working out her notice at her former employers, she took little involvement in the running of the partnership business. However, problems have now arisen, particularly as there is apparently no written agreement between Alice, Jane and Lucy.

It appears that aspects of the relationship between the three of them have become rather acrimonious, and they are disagreeing over a number of issues, particularly over expanding the business. A number of invoices have arrived that neither Alice nor Jane are aware of having authorised. The suspicion is that Lucy may have placed orders without the agreement of the others, and generally not fulfilled her side of what had been agreed, possibly diverting opportunities elsewhere.

Additionally, there are concerns over the sharing of the profits of the business. Alice is now looking to receive 50% of all of the profits, on the basis that she has invested 50% of the capital. Lucy contests this as, until now, only she and Jane have been working full-time for the business, while Alice has not.

Because of these disagreements, Alice has now decided to involve herself more in the running of the business. Moreover, Alice and Jane have decided that they would prefer to carry on the business on their own without Lucy. Alice will explain more when she comes in to meet us.

When we do meet with Alice, please ensure that you record the time carefully, as we will have to attribute the time to the two different matters.

Many thanks

Kerriane

End of Case Study Materials

