

CASE STUDY MATERIALS

September 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 June 2020 re: Estate of Yosef Zhan

DOCUMENT 2 Copy of Will of Yosef Zhan dated 21 April 2007

DOCUMENT 3 Email from Marcus Wu dated 3 June 2020 re: Estate of Noel Rouge

DOCUMENT 4 Will of Noel Rouge dated 1 May 2020

DOCUMENT 5 Email from Marcus Wu dated 28 May 2020 re: Estate of Herbert Fox

DOCUMENT 6 Email from Marcus Wu dated 29 May 2020 re: Estate of Quentin Smith

DOCUMENT 7 Will of Quentin Smith dated 5 December 2018

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DOCUMENT 1

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)
To: Trainee Lawyer
Date: 2 June 2020
Subject: Yosef Zhan deceased

I have been consulted by Barbara Zhan, a long-standing client of the firm.

Her brother-in-law Yosef Zhan died three weeks ago, aged 63, leaving a Will. She brought in a copy of the Will for me (**Document 2**). One of the executors is Simon Zhan, Barbara's husband, who died six months ago. Simon made a Will appointing Barbara as his sole executor and beneficiary.

The other executor is William Zhan, her other brother-in-law. William died ten years ago. None of the three siblings had any children. Yosef had never married and was extremely close to his two siblings and Barbara, especially after his parents died. His Will, made in 2007, is the only Will he ever made.

Three months ago, Yosef decided to tidy up his affairs and Barbara went round to help him sort out his paperwork. As Barbara was the only member of his family circle that he had contact with, he decided to rip up his original Will and stated: 'I don't need this Will any longer as you will inherit my entire estate under the intestacy laws'. She is able to provide a copy of the Will, as Yosef gave both Simon and William a copy at the time he made the Will.

I shall want you to help me advise Barbara regarding Yosef's estate.

DOCUMENT 2

COPY OF WILL OF YOSEF ZHAN

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

1. I appoint my brothers William Zhan and Simon Zhan as the executors of my estate
2. I give £30,000 free of inheritance tax to my sister-in-law Barbara Zhan
3. After payment of debts I give the rest of my estate to such of my said brothers William Zhan and Simon Zhan as survive me and if more than one in equal shares absolutely.

Signed this 21st day of April 2007)
by the testator in our joint presence)
and then by us in his

Yosef Zhan

Donna Gunter
5 Mosley Road Bedford

Peter Gunter
5 Mosley Road Bedford

DOCUMENT 3

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)
To: Trainee Lawyer
Date: 3 June 2020
Subject: Noel Rouge deceased

I have been consulted by Pierre Rouge in relation to his father's estate. Noel died last week. After his wife died, Noel made a Will about ten years ago appointing Pierre (his only child) to be his sole executor and beneficiary. Pierre has been temporarily working abroad for the last three months on short-term secondment. He had explained this to his father and spoke to him every day on the phone while working abroad. Pierre came home immediately on hearing that his father had had a stroke. Noel died the day after Pierre arrived home, without regaining consciousness.

The day after the funeral, while Pierre was starting to clear his father's house, Noel's neighbours Debra and Edgar Xander came round and gave him a copy of Noel's Will dated 1 May 2020 (**Document 4**). Debra and Edgar only moved next door five months ago and had not known Noel previously. They have told Pierre that his father was so distraught that Pierre had emigrated and abandoned him that he wanted to leave his estate to them, as they were the only people who cared for him. Edgar used to be a Will writer, so had the knowledge to prepare the Will that Noel wanted. Edgar's friends witnessed the Will while they were on holiday from Wales.

Pierre is horrified at this news. His father was diagnosed with dementia two years ago but was still living at home with carers popping in to provide support for his deteriorating condition.

I shall want you to help me advise Pierre in relation to this estate.

DOCUMENT 4

WILL OF NOEL ROUGE

This is the last Will and testament of me Noel Rouge of 55 Purland Road, Bedford. I revoke all my previous Wills.

1. I appoint Debra Xander and Edgar Xander both of 57 Purland Road, Bedford as the executors of my estate
2. After payment of debts I give my estate to the said Debra Xander and Edgar Xander in equal shares absolutely.

Signed this 1st day of May 2020) *Noel Rouge*
by the testator in our joint presence)
and then by us in his

Elizabeth Whiskey
6 Castle Road Cardiff

Cyril Whiskey
6 Castle Road Cardiff

DOCUMENT 5

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)
To: Trainee Lawyer
Date: 28 May 2020
Subject: Herbert Fox deceased

I met with Raymond Fox last week. He is the illegitimate son of Herbert Fox, a retired estate agent, who died on 14 May 2020. Herbert left a Will, under which Raymond is the sole executor and sole beneficiary of his father's estate.

Herbert never married or entered into a civil partnership. He never owned his own residence to live in and instead lived with his sister Frieda in her council house until her death. He did, however, invest in a buy-to-let property jointly with Raymond several years ago.

Herbert inherited the entirety of Frieda's estate under the intestacy rules. She died three years and eight months ago, leaving an estate of £400,000. Her estate paid £128,000 in inheritance tax and so Herbert received £272,000.

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

- i). On 28 April 2016, Herbert gifted £10,000 to the Labour Party.
- ii). In May 2016, Raymond received from Herbert all of the issued shares in Fox Estate Agents Ltd, an unquoted trading company. In May 2016, the shares were worth £200,000.
- iii). On 1 May 2017, Herbert made a £3,000 birthday gift to his friend Linda Green.
- iv). On 27 April 2018, Herbert gave Raymond £250,000 out of the inheritance which he had received from Frieda.

Herbert made no other lifetime gifts.

Herbert was residing in a care home at the time of his death.

Herbert's estate consists of:

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Assets at date of death values:

Cash in bank £260,000

88 Acacia Avenue, London
(90% share – owned jointly
as tenants in common with Raymond;
a buy-to-let property which is free
of mortgage) £380,000

BP plc shares £45,000
£685,000

Liabilities:

Funeral account £6,000

Outstanding carehome fees £8,000

£14,000

Raymond has had a lot of money difficulties and is keen for the estate to be administered as quickly as possible, as he currently has no assets except his share in the buy-to-let property. He has had to sell all his other assets to pay off his debts. Raymond has also checked, and the BP shares have exactly halved in value in the last week.

I shall want you to help me obtain a grant and deal with the administration of the estate. I have quoted a fixed fee of £8,000 + VAT for our work.

Turn over

DOCUMENT 6

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)
To: Trainee Lawyer
Date: 29 May 2020
Subject: Quentin Smith deceased

I met with Michael Taylor last week. He is the uncle of Quentin Smith, who died six months ago. So far, nothing has been done to administer Quentin's estate, because the family did not know how to proceed. Quentin left a Will (**Document 7**). Donald is 10 years old and lives with his mother, Tia Noy. Tia and Quentin were never married. Tia and Quentin had stopped living together five years ago, before Quentin's death, but remained on good terms.

At the time of his death, Quentin's only bank account was a Nationwide bank account and he owned no shares.

Sandra and Peter are Michael's adult children and were Quentin's cousins.

Hannah Brown is Quentin's former neighbour. She knows about the contents of the Will but wants nothing to do with the administration of the estate, nor does she wish to receive any money from the estate. Hannah and Quentin had a big argument a few days before he died.

Michael has been doing a bit of research and thinks that Quentin's estate may be a low-value excepted estate.

I shall want you to help me advise Michael in relation to this estate.

DOCUMENT 7

WILL OF QUENTIN SMITH

This is the last Will and testament of me Quentin Smith of 6 Edgeware Avenue, Bedford. I revoke all my previous Wills.

1. I appoint my son Donald Smith and Hannah Brown of 8 Edgeware Avenue as the executors of my estate
2. I give free of inheritance tax 100 shares in Centrica plc to Sandra Taylor for her own use and benefit absolutely
3. I give free of inheritance tax £5,000 out of my Barclays Bank Account to Peter Taylor for his own use and benefit absolutely
4. After payment of debts I give my estate to the said Donald Smith and Hannah Brown in equal shares absolutely but if this gift to one of them fails for any reason then to the other of them.

Signed this 5th day of December 2018)
by the testator in our joint presence)
and then by us in his

Quentin Smith

Olga Raun
55 Edgeware Avenue
Bedford

Peter Raun
55 Edgeware Avenue Bedford

End of Case Study Materials

