

**CASE STUDY MATERIALS**

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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 12 May 2017 re Estate of Peter Brooks
- Document 2**      Copy Will of Peter Brooks dated 16 November 2012
- Document 3**      Statement of Assets and Liabilities for Peter Brooks
- Document 4**      Email from Marcus Wu dated 12 May 2017 re Estate of Frank Johnson
- Document 5**      Email from Marcus Wu dated 12 May 2017 re Estate of David Moore
- Document 6**      Copy Will of David Alan Moore dated 20 June 2009
- Document 7**      Email from Marcus Wu dated 12 May 2017 re Estate of Henry Hambling
- Document 8**      Copy Will of Henry Hambling dated 2 June 2010

***Turn over***

**DOCUMENT 1**

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

**To: Trainee**

**Date: 12 May 2017**

**Re: Peter Brooks deceased**

Now that you have joined the Private Client Department, I would like you to progress the administration of this estate. I am appointed executor.

Peter Brooks died on 1 March 2017. He never married and had no children. His will (attached to this email) (**Document 2**) left some pecuniary legacies and the residue of his estate to the Suffolk Wildlife Trust, a registered charity.

I have attached a statement of assets and liabilities (**Document 3**), from which you will see that the estate is reasonably substantial.

As far as lifetime gifts are concerned, it appears that, apart from small birthday and Christmas presents, the only lifetime gifts Peter made were gifts of £1,500 each to his nephew and niece, Richard and Esme on 6 April each year for the last ten years.

We are ready to apply for a grant of probate. There is some urgency. We have received an offer for Mr Brooks' house, 3 Vicarage Road, at £20,000 above the probate valuation. This is because the purchaser lives in the same village as the deceased and is anxious to secure a suitable property for his elderly mother. He is willing to pay above the odds to be sure of getting it, but he wants it quickly.

The charity is, of course, anxious to receive its entitlement as soon as possible. This should not be problematic. I see nothing to prevent a speedy sale of all assets, once we have the grant. Having said that, Esme has asked if she can have the holiday cottage as part of her entitlement.

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

**DOCUMENT 2**

**WILL OF PETER BROOKS**

This is the Last Will and Testament of me, Peter Brooks of 3 Vicarage Road, Swanton Deeping, Wiltshire.

1. I revoke all earlier Wills.
2. I appoint Marcus Wu as executor of my estate and authorise him to charge reasonable remuneration for all work done irrespective of whether or not it could have been done by a layperson.
3. I leave £350,000 free of tax to each of my nephew, Richard Brooks, and my niece, Esme Brooks.
4. I leave £25,000 free of tax to my godson, Frank Duffield of 3 Tavistock Road, Bristol BS1 5RD.
5. After payment of debts, liabilities and inheritance tax I leave the residue of my estate to the Suffolk Wildlife Trust (Charity no. 262777) for its charitable purposes. In making payment of the amount due under this clause my executors shall be entitled to accept in full discharge the receipt of the person appearing to be the secretary, treasurer or other suitable officer of the charity.

Signed by me *Peter Brooks* on 16 November 2012

In our joint presence and then by us in his

*Scott Sabine*

*4 Mill Lane*

*Combe Ashton*

*Company Director*

*Frances Thorne*

*6 Clifton Road*

*Stourhead*

*Teacher*

**Turn over**

**DOCUMENT 3**

**STATEMENT OF ASSETS AND LIABILITIES**

**PETER BROOKS DECEASED**

**Assets**

Share portfolio managed by Rathbones <sup>1</sup>		£995,600
House, 3 Vicarage Road, Swanton Deeping <sup>2</sup>		£350,000
Holiday home, Sea Horse Cottage, St Ives <sup>2</sup>		£250,000
Volvo car		£21,200
Other personal chattels		£1,000
<u>Bank accounts:</u> <sup>3</sup>		
Lloyds current account	£6,100	
Lloyds deposit account (inc interest to date of death)	£70,600	
Halifax deposit account	<u>£72,300</u>	
		<u>£149,000</u>
		<u>£1,766,800</u>

**Liabilities**

Funeral expenses		£2,900
Credit card		£4,700
British Gas		<u>£300</u>
		<u>£7,900</u>

Notes:

- 1 Valuation provided by Rathbones as at date of death. The portfolio consists of minority holdings of shares in a variety of quoted companies. Rathbones estimate that dividend income is approximately £36,000 per annum.
- 2 Valuation provided by RICS valuers on basis of market value at date of death.
- 3 Balance on accounts at date of death including accrued interest. The two deposit accounts receive interest at the rate of 1.25% per annum.

**DOCUMENT 4**

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

**To: Trainee**

**Date: 12 May 2017**

**Re: Frank Johnson deceased**

I saw Armadia Shaw yesterday about the death of her father, Frank Johnson. Frank was 75 and had not made a will. He died on 4 April 2017.

Frank was divorced. He had two children from his marriage to Nkeoma: Armadia (40) and her brother, Kwento (38). He also had an illegitimate son, Curt Williams (55).

Curt predeceased Frank by six weeks. He was married and had two sons of that marriage, Stuart (22) and Quentin (20). Curt's wife was expecting his third child when he died. She gave birth to a daughter, Waveney, on 6 May 2017.

Armadia has one son, Obi (18). Kwento has no children.

Frank's parents are dead. He has one sister, Theresa (80). Theresa is a widow and has no children.

Frank sold his home in 2014, when he went into rented sheltered accommodation. His assets are therefore pretty straightforward.

At the date of death, Frank had £104,000 on deposit. He had quoted shares valued at £200,000. His personal chattels have been valued at £1,000. In 2014, he invested £70,000 in an unquoted company started by Kwento which imports specialist Nigerian foodstuffs. He received a 20% holding, which is now valued at £150,000.

In 1980, Frank took out a life assurance policy which will pay £50,000. He wrote the policy in trust for Armadia and Kwento when he took it out.

Armadia says her father had no debts of which she was aware but that she is a little anxious that she may have missed something. He was always something of a 'wheeler-dealer', and even in his 70s did a bit of buying and selling.

The funeral cost £5,000.

Apart from relatively small gifts at Christmas and on birthdays, Frank made no lifetime gifts.

Armadia is willing to administer the estate. She would prefer to do it alone as she dislikes decision-making by committee. If necessary, Kwento would be willing to act with her, although he is very busy with his business. Neither she nor Kwento would relish any interference from Curt's family.

I promised to write a letter to Armadia setting out my advice. I would like you to draft that and to help generally with the administration of this estate.

**Turn over**

**DOCUMENT 5**

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

**To: Trainee**

**Date: 12 May 2017**

**Re: David Moore deceased**

I have been consulted by Victor Moore, an established client of the firm.

His uncle, David Moore, died on 1 March 2016, aged 81. He never married and had made a will some years ago, leaving his entire estate to Victor.

Three years ago, David started to employ a carer, Luana Iglesias. Luana is from the Philippines and sent most of her earnings home to support her nieces and nephews.

Three weeks before his death, David told Victor that he had written to a firm of solicitors, Ottley & Jones, explaining that he wanted to change his will to leave one quarter of his estate to Luana, because he thought she worked extremely hard and deserved help. He said that he had got into the habit of making a monthly gift of £250 to Luana over and above her salary, because she sent so much of her salary home that she had very little to live on.

The solicitors sent David a letter of engagement, which he signed and returned. The solicitors had not prepared the new will for him by the time he died.

David's will is attached to this email (**Document 6**). It contained a manuscript alteration, as shown.

Luana has seen the will and has asked whether she is entitled to one quarter of the estate.

David's estate, after deducting liabilities and funeral expenses, is worth about £2 million.

He had just sold his long-term home and moved into a smaller flat, so there is an unusually high proportion of cash within the estate. His flat was bought for £360,000, there is uninvested cash of £1 million, there are minority shareholdings in a variety of quoted companies totalling £600,000, plus a car and personal chattels totalling about £40,000.

Apart from gifts to charity and the gifts to Luana, David made no lifetime gifts.

Victor is considering his position. If Luana receives a quarter of the estate, he will still receive a significant amount. If she has a reasonable claim against the estate, he does not wish to waste money on litigation.



## **CASE STUDY MATERIALS**

Even if Luana has no formal claim, Victor might be willing to give effect to what he regards as his uncle's wishes, provided he is satisfied that Luana had not taken advantage of his uncle. However, he would want to arrange matters in the most tax-efficient way possible, avoiding any adverse tax implications for himself. He has substantial capital gains tax liabilities for the current tax year and may want to make some lifetime gifts of cash to his children in the next few years.

Victor wants us to act in the administration in any event. I shall want you to assist me.

***Turn over***

DOCUMENT 6

WILL OF DAVID ALAN MOORE

**THIS IS THE LAST WILL AND TESTAMENT** of me **DAVID ALAN MOORE** of The Willows, Church Lane, Ashby Flamville, Bedfordshire

1. I revoke all former Wills.
2. I **APPOINT** my nephew **VICTOR MOORE** to be the executor and trustee hereof.

*Three quarters of*

3. Subject to the payment of debts tax funeral expenses and legacies my Trustee shall ~~HOLD~~ my estate for **my nephew Victor Moore** absolutely *And one quarter for Luana Iglesias*

*signed:*

*David Alan Moore*

**SIGNED** this 20<sup>th</sup> day of June 2009 )

by the Testator in our joint presence )

and then by us in his )

*David Alan Moore*

*Marsha Fenn  
Ottley & Jones  
68 North Street  
Rugby  
Secretary*

*Belinda Taylor  
Ottley & Jones  
68 North Street  
Rugby  
Office Administrator*

**DOCUMENT 7**

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

**To: Trainee**

**Date: 12 May 2017**

**Re: Henry Hambling deceased**

I have been consulted by Ursula Fox, the niece of Henry Hambling.

Henry died on 15 April 2017, aged 95. His wife, Geraldine, died six months before him, leaving everything to Henry.

Neither Henry nor Geraldine made any lifetime gifts which are significant for inheritance tax purposes.

Henry's estate is reasonably substantial. A valuer (RICS qualified) valued the house at £800,000 at death. He had minority shareholdings in quoted companies valued at death at £405,000. The market is very volatile at the moment, so values will fluctuate. Henry had cash of £50,000.

The funeral cost £3,000 and there are debts of £2,000.

Ursula is anxious to obtain a grant of representation as quickly as possible, as she wants to get on with the sale of the house as property prices in the area seem to be falling.

Ursula has various concerns about Henry's will (**Document 8**), a copy of which is attached to this email.

Ursula's daughter, Yvonne, who is mentioned in the will, sadly died in childbirth last year. Yvonne is survived by her daughter, Trixie-Belle.

The sports car referred to in Henry's will was stolen two years ago. He received £20,000 from the insurance company, but did not replace the car.

Hamblings Ltd was taken over by Unilever one year ago. Shareholders received a cash distribution and shares in Unilever. Henry received £50,000 and 1,000 shares.

I shall want you to help me with the administration.

**Turn over**

**DOCUMENT 8**

**WILL OF HENRY HAMBLING**

**THIS IS THE LAST WILL AND TESTAMENT** of me **HENRY HAMBLING** of 5, Shepherd Close, Milton Keynes

1. I revoke all former Wills
2. I **APPOINT** my niece **URSULA ANN FOX** to be the executor and trustee hereof ("My Executor")
3. Subject to the payment of debts tax funeral expenses and legacies I **GIVE** my estate to my wife **GERALDINE ELIZABETH HAMBLING** absolutely but if this gift fails for any reason My Executor is to distribute my estate in accordance with clauses 4 and 5 below
4. I **GIVE** the following legacies
  - 4.1 £10,000 to Médecins Sans Frontières (English Charity Reg. No. 1026588)
  - 4.2 £10,000 to Alzheimer's Society (registered Charity No. 296645)
  - 4.3 £50,000 to my great-nephew Pierre-Luc Hambling
  - 4.4 My MG sports car to my great-nephew Pierre-Luc Hambling
  - 4.5 £80,000 to my great-niece Yvonne Fox
  - 4.6 My shares in the family company Hamblings Ltd to my great-nephew Pierre-Luc Hambling
5. I **GIVE** the residue of my estate to my niece **URSULA FOX**
6. My executor may accept as a complete discharge the receipt of any person who appears to be a proper officer of a charity
7. For the purposes of clauses 4 and 5 any person who dies within 28 days of my death shall be treated as having predeceased me

**SIGNED** this 2<sup>nd</sup> day of June 2010)

by the Testator in our joint presence     )  
and then by us in his                             )     *Henry Hambling*

*Xavier Perez*  
*3 Shepherd Close*  
*Milton Keynes*  
*Radiographer*

Zanna Perez  
3 Shepherd Close  
Milton Keynes  
Nurse

**End of Case Study Materials**

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