

CASE STUDY MATERIALS

January 2012
Level 3
PROBATE PRACTICE
Subject Code L3-14

ilex

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INSTITUTE OF LEGAL EXECUTIVES

UNIT 14 – 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 the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the 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 relates to the 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 text books into the examination.
- In the examination, candidates must comply with the ILEX Examination Regulations.

Turn over

* This unit is a component of the following ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee legal executive employed by the firm Kempstons of Manor House, Bedford, MK42 7AB, DX number 23452 Bedford.

Your supervising solicitor is William Hooper. One morning when you arrive for work, he hands to you a number of files and the following documents:

Document 1 Letter from Barbara Unwin regarding Alpha Bah's new will

Document 2 Telephone memorandum regarding Alpha Bah

Document 3 Attendance note regarding Sara le Chat

Document 4 Will of Sara le Chat

Document 5 Letter from Marvin Gayle

Document 6 Will of Marvin Gayle

Mr W Hooper
Kempstons Solicitors
Manor House
Bedford
MK42 7AB

Mrs B Unwin
17 Brook End
Ashley
Bedfordshire
MK45 2RH

3 January 2012

Dear Mr Hooper

I am writing to you about my friend, Mr Alpha Bah who lives at 7 Oak View, Bedford, MK42 8FG.

Mr Bah has asked me to write to you because he would like to make some changes to the will he made in 1997, which you currently hold in your strongroom. The will left everything he had to his then wife, Ruby, or if she died before him to his two children, Chernob and Jasmine.

Since 1997, Mr Bah has fallen out with his son and his daughter, and now does not see them at all. Chernob Bah must be about 45 years old, is married and I believe has two small children. Jasmine Bah is a little younger than Chernob. She is not married but I think has at least one child. Alpha and Ruby divorced in 2002. He has no other living family members, and has decided that he would like to leave all he has to his good friends.

He wishes to leave the following legacies:

£500 to his neighbour John Bell of 9 Oak View

£500 to his friend Samuel O'Brien of 4 The Cuttings Bedford MK43 8HS

He would then like to leave the rest of his money and possessions to me. My full name is Barbara Jane Unwin and my address appears above.

Please can you draft a new will for Mr Bah for him to sign as soon as possible? He is waiting to go into hospital at the moment for a minor operation on his hand and would like to get this will sorted out as soon as possible.

Yours sincerely

Mrs Unwin

PS - I ought to mention that the reason I am writing this letter to you on behalf of Mr Bah is because he does not like writing letters or dealing with his own business. I tend to act as his secretary writing his letters, making sure his bills are paid etc.

DOCUMENT 2

TELEPHONE MESSAGE

TO: W Hooper
FROM: Tom Wilberforce
RE: Mr Alpha Bah

DATE AND TIME 4 January 2012 1.30pm

Tom Wilberforce (a care worker) called while you were at lunch.

He has been assigned to Mr Bah who has been assessed as needing full-time residential care.

He understands from Mr Bah's friend Mrs Unwin that we act for him.

Mr Wilberforce feels that Mr Bah is not coping at home on his own, despite Mrs Unwin's best efforts to look after him (she is apparently 71 and not in good health herself).

Mr Bah is 86, with a number of physical health problems most of which require medication. He is also concerned that Mr Bah is a little confused and does not seem able to deal with the forms and paperwork Mr Wilberforce needs to complete in order to organise the move to the residential care home. He asks whether we have an enduring power of attorney or lasting power of attorney for Mr Bah which gives someone else the power to deal with his money for him. He described him as "a little confused. Able to hold a conversation but tends to get muddled easily".

Can you call him back please?

He is at Bedford Social Service – Swan End site.

ATTENDANCE NOTE

RE: Sara le Chat deceased

DATED: 10 January 2012

BY: W Hooper

Attending Henry and James le Chat, children of the late Sara le Chat who died on 1 January 2012.

Sara was born on 4 April 1942. She lived at High Trees Care Home Bedford MK41 6TY.

Sara had written her own will by filling in the blanks in a will form bought from a shop. Henry and James handed the original will to me along with the death certificate. The will (a copy of which is on the file) appears to be properly executed and is dated 2 December 2004. Henry and James are certain it is the only one their mother made.

They also handed to me various documents and papers they had found amongst their mother's papers which provide evidence of assets and liabilities in the estate. A schedule of which follows:

Assets:

Bedford and Castle Building Society Account 5897023 Interest to date of death (this account contains the proceeds of sale of 4 The Birches which was sold last year when Sara moved to High Trees)	£345,780.00 £450.00
RN McKays and Co (Stockbrokers) Portfolio of stocks and shares Dividends to date of death	£446,900.00 £65.00
Personal effects (estimated) which include a painting of Ely Cathedral	£500.00
Total	£793,695.00

Debts:

Funeral account	£3,550.00
Arrears of care home fees	£2,500.00
Total	£6,050.00

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Lifetime gifts:

Sara made two lifetime gifts as follows:

June 2004 - £15,000 to her granddaughter Rebecca le Chat when she started her university course

August 2006 - £8,000 to Let's Go! A local registered charity which provides holidays for ill, disabled and disadvantaged children

Family:

Sara was a widow, her husband having died in 2001 leaving all his estate to Sara. She had four children:

Henry, who is married to Maria. They have two children, Rebecca who is 27, and Tabitha who is 22;

James, who is divorced from his wife Karen. He has one daughter, Isabella, who is 10;

Philip, who died in 2004. He left a wife, Denise, and two children, Bernie (who is now 17) and Giles (who is now 15). Bernie has recently married Karl; and

Charles, who is unmarried and has no children. Charles is currently working in Bhutan on a project to locate and assess the tiger population there.

WILL OF SARA LE CHAT

I Sara le Chat of 4 The Birches Bedford MK43 7RY declare that this is my last will

1. I revoke all former wills and testamentary documents made by me
2. I appoint
3. I give the following legacies in each case free of tax:

(a) To my good friend Malcolm Tavistock of 6 The Birches Bedford my painting of Ely Cathedral which he has always admired

(b) To Denise le Chat the wife of my late son Philip I give the sum of £100,000 for her lifetime and after her death to be divided equally between Philip's children Bernie and Giles provided they survive me

4. I give the remainder of my estate (the "residuary estate") after payment of my debts, funeral and testamentary expenses to

be divided into three equal shares for my sons as follows:

One share for Henry le Chat

One share for James le Chat and

One share for Charles le Chat

Should any of my three children die before me leaving children of their own then these children will take their father's share of my residuary estate and if more than one equally between them

Dated this 2nd December 2004

Signed by the said)
Sara le Chat)
as her last will in our)
presence and then by)
us in hers)

Sara le Chat

T Wilberforce

M Wilberforce

Both of 2 The Birches Bedford

Mr Marvin Gayle
7 The Piggery Austen End Bedfordshire MK45 2RH

Mr W Hooper
Kempstons Solicitors
Manor House
Bedford MK42 7AB

2 December 2011

Dear Mr Hooper

My Will

Thank you for sending to me my new will to sign. I think I have followed your instructions on how to sign more or less!

I asked Simon and his wife June to act as my witnesses. As two of my oldest friends I couldn't think of anyone better. I made sure both Simon and June watched me sign the will and I then watched while they both signed. June was a little distracted as she was trying to keep an eye on their two year old son, Harvey, who had just begun to climb over the fire guard in the sitting room, but I think we complied with the instructions properly.

I thought it would be helpful for you to keep a note of my main assets with my will so I have listed them for you as follows:

- 7 The Piggery – I am the sole owner of this house and think it is worth around £250,000. There is a small mortgage against it of around £20,000 which I hope to pay off over the next 5 years.
- Shares – I have a small holding of around 4000 ordinary shares with Positive Finances plc which I obtained when the mutual business became a plc. These fluctuate in value.
- Building Society account – this is in my sole name and has around £5,000 in it.
- Joint assets – I have bought with my brother, Thomas, a small holiday house in Hunstanton in Norfolk. It is worth about £120,000 at the moment and we contributed to the purchase price and contribute to maintenance costs equally. It is held as beneficial joint tenants. Thomas still owes me £5,000 he borrowed last year to buy a car.
- Personal effects – I have few personal effects of great value – perhaps only my father's watch which is worth around £2,000.

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In the event of my death you would need to contact my brother, Thomas. He is my only surviving relative now, along with his wife, Helena, and their two children Arthur (who is 5 years old) and Gwen (who is 18 months). I do of course have another brother, Peter, but he has cut himself off from the family and we have nothing to do with him anymore.

With many thanks for all your help.

Yours

Marvin Gayle

WILL OF MR MARVIN GAYLE

I Marvin Gayle of 7 The Piggery Austen End Bedfordshire MK45 2RH declare that this is my last will

I revoke all former wills and testamentary documents made by me

I appoint the partners at the date of my death in the firm Kempstons of Manor House Bedford MK42 7AB or such other firm or corporation as has succeeded to or carries on its business at the date of my death to be my executors and trustees and I express the wish that only two such partners shall prove my will and act in its trusts

I give to my good friend Simon Williams the sum of £5,000 and express the wish that he use this to buy a decent set of golf clubs

I give to The Royal Society for the Protection of Wildlife (charity number 38972) the sum of £2,000

I give to my brother Thomas the watch which belonged to our late father

I give the remainder of my estate to my trustees to pay my debts funeral and testamentary expenses and to hold the balance on trust for such of the children of my brother Thomas Gayle of 56 High Road, East Tew, Bedfordshire, MK45 8TY as survive me and if more than one in equal shares absolutely

Signed as my will this **2 December** 2011

Marvin Gayle

Simon Williams

June Williams

End of Case Study Materials

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