

**CASE STUDY MATERIALS**

June 2011  
Level 6  
PROBATE PRACTICE  
Subject Code L6-21

**ilex**

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**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 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.

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\* This unit is a component of the following ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL**

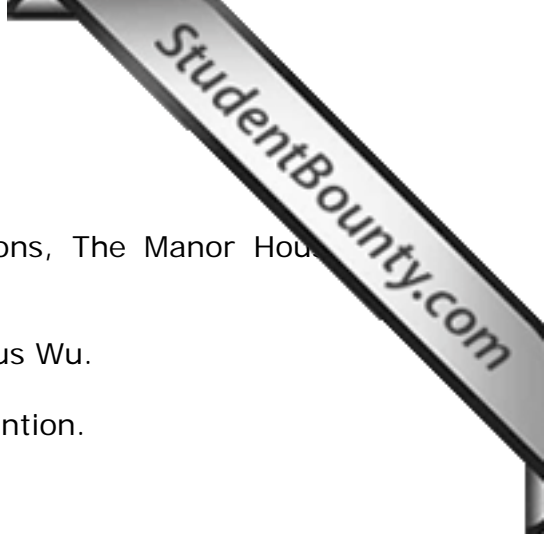
**ADVANCE INSTRUCTIONS TO STUDENTS**

You work in the Private Client Department of Kempstons, The Manor House, Bedford, MK42 7AB (DX BD345987).

Your supervising partner and head of department is Marcus Wu.

You arrive at work to find the following awaiting your attention.

- DOCUMENT 1**      Email (Paula Matthews deceased)
- DOCUMENT 2**      Further Information (Paula Matthews deceased)
- DOCUMENT 3**      Will (Paula Matthews deceased)
- DOCUMENT 4**      Extract from Attendance Note (Marigold Fossett)
- DOCUMENT 5**      Letter (Marigold Fossett)
- DOCUMENT 6**      Email (Samuel Kerr deceased)
- DOCUMENT 7**      Estate Accounts (Samuel Kerr deceased)
- DOCUMENT 8**      Attendance Note (Louisa Elaine Raddison)



## DOCUMENT 1

**Email from Marcus Wu – Paula Matthews deceased**

Earlier this morning I saw Deidre Wilson and Montague Matthews regarding the recent death of their sister Paula Matthews.

Paula died on 1 May 2011 – it was a shock because she was thought to be in reasonably good health but it appears she had a severe stroke. She had lived alone for many years in her house in Ainsdale Drive, having divorced her husband in 1985, after which she reverted to her maiden name of Matthews.

Deidre and Montague are her nearest relatives, along with two other brothers, Charles and Raymond. Her siblings have between them seven children. Details are set out in **Document 2**.

Deidre and Montague brought with them the will (see **Document 3**) which I have put in our office strongroom. I have already explained to Deidre and Montague that there can be issues with homemade wills. Deidre said that she was actually present when the will was signed. Apparently, she had gone to see Paula one afternoon in February and Paula produced the will which she had already handwritten. She explained to Deidre what was in the will and wanted her to witness it. Wisely, Deidre declined and suggested she ask the couple who lived next door to do so. Luckily they were in and so they were able to witness it whilst Deidre was still there.

Deidre and Montague told me that Natalie Braithwaite, a widow who lived across the road from Paula, died at the end of March this year. Paula had been very upset about Natalie's death because she valued her friendship and Deidre thinks the stress may have contributed to Paula's stroke.

I asked about Paula's assets and they said they will provide full details in due course. However, for now I have listed in **Document 2** what they were able to tell me so far.

I have a further meeting with Deidre and Montague on 14 June 2011 when I will advise them further on what needs to be done to deal with Paula's estate. By then, they hope to have more details of Paula's assets and liabilities.

Marcus

*Turn over*

**Paula Matthews deceased - Further information obtained at Mr meeting with Deidre and Montague.****Paula's details**

Paula Matthews lived at Hillside, Ainsdale Drive, Fairham, Bedford MK43 5ER. She was divorced in 1985 from her husband Gary Stone whom she had married in 1962. She was a retired secretary.

She was born on 5 March 1938 and died on 1 May 2011.

**Family details**

Paula had no children. Her parents died many years ago.

She is survived by three brothers and one sister:

Montague Matthews of Daleside Villa, Formby Road, Fairham, Bedford MK43 7FG, aged 70 (retired teacher); No children.

Charles Matthews of 23 Hoylake Road, Chester, CH7 3AC, aged 68 (retired dentist); He has three adult sons and four minor grandchildren.

Raymond Matthews of The Orchard, Petherick View, Plymouth PL1 5JK, aged 66 (retired civil servant); He has two adult daughters and three minor grandchildren.

Deidre Wilson of 53 Stoppard Close, Fairham, Bedford, MK43 8LM, aged 63 (journalist). She has one adult son (Michael) and one adult daughter.

**Will**

This is dated 6 February 2011. The original is in the firm's strongroom. It is not known if she had made a previous will.

**Assets and Liabilities**

Paula owned Hillside outright as a result of her divorce settlement. It is thought to be now worth around £400,000.

House contents (including china, jewellery and various antiques) are probably worth around £20,000.

Cash savings accounts and investments probably amount to £200,000.

She was in receipt of an occupational pension and she also received a state pension. Together, these amounted to around £27,000 gross per year. Both pensions are all paid up to date and there are no arrears or further sums owing.

No car. Deidre said that Paula did have a car until recently (it was an old Honda Civic) but she sold it for next to nothing as scrap in March this year after it failed its MOT and she was advised it would not be economical to repair. She hardly ever used it so did not bother to replace it.

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It does not appear Paula had any outstanding debts. The undertaker's account (including the cost of a headstone) amounts to £4,000.

**Gifts etc**

It is not thought Paula made any gifts or transfers for IHT purposes.

*Turn over*

**Will of Paula Matthews**

*This is my will by Paula Matthews of Hillside, Ainsdale Drive, Fairham, Bedford MK43 5ER*

- 1 I give to my good friend Natalie Braithwaite all my china, ornaments, cutlery and other objects d'art which are at Hillside and a legacy of £15,000 and I want Natalie to deal with my estate and see that my will is carried out.*
- 2 I give my motor car to my nephew Michael Wilson and I give to each of my other nephews and nieces a legacy of equal value to that of my motor car when I die.*
- 3 I give £10,000 to Oxfam for its charitable work.*
- 4 I want Hillside and everything else that I've got to be sold by Natalie and all the money that is left after paying for my funeral and costs is to go to my brothers Montague, Charles and Raymond and my sister Deidre so that they each have an equal amount.*
- 5 I wish to be cremated and my ashes scattered to the wind over Fairham Common.*

*Signed Paula Matthews on 6 February 2011 and witnessed by Mr and Mrs Beckerton*

*Geoffrey Beckerton*

*Mildred Beckerton*

**Extract from Attendance Note – Marigold Fossett**

6 May 2011

Client: Marigold Fossett (aged 56)  
3 High Street  
Market Stowton MS32 7DC

She works for Royal Mail as a depot manager.

Her father, Barry Henderson, died on 24 April this year aged 72. She had been estranged from her father for the last 30 years following his behaviour towards her mother, Yvette, which resulted in her parents separating, although they never divorced. Her mother died in 2007 and left Marigold (who was an only child) her estate of around £300,000.

Marigold has had no direct contact with her father since 1981, although he occasionally sent her birthday and Christmas cards. Sometimes he would suggest they try and meet to “patch things up” but she has never responded. She believes he died a wealthy man since he had a large house in a fashionable part of London and would often spend much of his time abroad. As far as she knows, he did not remarry after her mother’s death and was not in a relationship. He had no close relatives apart from a younger sister, Rosemary.

She has just received a letter from a firm of solicitors dealing with her father’s estate (**Document 5**) and has asked us for advice.

*Turn over*

Letter sent to Marigold Fossett

**Mitchell Foster & Gibbons**  
**Solicitors**  
**8 Bond Street**  
**Market Stowton MS32 6VF**

Ref: 5326/BHend

3 May 2011

Dear Madam

We are acting in the estate of your late father, Barry Henderson, following his death on 24 April this year.

This firm was appointed executor of his will which he executed on 29 July 2010.

Clause 3 of his will provides:

*"I GIVE my interest in my seaside cottage 'Estuary View', Saunton, Devon to my daughter Marigold together also with the sum of £10,000 as a token of my continued affection for her. She always loved the cottage and I have always wanted to give her the place where we all spent many happy holidays together when we were a family".*

Unfortunately, when we made the will for your father, he did not tell us that he owned the cottage with his sister, Rosemary, as beneficial joint tenants. As a result, his interest in Estuary View passed automatically to Rosemary by operation of law and will not be available to you under his will.

We regret having to tell you this but of course the matter was beyond our control and there was nothing we could do since Mr Henderson was not free in any event to leave an interest in the property to you.

What we have said does not in any way affect the gift of £10,000. We will shortly be applying for probate of his will and, subject to dealing with the necessary procedures for administering the estate, we expect to be able to pay the legacy to you within the next few months.

Yours faithfully

*MFG*

Mitchell Foster & Gibbons

Marigold Fossett  
3 High Street  
Market Stowton MS32 7DC



**Email from Marcus Wu**

**Date: 14 June 2011**

**Re: Samuel Kerr deceased**

We are the executors of this estate which is virtually completed and last week I sent the final estate accounts to the residuary beneficiaries for approval (see **Document 7**).

The administration has been fairly straightforward, save for the problem of trying to find one of the nephews who went missing in South Africa in 2007. Despite making extensive enquiries with the South African authorities, nothing has been heard of him and regrettably his family fears the worst.

I had a telephone message left for me this morning saying that Shirley Williams, who is also a client of this firm, had a few questions about the accounts which she was putting in a letter to me. I will most likely ask you to draft a reply to her after we receive her letter.

*Turn over*

**ESTATE ACCOUNTS****IN THE ESTATE OF SAMUEL KERR DECEASED****ESTATE ACCOUNTS****FORM OF AUTHORITY AND DISCHARGE****To Kempstons Solicitors acting as the Executors of Samuel Kerr deceased**

We, Shirley Williams, Michael Kerr, and Sylvia Stone, authorise you to pay the amounts shown in these accounts being the final amounts due to us. We approve these accounts and agree that your compliance with this request shall be in full satisfaction of all our claims against you as the personal representatives of Samuel Kerr.

Signed:	.....Shirley Williams	Dated.....
Signed:	.....Michael Kerr	Dated.....
Signed:	.....Sylvia Stone	Dated.....

**SUMMARY OF EVENTS**

Samuel Kerr, late of 48 Apple Tree Lane, Westbridge, WE5 6BN died on 14 February 2010. A Grant of Probate in respect of his will dated 18 June 2006 was granted out of the District Probate Registry at Basset on 26 April 2010 to Marcus Wu and Sandra Davenport two of the partners of Kempstons Solicitors, The Manor House, Bedford MK42 7AB the executors and trustees named in the will.

By clause 3 of his will, Mr Kerr gave a legacy of "*£6,000 to each one of my nephews and nieces as are living at my death*". He was known to have had six such nephews and nieces but the executors have been unable to trace one of them, Steven Davies, with whom his family and acquaintances have had no contact since 15 May 2007 following his disappearance in South Africa whilst part of a geological survey team. Since his present whereabouts are unknown and his existence at the date of death cannot be confirmed, the executors have obtained a missing person's indemnity policy.

After payment of these legacies and all debts, funeral and testamentary expenses, the testator gave the residue of his estate in equal shares to his three children Shirley Williams, Michael Kerr, and Sylvia Stone.

The inheritance tax liability for the estate as shown in the accounts has been discharged in full by the executors. This amount takes account of a refund claimed by the executors following the sale of investments during the administration as detailed in the capital account. The executors are not aware of any lifetime transfers affecting the liability to inheritance tax. Certain other assets held jointly by the testator and his wife pass to his wife by right of survivorship and are not mentioned in these accounts.

**SAMUEL KERR DECEASED - ESTATE CAPITAL ACCOUNT**

<b>ASSETS AT PROBATE VALUE</b>	<b>£</b>	<b>£</b>
Freehold Property 8 Gladstone Way, Southport Value as agreed with HMRC following sale by executors at this price on 28 July 2010	376,900.00	
Personal possessions	10,000.00	
Quoted shares (as Schedule 1 annexed)	273,105.00	
Long Life Assurance Company Policy No 547892 payable to the estate	145,000.00	
HSBC Bank, Market Street, Westbridge Savings account No KEO145621 inc interest to date of death	24,274.00	
Premium Bonds	30,000.00	
Arrears of pension	<u>1,293.00</u>	
<b>GROSS ESTATE FOR PROBATE PURPOSES</b>		860,572.00
<u>Less</u> Net decrease in value on sale of quoted shares (see Schedule 1 annexed)		<u>(10,240.00)</u>
<b>GROSS ESTATE FOR ADMINISTRATION</b>		850,332.00
<u>Less</u> Debts (see Schedule 2 annexed)	(82.00)	
Funeral expenses	(3,900.00)	
Inheritance Tax	<u>(208,540.00)</u>	<u>(212,522.00)</u>
<b>NET ESTATE</b>		637,810.00
<u>Less</u> Administration expenses (see Schedule 3 annexed)	(8,182.00)	
Legacy to nephews and nieces	<u>(30,000.00)</u>	(38,182.00)
<u>Balance</u> to residuary beneficiaries:		<u>599,628.00</u>
One third Mrs Shirley Williams	£199,876.00	
One third Mr Michael Kerr	£199,876.00	
One third Mrs Sylvia Stone	<u>£199,876.00</u>	<u>599,628.00</u>

*Turn over*

**SAMUEL KERR DECEASED - ESTATE INCOME ACCOUNT**

	£
<u>Dividends</u>	
Quoted shares (see Schedule 4 annexed)	2,297.00
<u>Interest Received</u>	
HSBC Deposit account no KE0145621	<u>55.00</u>
<u>Balance to residuary beneficiaries:</u>	<u>2,352.00</u>
One third Mrs Shirley Williams   £784	
One third Mr Michael Kerr         £784	
One third Mrs Sylvia Stone <u>£784</u>	<u>2,352.00</u>

**BENEFICIARY'S ACCOUNT – MRS SHIRLEY WILLIAMS**

	£	£
Balance due to you per Estate Capital Account	199,876.00	
Balance due to you per Estate Income Account	<u>784.00</u>	
		<u>200,660.00</u>
<u>Retained by you</u>		
Personal possessions	10,000.00	
<u>Transferred to you</u>		
Quoted shares – Minervere plc at probate valuation (as agreed with other residuary beneficiaries)	55,425.00	
<u>Interim payments made to you</u>	120,000.00	
BALANCE now due to you by cheque	15,235.00	
		<u>200,660.00</u>

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**BENEFICIARY'S ACCOUNT – MR MICHAEL KERR**

	£	£
Balance due to you per Estate Capital Account	199,876.00	
Balance due to you per Estate Income Account	<u>784.00</u>	<u>200,660.00</u>
<u>Represented by:</u>		
<u>Transferred to you</u>		
Quoted shares – Ladfield plc at probate valuation (as agreed with other residuary beneficiaries)	42,200.00	
<u>Interim payments made to you</u>	140,000.00	
BALANCE now due to you by cheque	<u>18,460.00</u>	<u>200,660.00</u>

**BENEFICIARY'S ACCOUNT – MRS SYLVIA STONE**

	£	£
Balance due to you per Estate Capital Account	199,876.00	
Balance due to you per Estate Income Account	<u>784.00</u>	<u>200,660.00</u>
<u>Represented by:</u>		
<u>Transferred to you</u>		
Quoted shares – BLA plc at probate valuation (as agreed with other residuary beneficiaries)	34,800.00	
<u>Interim payments made to you</u>	150,000.00	
BALANCE now due to you by cheque	<u>15,860.00</u>	<u>200,660.00</u>

*Turn over*

## CASE STUDY MATERIALS

**SCHEDULE 1: QUOTED SHARES**

	£	£
55,425 Minervere plc ord at 100p	55,425.00	
10,000 Ladfield plc ord at 422p	42,200.00	
8,000 BLA plc ord at 435p	34,800.00	
10,000 Sintra plc ord at 520p	52,000.00	
6,000 Alester Petroleum plc ord at 1478p	<u>88,680.00</u>	<u>273,105.00</u>
<u>Add</u> Gain* on sale of 10,000 Sintra plc ord 28 April 2010	8,300.00	
<u>Less</u> Loss* on sale of 6,000 Alester Petroleum plc ord 28 April 2010	<u>(18,540.00)</u>	<u>262,865.00</u>
*Net loss on sales for purpose of inheritance tax relief		<u>(10,240.00)</u>

**SCHEDULE 2: DEBTS**

Midlands Water Authority – water charges	48.00	
Westbridge Council – council tax arrears	<u>34.00</u>	<u>82.00</u>

**SCHEDULE 3: ADMINISTRATION EXPENSES**

Probate Court fees	60.00	
Advertisements: London Gazette	30.00	
Westbridge & District Gazette	88.00	
Camps Bay Herald	97.00	
Missing Person's Indemnity Policy: Legal Solutions	210.00	
Commissioner's fees	14.00	
Kempstons legal fees and disbursements	<u>7,683.00</u>	<u>8,182.00</u>

**SCHEDULE 4: DIVIDENDS**

Minervere plc	833.00	
Ladfield plc	564.00	
BLA plc	<u>900.00</u>	<u>2,297.00</u>

**Attendance Note: Louisa Elaine Raddison  
– Financial Planning Advice and Codicil**

I saw this client today. She is seeking some advice about potential tax liability. She also wants us to prepare a codicil to her will.

**Client:** Louisa Elaine Raddison **Attending:** Marcus Wu

**Address:** Hawley House, Mallard Road, Welham Green, Hertfordshire AL12 7BH

**Age:** 50 (born 17 August 1960)

**Family:** Her husband, Ian, died in February 2009, aged 62. He and Louisa had been married for 10 years.

Louisa had no children of her own but Ian had 2 children by his first marriage:

- Hector Raddison (43) who is married to Maria and has 2 children: Bella (11) and Freddie (7).
- Melanie Raddison (38) who is in a civil partnership with Olivia.

Both Louisa's parents died over 10 years ago.

Louisa has two brothers:

- Matthew Neil Merton (53) who is married to Claire and has two children: Polly (25) and Katie (20).
- Peter Adrian Merton (45) who is married to Julia and has three children: Ewan (17), Luke (14) and Isabel (5).

Louisa has no dependants.

**Her husband's estate** Ian left some assets to his children outright and the rest on trust for Louisa for life, remainder to his children equally. At his death he had used all of his available nil rate band. Our firm is dealing with his estate (file reference WU/4380/Rad).

**Transfers of value** Louisa gave £6,000 to Polly in September 2004 and the same amount to Katie in September 2010 when they each went to university. She plans to do the same for Ewan in September 2011 when he starts his university course.

She has not otherwise made any lifetime gifts (other than gifts covered by the small gifts exemption).

*Turn over*

## CASE STUDY MATERIALS

### Assets held by Louisa as at May 2011

Hawley House (no mortgage)	£500,000
Value of household contents	10,000
Bank and Building society accounts	290,000
Shares (small holdings in various quoted plcs)	70,000
Pear Tree Cottage (a holiday cottage owned as joint tenants with Matthew which they let when it is not used for family holidays) Value of her interest	150,000
Bank account held jointly with Matthew (to receive income from and pay expenses for Pear Tree Cottage) Value of her share	1,000

The life interest in the trust created by Ian's will.

Ian's children alive at her death are entitled to the remainder (with substitution for their children). The residue of Ian's estate, which forms the trust fund, has just been transferred to the trustees of the will trust following completion of the estate administration. Louisa, Hector and Melanie are the trustees. Ian's will contains the usual extended powers for the trustees as regards investment and advancement of capital to Louisa and the remainder beneficiaries.

Capital value of the trust fund (invested in quoted shares)	700,000
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### **Debts and liabilities**

None of any substance

### **Louisa's Income**

Louisa works as a freelance journalist and has been earning in the region of £60,000 each year for the last few years. She can live comfortably on this, and so whatever income she gets from her life interest in Ian's will trust will be in excess of her likely needs. She has indicated that she does not see the need for such a large trust fund, given that her requirement for additional income is not great. She would give some thought to some of the fund going to Ian's children now rather than them having to wait until she dies.

### **Existing Will**

Following Ian's death, Louisa made a new will on 28 August 2009 (the original is in our office strongroom). It appoints our firm as executors and trustees and provides for her estate to go to her brothers and their children.

She indicated that she would like to add a codicil to her will giving a legacy to a charitable medical research trust. She will forward details to us.

**End of Case Study Materials**

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