

CASE STUDY MATERIALS

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Level 6
PROBATE PRACTICE
Subject Code L6-21



CHARTERED INSTITUTE
OF LEGAL EXECUTIVES

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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 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**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You 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 30 November 2012
Re: Teresa Meredith deceased
- DOCUMENT 2** Photocopy of Teresa Meredith's Will dated 28 January 2003
- DOCUMENT 3** Email from Marcus Wu dated 14 December 2012
Re: Steven Sarson deceased
- DOCUMENT 4** Estate Accounts – Estate of Steven Sarson deceased
- DOCUMENT 5** Email from Marcus Wu dated 14 December 2012
Re: Thomas Mattu
- DOCUMENT 6** Letter received from Thomas Mattu dated 28 November 2012

DOCUMENT 1

Email from Marcus Wu dated 30 November 2012

Re: Teresa Meredith deceased

Earlier today I saw Patricia Williams about the will and estate of her friend and business partner, Teresa Meredith, who died last week after a short illness. Teresa's will (see later) appoints Patricia and her husband, David, as co-executors.

David is an existing client and is a senior partner in a firm of accountants. Patricia said he was too busy to attend this morning's meeting but had nevertheless recommended that we are instructed to act on their behalf in the administration.

Patricia and David live at 45 Winfield Road, Frome, Somerset BA12 7GH (Telephone: 075122 451255 and the contact email is Pattiewill49@hotmail.com)

By way of background, Patricia has been retired as a teacher for 15 years and in 1997 she started up a business selling antique furniture with Teresa Meredith (the deceased) who she knew as a fellow member at her golf club. They both contributed a small amount of money to the partnership and carried on the business on a 50/50 basis. The business is called 'Rosewood Antiques' and has been run from a shop which Patricia owns and leases to the business. You will see a reference to the business in the copy will. David's firm do the accounts for Rosewood Antiques as well as dealing with Teresa's personal tax affairs.

Patricia gave me some information about Teresa and her family.

Teresa Meredith (the deceased)

Teresa was born on 22 July 1972 and died on 15 November 2012 having been diagnosed with cancer earlier in the year.

She never married, although she had been party to at least two relationships of which Patricia is aware. The last one was with a retired army officer that ended amicably in the mid 1990s. Since then, Teresa has always lived alone and, as far as Patricia is aware, has had no further contact with any of her previous partners.

Teresa had no children. Both her parents died many years ago. She is survived by two sisters, Christine and Doreen, and their respective children (see below). She also has a brother, Michael, whose whereabouts are uncertain (see below).

Christine Alsop (Teresa's younger sister)

Christine is Teresa's younger sister. Patricia has only met Christine a couple of times prior to the funeral last week and so does not know much about her, apart from what Teresa had told her. Apparently, there was a family argument about 15 years ago when Christine fell out with Teresa and Michael. Although there was still tension between Christine and Michael, Christine and Teresa did resolve their differences shortly before Teresa died.

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Patricia knows Christine divorced last year and is apparently struggling financially. She has a 7 year old son called Zak, who she and her former husband adopted in 2006.

Doreen Dubeck (Teresa's elder sister)

Doreen is Teresa's elder sister. Patricia knows her quite well because she lives locally and is a vet. She is married to James (also a vet) and they have two sons, Anton aged 10 and Declan aged 12.

Michael Meredith (Teresa's brother)

Michael is Teresa's brother but has not been seen or heard of since November 2009.

Having been made redundant by the firm where he had been employed for over 20 years, he had decided to use most of his redundancy package on travelling in Central America. Teresa, Doreen and Christine received emails from him on 1 November 2009 saying he was in El Salvador and was heading to a town called Verapaz. A few days later there was terrible flooding and a series of severe mudslides in that area. Nearly 200 people were killed and many went missing. There was no further contact from him and the authorities eventually said he could not be accounted for. Naturally his sisters feared he had been lost in the disaster.

Michael never married and had no children.

Teresa's property

Before she died, Teresa gave Patricia a list of her assets as follows:

- **Poacher's Cottage, Willow Road, Fremington, Somerset BA14 4CH.** She bought this in about 1997. It is freehold and there is no mortgage. Patricia has already discussed selling the cottage with a local estate agent. The estate agent suggested over the telephone it was worth at least £250,000 but also said that since it was a unique property, it was quite difficult to value accurately.
- **National Westminster Bank Current Account.** Sort Code 60-40-08. Account number 33567854. The balance according to the last bank statement as at 30 March 2012 was £1,649.40.
- **National Westminster Bank High Interest Saver Account.** Sort Code 60-40-08. Account number 36237999. The balance according to her last bank statement as at 30 March 2012 was £48,510.60.
- **Contents of Poacher's Cottage, Jewellery, and her Personal Possessions** which David and Patricia estimate at about £14,000. Teresa told Patricia there was nothing in the way of antiques in the cottage having a specifically high value.
- **Car** – a 4 year old Toyota. Patricia did not have the details with her but David says it would be worth around £4,000.

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- **Half share in Rosewood Antiques** – the business run by Patricia and Teresa in partnership. David estimates the value of Teresa's half share (consisting of goodwill, stock and other partnership assets) as £25,000 at the date of the last set of accounts for the year ending 30 November 2011. There never was any formal partnership agreement other than both parties agreed to share profits 50/50. They also had an understanding that each would leave the other their half share if dying first.
- She had no life assurance.
- She had no personal debts as far as Patricia is aware. The undertaker says the funeral account will be £4,500.
- She made no substantial gifts as far as Patricia is aware.
- Patricia did not know the position regarding what might be due to Teresa by way of profits from her share of Rosewood Antiques; nor whether her income tax is paid up to date. However, David will have this information in his firm's files and can provide details in due course.

Teresa's will

Teresa made a will dated 28 January 2003, long before she was diagnosed with cancer. Patricia does not know who made the will for her – she may have made it without professional advice. She thinks the witnesses are her next door neighbours.

Prior to making the will, Teresa had suggested appointing Patricia as an executor and she agreed, although she made it clear she would need help – hence David being made co-executor.

Soon after making the will, Teresa gave a photocopy to Patricia. This photocopy is attached (see **DOCUMENT 2**).

Patricia said she was somewhat concerned by something Teresa told her a few months ago. Teresa has spoken about Michael and how the rest of the family had now come to terms with the fact that he probably died in the disaster. She also said that she had made up her differences with Christine and, in view of all this, she had changed her will so that Christine would take the share originally left to Michael. However, although Teresa had given Patricia a copy of the will she made in 2003, she never gave her a copy of any new will or codicil.

Patricia thinks it very unlikely that Teresa would have said she had changed her will if she had not actually done so. Consequently, she and David will have a look through Poacher's Cottage this coming weekend to see if there is any trace of a will. Patricia said that Teresa definitely wanted Christine to have the share originally left to Michael.

I have told Patricia that, since we have only a photocopy of the 2003 will, an original is required before applying for probate – whether this is the 2003 will or (if there is one) a later will or codicil. So I asked Patricia (or David) to let me know if they find anything and I will no doubt be asking you to do some work for me on this file.

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Email from Marcus Wu

Date: 14 December 2012

Re: Steven Sarson deceased

I have virtually completed the administration of this estate and last week I sent final accounts to the executors for approval (see **Document 4**). The executors are the deceased's widow and daughter (the son reserved power).

I had a voicemail left for me this morning by Mrs Sarson to say there were a few things in the accounts she did not quite understand and that she would put some questions in a letter to me.

She also wanted to seek my advice on something regarding her own will which I made for her a few weeks after Steven's death. Her new will simply leaves her whole estate to the two children, David and June, and appoints them both as executors. She did not say anymore in her voicemail other than that her question about the will was just 'a quick one'.

I will most likely ask you to draft a reply to her after we receive her letter.

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Estate Accounts – Estate of Steven Sarson deceased

IN THE ESTATE OF STEVEN SARSON DECEASED

ESTATE ACCOUNTS

FORM OF AUTHORITY AND DISCHARGE

To the Executors of Steven Sarson deceased

I Gabriella Sarson authorise you to pay the amount shown in these accounts being the final amounts due to me. I approve these accounts and agree that your compliance with this request shall be in full satisfaction of all my claims against you as the personal representatives of Steven Sarson.

Signed:.....Gabriella Sarson Dated.....

SUMMARY OF EVENTS

Steven Sarson, late of 63 Coleman Close, Slaybridge died on 14 April 2012. Probate of his will dated 19 August 2009 was granted out of the District Probate Registry at Basset on 27 June 2012 to Gabriella Sarson and June Sarson, two of the executors named in the will, the third executor David Sarson having reserved power.

By clause 2 of his will, Mr Sarson gave legacies of £15,000 to each of his two sisters, Dorothy Plummer and Holly Read.

After payment of these legacies and all debts, funeral and testamentary expenses, Mr Sarson gave the residue of his estate to his widow Mrs Gabriella Sarson absolutely.

There was no inheritance tax to pay because the property passing to Mrs Sarson is exempt and the value of the rest of the estate was within the inheritance tax nil rate band notwithstanding an earlier lifetime chargeable transfer not referred to in these accounts. The unused percentage amount of Mr Sarson's inheritance tax allowance amounts to 85%.

Certain other assets passed or devolved on Mr Sarson's death outside the authority of the executors and so are not referred to in these accounts.

STEVEN SARSON DECEASED - ESTATE CAPITAL ACCOUNT

ASSETS AT PROBATE VALUE	£	£
Clothing and personal possessions	6,000.00	
Stamp collection	1,500.00	
Mazda car reg. NG10 325	7,000.00	
Quoted shares (as Schedule 1 annexed)	199,325.00	
Aviva Life Assurance Policy No. 547892 payable to the estate	40,000.00	
Lloyds TSB Bank, Church Street, Slaybridge Savings account No SO198721 inc interest to date of death	22,293.00	
National Savings Certificates	30,230.00	
Arrears of pension to date of death	1,293.00	
GROSS ESTATE FOR PROBATE PURPOSES		307,641.00
<u>Add</u> Increase in asset values on sale of quoted shares (see Schedule 1 annexed)		8,920.00
GROSS ESTATE		316,561.00
<u>Less</u> Debts (see Schedule 2 annexed)	(81.00)	
Funeral expenses: Raynor Ltd	<u>(4,900.00)</u>	(4,981.00)
NET ESTATE		311,580.00
<u>Less</u> Administration expenses (see Schedule 3 annexed)	(5,182.00)	
Legacies Clause 2 of the Will	<u>(30,000.00)</u>	(35,182.00)
Balance to Mrs Gabriella Sarson absolutely as beneficiary of the Residuary Estate		<u>276,398.00</u>

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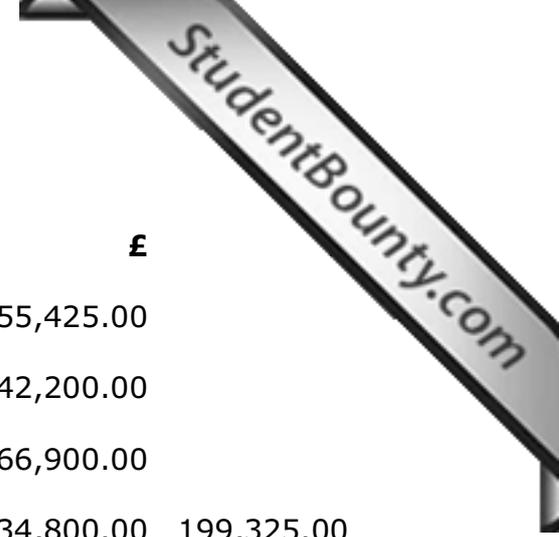
STEVEN SARSON DECEASED - ESTATE INCOME ACCOUNT

	£
<u>Dividends</u>	
Quoted shares (see Schedule 4 annexed)	2,297.00
<u>Interest Received</u>	
Lloyds TSB Savings account No. SO198721	53.00
Balance to Mrs Gabriella Sarson absolutely as beneficiary of the Residuary Estate	<u>2,350.00</u>

BENEFICIARY'S PERSONAL ACCOUNT – MRS GABRIELLA SARSON

	£	£
Balance due per Estate Capital Account	276,398.00	
Balance due per Estate Income Account	<u>2,350.00</u>	
		<u>278,748.00</u>
<u>Retained by you</u>		
Personal possessions and stamp collection	7,500.00	
Mazda car	7,000.00	
<u>Transferred to you quoted shares at probate valuation:</u>		
Minervere plc	55,425.00	
Ladfield plc	42,200.00	
BLA plc	34,800.00	
<u>Interim payments already made to you:</u>		
27 July 2012	70,000.00	
16 October 2012	40,000.00	
BALANCE now due to you by cheque	21,823.00	
		<u>278,748.00</u>

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SCHEDULE 1: QUOTED SHARES

	£	
55,425 Minervere plc ord at 100p	55,425.00	
10,000 Ladfield plc ord at 422p	42,200.00	
22,300 Morrisco plc ord at 300p	66,900.00	
8000 BLA plc ord at 435p	<u>34,800.00</u>	199,325.00
<u>Add: Net Gain (after £223.00 associated costs etc deducted) on sale 22,300 Morrisco plc ord shares at 341p (exempt capital gains tax)</u>	<u>8,920.00</u>	<u>208,245.00</u>

SCHEDULE 2: DEBTS

West Wessex Water Authority – balance of water and sewage charges	48.00	
Slaybridge Council – council tax arrears	<u>33.00</u>	<u>81.00</u>

SCHEDULE 3: ADMINISTRATION EXPENSES

Probate Court and Commissioner's fees	74.00	
Advertisements: Statutory Notices in London Gazette and Slaybridge Gazette	118.00	
Stamp collection valuation: S. Gibbons	50.00	
Kempstons' legal fees	<u>4,940.00</u>	<u>5,182.00</u>

SCHEDULE 4: DIVIDENDS

Minervere plc	833.00	
Ladfield plc	564.00	
Morrisco plc	686.00	
BLA plc	<u>214.00</u>	<u>2,297.00</u>

Turn over

Email from Marcus Wu

Date: 14 December 2012

Re: Thomas Mattu

I've had a letter from Thomas Mattu (**DOCUMENT 6**) which I would like you to have a look at prior to us doing anything further.

I don't know much about Thomas but I recall him coming in to see me, like he says, around eight years ago after his wife died. We no longer have his file but I remember him because of his unusual surname. He was concerned about her will because whilst it gave him all her property, it also appointed him as executor and he wasn't sure what he had to do.

However, having discussed matters with him during a couple of interviews, I established that virtually nothing passed under his wife's will because the house, its contents, bank accounts, savings etc were all joint and so passed to him by survivorship. She had nothing, apart perhaps from jewellery, in her sole name and so there was no need for him to take out a grant.

He was quite capable of doing what was necessary himself and so we were not involved in the administration of his wife's estate.

Letter received from Thomas Mattu dated 28 November 2012

Tall Tree
56 The Warren
Bannerfield
Bedfordshire MK3 7FH

28 November 2012

Dear Mr Wu

You were very helpful when my wife, Elsie, died. You may recall that you advised me after her death regarding her will but in the event there was nothing much to do because all her property and financial interests were in our joint names and so it was a relatively simple matter for me to make sure that everything was put into my name.

Anyway, last month I remarried. My new wife is called Lucinda and, like me, she lost her spouse a few years ago. We met up on one of those internet dating sites and decided to make a life together. Lucinda sold her bungalow and moved in with me about six months ago – so for several months we were 'living together' much to the amusement of our respective sets of children. However, being both in our late 70s, we decided we would be more comfortable telling people we were married and so that is what we did.

My reason for writing is that I want to sort out my own will. I made one after Elsie died using one of those firms that advertise in the paper but my son told me I would need a new will now because of my recent marriage. I thought I would seek your advice this time because I wasn't too impressed with the service offered by the will writing firm.

I have three adult children, who are all either married or in a permanent relationship and they have children of their own – at the last count I have 9 grandchildren and my eldest daughter is currently expecting again. Otherwise, my closest relative is my sister, Juliet, who is married with two daughters.

I suppose my main priority now is to make sure that Lucinda has a roof over her head if I die first. Apart from the proceeds she got when she sold her bungalow, she has very little by way of funds to her own name and so I want to make sure she is secure in the event of my death.

I've just been to see my accountant who says I'm worth about £500,000. She tells me that it roughly breaks down as follows:

Tall Trees (my house)	£300,000
Investments (inc quoted shares and cash)	£200,000

Additionally, of course, I've got all my personal things such as house and garage contents, my car and so on.

So, what I've in mind is:

- Legacy of £10,000 to the Royal Society for the Prevention of Cruelty to Animals (I'm sure you have its details to hand);

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- Legacy of £20,000 to each of my three children Una, Sylvia and Ken
- Everything else (including Tall Trees) I want held for Lucinda so that she can live in Tall Trees for as long as she wants and also get the income to live on and maintain the house. On her death everything is to go to the three children please, or if any have died by then, their share is to be split amongst their own children;
- My son suggested your firm could be my executors if that is OK.

My sister and her husband have stacks of money and so don't need mine.

Can you put something together along those lines and when it is ready, I'll pop in to see you with Lucinda and sign it.

Yours sincerely

Thomas Mattu

Thomas Mattu

End of Case Study Materials

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