

## MEMORANDUM

TO: Lawyering Skills I students  
FROM: Professor David E. Sorkin  
DATE: October 1, 2009  
RE: Barbara Lewis (Estate of Sam Stone)

We represent Barbara Lewis in connection with her dispute against the estate of Sam Stone, a close friend of hers who passed away a few weeks ago.

Sam Stone was diagnosed with pancreatic cancer in 2006. Pancreatic cancer is usually fatal, and complete remission is extremely rare. In January 2007 Stone underwent a Whipple procedure, in which parts of his pancreas and other organs were removed in an effort to halt the cancer. The operation was successful; based upon various diagnostic tests performed after the operation, Stone's doctors told him that they were unable to detect any remaining signs of cancer in his body. Unfortunately, a routine examination in April 2009 revealed that the cancer had spread, and Stone was told that he had only a few months to live. He died of complications related to the cancer on September 7.

Stone was a fan of *Rocky & Bullwinkle*, *George of the Jungle*, and other 1960s animated TV shows. He maintained a website called MisterPeabody.org, named after a character from one of these shows. He accepted paid advertising on the site, and also made money trading in animation cels and other memorabilia. In conjunction with these commercial activities, he held an account with PayPal, an online payment service. Lewis had originally helped Stone set up the website, and he had often called her with computer questions over the years.

In December 2006, realizing that the cancer would likely take his life, he signed up for a web-based service called Don't Bury Me. In exchange for a \$100 lifetime subscription fee, Don't Bury Me provided Stone with an online repository for messages, statements of his intentions, and any other electronic files to be distributed according to his instructions upon his death. One of the statements that he uploaded to Don't Bury Me was the following:

Recipient: Barbara Lewis <barb.beauregard@gmail.com>

Message: Barb, as you know my cancer is getting worse and I'm probably not going to make it much longer. When I go, I want you to take over my MisterPeabody website. I think you already have the passwords and other information you will need to administer the site. You can also have any money that is in my PayPal account (log in using my email address garfielding@gmail.com, password muhlenberg). It was great knowing you, and thanks for all of your help.

Shortly after setting up the Don't Bury Me account, he posted a message on his Facebook profile, telling Lewis and other online friends to expect messages from him though Don't Bury Me after his death, but he did not describe the contents of these messages. Lewis posted a comment under Stone's message: "OK Sam, but stop wishing for bad luck."

Stone died on September 7, 2009, and Don't Bury Me somehow learned of his death within a matter of days. On September 14 Lewis received the statement that Stone had written for her. The same day, she logged onto the PayPal account, using the information he had provided, and found that there was a credit balance of nearly \$8,000 in the account. She asked PayPal to transfer the entire balance to her own checking account. The funds were deposited into her bank account three days later.

Sam Stone's niece, Angel Montgomery, is the executor of his estate. Montgomery learned about the PayPal account on September 22, as she began inventorying her uncle's assets. She promptly contacted Lewis and demanded that Lewis return the funds she had taken from the account. Lewis refused, claiming that the money was a gift from Stone. Montgomery threatened to file suit against Lewis on behalf of the estate.

Lewis and Montgomery are all residents of Illinois, and Stone lived in Illinois for his entire life.

Please write a memorandum addressing whether Sam Stone made a valid gift of the contents of her PayPal account to Barbara Lewis under Illinois law.