

PART I-- ESSAY

TIME LIMIT: ONE HOUR AND 10 MINUTES

INSTRUCTIONS BEFORE THE EXAM BEGINS:

1. Make sure that you have no books, outlines, notes, or anything not required for the exam in the room. You should have only pencils and a watch. Scratch paper will be provided.
2. **DO NOT REMOVE THE STAPLES FROM THIS EXAM BOOKLET.** When you turn in the booklet, it still will be stapled together.
3. Put your **CORRECT** examination number on the upper right-hand corner of each page if this exam booklet. The failure to use the correct exam number on either the exam booklet or the SCANTRON answer sheet will result in a one-point deduction from your score.
4. Quickly check to make sure that you have a total of 5 pages on the exam booklet, numbered consecutively.
5. **DO NOT READ ANY QUESTION, AND DO NOT WRITE ANY NOTES (SUCH AS CHECK LISTS, OUTLINES, LISTS OF ISSUES, ACRONYMS, OR ANYTHING ELSE) UNTIL YOU ARE INSTRUCTED TO BEGIN THE EXAM.** Except for your exam number on the top of each page, you are not to make any mark on the exam or scratch paper until you are told to begin the exam.
6. After you have completed all tasks noted above, you may read the instructions below.

INSTRUCTIONS REGARDING PART I OF THE EXAM:

1. Please do not use pencil to write this examination. If you use a fountain or felt-tip pen, make sure that your answer does not "bleed" on to the next sheet of paper.
2. **WRITE ONLY ON THE LINES AND IN THE SPACE PROVIDED. WRITE ONLY ONE LINE OF SCRIPT ON EACH LINE. DO NOT WRITE IN THE MARGINS, BELOW THE LAST LINE, OR ON THE REVERSE SIDE OF THE PAGE. DO NOT WRITE IN A BELOW AVERAGE SIZE OF SCRIPT.**
3. Do not assume facts, and do not change the facts.
4. Part I consists of four separate and unrelated questions. You can answer one question without having to read the other.
5. Discuss each issue fairly raised, even if your answer on one issue is dispositive with regard to the trust to which it applies. For example, if you conclude that no trust was created, you still should discuss any other issue that is fairly raised and thus would be present if a trust were created.
6. Do not take the examination from the room in which you are writing except to turn it in when you are finished. Do not leave the building.
7. **WHEN YOU ARE INSTRUCTED TO STOP WRITING, YOU MUST STOP WRITING IMMEDIATELY.**
8. When you finish this part of the exam, place it in the front of the room. You may leave the room.

ASSUMPTIONS:

If relevant in any of the following questions, assume that the jurisdiction recognizes the orthodox Rule against Perpetuities, the Rule in Shelley's Case, the modern Doctrine of Worthier Title, and the fee tail estate. Also assume that the jurisdiction's Statute of Descent and Distribution provides that (1) if a person dies intestate survived by a spouse and one child, each takes half; and (2) if a person dies intestate survived by a spouse and two or more children, the spouse takes one-third and the children divide the remaining two-thirds. In all other respects assume that the jurisdiction follows the prevailing American view, as reflected by the *Restatement (Second) of Trusts*, unless otherwise indicated by the question. Otherwise, do not assume facts. Do not change the facts.

GRADING SUMMARY

FINAL EXAM--PART I --

FINAL EXAM--PART II --

TOTAL SCORE --

GRADE FOR EXAMS -

GRADE FOR COURSE --

1. Smith decided to create a trust of Blackacre in favor of Alice. He discussed the matter with Tom, who Smith wanted to serve as trustee. Tom persuaded Smith that the trust should be in favor of Alice's two children, Betty and Charles. Tom also persuaded Smith to leave Blackacre to Tom absolutely, and promised Smith (which promise Tom had no intent to perform) to hold Blackacre in trust for Betty and Charles. Relying on the promise, Smith conveyed Blackacre to Tom by a deed absolute on its face. Two days later, Smith signed a written memorandum that memorialized all of the terms of the trust to which Smith and Tom had agreed. Discuss the rights and liabilities of the parties.

2. In 1998 Sally opened a passbook savings account in the name of "Sally Smith in trust for George Jones," Sally's nephew, and made an initial deposit to the account of \$70,000. On several occasions Sally added more money to the account, and sometimes withdrew money. In 1999 Sally crossed out the name of George Jones and inserted the name of Fred Smith, another nephew. Sally died intestate in 2000, survived by her husband Harold and one child, Mary. Her net probate estate is valued at \$50,000 and the savings bank account has \$90,000 on deposit. Discuss the rights and liabilities of the parties.

3. In 1998 Sid transferred \$500,000 “to Tammy in trust to pay to Albert and Brenda for life so much of the income and principal as Tammy in her absolute and uncontrolled discretion shall see fit. At the death of Albert and Brenda, the trust is to be terminated and the principal and accumulated income if any paid to Carrie.” In 1999 Albert executed an instrument assigning his interest in the trust to Walter, but Tammy (knowing of the assignment) continued to pay \$1,000 per month each to Albert and Brenda. Walter then filed suit to hold Tammy liable for not paying Albert’s income to Walter. In 2000, Albert, Brenda, Carrie and Walter requested Tammy to terminate the trust and distribute all accumulated income and principal to Carrie. When Tammy refused this request, Carrie filed suit to compel termination. What will be the result of both suits, and why? All parties are *sui juris*.

4. Sarah created a revocable inter vivos trust whereby she gave 100,000 “to Tim in trust to pay the income to Allen for life, then to pay the income to Allen’s widow for life. Upon the death of Allen’s widow, or upon the death of Allen if Allen is not survived by a widow, Tim shall pay the principal to the children of Allen then living.” Discuss the interests of the beneficiaries.