

**TRUSTS AND FUTURE INTERESTS
EXAMINATION**

FINAL

PART ONE
One hour and 10 minutes

GENERAL INSTRUCTIONS:

1. Make sure that your examination number appears on all bluebooks that you use.
2. Please do not use pencil to write this part of the exam. In using your pen, make sure that the ink does not "bleed" to the other side of the page on which you are writing.
3. When you are finished with Part One of this examination, place your bluebooks on the instructor's table at the front of the room in which the exam is scheduled.
4. If you use more than one bluebook, place one inside the other. You may keep the questions or throw them away.
5. Do not take bluebooks or exam questions outside of the room assigned without my permission.

SPECIFIC INSTRUCTIONS:

1. Do not assume facts not given, and do not change the facts.
2. If relevant in any of the 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 has a statute protecting the rights of a surviving spouse.
3. Part One contains nine separate questions, completely unrelated to each other. Each question is valued at three to five points each. Budget your time accordingly.
4. Discuss each question in numerical order and clearly label your answer to each question by the correct number. Complete in full your discussion of one question before discussing another question. To repeat: answer all questions numerical order. DO NOT SKIP AROUND!
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.

DISCUSS THE RIGHTS AND LIABILITIES OF THE PARTIES IN EACH OF THE TRUSTS DESCRIBED BELOW:

1. Sally bequeathed "\$100,000 to Terry in trust to pay the income to Alan, his wife for the time being, or to his children or more remote issue if any, for the benefit of one one or more of them to the exclusion of some or others, and at such times and in such shares and proportions as Terry in her absolute discretion shall determine. Terry shall have the power to accumulate any or all income and add it to the principal. At Alan's death Terry shall distribute the principal and accumulated income equally to the children of Alan and their heirs." Three years later Wilma, who was divorced from Alan prior to Sally's death, filed suit to satisfy her claims for alimony from the trust. Terry has continued to pay some of the income to Alan and the balance of the income to Alan's children.
2. Sells conveyed Blackacre "to Todd" by a deed absolute on its face, on an oral promise by Todd to hold Blackacre in trust for Sells, and to reconvey Blackacre to Sells in six years. Because it appeared that Todd owned Blackacre, two persons extended credit to Todd, which was the reason for the transfer. These creditors later filed suit to attach Blackacre, because Todd's personal assets were insufficient to satisfy their claims. Todd then reconveyed Blackacre to Sells.
3. In 1940, Sexton bequeathed \$100,000 "to Thomas in trust to pay the income to Alice for life, then to pay the income to Alice's children for life, then to distribute the principal to Alice's children when the youngest child of Alice reaches the age of 30." Alice died in 1965, survived by children Charles, now 35 years old, and Doris, now 25 years old. Charles and Doris have filed suit to terminate the trust and compel Thomas to divide the principal equally between them.
4. Sam gave \$100,000 "to Theresa in trust to pay the income to me for life, then to distribute the principal to those who by will I appoint, and in default of appointment to my heirs or next of kin." Sam has assigned his entire interest in the trust to Williams, who has filed suit to terminate the trust and compel Theresa to pay the principal to Williams.
5. Saul, the owner-insured of a life insurance policy, named his brother Tim as the beneficiary of the policy. Saul and Tim orally agreed that, at Saul's death, Tim would hold the proceeds of the policy in trust for Betty, who was not related to Saul. By state law, proceeds are payable only to a spouse, parent, sibling, child, or other lineal descendent of the insured. After Saul's death, his next of kin filed suit to have Tim pay over the policy proceeds to them.
6. Smith executed a will devising Blackacre to Tara. The devise appeared absolute on its face. Prior to Smith's death, Tara promised to hold Blackacre in trust for the person whose identity would be communicated by Smith to Tara in the future. After Smith's death, a letter was found in his safe directing Tara to hold Blackacre in trust for Eli.