

GOLDEN GATE UNIVERSITY

FINAL EXAMINATION

Wills and Trusts

Professor Kelly

Summer 2005

1. You have **three (3) hours** to complete this exam.
2. This is an **open book** exam. You may use any written materials you wish during this exam. This includes your casebook, statutes, hornbooks, class notes, outlines, etc. This does not include telephones, tape recorders, or human advisors.
3. This exam consists of 5 pages, including this page of Instructions. Check to make sure you have all pages before beginning the exam.
4. This exam consists of TWO PARTS. PART I contains 6 problems. Answer each as thoroughly but quickly as possible. PART II contains 1 essay. In each PART, your answers should include explanations as well as conclusions.

PART I is worth 2/3 of the exam and should consume about 2 hours of your time (20 minutes per problem). Each of the 6 questions within PART I is of equal value. PART II is worth 1/3 of the exam and should consume approximately 1 hour of your time.

5. Do not put your name anywhere on the printed exam or on the exam books, or on your answer pages, use only your exam code number.
6. The entire exam and all scrap paper are to be turned in at the end of the exam period, together with your exam answers. Answers appearing on scrap paper, on the printed exam, or elsewhere will not be read. Only answers appearing in exam books or computer-generated pages will be considered.
7. Unless stated, all events are to be analyzed under current California law. Bear in mind that questions will be separately graded; therefore, your statements in anyone answer will not be read into others. Unless otherwise stated, assume all property is separate (i.e., not community) property, also ASSUME all parties are ADULTS and that all capital letters standing alone are proper names. Also, unless facts specifically suggest otherwise, ASSUME Aestate@ means beneficial estate available for distribution after payment of creditors and expenses.
8. A number of your classmates will be taking this exam at other times. Therefore, it is extremely important that you do not discuss any aspect of this exam with anyone.

PART II

(1 Hour)

T, an avid art collector, executed a valid will in 1980. Its relevant provisions stated:

I leave Painting #1 plus \$10,000 to my friend, A.

I leave Painting #2 plus \$10,000 to my friend, B.

I leave Painting #3 plus \$10,000 to my friend, C.

I leave Painting #4 plus \$10,000 to my friend, D.

(NOTE: Assume that the designations of "Painting #1", etc. are sufficient to identify particular artworks.)

I leave all other paintings I own to my sister, S.

I leave all the rest of my estate, except for the paintings and cash gifts stated above, to a trust to be established upon my death for the benefit of my children, X and Y. I choose H, my husband and the father of X and Y, to serve as trustee. All trust assets shall be maintained, invested, and distributed as H deems fit, in his sole discretion, for the benefit and enjoyment of X and Y. Upon the death of the second to die of X and Y, the trust shall terminate and any remaining assets shall be distributed in equal shares among my grandchildren then living."

In 1985, T properly executed a codicil stating: "Give Painting #1 to my friend, E, instead of A."

In 1990, T used a pen to cross out the \$10,000 gift to B. Directly above it, T wrote in "\$25,000". T made no signature, initials, or other marks.

In 1995, T crossed out "my friend, C" as a beneficiary in the will and substituted "my friend, F". T made no signature, initials, or other marks.

In 1997, T sold Painting #4 to P (Purchaser) for \$2,000 cash. T deposited the cash in her checking account, and promptly spent it on purchases unrelated to art.

In 2000, after a series of arguments with E, T ripped up his 1985 codicil in E's favor.

In the years since she executed her 1980 will, T continuously owned Paintings #1, #2, and #3. Other paintings in her collection have changed over the years through sales, purchases, and gifts. In fact, few of the paintings owned by T in 2005 are the same as those owned by her in 1980.

H died in 2002. S died in 2003, survived by her only child, N (T's nephew). T died this year, survived by her friends A, B, C, D, E and F, by her children X and Y, by several grandchildren (the children of X and Y, respectively), by her nephew, N (the child of S), by P (the purchaser of Painting #4), and by no other relevant parties. T's 1980 will and 1985 codicil (in torn pieces) were found together in an envelope.

Who is entitled to what from T's estate?

END OF PART II OF EXAM

END OF EXAM