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Here, the facts indicate that two Trusts were created and formed through a valid will by Grandma in 2020. Grandma's will created two trusts, the Farm Trust and the Ancestry Trust, and divided her residuary estate equally between them. Grandma's will stated, " Should either trust fail, for any reason, all assets of the failed trust should be given to the children of my granddaughter Betty."

Charitable Trust

A Charitable Trust is one that is left for the benefit of the general public. Here, the facts indicate that the Farm Trust left Grandma's large farm to the City for the general benefit of the City.

Spendthrift Trust

A spendthrift trust is a trust that is for the benefit of this beneficiaries. It has a trustee who distributes the annual profits of the Trust amongst all beneficiaries equally and does not favor one beneficiary over the other. Furthermore, the trustee is bound to invest the Trust in businesses and gain interest for the trust by keeping it safe and investing in new ventures.

Trustee

Duty of Loyalty, duty of impartiality, duty to care in the best interest of the trust and its beneficiaries, duty of save keeping of the trust. A trustee can't use trust for personal gain and favors. Can't co-mingle funds from the trust. A trustee is paid a salary from the trust for save keeping, and for all the trusts operation but is not allowed to be benefit from the trust as a beneficiary or be one of its named beneficiaries.

Ancestry Trust - Tom named as Trustee - conflict of interest as he can't be a beneficiary of the trust and a trustee. A trustee must care and be impartial to all beneficiaries. Furthermore, a trustee can't use the profits and assets of the trust for his own person gain.

Conflict of Interest

A conflict arises when a trustee breaches one of the above duties identified. Here, the facts indicate that Tom is a name beneficiary of the Trust that was left behind by his Grandmother, as he is her Grandson. Furthermore, the facts indicate that Tom was named as the Trustee for the Ancestry Trust. This constitutes a Conflict of Interest as a Trustee must be impartial and can't personally benefit from the Trust proceeds as a beneficiary. Since Tom is Grandma's, Grandson and one of the named Beneficiaries he can't be gaining from both the Trusts as a beneficiary and also be its trustee.

Therefore, there is a conflict here.

A. Should the court grant Betty's petition to dissolve the Farm Trust?

Here, the facts indicate that in January 2024, for reasons beyond Bank's control, Grandma's farm lost its organic certification but continued to operate as a farm. As a result of this loss of certification , Bank intends to allow City to use pesticides on the farm. However, this is in violation of exactly what Grandma had preferred and stated when she entrusted her Farm as a Farm Trust to the City for the general benefit of the City. Grandma had stated that she preferred that the farm be used in perpetuity as an active organic-certified farm, on which no chemical pesticides were to be used.

Although the facts indicate that the losing of Grandma's organic certification of its Farm Trust was

beyond the Banks' control, the fact that now the Bank intends to allow City to use pesticides on the farm is exactly what Grandma did not want and preferred would happen, therefore the Bank would be in violation of the Trust's language, wishes and directions as a trusted trustee and would have not acted in the best interest of the Farm Trust.

In conclusion, the court may grant Betty's petition to dissolve the Farm Trust if they find that Bank breached its duty as a trustee and did not act in the best interest of the Farm Trust. If the court decides to dissolve the Farm Trust then per Grandma's will the Farm Trusts assets would be given to Darcy, Betty's only child that was born in 2023. The court would then ask the Farm assets to be placed into an Approved by the Court Minor's Account as Darcy is a Minor in order to safe-keep the assets for Darcy until she reaches the legal age of 18 and is no longer a minor.

B. Should the court grant Betty's petition to dissolve the Ancestry Trust?

Here, the court should grant Betty's petition to dissolve the Ancestry Trust as Tom as a Trustee and Beneficiary had violated his duties of the Trust by using the trust for personal gain to pay his large debt for medical expenses and did not act in the best interest of the trust as loyal trustworthy trustee. Furthermore, the facts indicate that died in 2024 and the Trust has not named any new successors. Therefore, given all of the above the court should grant Betty's petition to dissolve the Ancestry Trust. If the court decides to dissolve the Ancestry Trust then per Grandma's will the Ancestry Trusts assets would be given to Darcy, Betty's only child that was born in 2023. The court would then ask that all assets of the Ancestry Trust to be placed into an Approved by the Court Minor's Account as Darcy is a Minor in order to safe-keep the assets for Darcy until she reaches the legal age of 18 and is no longer a minor. However, in the event that the court finds that the Ancestry Trust should not be dissolved the Court should appoint a new Trustee who is not a benefiting beneficiary or one of the named remaining grandchildren of Grandma take over the Trust as a new Trustee.

C. Should the court order Tom's estate to repay the Ancestry Trust?

The court should order Tom's estate to repay the Ancestry Trust for all the money that Tom took from the Ancestry Trust while he was the acting Trustee for his own personal gain in order to pay for large debt in medical bills he had unexpectedly incurred. Tom had no right to use the Ancestry Trust for his personal benefit as he was a named Trustee and needed to act as a fiduciary trustee and not use the trust proceeds and assets for his personal debt. Since Tom has violated his duty of loyalty to the trust as a trustee, the court should ask Tom's estate to pay back the money he used for paying his large debt of medical expenses.

Tom's estate may argue that they should not repay the Ancestry Trust as from the beginning Tom was not a valid Trustee as he could have not acted in the best interest of the trust by being both a named beneficiary and a named trustee. However, this argument will fail and the court will ask the Tom's estate to pay back the money Tom took to pay off his large debt of medical expenses.

Question #1 Final Word Count = 1157

END OF EXAM

