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

**Valid Execution of a Will**

A will is valid if it names the grantor, the grantee, the items or property to be distributed and is witnessed as well as signed by two uninterested witnesses.

Here, Grandma's will is valid because she named the grantees, the grantor (herself), and what assets should be divided accordingly. Additionally Grandma expressly stated that while the Farm Trust and Ancestry Trust should be divided in a certain way she made it clear that if "either trust fails, all assets of the failed trust should be given to the children of my granddaughter Betty."

Thus, Grandma executed a valid will.

**Valid Execution of a Trust**

In order to have a valid trust the grantor must be named, the grantee must be named, and there must be a valid trust res which is a valid trust purpose.

Here, Grandma executed a valid trust for the Farm Trust because she named the grantee which is the Bank. Additionally, she had a valid trust res because she wanted the trust to be used as an active organic-certified farm where no chemical pesticides were to be used. Furthermore, Grandma ensured that the purpose of the trust was clear beyond stating that it was to only be used for organic farming purposes because she unequivocally stated that it was for the general benefit of the city.

Thus, Grandma created a valid trust.

**Change in Trust Nature**

When a valid trust is executed that states a valid trust purpose but the purpose is no longer being executed by the trustee the court will look at the intent of the trust. Additionally, if the nature of the trust has only experienced slight change the court will allow the trust to remain with the named trustee.

Here, Betty, Grandma's granddaughter, would like the court to grant petition to dissolve the Farm Trust because Grandma's farm lost it's organic certification and now uses pesticides on the farm. Betty will argue that because Grandma's trust res was clear that the Farm should only be used as an active organic-certified farm with no chemical pesticides the trust must be resolved. However, the Bank will argue that while Grandma's trust res wanted the Farm to remain organic it is beyond their control that the nature of the Farm had to change. Additionally, the Bank will argue because they operated the farm in a organic fashion for more than four years there was a substantial effort in sustaining the operation of the Farm and it wasn't until January 2024 when they made change to the nature of the farm. Furthermore, Bank will argue that while the farm is no longer organic it will still operate as a farm and not face a significant change in it's nature. However, it is unlikely this argument will stand because Grandma was clear that the Farm should only be used for organic farming sans pesticides.

Thus, the court will grant Betty's petition to dissolve the Farm Trust.

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

**Valid Execution of a Will**

Please see rule and analysis above.

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**Valid Execution of a Trust**

Please see rule above.

Here, Grandma created a valid Ancestry trust because she named the trustees and the trust res. Specifically, Grandma stated that the grantees are to be Tom, Betty, and Carol that would share the trust income annually and while Tom was named the trustee of the Ancestry trust. Furthermore, the trust res is valid too because it states that the all income should be distributed equally and if it fails it will go to her granddaughter Betty.

Thus, there is a valid Trust.

**Trustee Duties - Duty of Loyalty**

A named trustee in a trust always have the utmost duty of loyalty which entails to not engage in self-dealing, to ensure that everyone receives their set of proceeds from the trust, and to engage only in fair-dealing if they are named as a trustee as well.

Here, in 2024 Tom incurred a large debt for medical expenses and wrote a check from the assets of the Ancestry Trust to pay off the debts. Betty will argue that Tom has violated his duty of loyalty and engaged in self-dealing because he used assets from the trust to his own benefit. Additionally, Betty will argue that Tom did not receive consent from the other grantees that he is able to go into the trustee use it for his own benefit. Tom's estate will argue that he was permitted to take this action because as a named grantee and trustee he may use the funds however he deems necessary as long as he does not engage in self-dealing. However, this argument will likely not stand because while Tom is permitted to use the funds to his own benefit he must only use the funds that are allocated to him and cannot take from the entire trust. Furthermore, Betty will argue that he did engage in self-dealing because not only did he not seek permission from the required grantees Tom used the money to pay off his own debts and not the debts of Grandma or some other grantee. Tom's estate might counter argue by stating that he planned to repay the Trust back but because of his untimely death it was uncertain he was not given the chance to. However, it is unlikely this argument will stand.

Thus, the court will grant Betty's petition to dissolve the Ancestry Trust because Tom violated his duty of loyalty.

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

**Contribution**

The court has held that when a trustee engages in self-dealing and violates their duty of loyalty, the grantees are permitted to seek contribution for the amount owed to the trust.

Here, the remaining named grantee's in the Ancestry Trust, Carol and Betty may seek contribution from Tom's estate because he engaged in self-dealing. Carol and Betty will argue because Tom did not seek their consent before using the allocated funds in the trust to pay off his own debts his estate must repay the trust accordingly as this is a violation of a trustee's duties.

Thus, the court will order Tom's estate to repay the Ancestry trust.

**END OF EXAM**