

**Trusts & Equity – Law 463**  
**Fall Term 2023**

**Problem Questions No. 1**

1. ABLE purchased 3 lottery tickets for \$10 each; he intended to keep one for himself, and declared himself trustee of the remaining two tickets – one for each of his friends BORIS and Carol (and tells them about the tickets). Able didn't choose amongst the three tickets before the draw, and neither did he set aside any particular ticket for either of his friends. On the night of the draw, one of the three tickets won a prize of \$1,000,000. Advise

Advise Boris.

2. Advise the intended beneficiaries in the following situations:

(a) Carys sent a cheque to her brother, Donald, with a note saying 'I wish you to use this for your eldest son's education';

(b) Edward called his father, Frank, and said to him that Edward's residuary-interest in a house that was owned by his deceased mother (and in which his father still resides as a life tenant) 'is yours from now on. You have it all now'.

3. Ian transfers his cottage to his friend, Jerome. Just before he did so, Ian told Jerome that he wanted him to hold the cottage for his next-door neighbour, Katharine.

Advise Katharine.

4. Leo held 1000 shares in ABC Corp (worth millions). The shares were actually held by his broker in its own name, but there was a standing authorization to deal with the shares in any way under Leo's instructions. Leo told the broker to hold \$50,000 worth of shares on trust for Meredith (his sister), and phoned Meredith to tell her that the shares are at her disposal and that Leo hopes that she will use them to care for her invalid child, Norman. Leo has now died.

Advise the broker.

5. Oswald decided that he is getting on in years and wishes to set up trusts to benefit his three children (Philip, Quinn, and Rose). He covenants with the following people and in the following terms on 1 July 2023:

(a) 'I, Oswald, agree to transfer the 10,000 shares of Bell Canada stock that I presently own to Sam within 60 days. I direct Sam to hold the shares on trust for Rose, the youngest of my children.'

(b) 'I, Oswald, agree to transfer to Tim the amount of \$50,000. I direct Tim to hold this money on trust for my eldest child, Philip.'

- (c) 'I, Oswald, agree to transfer all income that I obtain from this date from the various residential real estate that I own to Uri. I direct Uri to hold this money on trust for Quinn during his life, remainder to Quinn's children.'

By his Will, Oswald appointed Sam, Tim and Uri to be the executors of his estate and left all his assets to his wife, Violet.

On 1 August 2023, Oswald died while working at his desk in his home office. On his desk are found a cheque for \$50,000 made out to Tim, a Bell Canada share transfer form (filled out completely to effect the transfer of 12,000 shares to Sam, but unsigned). The various rents owing on Oswald's real estate have been left uncollected for at least a year due to Oswald's poor business practices.

Advise the Estate Trustees of Oswald's Estate.

6. The testator creates testamentary trusts on the following terms – are they valid?
  - (a) \$1,000 to each of my old friends;
  - (b) \$100,000 to the old members of the Queen's University in equal shares;
  - (c) \$50,000 to graduates of Queen's University with degrees in law in such shares (if any) as my trustees in their absolute discretion see fit;
  - (d) \$1,000,000 to the residents of the (i) Yonge Street; (ii) the City of Toronto; (iii) the County of York; (iv) the Province of Ontario; (v) Canada in such shares (if any) as my trustees in their absolute discretion see fit.
  
7. The Informal Association of Elks and Aardvarks (IAEA) has been a mainstay of the Kingston philanthropic community for the last hundred years or more. Originally started to maintain the cricket stumps in the Cricket Field below the Frontenac County Courthouse, the IAEA has been transformed over the years into an organization that raises money for a variety of good causes somehow related to amateur sport. The Association itself must have dozens of volunteers and a volunteer Board of Directors. Though not incorporated, the IAEA is run according to some long-standing conventions. The IAEA hold an annual meeting and elects an Executive Committee comprised of a President, Vice-President and Treasurer. In the past, the Executive Committee has done certain things necessary to run the organization like open a bank account, borrow funds from its members, apply for government grants, organize fund-raising activities, and distribute the funds received to individuals and charitable organizations. Members of IAEA pay an annual fee of \$25.

Recently, a member died leaving money to the IAEA. The Will provided:

"I direct the Trustee of my Estate to provide a sum of money to the President of the IAEA to allow the IAEA to modernize its operations, and, to put up a building on the Cricket Field in Kingston."

The Estate Trustee advises that there are indeed funds in the Estate that

would be sufficient to pay for a building to be constructed but that the Cricket Field is now a park owned by the City of Kingston and cannot be built upon according to the city's Official Plan (an *Official Plan* is the guiding planning document regarding land use).

Advise the membership of the IAEA.