

**TRUSTS – LAW 463**  
**FALL TERM 2026**

**DISCUSSION QUESTIONS NO. 1**

1. The Testator died and in his Will transferred his house and contents to the Estate Trustee of his Estate as follows: *my Estate Trustee shall sell my house and everything in it, invest the net proceeds of sale, and hold that sum on trust. The income shall be paid to Abby during her life, and, the capital and the income remaining, if any, on Abby's death shall be provided to Abby's children equally or in such shares as Abby stipulates.* Abby died yesterday survived by two children. One of Abby's children says that he was to be given a two-thirds share according to his Abby's wishes which were conveyed to him by Abby in a telephone call shortly before her death.

***Advise the Estate Trustee.***

2. A purchases 3 lottery tickets for \$10 each; he intends to keep one for himself, and declares himself trustee of the remaining two tickets – one for each of his friends B and C (and tells them about the tickets). A doesn't choose amongst the three tickets before the draw, and neither does he set aside any particular ticket for either of his friends. On the night of the draw, one of the three tickets wins a prize of \$1,000,000.

***Advise B.***

3. The Settlor executes a trust settlement providing as follows:

- (a) \$1,000 to each of my old friends;
- (b) \$100,000 to the old members of 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 Frontenac County, Ontario in such shares (if any) as my trustees in their absolute discretion see fit.

***Are these dispositions valid?***

4. 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 made the following declarations on August 1, 2026:

- (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 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 parcels of 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 Estate Trustees of his estate and left all his assets to his wife, Violet.

On 1 September 2026, Oswald died while working at his desk in his home office. On his desk were 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.***

5. 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 Country 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 settled a trust which provided in part as follows:

*I direct my Trustee to provide a sum of money from out of funds held in trust 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 Trustee advises that there are indeed funds in the Trust 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 Trustee.***

6. Your client, Eudora Wealthy, is eighty-four years old. She is presently married and has been once-divorced; both her husband and her ex-husband are alive. She has five adult children, two minor children, two cats, four dogs, and a small hamster. She has managed to acquire substantial assets (approximately \$10,000,000) through her acquisition of residential property in Kingston which she rents to students at exorbitant prices. Ms Wealthy has advised you that she fears that she may not be as sharp intellectually in the future as she is now. Accordingly, she wishes to make the following dispositions in trust with effect as soon as practicable:

- (a) to provide for the educational needs of her various children, both during and after her life, so long as they devote themselves to studies leading to a professional career and do not fritter away their time (and her money) on frivolous subjects;
- (b) to make provision for the youngest child, both during and after her mother's life, so that her needs are taken care of – she is mentally disabled and your client fears for her ability to work and provide for herself as an adult. Your client is particularly worried that the child may come under the influence of her spendthrift father upon attaining majority;
- (c) to provide a scholarship for deserving students from her hometown (Toronto) to attend Queen's University to study for a degree in law, provided that they practice their profession after they leave school for at least four consecutive years.

***Advise your client.***