

Question 1 – One Hour

Aunt Mabel, of sound mind, executed a trust in 1999 leaving one-half her estate to her second husband Joe. The other half was left as follows:

“The rest and residue of my estate, both real and personal property, shall be distributed to any one of the following charities as shall be selected by my trustee, in such amounts as the trustee shall designate for each, until all of said residue shall be distributed:

1. Acme Explosives, Inc. for use by Wiley Coyote in his pursuits (assume Wiley is real and this is not evidence of dementia);
2. Rainbow School for supplies for third through six graders;
3. ABC Children’s Home to pay salaries of administrators;
4. To the City of Euphoria, California to purchase park land only, and not to be used for city facilities.”

Aunt Mabel dies. Uncle Joe is the trustee, with Durable Bank named as alternate trustee. For three years after Mabel’s death Uncle Joe holds the residue of the estate and does not distribute. He also uses the income from the residue of the estate for living expenses and takes a trustee fee. In year four after Mabel’s death, Uncle Joe, distributes the residue in equal shares to the four named entities.

The city immediately purchases an empty 10-acre lot in Euphoria and builds an opera house on it. The city charges admission for the operas performed there.

The trustees of Rainbow School come to you for advice. One trustee says, “Something here just doesn’t feel right. Did we get all we are supposed to get from Mabel’s estate?”

Give the School your advice. Please use sound legal analysis in your response to the School. Do not discuss the Rule Against Perpetuities.

Question 2 – One Hour

Jimmy executes a trust. It states in part:

“I leave all of my estate, both real and personal property, and any property over which I have a power of appointment from my mother’s estate, to my relatives living at my death.”

Jimmy’s mother, Mom, left a large estate. In her trust there is a clause as follows:

“I leave one-third of my estate to any of my grandchildren that Jimmy chooses in his will or trust.”

Jimmy’s trust is signed and notarized. There is no mention of a trustee. Jimmy dies.

Two of Mom’s grandchildren come to you for advice. They want to know what will happen with Jimmy’s estate. Use sound legal analysis in your response to the grandchildren.