

Question One – 1 Hour

Susie was a homemaker by trade. She had raised her four children while her husband of 60 years, Bill, had worked at the local candlestick factory. Bill and Susie both owned their home in San Francisco, California, as well as a small vacation rental in North Carolina that Bill inherited from his mother when she passed away.

At the age of 80, Bill died suddenly of a heart attack. Susie thought Bill had a Will that left everything to her but she could not find it. She even recalls Bill's friend, Ted, having signed the Will as a witness.

After administering Bill's Estate, Susie's eldest daughter, May, thought it would be a good idea for Susie to get a Will after what happened with her father's estate. May called around and found a reputable estate planning attorney for her mother; she drove her mother to the appointment with the lawyers; sat in on the meetings; led the discussion while Susie sat patiently and listened to the meeting; and provided the lawyer with all of the Susie's asset and beneficiary information.

Susie, who was still struggling with her husband's sudden death, was so grateful for May's help, that she decided to leave her entire estate to May. Susie, with May present and anxiously awaiting, executed the Will with her lawyer and his secretary acting as witnesses.

Six months later, after never really recovering from the loss of her husband of 60 years, Susie passed away.

Who gets what and why? Please use sound legal analysis in your response.

Question Two – 1 Hour

Uncle Joe was quite a businessman. During his lifetime he founded three very successful banks. He sold the first two and kept 1 million shares of the third and sold the remaining stock in the third bank to Banc of California. His remaining ownership was 25%. The bank stock was worth \$8 million and paid a dividend of \$125,00 annually. Uncle Joe had a bank account with \$500,000 in it and he owned a home worth \$2 million.

Uncle Joe's niece Nancy lived with him. She moved in with him 10 years ago so she could take a job with the local hi-tech company. They had a great relationship and were very fond of each other.

Uncle Joe executed a valid revocable trust with the following relevant provisions:

A. Distributions of Property on Death of Settlor. The trustee shall continue to hold my bank stock and home and not sell them. The trustee shall pay 4% of the total value of the trust estate annually to Nancy for life. Upon Nancy's death the trust estate shall be distributed to her children who survive her.

B. Appointment of Trustee. Banc of California shall act as trustee of all trusts created under this document.”

Uncle Joe died in 2000. Banc kept the stock and home and allowed Nancy to live in the home for her lifetime. She died in 2011 leaving one adult child Ben.

Ben comes to you to discuss his interest in the trust. He brings an accounting of the trust for 2011, which he found among his mother's papers. The accounting shows that Banc of California stock is valued at \$1.5 million on January 1, 2012. Ben tells you he thinks it was worth a lot more a few years ago. You tell him to request accountings from the Trustee going back 10 years. Upon receipt you see that the Trustee continued to pay Nancy \$400,000 per year up to her date of death, and that the stock value declined from \$8 million to \$1.5 million from 2002 to 2009.

Advise Ben as to his rights and remedies in the trust. Please use sound legal analysis in your response.

Question Three – 1 Hour

Aunt Mabel was a famous opera singer. She was flamboyant and often seemed “spacey” to her friends and family. She was a great singer but terrible with numbers, math and money. As she aged, the “spacey-ness” increased. She loved the arts. Naturally, with no children, she wanted some of her estate to support opera and singing after she died.

In 2004 her favorite nephew Ned began to feel concern about her conduct. She was found outside wandering her neighborhood one night at 3 a.m. He took her to the doctor who told Ned she was fine. The following year Aunt Mabel donated \$300,000 to a local theater group in support of their summer children’s singing program. The program goal was only \$50,000. The theater, to their credit, returned \$250,000 to Mabel with a big thank you. The summer program serves 10-15 children each year. In 2007 Mabel became very cranky and started to suspect Ned of wanting to kill her. Then in 2008 she regained her happy outlook on things and was again fond of Ned. She told him she was going to leave him most of her estate for helping her so much.

In 2009 Mabel went to Lawyer to execute a trust. She was worth \$5 million at the time. She told the lawyer she wanted to leave \$50,000 to Ned “who has been such a tremendous help to me.” She told the lawyer, “I would be desperate without him. He is my joy and so helpful. He makes many sacrifices for me everyday! The balance of the estate is to go to be held in trust for the benefit of the local theater company.” The local theater company is a qualified charity. The lawyer drafted with Mabel as Trustee and Ned the successor Trustee. Aunt Mabel signed the document the next week.

Aunt Mabel died in 2012. Ned comes to you to discuss the trust. Who gets what and why? Please use sound legal analysis in your response.