

THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ APRIL/MAY _____ 2000

CODE AND NAME OF COURSE: LA28A LAW OF TRUSTS

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE (3)** questions, at least **ONE** of which must be selected from **Part B**.
Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

PART A

1. Examine Hayton's '5 gold medallions' relating to trusts established in offshore jurisdictions in the Caribbean.
2. 'The clear result of all the cases ... is that the trust of a legal estate ... results to the man who advances the purchase money'. (*Dyer v. Dyer*, per Eyre C.J. (1788)).
Discuss with particular reference to Commonwealth Caribbean case-law.
3. 'One of the fundamental principles of trust law is that equity looks to the intention of the settlor rather than to formality'.

Discuss this statement in the light of principles regarding (a) requirements of writing, and (b) the need for certainty in express private trusts.

PART B

4. In 1992, shortly before the marriage of his daughter, Ruth to Jacob, Isaac covenanted with his trustees, Matthew and Mark, that within 7 years of the date of the marriage, he would settle the following property on the trusts of the marriage settlement:

2000 shares in the Gideon Company;
Isaac's reversionary interest in Sandyacre;
any property he might acquire under the will of his father, Abraham.

PLEASE TURN OVER

The beneficiaries under the settlement are Ruth and Jacob for life, remainder to their issue and, in default of issue, to Isaac's nephew, Benjamin.

Three years ago, Isaac acquired an absolute interest in possession in Sandyacre, but failed to convey the property to Matthew and Mark.

Two years ago, Isaac completed a share transfer form transferring the 2000 shares to his niece, Naomi, but his secretary forgot to post the document to the Gideon Company for registration.

Last year, Isaac departed for a climbing expedition in the Himalayas and, before he left, he called his friend, Father Paul, to his office, saying: "If anything should happen to me, Sandyacre is all yours; here is the key to my safety deposit box in which you will find the necessary papers."

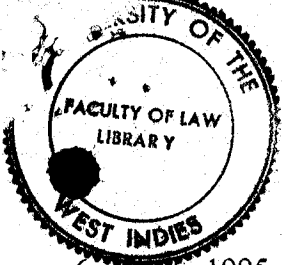
Earlier this year, Ruth, Jacob and their two children were all drowned in a boating accident, and Isaac died in an avalanche in the Himalayas. Isaac's will leaves his entire estate to charity.

Discuss.

5. Assess the validity of the following bequests in the will of 'Dusty' Dreadlocks, recently deceased:-

- (i) \$10,000 to further the appreciation of the dub poetry of 'Tallboy' Thompson, a local secondary school pupil;
- (ii) \$20,000 to provide music scholarships for the children of practising Rastafarians in Barbago;
- (iii) \$150,000 for the construction and maintenance of a shrine to the memory of the late Emperor of Ethiopia;
- (iv) \$15,000 to provide cellular phones for Rastafarian students at the University of the Caribbean;
- (v) \$10,000 for the maintenance of 'Dusty's' three cats for the remainder of their natural lives.

PLEASE TURN OVER



6. In 1995, Keats made a will in which he bequeathed legacies of \$50,000 to Shelley "for the purposes which I shall communicate to him" and \$100,000 "to Byron and Tennyson absolutely". The day after he executed the will, Keats called Byron to his house and informed Byron that he wished the \$100,000 to be held upon trust for Keats' mistress, Gertrude. On the same day, Keats handed to Shelley a sealed envelope marked 'not to be opened until after my death', telling Shelley that the sealed envelope contained the name of the person for whose benefit Shelley was to hold the \$50,000. Both Byron and Shelley agreed to carry out Keats' wishes regarding the respective sums of money.

In 1997, Shelley died of natural causes; in 1998 Gertrude was drowned at the beach; and last year, Keats lost his life in a road accident. Shelley's executors have opened the sealed envelope, which contains the name of Wordsworth as secret beneficiary.

Advise Keats' and Shelley's executors as to who is entitled to the \$100,000 and the \$50,000.

END OF PAPER