

Question MEE 3 – July 2025 – Selected Answer 1

1. Does Bank X need judicial approval to resign as trustee?

The issue is whether a trustee needs judicial approval to resign as a trustee.

The rule for trustees is that once a trustee is appointed by a valid will, they shall execute their duties in accordance with the terms of that trust. To be relieved of trustee duties when a trust lacks governing language, a trustee obtain judicial approval and a proper replacement must be instated.

Here, Bank X no longer wishes to carry out the duties of trustee and recommends Bank Y. Bank X is required to make decisions about distributions, therefore the court must ensure that the replacement can properly carry out the duties of a trustee. Bank Y is a reputable bank with extensive experience in trust administration and is willing to assume the trusteeship on condition. Bank Y will only assume the trusteeship if Bank Y is allowed to distribute trust income to graduates of any rural public high school in State A attending State A university. Assuming this condition is an acceptable modification to the trust, Bank Y may be assigned the trusteeship and Bank X can properly resign. Bank Y is an appropriate trustee to carry out the intentions of the trust.

Therefore, yes, Bank X does need judicial approval to resign as a trustee because the trust's language does not provide terms for resignation so the court must determine an appropriate replacement that will carry out the intentions of the trust.

2. Does Fred have any interest in the trust?

The issue here is whether Fred has an interest in the trust when he is not a named beneficiary and has had little contact with Testator.

The rule is that trusts are strictly operated in accordance with their terms. Here, Fred is not a named beneficiary. The trust was set up to distribute income to students under the discretion of the trustee. The testator's intention was not for Fred to benefit, the intention was for students to benefit.

Therefore, Fred does not have any interest in the trust because he is not a named beneficiary nor does he qualify as a beneficiary under the trust terms.

3. Can the trust's terms be judicially modified?

The issue is whether a trust's terms can be judicially modified when its purpose is frustrated.

The applicable rule states that when a trust can no longer be distributed under the terms of the testator, the court may modify the terms of the trust in accordance with the testator's intent.

Here, Testator intended to give a benefit to people selected by the trustee who graduated from a one-room schoolhouse in State A and were attending State A University while under the age of 25. There are currently no persons who the trustee can distribute to because no one graduates from one-room schoolhouses in State A. All of the other terms of the trust can still be satisfied. It would be proper for the court to modify the terms of the trust in accordance with Testator's intent to benefit rural residents obtaining higher education. Such modification could be to substitute one room school houses with small rural high schools as it is the clear intent of Testator to help people from small rural schools.

Therefore, because there is a clear intent from Testator to offer a monetary benefit to people who when to small rural schools in State A who then go on to attend State A university, a judicial modification is allowed and proper.

4. Assuming that Bank Y has been appointed trustee and the trust terms can be judicially modified, between the suggestions offered by Bank Y and Capital City Concert Hall, which suggestion would a court be more likely to adopt?

The issue is whether Testator had a clear intention to ongoing distributions to State A University.

The rule is when a court modifies a trust, it must consider the testator's intention, the writing, and any other elements that may give rise to intention.

Here, Capital City Concert Hall (Hall) asserts that the trust principal of \$10 million should be held exclusively for its benefit with trust income payable only to it. Testator's intentions to gift Hall a lump sum is clear and evidenced by the \$250,000 sum it received under the will. Further, because the trust terms can be modified, the trust can be distributed once again to the intended beneficiaries. There is no evidence of Testator's intent to gift such a large sum to Hall. In fact, Hall's gift is the smallest among all distributions. In contrast, Testator's intention to benefit State A University is greatly evidenced by his initial gift of \$1,750,000 and continuing distributions that amount to \$500,000. The court will take Bank Y's suggestion because it is the best way to carry on Testator's intention to benefit rural students.

Therefore, the court will enforce Bank Y's suggestion because it is closely related to Testator's intent to benefit State A University and rural students.

Question MEE 3 – July 2025 – Selected Answer 2

Trustee Resignation

The issue here is whether a trustee must seek judicial approval to resign as trustee. A trust will not fail for lack of a trustee, as a court will appoint one. However, a trustee may need to ask permission from the court to leave as trustee. But no one can be forced to be trustee of a trust.

Bank X would like to resign as trustee and recommends that Court appoint Bank Y. Bank may need the judicial approval to resign since the Court will also need to appoint a new trustee. Bank cannot be required to remain Trustee but may be required to alert the Court before resigning to allow for Court to properly appoint a new trustee. Even if Bank could resign without Court approval, it will not affect the trust since a trust cannot fail for lack of a Trustee.

Therefore, Bank may need to seek judicial approval to resign so that Court can appoint a new trustee but cannot be required to continue as trustee if it does not wish to.

Fred's Interest in Trust

The issue here is what happens to the principal of a trust if the trust's purpose is frustrated to the point of being found valid and terminated, and the order of intestacy for principal not passing by will.

If a trust is later found invalid or terminated, the principal remaining in the trust will revert to Settlor or his heirs. If the Settlor did not have a residuary clause in his will then the principal would be distributed by intestacy.

Trustee died leaving a substantial estate. He was never married and had no children. His closest relative was his first cousin. He bequeathed \$500,000 to several art museums throughout the United States, \$250,000 to Capital City Concert Hall, and \$1,750,000 to the business college at State A University. Fred, the closest relative of Testator now living and the sole surviving descendant of Testator's first cousin, believes that the trust can no longer continue and that the principal should therefore be distributed to him.

If the court were to agree that trust is no longer valid and extinguish it, then Fred would most likely receive the principal. As the descendant of Testator's first cousin, Fred would most likely receive under intestacy if the trust fails. It is unlikely though that the trust would be terminated.

Therefore, it is unlikely Fred would receive since the trust will most likely be reformed under Cy Pres, but if the trust is terminated then the principal would revert to Settlor's heirs which in this case would be Fred.

Trust Terms Subject to Judicial Modification

The issue here is whether a charitable trust can be reformed when the trust's purpose has become frustrated.

A trust will typically not be modified unless the purpose of the trust has become illegal, impractical, or impossible. A trustee may ask for judicial modification if the trust has insufficient assets to fulfill its purpose. If a charitable trust no longer has the ability to benefit the intended organization the court will use Cy Pres, a doctrine that allows for changing the terms of the trust to benefit another charitable organization as long as the Court can find one that meets the Settlor's original goals for the trust. The Court must find that the Settlor possessed general charitable intent.

Settlor bequeathed the balance of his estate to a valid perpetual charitable trust. Under the terms of the trust, all trust income was distributable annually to pay the education expenses of any persons, as selected by trustee, who had graduated from a one-room schoolhouse in State A and were attending a State A university while under the age of 25. For many years Trustee was able to abide by the trust and select beneficiaries based on these terms. However, by 2010 there were no more one-room schoolhouses and therefore no more identifiable beneficiaries to distribute the trust to.

The Court would most likely find that Testator/Settlor possessed general charitable intent when he created the trust since it was a trust created for a designated group of beneficiaries, but none that Trustee knew or was related to. If the Court finds that Testator possessed general charitable intent then they will use the doctrine of Cy Pres to reform the trust in accordance with the general charitable intent. The court may find that rural schools in State A whose students then go to State A university are a fitting group to award the trust income to. Additionally, since the trustee had the power to select beneficiaries from the designated class, there may be the intent for the trustee to select the new beneficiaries, showing a general intent.

However, if the Court does not find general charitable intent, especially since Testator awarded the income to a very specific group of students from a situation in which he related to, then the trust will be invalidated and terminated.

Therefore, the Court will most likely find general charitable intent and reform the trust with Doctrine of Cy Pres to conform with the Settlor's intent. If the Court however does not find general charitable intent then the trust will be terminated and the principal will revert back to the Settlor's estate or heirs.

Suggestion Court will most likely adopt

The issue here is whether, in appointing a new trustee, the Court must comply with the Trustee's terms for distribution of the trust.

Trustee's have a fiduciary duty to the trust and must not engage in self dealing or deal with the Trust principal in a way that they benefit. A court is not required to abide by

the Trustee's wants in regards to the trust. However, a Trustee is required to abide by the terms of the Trust and to faithfully carry out the duty as trustee. Bank X as current trustee would like to resign and recommends Court appoint Bank Y as trustee. Bank Y is a reputable bank with extensive experience in trust administration and is willing to assume trusteeship but only if the terms are modified to allow it to distribute trust income to graduates of any rural public high school in State A attending State A university. As a professional trustee the Court would most likely listen to the experience of Bank Y. However, the Court is not required to agree with Bank Y as trustee for the intent of the trust. The Court may validly find another way to distribute the trust income in a way that more closely conforms with Testator's original intent.

Capital City Concert Hall believes that the trust principal should be used exclusively for its benefit. There is nothing in the facts to indicate that Testator intended to benefit Capital City Concert Hall more than the bequest that was specifically made in Testator's will. Capital City Concert Hall is also not in the business of sending children from rural areas to school, so Cy Pres would not find this to be the intent of Settlor. Therefore, the Court would not adopt the suggestion by Capital City Concert Hall.

Therefore, the Court can exercise its judgment however it deems best for the trust and the Testator's original intent. The court would most likely agree with Bank Y, but is not required to. And the Court would almost certainly disagree with Capital City Concert Hall.