

## ANSWER TO QUESTION NO. 2

**Daniel's Right to the Convertible:** Daniel does not have a valid property interest in the convertible. Ordinarily, a valid *inter vivos* gift transfers title to the donee if three elements are satisfied: (1) the donor has the present intent to transfer title gratuitously to the donee; (2) there is actual or constructive delivery of the subject matter to the donee, unless it is already in the donee's possession; and (3) the donee accepts the gift. *Detroit Bank v Bradfield*, 324 Mich 124, 130-131 (1949).

However, "transfer of title of an automobile cannot be effected without compliance with the statute" regulating automobile transfers. *Drettman v Marchand*, 337 Mich 1, 6 (1953). This requirement applies equally to gifts. *Taylor v Burdick*, 320 Mich 25, 32 (1948). For the title transfer to occur, MCL 257.233(8) requires an owner to "indorse on the certificate of title as required by the secretary of state an assignment of the title."

Because the facts indicate that Walter did not indorse the certificate of title, no transfer of title occurred and, therefore, no *inter vivos* gift occurred. Under MCL 257.233(8), Daniel is not entitled to ownership of the convertible without Walter's endorsement on the certificate of title. While handing over the keys to Daniel on his birthday and saying, "[t]he car is yours," provides evidence of his intent to transfer the car, "actual or constructive" delivery of the gift requires the donor to "part with his dominion over the property so that no further act is required of him to vest the title in the donee." *State Bank of Croswell v Johnston*, 151 Mich 538, 542 (1908) (emphasis added). Constructive delivery did not occur in this instance because simply handing Daniel the keys is insufficient to vest the title in Daniel; Michigan law requires an endorsement of the certificate of title for a title transfer to occur. *Taylor v Burdick*, *supra*.

**Gregory's Right to the \$10,000.** Gregory does have a valid property interest in the \$10,000. Michigan has adopted the Uniform Transfers to Minors Act, MCL 554.521 et seq., which provides that "[c]ustodial property is created and a transfer is made," when money is "paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: 'as custodian for \_\_\_\_\_ (name of minor) under the Michigan uniform transfers to minors act'." MCL

554.533(1) and (3). Walter did, in fact, deliver the \$10,000 to the bank account in the name of Gregory. Further, because the question indicates that Walter complied with Michigan law in opening the account, the transfer is not defective as to form.

A transfer under the UTMA "is irrevocable, and the custodial property is indefeasibly vested in the minor." MCL 554.536(2); *People v Couzens*, 480 Mich 240, 248 (2008). By depositing money into this account as Gregory's birthday gift, Walter effected a transfer of property to Gregory, which is "indefeasibly vested in him." Accordingly, Gregory has a property interest in the \$10,000.

As an aside, although Gregory has an indefeasible property interest in the \$10,000 that Walter deposited, Gregory might not be able to assert control over the \$10,000 until he is 18 years old. See MCL 554.546. Nevertheless, because he is more than 14 years old, he can petition the court for delivery of the custodial property to him. See MCL 55.539(2).