

EXAMINERS' ANALYSIS OF QUESTION NO. 10

1. Validity of the will: As a general matter, a will is only valid in Michigan if it is (1) in writing, (2) signed by the testator, and (3) signed by at least two witnesses within a reasonable time after witnessing either the testator signing the document or acknowledging the will. MCL 700.2502(1). Here, because Paul Perry's document was not witnessed, it is not valid under the general provisions concerning a will. However, a will that does not comply with the abovementioned requirements may be deemed valid as a holographic will if the document is dated, signed by the testator, and the material portions of the document are in the testator's handwriting. A holographic will need not be witnessed. MCL 700.2502(2). Here, because the facts indicate that the document was "written in Paul's handwriting," and was both signed and dated, it is valid as a holographic will.

2. Shares of Acme stock to Carey: Carey will be entitled to receive all 250 shares of Acme stock. MCL 700.2605 provides that, if a testator executes a will that devises securities, and the testator then owns securities described in the will, the devise includes additional securities owned by the testator at the time of death to the extent that the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of one of the following types:

- (a) Securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by exercise of purchase options.
- (b) Securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization.
- (c) Securities of the same organization acquired as a result of a plan of reinvestment. (emphasis added)

It is clear that stock is a type of security. See MCL 700.1107(c). The facts indicate that Paul's will devised the stock to Carey and that Paul owned the stock described in the will at the time. The facts also indicate that the additional shares of stock were acquired by Paul after the will was executed as a result of his ownership of the original 100 shares of stock and was "[s]ecurities of the same organization acquired as a

result of a plan of reinvestment." MCL 700.2605(c). Thus, Carey's devise will include all 250 shares of Acme stock.

3. **Mortgage discharge for 1414 Mockingbird Lane:** Wesley will not be entitled to have the mortgage paid on the property devised to him. MCL 700.2607 provides that a specific devise "passes subject to any mortgage or other security interest existing on the date of death, without right of exoneration, regardless of a general directive in the will to pay debts." The provision in Paul's will "direct[ing] that all of [his] debts be paid" would most likely be considered a general directive to pay debts, and does not extinguish the remaining mortgage debt under the plain language of the statute.