

Ann, a successful entrepreneur, grew up in a small town in State A. Ann's family could not afford to send her to college, but a group of local store owners, sensing Ann's potential, paid Ann's tuition for college and graduate business school. Twenty years later, in honor of the store owners, Ann created a trust and funded it with \$1,000,000.

Under the terms of the trust, the trustee (a local bank) must annually use trust income to purchase and install seasonal plantings on all principal streets in the town where Ann grew up. The trustee is authorized to invade trust principal to purchase and install such plantings if the trust income is insufficient. The trust instrument further provides that the trust will last in perpetuity or until such time as the principal of the trust has been exhausted; no individuals are named as trust beneficiaries. Currently the trust's annual income is \$40,000 and the annual cost of seasonal plantings is anticipated to be about \$35,000.

Last week, Ann died unexpectedly and without a will. At the time of her death she had \$100,000 in a bank account in her name alone. Ann's uncle and niece survive her.

The personal representative of Ann's estate properly filed an action to set aside the \$1,000,000 trust on the ground that it is invalid under the common-law rule against perpetuities, which applies in State A. The personal representative also requested judicial approval of a proposal to distribute the assets of the allegedly invalid trust, with the other assets of Ann's estate, to Ann's niece but not to her uncle. Ann's uncle contends that he is entitled to half of Ann's estate.

State A has adopted the Uniform Trust Code.

1. May the trust endure for its stated duration (in perpetuity or until its assets are exhausted)? Explain.
2. Assuming that the trust cannot endure for its stated duration, could a court preserve the trust for any period of time to carry out Ann's intentions? Explain.
3. To whom should Ann's estate be distributed and in what shares? Explain.