

Title

FREQUENTLY ASKED ^ QUESTIONS

July 2014

Q Title is currently vested in the trustees of a living trust. The beneficiaries and the trustees are the same people. Is this a problem?

A It could be.

New Jersey case law has held that where the sole trustee and sole beneficiary of a trust are identical, the legal and equitable titles merge and the trust collapses. That is not necessarily the case where the trustee is only one of several beneficiaries or where there are multiple trustees and beneficiaries.

Thus in the situation where the sole trustee and the sole beneficiary are identical, the best practice is for the deed to come from the party as trustee and individually. Judgments and liens against the individual should be addressed. Requests to alter this practice should be addressed on a case by case basis.

Likewise, where the beneficiary and the trustee are the same individual and that individual has died, estate issues must be addressed.

Where there are multiple trustees and/or beneficiaries, the deed should come from the trustees.

As always, feel free to address any questions to a member of our underwriting staff.