

**IN RE: MERLIN A.
INTERVIVOS ABADIE TRUST**

VERSUS

*** NO. 2000-CA-2029
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

*** * * * ***

GORBATY, J. DISSENTS IN PART.

I respectfully dissent in part. The Trustee failed to act with “ordinary prudence” when it declined to take a security interest in the Melancon home. The Trustee has a fiduciary duty to safeguard the interests of the trust beneficiaries. Although the Trust does not specifically require the Trustee to obtain an ownership interest in real property, such an action would be a reasonable measure to protect all beneficiaries. Accordingly, for these reasons, I would reverse that portion of the decision of the trial court. In all other respects, I agree with the ruling of the majority.