



Practice Gems: Probate Essentials 2009

Chair: **Suzana Popovic-Montag**
Hull & Hull LLP

September 17, 2009
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Donald Lamont Learning Centre
The Law Society of Upper Canada

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TAB 2

What you need to Know about Probate Fees

Craig Ross
Pallett Valo LLP

Practice Gems: Probate Essentials 2009
September 17, 2009



The Law Society of
Upper Canada | Barreau
du Haut-Canada

Continuing Legal Education

WHAT YOU NEED TO KNOW ABOUT PROBATE FEES

I. Legislation

Value of Estate

- *Estate Administration Tax Act:*
 - *Section 1 – Definition of “Value of Estate”* - “value of the estate” means the value which is required to be disclosed under section 32 of the Estates Act (or a predecessor thereof) of all the property that belonged to the deceased person at the time of his or her death less the actual value of any encumbrance on real property that is included in the property of the deceased person.
 - *Section 2(7) – Subsequently Discovered Property* - If, after an estate certificate is issued, a statement is delivered under subsection 32 (2) of the Estates Act disclosing subsequently-discovered property of the estate, tax in respect of the value of the property is payable when the statement is delivered.
- *Estates Act: Section 32 - Evaluation*
 - 32(1) The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true statement of the total value, verified by the oath or affirmation of the applicant, of all the property that belonged to the deceased at the time of his or her death.

- 32(2) *Subsequently discovered property* - When after the grant of probate or letters of administration any property belonging to the deceased at the time of his or her death and not included in such statement of total value is discovered by the executor or administrator, they shall, within six months thereafter, deliver to the registrar a true statement of the total value, duly verified by oath or affirmation, of such newly discovered property.
- 32(3) *Limited grant/Multiple Wills* - Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in the statement of value only the property and value thereof intended to be affected by such application or grant.
- This tells us:
 - 1. That an applicant must make a true statement of the total value in the form of an affidavit.
 - 2. That an applicant must correct its statement within 6 months of the discovery of any property not included in the original statement.
 - 3. That the applicant's true statement must include every type of property of the deceased with a deduction for only those encumbrances on real property included in the statement, and excluding property that does not form part of a limited grant. There is no deduction for any debt except mortgages on real property.

- Property that can be excluded from the value of the estate:
 - Proceeds of insurance or registered investments passing by beneficiary designation;
 - Policies of insurance with successor owners;
 - Real property outside Ontario;
 - Jointly owned property *passing by right of survivorship*, discussed further below; and
 - Where a Certificate is limited to the assets passing under a General or Primary Will, any assets passing under a Limited or Secondary Will, discussed further below.
 - Also note that the definition of “estate certificate” under section 1 of the *Estate Administration Tax Act* excludes certificates of succeeding estate trustee and certificates pending litigation.

Tax Payable

- *Amount Payable* - Section 2.(6) The amount of tax payable upon the issuance of an estate certificate for which application is made after June 7, 1992 is,
 - (a) five dollars for each \$1,000 or part thereof of the first \$50,000 of the value of the estate; and
 - (b) fifteen dollars for each \$1,000 or part thereof by which the value of the estate exceeds \$50,000.
- Note that this section makes the tax payable upon the issuance of the Certificate.

- *Payable by Estate Trustee – 2.(8)* Tax is payable by the estate representative in his, her or its representative capacity only.

Deposit on Account of Tax Payable

- Section 3 of the *Act* provides for the deposit on account of the tax payable that we are used to including as part of our applications, and provides that the amount of the deposit is the amount of tax payable (3.(2)) unless the applicant can only provide an estimate (3.(3)).
- *When Deposit Payable - 3.(1)* When an application for an estate certificate is made, the applicant shall deposit the amount determined in accordance with this section with an official of the court at which the application is made.
- *Amount of Deposit – 3.(2)* Subject to subsection (3), the amount to be deposited is an amount equal to the tax that will become payable by the estate under this Act.
- *Deposit based on Estimate – 3.(3)* If the applicant is able only to estimate the value of the estate when making the application, the amount to be deposited shall be based on the estimated value.
- *Deposit Applied to Tax – 3.(5)* The amount deposited shall be applied to reduce the estate's liability for tax under this Act on the issuance of the estate certificate.

II. Using Estimates in Applications

- It is vitally important that, unless you have taken adequate steps to ascertain the actual value of an estate, you provide a deposit on account of estate administration tax as an estimate. If you make a deposit based on an estimate value, you are entitled to a refund if the estate is worth less than anticipated. If you simply enter values in the appropriate boxes of Form 74.4 and it is discovered that the estate is worth less than the amount provided in the application, the applicant is not entitled to a refund.
- If you wish to provide a deposit on account of the taxes payable based on an estimate of the estate value, you must provide an accompanying affidavit explaining that the amount of the deposit is based on an estimate and undertaking to confirm the value of the estate and pay any additional tax within six months. See Schedule "A". *Estate Administration Tax Act*:
 - 4.(3) If the amount of the deposit is based upon an estimated value, the estate certificate shall not be issued until the applicant for the certificate gives the court a signed undertaking that the applicant will, within six months after giving the undertaking,
 - (a) file a sworn statement of the actual total value of the estate; and
 - (b) pay any additional tax payable under this Act if the actual value is higher than the estimated value.

- 3.(7) If the amount deposited is based upon an estimated value, and if the estimated value of the estate is greater than the actual value subsequently ascertained, the amount referable to the difference shall be refunded.
- Thus, the court only has the authority to provide a refund if the deposit was based on an estimate.
- If a refund is required because the estate is worth less than the estimated value, the applicant should provide an affidavit explaining why the estimate and resulting deposit was higher than the true value of the estate and providing evidence as to the true value. See Schedule "B" attached.
- If the deposit on account of probate fees is based on an estimate, the applicant must satisfy the undertaking provided by filing an affidavit either confirming the estimate was correct or confirming the true value of the estate and paying any further taxes owing.

III. Paying Tax Later

- Section 4.(1) provides that a person who wishes to obtain a Certificate of Appointment without making a deposit on account of Estate Administration Tax may apply, without notice, for the issuance of the Certificate.
- Section 4.(2) requires that the Certificate shall not be issued unless judge is satisfied, based upon the

applicant's affidavit and upon such other material as the judge may require,

(a) that the estate certificate is urgently required;

(b) that financial hardship would result from not issuing the estate certificate before the deposit is made; and

(c) that sufficient security for the payment of the tax under this Act has been furnished to the court.

- (a) is often satisfied with reference to a lack of liquidity and the need for a certificate to deal with assets – i.e. the only asset is the deceased's principal residence and there is a mortgage against the property.
- Our experience is that the facts that satisfy (a) will usually also satisfy (b), but there may be circumstances where this is not so.
- (c) is generally the 6-month personal undertaking of the Applicant.
- See Schedule "C" attached.

IV. Valuing Estate Property

- Estates Act requires a "true statement of the total value".
- Real Estate – Because MPAC's re-assessment as of Jan. 1, 2008, got significantly closer to market value in many areas, and because of recent market volatility, our current practice is to use MPAC for an

estimate in making a deposit on account of probate fees and correcting the estimate up or down following sale.

If the intention is to hold the property, the applicant could use the MPAC value in his or her application for a Certificate of Appointment, but likely should also obtain a real estate agent's market analysis, which they are happy to provide for free. This will usually include comparators of similar size with similar features.

- Publicly Traded Stocks – The authorities are clear that stocks traded on an exchange must be valued at the price the exchange would bear at the date of death. In our experience, most brokers are happy to provide date of death values on shares.
- Private Companies – This is clearly the most difficult and is too big a topic to deal with here.

Usually the company's accountant will have a working book value based on retained earnings and a few other factors, which might be the best an applicant can do.

If there is more than one shareholder and there is a good shareholder's agreement in place, the shareholder's agreement will have a system to determine value, and the applicant should provide an estimate to obtain the Certificate until the shares can be dealt with pursuant to the agreement.

Of particular difficulty are personal services businesses (insurance agents, financial advisors, etc.). In our experience the deceased often over-

estimates the market value of their business, or “book”. It is difficult to sell this type of business, especially where the deceased failed to “institutionalize” his or her practice.

V. First Dealings After Conversion

- If probate is not required for any other assets, probate, and the estate administration tax, can be avoided if the deceased died with a Will and the transmission application transferring title to the estate trustees is the first dealing after the conversion of the property from registry to land titles. While the number of properties in this category is shrinking, it is still relatively common.
- Properties qualifying for first dealing after conversion will be identified on the parcel register as “L/T Conversion Qualified”. See Schedule “D”.
- If you are administering a “first dealing after conversion”, the solicitor will be required to make a number of law statements in the Transmission Application about the deceased, including statements that the Will is the last Will of the deceased and is validly executed. In order to support the law statements that must be made, the solicitor should get an affidavit from the client confirming all of the relevant information. It is also our practice to index the affidavit at the Land Registry Office and refer to the affidavit in the Transmission Application.
- The applicant will also need to provide a “Covenant to Indemnify the Land Titles Assurance Fund.

- Schedule “E” contemplates a couple who owned the property jointly, with only the Will of the last to die being relevant for the transmission application.

VI. Current Issus on Multiple Wills

General

- We know that after *Granovsky Estate v. Ontario*, and in light of section 32.(3) of the *Estates Act* and the introduction of form 74.4.1 (and 74.5.1) - Application for Certificate of Appointment of Estate Trustee with a Will (Individual Applicant) Limited to Assets Referred to In the Will – we can use a second, or “limited”, Will for property that will not require a Certificate to administer.
- Usually multiple Wills will define “Primary Estate” and “Secondary Estate”, or “General Estate” and “Limited Estate”, allocating personal property, interests in private companies, and a catch-all for any other property that can be administered without a Certificate to the Limited Estate or Secondary Estate.

Private Companies with Sole Owner/Operator

- This is a particular problem because, while the Estate Trustee may have authority under the Limited Will to administer the company, the deceased’s bank may not be satisfied that the Limited Will is the last Limited Will without probate, will therefore not be satisfied by the shareholder resolutions and directors resolutions giving signing authority to the Estate Trustee or

somebody else, and will thereby defeat the probate planning that was the vary purpose of the multiple Wills.

- Depending on the circumstances in issue, appointing a co-director might be a good solution, as the surviving director's authority does not rely on any Will, and the surviving director should have authority to appoint a new banking officer if necessary.

Dealing with Joint Accounts/Property after Pecore

- *Pecore v. Pecore* clarified that there is a presumption of resulting trust in favour of the estate over assets held jointly with anyone but a deceased's spouse where the surviving joint owner did not contribute to the account.
- The application forms under Rule 74 also provide that the value of property held jointly "and passing by right of survivorship" need not be included in the application for determining the Estate Administration Tax payable.
- Given the presumption of resulting trust after *Pecore*, it is not a given that jointly-held assets will pass by right of survivorship, and where the surviving joint owner intends to include the relevant property as part of the estate for distribution purposes, the jointly-held property must be included in the relevant Rule 74 forms in calculating the Estate Administration Tax payable.

- Where jointly-held assets are significant, this might justify the use of multiple wills. The testator could also then include an evidentiary statement in the Limited Will as to his or her intentions that jointly-held property form part of the Limited Estate. See example language at Schedule "F".

When to Use More than Two Wills

- A common concern in multiple Will situations arises when one or more assets intended to pass under a Limited Will might require a Certificate because a third party is unwilling to rely on the Will alone. The usual language defining "General Estate" and "Limited Estate" might cause the whole Limited Estate to be included for Estate Administration Tax purposes because one asset in the Limited Estate cannot be dealt with without a certificate.
- One solution might be to make more than two Wills, designating some property or classes of property that we are certain will not require probate (e.g. joint accounts being included in the estate) to a "First Limited Will" and property that might require probate to a "Second Limited Will".
- We have also recently been experimenting with language to ensure that if an Estate Trustee probates a General Will based on the value of property expected to form part of the General Estate and later it is determined that a particular asset intended to pass under a Limited Will requires a Certificate for its administration, the Estate Trustee can use the probated General Will to administer that asset and

rectify the Estate Administration Tax issue by paying probate fees on the value of the asset with an accompanying affidavit similar to that used with respect to subsequently discovered property. See Schedule "G" for language to use to define "General Estate" for your consideration.

Dealing with Beneficial Interests

- Multiple Wills might also be used to deal with beneficial interests of the deceased that would otherwise form part of the property of the deceased for probate.
- This might occur in bare trust situations where the trustee is a trustee in name only. It also can include a deceased's beneficial interest in jointly held property where the presumption of resulting trust applies to the property. Multiple Wills are not usually relevant for keeping beneficial interests out of probate in cases of formal inter-vivos trust agreements, alter ego trusts, etc.
- One instance where we included beneficial interests in the definition of "Limited Will" was in the case of a father who had added his daughter as joint owner of his home, and a simple trust declaration had been prepared evidencing that the daughter held her interest in the home for the benefit of her father during his lifetime, and for the benefit of his estate on his death. In this case the home would seemingly have formed part of the estate property subject to probate without the use of multiple Wills.

- Another instance is the case of a client, of his or her own devices, purchasing real property but registering it in the name of another party “in trust” for creditor protection or other reasons without any formal trust arrangements. The client in fact exercises full control of the property and the registered owner acts solely on the instructions of the client. We have used multiple wills in this situation to keep the property out of probate on the death of the client, but have been advised by our commercial real estate group that if they were acting for a purchaser, they would ask for the consent of an Estate Trustee appointed by a Certificate of Appointment if after the death of the client the bare trustee attempted to sell the property. This is another example of why careful drafting is important if there is a chance any individual asset could require probate of the Limited Will.

Schedule "A"

Court File No. ●

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE ESTATE OF ●

AFFIDAVIT

I, ●, make oath and say that:

1. I am the Applicant for a Certificate of Appointment of Estate Trustee and have filed the Application together with a deposit in an amount equal to the estate administration tax payable in accordance with the Estates Administration Tax Act, 1998.
2. At the time of filing this Application, the amount deposited on account of the estate administration tax is based upon an estimate of the value of the estate.
3. It is my understanding that the estate consists of the property municipally described as ● along with several bank accounts and investments.
4. I hereby undertake, pursuant to subsection 4(3) of the Estates Administration Tax Act, 1998, within six months after the date of this Undertaking to:
 - (a) file a sworn statement of the actual total value of the estate of the deceased; and
 - (b) pay any additional tax payable under this Act if the actual value is higher than the estimated value.

SEVERALLY SWORN before me at the)
 Town of ●, in the)
 Regional Municipality of ●)
 This ● day of ●, 2009.)
)

●

a Commissioner, etc.

Schedule "B"

Court File No. ●

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE ESTATE OF ●

AFFIDAVIT

I, ●, make oath and say that:

1. I am the Estate Trustee of the estate of ● who died on ●, 2008.
2. A Certificate of Appointment of Estate Trustee With a Will was issued on ●, 2008, and numbered ●.
3. At the time of my application for a Certificate of Estate Trustee with a Will, I approximated the value of the estate to be \$1,367,168.72 based on information then available to me, and a deposit on account of estate administration tax was paid in the amount of \$20,020.00. This estimate was based primarily on my rough estimates of the value of the deceased's real properties and the mortgages against the properties.
4. I have now obtained valuations of all of the properties and discovered that all but one was in very serious disrepair. Below is a summary of the correct value of the estate's real properties at the deceased's death based on the valuations attached as exhibits, and the mortgages against each property:

Address	Value	Mortgage	Net for Estate Administration Taxes
●	\$525,000.00 (Exhibit "A")	\$111,404.41	\$413,515.59
●	\$282,000.00 (Exhibit "B")	\$163,821.23	\$118,178.77
●	\$82,500.00 (Exhibit "C")	\$83,347.57	(\$847.57)
●	\$225,000.00 (Exhibit "D")	\$85,231.08	\$139,768.92
●	\$308,800.00 (Exhibits "E" and "F")	\$161,143.23	\$146,856.77
		Total	\$817,472.48

- 5. I now believe I have accounted for all of the deceased's personal property, mainly consisting of bank and investment accounts. The total value of the deceased's personal property at his death is \$87,369.70.
- 6. I note the deceased owned the only issued common share in XYZ Limited, the Ontario corporation which (**nature of business**). It became apparent soon after the deceased's death that the company relied completely on the deceased and had little value without him. At the time of my application the company's expenses exceeded its income, and I have been unable to sell the deceased's business despite concerted attempts and discussions with multiple potential buyers. I believe the said single common share had no market value at the deceased's death, and at the date of this affidavit, the company is insolvent.
- 7. The total value of the deceased's estate as at his death was therefore \$904,842.18, for a total Estate Administration Tax payable in the amount of \$13,075.00.
- 8. I make this affidavit in support of my application for a refund of \$6,945.00 of the \$20,020.00 deposit towards estate administration tax and for no improper purpose.

SEVERALLY SWORN before me at the)
 City of ●, in the)
 Regional Municipality of ●)
 this day of April, 2009.) _____
 ●

a Commissioner, etc.

Schedule "C"

Court File No. _____

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE ESTATE OF ●

AFFIDAVIT

I, ●, make oath and say that:

1. I am the applicant for Certificate of Appointment of Estate Trustee with a Will in this estate.
2. ● died on ●, 2009.
3. The only assets in the Estate of ● are real property municipally described as ●, Toronto, Ontario ("the Property"), a refund owing to the estate of prepaid cable television services and personal and household articles. Until the Certificate of Appointment is granted and I have authority to sell the Property there are insufficient monies in the estate available to pay the estate administration tax.
4. I estimate the value of the Property to be approximately \$●.
5. I estimate the value of the refund of cable television services and personal and household articles to be approximately \$●.
6. The funeral expenses have been paid in full.
7. The deceased did not own or operate a business at the time of her death.
8. I undertake to pay the estate administration tax within six (6) months of the granting of the Certificate of Appointment or as soon as the Property can be sold.
9. I further undertake to disclose to the Court any additional assets of the Estate I discover.
10. The Certificate of Appointment of Estate Trustee with a Will is required to enable me to sell the Property set out above.

11. This Affidavit is made in support of my application for Certificate of Appointment of Estate Trustee with a Will without paying estate administration tax at this time and for no other improper purpose.

SEVERALLY SWORN before me at the)
City of Mississauga, in the)
Regional Municipality of Peel)
this day of ●, 2009.)

●

a Commissioner, etc.

Schedule "D"



MINISTRY OF
CONSUMER AND
BUSINESS
SERVICES

Ontario

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #59

PAGE 1 OF 1
PREPARED FOR byagr01
ON 2004/07/19 AT 12:26:36

PROPERTY DESCRIPTION: LT 31 PL 879 FORT COBORNE ; S/7 R081878 FORT COBORNE

PROPERTY REGAINS:

ESTATE/QUALIFIER:
FREE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
FIRST CONVERSION FROM BOOK

DTM CREATION DATE:
1999/02/15

OWNERS' NAMES

CAPACITY SHARES
BENEF

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
EFFECTIVE 2000/07/29	THIS NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/02/15 ON THIS PIN					
WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/02/15						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT AND ESCHENTS OR FORFEITURE TO THE CROWN.				PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *		
** THE RIGHTS OF ANY PERSON WHO HOLED, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/02/15 **						
R081878	1996/10/15	TRANSFER BASEMENT				C
R0631542	1995/07/19	TRANSFER	\$97,000			C
R0701051	1996/01/31	NOTICE OF CLAIM				C
		REMARKS: R081878				

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

Schedule "E"

AFFIDAVIT AS TO FIRST DEALING AFTER PROPERTY

CONVERTED TO LAND TITLES

IN THE ESTATE OF ●, DECEASED

I, ●, of the City of Mississauga, in the Regional of Municipality of Peel, make oath and say that:

1. I, ●, am the daughter of the late **Husband** and the late **Wife** and as such have knowledge of the matters herein deposed.
2. The late **Husband** died on the ● day of ●, ●, a notarial copy of the Funeral Director's Proof of Death certificate is attached as Exhibit "A" to this my affidavit.
3. **Note: add spousal statement – husband was married to and not separated from wife at his death, etc.**
4. The late **Wife** died on the ● day of ●, ●, a notarial copy of the Funeral Director's Proof of Death certificate is attached as Exhibit "B" to this my affidavit.
5. **Note: add spousal statement – wife was not a spouse at her death, etc.**
6. **Husband** and **Wife** are the owners, as joint tenants, of the property described as Lot ●, Plan ● in the City of Toronto (the "Property").
7. The Property has been converted from Registry to Land Titles by the Ministry.
8. The transaction is the first dealing after conversion of the Property.
9. **Note: add statement about debts – subject to debts/debts of estate have paid in full**
10. The last Will of **Wife** dated the ● day of ●, ● is the last Will and was properly executed and witnessed and that a certificate of appointment of estate trustee was not applied for. A notarial copy of the last Will of **Wife** dated the ● day of ●, ● is attached as Exhibit "C" to this my affidavit.
11. The Testator was of the age of majority at the time of the execution of the Will and the Will has not been revoked by the marriage of the Testator or otherwise.

SWORN before me at the City)
of Mississauga, in the Regional)
Municipality of Peel)
this ● day of ●, 2009.)
)

_____)
●)

A Commissioner etc.

COVENANT TO INDEMNIFY THE LAND TITLES ASSURANCE FUND

IN THE MATTER OF THE APPLICATION BY ● to be entered as owner of the property in PIN #●-● as Estate Trustee of ●, deceased

THIS AGREEMENT made this day of January, 2007.

B E T W E E N:

Estate Trustee ("the Covenantor")

And

Her Majesty in right of Ontario

WHEREAS:

1. The Covenantor is the Estate Trustee named in the last will of ●, dated ●;
2. ● died on the ● day of ●, 200●.
3. The property in PIN #●-● has been converted from Registry to Land Titles by the Ministry. The Transmission to enter the Covenantor as owner as Estate Trustee of ●, is the first dealing after conversion of the property.
4. The Will indexed as # is the last Will of ● and a Certificate of Appointment of Estate Trustee is not being applied for. ● was of the age of majority at the time of execution of the Will and the Will has not been revoked by the marriage of ● or otherwise.
5. The Covenantor has applied to be entered on the PIN as owner as Estate Trustee of ●.

The Covenantor, in consideration of the Land Registrar entering him as owner as Estate Trustee of ● on the title to the said PIN, for the Covenantor, the Covenantor's administrators, executors, estate trustees and assigns, covenant with Her Majesty in right of Ontario, represented by the Director of Titles, that the Covenantor shall keep indemnified Her Majesty in right of Ontario, her successors and assigns, from and against all loss or diminution of the assurance fund under the *Land Titles Act*, or established or continued under any other Act of the Province of Ontario, in respect of any valid claim that may hereafter be made on account of the circumstances set out above, and also against all costs in respect thereof and will pay such amount as anyone claiming as aforesaid may be adjudged to be entitled to recover in respect of the premises and costs.

IN WITNESS WHEREOF I have hereunto set out my hand and seal.

SIGNED, SEALED AND DELIVERED
in the presence of

)
)
) _____
) Name:
)

Schedule "F"

Language to Bring Jointly Held Property into Limited Estate

1. **Accounts and other Property Held Jointly** – At the date of the execution of this my Limited Will, I hold certain accounts and other property jointly with my daughter, ●, and I may from time to time hereafter add ● or another of my daughters as joint owner of my property. For greater clarity, it is my intention that any property held jointly with any of my daughters at my death form part of my Limited Estate notwithstanding that it is held jointly with right of survivorship.

Schedule "G"

Definition of "General Estate" to Avoid an Asset Tainting Limited Estate

1. **General Estate** - The term "my General Estate" for all purposes of this my General Will and my Limited Will shall refer to all of my property of every nature and kind owned by me at the date of my death and wheresoever situate, including any property over which I may have a general power of appointment, other than:
 - (a) any shares or other interests, which I may have at the date of my death in, and any amounts owing to me at the date of my death from, any private corporations in which I may have an interest or which may owe money to me at the date of my death provided that my Trustees are able to deal with such shares, interests and/or amounts owing without a Certificate of Appointment of Estate Trustee,
 - (b) any beneficial interest in real property which I may have at the date of my death if my Trustees are able to deal with such interest without a Certificate of Appointment of Estate Trustee; and
 - (c) all other assets owned by me at the date of my death which my Trustees may collect in and deal with without a Certificate of Appointment of Estate Trustee.

It is my intention to exclude such assets from my General Will and to deal with their disposition only pursuant to my Limited Will.