



**The Law Society
of Manitoba**

INCORPORATED 1877 | INCORPORÉ EN 1877

WILLS AND ESTATES

Chapter 4

Probate and Administration of Estates
Forms and Precedents

June 2020

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1. Request for Probate of Will (Form 74A)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF MARGARET JONES, Deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in Manitoba, Retired, hereby request that probate of the last will of the deceased be granted to me ~~(us)~~ (or as the case may be) based on the following information:

1. THAT MARGARET JONES, late of the City of Winnipeg, in Manitoba, died on the 18th day of July, 2004, having duly made ~~(his/her)~~ last will on the 7th day of June, 2003, which is identified by ~~(my/our)~~ signature~~(s)~~.

2. THAT at the time of ~~(his/her)~~ death, the deceased [choose all statements below that apply]

- ☒ had never married
- ☐ was married to: _____
- ☐ was divorced from: _____
- ☐ was predeceased by (his/her) spouse: _____

(Note: complete paragraph 3 only if the deceased died on or after June 30, 2004.)

3. THAT at the time of ~~(his/her)~~ death, the deceased [read the explanatory notes following paragraph 3, then choose all statements below that apply]

- ☒ had never cohabited with a common-law partner
- ☐ was cohabiting with (his/her) common-law partner: _____
- ☐ was separated from (his/her) common-law partner, _____, but their relationship had not been terminated
- ☐ had a common-law relationship with _____ that had been terminated
- ☐ was predeceased by (his/her) common-law partner: _____.

NOTE: For the purposes of this Form,

"common-law partner" of a deceased person means

- (a) a person who, with the deceased, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship
 - (i) for a period of at least three years, or
 - (ii) for a period of at least one year and they are together the parents of a child.

"termination of a common-law relationship" means

- (a) where the common-law relationship was registered with Vital Statistics, (under section 13.1 of *The Vital Statistics Act*), the dissolution of the relationship has been registered with Vital Statistics; or
- (b) where the common-law relationship was not registered with Vital Statistics, the parties to the common-law relationship have lived separate and apart for a period of at least three years.

4. THAT the deceased was of the full age of 18 years at the time of the execution of the will, and did not marry since then.
5. THAT I ~~(we)~~, CATHERINE BLACK am ~~(are)~~ the executrix named in the said will and am ~~(are)~~ of the full age of 18 years, and my residence~~(s)~~ and occupation~~(s)~~ is ~~(are)~~ above correctly stated.
6. THAT I ~~(we)~~ have not released my ~~(our)~~ rights to be an executrix.
7. THAT the deceased died possessed of, or entitled to, immovable property worth **\$62,500.00** and moveable property worth **\$281,267.00**, true particulars of which are set out in the attached inventory.

DATED this _____ day of _____, 2_____.

(signature)

I CERTIFY that no other request or notice of application in respect to the property of the deceased has been received by me, that no caveat against a grant of probate or administration of the property of the deceased has been received by me, and that no will of the deceased has been deposited in the Court of Queen's Bench.*

DATED this _____ day of

_____, _____.

Deputy Registrar

FILE

IN THE QUEEN'S BENCH
IN THE ESTATE OF
MARGARET JONES, Deceased

REQUEST FOR PROBATE

LET PROBATE ISSUE AS REQUESTED

Date: _____

Justice of the Court of Queen's Bench

Filed: _____

Deputy Registrar

Filed by: _____

Lawyer: _____

Telephone No.: _____

* If caveat filed, certify that a notice to caveator has been filed and served and that no probate action has been commenced within 30 days after service.

2. Inventory and Valuation of Property of the Deceased (Form 74B)

Description of Immoveable Property (including any interest in a real property mortgage)	Value of Property in Manitoba	Value of Property outside Manitoba
123 – 456 Pleasant Street, Winnipeg, MB (1/2 interest x \$125,000.00) ¹	\$62,500.00	Nil ²
	\$62,500.00	\$Nil
	TOTAL	\$62,500.00

¹ Either the street address or the legal description can be used.

² Either Nil or \$0 can be used.

Description of Moveable Property (list on separate sheet if necessary)	Value of Property in Manitoba	Value of Property outside Manitoba
furnishings and household effects in primary residence and clothing and personal effects	\$ 13,000.00	Nil
furnishings and household effects in other properties	Nil	Nil
motor vehicles and recreation vehicles such as boats, etc – list each separately		Nil
2001 Chrysler 300	5,500.00	
bank accounts – list each institution separately and indicate the type of accounts(s) (i.e. savings) and the amount in each account		Nil
Royal Bank of Canada savings account	39,053.00	
investments managed by investment companies (including stocks, shares, bonds and debentures) – list each investment company separately and indicate the total value of the investments with each company		Nil
Investors Dividend Fund	171,542.00	
stocks, shares, bonds and debentures held by the deceased – list each separately by company and category and indicate the value by category		Nil
Imperial Oil – 10 common shares	2,546.00	Nil
life insurance payable to the estate – list each separately by insurance company and the amount payable on each policy	Nil	
annuities, pensions, RRSP's, RRIF's, etc payable to the estate – list separately by company and give the value of each		Nil
Investors Mortgage Fund	48,626.00	Nil
miscellaneous property not mentioned – list separately and give the value of each ³	Nil	
TOTAL VALUE OF ALL MOVEABLE PROPERTY	\$280,267.00	\$Nil
		\$280,267.00
	GRAND TOTAL OF ALL PROPERTY	\$342,767.00

³ CPP, OAS and pension payments to which the deceased is entitled in the month of death should be included in the inventory. Other amounts that should also be included are any cash amounts that might be found in the deceased's belongings and refunds paid to the estate (for example, nursing home trust accounts and driver's licence fees)

NOTE:

Do not include (i) the address of any financial institution, insurance or other company; (ii) the account numbers of any bank accounts; (iii) the serial numbers of any bonds; or (iv) the serial number of any vehicle that can be sufficiently described without using a serial number.

NOTE TO ANY INTERESTED PERSONS, INCLUDING A CREDITOR:

Any interested person, including a creditor, may request more information about the estate assets from the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.1. Any interested person, including a creditor, who believes that an asset of the deceased has not been disclosed may give notice to the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.2.

3. Affidavit in Support of Request for Probate (Form 74C)

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF MARGARET JONES, Deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in the Province of Manitoba, Retired,

affirm and say:

1. **THAT** the allegations set forth in the application for probate and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** now produced to me, and marked as exhibit "A" to this affidavit, is the last will/~~a copy of the last will~~ of the deceased, who, at the time of death was habitually resident in Winnipeg, Manitoba.
3. **THAT** I do affirm that I will faithfully administer the property of the said testatrix according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of)
Winnipeg, in the Province of Manitoba,)
this ____ day of _____, 2____.)
)
)
)
)
)

CATHERINE BLACK

A Notary Public in and for the Province
of Manitoba.

Note: The client has to initial the change in paragraph 2, i.e. "last will/a copy of the last will".

Note: The affidavit can be sworn or affirmed in accordance with *The Manitoba Evidence Act* Division V. Be consistent throughout the documents.

4. Request for Probate of Will (Form 74A)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF LAWRENCE JACOB McDONALD, (also known as "**LARRY McDONALD**")
Deceased.

We, JAMES McDONALD, of the City of Winnipeg, in Manitoba, Businessman, and MICHAEL McDONALD, (shown in the will as "MIKE McDONALD"), of the City of Winnipeg, in Manitoba, Businessman, hereby request that probate of the last will of the deceased be granted to ~~me~~ (us) (or as the case may be) based on the following information:

1. THAT LAWRENCE JACOB McDONALD, late of the City of Winnipeg, in Manitoba, died on the 27th day of December, 2002, having duly made (his/~~her~~) last will on the 20th day of October, 2002, and Codicils to his last will dated November 1, 2002, November 15, 2002 and two Codicils dated December 26, 2002, which are identified by (~~my~~/our) signature(s).

2. THAT at the time of (his/~~her~~) death, the deceased [choose all statements below that apply]

- ☐ had never married
- ☒ was married to: Mary McDonald.
- ☐ was divorced from: _____
- ☐ was predeceased by (his/her) spouse: _____

(Note: complete paragraph 3 only if the deceased died on or after June 30, 2004.)

3. THAT at the time of (his/her) death, the deceased [read the explanatory notes following paragraph 3, then choose all statements below that apply]

- ☒ had never cohabited with a common-law partner
- ☐ was cohabiting with (his/her) common-law partner: _____
- ☐ was separated from (his/her) common-law partner, _____, but their relationship had not been terminated
- ☐ had a common-law relationship with _____ that had been terminated
- ☐ was predeceased by (his/her) common-law partner:

NOTE: For the purposes of this Form,

"common-law partner" of a deceased person means

- (a) a person who, with the deceased, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship
 - (i) for a period of at least three years, or
 - (ii) for a period of at least one year and they are together the parents of a child.

"termination of a common-law relationship" means

- (a) where the common-law relationship was registered with Vital Statistics, (under section 13.1 of *The Vital Statistics Act*), the dissolution of the relationship has been registered with Vital Statistics; or
- (b) where the common-law relationship was not registered with Vital Statistics, the parties to the common-law relationship have lived separate and apart for a period of at least three years.

4. THAT the deceased was of the full age of 18 years at the time of the execution of the will, and did not marry since then.
5. THAT I (we), JAMES McDONALD, and MICHAEL McDONALD ~~am~~ (are) the executor(s) named in the said will and ~~am~~ (are) of the full age of 18 years, and our residence(s) and occupation(s) ~~is~~ (are) above correctly stated.
6. THAT I (we) have not released ~~my~~ (our) rights to be an executor.
7. THAT the deceased died possessed of, or entitled to, immovable property worth **\$100,000.00** and moveable property worth **\$1,452,346.00**, true particulars of which are set out in the attached inventory.

DATED this _____ day of _____, 2__.

James McDonald

DATED this _____ day of _____, 2__.

Michael McDonald

I CERTIFY that no other request or notice of application in respect to the property of the deceased has been received by me, that no caveat against a grant of probate or administration of the property of the deceased has been received by me, and that no will of the deceased has been deposited in the Court of Queen's Bench.*

DATED this _____ day of

_____, _____.

Deputy Registrar

FILE

IN THE QUEEN'S BENCH
IN THE ESTATE OF
LAWRENCE JACOB McDONALD,
Deceased

REQUEST FOR PROBATE

LET PROBATE ISSUE AS REQUESTED

Date:_____

Justice of the Court of Queen's Bench

Filed:_____

Deputy Registrar

Filed by:_____

Lawyer:_____

Telephone No.:_____

* If caveat filed, certify that a notice to caveator has been filed and served and that no probate action has been commenced within 30 days after service.

5. Inventory and Valuation of Property of the Deceased (Form 74B)

Description of Immoveable Property (including any interest in a real property mortgage)	Value of Property in Manitoba	Value of Property outside Manitoba
Receivable from 12345 Manitoba Ltd. secured by a Mortgage	\$100,000.00	Nil
	\$100,000.00	\$Nil
	TOTAL	\$100,000.00

Description of Moveable Property (list on separate sheet if necessary)	Value of Property in Manitoba	Value of Property outside Manitoba
furnishings and household effects in primary residence and clothing and personal effects	\$ 5,000.00	Nil
furnishings and household effects in other properties	Nil	Nil
motor vehicles and recreation vehicles such as boats, etc – list each separately 1996 Pontiac Bonneville	3,500.00	Nil
bank accounts – list each institution separately and indicate the type of accounts(s) (i.e. savings) and the amount in each account CIBC chequing account	1,100.00	Nil
investments managed by investment companies (including stocks, shares, bonds and debentures) – list each investment company separately and indicate the total value of the investments with each company	Nil	Nil
stocks, shares, bonds and debentures held by the deceased – list each separately by company and category and indicate the value by category PLEASE SEE ATTACHED SCHEDULE	1,441,345.00	Nil
life insurance payable to the estate – list each separately by insurance company and the amount payable on each policy	Nil	Nil
annuities, pensions, RRSPs, RRIFs, etc payable to the estate – list separately by company and give the value of each	Nil	Nil
miscellaneous property not mentioned – list separately and give the value of each Receivable from 67890 Manitoba Ltd.	1,401.00	Nil
TOTAL VALUE OF ALL MOVEABLE PROPERTY	\$1,452,346.00	\$Nil
		\$1,452,346.00
	GRAND TOTAL OF ALL PROPERTY	\$1,552,346.00

NOTE:

Do not include (i) the address of any financial institution, insurance or other company; (ii) the account numbers of any bank accounts; (iii) the serial numbers of any bonds; or (iv) the serial number of any vehicle that can be sufficiently described without using a serial number.

NOTE TO ANY INTERESTED PERSONS, INCLUDING A CREDITOR:

Any interested person, including a creditor, may request more information about the estate assets from the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.1. Any interested person, including a creditor, who believes that an asset of the deceased has not been disclosed may give notice to the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.2.

**SCHEDULE TO INVENTORY AND VALUATION OF THE
PROPERTY OF THE DECEASED**

Description of Moveable Property	Value of Property in Manitoba
54321 Manitoba Ltd. 563,000 Class A Preference Shares and 250 Class A Common Shares	\$ 722,745.00
76543 Manitoba Ltd. 225,000 Class A Preference Shares and 55 ½ Class A Common Shares	715,045.00
98765 Manitoba Ltd. 50 Class A Common Shares	<u>3,555.00</u> \$1,441,345.00

6. Affidavit in Support of Request for Probate (Form 74C) and Alternate Affidavit in Support of Request for Probate (Form 74C)

a) Affidavit in Support of Request for Probate (Form 74C)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF LAWRENCE JACOB McDONALD, (also and commonly known as "**LARRY McDONALD**"), Deceased.

I, JAMES McDONALD, of the City of Winnipeg, in the Province of Manitoba, Businessman,

affirm and say:

1. **THAT** the allegations set forth in the application for probate and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** now produced to me, and marked as exhibit "A" to this affidavit, is a copy of the last will and marked as exhibits "B", "C", "D" and "E" are copies of the codicils of the deceased, who, at the time of death was habitually resident in Winnipeg, Manitoba.
3. **THAT** I do affirm that I will faithfully administer the property of the said testator according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of)
Winnipeg, in the Province of Manitoba,)
this ____ day of _____, ____.

)

)

)

)

)

JAMES McDONALD

A Notary Public in and for the Province
of Manitoba.

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF LAWRENCE JACOB McDONALD, (also and commonly known as **LARRY McDONALD**), Deceased.

I, MICHAEL McDONALD (shown in the Will as "Mike McDonald"), of the City of Winnipeg, in the Province of Manitoba, Businessman,

affirm and say:

1. **THAT** the allegations set forth in the application for probate and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** now produced to me, and marked as exhibit "A" to this affidavit, is a copy of the last will and marked as exhibits "B", "C", "D" and "E" are copies of the codicils of the deceased, who, at the time of death was habitually resident in Winnipeg, Manitoba.
3. **THAT** I do affirm that I will faithfully administer the property of the said testator according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of)
Winnipeg, in the Province of Manitoba,)
this ____ day of _____, 2____.)
)
)

MICHAEL McDONALD

A Notary Public in and for the Province
of Manitoba.

b) Alternate Affidavit in Support of Request for Probate (Form 74C)

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF LAWRENCE JACOB McDONALD, (also and commonly known as **LARRY McDONALD**), Deceased.

I, JAMES McDONALD, of the City of Winnipeg, in the Province of Manitoba, Businessman, and I MICHAEL McDONALD (shown in the Will as "Mike McDonald") of the City of Winnipeg, in the Province of Manitoba, Businessman,

affirm and say:

1. **THAT** the allegations set forth in the application for probate and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** now produced to me, and marked as exhibit "A" to this affidavit, is a copy of the last will and marked as exhibits "B", "C", "D" and "E" are copies of the codicils of the deceased, who, at the time of death was habitually resident in Winnipeg, Manitoba.
3. **THAT** I do affirm that I will faithfully administer the property of the said testator according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of
Winnipeg, in the Province of Manitoba, this
_____ day of _____, 2_____

)
)
)
)
)

JAMES McDONALD

A Notary Public in and for the Province of
Manitoba.

AFFIRMED before me at the City of
Winnipeg, in the Province of Manitoba, this
_____ day of _____, 2_____

)
)
)
)
)

MICHAEL McDONALD

A Notary Public in and for the Province of
Manitoba.

7. Probate (Form 74J)

THE QUEEN'S BENCH WINNIPEG CENTRE

By the order of the Honourable (Mr.) (Mdm.) Justice _____, Justice of the Queen's Bench, dated the _____ day of _____, 2__, probate is hereby granted to KAY JOHNSON, retired, and The Amazing Trust Company, both of the City of Winnipeg, in the Province of Manitoba, the executors named in the last will and testament (a copy of which is attached), of RUTH PAUL (also known as "Ann Ruth Paul") of the City of Brandon, in the Province of Manitoba, teacher, who died on or about the 22nd day of November, 2__, and the administration of all the property of RUTH PAUL (also known as "ANNE RUTH PAUL") is hereby granted to the executors.

DATED at the City of Winnipeg, in the Province of Manitoba, this 15th day of December, 2__.

By the Court
(seal)

Deputy Registrar

Note: The front page of the form of Probate must be on an independent page from the BACKER (Cover Page) since the will must be inserted.

8. Request for Administration (Form 74L) and Inventory

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOE BLACK, Deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in Manitoba, Teacher, hereby request that administration of the property of the deceased be granted to me ~~(us)~~ (or as the case may be) based on the following information:

1. THAT JOE BLACK, late of the City of Winnipeg, in Manitoba, died intestate on the 18th day of July, 2_____.

2. THAT at the time of (his/~~her~~) death, the deceased [choose all statements below that apply]

☐ had never married

☐ was married to:

☐ was divorced from:

☒ was predeceased by (his/~~her~~) spouse: JANE BLACK on May 23, 1999.

(Note: complete paragraph 3 only if the deceased died on or after June 30, 2004.)

3. THAT at the time of (his/~~her~~) death, the deceased [read the explanatory notes following paragraph 3, then choose all statements below that apply]

☒ had never cohabited with a common-law partner

☐ was cohabiting with (his/her) common-law partner:

☐ was separated from (his/her) common-law partner, _____, but their relationship had not been terminated

☐ had a common-law relationship with _____ that had been terminated

☐ was predeceased by (his/her) common-law partner: _____.

If, at the time of (his/her) death, the deceased had one or more common-law partners, specify the date(s) when (the/each) relationship began and, if applicable the date(s) when the partners separated or the common-law relationship terminated.

If, at the time of (his/her) death, the deceased had a spouse in addition to one or more common-law partners, also specify the date of the marriage, and, if applicable, the date when the spouses separated.

NOTE: For the purposes of this Form,

"common-law partner" of a deceased person means

- (a) a person who, with the deceased, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship
 - (i) for a period of at least three years, or
 - (ii) for a period of at least one year and they are together the parents of a child.

"termination of a common-law relationship" means

- (a) where the common-law relationship was registered with Vital Statistics (under section 13.1 of *The Vital Statistics Act*), the dissolution of the relationship has been registered with Vital Statistics; or
- (b) where the common-law relationship was not registered with Vital Statistics, the parties to the common-law relationship have lived separate and apart for a period of at least three years.

4. THAT no marriage of the deceased or any form of marriage he/she went through was ever dissolved or annulled, the deceased was not separated from a spouse or common-law partner, and no common-law relationship of the deceased was ever terminated.

NOTE: If otherwise, give particulars of any dissolution or annulment of a marriage or any termination of a common-law relationship, and state whether there has been a remarriage or subsequent common-law relationship. If there has been a remarriage or subsequent common-law relationship, also state whether the deceased's former spouse and/or common-law partner was alive at the time of the deceased's death.

If at the time of the intestate's death, the intestate was living separate and apart from a spouse and/or one or more common-law partners, state this fact and whether, in each case:

- (a) during the period of separation, either the intestate or the spouse, or both, filed a petition for divorce and whether such petition is pending or has been dealt with by way of final order at the time of the intestate's death; or
- (b) if the common-law relationship of the intestate and his/her common-law partner was registered under section 13.1 of *The Vital Statistics Act*, the dissolution of the common-law relationship was registered under section 13.2 of the Act before the intestate's death; or
- (c) if the common-law relationship of the intestate and his/her common-law partner was not registered under section 13.1 of *The Vital Statistics Act*, they had been living separate and apart for a period of at least three years at the time of the intestate's death; or
- (d) during the period of separation, either the intestate or the spouse or common-law partner, or both, made an application for an accounting or equalization of assets under *The Marital Property Act* or *The Family Property Act* and whether such application is pending or has been dealt with by way of final order at the time of the intestate's death; or
- (e) before the intestate's death, the intestate and the spouse or common-law partner divided their property in a manner that was intended by them, or appears to be have intended by them to separate and finalize their affairs in recognition of their marriage or common-law relationship breakdown.

5. THAT the deceased had the following issue:

Name	Date of Birth	Name of other parent
CATHERINE BLACK	June 19, 1956	JANE BLACK
JOHN BLACK	March 4, 1960	JANE BLACK

6. THAT (~~I~~~~we~~) believe that the deceased died without leaving a will.
7. THAT particulars of those having equal or prior superior right to grant of administration of the estate are as follows:

Name	Address	Kinship	Age
John Black	1122 Happy Valley Way Winnipeg, MB	Brother	55

8. THAT the deceased died possessed of or entitled to immoveable property worth **\$0.00**, and moveable property worth **\$171,542.00**, true particulars of which are set out in the attached inventory.
9. THAT (~~I am~~~~we are each~~) of the full age of 18 years and Winnipeg, Manitoba (is my~~are~~~~our~~) habitual residence(s) and (~~I~~~~we~~) claim to be entitled to administration of the estate as daughter of the deceased.

DATED this _____ day of _____, 2_____.

(signature(s) of applicant)

I certify that a search has been done and that no will of the deceased has been deposited in the Court of Queen's Bench.

DATED this _____ day of _____, 2_____.

(signature of deputy registrar)

Note: Where there are no next-of-kin in Manitoba entitled to apply, then no one is listed in the paragraph of those having equal or superior right in paragraph 7. Only those living in Manitoba have a right to apply and to nominate.

Inventory and Valuation of the
Property of the Deceased

Description of Immoveable Property (including any interest in a real property mortgage)	Value of Property in Manitoba	Value of Property outside of Manitoba
	Nil	Nil
	\$Nil	\$Nil
	TOTAL	\$Nil

Description of Moveable Property (list on separate sheet if necessary)	Value of Property in Manitoba	Value of Property outside Manitoba
furnishings and household effects in primary residence and clothing and personal effects	\$100.00	Nil
furnishings and household effects in other properties	Nil	
motor vehicles and recreation vehicles such as boats, etc – list each separately	Nil	
bank accounts – list each institution separately and indicate the type of accounts(s) (i.e. savings) and the amount in each account	Nil	
investments managed by investment companies (including stocks, shares, bonds and debentures) – list each investment company separately and indicate the total value of the investments with each company	\$171,542.00	
Wellington West Financial Services Inc.	Nil	
stocks, shares, bonds and debentures held by the deceased – list each separately by company and category and indicate the value by category	Nil	
life insurance payable to the estate – list each separately by insurance company and the amount payable on each policy	Nil	
annuities, pensions, RRSP's, RRIF's, etc payable to the estate – list separately by company and give the value of each	Nil	
miscellaneous property not mentioned – list separately and give the value of each		
	\$171,642.00	\$Nil
TOTAL VALUE OF ALL MOVEABLE PROPERTY		\$171,642.00
	GRAND TOTAL OF ALL PROPERTY	\$171,642.00

NOTE:

Do not include (i) the address of any financial institution, insurance or other company; (ii) the account numbers of any bank accounts; (iii) the serial numbers of any bonds; or (iv) the serial number of any vehicle that can be sufficiently described without using a serial number.

NOTE TO ANY INTERESTED PERSONS, INCLUDING A CREDITOR:

Any interested person, including a creditor, may request more information about the estate assets from the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.1. Any interested person, including a creditor, who believes that an asset of the deceased has not been disclosed may give notice to the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.2.

9. Affidavit in Support Of Request For Administration (Form 74M)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOE BLACK, Deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in the Province of Manitoba, Teacher,

affirm and say:

1. **THAT** the allegations set forth in the request for administration and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** at the time of death, the deceased was habitually resident in Winnipeg, Manitoba.
3. **THAT** I have made or caused to be made a careful search in all places where the deceased might have been expected to keep papers but I have been unable to discover any testamentary paper, and I verily believe that the deceased died without having left any will.
4. **THAT** I do affirm that I will faithfully administer the property of the deceased according to law and render a full and true account of my administration when lawfully required.

AFFIRMED before me at the City of)
Winnipeg, in the Province of Manitoba, this)
_____ day of _____, 2____.)
)
)
)
)
)

CATHERINE BLACK

A Notary Public in and for the Province of
Manitoba.

10. Affidavit Filed in Support of Request for Waiver of Bond and/or Surety

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE MATTER OF: The Estate of Deceased, late of the City of Winnipeg,
 in Manitoba, deceased.

AFFIDAVIT OF APPLICANT

FILED IN SUPPORT OF A REQUEST FOR WAIVER OF BOND AND SURETIES

I, Catherine Black, of the City of Winnipeg, in Manitoba, Teacher,

affirm and say:

1. I am the applicant for administration referred to in the Request for Administration with will annexed being filed concurrently with this Affidavit in the estate of Deceased and dated the ____ day of _____, 2__.
2. I am the daughter of the deceased. The beneficiaries of the estate are myself and my brother, John Black.
3. Deceased was a widower. His wife, Jane Black died on ***.
4. Deceased, to the best of my knowledge and belief, did not leave him surviving any illegitimate children.
5. I advise that all of the beneficiaries of this estate are adults capable of giving their consent, that their consents are filed herewith and that the particulars of such beneficiaries are as follows:

<u>Name</u>	<u>Address</u>	<u>Kinship</u>	<u>Age</u>
John Black	1122 Happy Valley Way Winnipeg, MB	Son	55

6. The funeral expenses have been paid, but the final tax return has not been filed, and the following are, to the best of my knowledge, the debts of the estate of Deceased:

Canada Revenue Agency – taxes on terminal return	unknown
Accounting Fees	unknown
Legal Fees	unknown

7. That I request that the Court of Queen's Bench accept my application for letters of administration with will annexed and dispense with bond and with sureties.

8. That I make this Affidavit in good faith.

AFFIRMED before me at the City of
Winnipeg, in the Province of
Manitoba, this ____ day ____, 2__.

A Notary Public in and for the
Province of Manitoba.

)
)
)
)
)
)

CATHERINE BLACK

11. Nomination of Administrator (Form 74N)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOE BLACK, deceased.

Whereas Joe Black, died on the 18th day of July, 2___, intestate and the undersigned is his/~~her~~

- ☐ widow
- ☐ widower
- ☐ surviving common-law partner
- ☒ other: son

and his/~~her~~ next-of-kin (or as the case may be).

I do nominate CATHERINE BLACK to make a request in The Court of Queen's Bench for a grant of administration of the property of JOE BLACK, deceased.

IN WITNESS WHEREOF I have hereunto set my hand(s) this _____ day of _____, 2___.

SIGNED, in the presence of

Witness

JOHN BLACK

Note: Nomination forms are only signed by next-of-kin who are resident in Manitoba. Where there is no next-of-kin in Manitoba entitled to apply and someone is prepared to take on the position, then the next-of-kin outside of Manitoba sign nominations.

12. Affidavit of Execution of Nomination

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE MATTER OF THE ESTATE OF JOE BLACK, deceased.

I, _____ of the City of Winnipeg, in the Province of Manitoba, Lawyer, affirm:

1. That I was personally present and did see the within (or annexed) nomination duly signed by JOHN BLACK, the party therein named.
2. That I know the party so signing and that he is of the full age of 18 years.
3. That the renunciation was signed by the party at the City of Winnipeg in the Province of Manitoba.
4. That I am a subscribing witness to the signature.

Affirmed before me at the City of)
Winnipeg, in the Province of)
Manitoba, this ____ day of)
_____, 2____.)
)
)

Notary Public in and for the
Province of Manitoba

Note: If the affidavit is being signed in Manitoba, it can be affirmed or sworn before a Commissioner for Oaths. If it is being signed outside of Manitoba, then it must be affirmed or sworn before a Notary Public.

13. Bond for Administrators (or with Will Annexed or Foreign Executors) (Form 74S)

THE QUEEN'S BENCH Brandon Centre

IN THE ESTATE OF JOHN JOSEPH SMITH, deceased.

We, CATHERINE ELIZABETH JONES, widow of John Joseph Smith, LYNDON DAVID GRANT, dentist, and MARILYN BROWN, teacher, jointly and severally bind ourselves and our successors to Solomon Wiseman, Chief Justice of the Manitoba Court of Queen's Bench, in the sum of \$150,00.00.

The purpose of this bond is to ensure that Catherine Elizabeth Jones, administratrix of all the property of John Joseph Smith, late of the City of Brandon in the Province of Manitoba, who died on or about the 31st day of August, 2____, performs the duties as administratrix as set out below. If the administratrix performs these duties, this bond will be void. Otherwise, it will remain in full force.

The administratrix's duties are:

1. if required, to make and file with the court, a true inventory of the property of the deceased that has, or may come into the possession or power of the administratrix;
2. to administer all such property according to law;
3. to pay the debts of the deceased;
4. when lawfully required, to render a proper and full account of the administration; and
5. to distribute to the persons entitled, all property remaining after payments of the debts of the deceased and the costs of administration.

Date: November 10, 2

Witness: "I.M. Witness"

"C.E. Jones" (seal)

signature of administratrix

Date: November 10, 2

Witness: "I.M. Witness"

"Lyndon Grant" (seal)

signature of surety

Date: November 10, 2

Witness: "I.M. Witness"

"Marilyn Brown" (seal)

signature of surety

Note: This form of bond may be adapted for use by an administrator with will annexed or a foreign executor.

14. Affidavit of Execution of Bond (Form 74T)

THE QUEEN'S BENCH BRANDON CENTRE

IN THE MATTER OF THE ESTATE OF JOHN JOSEPH SMITH, deceased.

I, ISABEL MAY WITNESS of the City of Brandon in the Province of Manitoba, Barrister-at-Law, make oath and say:

1. That I was personally present and did see the within bond duly signed and sealed by CATHERINE ELIZABETH JONES, LYNDON DAVID GRANT and MARILYN BROWN, the parties therein named.
2. That I know the parties so signing and that each is of the full age of 18 years.
3. That the bond was signed and sealed by the parties at the City of Brandon, in the Province of Manitoba.
4. That I am a subscribing witness to the signatures.

(If one of the parties is a marksman, add)

5. That before signing, the bond was read over and explained to _____ who appeared to understand the same and made his mark thereto in my presence.

SWORN before)	
me at the City of Brandon,)	
in the Province of)	
Manitoba, this 10th	)	"I.M. Witness"
day of November, 2__	)	Isabel May Witness

"Jane Law"
A Notary Public in and for
the Province of Manitoba.

Note: Affidavits of execution of nomination, consent or other documents requiring proof will be in the same form, naming the instrument.

15. Affidavit of Justification by Sureties for Administration (Form 74U)

THE QUEEN'S BENCH BRANDON CENTRE

IN THE MATTER OF THE ESTATE OF JOHN JOSEPH SMITH, deceased.

We, LYNDON DAVID GRANT of the City of Brandon, in the Province of Manitoba, dentist and MARILYN BROWN, of the City of Brandon, in the Province of Manitoba, teacher, make oath and say:

1. That we are the proposed sureties on behalf of the intended administratrix of the property of John Joseph Smith, deceased, in the within bond named, for the faithful administration of that property of the deceased.

2. I, LYNDON DAVID GRANT, for myself make oath and say: That my residence and occupation are correctly stated above and I am worth property to the amount of \$100,000.00* over and above all encumbrances and over and above what will pay my just debts and every sum for which I am now bail, or for which I am liable as surety or endorser or otherwise.

3. I, MARILYN BROWN, for myself make oath and say: That my residence and occupation are correctly stated above and I am worth property to the amount of \$50,000.00* over and above all encumbrances and over and above what will pay my just debts and every sum for which I am now bail, or for which I am liable as surety or endorser or otherwise.

4. That we are each of the full age of 18 years.

The above named deponents,)
LYNDON DAVID GRANT and)
MARILYN BROWN, were severally)
sworn before me the 10th day of)
November, 2____, at the City of)
Brandon, in the Province of Manitoba)

_____))
"Jane Law"
A Notary Public in and
for the Province of Manitoba.

LYNDON DAVID GRANT

MARILYN BROWN

***See Rule 74.11(4) as to amount.**

16. Administration (Form 74R)

COURT OF QUEEN'S BENCH WINNIPEG CENTRE

By the order of the Honourable _____ Justice _____, Justice of the Queen's Bench, dated the ____ day of _____, 2__, administration is hereby granted to _____, of the _____ of _____, in the Province of Manitoba, (occupation), with respect to all the property of (name of deceased) of the _____ of _____, in the Province of Manitoba, (occupation), who died on, or about the ____ day of _____, 2__, intestate.

DATED at _____ in _____, this ____ day of _____, 2__.

By the Court
(Seal)

Deputy Registrar

17. Request for Administration with Will Annexed (Form 74D)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOE BLACK, deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in the Province of Manitoba, Teacher, hereby request that administration with the Will annexed of the property of the deceased be granted to me (~~us~~), (or as the case may be) based on the following information:

1. THAT JOE BLACK, late of the City of Winnipeg, in Manitoba, died on the 18th day of July, 2004, having duly made (his/~~her~~) last will on the 7th day of June, 2003, which is identified by (my/~~our~~) signature(s).

2. THAT at the time of (his/~~her~~) death, the deceased [choose all statements below that apply]

- ☐ had never married
- ☐ was married to: _____
- ☐ was divorced from: _____
- ☒ was predeceased by (his/~~her~~) spouse: JANE BLACK on May 23, 1999.

(Note: complete paragraph 3 only if the deceased died on or after June 30, 2004.)

3. THAT at the time of (his/~~her~~) death, the deceased [read the explanatory notes following paragraph 3, then choose all statements below that apply]

- ☒ had never cohabited with a common-law partner
- ☐ was cohabiting with (his/her) common-law partner: _____
- ☐ was separated from (his/her) common-law partner, _____, but their relationship had not been terminated
- ☐ had a common-law relationship with _____ that had been terminated
- ☐ was predeceased by (his/her) common-law partner: _____.

If, at the time of (his/~~her~~) death, the deceased had one or more common-law partners, specify the date(s) when (the/each) relationship began and, if applicable, the date(s) when the partners separated or the common-law relationship terminated.

If at the time of (his/~~her~~) death, the deceased had a spouse in addition to one or more common-law partners, also specify the date of the marriage, and, if applicable, the date when the spouses separated.

NOTE: For the purposes of this Form,

"common-law partner" of a deceased person means

- (a) a person who, with the deceased, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship
 - (i) for a period of at least three years, or
 - (ii) for a period of at least one year and they are together the parents of a child.

"termination of a common-law relationship" means

- (a) where the common-law relationship was registered with Vital Statistics (under section 13.1 of *The Vital Statistics Act*, the dissolution of the relationship has been registered with Vital Statistics; or
- (b) where the common-law relationship was not registered with Vital Statistics, the parties to the common-law relationship have lived separate and apart for a period of at least three years.

4. ~~THAT no executor is named in that will (or codicil).~~
or
THAT JOHN BLACK, the executor named in that will, has by deed duly renounced all right and title to the probate and execution of that will (and codicil).
5. THAT the deceased was of the full age of 18 years at the time of the execution of the will, and did not marry since then.
6. THAT the deceased died possessed of or entitled to immoveable property worth **\$Nil**, and moveable property worth **\$171,542.00**, true particulars of which are set out in the attached inventory.
7. THAT particulars of those having equal or prior superior right to grant of administration of the estate are as follows:*

Name	Address	Kinship	Age
------	---------	---------	-----

None

8. ~~THAT I, (we)~~ CATHERINE BLACK ~~am (are each)~~ of the full age of 18 years, and my habitual residence(s) and occupation(s) are above correctly stated, and I claim to be entitled to administration of the estate as daughter of the deceased.

(date)

(signature)

***A minor who has an equal or prior superior right is not included.**

INVENTORY AND VALUATION OF THE
PROPERTY OF THE DECEASED

Description of Immoveable Property (including any interest in a real property mortgage)	Value of Property in Manitoba	Value of Property outside of Manitoba
	Nil	Nil
	\$Nil	\$Nil
	TOTAL	\$Nil

Description of Moveable Property (list on separate sheet if necessary)	Value of Property in Manitoba	Value of Property outside Manitoba
furnishings and household effects in primary residence and clothing and personal effects	\$100.00	Nil
furnishings and household effects in other properties	Nil	Nil
motor vehicles and recreation vehicles such as boats, etc – list each separately	Nil	Nil
bank accounts – list each institution separately and indicate the type of accounts(s) (i.e. savings) and the amount in each account	Nil	Nil
investments managed by investment companies (including stocks, shares, bonds and debentures) – list each investment company separately and indicate the total value of the investments with each company		
WELLINGTON WEST FINANCIAL SERVICES INC.	\$171,542.00	Nil
stocks, shares, bonds and debentures held by the deceased – list each separately by company and category and indicate the value by category	Nil	Nil
life insurance payable to the estate – list each separately by insurance company and the amount payable on each policy	Nil	Nil
annuities, pensions, RRSPs, RRIFs, etc payable to the estate – list separately by company and give the value of each	Nil	Nil
miscellaneous property not mentioned – list separately and give the value of each	Nil	Nil
	\$171,642.00	\$Nil
TOTAL VALUE OF ALL MOVEABLE PROPERTY		\$171,642.00
	GRAND TOTAL OF ALL PROPERTY	\$171,642.00

NOTE:

Do not include (i) the address of any financial institution, insurance or other company; (ii) the account numbers of any bank accounts; (iii) the serial numbers of any bonds; or (iv) the serial number of any vehicle that can be sufficiently described without using a serial number.

NOTE TO ANY INTERESTED PERSONS, INCLUDING A CREDITOR:

Any interested person, including a creditor, may request more information about the estate assets from the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.1. Any interested person, including a creditor, who believes that an asset of the deceased has not been disclosed may give notice to the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.2.

18. Affidavit in Support of Request for Administration with Will Annexed (Form 74E)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOE BLACK, Deceased.

I, CATHERINE BLACK, of the City of Winnipeg, in the Province of Manitoba, Teacher,

affirm and say:

1. **THAT** the allegations set forth in the request for administration with Will annexed and in the inventory and valuation are true to the best of my knowledge and belief.
2. **THAT** now produced by me, and marked as Exhibit "A" to this affidavit, is the last will ~~a copy of the last will~~ of the deceased, who, at the time of death, was habitually resident in Winnipeg, Manitoba.
3. **THAT** I will faithfully administer the property of the said testatrix/tor according to law and render a full and true account of my administration when lawfully required.

AFFIRMED before me at the City of
Winnipeg, in the Province of Manitoba, this
_____ day of _____, 2____.

A Notary Public in and for the Province of
Manitoba.

)
)
)
)
)
)
)

CATHERINE BLACK

19. Administration with Will Annexed (Form 74K)

THE QUEEN'S BENCH WINNIPEG CENTRE

By order of the Honourable _____ Justice _____, Justice of the Queen's Bench, dated the ____ day of _____, 2____, administration is hereby granted to CATHERINE BLACK, of the City of Winnipeg, in the Province of Manitoba, teacher, with respect to the last will and testament of JOE BLACK (a copy of which is attached), and all the property of JOE BLACK of the City of Winnipeg, in the Province of Manitoba, retired electrician, who died on or about the 18th day of July, 2____, the executor named in the will having renounced.

DATED at the City of Winnipeg, in the Province of Manitoba, this ____ day of _____, 2____.

By the Court
(seal)

Deputy Registrar

Note: The front page of the form of Administration with Will Annexed must be on an independent page from the BACKER (cover page) since the will must be inserted.

20. Letters of Administration of Estate Unadministered

THE QUEEN'S BENCH WINNIPEG CENTRE

By the order of the Honourable _____, Justice of the Queen's Bench,
dated the ____ day of _____, ____.

Be it known that _____ late of the City of Winnipeg, in the Province of Manitoba,
deceased, died on or about the ____ day of _____, ____, and at the time of *his/her* death was
habitually resident at the said City of Winnipeg, in the Province of Manitoba, and that since
his/her death

TO WIT:

In the month of _____, ____, Letters of Administration of all and singular *his/her* estate and
effects, rights and credits were granted and committed by this Court to _____, of the City
of Winnipeg, in the Province of Manitoba, the lawful *widow/er* of the said deceased, which
Letters of Administration now remain on record in this Court, who after taking such
administration upon *him/her* died leaving part of the estate unadministered.

Be it further known that on the _____ day of _____, 2015, Letters of Administration
of the Estate Unadministered were granted by this Court to _____, of the City of
Winnipeg, in the Province of Manitoba, the lawful _____ of the said deceased.

DATED at Winnipeg, in Manitoba, this _____ day of _____, 2021.

File No.: PR_-01-_____

By the Court

Deputy Registrar

21. Request for Resealing of Foreign Grant of Probate (Form 74R.1)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JANE SMITH Deceased.

I ~~(We)~~ WALTER WHITE, of the City of Princeton, in the State of New Jersey, United States of America, and I, Samantha Brown, of the City of Stanford, in the State of Connecticut, United States of America, Stock Broker, hereby request that the foreign grant of probate of the last will of the deceased be resealed by this court based on the following information:

1. THAT JANE SMITH, late of the City, County and State of New York, United States of America died on the 2nd day of December, 2005, having duly made ~~(his/her)~~ last will on the 19th day of November, 1999, which is identified by ~~(my/our)~~ signature(s).

2. THAT at the time of ~~(his/her)~~ death, the deceased [choose all statements below that apply]

- ☐ had never married
- ☒ was married to: FRANK SMITH
- ☐ was divorced from: _____
- ☐ was predeceased by (his/her) spouse: _____

(Note: complete paragraph 3 only if the deceased died on or after June 30, 2004.)

3. THAT at the time of (his/her) death, the deceased [read the explanatory notes following paragraph 3, then choose all statements below that apply]

- ☒ had never cohabited with a common-law partner
- ☐ was cohabiting with (his/her) common-law partner: _____
- ☐ was separated from (his/her) common-law partner, _____, but their relationship had not been terminated
- ☐ had a common-law relationship with _____ that had been terminated
- ☐ was predeceased by (his/her) common-law partner: _____.

NOTE: For the purposes of this Form,

"common-law partner" of a deceased person means

- (a) a person who, with the deceased, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship
 - (i) for a period of at least three years, or
 - (ii) for a period of at least one year and they are together the parents of a child.

"termination of a common-law relationship" means

- (a) where the common-law relationship was registered with Vital Statistics, (under section 13.1 of *The Vital Statistics Act*), the dissolution of the relationship has been registered with Vital Statistics; or
- (b) where the common-law relationship was not registered with Vital Statistics, the parties to the common-law relationship have lived separate and apart for a period of at least three years.

4. THAT probate of the last will of the deceased (or specify equivalent document) was granted by the Surrogate Court of the County of New York, on the 17th day of May, 2____, and a grant of probate (or specify equivalent document) was issued out of that court on that date.
5. THAT the deceased was of the full age of 18 years at the time of the execution of the will, and did not marry since then.
6. THAT I (we), WALTER WHITE and SAMANTHA BROWN ~~am~~ (are) the executor(s) named in the said will and ~~am~~ (are) of the full age of 18 years, and (~~my~~/our) residence(s) and occupation(s) (~~is~~/are) above correctly stated.
7. THAT (~~I~~/we) have not released (~~my~~/our) rights to be an executor.
8. THAT the deceased died possessed of, or entitled to, immovable property in Manitoba worth **\$10,100.00** and moveable property in Manitoba worth **\$Nil**, true particulars of which are set out in the attached inventory.

(date)

(signature(s) of applicant(s))

(date)

(signature(s) of applicant(s))

INVENTORY AND VALUATION OF THE
PROPERTY OF THE DECEASED
IN MANITOBA

Description of Immoveable Property in Manitoba (including any interest in a real property mortgage)	Value of Property
SW ¼ 7-6-7 WPM, Excepting 1stly the E ½ of the S ½ of said quarter section, 2ndly Public Road Plan 869 MLTO (C Div) and 3rdly all mines and minerals as set forth in transfer 50559 (MLTO (C Div) – Certificate of Title No. 1768543 (1/3 interest of \$30,300.00)	\$10,100.00
	TOTAL \$10,100.00

Description of Moveable Property in Manitoba (list on separate sheet if necessary)	Value of Property
furnishings and household effects in primary residence and clothing and personal effects	Nil
furnishings and household effects in other properties	Nil
motor vehicles and recreation vehicles such as boats, etc – list each separately	Nil
bank accounts – list each institution separately and indicate the type of accounts(s) (i.e. savings) and the amount in each account	Nil
investments managed by investment companies (including stocks, shares, bonds and debentures) – list each investment company separately and indicate the total value of the investments with each company	Nil
stocks, shares, bonds and debentures held by the deceased – list each separately by company and category and indicate the value by category	Nil
life insurance payable to the estate – list each separately by insurance company and the amount payable on each policy	Nil
annuities, pensions, RRSPs, RRIFs, etc payable to the estate – list separately by company and give the value of each	Nil
miscellaneous property not mentioned – list separately and give the value of each	Nil
	\$Nil
TOTAL VALUE OF ALL MOVEABLE PROPERTY	\$Nil
GRAND TOTAL OF ALL PROPERTY	\$10,100.00

NOTE:

Do not include (i) the address of any financial institution, insurance or other company; (ii) the account numbers of any bank accounts; (iii) the serial numbers of any bonds; or (iv) the serial number of any vehicle that can be sufficiently described without using a serial number.

NOTE TO ANY INTERESTED PERSONS, INCLUDING A CREDITOR:

Any interested person, including a creditor, may request more information about the estate assets from the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.1. Any interested person, including a creditor, who believes that an asset of the deceased has not been disclosed may give notice to the executor(s) or administrator(s) under *Queen's Bench Rule* 74.06.2.

22. Affidavits in Support of Request for Resealing of Foreign Grant of Probate (Form 74R.3)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JANE SMITH, Deceased.

I, WALTER WHITE, of the City of Princeton, in the State of New Jersey, United States of America,
Attorney,

affirm and say:

1. THAT the allegations set forth in the request for resealing of foreign grant of probate (or specify equivalent document) and in the inventory and valuation are true to the best of my knowledge and belief.
2. Attached as exhibit "A" to this affidavit, is a duly certified copy of the grant of probate (or specify equivalent document) issued by the Surrogate's Court of the County of New York together with a certified copy of the last will and testament of the deceased.
3. THAT I am one of the executors named in the grant of probate (or specify equivalent document) and I do affirm that I will faithfully administer the property of the deceased according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of)
Princeton, in the State of New Jersey,)
this __ day of _____, _____.)
)
)
)
)
)

WALTER WHITE

A Notary Public in and for the State of
New Jersey.

**AFFIDAVIT IN SUPPORT OF REQUEST FOR
RESEALING OF FOREIGN GRANT OF PROBATE**

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF JANE SMITH, Deceased.

I, SAMANTHA BROWN, of the City of Stanford, in the State of Connecticut, United States of America, Stock Broker,

affirm and say:

1. THAT the allegations set forth in the application for resealing of foreign grant of probate (or specify equivalent document) and in the inventory and valuation are true to the best of my knowledge and belief.
2. Attached as exhibit "A" to this affidavit, is a duly certified copy of the grant of probate (or specify equivalent document) issued by the Surrogate's Court of the County of New York together with a certified copy of the last will and testament of the deceased.
3. THAT I am one of the executors named in the grant of probate (or specify equivalent document) and I do affirm that I will faithfully administer the property of the deceased according to law and render a full and true account of my executorship when lawfully required.

AFFIRMED before me at the City of)
Stanford, in the State of Connecticut,)
this ___ day of _____, _____.)

) **SAMANTHA BROWN**
)
)
)

A Notary Public in and for the State of
Connecticut.

23. Request for Order Under Section 47 of *The Court of Queen's Bench Surrogate Practice Act* (Form 74BB)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOHN SMITH, late of the City of Winnipeg, in the Province of Manitoba, Retired, deceased.

I, JOAN SMITH, of the City of Winnipeg, in the Province of Manitoba, Retired, make oath and say:

1. That I am of the full age of 18 years and that my place of residence and occupation are above correctly stated.
2. That JOHN SMITH, late of the City of Winnipeg, in the Province of Manitoba, Retired, died on or about the 20th day of July, 2____, at the City of Winnipeg, in the Province of Manitoba.
3. That I have made or caused to be made a careful search in all places where the deceased might have been expected to keep papers, but I have been unable to discover any testamentary paper and I verily believe that the deceased died without having left any will.
4. That I am the lawful widow of the deceased and the deceased left surviving (him or her) the following next-of-kin:

Name	Address	Kinship	Age
DEBRA SMITH	1234 Pleasantville Road Winnipeg, MB R3B 1C2	Daughter	Over 21

5. That the total value of all property of the said deceased which he in any way died possessed of, or entitled to, does not exceed \$10,000.00, consisting of \$1,500.00 personalty, and \$6,000.00 realty (which includes any interest of the deceased in a real property mortgage). The realty is situated in the Province of Manitoba, and is more particularly described as follows:

Lot 7, Block 6, Plan 789, WLTO
in OTM Lots 21, 22, 23 and 29 Parish of St Vital

6. That the interest of the deceased in the above real property devolves to JOAN SMITH of the City of Winnipeg, in Manitoba, Retired and I hereby request that the court order that the deceased's interest in the real property be vested in the said JOAN SMITH.
7. That I do solemnly swear that I will faithfully administer the property of the deceased, pay the just debts and funeral expenses of the deceased, distribute the residue (if any) according to law and render a full and true account of my administration when required.
8. I make this affidavit in support of a request for an order that the personal property of the said deceased be paid or delivered to me and that the deceased's interest in any real property be dealt with as above requested or delivered to me to be disposed of by me as the court directs.

SWORN before me at the City of)
 Winnipeg, in the Province of) _____
 Manitoba, this _____ day of)
 _____, 2_____.)
 _____)
 A Notary Public in and for the)
 Province of Manitoba.)

24. Order Under Section 47 of *The Court of Queen's Bench Surrogate Practice Act* (Form 74CC)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOHN SMITH, LATE OF THE CITY OF WINNIPEG, IN THE PROVINCE OF MANITOBA, Retired, deceased.

UPON READING THE AFFIDAVIT OF JOAN SMITH, OF THE CITY OF WINNIPEG, IN THE PROVINCE OF MANITOBA, AND IT APPEARING THAT JOHN SMITH LATE OF THE CITY OF WINNIPEG, IN THE PROVINCE OF MANITOBA, died on or about the 20th day of July, 2004, leaving a total estate, both real and personal valued at not more than \$10,000.00;

1. I DO HEREBY ORDER THAT the proceeds of the deceased's interest in any real property and the deceased's personal property be paid or delivered to the said JOAN SMITH to be disposed of by her in:
 - (a) Paying the reasonable funeral expenses and the debts of the deceased.
 - (b) Paying over any balance in accordance with the terms of the will, if any, or if there is no will, to the next-of-kin, or if there is not next-of-kin or if none can be conveniently found, paying over the balance to the Minister of Finance for Manitoba to be credited to the Consolidated Fund.

AND UPON IT APPEARING THAT the said deceased died possessed of an interest in the following described lands and premises, which includes any interest in a real property mortgage:

Lot 7, Block 6, Plan 789, WLTO
in OTM Lots 21, 22, 23 and 29 Parish of St Vital

2. I DO HEREBY FURTHER ORDER THAT the interest of the deceased in the hereinbefore more particularly described lands and premises be and the same is hereby vested in JOAN SMITH of the City of Winnipeg, in the Province of Manitoba, subject to all existing encumbrances in force as of the date of registration of this order.

SIGNED THIS _____ DAY OF _____, 2_____.

)
File No. _____)

Judge

DEPUTY REGISTRAR

25. Affidavit of Execution of Will (or Codicil) (Form 74F)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE MATTER OF THE LAST WILL AND TESTAMENT OF JAMES BROWN

I, MICHAEL GREEN, of the City of Winnipeg, in the Province of Manitoba, Barrister and Solicitor, affirm:

1. THAT I know JAMES BROWN, of the City of Winnipeg, in the Province of Manitoba.

2. THAT on the _____ day of _____, 2____, I was personally present and did see the paper writing hereunto annexed and marked as Exhibit "A" to this affidavit, executed by the said JAMES BROWN, as the same now appears, as and for (his/~~her~~) last will and testament, by signing (his/~~her~~) name at the foot or end thereof and that at the time of execution of the will the testator was of the full age of 18 years and, in my opinion, the testator was of sound mind, memory and understanding at the time of execution of the will.

NOTE: If the will was signed by a third party for and on behalf of the testator at the testator's request, paragraph 2 should read: THAT on the _____ day of _____, _____, I was personally present and did see the paper writing hereunto annexed and marked as exhibit "A" to this affidavit executed by the said _____, as it now appears, as and for (his/her) last will and testament by _____ signing the name of the testator to the will at the request of, and in the presence of, the testator, who was physically unable to sign (his/her) name or make (his/her) mark, at the foot or end thereof and that at the time of the execution of the will the testator was of the full age of 18 years and, in my opinion, the testator was of sound mind, memory and understanding at the time of execution of the will.

3. THAT the will was so executed by the testator in my presence and the presence of LOUISE WHITE, of the City of Winnipeg, in the Province of Manitoba, Secretary, who were both present at the same time; whereupon (~~he~~/she) and I did, in the presence of the testator, attest and subscribe the said will as witnesses.

4. THAT neither I nor LOUISE WHITE is a beneficiary, nor the husband or wife of a beneficiary, named in the said will (or the contrary, as the case may be).

(Note: complete paragraph 5 only if the will was executed on or after June 30, 2004).

5. THAT neither I nor LOUISE WHITE is a beneficiary, nor the common-law partner, as defined in subsection 12(1) of *The Wills Act*, of a beneficiary, named in the will (or the contrary, as the case may be).

NOTE: Subsection 12(1) of *The Wills Act* defines “common-law partner” as follows:

“**common-law partner**” of a person means

(a) another person who, with the person, registers a common-law relationship under section 13.1 of *The Vital Statistics Act*, and who is cohabiting with the person, or

(b) another person who, not being married to the person is cohabiting with him or her in a conjugal relationship of some permanence.

6. THAT no other copy of the will was executed by the testator.

AFFIRMED before me at the City of
Winnipeg, in the Province of Manitoba, this
_____ day of _____, 2____.

)
)
)
)
)

MICHAEL GREEN

A Notary Public in and for the
Province of Manitoba.

26. Affidavit When Witnesses to the Will are Deceased or Cannot be Located

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF _____, deceased.

I, _____ of the _____ of _____ in the Province of Manitoba,
_____ (occupation)

MAKE OATH AND SAY:

1. That I am a (relationship) of (deceased) late of the _____ of _____ in the Province of Manitoba, who died on or about the _____ day of _____, 2____ and as his (or her) (relationship) I am familiar with his or her handwriting and his (or her) signature. I knew the said _____ for _____ years prior to his or her death, and during that time became familiar with his (or her) handwriting and signature.

2. That I have carefully examined the signature on the will dated _____, which is now produced to me and marked as Exhibit "A" to this my affidavit, and purporting to be signed by the said deceased _____. I verily believe that the signature _____ subscribed to the last will and testament is the signature of the said _____.

3. That on the _____ day of _____, 19____, the date on which the last will and testament was made and signed, the deceased was of the full age of eighteen years, and appeared to be of sound mind, memory and understanding.

4. That I am not a beneficiary or the husband/wife/common-law spouse of a beneficiary under the last will and testament of the said _____.

5. That upon investigation made by me, to the best of my knowledge and belief, the witnesses to the last will and testament of _____ have (predeceased the testator or cannot be located).

SWORN before me at the _____)
of _____ in the Province of _____)
Manitoba, this _____ day)
of _____, 2____.)

" _____ "

A commissioner for oaths or a notary public

27. Affidavit of Execution for a Holograph Will

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF _____, deceased.

I, _____ of the _____ of _____ in the Province of Manitoba,
_____ (occupation)

MAKE OATH AND SAY:

1. That I am the (relationship) of the late (deceased) who died on _____, and as his or her (relationship) I am familiar with his or her handwriting and his or her signature. I knew the said deceased for over _____ years prior to his or her death and during that time became familiar with his or her handwriting and signature.

2. That I have carefully examined the handwriting and the signature on the will dated _____ day of _____, _____ which is now produced to me and marked Exhibit "A" to this my affidavit and purporting to be handwritten and signed by the said deceased _____. I verily believe that the handwriting and signature _____ subscribed to the said last will and testament is the handwriting and signature of the said _____.

3. That on _____ day of _____, _____, the date on which the last will and testament was made and signed, the deceased was of the full age of eighteen years and appeared to be of sound mind, memory and understanding.

4. That I am not a beneficiary, nor am I the husband (or wife) of a beneficiary, nor am I the common-law partner of a beneficiary, under the said last will and testament of the said _____.

SWORN before me at the _____)
of _____ in the Province of _____)
Manitoba, this _____ day)
of _____, 2____.)

" _____ "

A commissioner for oaths or a notary public

28. Affidavit of Plight and Finding (Form 74G)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOHN DOE, deceased.

I, JANE DOE, of the City of Winnipeg, in the Province of Manitoba, retired teacher, make oath and say:

1. That I am the executrix named in the paper writing hereunto annexed, purporting to be and contain the last will and testament of JOHN DOE, late of the City of Winnipeg, in Manitoba, retired, deceased, who died on or about the 10th day of October, 2__ at the City of Winnipeg, in Manitoba, and was at the time of his death habitually resident in Manitoba, the will bearing date the 6th day of February, 1989, beginning thus "THIS IS THE LAST WILL AND TESTAMENT of me, JOHN DOE" and ending thus "the balance and residue of my estate to my said wife" and being subscribed thus, "JOHN DOE."
2. That I have perused the will and I particularly observe that the second line in paragraph one of the will has been struck out by the drawing of a line through all of the words.
3. That I obtained the will from the safety deposit box in the Best Bank of Canada, None and Never Branch, in the City of Winnipeg, in Manitoba, in which JOHN DOE kept some of his documents.
4. That the will is now in all respects in the same state, plight, and condition as when it was taken by me from the said safety deposit box.

SWORN before me at the City)
of Winnipeg in the Province of)
Manitoba, this 20th day of)
December, 2____.)
)
)

"Jane Doe"_____
Jane Doe

"I.M. Witness"_____
A Commissioner for Oaths
in and for the Province of Manitoba.
My Commission Expires: February 14, 2__.

*** Use this type of affidavit for interlineations, alterations, erasures.**

29. Renunciation of Probate or of Administration with the Will Annexed (Form 740)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE MATTER OF THE ESTATE OF JOHN DOE, deceased.

Whereas JOHN DOE, late of the City of Winnipeg, in the Province of Manitoba, deceased, died on or about the 10th day of October, 2____, being at the time of his death habitually resident in the City of Winnipeg, in Manitoba;

And whereas he made and duly executed his last will and testament, bearing date the 6th day of February 1989, and thereby appointed me, JANE DOE, executrix (or as the case may be), as I am informed and believe;

NOW, I, JANE DOE, do hereby expressly renounce all my right and title to the probate and execution of the will (~~and codicils, if any~~) of the deceased.

IN WITNESS WHEREOF I have hereunto set my hand, this 20th day of December, 2____.

SIGNED,)	
in the presence of	)	<u>"Jane Doe"</u>
<u>"JOHN LAW"</u>	)	Jane Doe

Note: The above form may be varied when the renunciation is by the widow or other person entitled to administration with the will annexed. In each case there must be an affidavit of execution.

30. Affidavit of Execution of Renunciation (Form 74T.1)

THE QUEEN'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF THE ESTATE OF JOHN DOE, deceased.

I, JOHN LAW, of the City of Winnipeg, in the Province of Manitoba, Barrister-at-law, make oath and say:

1. That I was personally present and did see the within (or annexed) renunciation duly signed by JANE DOE, the party therein named.
2. That I know the party so signing and that he/she is of the full age of 18 years.
3. That the renunciation was signed by the party at the City of Winnipeg, in the Province of Manitoba.
4. That I am a subscribing witness to the signature.

(If party is a marksman, add)

5. ~~That before signing, the renunciation was read over and explained to _____ who appeared to understand the same and made his/her mark thereto in my presence.~~

SWORN before me at the City)
of Winnipeg, in the Province of)
Manitoba, this 20th day of)
December, 2__)
)

"John Law"
John Law

"I. M. Commissioner"
A Commissioner for Oaths
in and for the Province of Manitoba
My Commission Expires: February 14, 2__

31. Renunciation of Administration (Form 74P)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE MATTER OF THE ESTATE OF JOHN DOE, deceased.

Whereas JOHN DOE, late of the City of Winnipeg, in the Province of Manitoba, deceased, died on or about the 15th day of October, 2____, intestate, being at the time of his death habitually resident in the City of Winnipeg, in Manitoba;

And whereas I, PATRICIA DOE, of the City of Winnipeg, in the Province of Manitoba, teacher, am his lawful daughter and one of his next-of-kin;

Now I, PATRICIA DOE, do hereby expressly renounce all my right and title to administration of the property of the deceased.

In witness whereof I have hereunto set my hand, this 15th day of November, 2____.

Signed in the)	
presence of	)	<u>"Patricia Doe"</u>
	)	Patricia Doe
<u>"Jane Law"</u>		
Jane Law		

Note: Affidavit of execution to be attached or endorsed. Also, the above form may be varied when renunciation is by the widow or other person entitled to administration with will annexed. In each case there must be an affidavit of execution.

32. Caveat (Form 75A)

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF EDWARD SMITH, _____, deceased.

Let nothing be done (or, Let nothing further be done) in the estate of EDWARD SMITH, late of the City of Winnipeg, in the Province of Manitoba, who died on the 20th day of November, 2____, without notice to MARGARET SMITH, of the City of Winnipeg, in the Province of Manitoba.

MARGARET SMITH is the daughter of EDWARD SMITH.

This caveat is entered for the reason that (state reason, eg. the deceased was at the time of making the will without testamentary capacity, or MARGARET SMITH, has reason to fear, and does fear, that EDWARD SMITH, was procured to make a wil by undue influence and fraud).

My address for service is: 5432 Main Street, Winnipeg, Manitoba, R2C 2V2.

_____, 2____

MARGARET SMITH

AFFIDAVIT TO ACCOMPANY CAVEAT

THE QUEEN'S BENCH Winnipeg Centre

IN THE ESTATE OF EDWARD SMITH, deceased.

I, MARGARET SMITH, of the City of Winnipeg, in the Province of Manitoba, make oath and say:

- (1) That I am the daughter of EDWARD SMITH.
- (2) That the caveat that is filed, or is about to be filed, by me in this matter is not entered for the purpose of delay nor to embarrass any person interested in the estate.

SWORN before me at the)
City of Winnipeg in the)
Province of Manitoba, this)
_____ day of _____, 2____)

MARGARET SMITH

A Notary Public in and for the
Province of Manitoba

33. Withdrawal of Caveat

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF: **The Estate of _____, late of the City of Winnipeg, in the
Province of Manitoba, deceased**

WITHDRAWAL OF CAVEAT

TAKE NOTICE that _____, who signed and filed a caveat dated _____,
20__, hereby withdraws all opposition to the administration of the estate of *DECEASED*, late
of the City of Winnipeg, in the Province of Manitoba, who died on the ____ day of _____, 2__
and consents to the administration of the estate proceeding.

DATE: _____

NAME OF CAVEATOR

34. Affidavit as to Debts and Heirs

Note: No longer required by the Land Titles Office as at July, 1983 for property with jTorrens Title. For old system property it would be prudent to file an affidavit consisting of paragraphs 1-2, 4-5.

CANADA	)	IN THE MATTER of the ESTATE OF JOHN DOE,
)	
PROVINCE OF MANITOBA	)	- and -
)	
TO WIT:	)	IN THE MATTER of the property
	)	legally described as Lot A, Block B,
	)	D.G.S. 1-3, St. Boniface, Plan 0000.

I, JANE DOE, of the City of Winnipeg, in the Province of Manitoba, widow of JOHN DOE, late of the same place, retired, deceased, MAKE OATH AND SAY:

1. THAT I am the executrix of the estate of JOHN DOE, deceased, under and by virtue of Grant of Probate issued out of the Manitoba Court of Queen's Bench, Winnipeg Centre, on the 1st day of September, 2____.
2. THAT the said JOHN DOE died on or about the 10th day of June, 2____, at the City of Winnipeg, in the Province of Manitoba, and at the time of his death was habitually resident in the City of Winnipeg, in the Province of Manitoba.
3. THAT the said JOHN DOE was married only once and to me and that the only child born of the marriage is MARY TEX, of the City of Winnipeg, in the Province of Manitoba, teacher.
4. THAT the said MARY TEX is of the full age of eighteen years, and the deceased did not adopt any children.
5. THAT all debts, claims and liabilities against the said JOHN DOE, deceased, and his estate, have been fully paid and discharged, and there are no covenants outstanding against the said deceased or his estate under any mortgage of real or personal property, agreement to buy real or personal property, bond, guarantee, note, lease, subscription for stocks or bonds, nor any fund in connection with any transfer of land to the deceased subject to mortgage or otherwise and there are no unpaid income taxes, judgments or municipal liens, or claims for funeral, sickness or burial expenses of the said deceased or his estate.

6. THAT an advertisement was published in the issue of the Winnipeg Free Press, a daily newspaper, published in the City of Winnipeg, on the 10th day of July, 2____, and in the Manitoba Gazette issue dated the 12th day of July, 2____, being a Notice to Creditors setting forth that all claims against the Estate of the late JOHN DOE were to be sent to Messrs. Law and Law, Solicitors for the Executrix, 100 Never Street, Winnipeg, Manitoba, on or before the 15th day of August, 2000, and that no claims were filed or sent to my solicitor and that the time for filing claims has expired.

7. THAT I have not been served with any notice of an application under *The Dependents Relief Act* of Manitoba.

8. THAT I make this affidavit for the purpose of enabling the District Registrar of the Winnipeg Land Titles Office to register a Transfer of Land concerning the aforementioned property to the persons entitled thereto by virtue of the last Will and Testament of JOHN DOE.

SWORN before me at the City)
of Winnipeg, in the Province)
of Manitoba, this 1st day)
of October, 2____.)

"JANE DOE"

"JOHN LAW"
A Notary Public in and for
the Province of Manitoba

35. Notice to Creditors

NOTICE TO CREDITORS

IN THE MATTER OF THE ESTATE OF _____. All claims against the above estate must be sent to the undersigned at _____ (fill in place where notices of claims are to be sent) on or before the _____ of _____ 20____.

Dated at _____ in Manitoba, this _____ day of _____ 20____.

(INSERT NAME OF LAW FIRM)
SOLICITORS FOR THE EXECUTOR
ATTENTION:

* * *

***Note the following regarding the Notice to Creditors:**

- a. it must be issued in the form set out in s. 41(5) of *The Trustee Act*, C.C.S.M., c. T160;
- b. it must be published in the local newspaper (one issue) and the Manitoba Gazette (one issue);
- c. allow at least 30 days after date of publication of notice for claims to be filed;
- d. it must reach the Statutory Publications office by Thursday noon, one week prior to publication of Gazette. (This Gazette is published every Wednesday.) If Wednesday falls on a holiday, publications will take place on the next day that is not a holiday. Must submit a fee payable to the Minister of Finance in either case. Check the Statutory Publications website with respect to the current fees;
- e. if you have additional questions regarding the requirements of the Manitoba Gazette, you may reach that office at (204) 945-3103. The address for the Manitoba Gazette is: 10th Floor -155 Carlton Street, Winnipeg, Manitoba, R3C 3H8;
- f. in letter submitting notice to the local newspaper, be sure to ask for a tear sheet; and
- g. in all correspondence indicate the name of the lawyer who is handling the estate.

36. Letter Re: Shares

January 7, 2____

Richardson Securities of Canada
One Lombard Place
Winnipeg, Manitoba
R3C 1A8

Dear Sirs:

Re: Estate of John Smith
Bell Telephone – Common Shares

Please be advised that we are the solicitors for the estate of John Smith, late of the City of Winnipeg, in Manitoba, Professor, who died on December 15, 2____. We are providing to you a copy of the death certificate, a copy of the will and a copy of an authorization for release of information signed by the executor, _____ that permits you to speak with our office.

We are in the process of preparing the inventory of assets of the deceased's estate. Accordingly, we require information as to the value of the Bell Telephone Company Limited share certificate No. BT654321 for 100 common shares, as at John Smith's date of death. We would appreciate receiving this information from you as soon as possible. Please also advise us of the transfer agents for the said shares and the requirements for the transmission and transfer of same. Please provide any relevant tax information.

Thank you for your prompt attention to this matter.

Yours truly,

BLACK, BROWN & GREEN
Per:

JACK B. BLACK

JBB/aw
cc. Mrs. D. Client

Note the following:

- if transfer agent is known, write directly to him or her;
- be sure to indicate type of shares (i.e., common, preferred, Class "A", etc.); and
- when writing with respect to bonds, be sure to ask for the "market value" as at the date of death.

37. Debenture/Bond Transmission Precedent

DECLARATION OF TRANSMISSION

) IN THE MATTER OF THE ESTATE OF
) John David Doe
) (Full name of deceased)
) late of the City of Winnipeg, in Manitoba
) Deceased.

~~WE/I~~ Jane Elizabeth Doe, of the City of Winnipeg, in Manitoba, Physician
being ~~all of the Executor(s)/Administrator(s)~~ of the said Deceased,

DO SOLEMNLY DECLARE THAT:

(1) The said Deceased died at the City of Winnipeg, in Manitoba on the 10th day of June, 2____, testate (~~or intestate~~) and at the date of death was domiciled at the City of Winnipeg, in Manitoba.

(2) Probate of the Will (~~or Administration with Will Annexed or Administration~~) of the Deceased were granted to the declarant(s) Jane Elizabeth Doe on the 12th day of September, 2____, by the Manitoba Court of Queen's Bench, Probate Division in File No. _____.

(3) There are registered in the name of the said Deceased on the register of 5.85% Subordinated Debenture due 1987, Canadian series [Insert proper description of bonds or debentures] of the Trans-Canada Pipelines Limited [full name of Company] Ten Thousand Dollars (\$10,000.00) principal amount of the said ~~bonds~~/debentures represented by ~~bonds~~/debentures bearing the serial numbers Q123456.

(4) All of the aforementioned ~~bonds~~/debentures are executed under seal and were physically held at the City of Winnipeg in Manitoba at the date of death. [Insert full particulars as to actual *situs* of the securities at date of death.]

(5) By virtue of the foregoing the said bonds/debentures have devolved upon and become vested in the Executor(s), Administrator(s) as aforesaid, who desire(s) to have the same recorded in the names of the Executor(s), Administrator(s) as aforesaid upon said register of the said Company;

(and)

immediately thereafter transferred to the beneficiary(ies) properly entitled by law to receive the said ~~bonds~~/debentures, namely:

Jane Elizabeth Doe, 123 Any Street, Winnipeg, Manitoba, R1A 2B2.

(6) The said John David Doe (full name) and John D. Doe [name on bond(s) or debenture(s)] named in the said ~~bond(s)~~/debenture(s) was one and the same person.

AND ~~WE~~/I make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED before me at the City of)	
Winnipeg in the Province)	
of Manitoba, this 20th day of	,)	_____
2_____	)	Jane Elizabeth Doe,
	)	Executrix of the Estate
	)	of John David Doe

~~A Commissioner for Oaths.~~

A Notary Public in an for
the Province of Manitoba

38. Power of Attorney (Debenture/Bond) Precedent

IRREVOCABLE STOCK OR BOND POWER

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto:

NAME OF
TRANSFeree JANE ELIZABETH DOE
ADDRESS 123 ANY STREET, WINNIPEG, MANITOBA, R1A 2B2

the following securities:

QUANTITY
OR AMOUNT \$10,000.00 ~~Shares~~/Bonds of

NAME OF
COMPANY/ISSUER TRANS-CANADA PIPELINES LIMITED

DESCRIPTION OF
STOCK/BONDS 5.85% SUBORDINATED DEBENTURE DUE ***,
CANADIAN SERIES

CERTIFICATE
NUMBER(S) Q 123456

and hereby irrevocably constitutes and appoints _____ the true and lawful attorney of the undersigned to transfer the said ~~stock~~/bonds on the books of the said Corporation with full power of substitution in the premises.

DATED: October 20, 2____ JANE ELIZABETH DOE, Executrix of
the Estate of John David Doe
[Please Print Name(s) of Transferor/s]

The signature/s of the Transferor/s
is/~~are~~ hereby guaranteed by:
Signature of Transferor

Signature/s of Transferor/s
"Jane Elizabeth Doe"

39. Share Transmission Form

DECLARATION OF TRANSMISSION

IN THE MATTER of the ESTATE of)
JOHN ARTHUR SMITH)
late of Winnipeg, Manitoba,)
deceased)

~~WE~~I, JUDITH SMITH of the City of Winnipeg, in the Province of Manitoba, being the sole Executrix/~~Administrator(s)~~ of the said deceased,

DO ~~(SEVERALLY)~~ SOLEMNLY DECLARE THAT:

1. The said deceased died at Winnipeg, Manitoba on the 15th day of December, 2____, testate (~~intestate~~) and at the date of death was domiciled at the City of Winnipeg, in the Province of Manitoba.
2. Probate of the last Will and Testament (~~or Administration with Will Annexed or Administration~~) of the deceased was granted to the declarant(s), Judith Smith on the 5th day of January, 2____ by the Court of Queen's Bench for the Province of Manitoba, at the City of Winnipeg, in the Province of Manitoba, as File No. PR____.
3. There are registered in the name of the said deceased on the Register of The Bell Telephone Company Limited [full name of Company]
100 common shares represented by ~~bond(s)~~/share certificate(s) bearing the serial number(s) BT654321. [description of investment]
4. The aforementioned ~~bond(s)~~/certificate(s) is executed under seal and was physically held at Winnipeg, Manitoba the date of death.
5. By virtue of the foregoing the said ~~bond(s)~~/certificate(s) has devolved upon and become vested in the Executor(s)/Administratrix who desire(s) to have the same recorded in the name(s) of the Executor(s)/Administratorix upon the Register of the said Company AND

~~(a) — immediately thereafter transferred to the beneficiary (ies) property entitled by law to receive the bond(s)/certificate(s), namely:~~

(b) REDEEMED IN FULL.

6. The said JOHN ARTHUR SMITH [full name of deceased] and JOHN ARTHUR SMITH named in the said ~~bond(s)~~/certificate(s) was one and the same person.

~~AND WE~~/I make this solemn Declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act.

(~~SEVERALLY~~) DECLARED before me at)
the City of Winnipeg, in the Province of)
Manitoba, this ____ day of _____, 2____)

JUDITH SMITH

A Notary Public in and for the
Province of Manitoba

40. Power of Attorney (Share) Precedent

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto:

NAME OF TRANSFEREE JANE ELIZABETH DOE
ADDRESS 123 ANY STREET, WINNIPEG, MANITOBA, R1A 2B2

the following securities:

QUANTITY OR AMOUNT 200 Shares/Bonds of

NAME OF COMPANY/ISSUER ANDRES WINES LTD.

DESCRIPTION OF STOCK/BONDS CLASS A SHARES

CERTIFICATE NUMBER(S) A-123 AND A-124

and hereby irrevocably constitutes and appoints _____ the true and lawful attorney of the undersigned to transfer the said stock/bonds on the books of the said Corporation with full power of substitution in the premises.

DATED: OCTOBER 20, 2 JANE ELIZABETH DOE, Executrix of
the Estate of John David Doe
[Please Print Name(s) of Transferor/s]

The signature/s of the Transferor/s
is/are hereby guaranteed by:

Signature/s of Transferor/s
"Jane Elizabeth Doe"

41. Letter Re: Transmission of Shares

ABC Securities Corporation
123 Any Street
Winnipeg, Manitoba
R1A 2B2

November 24, 2____

DELIVERED

Attention: Stock Transfer Department

Dear Sirs/Mesdames:

Re: Estate of Harry Smith

Please be advised that we are the solicitors for Stella Granger, Executrix of the Estate of Harry Smith. The late Mr. Smith was the registered owner of 100 Manitoba Bank common shares.

In connection with these shares, enclosed please find the following:

1. notarial copy of the Grant of Probate of the Will of Harry Smith;
2. notarial copy of the Death Certificate;
3. declaration of Transmission, duly completed by the Executrix, with her signature guaranteed; and
4. Manitoba Bank share certificate No. C12345 for 100 common shares in the name of Harry Smith, duly signed off by the Executrix, with her signature guaranteed.

Please forward a new share certificate registered as follows:

Stella Granger
13 Digg Alley
Winnipeg, Manitoba
R3X 4S6

If you have any questions regarding the above, please do not hesitate to contact the writer.
Thank you for your attention to this matter.

Yours truly,
BLACK, BROWN & GREEN
Per:

JACK B. BLACK

JBB/my
cc: Steven Granger

42. Letter to Bank Re: Value of Accounts

JANE BROWN LAW OFFICE
Jane Brown, Barrister and Solicitor
210 - 355 Main St.
Winnipeg, MB R3C 3K5
e-mail address: jbrown@brownlaw.ca

MY FILE NO:

October 31, 2____

Tiger Hills Credit Union Limited
Treherne, Manitoba
R0G 2V0

BY FAX: 723-2084

Dear Sirs/Mesdames:

RE: The estate of Bruce Smith
Date of Death: October 15, 2_____.

I act as solicitor for the estate of Bruce Smith, late of the Postal District of Treherne, in the Province of Manitoba, deceased. We are providing to you a copy of the funeral director's statement of death, a copy of the will and a copy of an authorization for release of information signed by the executor, Joe Smith.

Since I am in the process of determining the assets of the estate I would ask that you search your records and advise if the deceased had any bank accounts, investment certificates, term deposits, R.R.S.P.'s or any other such assets of this type and the value of same, as at the date of death. Please provide the information as soon as possible.

In the event the deceased had any joint accounts at your branch, please advise me as to whether you have yet been provided with proof of death documentation.

In addition, please advise if you are in possession of any documents being held in safekeeping for the deceased and whether or not the deceased had a safety deposit box rented with you.

Thank you for your cooperation in this matter.

Yours truly,

JANE BROWN

43. Letter to Bank Re: Estate Account

January 16, 2____

Canadian Imperial Bank of Commerce
Portage Avenue and Hargrave Street
Winnipeg, Manitoba
R3B 2C3

Attention: Mr. B. Manager

Dear Sir:

**Re: Estate of GEORGE JONES, Deceased
Account Nos. 51-4172 and 3487**

With reference to the above, we enclose herewith a notarial copy of the Grant of Probate.

Would you kindly open an account in the name of the Executrix, namely, Georgina Jones, and forward the signature card for the new account to our offices for her signature.

Yours truly,

LEXUS & ASSOCIATES

Per:

LEON LEXUS

LL/my

Encls.

cc: Mrs. Client

Note: Opening the estate account is a responsibility of the personal representative. They can usually open the account without your involvement.

44. Letter Re: Life Insurance

JANE BROWN LAW OFFICE
Jane Brown, Barrister and Solicitor
210 – 355 Main St.
Winnipeg, MB R3C 3K5
e-mail address: jbrown@brownlaw.ca

MY FILE NO:

BY FAX

Dear Sirs:

Re: The Estate of _____
Date of Death: _____, 2____ (at _____, Manitoba)
Policy No. _____

I am the solicitor for the referenced estate. We are providing to you copies of the funeral director's statement of death, the will and an authorization for release of information signed by the executor, Joe Smith.

In connection with the above noted estate, I would appreciate receiving particulars of all insurance policies in the name of the deceased, together with the necessary forms and requirements in order to proceed with the death settlement.

If any policy is payable to the estate of the deceased, please provide me with those particulars promptly so as to enable me to make the necessary application to court for Probate.

Your assistance is required in this matter and I trust that I shall hear from you at your earliest possible convenience.

Yours truly,

JANE BROWN

45. Bill of Sale

THIS INDENTURE (BILL OF SALE)

made in duplicate the day of , 2____.

BETWEEN:

DOUGLAS BRUCE SMITH and JEAN BARBARA JONES,
both of the City of Winnipeg, in the Province of Manitoba,
as Executors of the Last Will and Testament of LESLIE ANDREW SMITH,

(the "Bargainor"),

OF THE FIRST PART,

- and -

JAMES ROBERT ANDERSON,
of the City of Winnipeg, in the Province of Manitoba,

(the "Bargainee"),

OF THE SECOND PART.

WHEREAS the Bargainor is possessed of the goods and chattels hereunder set forth, described and enumerated, and has contracted and agreed with the Bargainee for the absolute sale to the Bargainee of the same, for the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration.

NOW THIS INDENTURE WITNESSETH that, in pursuance of the said agreement, and in consideration of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada, now paid by the Bargainee to the Bargainor at or before the sealing and delivery of these presents (the receipt whereof is hereby by him acknowledged), the Bargainor HAS BARGAINED, sold, assigned, transferred, and set over, and by these presents DOES BARGAIN, sell, assign, transfer, and set over unto the Bargainee.

ALL THOSE the said goods and chattels, hereinafter described, that is to say:

Wood Frame, Asphalt Shingle Cabin

16.3' x 24.3'

Situated on Lot 123, Street South, Clear Lake Compound.

all of which said goods and chattels are now in the possession of the Bargainor and are situate, lying and being in, on upon, or about

AND all the right, title, interest, property, claim and demand whatsoever of the Bargainor of, in, to and

AND all the right, title, interest, property, claim and demand whatsoever of the Bargainor of, in, to and out of the same, and every part thereof.

AND the Bargainor doth hereby COVENANT, PROMISE and AGREE with the Bargainee in the manner following, that is to say: THAT the Bargainor is now rightfully and absolutely possessed of and entitled to the said hereby assigned goods and chattels, and every one of them, and every part thereof; AND that the Bargainor now has good right to assign the same unto the Bargainee in manner aforesaid, and according to the true intent and meaning of these presents; AND that the Bargainee shall and may from time to time, and at all times hereafter, peaceably and quietly have, hold, possess and enjoy the said hereby assigned goods and chattels, and every of them, and every part thereof to and for his own use and benefit, without hindrance, interruption, of any manner molestation, claim or demand whatsoever, of, from or by the Bargainor or any person or persons whomsoever; AND that free and clear, and freely and absolutely released and discharged, or otherwise (at the cost of the Bargainor) effectually indemnified from and against all former and other bargains, sales, gifts, grants, titles, charges and encumbrances whatsoever.

The terms Bargainor and Bargainee in this Indenture shall include the Executors, Administrators, successors and assigns of each of them and that wherever the singular and masculine pronouns are used throughout this Indenture the same shall be construed as meaning the plural or feminine or neuter where the context or the parties hereto so require.

DATED: The day of , 2____.

SIGNED, SEALED and DELIVERED)
in the presence of) _____
)

The Law Society of Manitoba

CANADA) I, JAMES ROBERT ANDERSON,
PROVINCE OF MANITOBA) of the City of Winnipeg
TO WIT:) in the Province of Manitoba

The Bargainee in the foregoing Bill of Sale named, MAKE OATH AND SAY:

1. THAT I am aware of all the circumstances connected with the said Bill of Sale and have a personal knowledge of the facts deposed to.
2. THAT the said Bill of Sale was executed in good faith and for good consideration as set forth in the said Bill of Sale, and not for the purpose of protecting the chattels therein mentioned against the creditors of the LESLIE ANDREW SMITH, the Bargainor or for the purpose of preventing such creditors from recovering any claims that they have against the said Bargainor.

SWORN before me at the City)
of Winnipeg, in the Province)
of Manitoba, this day)
of , 2____.)

A Commissioner for Oaths in
and for the Province of Manitoba.
My Commission expires_____

CANADA) I, DOUGLAS BRUCE SMITH and
PROVINCE OF MANITOBA) I, JEAN BARBARA JONES, both of the City of
TO WIT:) Winnipeg, in the Province of Manitoba

The within named Bargainors do solemnly declare:

1. THAT my name and surname are both correctly spelled in the within Bill of Sale and I am correctly described therein. I am now absolutely, and in my sole and exclusive right, the owner and possessor of the goods and chattels mentioned and described in the within Bill of Sale.
2. THAT the said goods and chattels are correctly described in the said Bill of Sale and are now all in good condition and repair.
3. THAT there is no mortgage, hypothec, lien or claim of any kind or nature adverse to my rights, of, upon or against said goods and chattels, or any portion of them, save the within Bill of Sale, and no taxes or rent are due on the said lands or premises on which said goods and chattels, or any of them, are situate.
4. THAT there is no judgment or execution of any kind now in force or extant against me.
5. THAT I am over eighteen years of age.
6. THAT I make the above statements for the express purpose of inducing the within named Bargainee to complete the purchase of the said goods and chattels.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act".

DECLARED before me at the City)
of Winnipeg, in the Province)
of Manitoba, this day)
of , 2____)

A Commissioner for Oaths in and
for the Province of Manitoba.
My commission expires_____

CANADA) I, _____
PROVINCE OF MANITOBA) of the City of Winnipeg, in
TO WIT:) the Province of Manitoba

MAKE OATH AND SAY:

1. THAT I was personally present and did see the within instrument and duplicate thereof duly signed, sealed and delivered by DOUGLAS BRUCE SMITH and JEAN BARBARA JONES, two of the parties thereto.
2. THAT I know the said parties and am satisfied that each is of the full age of eighteen years.
3. THAT the said instrument and duplicate thereof were executed by the said parties at the City of Winnipeg, in the Province of Manitoba, on the _____ day of _____, 2____.
4. THAT I am a subscribing witness to the said instrument and duplicate.

SWORN before me at the City)
of Winnipeg, in the Province)
of Manitoba, this _____ day) _____
of _____, 2____)

A Commissioner for Oaths in and
for the Province of Manitoba.
My Commission expires _____

DATE _____, 2

DOUGLAS BRUCE SMITH AND
JEAN BARBARA JONES,

(The "Bargainor"),

OF THE FIRST PART,

- and -

LESLIE ANDREW SMITH,

(The "Bargainee"),

OF THE SECOND PART.

BILL OF SALE

JONES & JONES
Barristers and Solicitors
123 – 321 Comfort Street
Winnipeg, Manitoba
R2B 2B2

Jean Barbara Jones
Ph. No.:
Fax No.:

Client File No.
L.T.O. Box No.

46. Estate Information Checklist

Date: _____, 2_____

1. Full Name of Deceased: _____

Address: _____

Date of Death: _____ Place of Death: _____

Date of Birth: _____ Age: _____

2. Occupation: _____ SIN: _____

Employer: _____

Date of Retirement: _____

3. Marital Status:

Was the deceased single, separated, divorced, widowed, married or common-law:

Spouse or Partner's Full Legal Name: _____

SIN: _____

Address: _____

Telephone No.: _____

Separated? Yes/No If yes, date of separation: _____

Is there a signed separation agreement or court order? Yes/No

If yes, provide a copy of the separation agreement/court orders.

Divorced? Yes/No If yes, date of divorce: _____

If yes, provide a copy of court orders.

Common-law since June 30, 2004 and ended? Yes/No

If yes, date ended: _____

Is there a signed agreement with the common-law partner? _____

If yes, provide a copy of the agreement.

4. Canada Pension:

(a) Is the Deceased eligible for Canada Pension Plan Death Benefits? _____

If yes, who will apply? _____

(b) Are there Orphan or Survivor Benefits? _____

(c) If yes, who will apply? _____

5. Year of last Income Tax Return filed: _____

Name and address of accountant: _____

6. Did Deceased die Testate or Intestate? _____

If Testate:

(a) Provide original will and/or any codicils, if any.

(b) Is there an affidavit of execution to the will/codicils? Yes/No

(c) If not, name and address of lawyer who prepared will: _____

(d) Name and address for executor(s): _____

(e) Provide full legal names, addresses, and social insurance numbers for specific and residuary beneficiaries.

(f) If there are minor beneficiaries, provide the full legal name and addresses for the parents or guardian(s) of the minor beneficiary.

If Intestate:

(a) Provide full legal names, addresses, birth dates and relationship for all persons having an equal or superior right to apply to be the administrator for the estate.

(b) Provide full legal names, address, birth dates, and relationship of all next of kin (those who will receive a share under *The Intestate Succession Act*).

7. Bonding Issues:

- (a) Full legal names, addresses and amount to be guaranteed by each Bondsman:
-

8. Assets:

- (a) Inventory of Estate Assets (including joint assets which are not intended to pass by right of survivorship to the joint owner):

<u>Asset</u>	<u>Value at Death</u>	<u>Current Value</u>
--------------	-----------------------	----------------------

- (b) Inventory of Assets falling outside of estate (e.g., RRSPs payable to spouse as per specific beneficiary designation):

<u>Asset</u>	<u>Value at Death</u>	<u>Current Value</u>
--------------	-----------------------	----------------------

- (c) Are there any joint assets which are intended to pass by right of survivorship to the joint owner? If so, what are they? Do the residuary beneficiaries agree the assets are to pass by right of survivorship?

9. Debts:

<u>Debt</u>	<u>Amount</u>	<u>Owed to Whom</u>
-------------	---------------	---------------------

N.B. QB Rule 74.14(4) stipulates that a copy of Queen's Bench Form 74AA is to be served on the personal representative(s) and those affected by the legal fees within 60 days of the lawyer being retained by the personal representative.

47. Advertisements for Lost Wills

LOST WILL

Anyone having knowledge of a Last Will and Testament of **JOHN SMITH**, late of the Town of Winkler, in Manitoba, please contact Harry Smith, Smith & Company, Box 875, Brandon, Manitoba, R7A 5Z9, Telephone 727-8491 or Fax 727-4350.

LOST WILL

Anyone having knowledge of the whereabouts of the Last Will and Testament of STEVEN GRANGER, who died May 14, 2003, please contact Victor Kram, Kram & Associates, 408 Main Street, Winnipeg, Manitoba, R2W 4X5, Telephone 586-8474; Fax 947-1816.

48. Advertisements for Heirs

- (i) Anyone having information as to the whereabouts of _____, possibly known as _____ and/or his mother, _____ previously of _____, Ontario and also of _____, British Columbia, please contact _____

- (ii) Anyone having information as to the relatives and next-of-kin of the late _____ who died in Winnipeg, Manitoba, Canada, on July __, 2____, please contact _____

- (iii) Anyone having information of the whereabouts of _____, born on April __, 19__, to _____ and _____ (née _____), please contact _____ regarding an estate matter at _____

- (iv) Anyone having any info. re: _____ who was a school teacher at _____, 19__ - 19__, please contact _____

at _____
concerning settlement of an estate.

49. Form 74AA – as of January 31, 2013

File No.

FORM 74AA

INFORMATION FOR PERSONAL REPRESENTATIVES AND BENEFICIARIES

NOTE: Under Queen's Bench rule 74.14(4), the lawyer retained by the personal representative of an estate must serve this form on the personal representative of the estate and those beneficiaries whose interests in the estate may be affected by the lawyer's fees or disbursements, no later than 60 days after the lawyer is retained by the personal representative.

PART A

PERSONAL REPRESENTATIVE OF AN ESTATE

1 Role of the Personal Representative

The property of a deceased person is placed in the hands of a trustee, known as a personal representative who may also be called an executor (executrix) or administrator (administratrix). The personal representative must collect the assets, pay the debts of the deceased and then distribute the assets of the estate to the beneficiaries in compliance with all applicable laws and the terms of any will of the deceased. A lawyer can be the personal representative of an estate. Further information about the role of the personal representative can be found in the *Statement of Principles — Fees in Estate Matters* approved by The Law Society of Manitoba which is available on the Law Society's website at www.lawsociety.mb.ca or by calling the Law Society at 204-942-5571.

The actions of a personal representative may be subject to review by the court. Any person interested in the estate may, on reasonable grounds, require the personal representative to appear before the court to give an account of the handling of the estate.

2 Compensation for Personal Representative

A personal representative is entitled to fair and reasonable compensation for their care, pains and trouble. The compensation is not a fixed amount or percentage but will vary according to the work done and the trouble and time expended. If all beneficiaries are adults and are satisfied with the work of the personal representative, they may agree on the amount of the compensation and sign releases when the estate work is completed and they have received their share of the estate.

A beneficiary who is not satisfied with how the estate was handled, or the amount of the compensation being claimed, has the right to request that the actions of the personal representative be reviewed by the court and to have the court set the personal representative's compensation.

PART B

LAWYER FOR THE PERSONAL REPRESENTATIVE

1. Role of the Lawyer for the Personal Representative

A personal representative is permitted to retain a lawyer to provide legal advice to assist with the completion of the duties imposed on a personal representative by law. Queen's Bench rule 74.14 sets out the services that are generally provided by the lawyer retained by the personal representative for an estate of average complexity. The *Queen's Bench Rules* are posted on the Manitoba Laws website at web2.gov.mb.ca/laws/rules/qbr1e.php.

2. Fees and Disbursements of the Lawyer for the Personal Representative

The fees and disbursements for the personal representative are paid out of the estate and the amount is governed by the *Queen's Bench Rules*, particularly rule 74.14.

The fees of the lawyer for the personal representative must be fair and reasonable and disclosed in a timely manner. In assessing if the fees are fair and reasonable, the court looks at the services provided by the lawyer to the personal representative and the results achieved.

It should be understood that the lawyer retained by the personal representative acts only as the lawyer for the personal representative and not the beneficiaries. In the event of any dispute, a beneficiary is free to obtain independent legal advice from another lawyer.

Basic legal fees are calculated as a percentage of the total value of the estate assets that are under probate or administration and are intended to cover the work involved in estates of average complexity. These services are listed in Queen's Bench rule 74.14(8). To determine the total value of the estate, the following assets are not included:

- (a) gifts made by the deceased during his or her lifetime;
- (b) insurance, annuities and pensions not payable to the estate;
- (c) property held in joint tenancy where the beneficial interest is intended to pass by right of survivorship;

(d) the death benefit under the *Canada Pension Plan*.

The basic legal fees (allowable fees) for the lawyer for the personal representative for an estate of average complexity are calculated as follows:

- 3% on the first \$100,000, or the portion of that amount, of the total value of the estate, subject to a minimum fee of \$1,500;
- 1.25% on the next \$400,000, or the portion of that amount, of the total value of the estate;
- 1% on the next \$500,000, or the portion of that amount, of the total value of the estate;
- 0.5% on the total value of the estate over \$1,000,000.

However, if the personal representative is

- (a) an individual who is a lawyer and, while acting as the personal representative, also acts as the lawyer for the personal representative; or
- (b) a trust company; or
- (c) The Public Guardian and Trustee;

the lawyer performing the legal services for that personal representative may only charge 40% of the fees calculated as above, or a minimum fee of \$1,500.

The lawyer for the personal representative is also entitled to charge for the following additional services, as specified in Queen's Bench rule 74.14(9):

- (a) appearances in court, in an amount set by the court;
- (b) legal services with respect to a review by the court of the handling of estate assets by the personal representative under Queen's Bench rule 74.12, in an amount set by the court;
- (c) acting on the sale of an estate asset;
- (d) finding a purchaser of an estate asset;
- (e) assisting the personal representative with estate administration duties, including
 - (i) keeping and preparing the accounts of the personal representative,

- (ii) listing and valuing the assets and debts, and
- (iii) safekeeping, insuring and disposing of estate assets;
- (f) advising the personal representative with respect to an estate of above-average complexity;
- (g) advising and assisting the personal representative as to ongoing trust matters, including
 - (i) the personal representative's duties,
 - (ii) the personal representative's powers of sale, investment and encroachment, and
 - (iii) the allocation of assets as capital or revenue.

Adult Beneficiaries May Consent to the Lawyer's Interim Fees or Final Fees

The lawyer for the personal representative is permitted to be paid interim fees and disbursements for services completed to date or final fees and disbursements on completion of an estate, without court approval, if

- all beneficiaries whose interests in the estate may be affected by the lawyer's fees or disbursements are adults and they consent, in writing, to the fees and disbursements requested by the lawyer;
- all beneficiaries are served with a copy of this form (Information for Personal Representatives and Beneficiaries) and are given an itemized statement setting out the lawyer's fees and disbursements, with the fees and disbursements for basic estate services under rule 74.14(8) set out separately from those for additional services under rule 74.14(9), if any; and
- the personal representative consents, in writing, to the requested fees and disbursements.

Collecting interim fees that are within the basic allowable amount

The lawyer for the personal representative is permitted to be paid interim fees for basic estate services under rule 74.14(8) if they are within the allowable amounts under rule 74.14(6) or (7), as well as disbursements, with the consent of the personal representative, if all beneficiaries whose interests in the estate may be affected by the lawyer's fees or disbursements have been served with a copy of Information for Personal

Representatives and Beneficiaries (Form 74AA) and given an itemized statement setting out the lawyer's fees and disbursements, with the fees and disbursements for basic estate services under rule 74.14(8) set out separately from those for additional services under rule 74.14(9), if any.

If any beneficiary is a minor or mentally incompetent, the documents must be served in accordance with Queen's Bench rule 74.14(11.1).

3. Court Review of the Lawyer's Fees and Disbursements

The court may review the fees and disbursements at the time the accounts of the personal representative are placed before the court to be passed (or approved) under Queen's Bench rule 74.12. Or, they may be reviewed when an application is made to court for an assessment of the lawyer's fees and disbursements under Queen's Bench rule 74.14(13). The personal representative, the lawyer for the personal representative or a beneficiary whose interest in the estate may be affected by the lawyer's fees and disbursements can apply to court for this assessment.

50. Letter to Beneficiary With Interest in Estate (Service of Form 74AA)

December 1, 2_____

Mrs. M. Blackberry
1017 Cherry Hill Drive
Winnipeg, Manitoba
R2V 1L2

Dear Mrs. Blackberry:

Re: Estate of John Smith, Deceased, (the "Estate")

We have been retained by Alice Jones, the personal representative for the Estate. You are a beneficiary whose interest in the Estate may be affected by our fees and disbursements. Accordingly, we are required to serve you with a copy of the enclosed Form 74AA – Information for Personal Representatives and Beneficiaries. The form describes the roles of the personal representative and the lawyer acting for the personal representative, the compensation payable to the personal representative and the fees and disbursements payable to the lawyer acting for the personal representative.

We enclose the following documents:

1. Information for Personal Representatives and Beneficiaries (Queen's Bench Form 74AA).
2. Acknowledgement of receipt of Form 74AA.

Please sign the acknowledgement of receipt of Form 74AA and return it to our office in the stamped envelope provided.

Yours truly,

BROWN, BLACK & GREEN

Per:

Jane B. Black

JBB/aw

Encls.

Note: A similar form of letter can also be used for the Personal Representative or the Personal Representative can be served in person during the early stages of the retainer.

Note: This type of letter should be sent out as soon as possible after being retained by the personal representative.

51. Sample Letter to Residuary Beneficiary Enclosing Accounts or Report and Release

JANE BROWN LAW OFFICE
Jane Brown, Barrister and Solicitor
210 - 355 Main St.
Winnipeg, MB R3C 3K5
e-mail address: jbrown@brownlaw.ca

MY FILE NO:

November 7, 2_____

**

Dear _____:

Re: The Estate of _____

As you know, we represent the executor for the estate, John Smith. He advises that the assets of the estate have been collected and the estate debts and expenses have been paid. We are providing a Statement of Monies Received and Disbursed and Estate Reconciliation which indicates the source and amount of any monies received by the estate, the amounts paid for any debts and expenses and the proposed distribution of the estate among the beneficiaries.

If the enclosed calculations appear to be acceptable and in order, please execute the enclosed Release in the presence of a witness (other than the executor) and return same to me at your earliest convenience.

The final distribution cannot be made until we receive a signed release, properly executed, from each residuary beneficiary. If any residuary beneficiaries do not sign the final Release, it will be necessary to pass the Accounts in the Court of Queen's Bench. You are entitled to request such an accounting before the Court. Where a formal accounting is conducted additional legal fees and compensation payable to the executor may be requested and may be ordered payable from the estate which, if ordered will reduce your share of the residue from the amount stated in the materials herein.

As you can see from the Statement of Monies Received, Disbursements and Distributions, there is a holdback of \$_____ in the event that there is any income tax payable, for payment of the accountant's fees and any final reporting expenses. The balance of the holdback, interest, and/or any taxation refund as well as the proceeds of the assets yet to be sold by the estate as indicated in the statement will be distributed among the residuary beneficiaries according to the share each is to receive from the estate.

We represent the executor and are unable to provide you with any legal advice. You are entitled to independent legal advice at your own costs. Should you have any questions with regard to this matter which do not involve providing legal advice to you, please contact my office.

Yours truly,

JANE BROWN

Encl.

52. Sample Statement of Receipts and Disbursements

STATEMENT OF MONIES RECEIVED AND DISBURSED AND ESTATE RECONCILIATION as at September 22, 2***

Re: The ESTATE of DORIS ANDERSON

MONIES RECEIVED:

Received from the Office of The Public Trustee as net proceeds of Account	\$38,953.68
Received from La Caisse Populaire de Lourdes Ltee. as net proceeds of Account	\$ 3,525.35
Received as interest earned on monies held in Trust by Brown Law Office as at September 1, 2____	\$ 85.14

TOTAL MONIES RECEIVED: **\$42,564.17**

MONIES DISBURSED:

Paid to The Court of Queen's Bench as fee for filing of Application for Administration	\$ 515.00*
Paid to McCulloch Law Office as legal fees, disbursements and G.S.T. (as approved)	\$ <u>2,224.84</u>

TOTAL MONIES DISBURSED: **\$ 2,739.84**

**HOLDBACK (as described in
accompanying letter):** **\$ 1,824.33**

**AMOUNT ON HAND FOR FIRST DISBURSAL TO
RESIDUARY BENEFICIARIES:** **\$38,000.00**

TOTAL: **\$42,564.17**

* Letters of Administration filed post November 5, 2020 will not be subject to a fee.
(Court of Queen's Bench *Notice* dated November 6, 2020).

ESTATE RECONCILIATION

Re: the ESTATE of DORIS ANDERSON

AMOUNT ON HAND FOR FIRST DISBURSAL OF RESIDUE TO RESIDUARY BENEFICIARIES:	<u>\$ 38,000.00</u>
--	---------------------

Distribution to Residuary Beneficiaries in accordance with the
terms of the last Will and Testament of DORIS ANDERSON:

Paid to Harry Anderson as one-half share of first disbursement of residue	\$ 19,000.00
--	--------------

Paid to Olga Cleaver as one-half share of first disbursement of residue	<u>\$ 19,000.00</u>
--	---------------------

TOTAL DISTRIBUTIONS:	<u>\$ 38,000.00</u>
-----------------------------	----------------------------

/nmm

E. & O.E.

53. Releases

a) Form of Release to Executor or Administrator

IN THE QUEEN'S BENCH BRANDON CENTRE

IN THE ESTATE OF _____, late of the Town of Neepawa, in Manitoba, retired farmer, deceased.

RELEASE

KNOW ALL MEN BY THESE PRESENTS THAT I, _____, of the City of Saskatoon, in the Province of Saskatchewan, DO HEREBY ACKNOWLEDGE THAT:

1. When I receive of and from _____, executor of the estate of, _____, late of the Town of Neepawa, in Manitoba, retired farmer, deceased, the sum of \$25,000, that receipt will be in full satisfaction and payment of all money due to me as my distributive share of the residue of the estate.
2. I do by these presents remise, release, quit claim and forever discharge him and his heirs, executors and administrators of and from any claim related to the estate and its administration.
3. I request that the passing of accounts be dispensed with.
4. I do by these presents agree to indemnify, to the extent of my pro rata share of the residue of the estate, the executor for any amount of income tax, succession duties or any other sum for which he may be held personally liable, by virtue of his administration of the estate. I agree to this right of indemnification regardless of whether the executor has established the requisite certificate described under s. 159(2) of the Income Tax Act.
5. I hereby agree that an executor's fee of \$1,500.00 be paid to the executor for his administration of the estate.
6. I hereby acknowledge that I have received from Smith Jones LLP a copy of its statement of account setting forth the nature of the legal services rendered to the estate, amounting to \$3,000.00 and indicating that such legal services are in accordance with the Probate Court Tariff Form 74AA, and I hereby agree that the said amount be paid to Smith Jones LLP out of the residue of the estate.

7. I direct that wherever the singular and the masculine are used throughout this release, the same shall be construed as meaning the plural or the feminine where the context so requires.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal at the City of Saskatoon, in the Province of Saskatchewan, this ____ day of November, 2____.

SIGNED, SEALED and DELIVERED)
in the presence of:)
)
)

Witness

b) Sample Final Release for Residuary Beneficiaries, No Holdback

RELEASE AND ACKNOWLEDGMENT

MARGARET WELLINGTON, of City of Winnipeg, in Manitoba, died testate on or about December 7, 2___ and the Letters of Administration with Will Annexed were granted to Jimmy Mack of the City of Winnipeg, in Manitoba on March 11, 2___ by the Court of Queen's Bench, Winnipeg Centre, Probate Division, as File No. PR_____.

I, Richard Charles Wellington, am a residuary beneficiary of the estate of Margaret Wellington, and I have examined the accounts of the Administrator with Will Annexed in the reporting letter from Brown & Smith LLP dated March 15, 2____, and have found them to be correct.

I, Richard Charles Wellington, acknowledge receipt of interim distributions totaling \$110,097.74.

I, Richard Charles Wellington, consent to the payment of legal fees, taxes and disbursements for the administration of the estate as outlined in the letter from Brown and Smith dated March 15, 2_____.

I do not need a formal passing of accounts in court and waive any requirement to do so.

I, Richard Charles Wellington, as a residuary beneficiary of the estate, upon payment to me of the sum of \$_____, release and forever discharge Jimmy Mack from any and all claims whatsoever in relation to the estate of the Margaret Wellington.

I have signed this release under seal on March _____, 2_____.

SIGNED, SEALED AND DELIVERED

in the presence of:

Witness

)

)

)

)

Richard Charles Wellington

c) Sample Release for Residuary Beneficiaries, With Holdback

RELEASE AND ACKNOWLEDGMENT

Name of deceased, of City of Winnipeg, in Manitoba, died testate on or about *DOD* and the Probate/~~Letters of~~ Administration with Will Annexed/Administration were granted to *Personal Representative*, of the City of Winnipeg, in Manitoba on *date of order* by the Court of Queen's Bench, Winnipeg Centre, Probate Division, as File No. PR**.

I, *full legal name*, am a residuary beneficiary of the estate of *name of deceased* and I have examined the accounts of the Executor/Administratrix with Will Annexed/Administrator in the reporting letter from Jones Law Office dated *date of letter* and have found them to be correct.

I acknowledge receipt of an interim distribution totaling \$X.

I consent to the payment of executors compensation of *\$amount of compensation* to *name of PR*.

I consent to the payment of legal fees on all matters relating to the administration of the estate totaling *\$total fees on all invoices*. I acknowledge that the total fees, taxes, and disbursements are *\$total fees, taxes, disbursements on all invoices*. I have signed a separate consent to legal fees, taxes and disbursements.

I do not need a formal passing of accounts in court and waive any requirement to do so.

I, as a residuary beneficiary of the estate, upon payment to me of the sum of *\$amount of share* plus *proportion* of the holdback of *\$amount of holdback* for income taxes and estate expenses less any further income taxes and estate expenses payable by the estate of *name of deceased*, release and forever discharge *name of PR* from any and all claims whatsoever in relation to the estate of *name of deceased*.

I have signed this release under seal at Winnipeg, Manitoba on _____, 2***.

SIGNED, SEALED AND DELIVERED)

In the presence of:)

)

)

Witness name:

Witness address:

FULL LEGAL NAME

54. Application to Pass Accounts (Form 74V)

FILE NO. _____

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF:

THE ESTATE OF JOHN SMITH,

DECEASED.

NOTICE OF APPLICATION TO PASS ACCOUNTS

BROWN & JONES
Barristers & Solicitors
P.O. Box 333
Winnipeg, Manitoba
R3C 3B3

LAWYER: MICHAEL BROWN
FILE: 2222/W
PHONE: (204)222-3333

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

NOTICE OF APPLICATION TO PASS ACCOUNTS

IN THE ESTATE OF: JOHN SMITH, deceased.

I, ETHEL SMITH, of the Rural Municipality of Jackfish, in the Province of Manitoba, apply to pass accounts in this estate based on the following information:

1. THAT John Smith, late of the Rural Municipality of Jackfish, in the Province of Manitoba, died on the 23rd day of April, 2008.
2. THAT your applicant, Ethel Smith, on the 10th day of June, 2009, was duly granted administration of the estate of the deceased by letters_____.
3. THAT your applicant, Ethel Smith, has administered the said estate and effects of the deceased to the best of her ability so far as the estate can be administered to the 28th day of September, 2____.
4. THAT your applicant, Ethel Smith, has filed and true and correct accounts of her administration of the estate as required by law and verified by affidavit.
5. YOUR applicant, Ethel Smith, therefore requests that the said accounts be audited and passed by this court.
6. YOUR applicant, Ethel Smith, further requests that she may be allowed the sum of \$1,500.00 as a fair and reasonable allowance for her care, pains, trouble and time expended in administering, arranging and settling the affairs of the said estate between the 10th day of June, 2____, and the 28th day of September, 2____.
7. YOUR applicant, Ethel Smith, has not been allowed compensation for her services to the estate except:
 - a) NONE
8. YOUR applicant, Ethel Smith, further requests that Michael Brown, lawyer for the applicant, be allowed the sum of \$1,500 as fees, and \$150 as disbursements.
(or)
8. YOUR applicant, Ethel Smith, further requests that this court fix a reasonable amount for the fees and disbursements of Michael Brown, lawyer for the applicant.

9. THAT the only persons interested in the said estate and their proper places of residence are:
- a) Jean-Paul Smith, 111 Sherbrook Avenue, Winnipeg, MB.
 - b) Robert Trevor Smith, 630 Spruce Woods, Winnipeg, MB.
 - c) Renee Christine Smith, 124 Vimy Rd., Winnipeg, MB.

10. THAT of the persons mentioned in paragraph 9, the following persons are minors or are mentally incompetent and the name and address of the person's guardian of the person, guardian of the estate, committee or substitute decision maker for property is stated opposite the person's name:

Renee Christine Smith

None appointed

(Note: Identify the capacity in which the person serves. If no guardian has been appointed for a minor or, if no committee or substitute decision maker for a mentally incompetent person has been appointed, state "none appointed".)

11. THAT your applicant, Ethel Smith, knows of no creditors who have unsettled claims against the estate except NONE.
12. THAT the only portion of the estate that remains unadministered by your applicant Ethel Smith, is as set out in the accounts filed with the registrar, the reason for the non-administration being: those funds held in trust pending receipt of clearance certificate from the Canada Revenue Agency.

DATE: _____

ETHEL SMITH – Applicant

55. Affidavit Verifying Application and Accounts (Form 74W)

FILE NO. _____

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF:

THE ESTATE OF JOHN SMITH,

DECEASED.

**AFFIDAVIT OF ETHEL SMITH,
SWORN THE 30TH DAY OF DECEMBER, 2_____
VERIFYING APPLICATION AND ACCOUNTS**

BROWN & JONES
Barristers & Solicitors
P.O. Box 333
Winnipeg, Manitoba
R3C 3B3

MICHAEL BROWN
FILE: 2222/W
PHONE: (204)222-3333

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

AFFIDAVIT VERIFYING APPLICATION AND ACCOUNTS

IN THE ESTATE OF JOHN SMITH, deceased.

I, ETHEL SMITH, of the Rural Municipality of Jackfish, in the Province of Manitoba, make oath and say:

1. THAT the statements contained in the Notice of Application to Pass Accounts, signed by me and dated the 30th day of December, 2____, are true in substance and in fact.
2. THAT this is the first application to pass accounts.
(or)
2. THAT the accounts in this estate were last passed on _____ (date) _____ for the period from _____ (date) _____ to _____ (date) _____, and this application to pass accounts covers the period from _____ (date) _____ to _____ (date) _____.
3. THAT the account attached and marked as Exhibit "A" sets out a true and correct inventory of the estate, including assets discovered after application for probate or administration, the values placed upon the assets in the said application, how the assets were dealt with in due course of administration, the values of unrealized assets and the amounts received for assets realized, the total of such last-mentioned values and amounts being \$23,895.67.
4. THAT the account attached and marked as Exhibit "B" sets forth a true and correct account of all monies received by the estate other than from the realization of original assets or of investments made by me, the individual amounts so received and the dates when, the person from whom, and the account upon which each such amount was received, the total of such receipts being \$4,386.01.
5. THAT, except for what appears in the accounts attached and marked as Exhibits "A" and "B," I have not, nor has anyone else, so far as I know, received any part of the said deceased's estate or effects or the proceeds of the estate or effects.
6. THAT the account attached and marked as Exhibit "C" sets out a true and correct account of all disbursements made by me or any other person, for and on account of the said estate (except distributions made to beneficiaries and disbursements for investments) together with dates and amounts of such disbursements and the names

of persons to whom paid and on what account paid, the total of such disbursements being \$7,022.06.

7. THAT the account attached and marked as Exhibit "D" sets out a true and correct account of all payments and transfers of money or other assets of the estate made to named beneficiaries, and includes the dates and values of each such payment or transfer and the account on which each was made, the total value of such distributions being nil.
8. THAT the account attached and marked as Exhibit "E" sets out a summary, in debit and credit form, of the totals of unrealized original assets, proceeds of assets realized, monies received, disbursements paid and distributions made to beneficiaries and the net gain or loss on investments made by me; and a true and correct account of the values of each and every available asset of the estate still undisposed of and in the hands of myself or any other person, the total value thereof being \$21,259.62.
9. That attached and marked as Exhibit "F" to this my affidavit is a copy of the statement of account of Firm & Co., who were retained to assist me with respect to this passing of accounts. I am seeking payment for this statement of account from the estate.
10. That I am seeking compensation in the sum of \$1,500 for administering this estate. I had to clear my uncle's residence which entailed several days of work. I also looked after the livestock for the estate until my cousin was able to return to Jackfish to take over the property as a surviving joint owner. Attached and marked as Exhibit "G" is a summary of the time I have spent on the file.

SWORN before me at the Town of)
GROSS ISLE, in Manitoba, this)
30th day of December, 2____.)

ETHEL SMITH

A Notary Public in and for
the Province of Manitoba.

INVENTORY AND VALUATIONS

Exhibit A to the Affidavit of Ethel Smith

Sworn before me at Town of Gross Isle, in Manitoba, on 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

PART 1 OF EXHIBIT A — INVENTORY AND VALUATIONS OF THE ESTATE AS OF ____ (date) ____:

Brief Description of Assets	Inventory Valuation	How Dealt With	Actual Value of Assets	
			Transferred or Sold	Retained
Bank of Montreal Accounts:				
• 222-3013-999	\$1,548.03	deposited to estate account	\$1,544.18	NIL
• 222-5066-999	9,478.88	deposited to estate account	9,643.29	NIL
livestock	10,394.40	sold	10,701.76	NIL
grain on hand	829.50	sold	2,006.44	NIL
TOTALS	\$22,250.81		\$23,895.67	\$ NIL

PART 2 OF EXHIBIT A — STATEMENT OF ASSETS REINVESTED:
(Note: Complete Part 2 if assets were reinvested.)

ASSETS REINVESTED				
Date of Reinvestment	Asset Description	Value at Date of Investment	Value at Date of Reinvestment/ Current Value	Gain/Loss
		\$	\$	\$
	Totals	\$	\$	\$

MONIES RECEIVED

Exhibit "B" of the Affidavit of Ethel Smith

Sworn before me at the Town of Gross Isle, in Manitoba, on the 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

Date Rec'd	From Whom Rec'd	What Acct. Rec'd	Amount
<u>2009</u>			
June 16	Government of Canada	Income Tax Refund	\$ 395.65
June 16	Government of Canada	Special Grains Program	2,057.20
July 18	M.P.I.C.	refund	166.00
July 21	Government of Canada	C.P.P. Benefits	1,252.38
Sept. 30	Bank of Montreal	interest	28.40
Nov. 12	Co-op	equity	95.25
<u>2010</u>			
April 29	Bank of Montreal	interest	13.24
Sept. 30	Bank of Montreal	interest	28.40
Dec. 19	Canadian Wheat Board	Special Grains Program	89.52
<u>2011</u>			
April 29	Bank of Montreal	interest	13.24
Sept. 28	Canadian Imperial Bank of Commerce	interest	<u>246.73</u>
TOTAL			<u>\$ 4,386.01</u>

DISBURSEMENTS

Exhibit "C" of the Affidavit of Ethel Smith

Sworn before me at the Town of Gross Isle, in Manitoba, on the 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

Date	To Whom Paid	What Account Paid Amount	Capital
<u>2009</u>			
May 15	Manitoba Hydro	hydro for farm	\$ 76.27
May 15	Fast Ambulance	ambulance costs	155.60
May 26	John's Drug Mart	prescription	19.50
May 27	Bank of Montreal	interest & service chq overdraft chqs	5.13 6.00
June 2	Minister of Finance	administration fees	220.50
June 16	Manitoba Hydro	hydro for farm	85.22
June 29	Intercheque	estate cheques	8.37
June 30	Manitoba Telephone	telephone bill	25.69
July 24	Bank of Montreal	cheque back fee service charges interest overdraft charges	2.00 9.00 .03 6.00
August 4	White's Funeral Home	funeral account	1,805.80
October 7	Brown & Jones	legal fees & disbursements	3,293.13
Oct. 17	Rocks Marble & Granite Works	headstone & engraving	1,129.61
Oct. 18	Receiver General for Canada	estate income tax	<u>133.91</u>
TOTAL			\$ 7,022.06

PAYMENTS OR TRANSFERS TO BENEFICIARIES

Exhibit "D" of the Affidavit of Ethel Smith

Sworn before me at the Town of Gross Isle, in Manitoba, on the 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

DATE	To Whom Distributed	Nature of Distribution	Total
	NIL		\$NIL
TOTAL			NIL

SUMMARY OF ASSETS ON HAND

Exhibit "E" of the Affidavit of Ethel Smith

Sworn before me at the Town of Gross Isle, in Manitoba, on the 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

Original Assets Retained	\$ 0.00	
Original Assets Realized	\$23,895.67	
Revenue Receipts	\$ 4,386.01	
Revenue Disbursements		(\$ 7,022.06)
ASSETS ON HAND:		
Funds remaining in trust account		\$21,259.62
TOTALS	\$28,281.68	\$28,281.68

Exhibit "F" of the Affidavit of Ethel Smith

Sworn before me at the Town of Gross Isle, in Manitoba, on the 30th day of December, 20__.

A Notary Public in and for the Province of Manitoba

IN ACCOUNT WITH

FIRM & CO.
BARRISTERS and SOLICITORS

12th Floor, Royal Trust Building
390 St. Mary Avenue
Winnipeg, Manitoba
CANADA R3C 4E1
Telephone: (204) 338-5582
Fax: (204) 339-1235
GST: R121981112
June 17, 2____
Bill #5530010

TO:

RE: _____ Estate

STATEMENT OF ACCOUNT

TO PROFESSIONAL SERVICES RENDERED on your behalf in connection with the above-noted matter, including those matters necessary and incidental to our services but not specifically enumerated herein:

DATE	DESCRIPTION	TIME
29-JAN	Letter from client;	0.1
30-JAN	Telephone conversation with _____ re: passing of accounts;	0.1
03-FEB	Telephone call from client re: passing of accounts;	0.1
11-FEB	Telephone conference with _____;	0.1
19-FEB	Telephone conversation with _____ re: statements coming;	0.1
24-MAR	Letter from opposing counsel;	0.1
24-MAR	Letter to opposing counsel;	0.2
24-MAR	Telephone conversation with _____;	0.1
01-MAY	Received and review financial statements for passing of accounts and correspondence sent by _____;	1.0
	Prepare Appointment to Pass Accounts; Prepare Application to Pass Accounts; Prepare Notice to Beneficiaries;	
15-MAY	Prepare draft Affidavit of _____ verifying accounts – financial matters only organize and attach all exhibits;	1.2
22-MAY	Letter from opposing counsel;	0.1
01-JUN	Telephone conversation with _____;	0.1
04-JUN	Meet with _____ to discuss position of _____ of objections raised by beneficiaries of estate;	0.7
04-JUN	Review _____ file of correspondence, documents in administration of this estate and make notes for passing;	1.5
09-JUN	Revise draft Affidavit of _____ to attach correspondence exchanged between Canada Trust and beneficiaries to assist court on passing;	0.5
15-JUN	Telephone conversation with _____;	0.1
15-JUN	Telephone conversation with court re dates available;	0.1
17-JUN	Meet with _____ to review and execute Affidavit and Application to Pass Accounts and discuss issues to be raised at Passing of Accounts;	0.7

June 17, 1998
 Bill #205377
 FILE 3938-71/GBIJ

18-JUN	Letter to opposing counsel;	0.2
19-JUN	Anticipated telephone conversation with opposing counsel;	0.1
19-JUN	Anticipated letter from opposing counsel;	0.1
19-JUN	Anticipated preparation for court;	1.0
19-JUN	Anticipated appearance in court for contested hearing;	1.0
19-JUN	Anticipated preparation of court order;	0.4
19-JUN	Anticipated reporting letter to _____;	0.2
19-JUN	Anticipated final letter to _____;	0.2

TO OUR FEE:	\$1,515.00	
GST (5%)	75.75	
PST (7%)	106.05	
TOTAL		1,696.80

DISBURSEMENTS: (G.S.T. APPLICABLE)

Photocopies (404 @ .25)	101.00
Courier/Shipping Charges	8.00
Postage	0.90
File Opening Charge	35.00

DISBURSEMENTS: (G.S.T. EXEMPT)

Court of Queen's Bench to file Notice of Application	75.00	
TOTAL DISBURSEMENTS		\$219.90
TOTAL GST ON DISBURSEMENTS		<u>\$10.14</u>
OUR ACCOUNT HEREIN:		\$1,926.84

FIRM & CO.

Per: G. Firm
 E. & O.E.

LAWYER SUMMARY

	LAWYER	HOURS	FEE
GF	G. Firm	10.10	\$1,515.00

All accounts are due when rendered. To arrange payment by phone with "Visa" or "Mastercard", call our accounting department at (204) 925-5384. Please include file and/or invoice numbers with your remittance.

Page 2

56. Appointment to Pass Accounts (Form 74X)

FILE NO. _____

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF JOHN SMITH,

DECEASED.

APPOINTMENT TO PASS ACCOUNTS

BROWN & JONES
Barristers & Solicitors
P.O. Box 333
Winnipeg, Manitoba
R3C 3B3

LAWYER: MICHAEL BROWN
FILE: 2222/W
PHONE: (204)222-3333
FAX NO: (204)222-4444
BOX: 39

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

APPOINTMENT TO PASS ACCOUNTS

IN THE ESTATE OF JOHN SMITH, deceased.

Upon reading the application of ETHEL SMITH, executrix of the estate of JOHN SMITH, deceased, and the applicant having filed the accounts of receipts and expenditures in respect of the estate verified by affidavit:

I appoint the 5th day of November, 2__, at 2:00 o'clock in the afternoon at Room ____ in the Law Courts Building, in the City of Winnipeg as the time and place for the purpose of examining, auditing and passing those accounts; and, if necessary, to inquire into and adjudicate upon any complaints or claims by any person interested in respect of the administration of the estate:

AND to fix the compensation, if any, to be allowed to the said applicant for care, pains, trouble and time expended in and about the estate;

AND I ORDER that all persons who are or may be interested in the estate of the deceased attend at the time and place to make inquiry regarding the affairs of the estate or to object to the award of the amount requested by the applicant as compensation, if they so desire; and that, in the event of their non-attendance, the matter may be proceeded with in their absence;

AND I ORDER that a copy of

- (a) this appointment;
- (b) notice of application to pass accounts (Form 74V);
- (c) affidavit verifying application and accounts (Form 74W);
- (d) notice to beneficiaries (Form 74Y);
- (e) any material the personal representative is relying on to support a request for compensation; and
- (f) all accounts of the lawyer for the personal representative for which approval is being sought;

be served at least ____ days before the appointed day either personally or by an alternative to personal service on each of the persons mentioned in paragraphs 9 and 10 of the application and on any surety. However,

- if a person mentioned in paragraph 9 or 10 of the application is an minor , the documents shall be served on his or her guardian of the estate. If the person does not have a guardian of the estate, The Public Trustee shall be served;
- if a person mentioned in paragraph 9 or 10 is mentally incompetent, the documents shall be served on his or her committee or substitute decision maker for property, as the case may be. If the person does not have a committee or substitute decision maker for property, The Public Trustee shall be served;
- Note: Service is to be made at least 14 days before the appointed day on a person in Manitoba, at least 30 days before the appointed day on a person outside Manitoba but in Canada and at least 45 days before the appointed day on a person outside Canada.

DATE:_____

(signature of master)

57. Notice to Beneficiaries (Form 74Y)

[MUST BE ON BLUE PAPER]

THE QUEEN'S BENCH WINNIPEG CENTRE

IN THE ESTATE OF JOHN SMITH, deceased.

The master _____ has appointed the 5th day of November, 2____, at 2:00 o'clock in the afternoon, at the court house, in the City of Winnipeg, in Manitoba as the time and place for:

- (a) examining the accounts of the above estate;
- (b) enquiring into complaints or claims of persons interested in the estate;
- (c) fixing the compensation to be paid to ETHEL SMITH for services as personal representative, the amount requested being \$1,500.00; and
- (d) fixing the fees and disbursements to be paid to the lawyer retained by the personal representative.

IMPORTANT

YOU HAVE THE RIGHT to attend this hearing or to be represented by a lawyer retained by you. The court may order that your lawyer's fee be paid out of the assets of the estate, if it appears that the lawyer's services were reasonably necessary.

YOU ALSO HAVE THE RIGHT at this hearing:

- (1) to obtain explanations concerning matters not clear to you;
- (2) to object to any items in the accounts which may appear to you to be questionable;
- (3) to make known any complaints you may have regarding the administration of the estate;
- (4) to object to the amount of the compensation claimed by the personal representative and request that the court allow some lesser amount than \$1,500.00;
- (5) to object to the amount of fees and disbursements requested by a lawyer who acted for the personal representative, taking into account Queen's Bench 74.14.

TAKE NOTICE that if you do not attend, in person or by a lawyer the hearing will proceed in your absence.

58. Order on Passing Accounts (Form 74Z)

FILE NO.

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF JOHN SMITH,

DECEASED.

ORDER ON PASSING ACCOUNTS

BROWN & JONES
Barristers & Solicitors
P.O. Box 333
Winnipeg, Manitoba
R3C 3B3

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**THE QUEEN'S BENCH
WINNIPEG CENTRE**

ORDER ON PASSING ACCOUNTS

[name of judge or master]

[day and date order made]

IN THE ESTATE OF JOHN SMITH, deceased.

HAVING PROCEEDED on the 5th day of November, 2____, to take, audit and pass the accounts of the executrix, ETHEL SMITH, (hereinafter called personal representative), for the period from _____ to _____, and in the presence of ETHEL SMITH and her lawyer , and after due notice to JEAN-PAUL SMITH, ROBERT TREVOR SMITH and RENEE CHRISTINE SMITH, who failed to attend, THIS COURT:

FINDS AND DECLARES that the assets of the estate which came into the hands of the personal representative amounted to \$23,895.67;

AND FINDS AND DECLARES that the money received by the estate (other than from the realization of the assets or of investments made by the personal representative) amount to \$4,386.01, of which \$4,386.01 is properly applicable to income and \$NIL to capital;

AND FINDS AND DECLARES that the personal representative properly paid out and disbursed in due course of administration of the estate (otherwise than as distributions to beneficiaries or for the purpose of investing monies of the estate) the sum of \$7,022.06, of which \$7,022.06 is properly applicable to income and \$NIL to capital;

AND FINDS AND DECLARES that the personal representative properly distributed to the beneficiaries of the estate assets or money of the estate to a total value or amount of \$NIL, of which \$NIL was distributed on account of interests in income and \$NIL was distributed on account of interests in capital;

ALLOW to the personal representative \$1,500.00 as a fair and reasonable allowance for her care, pains, trouble and time expended in administering and settling the affairs of the estate from the 10th day of June, 1997, to the 28th day of September, 2____, and the distribution of the estate now remaining on hand;

AND ALLOWS to the lawyer for the personal representative \$800.00 for fees and \$_____ for disbursements for preparing and passing the accounts;

AND ALLOWS to the lawyer for the personal representative \$_____ for fees and \$_____ for disbursements for services rendered other than preparing and passing the accounts;

FINDS AND DECLARES that, after deducting the amount of the compensation for the personal representative and fees and disbursements for the lawyer for personal representative, the value of the assets of the estate remaining on hand is \$18,959.62, of which \$18,959.62 is in the form of cash.

DATE: _____

(signature of judge or master)

59. Sample Reporting Letter to Surviving Spouse/Executor

September 15, 2____

Mr. Charles Franklin
123 Any Street
Winnipeg, Manitoba
R1A 2B2

Dear Sir:

Re: Estate of Jane Mary Franklin

We are pleased to advise that the probate and administration of the referenced estate has essentially been completed and the following is our report.

1. Letters Probate

In accordance with your instructions, we prepared, attended on execution, and filed in the Court of Queen's Bench, Winnipeg Centre, the request for probate of the will of Jane Mary Franklin. On June 1, 2____, the letters probate issued out of that court as No. PR _____, naming Charles Kenneth Franklin as sole executor. We now enclose herewith the original probate together with two notarial copies thereof and a photocopy of the request for probate.

2. Debts

In July 2____, we advertised for creditors of your wife's estate in the Winnipeg Free Press and the Manitoba Gazette. No creditors came forward as a result of the advertisements. It is our understanding that the debts of your wife's estate were the pecuniary legacies (see below), funeral expenses, the fees for the probate (see below), income taxes and accountants' fees, all of which were paid by you out of your wife's estate bank account at the Bank of Nova Scotia, Main Branch, Winnipeg, Manitoba, Account No. 12345.

3. Legacies

We confirm your advice that the following pecuniary legacies left by your wife in her will were paid by you out of your wife's estate bank account:

(a)	The Canadian Cancer Society:	\$ 500.00
(b)	The United Way:	\$1,000.00
(c)	The University of Manitoba, Faculty of Law:	\$ 500.00
(d)	Prairie Public Television:	\$ 100.00
(e)	James John Jones, your wife's nephew:	<u>\$1,000.00</u>
	TOTAL	\$3,100.00

We prepared and forwarded releases to each of the pecuniary legatees in connection with their gifts, the duplicate originals of which were forwarded to you in our letter of August 31, 2____.

As you know, you are the sole residuary beneficiary of your wife's estate.

4. Administration of Assets

We would reiterate our earlier advice to you that the assets of your wife's estate as listed in the enclosed request for probate have been listed at their fair market values as at the date of her death, being May 15, 2____.

(a) Canada Savings Bonds

As you are aware, we prepared and provided to you the necessary documentation to transmit and transfer the Canada Savings Bonds in the aggregate of \$50,000.00 into your name as sole beneficiary.

(b) Canadian Atlantic Hotels Limited Bond

The Canadian Atlantic Hotels Limited 10-1/2% First Mortgage Sinking Fund Bond, Series A, in the principal sum of \$5,000.00 was called for redemption and was redeemed on July 1, 2____. We understand that the proceeds of redemption were deposited into your wife's estate bank account at the Bank of Nova Scotia.

(c) Inter-City Gas Corporation Debenture

The Inter-City Gas Corporation 10-3/8% Secured Debenture Series I, in the principal sum of \$4,000.00, matured on August 15, 2____. The proceeds in the sum of \$4,000.00 were deposited into your wife's estate bank account on August 31, 2001, after the necessary documentation in connection therewith was forwarded by our office to the Toronto-Dominion Bank as transfer agent for completion of the transmission and transfer into your name.

(d) Toronto-Dominion Bank Account

Your late wife maintained a savings account No. 02468 and a chequing account No. 01357 at the Toronto-Dominion Bank, Flora and Fauna Branch, Winnipeg, Manitoba. As at the date of her death, the funds in the savings account were \$1,000.00 and the sum of \$1,500.00 was in the chequing account. We arranged for the necessary documentation to be forwarded to the Toronto-Dominion Bank and on July 15, 2____, the funds in the chequing account and savings account were forwarded for deposit into your wife's estate account at the Bank of Nova Scotia.

(e) 1999 Volvo Automobile

We confirm your advice that you arranged for the transfer of the automobile into your name as beneficiary.

(f) Real Property

As you are aware, your wife was the registered owner of a quarter section of land in Saskatchewan, being the following:

NE 1/4 20-19-18 E2

By letter dated August 15, 2____, we forwarded the necessary information to your Saskatchewan solicitors with respect to the resealing of the letters probate in Saskatchewan. We also requested that the property be transmitted and transferred into your name as beneficiary, once the letters probate are resealed. We shall meet you with respect to the execution of the relevant documentation once same is received from Black and Brown, your Saskatchewan solicitors.

(g) The Royal Bank of Canada Common Shares

With respect to the 150 Royal Bank of Canada common shares, as you will recall, we prepared the necessary documentation to transmit and transfer the shares into your name, being the declaration of transmission, power of attorney and notarial copies of the death certificate and letters probate. On July 15, 2____, you attended at our office to execute the declaration of transmission and thereafter, you delivered the relevant documentation to your securities broker, Diane Smith of XYZ Securities Corporation. We understand that the documentation has been forwarded to the relevant transfer agent for completion of the transmission and transfer into your name.

5. Life Insurance Proceeds

Your late wife left an insurance policy with the Great-West Life Assurance Company being policy No. 123456. The policy was in the sum of \$3,000.00. The life insurance proceeds were forwarded directly to you as beneficiary, in accordance with our letter to the Great-West Life Assurance Company of June 18, 2____.

6. Registered Retirement Savings Plan

As you are aware, your wife held a registered retirement savings plan (RRSP) with the Canada Trust Company. You were the designated beneficiary of your wife's RRSP and accordingly, the RRSP rolled over into your name and did not form part of your wife's estate.

By letter dated August 1, 2____, the writer forwarded to Canada Trust Company the required information to enable the transmission of the RRSP proceeds into your name as designated beneficiary.

7. Transfer of Title to 123 Any Street

In accordance with your instructions, we prepared, attended on execution and filed in the Winnipeg Land Titles Office a request to issue new title covering 123 Any Street into your name as surviving joint tenant. The documentation was filed with Teranet

Manitoba on August 1, 2____ and the new title No. 1234567 was issued in the name of Charles Kenneth Franklin of 123 Any Street, Winnipeg, Manitoba, R1A 2B2 covering the following land: Lot 1, Block 2, Plan 1234, W.L.T.O. in Lot 1, Parish of St. Boniface.

As of August 1, 2____ there were no charges on the title.

8. Estate Tax Returns

Your wife's final personal income tax return representing the period from January 1, 2001 to May 15, 2____ was prepared and filed by Debit, Credit, Chartered Accountants. The estate tax return was also prepared and filed by these accountants. We understand that all outstanding income taxes have been paid by you out of funds in your wife's estate bank account. As we have previously advised, we understand that clearance certificates have been approved by the Canada Customs and Revenue Agency that Anne Debit of Debit, Credit provide us with a copy of same.

9. Estate Bank Account

With respect to your wife's estate bank account at the Bank of Nova Scotia, we would suggest that same remain open until the transmission and transfer of the Saskatchewan property into your name has been completed. Once our statement of account, the Saskatchewan probate fees and the statement of account of your Saskatchewan solicitors have been satisfied, we would expect that you would not need your wife's estate bank account any longer and it can then be closed. The funds therein should be paid over to you as beneficiary. As we have also suggested, if further funds are issued to your wife's estate once the bank account has been closed, the estate could endorse over the cheques in your favour as beneficiary.

10. Probate Fees

In connection with the request for probate, a fee in the sum of X dollars was paid to the Court of Queen's Bench, Probate Division, with respect to the Manitoba assets. Separate probate fees will be payable in connection with the resealing of probate in Saskatchewan.

11. Statement of Account

We would advise that we shall forward our statement of account for services rendered and disbursements incurred in connection with the administration of the estate under separate cover upon completion of the resealing of probate in Saskatchewan. We shall also report to you on monies received and disbursed on behalf of the estate at that time. We would again refer you to Form 74AA of the Court of Queen's Bench Rules which deals with the entitlement to fees of solicitors and personal representatives.

12. Enclosures

We now enclose herewith the following:

- (a) original letters probate together with two notarial copies of same;
- (b) copy of the request for probate;
- (c) status of tile; and
- (d) five notarial copies of the death certificate.

We confirm that we have previously provided you with copies of the declarations of transmission with respect to the securities.

We would also advise that we are forwarding a copy of our report to Mrs. Debit for her records.

Yours truly,

LAW & LAW

per: Janet Law

cc: Debit, Credit
Chartered Accountants

60. Authorization to Obtain Probate Fees

AUTHORIZATION

TO: [Name and address of bank]

RE: The Estate of George Smith

This will be your full and sufficient authority to forward to my solicitors, [name of firm and address] to the attention of [name of lawyer}, your bank draft payable to the Minister of Finance in the amount of \$_____, being the probate fees payable to the Court of Queen's Bench, which funds are to be withdrawn from the deceased's account no. _____ at your bank.

All prior authorizations are hereby cancelled, and a photocopy or PDF of this Authorization shall be as valid as the original.

DATED at Winnipeg, Manitoba this ____ day of _____, 2____.

Barbara Smith
Executrix for the Estate of George Smith

61. Authorization for Release of Information

AUTHORIZATION FOR RELEASE OF ALL INFORMATION

I, Barbara Smith, Executrix for the Estate of George Smith, do hereby authorize you to release to the law firm of [name and address of law firm] Attn: [name of lawyer], any and all information requested.

A photocopy or PDF of this Release shall be sufficient authorization for you to release the said information.

DATED at Winnipeg, Manitoba this ____ day of _____, 2____.

BARBARA SMITH
Executrix for the Estate of George Smith

62. Motion for Release of Administration Bond

File No. PR

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
in Manitoba, deceased

**NOTICE OF MOTION
HEARING DATE: SEPTEMBER 11, 2____ AT 10:00 A.M.**

**BROWN & JONES
Barristers and Solicitors
500 - 122 Main St.
Winnipeg, Manitoba R5K 1Z3**

**Mary Brown
956-0012
Fax - 944-2230
Client File No. BR - 5562**

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
in Manitoba, deceased

NOTICE OF MOTION

BARBARA SMITH will make a Motion before the presiding Judge on the 11th day of September, 2____, at 10:00 a.m., or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Ave., Winnipeg, Manitoba.

THE MOTION IS FOR the following relief:

1. An order that the administration bond of Barbara Smith with Western Surety Company be cancelled and that Barbara Smith be released therefrom forthwith.
2. An order dispensing with the Passing of Accounts of the Estate of the said George Smith, deceased.

THE GROUNDS FOR THE MOTION are as follows:

1. Barbara Smith has fulfilled her duties as executrix of the estate of George Smith, deceased, and the estate is now fully administered.
2. The Queen's Bench Rules;
3. The Court of Queen's Bench *Surrogate Practices Act*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the Hearing of the Motion:

1. The Affidavit of Barbara Smith and the releases of Frances Dudley and Mark Smith annexed thereto.

August 1, 2____

BROWN AND JONES
Barristers and Solicitors
500 – 122 Main St.
Winnipeg, MB R3K 1Z3
Phone: 956-0012

63. Affidavit In Support Of Motion For Release Of Administration Bond

File No. PR

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
in Manitoba, deceased

**AFFIDAVIT OF BARBARA SMITH
SWORN: JULY 18, 2____
HEARING DATE: SEPTEMBER 11, 2____ AT 10:00 A.M.**

**BROWN & JONES
Barristers and Solicitors
500 - 122 Main St.
Winnipeg, Manitoba R5K 1Z3**

**Mary Brown
956-0012
Fax - 944-2230
Client File No. BR - 5562**

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
in Manitoba, deceased

AFFIDAVIT OF BARBARA SMITH

I, **BARBARA SMITH**, of the City of Minneapolis, in the State of Minnesota, as Executrix of the estate of George Smith, late of the City of Winnipeg, in Manitoba, Deceased,

MAKE OATH AND SAY THAT:

1. I am the named Executrix of the Estate of George Smith, late of the City of Winnipeg, in the Province of Manitoba, Deceased, and as such have personal knowledge of the facts hereinafter deposed to by me except where same are based on information and belief, in which case I verily believe same to be true and I make this Affidavit by way of an Application for an Order to dispense with the Passing of Accounts and for an Order to release me, the said Barbara Smith from the Administration Bond filed with the Request for Probate of the said Estate.
2. The said George Smith died on or about the 28th day of September, 2____ and attached to my Affidavit as Exhibit "A" is a copy of the Probate of the property of the said George Smith, Deceased, which was granted by the Court of Queen's Bench, Winnipeg Centre, of the Province of Manitoba, on October 31, 2____.
3. The deceased was a never married man and the following are the heirs of his estate:
 - (a) Frances Dudley, 219 Jackson St., St. Paul, Minnesota, sister;
 - (b) Mark Smith, 520 Grove St., Selkirk, Manitoba, brother.
4. The Notice to Creditors was published in the Manitoba Gazette on October 18, 2____, and in the Winnipeg Free Press on October 11, 2____, and that I have fully paid each and every debt against the estate and that all debts, claims and liabilities against the said George Smith, Deceased, and his estate have been paid, discharged and disposed of and that there are no covenants outstanding against the deceased or his estate under any mortgage of land or personal real property, or agreement by which to buy land or personal property, bond, etc. to the deceased or any other document or writing, and that there are no unpaid income taxes or municipal liens and rights of lien for payment by the municipality of the funeral, sickness or burial expenses of the said deceased.

5. I have realized the assets of the estate and I have paid all liabilities of the estate and that all the beneficiaries of the estate have furnished me with Releases to the effect that they have received their share of the estate.

6. No further assets have become payable to the estate or payable to myself by virtue of the death of George Smith and to the best of my knowledge no further assets will be accruing in the future.

7. Attached as Exhibit "B" is the original release of Frances Dudley.

8. Attached as Exhibit "C" is the original release of Mark Smith.

9. The whole of the said estate after payment of all debts has now been distributed to the said next-of-kin and heirs-at-law and that the estate can now be wound up.

10. I am making no claim for compensation for acting as Executrix of this Estate.

11. I make this affidavit in good faith by way of an application to this Honourable Court for an Order to dispense with the passing of Accounts herein and for an Order releasing me from the Administration Bond herein.

SWORN before me at the City of
Minneapolis, in the State of Minnesota,)
this 18th day of July, 2____.)

_____)
_____)

A Notary Public in and for the State of
Minnesota.

BARBARA SMITH

64. Order for Release of Administration Bond

File No. PR

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
in Manitoba, deceased

ORDER

**BROWN & JONES
Barristers and Solicitors
500 - 122 Main St.
Winnipeg, Manitoba R5K 1Z3**

**Mary Brown
956-0012
Fax - 944-2230
Client File No. BR - 5562**

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

THE HONOURABLE)
) Thursday, the 11th day of September, 2____
MR. JUSTICE WATERS)

IN THE ESTATE OF: **GEORGE SMITH**, late of the City of Winnipeg,
 in Manitoba, deceased

ORDER

THIS MOTION made by BARBARA SMITH of the City of Minneapolis, in the State of Minnesota, as executrix of the estate of George Smith, late of the City of Winnipeg, in the Province of Manitoba, deceased, for cancellation of the administration bond of Barbara Smith was heard this day at the Law Courts Building, 408 York Ave., Winnipeg, Manitoba.

ON READING the Affidavit of Barbara Smith and the releases of Frances Dudley and Mark Smith annexed thereto, and it appearing that Barbara Smith has fulfilled her duties as executrix of the estate of George Smith, deceased, and that the estate is fully administered.

1. THIS COURT ORDERS that the administration bond of Barbara Smith with the Western Surety Company dated the 16th day of October, 2____, and filed with this Court on the Application of Barbara Smith for Grant of Probate on the estate of George Smith, deceased, be cancelled.

2. THIS COURT ORDERS that the passing of accounts of the estate of Barbara Smith, deceased, be hereby dispensed with.

September ____, 2____

Judge

65. How Many Copies - Summary of Documents to be Filed in Probate Division

1. Request for Probate:

- (a) 1 copy of request and supporting documents, including original Will (and codicil);
- (b) 2 copies of Probate;
- (c) 1 copy of backer for Probate;
- (d) 2 copies of Will (and codicil) without affidavit of execution.

2. Request for Administration:

- (a) 1 copy of request and supporting documents;
- (b) 2 copies of Letters of Administration;
- (c) 1 copy of backer for Letters of Administration.

3. Request for Administration with Will Annexed:

- (a) 1 copy of request and supporting documents, including original Will (and codicil);
- (b) 2 copies of Letters of Administration with Will Annexed;
- (c) 1 copy of backer for Letters of Administration with Will Annexed;
- (d) 2 copies of Will (and codicil) without affidavit of execution.

4. Order under s. 47:

- (a) 1 copy of request for order pursuant to s. 47, including original Will if applicable;
- (b) 2 copies of administration order.
NOTE: No copies of the Will are required.

5. Request for Re-Sealing:

- (a) 1 copy of request for re-sealing.
- (b) the original Grant plus 1 notarial copy of same; **or**
2 court certified copies of Grant; **or**
1 certified copy and 1 notarial copy of Grant;
- (c) backer for Grant.

66. Statement of Principles – Fees in Estate Matters (Revised)

Statement of Principles – Fees in Estate Matters

A. Legal Fees Generally

1. A lawyer must not charge a fee or disbursement that is not fully disclosed fair and reasonable.
2. The fee that a personal representative's lawyer may charge is governed by *Queen's Bench Rule 74.14*. The lawyer must serve a copy of Form 74AA on the personal representative and each beneficiary whose interest in the estate may be affected by the lawyer's fees and disbursements within 60 days after the lawyer is retained by the personal representative.
3. The basic fees under *Queen's Bench Rule 74.14(6)* are calculated as a percentage of the value of the estate assets, and are intended to cover the work involved in estates of average complexity. A simple estate may not warrant a fee based solely on a percentage of the value of the estate.
4. In accordance with *Rule 74.14(5)*, the aggregate value of an estate is determined by taking into account those assets under probate and specifically does not include a number of items, including gifts made by the deceased during their lifetime; insurance, annuities and pensions not payable to the estate, property held in joint tenancy and the death benefit under the *Canada Pension Plan*.
5. Where there is a change in the aggregate value of the estate that is more than nominal, an amended application for probate should be filed. In the absence of an amended application for probate, the lawyer's fees should not be calculated on the basis of the increased value of the estate.
6. Where an estate does not proceed to formal probate the fee that is charged to the client will not fall within the Queen's Bench tariff. The lawyer may bill their hourly rate subject to agreement with the client and providing that the fees are fully disclosed, fair and reasonable.
7. A lawyer must not accept payment for services to the personal representative or to the estate except in accordance with *Queen's Bench Rule 74.14*.

Role of the Lawyer

8. In assessing whether a fee is fair and reasonable and in accordance with *Queens Bench Rule 74.14(8)*, the Law Society generally would expect that in an estate of average complexity the following services would be provided to the personal representative:
- (a) receiving instructions from the personal representative;
 - (b) giving the personal representative information and advice on all matters in connection with the administration of the estate;
 - (c) reviewing the will or the provisions of *The Intestate Succession Act* with the personal representative;
 - (d) receiving information from the personal representative about the following:
 - i. the deceased;
 - ii. the estate property;
 - iii. the deceased's debts;
 - iv. the beneficiaries; or
 - v. minors;
 - (e) receiving details from the personal representative of the property and debts of the deceased for the purposes of preparing a request for probate or administration, including the following:
 - i. the full nature and value of the property of the deceased as at the date of death including the value of all land and buildings and a summary of outstanding mortgages, leases and any other encumbrances;
 - ii. any pensions, annuities, death benefits and any other benefits payable to the estate;
 - iii. any debts owed by the deceased as at the date of death;
 - (f) preparing necessary documents to obtain probate or administration of the estate, attending on signing documents, filing documents in the court and receiving probate or administration;
 - (g) preparing and serving all required notices including under *The Dependants' Relief Act* and *The Family Property Act*, C.C.S.M. c. F25 and advising the Public Guardian and Trustee, if necessary;

- (h) advising and assisting the personal representative in settling debts, including advertising for creditors if instructed to do so;
- (i) preparing declarations of transmission and powers of attorney and related documents for stocks and bonds transferable to the personal representative under the probate or administration and preparing documents to transfer the stocks and bonds to the person entitled to them under the will or intestate succession provisions;
- (j) preparing transmissions and related documents for land transferable to the personal representative under the probate or administration and preparing transfers of land and related documents to transfer land to the persons entitled to the land under the will or intestate succession provisions;
- (k) advising the personal representative on any trust required by the will;
- (l) advising the personal representative to prepare and file tax returns;
- (m) confirming receipts of clearance certificates from Canada Revenue Agency;
- (n) advising the personal representative to provide an accounting to the beneficiaries and a report to the beneficiaries on the administration of the estate;
- (o) requesting approval from the beneficiaries of the compensation for the personal representative and the fees and disbursements of the lawyer for the personal representative;
- (p) preparing and obtaining releases if so instructed by the personal representative;
- (q) advising and assisting the personal representative in distributing the estate property in accordance with the will or intestate succession provisions.

Role of the Personal Representative

9. The following services would typically be considered by the Law Society as falling within the realm of the personal representative's responsibilities and therefore are not typically the responsibility of the lawyer:

- (a) making arrangements for the funeral, memorial or other similar services;

- (b) determining the names and addresses of those beneficially entitled to the estate property and notifying them of their interests;
- (c) arranging with a bank, trust company or other financial institution for a list of the contents of a safety deposit box;
- (d) determining the full nature and value of property and debts of the deceased as of the date of death and compiling a list, including the value of all land and buildings and a summary of outstanding mortgages, leases and other encumbrances;
- (e) examining existing insurance policies, advising insurance companies of the death and placing additional insurance if necessary;
- (f) arranging for the proper management of the estate property, including continuous business operations, taking control of property and selling property;
- (g) retaining a lawyer to advise on the administration of the estate where appropriate, to apply for probate from the court or bring any matter before the court;
- (h) applying for any pensions, annuities, death benefits, life insurance or other benefits payable to the estate;
- (i) advising any joint tenancy beneficiaries of the death of the deceased;
- (j) advising any designated beneficiaries of their interests under life insurance or other property passing outside the will;
- (k) arranging for the payment of debts and expenses owed by the deceased and the estate;
- (l) determining whether to advertise for claimants, checking all claims and making payments as funds become available;
- (m) taking the steps necessary to finalize the amount payable if the legitimacy or amount of a debt is in issue;
- (n) determining the income tax or other tax liability of the deceased and of the estate, including retaining the services of an accountant where appropriate, filing the necessary returns, paying any tax owing and

obtaining income tax or other tax clearance certificates before distributing the estate property;

- (o) instructing a lawyer in any litigation;
- (p) administering or arranging any continuing testamentary trusts or trusts for minors;
- (q) preparing the personal representative's financial statements, a proposed compensation schedule and a proposed final distribution schedule;
- (r) distributing the estate property in accordance with the will or intestate succession provisions.

Additional Fees Under Queen's Bench Rule 74.14(9)

10. In addition to the fees provided for in *Queen's Bench Rule 74.14(6) or (7)*, a lawyer for the personal representative is also entitled to receive payment for the following services:

- (a) appearances in court, in an amount set by the court;
- (b) services related to passing the accounts of the personal representative in court under *Rule 74.12* in an amount set by the court;
- (c) acting on the sale of an estate asset;
- (d) finding a purchaser of an estate asset;
- (e) assisting the personal representative with administration duties, including:
 - (i) keeping and preparing the accounts of the personal representative;
 - (ii) listing and valuing assets and debts, and
 - (iii) safekeeping, insuring and disposing of estate assets;
- (f) advising the personal representative with respect to an estate of above-average complexity;
- (g) advising and assisting the personal representative as to ongoing trust administration matters, including:
 - (i) the personal representative's duties,
 - (ii) the personal representative's powers of sale, investment and

- encroachment, and
- (iii) the allocation of assets as capital or revenue.

11. Where a lawyer has performed some or all of the responsibilities of the personal representative the lawyer is entitled to be compensated for those services. The lawyer should be aware, however, that it may not be appropriate to seek to be remunerated at legal rates for doing administrative tasks. It is important for the lawyer to discuss with the personal representative at the outset of the retainer the nature of the services to be provided, and the basis upon which the lawyer will charge for services that are otherwise the responsibility of the personal representative. In such circumstances the personal representative may themselves have to compensate the lawyer, or alternatively accept a reduced executor's fee.

B. Statements of Account and Consent of Beneficiaries

Final Statement of Account on Completion of Estate

1. On completion of the estate, in accordance with *Rule 74.14(10)*, the lawyer is entitled to be paid the fees and disbursements that the lawyer requests if written consent is received from the personal representative and from all the beneficiaries whose interests may be affected by the fees and disbursements if those beneficiaries are adults, have been served with a copy of Form 74AA and have been given an itemized statement of account that delineates the services for an estate of average complexity from any additional services.

Interim Statement of Account

2. The lawyer is entitled to be paid interim fees and disbursements for legal services that have been completed if the personal representative consents in writing and if the fees are within the fees allowed under *Rule 71.14(6) or (7)*, and if all beneficiaries whose interest may be affected by the fees and disbursements are adults, have been served with Form 74AA and have been given an itemized statement of account that delineates the services for an estate of average complexity from any additional services.
3. It is not acceptable to obtain from residuary beneficiaries at the time of initial distribution a consent to additional fees, for example at an agreed upon hourly rate. Such fees must be clearly determined prior to obtaining a consent to the fee from the personal representative and from the residual beneficiaries.

4. Where the personal representative has prepared an accounting for the period of administration the lawyer should advise the personal representative to:
 - (a) obtain from the residuary beneficiaries a release for the payment to be made to them as residuary beneficiaries; and
 - (b) to obtain from the residuary beneficiaries a written consent to the personal representative's fee.
5. Where the lawyer has prepared an accounting for the period of administration the lawyer must:
 - (a) obtain from the residuary beneficiaries a release of the personal representative for the payment to be made to them as residuary beneficiaries; and
 - (b) the lawyer must obtain from the residuary beneficiaries a written consent to the personal representative's fee.

Court Review of Lawyer's Fees and Disbursements

6. Unless the lawyer's fees and disbursements have been consented to by the personal representative and the beneficiaries whose interest may be affected by the fees and disbursements, they are subject to review by the court on a passing of accounts under *Rule 74.14(12)* or on an assessment of fees and disbursements under *Rule 74.14(13)* and *Rule 58*.

C. Legal Fees Where Lawyer acts as Personal Representative

1. Where a lawyer acts as personal representative, their legal fees will be reduced by virtue of *Rule 74.14(7)*, which states:

If the personal representative is

- (a) *an individual who is a lawyer and, while acting as the personal representative, also acts as the lawyer for the personal representative;*
- (b) *a trust company; or*
- (c) *the Public Guardian and Trustee of Manitoba;*
the lawyer for the personal representative is allowed only 40% of the fees calculated under subrule (6), subject to a minimum fee of \$1500.

D. Fees of Personal Representatives

Calculation of Fees

1. Where compensation is not set out in the will, a lawyer may take executor's compensation if all the residual beneficiaries are legally competent adults and they consent to the claim for compensation. Otherwise, an application to pass accounts for any executor's compensation should be made.

2. Where a lawyer acts as the personal representative, they are entitled to be paid a fair and reasonable allowance for their "care, pains, trouble and time" as provided for under Section 90(1) of *The Trustee Act*. The courts have set out the generally accepted principles with respect to executor's fees, and the following matters have been considered when fixing the remuneration of an executor:

- (a) the magnitude of the trust;
- (b) the care and responsibility springing therefrom;
- (c) the time occupied in performing the duties;
- (d) the skill and ability displayed; and
- (e) the success which has attained its administration.