



Elizabeth Herritt  
Signature of applicant

June 18/12  
Date

Name: Elizabeth Herritt  
Complete address: 401 - 3700 John Parr Drive, Halifax, NS B3K 5V4  
Telephone: (902) 209 - 9314  
Fax: n/a  
E-mail: peherritt@eastlink.ca

Catherine Ivany  
Signature of applicant

June 18, 2012  
Date

Name: Catherine Ivany  
Complete address: 293 Skyridge Avenue, Lower Sackville, NS B4C 3C8  
Telephone: (902) 864 - 1422  
Fax: n/a  
E-mail: rmicmi@ns.sympatico.ca

Raymond Ivany  
Signature of applicant

June 18, 2012  
Date

Name: Raymond Ivany  
Complete address: 293 Skyridge Avenue, Lower Sackville, NS B4C 3C8  
Telephone: (902) 864 - 1422  
Fax: n/a  
E-mail: rmicmi@ns.sympatico.ca

Phyllis Brunt  
Signature of applicant

June 18/12  
Date

Name: Phyllis Brunt  
Complete address: 117 Hubley Mill Lake Road, Upper Tantallon, NS B3Z 1E8  
Telephone: (902) 826 - 7177  
Fax:  
E-mail:

Form 46

Probate District:Halifax, NS

Probate Court File No:54262

**IN THE COURT OF PROBATE FOR NOVA SCOTIA**

**IN THE ESTATE OF MARY ELLEN THIBEAULT, Deceased**

**[Removal of Executor]  
Affidavit  
(S. 64(3)(b))**

We, Greg Oldfield of 3037 Connaught Avenue, Halifax, NS B3L 3A6,

Elizabeth Herritt of 401 – 3700 John Parr Drive, Halifax, NS B3K 5V4,

Catherine Ivany of 293 Skyridge Avenue, Lower Sackville, NS B4C 3C8,

Raymond Ivany of 293 Skyridge Avenue, Lower Sackville, NS B4C 3C8,

Phyllis Brunt of 117 Hubley Mill Lake Road, Upper Tantallon, NS B3Z 1E8,

**make oath and say:**

1. We are persons interested in this estate because we are beneficiaries.
2. The following is a list of the other persons interested in this estate as defined in subsection 63(1) of the *Probate Court Practice, Procedure and Forms Regulations*:

Sharon Mahoney

Peter Halleran

Ann Levy (status unknown)

Fabian Halleran (deceased)

Edward Brunt (deceased)

Yvonne Comeau (predeceased testatrix)

Patricia Richardson

Peter Kelly

Canadian Heart Foundation

Canadian Cancer Society

Canadian Diabetic Society

Canadian National Institute for the Blind (Nova Scotia)

Salvation Army (USA Branch)

3. The facts on which this application is based are that Mary E. Thibeault's body was found on December 7, 2004 as per State of Florida Death Certificate B1156439. Peter Kelly was named to be Executor as well as beneficiary in Mary E. Thibeault's Will. As of this date, June 18, 2012 the Estate of Mary E. Thibeault has not been settled. The amount of time passed as well as the date of destruction of the bank records looming in August 2012 are of the utmost concern to the beneficiaries. We believe that Peter Kelly has not acted in the best interest of the estate and this lack of effort on his part shows disrespect for Mary E. Thibeault's final wishes. We beneficiaries have great concerns regarding the accounting of this estate. We feel we have been more than patient and that the continual procrastination by the Executor is going to make it next to impossible for true accounting of the estate. The constant procrastination of the Executor and our concerns regarding the accounting of the estate leaves us no alternative but to seek removal of Executor Peter Kelly. We are asking the Probate Court to exercise whatever means there are to prevent the destruction of the bank records as we believe they are critical to the settling of the Estate. We are applying for the removal of Peter Kelly as Executor because:

- a.) Time – Testatrix's date of death as per State of Florida Death Certificate # B1156439 was December 7, 2004. It is now June 18, 2012 and Estate still not settled.  
(Exhibit I & II)
- b.) Lack of Reporting to the beneficiaries - Despite numerous requests to Executor Peter

Kelly, information either not provided or mistruths told.

(Exhibit I & III)

p.5

- c.) Inventory – itemized list of inventory not provided as required by the Probate Act; only a summary provided after a Court Order was issued  
(Exhibits I, IV)
- d.) Wilful default - Mobile in Florida – loss of testatrix's mobile in Florida due to non payment; owner of Trailer park had to go to Court to obtain possession  
(Exhibit I & III, pages 2 & 3 )
- e.) Cheques to Executor (\$100,000) & his son (\$15,000) written by Executor and presented to the bank  
(Exhibits I, V, pages 4 & 5 & VII)
- f.) Cheques written to Executor – cheque #64 for \$10,000 and cheque 181 for \$30,000  
(Exhibit V, page 19 and page 25)
- g.) Cheques to Executor or to cash –
  - (Exhibit VI - page 17, cheque dated May 12/06 - \$5,000 described as 1/5,
  - page 18, cheque dated May 12/06 - \$5,000 described as 2/5,
  - page 19, cheque dated May 10/06 described as 3/5,
  - page 20, cheque written for cash June 28/06 \$3423.60 described as 'trailer rent'
  - page 21, cheque dated September 13/06 - \$5,000 described as what looks to be 5/6
  - page 22, cheque dated November 7/06 - \$5,000 described as 5/5
  - page 23, cheque dated November 18/07 - \$3,000 described as trailer rent - \$2,571.29 US Funds
- h.) No communication at all regarding lot of land in Kearney Lake, N.S. The Executor made a statement to a newspaper reporter of The Coast in the article "Peter Kelly's Failure of Will" dated March 24 2011 that the land was going to be donated as a park. None of we beneficiaries have been notified of anything regarding the land.  
(Exhibit VII, pages 5 & 6)

i.) Mistruths – re beneficiary Ann Levey – when the Executor Peter Kelly was making some attempts towards communication with the beneficiaries, he informed Cathy Ivany and Sharon Mahoney verbally that he had been speaking with beneficiary Ann Levey. Peter Kelly said that Ann Levey told him she did not know a ‘Mary Thibeault’ and did not want the money. Peter Kelly further told Cathy Ivany and Sharon Mahoney verbally that he had to make a trip to the ‘States’ to have her sign the necessary forms verifying what she told him. Since Peter Kelly hired Lawyer Harry Thompson, he directed Harry Thompson to request individual beneficiary lawyer Lloyd Robbins to ask the beneficiaries when Fabian Halleran died as well as the date of death for Ann Levey. Lloyd Robbins contacted Elizabeth Herritt and she gave him Fabian Halleran’s date of death but the response regarding Ann Levey was that it was only Peter Kelly that was supposed to have been in contact with her. None of the beneficiaries were in any contact with an Ann Levey.

- re mobile in Florida – Harry Thompson’s letter to Lloyd Robbins dated June 22, 2011, # 5 states that Peter Kelly “verbally offered the mobile home to the Personal beneficiaries named in Ms.Thibeault’s Will, but no one expressed an interest in acquiring same. This is not the truth. We were not contacted by Peter Kelly regarding buying the mobile.  
(Exhibit VIII)

j.) Did not meet conditions of 53 (1) of the Probate Act

k.) Beneficiaries Fabian Halleran and Edward Brunt died waiting for the Estate to be settled. Fabian Halleran’s date of death was July 21, 2005 and Edward Brunt’s date of death was October 21, 2010.

l.) Conflict of interest re Estate Lawyer as estate lawyer and personal lawyer for Peter Kelly is one and the same, Harry Thompson. It is our understanding that Harry Thompson cannot represent both the Estate and the Executor Peter Kelly who is a beneficiary as well.

m.) No mention in any communications with Executor Peter Kelly or his series of 3 lawyers – Wayne Anstey, Stephen Boyce or Harry Thompson of Social Security payments to Mary Thibeault or if the IRS has been contacted regarding taxes she may owe or any over payment she may have received.

Sworn before me at Halifax, )  
in the Country of Halifax, )  
Province of Nova Scotia, on 18<sup>th</sup> May, )  
20 12 )

[Signature] )  
A Barrister of the Supreme Court of Nova Scotia, )  
Commissioner of Oaths in and for the Province of )  
Nova Scotia, Notary Public in and for the )  
Province of Nova Scotia. )

**GREGORY L. MASON**  
A Commissioner of the  
Supreme Court of Nova Scotia

[Signature]  
Signature of deponent

[Signature]  
Signature of deponent

[Signature]  
Signature of deponent

[Signature]  
Signature of deponent

[Signature]  
Signature of deponent