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Superior Court of Justice - Toronto - Civil / Cour supérieure de justice

Court File No.: CV-25-00747114-00ES

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	MONDAY, THE 1ST
	)	
JUSTICE DIETRICH	)	DAY OF JUNE, 2026

IN THE MATTER OF THE ESTATE OF BRIAN KIRBY

BETWEEN:

SARAH WILLIAMS in her capacity as Estate Trustee for the Estate of David Abramowitz

Applicant

and

SANDRA BROCKHURST in her capacity as Estate Trustee for the Estate of Brian Kirby, Michael GARRON HOSPITAL FOUNDATION (a.k.a TORONTO EAST GENERAL HOSPITAL), THE UNIVERSITY OF TORONTO, and DAVID GLOVER

Respondents

JUDGMENT

THIS APPLICATION, made by the Applicant, Sarah Williams, was read this day at 330 University Avenue, 7th Floor, Toronto, ON, M5G 1R7.

ON READING the Application Record and Supplementary Application Record, which includes the signed consents of all parties to the draft Judgment, as well as the consent of the proposed Succeeding Estate Trustee Michele Follows, and the Bills of Costs of the Applicant and the Respondent Michael Garron Hospital Foundation in regards to the costs agreed upon by all parties to be paid from the Estate as provided for in the draft Judgment, and on hearing the submissions of

counsel for the Applicant, counsel for the Respondents Michael Garron Hospital Foundation, counsel for the proposed Succeeding Estate Trustee Michele Follows

1. **THIS COURT ORDERS** that Sandra Brockhurst be and is hereby removed as Estate Trustee of the Estate of Brian Kirby (the "**Estate**").

2. **THIS COURT ORDERS** that A. Michèle Follows of Executor Duties on Demand be appointed as Succeeding Estate Trustee ("**SET**") for the Estate and that a Certificate of Appointment of Succeeding Estate Trustee be issued to the SET subject only to filing of the necessary supporting documentation, without notice to any of the beneficiaries, which application is to be expedited by the registrar.

3. **THIS COURT ORDERS** that the requirement for a bond or other security be dispensed with.

4. **THIS COURT ORDERS** that all assets of the Estate shall be and are hereby vested in the SET from the date of this Order.

5. **THIS COURT ORDERS** that prior to the issuance of a Certificate of Appointment of Succeeding Estate Trustee with a Will, the SET shall have full authority and power to access, collect and/or gather all assets of the Estate, including any jointly held property, from any financial institution, or other person or entities.

6. **THIS COURT ORDERS** that prior to the issuance of a Certificate of Appointment of Succeeding Estate Trustee with a Will and within 14 days of this Order, the SET shall commission a Missingwealth Report to search and identify all Estate assets and liabilities, and shall produce to the Respondents a copy of Missingwealth's Initial Report and Final

Report immediately upon receipt. The cost of commissioning a Missingwealth Report shall be paid from the Estate.

7. **THIS COURT ORDERS** that the SET shall be compensated at an hourly rate of $250.00 CAD plus HST. Any travel and out of pocket costs shall be billed separately as disbursements. The SET's compensation, including disbursements and HST, shall be paid from the assets of the Estate and may be taken at reasonable intervals determined at her discretion during the administration of the Estate without any prior approval of any Estate creditor, party, beneficiary or the court, however, all Parties reserve the right to request an informal accounting and to object to the time spent and or the expenses incurred including requiring the SET to pass her accounts if requested, which would be completed at the reasonable cost of the Estate at first instance and subject to reapportionment by the Court on an Application to Pass Accounts or as agreed upon by the parties.

8. **THIS COURT ORDERS** that the SET shall have the authority of all those powers given by law to an administrator of an Estate, including, without limitation, such powers under the *Estates Act*, RSO, 1990, c.E.21 as amended, and without limiting the generality of the foregoing the SET is hereby specifically authorized to do the following prior to the issuance of a Certificate of Appointment of Succeeding Estate Trustee:

    a. pending an equitable distribution amongst the beneficiaries of any article of personal, domestic or household use or ornament amongst the beneficiaries, she may sell any articles of personal domestic, or household use or ornament comprising of the assets of the Estate;

b. appoint an agent or agents and to pay such agent or agents from the Estate and seek such assistance from time to time as the SET may consider necessary for the purposes of performing her duties hereunder;

c. realize the assets and pay the liabilities of the Estate;

d. file tax returns for the deceased and the Estate as may be required and retain and pay legal counsel, accountants, and/or other professionals to assist in her duties as SET together with an Order that the reasonable costs of retaining legal counsel and other professionals be paid out of the Estate;

e. obtain executor insurance at the cost of the Estate if she deems it necessary to do so in her discretion; and

f. pay her own compensation and disbursements out of the Estate assets from time to time without the need to first obtain court or beneficiary approval. This provision is without prejudice to the right of any beneficiary or successor trustee to seek a formal passing of accounts from the SET and for a court to review the quantum of compensation.

9. **THIS COURT ORDERS** that Sandra Brockhurst shall provide a list of all known Estate assets and liabilities, any documentation related to the Estate or administration of the Estate, and any Estate assets to the SET within 30 days of this Order. The cost of a courier to retrieve same shall be paid from the Estate.

10. **THIS COURT ORDERS** that Sandra Brockhurst shall execute such documents and do such other things as the SET may request in writing to ensure that the assets of the Estate are properly transferred to the SET with any costs or charges for the same to be paid by the Estate and vested in the SET within 10 business days of any such request made by the SET.

11. **THIS COURT ORDERS** that the SET is entitled to seek production from the Canada Revenue Agency ("**CRA**") of all income tax returns, notice of assessment and reassessment and any other documentation and information of and for the deceased, Brian Kirby ("**Deceased**") and/or of and for the Estate and in the same manner and to the same extent the Deceased would have been able if the Deceased were alive. Any charges for obtaining records and files from the CRA or from any institution in possession of such related documentation shall be paid by the Estate.

12. **THIS COURT ORDERS** that the SET is entitled to compel production of any financial records, banking and investment records, or other records relating to the assets of the Deceased, in the same manner, and to the same extent the Deceased would have been able if the Deceased were alive. Any charges for the obtaining records and files shall be paid from the Estate.

13. **THIS COURT ORDERS** that without limiting the generality of the foregoing, the SET shall be entitled to encumber any real or personal property belonging to the Estate for the purpose of the administration of the Estate.

14. **THIS COURT ORDERS** that if there are no or insufficient liquid assets in the Estate, the SET may use personal funds from time to time for the payment of Estate expenses, which will be reimbursed by the Estate at the earliest opportunity including interest at the prime interest rate as calculated from time to time plus three and a half percent (prime + 3.5%) as charged by Ms. Follows' financial institution.

15. **THIS COURT ORDERS** that the SET may from time to time apply to this Court for advice and directions in the discharge of her powers and duties hereunder and that the title of proceedings in this matter be and is hereby amended as follows:

IN THE MATTER OF THE ESTATE OF BRIAN KIRBY

BETWEEN:

SARAH WILLIAMS in her capacity as Estate Trustee for the Estate of David Abramowitz

Applicant

and

SANDRA BROCKHURST in her capacity as Estate Trustee for the Estate of Brian Kirby, MICHAEL GARRON HOSPITAL FOUNDATION (a.k.a. TORONTO EAST GENERAL HOSPITAL FOUNDATION), THE UNIVERSITY OF TORONTO, DAVID GLOVER and A. MICHÈLE FOLLOWS in her capacity as Succeeding Estate Trustee for the Estate of Brian Kirby

Respondents

16. **THIS COURT ORDERS** that the SET shall be entitled to compensation not to exceed four hours of her time (plus HST), which shall be paid from the assets of the Estate, for time spent on Estate matters prior to the issuance of this Order.

17. **THIS COURT ORDERS** that the SET shall have full unfettered authority to retain and instruct any such legal and accounting professional as she may deem reasonably necessary to assist in the discharge of her duties.

18. **THIS COURT ORDERS** the SET shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever

located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that the costs of this application in the amount of $11,630.25 are to be paid to the Applicant in full from the Estate as soon as practicable.

20. **THIS COURT ORDERS** that the costs of this application in the amount of $3,390.00 are to be paid to the Respondent, Michael Garron Hospital Foundation (a.k.a. Toronto East General Hospital Foundation), in full from the Estate as soon as practicable.

21. **THIS COURT ORDERS** that the costs of this application in the amount of $3,180.39 inclusive of HST and disbursements are to be paid to A. Michele Follows in full from the Estate as soon as practicable.

22. **THIS COURT ORDERS** that post-judgment interest at the prescribed interest rate applies to the amounts owing to each of the Applicant, Respondent, Michael Garron Hospital Foundation (a.k.a. Toronto East General Hospital Foundation), and A. Michele Follows in accordance with s. 127 of the *Courts of Justice Act*.



IN THE MATTER OF THE ESTATE OF BRIAN KIRBY

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and

SARAH WILLIAMS

Applicant

SANDRA BROCKHURST et al.

Respondents

Ontario
SUPERIOR COURT OF JUSTICE
Proceeding commenced at **TORONTO**

JUDGMENT

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