

1992

No. 8405

IN THE COURT OF PROBATE
FOR THE COUNTY OF CUMBERLAND

IN THE ESTATE OF: Rex K. Chappell,
deceased.

H. J. MacDonnell, Judge of the Court of Probate, for District Number Five

Amherst, Nova Scotia

May 26, 1992, and September 8, 1992

CANADA

PROVINCE OF NOVA SCOTIA

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HEARD BEFORE: The Honourable Judge H. J. MacDonnell, Judge of
the Court of Probate for District Number Five

PLACE HEARD: Amherst, Nova Scotia

DATES HEARD: May 26, 1992 and September 8, 1992

COUNSEL: M. J. Haugg, Q.C., Proctor of Estate

T.C. Matthews, Esq., for Louise Stiles, daughter
Leona Mollis, daughter
Ruby MacKenzie, daughter

D. Leslie Smith, Q.C., for Joyce Green, daughter
Noella Green, granddaughter
Derrick Green, grandson
Carrie Green, granddaughter

Lorraine P. Lafferty for Elizabeth Neilson, grand-
daughter
Patricia Elliott, grand-
daughter
Jane Stiles, granddaughter
Tamara Mollis, granddaughter
Stuart MacKenzie, grandson
Deborah MacKenzie, grand-
daughter
Unborn grandchildren

E.C. Harris, Q.C., for Shirley Porter, Executrix
Paul Green, Executor
Paula M. Green, Executrix

D E C I S I O N

1992, September 30, MacDonnell, H. J., Judge of the Court of Probate:

As requested in a Petition of the Executors of the Estate of Rex K. Chappell, the Registrar of Probate for the County of Cumberland issued a Citation setting a date for the final auditing and passing of the Executors account and the final settlement of the Estate of Rex K. Chappell.

The matter came on for a hearing before the Registrar of Probate, at Amherst, N. S., on October 22nd, 1991. Counsel for one of the residuary beneficiaries, Patricia Elliott, filed an Affidavit with the Court and made submissions on behalf of several of the residual legatees regarding the manner in which the Executors had performed their duties. The Registrar of Probate, pursuant to the provisions of Section 153(2) of the Probate Act, 1989, R.S.N.S., c.359, referred the matter to the Judge of Probate to conduct a Hearing to have the matters raised in the affidavit of Patricia Elliott and the matter of costs decided. The Affidavit filed on behalf of Patricia Elliott is attached hereto as Appendix "A".

Upon Application of the Proctor of the Estate, the matter was set down for a hearing before myself, as Judge of the Court of Probate for the County of Cumberland on May 26th, 1992. The Order further directed that Notice of the date for closing of the Estate and approval of the Executors accounts and a copy of the Order was to be served on the heirs of the Estate who were under 19 years of age by serving their parents.

Lorraine P. Lafferty, Barrister-at-Law, was appointed by the Court as Guardian ad litem for Tamara Mollis, Stuart MacKenzie

and Deborah MacKenzie, grandchildren of the deceased, who were minors, as well as the yet unborn children, and/or remoter issue of the daughters of the deceased, Louise Stiles, Leona Mollis and Ruby MacKenzie.

At the May 26, 1992, hearing, Counsel for the various parties made submissions as to the manner in which the Executors had performed their duties. The matter was adjourned to September 8, 1992, to allow Counsel to prepare an Agreed Statement of Fact, and determine what further evidence would be called.

Prior to the adjourned hearing, Counsel filed with the Court an Agreed Statement of Fact which is hereto attached as Appendix "B".

At the adjourned hearing, Paul Green and Shirley Porter, two of the Executors, as well as Robert Nixon and Morris J. Haugg, Q.C., the Estate Proctor, gave evidence.

The issue before the Court is:

1. Are the Executors of the Estate of the late Rex K. Chappell entitled to be paid full Executors commission after having received Directors fees, salary and other fees from R. K. Chappell Investments Limited, a company they controlled in their position as Executors?

The late Rex K. Chappell died on December 11th, 1989, and Letters Testamentary were granted by the Court of Probate for the County of Cumberland to Shirley Porter, Paul J. Green, and Paula M. Green, the Executors and Trustees named in his Last Will and Testament. Morris J. Haugg, Q.C., the Proctor of the Estate testified that on February 20th, 1990, a meeting was held in which various aspects of the Estate were discussed. His notes of the discussions at this meeting were entered as Exhibit 2 herein.

In attendance at the February 20, 1990, meeting were two of the Executors, and the Shareholders of the common shares of Rex

K. Chappell Investment Limited (herein called RKCI).

The following excerpt from the notes taken at this meeting are relevant, and instructive as to the procedures ultimately followed by the Executors.

The excerpts read:

" Bob Nixon, long-time accountant for the Chappell companies and R. K. Chappell personally, presented a draft of the financial statements of R. K. Chappell Investments Limited, which contained a list of the assets (investments). A copy of the list of investments was made available to everyone.

Bob was an advisor to R. K. Chappell prior to the last Will revision and a witness to the execution of the Will. He explained the purpose of the investment company as set up in 1970 and the present ownership of the bulk of the Company. He explained the role of the voting preference shares, now held by long-term intention of R. K. Chappell, namely, to distribute the net income of the investment company to his four daughters (the four Common Shareholders) and to keep the capital as long as feasible, destined for eventual distribution to his grandchildren. Shirley Porter confirmed that this had been R. K. Chappell's plan and intention all along. His Will is certainly set up that way and his Estate will be administered carrying out that plan.

Morris Haugg explained that the ownership of the four Common Shares was not part of the Estate and, therefore, the distribution of the investment company could not be carried out as part of the Estate. The control of the investment company and, therefore, the ability to carry out R. K. Chappell's intention, lay in the voting of the preference shares by the Executors of his Estate. The question was asked "when would the investment company be dissolved and the assets distributed"? At present, there is no clearer answer to that than this: When the Executors decide it to be in the best interest of all concerned, children and grandchildren, in line with the long term intention of R. K. Chappell. This can happen, but need not happen as late as the distribution of the capital in the estate as per the Will.

The investment company has a present value of close to 5 million dollars. About \$750,000.00 of that belongs to the Estate, as a result of which the Estate itself is about 1 million dollars. Within a couple of months, a detailed inventory of the assets in the Estate will be filed with the Registrar of Probate and a copy made available to all parties."

The late Rex K. Chappell had operated a construction business under the name of R. K. Chappell Limited, for many years. By the Spring of 1989, this company had ceased active operations. Shortly thereafter all it's equipment was sold, and by the date of Mr. Chappell's death, or shortly thereafter, the company had been wound up and it's funds distributed amongst it's shareholders. The principal shareholder being RKCI. The sole Directors of R. K. Chappell Construction Limited had been the late R. K. Chappell and his secretary, Shirley Porter, now one of the Executors. Mrs. Porter held one share in the construction company.

At the meeting on February 20th, 1990, Executors and Trustee's fees were also discussed, and it was explained that they would normally be entitled to 5% of the Estate. Also, it was agreed that the salary paid to Shirley Porter over the last few years was to be continued. However, management fees to the four Common Shareholders in RKCI were not to be paid.

Robert A. Nixon, Executive Director of the Amherst and Area Development Commission, gave evidence. He at one time operated as a Chartered Accountant with Doane Raymond. He had acted as financial advisor to Rex Chappell from 1971 until his death. As a result of changes in the Income Tax Act in 1971, Mr. Chappell had endeavoured to freeze his Estate by transferring his shares in R. K. Chappell Construction to RKCI. The four Common Shareholders of RKCI being his

daughters. The purpose of this was to ensure that future increase in value of the Construction Company would accrue to his daughters, and thus obtain long-term tax savings. Nixon's recollection was that Directors fees in the amount of \$5,000.00 were paid by RKCI, and it was the intention of the Executors to continue these payments.

Under cross-examination, Nixon admitted that he was aware that the sole owners of the common shares of RKCI were Mr. Chappell's four daughters, and that the voting preferred shares held by the Estate controlled the company. Also on cross-examination, after being shown financial statements of RKCI for the period ending December 31st, 1989, he admitted that no Directors fees had been paid by the company. His evidence was also to the effect that to the best of his knowledge, no Directors fees were paid through R. K. Chappell Construction Limited. Further questioning revealed that the management fees paid by RKCI were paid to Mr. Chappell's four daughters in equal amounts. I was not impressed by Mr. Nixon's evidence, his memory was faulty on many important points.

It would appear from the meeting held on February 20th, 1990, that the Executors were well aware of the fact that the common shares of RKCI were owned by the four daughters of the deceased. It was also pointed out at this meeting by Mr. Haugg that the four common shares were not part of the Estate. However, despite this it appeared that the Executors were prepared to use their position to exercise control over RKCI despite the Estate's lack of ownership in the company. On the advice of Mr. Nixon and Mrs. Porter they attributed to the late R. K. Chappell the intention that his Estate was to continue control of RKCI after his death at their discretion.

In giving this advice Mrs. Porter was clearly in a conflict position. They arrived at this conclusion despite no instructions of this nature being contained in the Will of the deceased, and despite the normal practice in such tax saving plans of the Common Shareholders of a company set up for this purpose taking control at the death of the plan owner.

On April 12th, 1990, the Annual General Meeting of RKCI, followed by a Directors meeting was held. The Executors and the four Common Shareholders of RKCI were present. From the evidence it would appear that even though Mrs. Porter was Secretary/Treasurer and a Director, she did not take Minutes. A meeting had been held on the evening before, at which minutes were prepared in anticipation of the decisions to be made the next day. There were certain changes made in these draft minutes, as directed by Mr. Haugg. It was at this Annual General meeting that Paul Green, Paula Green, and Shirley Porter were elected Directors of RKCI. At the Directors meeting, the Directors fees in the amount of \$5,000.00 each were authorized, and Shirley Porter was empowered to draw an annual salary of \$21,000.00 from RKCI, as well as certain other benefits retroactive to January 1, 1990.

Mr. Haugg's testimony was that Mrs. Stiles, one of the daughters, objected to the various payments authorized by the Directors, and in due course left the meeting, although her Solicitor remained in attendance. He also described the reluctant agreement of Mrs. Mollis and Mrs. MacKenzie, two of the daughters, and Common Shareholders of RKCI.

Mrs. Shirley D. Porter testified that she had been employed

by Mr. Chappell or his companies since 1957. Her duties were to run the office, attend to payroll, truck payroll, banking and normal office duties. The construction company sold it's last equipment in July of 1989, however the company was not liquidated until the end of 1989, shortly after Mr. Chappell's death. She had maintained the office for both companies in her home for some four years prior to Mr. Chappell's death. After Mr. Chappell's death she continued to be employed by the investment company. She continued to receive a salary from RKCI until the end of 1991. As well during this period she was paid for car allowance and the use of her home.

On cross-examination Mrs. Porter could give no estimate of the amount of time she had spent in each week on RKCI's business. She could give no explanation why the company needed a telephone, and especially one listed in bold letters in the telephone directory.

A review of RKCI's financial statements dated December 31st, 1989, being exhibit number 3 and RKCI financial statements to December 31st, 1991, being exhibit number 1, shows that as of December 31st, 1989, RKCI held shares in three Canadian companies and owned 21 Guaranteed Investment Certificates, and for the year ending December 31st, 1990 RKCI held shares in the same three Canadian companies and owned 19 Guaranteed Investment Certificates. The main duty of a Secretary/Treasurer with this type of portfolio would be attendance at the bank or broker's office to deposit dividend and interest cheques a few times annually.

The evidence indicates that it was only after considerable pressure being exerted on the Executors by three of the daughters as Common Shareholders of RKCI that the Executors acting as Directors

agreed to implement a butterfly manoeuvre of the company, which resulted in the five common shares being transferred to four independent holding companies owned by the respective Common Shareholders of RKCI, with each receiving the value of $1\frac{1}{4}$ of the common shares in RKCI.

It has been submitted that the implementing of this butterfly manoeuvre by RKCI entailed a great deal extra work for the Executors in their capacity as Directors of the company. However, both the Executors and the Common Shareholders were represented by very competent tax specialist lawyers and accountants. The extra work entailed in implementing this butterfly manoeuvre for the Executors as Directors would be mainly in reading the directions and signing the documentation supplied to them by their lawyers and tax accountants. This would obviously be considered a normal duty of Executors in an Estate in which such an investment company was owned.

Counsel on behalf of the daughters of the deceased, Louise Stiles, Leona Mollis, and Ruby MacKenzie, submits that the difficulties experienced by the Estate in the Executors involving themselves in RKCI and voting compensation to themselves over and above their entitlement to commission as Executors arose through the misguided notion that the deceased wished his investment company to continue on as if he was still alive. His intention was not set out in his Will, and thus is totally irrelevant. He reviewed the work entailed by the Executors in their capacity as Directors of RKCI, and pointed out that it is a clear rule that 5% is a maximum in Probate matters to be paid to Executors and that they must not be allowed to profit from their position.

The position taken by the three daughters represented by

Mr. Matthews is that the Executors were entitled only to a commission to be awarded by the Probate Court, and not to additional fees or profits whether by way of management fees, Directors fees, salary, expense allowances or otherwise. In taking such fees they placed themselves in a conflict position. In support of these submissions, reference is made to the following cases, namely: **Bray v. Ford** (1896) A.C. 44; **Boardman v. Phipps** (1967) 2 A.C. 46; **Williams v. Barton** (1927) 2 Ch.9; **Re MacAdam** (1946) Ch. 73; **Re Vinnicombe** (1934) 1 W.W.R. 780; **Re Busch** 59 N.S.R. 254; **Eastern Trust Company v. Keith** (1923) 56 N.S.R. 355.

Counsel on behalf of the grandchildren, with the exception of the Green Family, of Rex Chappell, points out that at the date of the deceased's death the total value of the Estate amounted to \$1,024,698.98. Despite the value there were few assets to administer. The main assets being the preferred shares in RKC. She estimated that the Executors fees would be approximately \$60,000.00 if allowed the full 5% rate on the value of assets administered.

Counsel pointed out that the grandchildren, as beneficiaries, have the right to question the various payments made by the Executors to themselves in the course of their duties arising out of the Will. In particular, the grandchildren contested the payments to Mrs. Porter as unreasonable and improper, as this Executrix was generously benefited under the provisions of the Will of the deceased, as well as being entitled to Executors commission.

On behalf of the grandchildren, it is submitted by Counsel that the Executors commission should be reduced by the amount of the fees already taken by the Executors as Directors fees, salary,

and management fees.

On behalf of the Green family, Counsel submits that as most of the value of RKCI was not owned by the Estate, but rather owned by the Common Shareholders, the Executors were required to, in their position as Directors of RKCI, to exercise much more responsibility than required normally. Counsel also refers to the complexity of the butterfly transaction, and submits that payment of Directors fees is thus justified in this situation. Cited in support of this position is: **Re Keeler's Settlement Trust** (1981) 1 All E.R. 888 and **Re MacAdam** (1945) 2 All E.R. 664. The same argument is advanced to justify management fees charged by Paul Green. It is also submitted that for the period ending February 28th, 1991, the payments of salary to Mrs. Porter were agreed by all the income beneficiaries who were affected. It is, however, to be noted that it was at the Board of Directors meeting that the Directors, by resolution, authorized all payments of salary and expenses to Mrs. Porter. At this meeting the Common Shareholders had no input according to the minutes of the meeting.

Counsel for the Green family submit that as Mr. Chappell in his Will had given the Executors power to vote the preference shares of RKCI as if they were the beneficial owners, that this gave the Executors the discretion to vote these shares as they see fit, provided the decision were taken in good faith.

On behalf of the Executors, Counsel submits that the relevant clause in the Will of the late Mr. Chappell reads:

14. MY TRUSTEES may use the voting rights attached or incidental to any securities forming part of my estate in the same manner as though my Trustees were the beneficial owners of those securities.

Thus as at the date of death the 12 voting preference shares and the 1500 non-voting preference shares in RKCI held by Mr. Chappell was a significant part of the Estate it is argued that the actions of the Executors was justifiable as being allowed by this provision in the Will. It is further submitted that as the Common Shareholders of RKCI were aware of the circumstances surrounding the payment of the Directors fees and the salary to Mrs. Porter, that a strict application of the rules as set out in various cases cited is not applicable.

It is further submitted on behalf of the Executors that as the interest of the grandchildren is relatively remote, and as the actions of the Trustees were permissible under the terms of the Will, and agreed to by the Common Shareholders, the grandchildren are not in a position to complain.

Further, it is argued that the Executors undertook a very heavy responsibility in their capacity as Directors of RKCI, much more than normal Executors duties, and thus they should be remunerated over and above the normal 5% Executors fee.

Dealing with the payments to Mrs. Porter, it is submitted that as Mr. Chappell had retained her services despite the winding down of the construction company, that it was reasonable that her services be retained by the Executors.

Finally, it is submitted that the professional accounts should be paid by the Estate, as all parties had acted in good faith.

In support of the submissions on behalf of the Executors are cited the following cases: **Brighouse v. Morton** (1929) S.C.R. 512, and **Holder v. Holder** (1968) Ch. 353.

The principal of law which must govern this Court in deciding

the issue was well articulated in **Re MacAdam** (1946) Ch. 73, where Cohen, J., at p.75 stated:

" The question has been raised whether the plaintiffs are entitled to retain the directors' fees received by them from the company or whether they are accountable to the trust estate for the sums received by them as remuneration in respect of the office of director. I desire to say at once that nobody suggested any impropriety on their part in regard to this remuneration. The question was asked purely as one of law whether, having regard to all the provisions of the material documents, on general principles of law, they are accountable or not. My attention was called to a number of cases bearing on this matter, but I think that Mr. Gray and Mr. Timins were right in saying that they are all applications of the same general principle, though the consequence of applying that principle has resulted in some cases in the person concerned being allowed to retain the remuneration, and in others in his being held accountable. The principle, I think, is well stated in a passage from the speech of Lord Herschell in **Bray v. Ford** (5), which was cited by Russell J. in **Williams v. Barton** (6). The citation is as follows: "It is an inflexible rule of a court of equity that a person in a fiduciary positionis not, unless otherwise expressly provided, entitled "to make a profit; he is not allowed to put himself in a position "where his interest and duty conflict."

(Emphasis Added)

At p.82, Cohen, J., stated:

"I think that the root of the matter really is: Did he acquire the position in respect of which he drew the remuneration by virtue of his position as trustee? In the present case there can be no doubt that the only way in which the plaintiffs became directors was by exercise of the powers vested in the trustees of the will under art. 68 of the articles of association of the company. The principle is one which has always been regarded as of the greatest importance in these courts, and I do not think I ought to do anything to weaken it. As I have said, although the remuneration was remuneration for services as director of the company, the opportunity to receive that remuneration was gained as a result of the exercise of a discretion vested in the trustees, and they had put themselves in a position where their inter-

est and duty conflicted. In those circumstances, I do not think this court can allow them to make a profit out of doing so, and I do not think the liability to account for a profit can be confined to cases where the profit is derived directly from the trust estate."

(Emphasis Added)

In the present case there is no question that the Executors had the power and discretion to appoint themselves as Directors of RKCI under the provisions of the Will of the deceased. However, taking into consideration the fact that the common shares of RKCI were owned by the four daughters of the deceased, and that the Will gives no indication that it was the intention of the Testator that his daughters be denied their right to receive the value of these Common Shares upon his death, the question is did the Executors, in exercising their discretion and appointing themselves Directors of RKCI err in voting themselves Directors' fees in the amount of \$5,000.00 each, as well as authorizing a salary be paid to Mrs. Porter, one of the Executors, and that management fees be paid to Paul J. Green, in the amount of \$3,191.00, he being an Executor.

A perusal of the Last Will and Testament of Mr. Chappell discloses no direction therein that he intended that his daughters would not benefit upon his death from the tax scheme set up when he incorporated RKCI.

The evidence shows that the daughters protested vigorously the position they were placed in by the Executors when acting in their capacity as Directors of RKCI they denied the right of the daughters to benefit fully from their ownership of the common shares. Through this protest the daughters were able to accomplish the ends which were undoubtedly envisioned by their father, the Testator, when he

incorporated RKCI. This was accomplished by the butterfly manoeuvre, which resulted in the value of the Common Shares in RKCI being transferred to companies controlled by the respective daughters. It must also be noted that at no time prior to the death of Mr. Chappell had Directors' fees been paid by RKCI, or in fact by the construction company. Management fee was paid to the daughters, being the four Common Shareholders of RKCI. This management fee was discontinued when the Executors acting in their capacity as Directors of RKCI authorized Directors' fees to be paid to themselves in the amount of \$5,000.00 each.

In connection with the butterfly transaction, each of the Common Shareholders of RKCI executed a release in which they acknowledged that as a consequence of this transaction the dividends paid by the company on its preference shares may be reduced, and that the Estate would have a different investment portfolio. The Common Shareholders thereby released the Executors from any actions that they may have had against them as a result of the butterfly manoeuvre. In no manner, shape or form did this release refer to the Directors' fees, management fees and other salaries taken by the Executors in their self-appointed capacity as Directors.

Likewise, Shirley Porter, one of the Executors, and a Director of RKCI, signed a release directed to RKCI and its affiliated company, R. K. Chappell Construction Limited, providing that in consideration of the payments of Directors' fees for 1990 and compensation up to and including February 28th, 1991, she released the company from all future actions. This release may protect the company from any action it may take against Mrs. Porter, however, it has no bearing on the issues raised by the majority of the grandchildren as residuary

legatees of the Testator as to the issue of compensation received by Mrs. Porter over and above Executors' fees she may be entitled to receive from the Estate.

The Executors may very well have been misled by the mistaken notion that Robert Nixon may have had as to Mr. Chappell's intentions. Mrs. Porter, as a long-time employee of Mr. Chappell may have formed certain impressions without any basis in fact as to what his intentions were regarding the distribution of his Estate following his death. However, the Court must look at the terms of the Will, and it is clear that the intentions attributed to the deceased by Mrs. Porter and Robert Nixon were never expressed in the Will.

The Executors proceeded to use their discretion to have themselves appointed as Directors of RKCI despite the fact that the preference shares of the Company were the only portion of the Company connected to the Estate, and all the common or ownership shares were held by the daughters. Further, they then proceeded to vote substantial Directors' fees to be paid to themselves, despite the fact that Directors' fees had never been paid by this company or it's associate company in the past. Their only entitlement to this remuneration being the fact that they exercised their position as Executors of the deceased, Chappell, and self appointed Directors, in an improper manner so as to benefit themselves.

As to the management fees collected by Paul Green, he indicated that this would have been his normal salary paid to him by the company with which he is employed and controls, and thus felt that he was entitled to charge the same to RKCI, and deduct the amount received from the salary he normally was paid by his own company. Again, he was benefitting himself due to his position as an Executor,

and was clearly in a conflict of interest position. If he was of the opinion that his company should be reimbursed for time he had to take away from his normal duties whilst acting as Executor, then this could have easily been accomplished by paying a portion of his Executor's fees when he received the same to his own employer.

As to the position of Mrs. Porter, she undoubtedly had been a long-time employee of the deceased, Chappell. In her capacity as secretary of an active construction company there would be no question that she would have earned a good salary. However, it must be noted that it was only after Mr. Chappell's death that the construction company was wound up and its assets transferred to RKCI. There is no indication or any documentation that the late Mr. Chappell intended that Mrs. Porter would continue on as an employee of RKCI for an indefinite period of time. As pointed out earlier, her duties would have been minimal, consisting of depositing dividend and interest cheques to a bank or brokerage account. She received rental for a portion of her house, and also travel allowance and other expenses. Again, she as an Executrix, was benefitting financially from her appointment as a Director, and salaried employee of RKCI, a company which was solely controlled by the Executors of the Estate. Undoubtedly, she had placed herself in a conflict of interest position. Her proper ethical position was to either resign as Director and employee of the company, or in the alternative, to resign as an Executrix of the Estate.

It would appear from the evidence that Paula Green played a very small part in the administration of the Estate, the evidence being that at the first hearing she resided in Montreal, Quebec, and at the time of the second hearing, resided in Chicago. The dominant

participants in the administration of the Estate being her father, Paul Green, and Shirley Porter.

An examination of the accounts of the Estate as filed from date of death to October 22nd, 1991, indicates that the total Estate administered by the Executors to that date amounted to \$1,871,071.00. However, despite the amount of money entailed, the actual assets amounted to very few, and would require little attention. Thus, it would appear that over and above the normal duties as Executors, the position of Directors of RKCI would not be so onerous as to require that additional fees be paid.

The law is clear that an Executor or Trustee is not permitted to gain any profits by availing himself of his position, unless the Will or Trust document expressly sets out in unequivocal terms that the Executor or Trustee is entitled to a fee over and above the normal Executor's commission for additional services rendered.

In the case of the Chappell Estate, the Executors were given discretion in the Will to manage the companies forming part of the Estate as though they were in the same position as the Testator. This authority and discretion, however, did not empower them to enrich themselves at the expense of the Estate by authorizing Directors' fees, management fees, and salary to be paid to them by a company under their control in their position as Executors, to the ultimate detriment of the residuary legatees. This is especially true when it is noted that neither the Testator or any other person had been paid Directors' fees by the companies controlled by Mr. Chappell prior to his death.

The funds received by the Executors as Directors' fees, management fees and salary from RKCI as a direct result of the de-

isions taken by them in their position as Executors must be repaid to the Estate, with the exception on some of the salary paid to Mrs. Porter. We will now examine the best method to accomplish this purpose. Section 76 of the Probate Act, 1989, R.S.N.S. c.359 reads:

76. In the settlement of any estate the executors or administrators may be allowed over and above all such actual and necessary expenses, as appear just and reasonable, a commission not exceeding five per cent on the amount received by them, and the court further may apportion such commission among the executors or administrators as appears just and proper, according to the labour bestowed or responsibility incurred by them respectively.

The Executors are thus under Section 76 of the Probate Act entitled to commission totalling no more than five percent of the amount received by them, apportioned amongst the Executors as appears just and proper. An examination of the Estate accounts would indicate that a five percent commission would amount to something in excess of \$93,000.00 to be apportioned amongst the three Executors.

From the evidence it is clear that the major part of the Executors duties were performed by Paul Green and Shirley Porter, and that Paula Green played a minor role as an Executrix. I find that the Executors are entitled to receive five percent of the total funds of the Chappell Estate administered by them. The said five percent Executors' commission to be apportioned amongst the Executors as follows: 40% each to Paul Green and Shirley Porter, and the remaining 20% to Paula Green.

From the Executors' commission as herein apportioned to be paid to Paul Green shall be deducted the sum of \$5,000.00 Directors' fees, and \$2,560.00 management fees paid to him by RKCI The expenses set out in the invoice attached as Schedule "B" of the Agreed Statement

of Facts as incurred by Paul Green would normally be payable to him in his capacity as Executor, and thus were properly paid to him, and need not be deducted from his Executors' fees.

As to Shirley Porter, she is in a somewhat different position than her co-Executors. She had been a long-time employee of the Testator. She was a beneficiary under the Will of the Testator to the extent of \$30,000.00. It was clearly an error on the part of the Executors acting in their self-appointed position as Directors to authorize a salary to be paid to Mrs. Porter for the 1990 and 1991 years. This is especially so when the minimal services required are considered. The proper course would have been for Mrs. Porter to have elected to either continue as an employee of RKCI and renounce her position as Executrix of the Chappell Estate, or in the alternative, to elect to continue as an Executrix and cease to be a salaried employee of RKCI. Taking into consideration all of the factors, I find that Mrs. Shirley Porter is entitled to retain the 1990 salary in the amount of \$21,000.00 paid to her by RKCI, together with the office and travel expenses paid to her. From Shirley Porter's forty percent share of the Executor's commission to be paid to her shall be deducted the sum of \$5,000.00, being the Directors' fees, and \$21,000.00, being the 1991 salary paid to her by RKCI.

From the twenty percent of the Executor's commission to be paid to Paula Green shall be deducted the sum of \$5,000.00, being the Director's fees paid to her by RKCI.

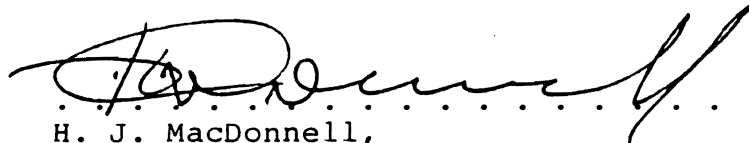
I Direct that a total of \$38,560.00 be deducted from the five percent commission to be paid to the Executors, said commission and deductions to be apportioned as set out herein amongst the Executors.

The remaining question to be addressed is that of costs.

I exercise my discretion as to costs by directing that the Proctor, the grandchildren, with the exception of the Green grandchildren, and the daughters Louise Stiles, Leona Mollis, and Ruby MacKenzie, shall have their costs taxed on a Solicitor and Client basis, and paid out of the Estate. The Executors and the Green family shall bear their own costs. Included in the Executors costs are the invoices from Daley, Black & Moreira, dated May 11th, 1992, and June 22nd, 1992, referred to in paragraph 22 of the Agreed Statement of Facts, totalling \$7,066.58.

The accounts totalling \$7,264.61 referred to in paragraph 20 of the Agreed Statement of Facts, having been paid by the Estate, are as agreed and described in paragraph 21 of the said Agreed Statement of Facts, to be deducted from the Executors' commission in the same proportions as hereinbefore set out.

Under the provisions of Section 153(5) of the Probate Act, I now transfer this matter back to the Registrar of Probate for the County of Cumberland for the final auditing and passing of the Executors' accounts and the settlement of the Estate. The Registrar of Probate to implement the findings made in this Decision in his final audit, and settlement of the Executors' accounts.



H. J. MacDonnell,
Judge of the Court of Probate
for District Number Five

APPENDIX "A"

PROVINCE OF NOVA SCOTIA
COUNTY OF CUMBERLAND

ESTATE #8405

IN THE COURT OF PROBATE

IN THE MATTER of the Estate of REX K. CHAPPELL,
late of Amherst in the County of Cumberland and
Province of Nova Scotia, deceased.

A F F I D A V I T

I, PATRICIA ELLIOTT, of R. R. #3 Wallace in the County of Cumberland and Province of Nova Scotia, make oath and say as follows:

1. THAT I am one of the three daughters of Louise Stiles and Rev. Frank Stiles of Northport, Nova Scotia, and a granddaughter of the late Rex K. Chappell.
2. THAT during the administration of the estate the grandchildren, who, under clause 7D of my grandfather's Will, are the residual beneficiaries, were not properly represented nor was their interest protected with regard to the election of officers and directors of R. K. Chappell Investments Limited.
3. THAT R. K. Chappell Investments Limited has incurred expenses as set out in the statement for the year ended December 31, 1990, and are as follows:

Expenses

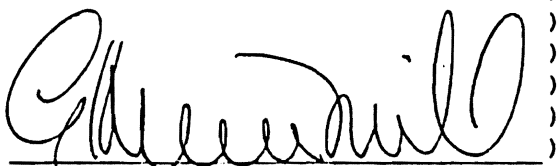
Depreciation	\$ 352.00
Interest and bank charges	304.00
Management fees	15,000.00
Miscellaneous	1,567.00
Office expense	1,767.00
Professional fees	15,736.00
Telephone	829.00
Wages and benefits	<u>22,062.00</u>
	57,617.00
Accounts Payable	<u>5,688.00</u>
TOTAL	\$63,305.00

4. THAT according to the financial statement (a copy of which is attached hereto as Schedule "A") there were only three common stocks and 21 GICs and debt instruments for a total investment income of \$309,167.00, with expenses of \$63,305.00; expenses being 20.475% of total income.

5. THAT I am informed by my mother, Louise Stiles, and verily believe that she objected to the procedure whereby the trustees of the estate used their voting privileges to elect themselves as officers and directors of R. K. Chappell Investments Limited, and gave Shirley Porter, one of the executors, a salary of \$21,000.00 per year plus a car allowance of \$1,000.00 and office space rental in her home of \$1,200.00 for the very little work that she did to administer the company (estate) assets.
6. THAT the directors of R. K. Chappell Investments Limited voted themselves directors' fees in the amount of \$5,000.00 each, which meant that Shirley Porter was getting from the estate for the year ending 1990 some \$28,200.00 in addition to her fees as an executrix.
7. THAT in my opinion these expenses are not justified and have been authorized by the executors improperly and are considerably in excess of any salary paid to Shirley Porter when she was a full-time employee of my late grandfather when he ran a large and successful construction company.
8. THAT these expenses are unreasonable in relation to the work done and benefit received by the estate and they have reduced the balance of the residue due to myself and the other grandchildren of the late Rex K. Chappell improperly.
9. THAT I respectfully ask this Honourable Court not to pass the estate accounts without a careful review into the expenses charged in the administration of the largest part of the estate of my late grandfather, being R. K. Chappell Investments Limited which was and is controlled by the executors.

SWORN TO at Amherst, in the)
County of Cumberland and)
Province of Nova Scotia,)
this 27th day of October,)
1991.)

BEFORE ME:)


A Barrister of the Supreme)
Court of Nova Scotia)


Patricia Elliott

R. K. CHAPPELL INVESTMENTS LIMITED

5.

INVESTMENTS AND INVESTMENT INCOME

YEAR ENDED DECEMBER 31, 1990

	<u>Balances Dec 31/89</u>		<u>Purchases</u>		<u>Disposals</u>		<u>Balances Dec.31/90</u>		<u>Dividends</u>	
	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>		<u>Market</u>
<u>Canadian Stocks</u>										
Bank of Nova Scotia	133,000	\$1,110,389		\$		\$	132,000	\$1,110,389	\$1,645,875	\$133,000
Bell Canada										
Enterprises	3,000	126,976					3,000	126,976	118,500	7,560
Royal Bank of Canada	38,500	751,722	38,500	*	10,000	97,600	67,000	654,122	1,549,375	80,620
		<u>\$1,989,087</u>		<u>\$ 0</u>		<u>\$ 97,600</u>		<u>\$1,891,487</u>	<u>\$3,313,750</u>	<u>\$221,180</u>

<u>Guaranteed Investment Certificates</u>									
									<u>Interest</u>
First City Trust 10.375% 7/3/93	\$ 40,000		\$		\$	\$ 40,000		\$ 4,144	
Counsel Trust 10.25% 7/11/91	55,000					55,000		5,638	
Morguard Mort 10.25% 7/11/91	55,000					55,000		5,638	
Household Trust 11% 10/6/92	30,000					30,000		3,272	
Wellington Trust 11% 10/6/92	30,000					30,000		3,272	
Vanguard Trust 10.5% 7/3/93	20,000					20,000		2,094	
Central East Mort 11% 9/2/93	50,000					50,000		5,455	
Coronet Trust 10.875% 9/2/93	50,000					50,000		5,393	
Premier Trust 11% 9/2/93	50,000					50,000		5,455	
Standard Trust 11% 9/2/93	50,000					50,000		5,455	
Central Trust 11% 9/2/93	50,000					50,000		5,455	
Central East Mort 11% 10/3/93	50,000					50,000		5,500	
NS Savings & Trust 11% 10/3/93	50,000					50,000		5,500	
NS Savings & Loan 11% 10/3/93	50,000					50,000		5,500	
Household Trust 11% 10/3/93	20,000					20,000		2,200	
Municipal S & L 11.75% 10/16/90	40,000				40,000	0		3,721	
Wellington Trust 11.5% 7/31/90			50,000		50,000	0		3,287	
Vanguard Trust 10.75% 6/7/93			50,000			50,000		3,608	
Financial Trust 10.75% 6/10/93			50,000			50,000		3,593	
National Trust 11.5% 10/16/94			40,000			40,000		1,292	
Focus Nat. Inv. Corp. 12% 7/31/95			50,000			50,000		2,515	
	<u>\$690,000</u>		<u>\$240,000</u>		<u>\$ 90,000</u>	<u>\$840,000</u>		<u>\$87,967</u>	

* Stock Split 1-1, no cost

221,180
87,967
309,147

Doane Raymond

PROVINCE OF NOVA SCOTIA

COUNTY OF CUMBERLAND

ESTATE # 8405

IN THE COURT OF PROBATE

IN THE MATTER of the Estate of
Rex K. Chappell, late of Amherst
in the County of Cumberland and
Province of Nova Scotia, deceased.

8405

A F F I D A V I T

G. H. MacNeill, Q.C.
Barrister and Solicitor
11 Princess Street
P.O. Box 505
Amherst, N.S.
B4H 4A1

APPENDIX "A"

PROVINCE OF NOVA SCOTIA
COUNTY OF CUMBERLAND

ESTATE #8405

IN THE COURT OF PROBATE

IN THE MATTER of the Estate of REX K. CHAPPELL,
late of Amherst in the County of Cumberland and
Province of Nova Scotia, deceased.

A F F I D A V I T

I, PATRICIA ELLIOTT, of R. R. #3 Wallace in the County of Cumberland and Province of Nova Scotia, make oath and say as follows:

1. THAT I am one of the three daughters of Louise Stiles and Rev. Frank Stiles of Northport, Nova Scotia, and a granddaughter of the late Rex K. Chappell.
2. THAT during the administration of the estate the grandchildren, who, under clause 7D of my grandfather's Will, are the residual beneficiaries, were not properly represented nor was their interest protected with regard to the election of officers and directors of R. K. Chappell Investments Limited.
3. THAT R. K. Chappell Investments Limited has incurred expenses as set out in the statement for the year ended December 31, 1990, and are as follows:


Expenses

Depreciation	\$ 352.00
Interest and bank charges	304.00
Management fees	15,000.00
Miscellaneous	1,567.00
Office expense	1,767.00
Professional fees	15,736.00
Telephone	829.00
Wages and benefits	<u>22,062.00</u>
	57,617.00
Accounts Payable	<u>5,688.00</u>
TOTAL	\$63,305.00

4. THAT according to the financial statement (a copy of which is attached hereto as Schedule "A") there were only three common stocks and 21 GICs and debt instruments for a total investment income of \$309,167.00, with expenses of \$63,305.00; expenses being 20.475% of total income.

5. THAT I am informed by my mother, Louise Stiles, and verily believe that she objected to the procedure whereby the trustees of the estate used their voting privileges to elect themselves as officers and directors of R. K. Chappell Investments Limited, and gave Shirley Porter, one of the executors, a salary of \$21,000.00 per year plus a car allowance of \$1,000.00 and office space rental in her home of \$1,200.00 for the very little work that she did to administer the company (estate) assets.
6. THAT the directors of R. K. Chappell Investments Limited voted themselves directors' fees in the amount of \$5,000.00 each, which meant that Shirley Porter was getting from the estate for the year ending 1990 some \$28,200.00 in addition to her fees as an executrix.
7. THAT in my opinion these expenses are not justified and have been authorized by the executors improperly and are considerably in excess of any salary paid to Shirley Porter when she was a full-time employee of my late grandfather when he ran a large and successful construction company.
8. THAT these expenses are unreasonable in relation to the work done and benefit received by the estate and they have reduced the balance of the residue due to myself and the other grandchildren of the late Rex K. Chappell improperly.
9. THAT I respectfully ask this Honourable Court not to pass the estate accounts without a careful review into the expenses charged in the administration of the largest part of the estate of my late grandfather, being R. K. Chappell Investments Limited which was and is controlled by the executors.

SWORN TO at Amherst, in the)
 County of Cumberland and)
 Province of Nova Scotia,)
 this 22nd day of October,)
 1991.)
 BEFORE ME:)


 _____)
 A Barrister of the Supreme)
 Court of Nova Scotia)


 _____)
 Patricia Elliott)

R. K. CHAPPELL INVESTMENTS LIMITED

INVESTMENTS AND INVESTMENT INCOME

YEAR ENDED DECEMBER 31, 1990

	<u>Balances Dec 31/89</u>		<u>Purchases</u>		<u>Disposals</u>		<u>Balances Dec.31/90</u>		<u>Market</u>	<u>Dividends</u>
	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>	<u>Units</u>	<u>Cost</u>		
<u>Canadian Stocks</u>										
Bank of Nova Scotia	133,000	\$1,110,389		\$		\$	133,000	\$1,110,389	\$1,645,875	\$133,000
Bell Canada Enterprises	3,000	126,976					3,000	126,976	118,500	7,560
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		<u>\$1,989,087</u>		<u>\$ 0</u>		<u>\$ 97,600</u>		<u>\$1,891,487</u>	<u>\$3,313,750</u>	<u>\$221,180</u>

Guaranteed Investment Certificates

							<u>Interest</u>
First City Trust 10.375% 7/3/93	\$ 40,000	\$		\$	\$ 40,000	\$ 4,144	
Counsel Trust 10.25% 7/11/91	55,000				55,000	5,638	
Morguard Mort 10.25% 7/11/91	55,000				55,000	5,638	
Household Trust 11% 10/6/92	30,000				30,000	3,272	
Wellington Trust 11% 10/6/92	30,000				30,000	3,272	
Vanguard Trust 10.5% 7/3/93	20,000				20,000	2,094	
Central East Mort 11% 9/2/93	50,000				50,000	5,455	
Coronet Trust 10.875% 9/2/93	50,000				50,000	5,393	
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Standard Trust 11% 9/2/93	50,000				50,000	5,455	
Central Trust 11% 9/2/93	50,000				50,000	5,455	
Central East Mort 11% 10/3/93	50,000				50,000	5,500	
NS Savings & Trust 11% 10/3/93	50,000				50,000	5,500	
NS Savings & Loan 11% 10/3/93	50,000				50,000	5,500	
Household Trust 11% 10/3/93	20,000				20,000	2,200	
Municipal S & L 11.75% 10/16/90	40,000			40,000	0	3,721	
Wellington Trust 11.5% 7/31/90		50,000		50,000	0	3,287	
Vanguard Trust 10.75% 6/7/93		50,000			50,000	3,608	
Financial Trust 10.75% 6/10/93		50,000			50,000	3,593	
National Trust 11.5% 10/16/94		40,000			40,000	1,292	
Focus Nat. Inv. Corp. 12% 7/31/95		50,000			50,000	2,515	
	<u>\$690,000</u>	<u>\$240,000</u>		<u>\$ 90,000</u>	<u>\$840,000</u>	<u>\$87,987</u>	

* Stock Split 1-1, no cost

221,180
 87,987

 309,167

Doane Raymond

SCHEDULE "A"

PROVINCE OF NOVA SCOTIA

COUNTY OF CUMBERLAND

ESTATE # 8405

IN THE COURT OF PROBATE

IN THE MATTER of the Estate of
Rex K. Chappell, late of Amherst
in the County of Cumberland and
Province of Nova Scotia, deceased.

8405

A F F I D A V I T

G. H. MacNeill, Q.C.
Barrister and Solicitor
11 Princess Street
P.O. Box 505
Amherst, N.S.
B4H 4A1

APPENDIX "B"

AGREED STATEMENT OF FACTS

1. Rex K. Chappell died on the 11th day of December, 1989, having executed a last Will and Testament (the "Will") dated the 16th day of August, 1989, a true copy of which is attached hereto as Schedule "A".
2. That Rex K. Chappell was survived by four daughters, namely, Louise Stiles, Leona Mollis, Joyce Green and Ruby MacKenzie.
3. That Rex K. Chappell was survived by several grandchildren, namely:
 - a) Jane Stiles, Elizabeth Neilson and Patricia Elliott, being the children of Louise Stiles;
 - b) Tamara Mollis, being the daughter of Leona Mollis;
 - c) Noella Green, Derrick Green, Carrie Green and Paula Green, being the children of Joyce Green;
 - d) Stuart MacKenzie and Deborah MacKenzie, being the children of Ruby MacKenzie.
4. That Tamara Mollis, Carrie Green, Stuart MacKenzie and Deborah MacKenzie are the only grandchildren of Rex K. Chappell under Nineteen (19) years of age.
5. That there may be additional grandchildren of Rex K. Chappell, born or adopted prior to the residue of the Estate being distributed, and this class of residual beneficiaries therefore remains open.
6. Letters Testamentary were granted by the Court of Probate for the County of Cumberland to Shirley Porter, Paul J. Green and Paula M. Green (the "Trustees"), on the 18th day of January, 1990.
7. That no claims have been made contesting the validity of the Will, nor against the Estate with respect to the disposition made pursuant to Paragraphs 3, 4 and 5 of the Will.
8. At the time of his death, Rex K. Chappell owned twelve (12) voting first preferred shares and fifteen hundred (1,500) second non-voting preferred shares with a par value of \$500.00 each, carrying twelve percent (12%) dividend, in Rex K. Chappell Investments Limited (RKCI Limited).
9. Besides the above-described preference shares, the following common shares were issued in RKCI Limited and owned as follows:

(a) One (1) share owned and held by each of Rex K. Chappell's daughters, totalling Four (4) common shares (the "Common Shareholders"); and

(b) One (1) share held by Shirley Porter, in trust for the Common Shareholders.

10. A meeting was held on April 12th, 1990 between the Trustees (the Executors) and the four common shareholders (the four daughters) in RKCI Limited, where the following decisions were made:

(a) Pursuant to Paragraph 14 of the Will, the Trustees exercised the voting rights of the twelve (12) preference shares and elected Paul Green and Paula Green as Directors of RKCI Limited, along with Shirley Porter, who had acted in that capacity since 1976.

(b) Directors' fees were discussed, the Directors recommended and it was decided that each Director would receive the amount of \$5,000.00, covering fees from January to December of 1990. No further Directors' fees have been paid since December of 1990.

(c) The Directors recommended and it was decided that Shirley Porter would draw a salary of \$21,000.00 per annum from RKCI Limited until further decision of the Directors.

(d) Louise Stiles was the only person to contest the motions in (a), (b) and (c) above.

11. That Shirley Porter continued to draw a salary from RKCI Limited up to and including December 31st of 1991.

12. That, at the request of the common shareholders, the Directors of RKCI Limited agreed to implement a butterfly maneuver of the Company, said maneuver originally to have been completed by February, 1991, however, the maneuver was not completed until August of that year.

13. That as part of the butterfly maneuver, the Common Shareholders accepted the appointment of Directors and the payment of Directors' fees as described in Paragraph 7 above, as well as the drawing of a salary by Shirley Porter from RKCI Limited up to and including February 28th, 1991.

14. In the butterfly maneuver, the five (5) common shares in RKCI Limited were transferred to four independent holding companies owned by the Common Shareholders, with each shareholder receiving the value of one and one-quarter common shares in RKCI Limited. The common shares were redeemed by

RKCI Limited distributing certain of its assets to the four holding companies.

15. The result of the butterfly maneuver was to reduce the number of investments being held by RKCI Limited and to make the Estate of Rex K. Chappell the sole common and preferred shareholder in RKCI Limited.

16. The four Common Shareholders signed a release in which they released the Executors (Trustees) from all actions, causes of action, debts or demands arising from the steps immediately preceding the butterfly maneuver, said release being binding upon the heirs, executors, administrators and assigns of the common shareholders.

17. That on June 14th, 1991, Shirley Porter signed a release in which she released RKCI Limited and R. K. Chappell Construction Limited of all manner of actions, causes of action, debts and demands arising from her employment by the Companies, or either one of them, said release signed in consideration of certain dividends received, Directors' fees, and wages paid up to and including February 28th, 1991.

18. That during the 1991 fiscal year, the Directors of RKCI Limited authorized payment of the following expenses:

(a) The Directors paid to Paul J. Green the sum of \$3,191.00, being management fees incurred from January 1st to April 30th, 1991 and set out in an invoice submitted by Paul J. Green and attached hereto as Schedule "B".

(b) The Directors paid to Shirley Porter for the 1991 year the sum of \$1,000.00, being travel expenses related to the use of her own car for Company business, said annual payment being implemented by Rex K. Chappell several years before his death.

(c) The Directors paid for the 1991 year the sum of \$242.00 towards miscellaneous expenses, including a Reader's Digest subscription for each of the Common Shareholders, as had been done prior to Mr. Chappell's death, as well as meals while on Company business and office expenses.

(d) The Directors paid for the 1991 year a total sum of \$1,498.00, being office expenses, with \$1,200.00 of that representing rent paid to Shirley Porter for maintaining the Company office in her home, with the balance of \$298.00 being spent on bus, postage, box rental, courier charges and safety deposit box rentals.

(e) The Directors paid for the 1991 year the sum of \$1,103.00 to Maritime Tel & Tel for telephone service and long distance charges.

(f) The Directors paid in the 1991 year the sum of \$14,774.00 to Doane Raymond and Hicks, LeMoine for accounting and legal services rendered on behalf of the Company.

(g) The Directors further set aside for the 1991 year the sum of \$1,350.00 in a reserve fund for the purpose of paying further professional fees rendered to the Company.

19. In settling the Estate, the Trustees and common shareholders have agreed that the Executors' commission shall be whatever amount the Probate Court shall permit.

20. The following accounts have been paid by the Estate:

(a) to Daley, Black & Moreira, Account No. 1 - \$4,307.11;

(b) to Doane Raymond, Accountants - \$1,352.50;

(c) to Daley, Black & Moreira, Account No. 2 - \$1,605.00,

said amounts totalling \$7,264.61.

21. It has been agreed by the Trustees and the Common Shareholders that the amounts described in Paragraph 20. above would be deducted from any Executors' commission received by the Trustees.

22. The Trustees have received two further accounts from Daley, Black & Moreira for legal services rendered on behalf of the Estate, the first in the amount of \$4,366.84, said invoice dated the 11th day of May, 1992, and the second in the amount of \$2,699.74, said invoice dated the 22nd day of June, 1992.

23. There is no agreement with respect to who shall be responsible for the payment of the accounts described in Paragraph 22. above.

SCHEDULE "B"

INVOICE

Re: R. K. Chappell Investments Limited

Time and Materials - Paul J. Green

JANUARY

1. Received letter re 'Butterfly' and discussed with Ed Harris, Shirley Porter, and Paula Green by phone. Discussion with Morris Haugg - January 7, 8 by phone re above.
2. Preparing for meeting in Halifax, meeting with Brian Trenholm. Attending meeting in Halifax with Shirley, Ed, Joyce and Bob Nixon January 28.
3. Two meetings in Moncton with Shirley January 9 and 16.
4. Review of statement with Brian.

ALL TO ACCOUNT

TIME 30 hours @ \$40.00 per hour \$1200.00

EXPENSES

Mileage Fredericton-Halifax 1000 @ .25/km	250.00
Mileage Fredericton-Moncton 2 @ 125 @ .25/km	62.50
Postage	15.00
Fax	4.85
Meals	20.00
Telephone	26.58
	\$1578.93

FEBRUARY

1. Received letter from Ed Harris and discussed with Shirley Porter and Brian Trenholm.
2. Preparing answers to Mr. Stewart's letter and conference call with Ed, Shirley and myself.

TIME 10 hours @ \$40.00 per hour \$400.00

EXPENSES

Telephone	24.56
Conference Call	15.60
Fax	.55
Postage	3.50
	\$444.21

MARCH

1. Sending by Fax letter outlining position of executors after discussion with Paula, Shirley and myself.
2. Answering certain questions arising from Mr. Stewart's letters.
3. Finalizing financial statement with Shirley and Brian.

TIME 12 hours @ \$40.00 \$480.00

EXPENSES

Fax .29
Telephone 13.76
Postage 3.50
\$497.55

APRIL

1. Reviewing letters with Shirley and trip to Amherst April 17, meeting with Morris Haugg.

TIME 12 hours @ \$40.00 \$480.00

EXPENSES

Mileage 600 km @ .25/km 150.00
Telephone 5.25
\$635.25

Miscellaneous copies 4 months January-April 100 @ .25 \$ 25.00
Fax paper 10.00
\$ 35.00

TOTAL JANUARY 1 to APRIL 30 \$3190.94

*Pat [unclear] 27/91
CR 710 105*