Date: 20150506

Docket: *Bridgewater*, No. Bwt 429670

Probate Court No. 14841

Registry: Bridgewater

PROVINCE OF NOVA SCOTIA)

IN THE COURT OF PROBATE

COUNTY OF LUNENBURG)

IN THE MATTER OF: the Estate of FRANCES MARGARET

STEWART, late of Lunenburg, in the County of

Lunenburg, Province of Nova Scotia;

Citation: Stewart Estate (Re), 2015 NSSC 135

Judge: The Honourable Justice C. Richard Coughlan

Heard: December 16, 2014, in Bridgewater, Nova Scotia

Counsel: Rubin Dexter for Byford Hopkins, on the issue of natural

justice

Byford Hopkins, self-represented on remaining issues;

Angus Stewart-Gray, self-represented Anne Stewart-Gray, self-represented

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Judge: The Honourable Justice C. Richard Coughlan

Heard: December 6, 2015 in Bridgewater, Nova Scotia

Written Decision: May 6, 2015

Subject: Executors and Administrators

Accounts and Passing of Accounts

Summary:

A personal representative appealed a registrar's decision concerning his accounts.

Subsequent to the contested hearing before the registrar and before the registrar rendered her judgment two persons wrote to the registrar commenting on matters upon which the registrar was to adjudicate. There was no evidence the personal representative received a copy of the letter. The personal representative submitted the registrar had breached the rules of natural justice. The personal representative appealed the judgment concerning the accounts.

Issues:

What is the proper decision concerning the personal representative's accounts.

SUMMARY:

The letter from the two individuals received after the hearing but before the registrar's judgment was rendered was improper. There was nothing in evidence to indicate it had any impact on the registrar's decision.

The registrar was exercising a judicial function. When exercising a judicial function the principles of natural justice require a party be given an opportunity to hear the case against it and an opportunity to present its case. A party must be afforded the opportunity to correct or contradict evidence prejudicial to its position. The personal representative should have been provided a copy of the letter so he could respond to its contents if he wished.

The accounts were reviewed and the amount to be reimbursed to the estate by the personal representative is reduced by \$158.70 to \$7,376.05

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