



This is the 1st Affidavit of Jacquie Enns in this case and was made on 12/APR/2022

NO. KEL-S-S-122417
KELOWNA REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SATHER RANCH LTD.

PLAINTIFF

AND:

JOSEPH WAYNE PALMER SATHER

DEFENDANT

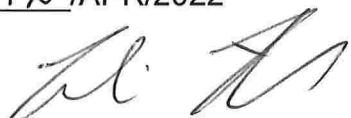
AFFIDAVIT

I, Jacquie Enns, Legal Assistant, care of 400 - 275 Lawrence Avenue, Kelowna, British Columbia, **SWEAR (OR AFFIRM) THAT:**

1. I am a Legal Assistant for Colin Flannigan and as such I have personal knowledge of the facts and matters hereinafter deposed to, except where they are stated to be based on information and belief and, where so stated, I verily believe same to be true.
2. The Defendant sent an email to our office enclosing a signed copy of The Living Trust of Joseph Wayne Palmer Sather dated November 30, 2017. Attached hereto this my affidavit as **Exhibit "A"** is a copy of The Living Trust of Joseph Wayne Palmer Sather that I received, by email, from the Defendant.

SWORN BEFORE ME

at Kelowna, British Columbia,
on 12 /APR/2022


A Commissioner for taking Affidavits
within British Columbia

COLIN FLANNIGAN

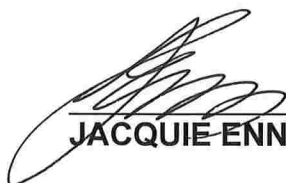
BARRISTER & SOLICITOR

400 - 275 Lawrence Avenue

KELOWNA, BC

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JACQUIE ENNS

**The Living Trust
of
Joseph Wayne Palmer Sather**

This Trust is hereby created on the **30th** day of **November 2017**.

SETTLOR:

Joseph Wayne Palmer Sather
10635 Oakmoor Way S.W.,
Calgary, Alberta T2W 2L1

TRUSTEES:

1. **Julia Anna Patricia Sather**
c/o 10635 Oakmoor Way S.W.,
Calgary, Alberta T2W 2L1
2. **Patricia Diane Sather**
10635 Oakmoor Way S.W.,
Calgary, Alberta T2W 2L1

BENEFICIARIES

1. **Julia Anna Patricia Sather**
Social Insurance Number 659-552-343
c/o 10635 Oakmoor Way S.W.,
Calgary, Alberta T2W 2L1
2. **Daniel Peter Russell Sather**
Social Insurance Number 725-148-985
5313 Ivy Road,
Nelson, B.C. V1L 6N2
3. **Joseph Erik Palmer Sather**
Social Insurance Number 723-503-918
5313 Ivy Road,
Nelson, B.C. V1L 6N2
4. **Patricia Diane Sather**
Social Insurance Number 621-020-114
10635 Oakmoor Way S.W.,
Calgary, Alberta T2W 2L1

This is Exhibit "A" referred
to in the Affidavit of
Jacque Enn
Sworn before me this
12 day of April, 2022
[Signature]
A Notary Public in and for the Province of British Columbia
A Commissioner for taking Affidavits within
British Columbia

1. Name of the Trust:

This Trust shall be known as the **Joseph Wayne Palmer Sather Living Trust** and is not an amendment to a prior Living Trust.

2. Transfer of Property:

The Trustees agree to hold any property transferred to this Trust, from any source whatsoever, in trust for the benefit of all of the herein named Beneficiaries.

The Settlor shall transfer to the Trustees, in the name of this Trust, the following identified property:

160 Acres of land located on the east side of Campbell Mountain in the City of Penticton, B.C. (British Columbia)

Legal: District Lot 2514S, Land District 54, PID 002-215-594

Herein referred to as the "Property"

This Property is currently registered in the name of the Settlor, **Joseph W.P. Sather**. The Title to this property shall be transferred to the Trustees named herein upon the following events:

- a. Upon the death of Joseph W.P. Sather or
- b. Upon the Settlor and Trustees herein being advised by their Lawyer or their Chartered Professional Accountant (CPA), to transfer Title to the Trustees named herein, whichever occurs first.

In the event that a transfer of Title to the property would attract a large sum of B.C. Transfer Tax or other taxes, then Title to the property may be held in trust by the Settlor until such a time as a Lawyer or other professional advisor recommends that the Title be transferred to the Trustees herein or until the property is sold.

3. History of the Property:

The Property was purchased by **Palmer Sather ("Palmer")** in about the late 1950's for the purpose of a long-term investment for his children and grandchildren. Palmer verbally expressed this desire, and gave instructions to his daughter, Carol Sather-Byman, and his son, Joseph W.P. Sather. Since the Property was purchased, Palmer's cattle would graze on Campbell Mountain, including his unfenced 160 acre parcel, during the period from mid-October to mid-November each year, as the cattle returned from the high mountain ranges, commonly known as Greyback and Carmi Ranges. The 160 acre property has no water or power and is not fenced and therefore is not suitable for grazing cattle or any other ranch use. During the entire year, Palmer also allowed local residents of Penticton to walk, hike or ride non-motorized bikes on the property. As Palmer verbally instructed and as advised by Palmer's Solicitor, Bill Oliver, this 160 acre property was offered for sale to his grandchildren first and when they declined for financial reasons, it was sold to Palmer's son, Joseph W.P. Sather, in September of 2017, as advised by Palmer's Solicitor, Bill Oliver, and as agreed to by his Power Of

Attorney, Carol Sather-Byman. The purpose of the purchase of this land by Joseph W.P. Sather was to limit or eliminate Probate Taxes that would be payable by the Estate of Palmer Sather upon his becoming deceased and for the purpose of establishing a Sather Family Trust for grandchildren of Palmer Sather, as specified herein.

4. Use of the Property and Lease Agreement:

While Title to the herein described Property is in the name of the Settlor or the Trustees named herein, the property may be leased to **Sather Ranch Ltd.**, herein the proposed Lessee, a corporation owned indirectly by **Mike Street** and Joseph W.P. Sather, 50% each, for a term of one year or less, for the purpose of grazing cattle during the months of October and November each year. Such a Lease Agreement may be extended or renewed annually, at the discretion of the Settlor or the Trustees named herein. Use of the Property by the Lessee is for the benefit of the Lessee's ranching business and shall be limited to cattle grazing during the months of October and November, during each year of the Lease. The Lease Agreement with Sather Ranch Ltd. may be terminated at any time by the Lessee by delivering written notice to the Settlor or the Trustees named herein. The Lease Agreement shall expire and therefore terminate each calendar year on September 30th, without written notice. The Lessee and Settlor or Trustees may, if mutually agreed upon, enter into a new Lease Agreement annually, on the same terms. The fee payable to the Settlor or Trustees, by the Lessee, for the use of the property by the Lessee, shall be the amount of the Annual Property Taxes or more plus any other costs incurred by the Settlor or Trustees relating to the Property.

5. Sale of the Property and Use of Funds

In the event the Settlor or Trustees receive an Offer to Purchase the Property, acceptance of the Offer shall require the approval by a majority of the Beneficiaries. Proceeds of the sale shall be deposited into an interest bearing account for the benefit of all Beneficiaries. Subject to the approval of a majority of Beneficiaries, these funds may be used for:

- a. Educational purposes for any Beneficiary or their children;
- b. Medical purposes for any Beneficiary;
- c. Professional Services, such as Doctors, Dentists, Accountants, Lawyers or other approved professional services required by a Beneficiary;
- d. A down payment for the Purchase of a home for a Beneficiary;
- e. Costs of renovations to a home owned by a Beneficiary;
- f. Purchase of a farm or livestock;
- g. Purchase of a vehicle for essential transportation;
- h. A loan to a Beneficiary for the purpose of any of the above listed uses;
- i. Secured, low or medium risk investments.

The Settlor hereby encourages the Trustees and Beneficiaries to sell the Property to the Province of BC and/or the City of Penticton, for the purpose of establishing a Public Park on Campbell Mountain. Such a Park should be named "Palmer Sather Park", if possible.

6. Compensation

Any Trustee shall be entitled to be paid a reasonable fee, based on time expended by the Trustee for the benefit of the Beneficiaries, for their services performed for this Trust. Such compensation shall be paid from the Bank account for this Trust or by the Settlor if there are no funds available from the Trust.

7. Trustee's Powers

The Trustees named herein have discretionary power to act on behalf of this Trust. This discretionary power must be exercised in good faith and in accordance with the terms and purposes of this Trust. The Trustees shall always act in the best interests of this Trust.

The Trustees will ensure that the net proceeds, if any, from this Trust will be divided equally (25% each) between the Beneficiaries, when determined by the Trustees, in accordance with the terms and instructions of this Trust.

8. Removal or Resignation of a Trustee

During the lifetime of the Settlor, the Settlor shall have the right to remove any Trustee without written Notice or cause. A Trustee may resign their position as a Trustee by delivering written Notice to the Settlor or, in the event the Settlor is deceased, to the Beneficiaries of the Trust.

9. Funding the Trust and Accounting Duties

The Settlor, while alive, shall be responsible to the Trustees and Beneficiaries for all accounting duties and financial reporting on behalf of the Trust. Such duties shall include, but not limited to, payment of property taxes, professional fees, any other debts or accounts payable and preparation and distribution of Financial Statements or Accounting Reports to the Trustees and Beneficiaries of this Trust. Such payments shall be paid from the Trust's bank account or by the Settlor from his personal funds. In the event payments are made by the Settlor from his personal funds on behalf of the Trust, the monies will be repaid to the Settlor when funds become available.

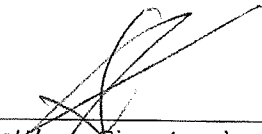
10. Acquisition Costs

In the event the Property is sold, the cost of purchasing the Property described herein, including legal fees, may, at the discretion of the Trustees, be repaid to the Settlor.

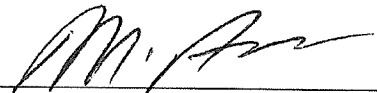
11. Governing Law

Although the Property described herein is located in the Province of B.C., this Trust is made and executed in the Provinces of Alberta, Canada, where the Settlor and Trustees reside, and as such shall be governed by and construed according to the laws of Alberta, Canada.

I, Joseph Wayne Palmer Sather, the Settlor, hereby accept the Trust herein created. Signed the 30th day of November 2017.



(Settlor's Signature)
Joseph Wayne Palmer Sather




(Witness Signature)
MARIO ARCARO

(Witness Name)

I, Julia Anna Patricia Sather, the Trustee, hereby accept the Trust herein created. Signed the 30th day of November 2017.



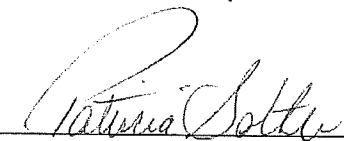
(Trustee's Signature)
Julia Anna Patricia Sather




(Witness Signature)
MARIO ARCARI

(Witness Name)

I, Patricia Diane Sather, the Trustee, hereby accept the Trust herein created. Signed the 30th day of November 2017.



(Trustee's Signature)
Patricia Diane Sather



(Witness Signature)
MARIO ARCARI

(Witness Name)

RECEIPT

Of the LIVING TRUST of Joseph Wayne Palmer Sather Document By the BENEFICIARIES Of the LIVING TRUST

The Beneficiaries of this Trust, named below, hereby acknowledge having received a signed copy of the document called **The Living Trust of Joseph Wayne Palmer Sather**:




Julia Anna Patricia Sather

Dated November 30, 2017



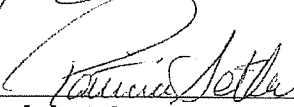
Daniel Peter Russell Sather

Dated December 8TH, 2017



Joseph Erik Palmer Sather

Dated December 8TH, 2017



Patricia Diane Sather

Dated November 30, 2017