

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF THE ESTATE OF CARL  
VINCENT SUTTON, late of Yellowknife,  
in the Northwest Territories, deceased.

Counsel Appearing: Mr. F.J. Newson, Q.C. for the Executor,  
applicant.

Mr. Neil Gower also appeared with him.

Mrs. Deleva, sister of the deceased and  
one of the beneficiaries, in person.

France Sheltra, one of the beneficiaries,  
in person.

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This is an application to pass the accounts of  
the executor in connection with the administration of this  
estate and also to fix the remuneration to be paid to the  
executor for his services as executor of the estate.

On the hearing of this application Mr. Lindsay of  
the firm of Peat, Marwick & Company, chartered accountants,  
also appeared along with the executor and his counsel so as to  
answer any questions that might be raised by the beneficiaries  
who appeared.

At the conclusion of the hearing the only issue that  
was in dispute was the amount of remuneration to be paid to the



executor having regard to the care, pains and trouble and the time expended in the execution of his duties as executor of this estate.

On the basis of the evidence adduced before me, I am satisfied that this is a case which calls for special consideration having regard to the tremendous amount of work that was involved on the part of the executor in realizing on the assets of this estate. Through the good management of the executor the interests of all beneficiaries were fully protected and the handling of the estate by the executor substantially enhanced the amount of moneys that later became available for each of the beneficiaries.

It should, however, be pointed out that in this particular case the executor did expend the total sum of \$9,000.00 to Mr. E. Genest of Montreal for services rendered in giving advice and assistance to him in the administration of the estate.

As of August 14th, 1977 the net value is computed at \$468,750.00. In addition there are certain assets that must be realized, namely, 800 shares of Terra Mining by way of a stock dividend. If one attributes a reasonable value to these shares in the neighbourhood of \$4.00 to \$5.00 the total value of the estate would be increased to a figure in the neighbourhood of \$500,000.00.

In this particular case the executor has already received \$22,000.00 by way of remuneration for his work and he



asks for an additional fee of \$30,000.00 over and above that amount for a total of \$52,000.00.

I have endeavoured to review the various authorities dealing with the principles to be applied in fixing remuneration to executors and in particular I have referred to the following authorities:

Re Maybee Estate (1960) 31 W.W.R. (NS) 703;

Re Forrest Estate (1961) 35 W.W.R. (NS) 425;

Re Harmes Estate (1948) 2 W.W.R. 515, (1948)  
1 W.W.R. 917;

Re Lasby Estate (1960-61) 33 W.W.R. (NS) 269;

Re Fingard Estate (1961) 34 W.W.R. (NS) 426; and

Re Lloyd Estate (1954) 12 W.W.R. (NS) 445.

After carefully considering this matter, I am of the opinion that a fair and reasonable compensation for the care, pains and trouble and time expended in the execution of his duties by the applicant executor would be a total of \$41,000.00. In arriving at this total I have taken into account the fact that the executor has paid the sum of \$9,000.00 to Mr. E. Genest of Montreal for the general financial assistance that he rendered to him. This assistance took the form of financial advice which was no doubt helpful to the estate.

Under the circumstances, I approve the payment of \$22,000.00 which appears as Item 10 on schedule 4(b) of the executor's account as part payment on account of his services and I do hereby fix and allow the further sum of \$19,000.00

together with any proper out of pocket expenses incurred by him.

In view of the fact that all other issues were settled on the hearing of this application, counsel may prepare and submit the necessary order to me for approval so that it can be issued under the seal of the clerk of this court.

*C. F. Tallis*

J.S.C.



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with the original and  
together with any papers out

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