

# THE QUARTERLY LEDGER

Keeping you current on record keeping

3<sup>rd</sup> Quarter 2017

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Volume VI, Issue 3

SHOW \* LET - THE = RECORDS \$  
POWER OF ATTORNEY  
& ESTATE ACCOUNTING  
MADE EASY

Welcome to *The Quarterly Ledger*, a newsletter designed to support and inform those concerned with record keeping and estate management whether under a Power of Attorney or involved in administering an Estate of a deceased person.

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Your questions, comments and feedback are always welcome.

Please send us an e-mail at: [authors@showmetherecords.ca](mailto:authors@showmetherecords.ca)

## EDITORIAL COMMENT

### COURAGE AND HONESTY WORTH CELEBRATING!

Finally, it appears that Summer has arrived!

Summer brings many pleasures—the strawberry patch, iced white wine, the reading of a good book while gently swaying in the shade on your favourite hammock, to name just a few.

And speaking of a “good book”, we are pleased to relate the publication of *Pierre Elliott Trudeau's Great Betrayal* by C. Gwendolyn Landolt and Patrick Redmond (217 pages, The Interim Publishing Co., 2017).

What a book! Courageous and honest, well documented, very accessible and easily readable, it tells a number of fascinating stories related to the evolution of Canada's abortion laws and the introduction of the Charter of Rights and Freedoms in 1982.

The book provides a valuable and timely discourse on an aspect of Canadian social/political/legal history that the younger generation are clueless about and that many others would simply like to forget. It is also a deeply disturbing book—documenting the moral decline of a generation of political “leaders” and politicians who turned out to be nothing more than apostates and reprobates.

The reader will be struck by a number of features of the book—not the least of which is its composite nature: part history book; part political/social commentary; part theological critique; a masterful overview of the Right to Life Movement's involvement with the 1982 Constitution; and a stunning indictment of the moral cowardice of successive Parliaments to legislate in this area.

Like any good book, it raises many more questions than it could possibly answer within its modest 217 pages.

For example: why did the Canadian Roman Catholic Church fail to get behind *Humanae vitae* and its clear moral teaching?; why has that Church's hierarchy, i.e., bishops, failed to take seriously their office as teacher and guardian of the Faith?; why is the Rule of Law so important in a constitutional polity and what is the legitimate role courts need to play if such a polity is to be truly representative?; and finally, does one really appreciate what the stakes are in the current Culture War—Culture of Life vs. Culture of Death, of which the abortion issue is only one of the major battles affecting not only the life of the unborn, but also freedom of conscious, freedom of religion, freedom of speech, and the nature of the society in which we live?

Of course, many may prefer to think of these issues as being beyond the pale of a Power of Attorney or Executor, and in one sense, they are—and yet . . . and yet . . .

While the story told in *Pierre Elliot Trudeau's Great Betrayal* may deal with matters of “national” scope, it is also a story of individual courage, honesty and duty to do what was possible to protect one of the most vulnerable in our society, the unborn. The story provides an *exemplar* of why the Culture of Life matters and why defending that Culture should matter to all of us, particularly those of us who care for, and about, the disabled, the elderly and those who are infirmed. It is also a reminder that things don't have to be the way they are, there are better alternatives about. Nothing is pre-written in the Book of Life until we write its chapters—if only we would have the courage to do so, just as the authors of *Pierre Elliot Trudeau's Great Betrayal* have done.

*Thank you* for your referrals and feedback; we appreciate your continued support!

## TIP-O-THE QUARTER

## THE JOY OF DIRECT DDEPOSIT

If you haven't already done so, you might want to consider adding Direct Deposit to the tools you use to help manage the Grantor's affairs under a Power of Attorney for Property.

Not only are income tax refunds covered, but so are other government payments such as: goods and services tax/harmonized sales tax credit; similar provincial and territorial payments; and CPP and OAS payments.

Direct Deposit also simplifies record-keeping by providing you with a "written" record of money received right in the monthly bank statement or passbook without you having to make any additional notation.

Other benefits include:

⇒ **Saves time** not having to worry about making time to get to the bank to make the deposits. No more worries about being away on vacation and missing a deposit. No more worries about or during winter weather and getting to the bank!

⇒ **Saves worry** over mail strikes, lost mail, or loss of cheque once received. Direct Deposit also assures timely payment in the event of an emergency or unforeseen circumstances adding to the Grantor's independence in case something happens to you.

⇒ **Saves hassle** over moving and address change notification. Moving can often result in a delay of mail, especially when dealing with government bureaucracy.

And while you're considering Direct Deposit, don't forget to consider setting up auto-bill payments for utilities and other regularly occurring bills!

See Chapter 1 of  
*Let the Records Show* for some basic questions to consider before agreeing to act an attorney or estate trustee

## QUESTION OF THE QUARTER

I'M A VERY PRIVATE PERSON,  
DOES MY LAWYER NEED TO KNOW EVERYTHING?

You'll forgive us if we answer this question with a question: Don't lawyers know everything already?

But seriously, thank you for yet another thoughtful and timely question.

When you have your Will and Powers of Attorneys drawn up, you are doing more than simply having documents drafted. The documents are the end result of an estate planning exercise that entails a thoughtful process of considering your particular estate circumstances and arriving at a

structure which will serve to protect you and achieve your estate planning objectives.

Your lawyer plays an important part in that process by offering you an objective assessment of your circumstances and goals. In order to do so, the lawyer needs to understand those circumstances and goals. For example, you may want to leave money to a relative, but that relative suffers from an addiction to alcohol or drugs—something you're hesitant to discuss. However, if you don't mention this to the lawyer, they will not be able to provide you with advice about ways to leave money to someone so as to protect them from wasting their legacy on booze or drugs. More important, by asking you questions, the lawyer is establishing your "testamentary capacity" something necessary if you want to make a Will!

At the end of the day, your estate arrangements will only be as good as the information they are based upon. You need to trust your lawyer to ask the proper questions, as well as trust them to keep your confidence. Lawyer/client confidentiality exists to ensure that the lawyer knows everything to assist you in realizing your estate plan and goals.

NOW  
AVAILABLE!

Take The Uncertainty Out Of  
Estate Planning With Good  
Record Keeping  
A Podcast with Linda Alderson,  
CPA, CA at

[www.caregivingmatters.ca/  
special-projects/estate-planning-project/](http://www.caregivingmatters.ca/special-projects/estate-planning-project/)

## LAWYERING UP MAY BE THE SMART THING!

Last Quarter we talked about the “smarts” of hiring a lawyer to help with estate administration after death. This Quarter, it seems appropriate to briefly talk about the benefits of retaining a lawyer to assist you with your estate plan while you are alive!

In the Internet Age, search engines make us all experts at the click of a mouse. And yet, the adage that “the lawyer who represents himself has a fool for a client” is just as apt in the case of those doing estate planning by themselves. Yes, there are Will and POA kits readily available—and for some, those kits might provide a temporary solution. However, in our combined 60 years experience, we’ve never come across someone who wouldn’t have—and indeed have, benefited from some practical and germane legal advice.

Granted, not every estate is complex or requires a staff of accountants and lawyers to map its future and manage its present. Nevertheless, there are tangible benefits of retaining competent legal counsel to ensure that the i’s are dotted and the t’s are crossed. The following are some of the expectations that you should understand with respect to the lawyer’s role, and your own, in the estate planning process:

### LAWYER’S ROLE

**Explain the process**—the lawyer should explain the planning/drafting process, including fees if not discussed earlier. While the Will may be the primary focus, a discussion of Powers of Attorney and their role in your estate plan should also part of the exercise.

**Questions**—don’t be alarmed if the lawyer asks you questions about your current estate, your intended beneficiaries and the disposition of your estate. Asking you questions is part of the lawyer’s job for several reasons: first, to offer advice so as assist you in realizing your estate planning goals; second, to ensure that you have the necessary “testamentary capacity” to make a Will. “Testamentary capacity” means that the person writing the Will is of ‘sound mind, memory and understanding’ when the Will is made. Practically, this means that you, as the “writer” of the Will: (1) understand the nature and effect of the Will; (2) recollect the nature and extent of your property; (3) understand the extent of what you are giving under the Will; (4) remember the people you might be expected to benefit under your Will; and, (5) understand the nature of the claims that may be made by persons you are excluding under the Will.

**Drafting of Documents**—nothing helps to focus the mind more than seeing things on paper. Remembering that they are *draft* documents the lawyer will put your wishes into the appropriate legal structure to help achieve your estate planning goals.

**Proper Execution of Documents**—its one thing to reduce your testamentary wishes to paper, its another to make sure that the paper evidence, or formalities, of those wishes are properly witnessed with proper witnesses. Following the proper form with respect to witnessing a Will is only part of the process. At the same time the Will is signed, the lawyer should also prepare an Affidavit of Execution for one of the witnesses to swear. This affidavit confirms that the proper formalities were observed when the Will was executed. While the absence of such an Affidavit does not necessarily mean that the Will is invalid, its absence can add an additional layer of complication should the Will ever need to be filed in a probate application. It is best to have all the paperwork completed at the time of the Will’s execution, and the lawyer is the best person to see that this is done.

### YOUR ROLE

**Meeting Preparation**—prior to the meeting, you not only want to think about where you want your estate to go, but you also want to gather together appropriate information with respect to your assets as well as your beneficiaries, including their addresses and ages. In addition, you want to make sure that those who you propose to name as Executor(s) are willing to act as such.

**Pre-Meeting Discussions with Family**—Your Will is your own business. Period. And there are many good reasons for not discussing your testamentary dispositions before hand. Nevertheless, there is nothing stopping you to ascertain whether family members or close friends would like a specific object from your estate such as a painting, piece of jewellery or furniture. Then of course, for many of you, there is the potential looming headache of the “family cottage.” Space in *The Quarterly Ledger* will not permit a complete recitation of the myriad of issues that can arise when dealing with a piece of property that has a sentimental value which usually far outweighs its market value. Suffice it to say, talking through these issues before die will make for a smoother transition under your Will when the time comes.

**Questions**—don’t be afraid to pose questions to your lawyer as to the “whys and wherefore” of doing things in a certain way. By posing questions you help to ensure that the lawyer understands your concerns and wishes.

**Reviewing draft documents**—as noted above, nothing helps to focus the mind more than seeing our instructions reduced to writing. This is your chance to make changes and ask further questions of your lawyer to ensure that they have properly captured your instructions to create a sustainable estate plan.



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## About *Let The Records Show*

Acting as a power of attorney or as an estate trustee carries a great deal of financial and legal responsibility. But in *Let the Records Show*, authors Linda A. Alderson and Douglas Alan Alderson have distilled the information and have provided a step-by-step guide to keeping financial and property affairs in order. *Let the Records Show* offers a ten-step guide for effectively handling record-keeping obligations, and it demystifies and simplifies the terminology and related work processes associated with creating a complete and proper information trail to satisfy legal interests. It also provides:

- ✓ Answers to questions to consider before acting as an attorney
- ✓ An overview of accounting and legal terms presented in plain English
- ✓ Tips on the fundamentals of being an attorney or estate trustee
- ✓ Guidance on inventory preparation
- ✓ Comparison between the roles of attorney and estate trustee
- ✓ A review of common problems and how to fix them
- ✓ Information on estate litigation basics
- ✓ Charts, templates, and checklists to help you stay organized

Filled with practical guidance on how to maintain financial records to meet the legal requirements, *Let the Records Show* helps to simplify the roles of power of attorney and estate trustee.

Available at Chapters/Indigo stores and on line at

[www.Chapters.Indigo.ca](http://www.Chapters.Indigo.ca) [www.Amazon.ca](http://www.Amazon.ca) [www.Amazon.com](http://www.Amazon.com)  
[www.barnesandnoble.com](http://www.barnesandnoble.com) [www.iUniverse.com](http://www.iUniverse.com)

## QUOTE OF THE QUARTER

*Neither the wisest constitution nor the wisest laws will secure the liberty and happiness of a people whose manners are universally corrupt.*  
Samuel Adams, Patriot (1722 – 1803)

**LET THE RECORDS SHOW:**  
A PRACTICAL GUIDE TO  
POWER OF ATTORNEY &  
ESTATE RECORD KEEPING

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