

CANADA / JUDGMENT

Cameron (Re)

2024 BCSC 1197

COURT

Supreme Court of British Columbia

DECIDED

4 July 2024

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2024 BCSC 1197 Cameron (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Cameron (Re),

2024 BCSC 1197

Date: 20240704

Docket: S189228

Registry: Vancouver

In the Matter of Margaret Lillian Cameron

and the Matter of the

Patients Property Act, R.S.B.C. 1996, c. 349

and Amendments Thereto

Before: Associate Judge Robertson

Reasons for Judgment -

Supplementary Reasons, Application for Reconsideration

The Committee, appearing in person:

L. Cameron

The Interested Party, appearing in person:

A. Primenaro,

Counsel for the Public Guardian and Trustee:

K. Unrau

Place and Dates of Hearing:

Vancouver, B.C.

September 1, November 15,
and December 14, 2023

Place and Date of Judgment:

Vancouver, B.C.

July 4, 2024

Table of Contents

Issues for Reconsideration.. 3

Legal Framework.. 6

Analysis. 9

A. Caregiving Relief 14

B. Rent 16

C. Allocation of Utilities and Maintenance. 18

D. Travel Costs. 19

E. Mailbox Charges. 23

F. Weekly Deep Cleaning Fees. 24

G. Storage Locker 25

H. Property Maintenance and Repair 26

I. Compensation. 27

J. May 2022 Caregiver Payment - \$780 CDN.. 30

K. Property Expenses. 30

L. Increase to Monthly Budget 31

Conclusion.. 31

[1] After a three-day hearing for the passing of accounts in this matter (the "Initial Hearing"), I issued reasons for judgment in which I passed the accounts for the period covering July 2022 to June 2023 in respect of this committeeship, allowing the accounts in the amount of \$266,969.45. Those reasons are indexed at 2024 BCSC 454 (the "Initial Reasons").

- [2] By application filed May 30, 2024 the committee, Ms. Cameron, has asked that the passing of the accounts be re-opened and that I reconsider certain findings in respect of the 2023 Accounts. In addition, Ms. Cameron has filed a notice of appeal of the decision, which I understand the parties have scheduled or will be scheduling for hearing during July 2024. I am issuing these Reasons on an expedited basis given the extant appeal.
- [3] Given those time constraints, I adopt the background, facts and defined terms as set out in the Initial Reasons rather than repeat them herein.

Issues for Reconsideration

- [4] The three days of the Initial Hearing the parties', for the most part, provided a high-level position on the financial information, often preferring to spend time re-arguing previous applications than addressing the accounts in issue, with an apparent assumption that the court would conduct a forensic audit itself of the various receipts, invoices, tables, or other information, some of which are not in English, some of which are not legible, and some of which are not properly itemized or described. That is not the roll of the court. It is incumbent upon parties when passing their accounts to ensure that the financial information is provided in a clear, concise manner, that is supported by all necessary contracts, invoices, and statements.
- [5] The two extra days that were added to the Initial Hearing were necessitated by the evidence being introduced by what can be best described as a "dumping" of receipts, invoices and statements into affidavit exhibits generally without sufficient context in which their reasonableness or necessity could be assessed, in some cases without proper page numbering, and without any pinpointing in the submissions. The viva voce evidence tendered by the parties was similarly general in nature as to the overall issues being faced, or opposition, in respect of the committee'ship itself, without much further clarity to assist with the financial matters.
- [6] As such, after the first day of hearing, I instructed the parties to provide a Scott Schedule that transferred the information contained in the various invoices, receipts and statements into a more useable format. While that was useful so as to understand the parties' positions on the individual financial items, it did not replace the evidence or obligation on the parties to take the court to all relevant evidence in respect of those items as appropriate and the court was left with a largely incomplete picture of the 2023 Accounts.
- [7] I appreciate that as self represented parties, Ms. Cameron and Ms. Primerano did not necessarily appreciate the obligations upon them. However, this case illustrates the importance of having organized materials, submissions and tables in the case of financial matters such as this, ideally with pinpoints to where the supporting evidence can be located in order to cross reference information appropriately.

- [8] In any event, in the context of this reconsideration application, Ms. Cameron seeks to have the passing of the accounts re-opened and reconsidered, for two main reasons:
- a) Items were not properly considered based on evidence that was before the court during the Initial Hearing but was not brought to the court's attention, or, in the converting information from the evidentiary format to the Scott Schedule that context was inadvertently removed; or
 - b) Because the court "did not tell" Ms. Cameron as to certain evidence that was necessary, and which I commented upon in terms of its absence in the Initial Reasons, she now seeks to introduce that evidence. Of course, it is not the role of the court to tell parties what evidence they ought to be introducing to prove their cases.
- [9] In summary, as set out in the notice of application, Ms. Cameron asks that the following findings be reconsidered:
- a) The disallowance of the \$7,582.50 CDN expense charged by her company, High Impact Marketing Services ("High Impact"), for providing relief care for the Patient (the amount of \$3,600 was allowed, but classified as remuneration as per item (i) below);
 - b) The partial disallowance of \$11,466 CDN in rent charged by Ms. Cameron to the Estate (the amount of \$31,500 CDN was allowed);
 - c) The partial disallowance of \$4,052.58 CDN charged in services and utilities for the maintenance of Ms. Cameron's property being charged to the Estate (the amount of \$3,097.42 was allowed);
 - d) The partial disallowance of \$4,770.12 CDN Ms. Cameron charged for travel services in respect of the Estate (the amount of \$11,644.53 was allowed);
 - e) The disallowance of \$139.29 for the renting of a mailbox;
 - f) The disallowance of cleaning fees which on this reconsideration are claimed at \$2,286.56 CDN, but were only included in the original materials at the Initial Hearing at the amount of \$185.71 per month for July, August and September 2022 only, for a total disallowance of \$557.13.
 - g) The disallowance of the amount of \$2,122.44 CDN for a storage locker in BC;
 - h) The partial disallowance of expenses for repair and maintenance on Ms. Cameron's property of \$4,792.05 CDN (the amount of \$5,463.27 was allowed);

- i) The partial disallowance for Ms. Cameron's compensation as committee which was claimed as \$19,140 for "supervision" fees, \$780 for caregiving for May 2023, and the sum of \$11,182.50 which was in respect of providing care through her company as referenced in item (a) above, but for which I had considered under this heading, for a total of \$31,102.50 (the amount of \$9,600 was allowed, that being \$6,000 for supervision fees and \$3,600 for care services of one 12 month shift per month);
- j) No consideration given for a claimed \$780 for one particular caregiver in May 2022;
- k) Disallowing the expenses of \$17,853.34 for "one time" changes to Ms. Cameron's property; and
- l) Dismissal of the request to increase the monthly budget to \$21,630 CDN per month for the next annual period.

Legal Framework

- [10] Few submissions were made as to the legal basis for the re-opening of the Initial Hearing for the purpose of reconsideration of the 2023 Accounts, however the notice of application as filed does provide the legal basis on which the reconsideration is being sought.
- [11] The order from the Initial Hearing has not yet been entered. As such, the court is not yet functus and I retain the unfettered discretion, albeit one that ought to be exercised sparingly, to hear further argument and evidence: *Grewal v. Grewal*, 2016 BCCA 237, at para. 70; *Hansra v. Hansra*, 2017 BCCA 199, at paras. 44 to 59.
- [12] This first step when being asked to reconsider an application is to ask whether it is appropriate to do so, having regard to the principle that a party cannot seek to reopen to "re-argue, re-cast, or re-state his or her case", or merely take a "second kick at the can": *Hansra*, at para. 62.
- [13] As noted in *Grewal* at para. 71, the reconsideration ought to be based on firstly, whether there is a probable miscarriage of justice that would occur if not reopened and, secondly, whether the reopening would change the result.
- [14] In *Bajwa v. Habib*, 2020 BCCA 230, the court summarized the principles as follows at para 48:
- [48] Trial judges have a broad discretion to re-open a trial after judgment has been given, but it is a discretion that should be exercised rarely and only when the interests of justice clearly require prolonging the litigation in order to avoid a miscarriage of justice. For example, the discretion to re-open may be properly exercised by a trial judge who is satisfied that his or her original judgment contains material errors that may be corrected by further submissions, or where evidence has been overlooked or misconstrued, or where the law has been misapplied, or where the reasons for judgment failed to address an argument advanced at trial: *Grewal v. Grewal*, 2016 BCCA 237 at para. 86.

- [15] In the circumstances of this case, the extant notice of appeal is also of note. It may be that my findings, even if incorrect, should be determined on appeal, rather than reconsidered given the need for finality in the decision-making process. While, as noted in *Zellweger v. Zellweger*, 2019 BCSC 73, at para. 9, the court retains jurisdiction to reconsider an application despite that an appeal has been filed, in my view the court must be cautious to not allow a reconsideration which is an appeal in disguise.
- [16] Ms. Cameron, as the applicant, bears the onus to show that a miscarriage of justice would probably occur if the matter is not reopened to permit further argument and that if the matter is reopened a change in judgment would likely occur: *Klebe v. Klebe*, 2020 BCSC 577 at para. 38, referring to *Cheema v. Cheema*, 2001 BCSC 298 at para. 22.
- [17] Ms. Cameron argues that she has met that onus given that there are material mathematical errors, that evidence or arguments were overlooked or misconstrued, or that law was misapplied. However, many of the arguments made by Ms. Cameron have the hallmarks of a "second kick at the can" or attempt to recast arguments or evidence that should have been brought to the court's attention at the Initial Hearing, or to rely on case authority that was not brought to the court's attention during the Initial Hearing.
- [18] While it is not necessary that new evidence be introduced on a reconsideration (*Grewal*, at para. 71), Ms. Cameron is seeking to introduce new evidence in respect of some of the arguments. She did not refer to any case law with respect to the test for doing so.
- [19] In *Golder Associates Ltd. v. North Coast Wind Energy Corp.*, 2010 BCCA 263, the court confirmed the test for the admission of fresh evidence at paras. 33 - 37:
- [33] The test for the admission of fresh evidence was stated in *Palmer v. The Queen*, 1979 CanLII 8 (SCC), [1980] 1 S.C.R. 759 at 775:
- (1) The evidence should generally not be admitted if, by due diligence, it could have been adduced at trial provided that this general principle will not be applied as strictly in a criminal case as in civil cases: see *McMartin v. The Queen*.
 - (2) The evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue in the trial.
 - (3) The evidence must be credible in the sense that it is reasonably capable of belief, and
 - (4) It must be such that if believed it could reasonably, when taken with the other evidence adduced at trial, be expected to have affected the result.

The leading case on the application of s. 610(1) of the Criminal Code is *McMartin v. The Queen*, supra. Ritchie J., for the Court, made it clear that while the rules applicable to the introduction of new evidence in the Court of Appeal in civil cases should not be applied with the same force in criminal matters, it was not in the best interests of justice that evidence should be so admitted as a matter of course. Special grounds must be shown to justify the exercise of this power by the appellate court.

[34] The Court in *McMartin v. The Queen*, 1964 CanLII 43 (SCC), [1964] S.C.R. 484 at 493, adopted the following passage from *R. v. Buckle* (1949), 1949 CanLII 226 (BC CA), 94 C.C.C. 84 at 85-86, 7 C.R. 485, 1 W.W.R. 833, 3 D.L.R. 418 (B.C.C.A.):

In my opinion the rule to be applied in criminal cases in relation to the introduction of fresh evidence and consequential relief which may be granted by the Court, is wider in its discretionary scope than that applied by the Court in civil appeals. If the newly-discovered evidence is in its nature conclusive, then the Court of Appeal, in both civil and criminal cases, may itself finally deal with the matter....

[35] This Court in *Spoor v. Nichols*, 2001 BCCA 426, confirmed that the Palmer criteria apply in civil cases and observed in para. 16 that "in Palmer the court said that the due diligence test should be applied more strictly in civil than in criminal cases".

[36] In *Scott v. Scott*, 2006 BCCA 504, Ryan J.A. observed in para. 21:

... the nature of an appeal is to examine the record and determine whether there has been an error of law or a palpable error of fact: it is not a continuation of a trial at a different stage. Thus, generally speaking, the need for certainty and finality leaves no room for the admission of fresh evidence on appeal ...

[37] In my view, the Palmer criteria reflect the caution with which the admission of fresh evidence must be considered, but they are not absolute. The source of the criminal law admissibility of such evidence is the present s. 683(1)(d) of the Criminal Code, R.S.C. 1985, c. C-46, which provides for the admission of evidence "in the interests of justice". That, I think, must be the overarching consideration in civil as well as criminal appeals.

[20] The same analysis applies on a reconsideration as an appeal, as was the case in *Palmer*.

Analysis

[21] Given the nature of this decision, it being a passing of accounts involving a number of individually claimed expenses, in order to determine whether my overall finding is one that, if maintained, would result in a miscarriage of justice, each of the disputed expenses must be individually considered.

- [22] Before doing so, however, the context in which accounts are passed are material. For example, when passing accounts, particularly in committee matters where the court is both considering the reasonableness of the expenses in respect of the maintenance of the patient but also the need to ensure that the estate will last for as long as the patient's lifetime as possible, the court must take a holistic view of the whole of the expenses being claimed, not just the individual expenses.
- [23] One of the concerns raised by Ms. Primerano, both at the Initial Hearing and on this reconsideration, is as to the approach being taken by Ms. Cameron and whether she seeks to profit from the committee given the overall amount she is charging to the Estate, particularly with respect to the overhead costs of Ms. Cameron's own property being recovered by charging both rent and a portion of the expenses incurred in running the property.
- [24] The Public Guardian & Trustee (the "PG&T") raised a similar concern over the whole of the expenses, although in a slightly different way, that being whether or not the expenses being charged to the Estate by Ms. Cameron are resulting in a "death by a thousand cuts", in that a number of these small expenses for which she seeks reimbursement may individually look to be nominal or reasonable, but when added to all the other expenses result in an excessive cost of care to the Patient that may not be sustainable and is not objectively reasonable as a whole.
- [25] When, as is the case here, a committee has chosen to move the patient into her own home outside of the country and engage the services of in-house service providers for various lifestyle matters, notably in the face of opposition by other family members who wished to have the patient reside locally in a professionally run facility, these concerns are exacerbated as many expenses fall within a grey area as their payment benefits not only the patient but the committee.
- [26] As such, any assessment of costs must reflect that Ms. Cameron would be living on the Property and incurring many of these expenses whether the Patient lived there or not. While taking on the role of committee ought not result in the committee having to supplement a patient's costs of care, it should also not result in a windfall which may include having services being provided to Ms. Cameron's benefit which are subsidized by the Estate unreasonably. In passing the 2023 Accounts, for those expenses that did benefit both, I sought to allocate them in a manner which took that overlap or risk of windfall into account, in the context of the need to maintain the Patient for her lifetime.
- [27] In this respect, there was no evidence put before the court as to the Patient's lifespan. At this reconsideration, Ms. Cameron sought to introduce fresh evidence on that, namely a translated clinical note from a treating practitioner dated May 18, 2024 in which the doctor notes:

Poor prognosis for short-term functionality, reserved for medium-term life, 204 year life prognosis.

- [28] In my view, this evidence ought to have been before the court at the Initial Hearing and could easily have been adduced if Ms. Cameron had applied due diligence in that respect. While the evidence is relevant in that it bears upon the overall ability of the court to consider both the needs and means of the Estate to provide for the Patient, I do share the concern of the PG&T as to the treating practitioner's credibility. Specifically, it is not in a proper form for an expert report. Ultimately, the notation in a clinical record that the Patient has a potential life span of two to four years is not likely to change or affect the result of the passing of accounts without further evidence as to how her care needs may change throughout that period. Her need for care may increase meaning that the draw on the Estate will be significantly higher for the final few years. In fact, the doctor does note in the consult report "Due to her neurological pathology and frailty, she may require greater need for care with a permanent nurse, wheelchair to move around".
- [29] I do not find that evidence to be admissible as fresh evidence on this reconsideration. However, if I am wrong on that finding, I would give it little weight.
- [30] In addition, and under the same analysis as to the means of the Estate to provide for the Patient, Ms. Cameron seeks to clarify the ambiguous and unsupported evidence given as to the rate or return on the Patient's investments, deposing as follows:
50. During the Hearing, I presented a financial statement from August 15, 2024 in My Affidavit #22 at Exhibit T. It seems I was unclear in explaining the rate of return available to [the Patient]. As per the asterisk noted next to the GIC's total, the September 2023 GIC of \$50,000 has since been redeemed and moved to a higher rate of investments but the December 2024 GIC still remains at a 2% return. All other investments are obtaining approximate 7% returns. I am still attempting to move the locked in GIC redeemable in December 2024 to a higher rate instrument, but there are a lot of restrictions and paperwork to undertake.
51. In addition, it seems that I was unclear in explaining that I only calculated growth over 6 years. The \$229,303 of growth equals half of a conservative 5% over 6 years of \$458,606. To account for the withdrawals for living expenses the total growth was divided in half, in other words, only considered for $\frac{1}{2}$ of the time - 3 years, not 6. The \$229,303 represents an anticipate net amount of grown of funds over 3 years.
52. I thus stand behind the August 15, 2023 portfolio details as submitted in my evidence at the Hearing.
- [31] With respect to Ms. Cameron, this provides no further clarity. There is insufficient supporting third party information, such as reports on the investment themselves showing historical rates of return, or an affidavit from the investment holders, on which any finding can be made to determine the long term status of the investments.

- [32] In short, the evidence at the Initial Hearing, and this one, is neutral at best as to whether or not the means of the Estate are sufficient to last the lifespan of the Patient. Regardless, a cautious approach must be taken in assessing the reasonableness of expenses when the means of the Estate are not clear. Ultimately, I made no finding on this point at the Initial Hearing, and as such this fresh evidence has no impact to the decision made.
- [33] A secondary concern is the reliance by Ms. Cameron on the Budget for the annual accounts.
- [34] The Budget, as I noted in my previous reasons, is not a substitute for the approval of the accounts. At this reconsideration, the intention of establishing a Budget took on greater significance as Ms. Cameron argued that expenses, or the manner for calculation of expenses, were approved by the PG&T in the Budget and, as such, they should be allowed as part of the 2023 Accounts. In this respect, Ms. Cameron argues that for certainty, she should be able to rely on the fact that the PG&T included a disbursement item in the Budget as implicit approval that for that particular expense to be incurred and considered reasonable thereafter.
- [35] Leaving aside that the PG&T's approval is not binding in any way on this court, nor should there have been any expectation by Ms. Cameron of that being the case given the clear statement of the PG&T to that effect, it also ignores the reason the Budget was established in the first place.
- [36] In particular, the PG&T's evidence is that matters were somewhat novel while the PG&T was the committee but the Patient was in Mexico, i.e. outside their jurisdiction, being cared for by Ms. Cameron, such that there were logistical and practical constraints in monitoring expenses. One of the concerns was the transparency and disclosure of supporting information. In an email on July 23, 2020 they noted as follows:

The PGT recognizes that you have indeed prepared and provided numerous spreadsheets and summaries. This documentation is confusing, sometimes inaccurate, and impossible to reconcile with monies expended from [the Patient's] personal accounts and from Byam Properties' accounts. The PGT has done her best to make sense of these documents, but still cannot determine with any accuracy how [the Patient's] funds have been spent. As a result of the confusion caused by a lot of the documents provided, we created and provided a template for you in a format that we considered would be relatively easy for you to complete and provide us with information required.

- [37] Subsequently, as the process for allowing expenses to be reimbursed from the Estate became more complicated with concerns as to the costs being claimed, the PG&T wrote as following in a letter of January 8, 2021 to Ms. Cameron's counsel:

To be clear, the PGT is not a judge or arbiter, and is not responsible for passing final judgment on the accounts. She is also not responsible for engaging in a lengthy process with your client regarding the accounts, but has attempted to do so in order to promote resolution after your client was unwilling to fill the template provided by PGT on July 23, 2020.

The PGT's view is that there has been ample opportunity to provide all relevant materials. The PGT does not intend to review any further material at this time relating to the accounting period provided to date. We appreciate the significant efforts your client has made to provide the PGT with financial materials, but the fact they were not provided in a proper accounting format has rendered this analysis particularly difficult.

On the positive side, consistent with Justice Grauer's finding, it appears that [the Patient] is enjoying a high quality of life in Mexico. The PGT has no concerns at this time about the level and quality of care that [the Patient] receives, both of which appear high.

However, based on the accounting provided to date, up to and including the materials your client circulated on or around September 17, 2020, and based on [the Patient's] current financial records, the PGT has significant concerns, summarized as follows:

.

[38] Many of the concerns raised by the PG&T are the same ones being raised here both by the PG&T and Mr. Primerano, including the necessity for travel costs, the charging of both rent and contribution towards utilities and other property costs (including a new roof, a gardener's Christmas bonus and other proper improvements), the amount of the management fee being charged when the asset is managed by a third party investment entity, the lack of transparency, and that the overall spending is too high in that ancillary expenses that are not necessarily adding to the Patient's quality of life could be reduced. Another significant concern raised then was the tendency of Ms. Cameron to exceed the monthly budget of \$17,000 (which was noted to already be \$6,000 higher than that set in 2019).

[39] Turning then to the findings that Ms. Cameron was seeking to be reconsidered I will address each issue in turn.

A. Caregiving Relief

[40] Ms. Cameron's evidence at the Initial Hearing was that she provided coverage for caregivers who were unable to attend to the Patient from time to time. She billed this through her company, High Impact. In my Initial Reasons, I considered these amounts under the heading of remuneration, finding as follows:

[124] As to the billings for caregiving, Ms. Cameron testified that she charges \$300 per day for any relief caregiving provided by her. A "shift" for such caregiving consists of 11 or 13 hours, meaning she is charging \$23 to \$25 per hour. Ms. Cameron suggests that the hourly rate for such relief caregiving, if obtained in Canada, is \$44 per hour and, in fact, this was the amount charged for care of the Patient during her August and September 2023 visits to Vancouver for these proceedings.

- [125] Ms. Cameron also testified that her company charges out \$1,000 per day for an eight hour day. Obviously, the determination of reasonable compensation is not dependent upon what Ms. Cameron, or her company, could be making elsewhere.
- [126] At \$25 per hour, if Ms. Cameron's calculations and bills to her company are accurate, that would equate to 478.50 hours, or an average of 40 hours per month (or a 10 hour shift per week). That does not reconcile with the charges of two full time care givers being hired as well. While I appreciate that there may be relief work needed that objectively, is reasonably payable as compensation under the PPA, sufficient records must be maintained to support each time it is needed, and why, and that the alternative was that no caregiver would be providing assistance to the Patient otherwise (for example, by keeping a log of those times that a caregiver phones in sick, what efforts were made to find an arm's length caregiver to fill that gap, and specific confirmation that no other caregiver was in attendance).
- [127] For the purposes of this assessment, and based on the viva voce evidence of Ms. Cameron as to some general instances of relief she was required to provide, an objectively reasonable amount to compensate her for those services is \$3,600, that being the equivalent of one 12-hour shift per month.
- [41] Ms. Cameron's first argument is that it was an error to reclassify these amounts as remuneration, relying on s. 23 of the Patients Property Act, R.S.B.C. 1996, c. 349 ("PPA") which provides that expense are to be paid for the "care and treatment" of the Patient, which this amounts to. In support of the position that services rendered are to be considered separately than remuneration, Ms. Cameron relies on Hall Estate (Re), 2010 BCSC 1510, where the court considered and provided reimbursement for accounting expenses provided to the Estate, separately from compensation. Ms. Cameron did not take me to the case itself, however, I note that Master Baker, as he then was, sitting as registrar specifically noted that it was incumbent upon the executor to be explicit and thorough in justifying the amounts charged for his services, noting that he would not approve them without a further and better explanation and justification for them (at paras. 20 to 23).
- [42] That commentary may be why Ms. Cameron also seeks to now introduce fresh evidence by way of a summary of the various times that she did relief care, with dates and general descriptions given. However, even with this further explanation, which notably appears to be a document created well after the fact and as such is highly unreliable, it is insufficient to support what hours were undertaken specifically by her doing work that would have otherwise been done by one of the other professional care givers.
- [43] I am satisfied that it is appropriate to reconsider how these expenses were classified for the purpose of the accounts, given that Ms. Cameron did not have an opportunity to make this argument as to their classification prior to my reasons being issues. I agree that this item should be in the expenses, rather than compensation.

- [44] However, I am not persuaded that the evidence supports the amounts being claimed in sufficient detail, with actual hours worked, and that no other caregiver assisted during that time, or that the amount billed corresponds with an amount that was then not paid to the caregiver given their absence (or explanation if they still had to be paid, although I note that the monthly totals for caregiving appeared to be relatively consistent month to month). In short, the explanations now given do not show how the amounts charged by High Impact were reasonable or necessary, and are not reconcilable to the amounts claimed both for High Impact and the other caregivers.
- [45] Ms. Cameron argues that an appropriate amount for each shift is \$300. On that, for reasons that are not entirely clear, she is of the view that she "must" charge GST on these services and provide them through her BC marketing company.
- [46] As such, while I agree that it is appropriate to reconsider this item as classified in the 2023 Accounts, I am unable to find that the amount claimed by High Impact is supported by the evidence. As such, I allow charges to High Impact in the same amount as the Initial Hearing, that being \$3,600, such that the overall caregiving amounts are approved at \$127,649.55.

B. Rent

- [47] When the PG&T was initially acting as committee, rent for the Patient was charged by the committee at a lower amount, that being \$2,500 CND. It appears that it was increased to \$2,500 USD per month after Ms. Cameron became committee, but prior to the period covering the 2023 Accounts. For the period covering the 2023 Accounts, Ms. Cameron unilaterally increased that amount and claimed rent at \$3,780 per month during this period. Ms. Primerano's position is that there was no basis to increase the rent and the unilateral change from CND to USD was a means by Ms. Cameron to foist a rental increase. She is of the view that the amount being charged for rent is excessive.
- [48] In the Initial Reasons, I found as follows with respect to an increase in rent, with \$2,500 CDN being the starting point:
- [80] However, it is appropriate to allow for a reasonable increase in rent to account for inflation. Although not necessarily determinative, or binding on Ms. Cameron as a landlord in Mexico, the 2024 rent increase allowed under the Residential Tenancy Act, S.B.C. 2002 c. 78 is 3.5%. Ms. Cameron led evidence by way of internet printouts that the inflation rate in Mexico in 2023 was 5%, which is aligned with the increase available under local tenancy legislation. I accept that an increase consistent with the 2023 inflation rate in Mexico is an appropriate indicator of rental increase for the purpose of the 2023 Accounts only, and increase the rental cost by 5%, to \$2,625.
- [49] Using \$2,500 CDN as the starting point was based upon the notation made by Ms. Primerano that she sought to have the rent "returned to the 2020 amount of \$2,500 CAD per month".
- [50] Ms. Cameron argues that I ought to reconsider my finding as to rent on the following bases:

- a) The starting point for rent was agreed to by the PG&T at \$2,500 USD as of March 2020, as part of the Budget, such that the increase should be annual each year thereafter;
 - b) The reference to \$2,500 USD, when transferred to the Scott Schedule, missed the reference to USD, such that the starting amount, once converted to CDN is \$2,650;
 - c) Allowable increases as set out in the Residential Tenancy Act, S.B.C. 2002, c. 78 are not applicable. In support of this position, Ms. Cameron points to the increases since 2020 in the rates charged by Sunrise Seniors Centre at 40%.
- [51] I acknowledge that in the transferring of the rent into the expense spreadsheet that I failed to reflect that the \$2,500 being charged previously was in USD. While I share Ms. Primerano's concern that the rent being charged is at a "premium" rate, as this was a clerical error on my part, it would be a miscarriage of justice to not reconsider that line item as USD.
- [52] As of July 1, 2022, the start of the relevant review period, the exchange rate from USD to CDN was 1.2886 CAD. As such the allowable rent for the July 1, 2022 to June 30, 2023 period is \$3,382.58 per month ($\$2,500 \times 1.2886 \times 5\%$), for a total of \$40,590.96.
- [53] Other than the inadvertent failure to properly convert USD charges into CDN funds, the arguments made with respect to the amount of rent being charged to the Estate for the Patient's use and occupation are a recasting or rearguing of the case.
- [54] As to the other arguments, in my view there is no miscarriage in justice that arises if I do not reconsider my decision further, and I decline to do so.

C. Allocation of Utilities and Maintenance

- [55] In the Initial Reasons, I found as follows with respect to allocation or share of the utilities and maintenance costs for the home and property:
- [72] I also agree that a reasonable division of the utilities which are payable over and above the rent, namely the electricity, water, internet and propane, are properly allocated to the Patient at one-third of the costs incurred. In this respect, not only are these costs shared by Ms. Cameron and the Patient, but by Ms. Cameron's business. Absent production of her tax returns to show the precise amount being claimed by her as a business expense for the running of her business out of her home in Mexico, a 33% allocation to the Patient is an objectively reasonable one.
- [56] With respect to the allocation or split in the costs, Ms. Cameron argues that it ought to be based on a 50/50 split. This is an argument that was made at the original hearing.

- [57] In seeking to have a reconsideration of this allocation, Ms. Cameron argues that the PG&T had allowed for a 50% share of those costs such that she has been operating for two years under the belief that the Estate would be covering one half of the costs incurred. There is no evidence, however, that if she had known the allocation would be on a 33% basis that she would not have incurred those costs.
- [58] The arguments as to why the allocation should be 50/50 are, with respect, a recasting or re-arguing of this case, with the additional evidence that Ms. Cameron argument establishes that there is no amount attributed to her business endeavour, that being the following sentence in her affidavit:
24. There has never been allocation for my business, High Impact on the property, since the input tax credits claimed are for BC only.
- [59] The speculation that I raised that there are other considerations, which may include the use of the property for business purposes and that Ms. Cameron may be recovering those costs from other sources as a result was not the sole basis on which I allocated these costs on a 1/3 share.
- [60] Rather, it was that having regard to all the circumstances, including that the Patient has sole use of only one small casita on the property, that her use of the main property is generally more as a result of the Patient/daughter relationship than the committee/Patient relationship, particularly given her physical limitations, and that Ms. Cameron does use the property for dual purposes, personal and business. Whether or not she pays GST Input Tax Credits (which is the only matter on which she is now giving evidence) is not material to that analysis.
- [61] In my view, notwithstanding the further arguments, I am not satisfied that failing to reconsider the matter would result in a miscarriage of justice. Even if I am wrong in that conclusion, if I were to consider this further evidence, my disposition would not change.
- [62] Having regard to all the circumstances, allocating 33% of these costs to the Patient is a reasonable allocation, if not a generous one. To allow more than that allocation would require a further consideration of whether or not these costs ought to be included in the rent amount and not recovered as a separate expense at all, particularly given the adjustment to rent to allow for the currency conversion such that the amount being charged is, to use Ms. Primerano's phrase, a "premium" rate.
- [63] I make no change to the allocation of utilities and maintenance costs.

D. Travel Costs

- [64] In my Initial Reasons, I found as follows with respect to travel costs:
- [131] The specifics of each travel are not fully explained and particularized before me. Thus, I am unable to fully determine which specific costs relate to the attendance before Justice Sharma, for which Ms. Cameron is not entitled to her costs, or other matters, such as the

court matters relating to the "Decider" as part of the corporate governance disputes. In addition, given that Ms. Cameron's business, although conducted from Mexico, includes British Columbia clients, it is not clear if business is conducted during such travel. As travel was likely for mixed uses including in furtherance of her business interests, and included travel for the hearing for which costs were not allowed, I allow compensation for Ms. Cameron's travel costs at 30% of the amount claimed, or \$2,044.53.

- [65] Ms. Cameron sought to introduce fresh evidence as to the travel costs claimed by her. Specifically, in her affidavit filed in support of the reconsideration she deposes as follows:
27. For the months of July, November, December of 2022, January, March, April and June of 2023, 50% of the total costs were allocated to the Patient based on the nature of the travel. For September 2022 and May 2023, only 33.3% of the total costs were allocated to the Patient. There was no travel allocated in August and October 2020 or February 2023 to the Patient.
 28. Upon the creation of the Scott Schedules, the allocation percentages per month between the Patient and Committee was missed from the original spreadsheets. This was an oversight but it was assumed that the spreadsheets would be reviewed as the reference point.
 29. As requested by the Associate Judge in her Decision, I have particularized the purpose of each trip with higher percentage of allocation. Attached as Exhibit "I" is a breakdown of the travel activities that I undertook for those months I allocated 50% of travel cost to my mother.
 30. The travel cost claimed at \$6,815.10 represents an average allocation of 39% over the total travel cost of \$17,244.10 and should be allowed.
- [66] Ms. Cameron argues that I, in error, reduced the travel costs for an allocation she had already undertaken as I misunderstood the amount being claimed. In addition, given my comments as to the lack of any particulars as to the basis for each trip, she now also seeks to introduce such particulars, or more accurately context for the travel. Those particulars, however, provide a general summary of what was done while Ms. Cameron was in BC, not particulars as to why travel was necessary. The particulars given are as follows:

Jun 2022

No description/particulars given for travel

July 2022

Established infrastructure, necessary for committeeship; reviewed transfer process with PGT - banking, pension etc; return to BC to obtain court certified court orders; mailed committeeship paperwork to banks; met with HSBC, RBC, CIBC representatives; met with counsel to determine how to get hearing with Registrar to review 3 year old budget that was out of date, had been advised by counsel could be done right after Trial - was untrue

Nov 2022

Pre exhibits for varying the order; gathered and provided receipts for copying, placement in USB for affidavits; met with LK law to review impact of "decider" proposals on [the Patient]; preparation, providing receipts for 3 months of expenses for the Patient; planning with accounts for payments of Opposing Counsel and PGT into 2023 tax year preferred shareholder; re-opened account, received cheques from SCCU to make payments; Signed affidavit #12 to vary order; obtain updated BC ID card for [the Patient] at BC Services

Dec 2022

Accountant for [the Patient] to ensure year is closed out for all deduction, 'income' review; attended financial meeting on behalf of preferred shareholder with "decider"; meeting was supposed to move to AGM but financial meeting extended entire day. AGM postponed. Signed affidavit #13 detailing 3 months of costs since becoming committee; preparation of exhibits for Affidavits; preparing for hearing in January

Jan 2023

Reviewed with Accountant tax planning for [the Patient] for preferred shareholder loan owed to shareholder for 2023 and 2024; met with counsel to prepare for Hearing; Signed affidavit #14; Signed affidavit #15; Signed affidavit #16; Signed affidavit #17; or removing Hugh Wooley as decider given his efforts to claim [the Patient] is foreigner for tax purposes; arranged payments to opposing counsel from order, PGT

Mar 2023

Obtained Odlum Brown records for Mansukh Sohi at PGT regarding updates to portfolio of the Patient; transfer of loan due to shareholder, stock and cash tsf; Signed affidavit #18; Signed affidavit #19; Signed affidavit #20; New Westminster then Abbotsford court hearing, waited all week, adjourned 3 times during that week, had to return to Mum so couldn't attend in front of Judge Girn, Records for MNP to do accounting analysis on residency for taxation purposes

Apr 2023

Attended at assize hearing - not heard; Reviewed private care pricing, amica - Whiterock, Sunrise-Lynn Valley, met with counsel to review plans at hearing to remove Hugh Woolley; preparation of binders, docs for hearing at counsel's office; Returned flight before hearing could be heard on April 6, 2023 to be back for Easter coverage; picked up replacement credit card for Mum's visa

May & Jun 2023

Travel and prep for passing of accounts hearing on June 27, 2023. Plan with counsel for passing of accounts in June; prep, copies, scanned receipts for Counsel to be sent by June 12 to Opposing parties; preparing documentation; affidavits for electronic distribution to opposing parties for passing of accounts; Signed Affidavit #21; preparing monthly spreadsheets budges in printed copy prior to hearing

- [67] Unfortunately, Ms. Cameron did not file with the court on the reconsideration the monthly summaries of amounts claimed showing the specific amount claimed for travel costs each month. Although affidavit #21 was included and indicated that such exhibits were attached, they were not. The only monthly summary was in respect of June 2022 which, notably, had a claim for travel costs but no summary or particulars given for that time period, as noted above.
- [68] During submissions on the reconsideration hearing, Ms. Cameron argued that travel was initially heavier given that things were getting established for the Patient and that she expects travel to be less now. However, the Patient lived in Mexico for years prior to the period under review. There is no reason that travel ought to have been necessary in that respect in 2022 as all residency issues would have been dealt with some two or three years earlier.
- [69] Further, there is no explanation as to why the purported activities that she undertook during her travel could not be done remotely, or what tasks were undertaken on the trip were for other purposes so that an allocation can be made to the committee.
- [70] To the extent that some of the travel relates to attending hearings, there is no satisfactory explanation, other than distrust in the video capabilities, to explain why travel was needed in each instance. More importantly, on November 3, 2022 an order was made granting Ms. Cameron leave to attend the appointments for the passing of the accounts remotely. Instead, she chose to attend in person.
- [71] I accept that there is an error in that I did not appreciate that there had already been an allocation in the travel costs which had been made by Ms. Cameron, such that I double allocated such that it would be a miscarriage of justice to not reconsider the issue of travel with that correction being noted.
- [72] I am not satisfied that Ms. Cameron has met the test for introduction of fresh evidence as the particulars, such as they are, could have been before the court had she exercised any due diligence in that respect. However, even if I am wrong in that analysis, this fresh evidence is not sufficient for me to come to any more definitive finding as to (a) the necessity for Ms. Cameron to come to Vancouver, particularly for hearings once an order was made for remote attendance and matters were being set on the assize list or (b) that a definitive allocation can be made as to what on the trip was done in respect of the committee versus Ms. Cameron's other matters, including her BC based business.

[73] Based upon the above descriptions, there is no reason that more than one trip to Vancouver would be necessary and that even one such trip would likely be for mixed purposes, such that an objectively reasonable amount for travel on an annual basis is \$2,000. As such, while I have reconsidered the basis for the amount allowed, the amount as allowed will remain as is, that being \$2,044.53.

E. Mailbox Charges

[74] There is a fee charged for maintaining a mailbox in Mexico. In my Initial Reasons, I found as follows:

[81] Ms. Primerano argues that there is no basis on which a separate mailbox is needed for the Patient. This cost is \$139.29 per year.

[82] I agree that a separate mailbox is not required.

[75] Ms. Cameron argues that this is a shared mailbox for items received from Canada and the UK, as mail is not provided to the house.

[76] The misunderstanding as to whether there was two, or one mailbox is immaterial and would not have changed my view as the mailbox is another item which, in my view, ought to be captured by and included in the rent.

[77] As such, there is no basis on which this finding should be reconsidered.

F. Weekly Deep Cleaning Fees

[78] In my Initial Reasons, I dealt with the "cleaning fees" under category (C), noting as follows:

[69] Charges for property management, gardening, fumigation and cleaning (which is also charged by and a service performed by the caregivers) are opposed entirely as being items that ought to be included in the rent that is charged by Ms. Cameron.

[71] I agree with Ms. Primerano, that the charges for property management, gardening, fumigation and cleaning are amounts that are overhead in the maintaining of the home, regardless of the Patient living there, and matters that ought to be included in rent, which I will address further below. As such, I reduce this expense by \$2,503.88 in respect of those items.

[79] Ms. Cameron seeks to reopen the case to both admit further evidence in respect of the cleaning fees, and clarify her argument in respect of same. In particular she argued that she had not "mentioned" that the caregivers do not do what she now classifies and claims to be "deep cleaning" which is done by outside contractors, saying that she did not fully clarify the context for this charge as there was an "implicit understanding that deep cleaning was outside the scope of the caregivers". In support of that, she now exhibits to her affidavit an excerpt from a contract, which is not dated and is in Spanish. In her affidavit she deposes:

35. At the Hearing, I tried to explain the distinction between basic cleaning duties currently undertaken by the caregivers such as doing the dishes, laundry, cleaning the counters, sweeping etc compared to the deep weekly cleaning necessary for my Mother's hygiene such as cleaning the bathtub, shower and dusting, mopping floors etc.
36. Since the Hearing I have signed a contract for caregivers Yesi Fiol who works for East Cape Home Health. She has replaced Imelda Sanchez who has retired after 6 years working with my Mum. In this newest contract it specifically details the type of cleaning duties that yesi shall do and other cleaning is expected of outside cleaners.
37. Although the suggestion has been made that 'caregivers do the cleaning', this contract dated April 1, 2024 from East Cape Home Health draws a better distinction between the daily duties of the caregivers and the weekly deep cleaning needed to keep a hygienic environment for my Mother than we have documented in the past. The contract followed Yesi's 3 month probation period. Page 4 lists the expectation of the caregivers versus outside cleaning services.
- [80] Leaving aside that the excerpt of page 4 of the contract is inadmissible as it has not been translated, the fact that there is now evidence in respect of a new contract has no relevance to the prior contracts in place for the 2023 Accounts.
- [81] She also argues that this was another service that was approved by the PG&T.
- [82] I decline to reconsider my decision respecting weekly cleaning. In my view, this is an attempt to recast or reargue what was before the court at the Initial Hearing and maintain my view that cleaning over and above what is done by the care aids is part of the overhead to be included in rent.

G. Storage Locker

- [83] Ms. Cameron claimed costs for a storage locker. This was not disputed by Ms. Primerano, however, at para. 101 I found it to be an unnecessary expense noting as follows:
- e) There is an insufficient explanation for the need to have a storage locker. I note that one of the arguments for a 50/50 split of overhead costs of the property was that the two semi-detached bedrooms are used for storage. As such, it is not evident why a storage locker is required. I disallow this amount.
- [84] Ms. Cameron argues that the fact that the storage locker is in BC, not in Mexico was not made clear during oral submissions. While there was a notation on the original spreadsheets that it was in BC, that was not made clear in submissions, and that context was not carried over into the Scott Schedule. She also submitted that the Patient's accounting advisers, MNP Ltd., provided a report (although is not in evidence) to suggest that in order for the Patient to retain her residency for tax purposes having her possessions in a storage locker assists. Oral submissions that the storage locker somehow establishes residency are not evidence.

- [85] While there was a nuanced misunderstanding of the facts underlying this claim, the clarification would not result in a different finding.
- [86] While the fact that the storage locker is in BC provides some further context for the cost, I remain of the view that continuing to incur that expense is no longer a reasonable one. The Patient is not in BC and has not been for three or four years. The Patient is not likely to return to BC. These possessions should have been dealt with prior to this accounting period by either being disposed of, or moved to Mexico.

H. Property Maintenance and Repair

- [87] My findings as set out in the Initial Reasons in respect of repair and maintenance costs are as follows:
- [95] Ms. Primerano disputes all of the costs relating to repair and maintenance of the property being recoverable from the Estate, as they are overhead that ought to be included in the rent.
- [96] The amounts specifically charged to the Estate include replacement of a cistern and sump pump, various electrical items, a sink repair, painting a bathroom, installing hurricane shutters, re-surfacing counters, adding window screens, piping required for the propane system, and a new generator system, costs for some of which are also included as extraordinary costs.
- [97] If rent is being charged by Ms. Cameron in that regard, then she should not also be put to the cost and expense as if she were a co-owner of the property. I agree that these house repair items are not recoverable and disallow them accordingly. However, I allow the expenses related to furniture items, which total \$335.59.
- [88] The argument made by Ms. Cameron as to why I ought to reconsider my findings as to the property maintenance and repair costs is simple that "co-ownership has never been in evidence. Repairs and maintenance related to actual usage, wear and tear from extensive use by the Patient and her caregivers are extensive and far more than the occasional renter".
- [89] The argument by Ms. Cameron at this reconsideration application is one that is purely a re-casting or attempt to relitigate what was argued at the Initial Hearing. I decline to reconsider this finding.

I. Compensation

- [90] The partial disallowance for Ms. Cameron's compensation as committee which was claimed as \$19,140 for "supervision" fees, \$780 for caregiving for May 2023, and the sum of \$11,182.50 which was in respect of providing care through her company as referenced in item (a) above, but for which I had considered under this heading, for a total of \$31,102.50 (the amount of \$9,600 was allowed, that being \$6,000 for supervision fees and \$3,600 for care services of one 12 month shift per month).

- [91] As noted, I have reclassified the sum of \$3,600 for care services, and as such those will be removed from the compensation.
- [92] Ms. Cameron's arguments as to why I should reconsider the finding as to her compensation is based on case law that was not before the court at the initial hearing and the introduction of fresh evidence, namely timesheets for the work she says she undertook in managing the Estate. These timesheets do not seem to have been prepared as the work was undertaken and, as such, I have significant concern as to their reliability. In addition, there are obvious concerns as to the amounts claimed as being reasonable. For example, the amount charged on the first entry, that being on June 17, 2022, is "picked up Certified Copies of Committeeship, copied", and is noted to be 2.24 hours. Another entry on July 17, 2023 is "contacted services Canada regarding changes to pension" with 3.5 hours being charged. Those amounts are not, on their face, reasonable. Further, it is clear that this evidence could have been before the court at the Initial Hearing if proper due diligence had been exercised.
- [93] As to the case authority, Ms. Cameron relies on (Re) Walsh, 2015 BCSC 1992, paras. 53 and 54 of which are of note:
- [53] With respect to his claim for compensation for his services as a committee, in *Canada Permanent Trust Co. v. British Columbia (Public Trustee)*, 1984 CanLII 666 (BC CA), 9 D.L.R. (4th) 468, the Court of Appeal determined that what was reasonable compensation under s. 14 of the PPA should be determined on a case by case basis, taking into account such factors as the value of the estate's assets, the nature of the assets being administered, the degree of ability exhibited by the trustee, and the time expended by the committee in care and management of the estate.
- [15] The chambers judge, in addition, made reference to a decision of Hinds J. in *Re Pedlar* (1982), 1982 CanLII 619 (BC SC), 34 B.C.L.R. 185, and in particular to the factors set out by the judge at page 189. These are practical matters to guide the Registrar, who in that case was fixing a remuneration under the Trustee Act, but, in my opinion, of equal application to the fixing of reasonable compensation under the provisions of the Patients Property Act. Mr. Justice Hinds said, to begin with: "Each application must be decided upon its own facts", with which I agree. Then he went on to enumerate the various factors to be taken into account:
- (a) the value of the estate assets being administered;
 - (b) the nature of the estate assets being administered -- such as an active business, a farm, real property held for investment or appreciation, a portfolio of investments and the type of such investments;
 - (c) the degree of responsibility imposed upon the trustee by the terms of the will or other instrument, '

(In this case by the court order under the Patients Property Act.)

' including the length or duration of the trust; '

(In this case it would be the length or duration of the appointment)

- (d) the time expended by the trustee in the care and management of the estate;
- (e) the degree of ability exhibited by the trustee in the care and management of the estate;
- (f) the success or failure of the trustee in the care and management of the estate;
- (g) whether or not some extraordinary service has been rendered by the trustee in the care and management of the estate.'

"While the foregoing list of factors is not intended to be exhaustive, it has been derived, ...
from the cases to which he makes reference. And then he said:

"It is recognized that there may be other factors deserving of consideration depending upon the circumstances involved in a particular application.'

[54] According to the calculations of the Public Guardian, Mr. Walsh has drawn for the period 2010 to 2014, approximately \$201,386 in excess of what he would be entitled to under its remuneration policy. The policy of the Public Guardian is to set remuneration for committees performing financial administration at 5% of the adult's income plus .4% of the adult's assets for an asset management fee. I accept that the Public Guardian's compensation policy is a useful guideline in determining what appropriate compensation is, but it is not determinative. I must consider the particular circumstances of the case, including such factors as noted above.

[94] While Ms. Cameron relied upon the final comment that the PG&T's policy of allowing remuneration at 5% of the income, plus 0.4% of the assets as a management fee, what is clear in (Re) Walsh is that each case must be decided according to its own factual circumstances.

[95] This argument has all the hallmarks of an attempt to re argue or re cast what was previously before the court, with fresh evidence which ought to have been before the court in the first instance to bolster that argument.

[96] I decline to reconsider this element of my findings, other than to now remove the amounts that were reclassified as caregiver amounts noted in (a) above.

[97] The amount allowed for remuneration is \$9,600, or \$800 per month, for the reasonable services provided as committee which are primarily supervising the care aids and arranging medical appointments, and limited banking and administrative tasks. Very little ought to be done in respect of the investments as they are managed by an investment company.

[98] Given the reduction of compensation as a result of the reallocation of care giving costs, I also vary the monthly amount that is authorized for the pre-taking of compensation from \$1,000 to \$800 per month, with such amounts being subject to confirmation and approval at the next passing of accounts.

J. May 2022 Caregiver Payment - \$780 CDN

[99] At the Initial Hearing, this random payment was included without any particular context, as a caregiver payment of \$780 for May 2022, that being outside the temporal scope of the 2023 Accounts. As no argument was made as to this amount, it was not approved or included.

[100] The evidence as to this expense was, Ms. Cameron now argues, before the court in her affidavit #21. She did not take me to it at this hearing, but only referenced the notice of application that indicates it is at exhibit "EE". This affidavit is not tabbed, and no pinpoint has been given to which of the 761 pages of exhibited receipts it is located within. As I was unable to find this, or any exhibit marked as "EE" in the materials, I am declining to reconsider this item.

K. Property Expenses

[101] Ms. Cameron sought to charge to the Estate costs incurred by her for improvements to her property, namely the installation of a new generator unit and hurricane shutters, the amounts for which totalled \$17,853.34.

[102] I found as follows in the Initial Reasons:

[106] Ms. Primerano argues that these items are part of the overall holding costs for Ms. Cameron's property and are not properly recoverable from the Patient's Estate arguing that not only do they improve the value of the property, they would be incurred regardless of whether the Patient was resident on the property or not. Ms. Primerano also deposed that some of these costs were paid by BPL, however there was no corroborating evidence to support that assertion.

[107] Ms. Cameron argues that they were necessary for the safety of the Patient.

[108] I agree with Ms. Primerano.

[109] As noted, it is not consistent with the landlord/tenant relationship that Ms. Cameron has chosen to establish so that she may collect rent from the Estate that overhead or holding costs related to the property, its maintenance or improvement ought to also be paid, particularly in respect of items that are an effective betterment of the property and could reasonably be expected to increase the value of the property, such as new hurricane shutters and installed generators. I disallow these items.

[103] The argument by Ms. Cameron at this reconsideration application is one that is purely a re-casting or attempt to relitigate what was argued at the Initial Hearing, albeit with reference to a case, Siefred v. Arnold, 2021 BCSC 2368, where the court allowed amounts to be recovered for amounts which were disputed as benefitting the patient. Notably, those disputed amounts were for curtains for the patient's room, an electric recliner, and replacement of a ring. I did, in fact, allow amounts for furniture for the Patient which had been classified under other expense headings, which is consistent with that decision. I do not see that Siefred stands for the proposition proposed, namely that when a landlord undertakes proper improvements that those are payable by a patient over and above a rent payment. It does not appear that rent was being paid to the committee in that decision at all.

[104] In any event, this is not a proper basis for a reconsideration. I decline to reconsider my finding that these amounts were incurred for improvements to Ms. Cameron's property and are recovered, to the extent it is appropriate, under the rent being charged.

L. Increase to Monthly Budget

[105] While the increase in rent to account for the conversion from USD to CDN, and the re-allocation of the fees for providing relief caregiving has increased the recoverable regular monthly expenses to \$210,691.94, or a monthly average of \$17,557.66, I am not prepared to reconsider an increase to the monthly budget.

[106] The monthly budget, as noted, is \$17,000 from the Patient's Estate. The amount of \$18,206.59 per month is available to cover the Patient's regular occurring expenses once the Pension Income is added. In my view, there is no basis on which I ought to reconsider my decision to maintain the Budget at its current level of \$17,000.

Conclusion

[107] Based upon the above analysis, the approval of the 2023 Accounts is to be adjusted. The amount approved is \$279,660.41 particularized as follows:

Monthly (Averaged)

Annual (Total)

Monthly Expenses

Streaming and Entertainment Services (Amazon Prime, Audible US, Netflix, Sirius, Google Music, Brit Box, Amazon Prime US, Express Vu)

\$98.85

\$1,186.20

Computer Services (Adope, Skype, Fax, Drop Box, Shaw Satelite)

\$101.07

\$1,212.84

Caregiving (including \$3600 for High Impact)

\$10,637.46

\$127,649.55

Out of Pocket Medical Expenses

\$919.68

\$11,036.19

Utilities (Electricity, Water, Internet, Property Management Fee, Garden/Maintenance, Fumigation, Propane, Cleaning Services, charged to Estate at 50% of actual cost)

\$258.12

\$3,097.42

Rent Charged to Patient

\$3,382.58

\$40,590.96

Banking and Admin Charges (ATM Fees, monthly Account Fees, Postage, Office Supplies, etc.)

\$213.49

\$2,561.82

Cell Phone

\$36.60

\$439.16

Vehicle Expenses

\$372.95

\$4,475.39

Living Expenses (food, groceries, supplies, some cleaning, personal care needs and purchases, various credit card and amazon purchases including an alarm, and visual aids, etc. And one month where dog expenses are claimed)

\$1,508.90

\$18,106.82

Storage Locker

\$0.00

\$0.00

House repair and maintenance (includes repairs / replacement of Cistern/sump pump, electrical items, sink repair, water system, painting a bathroom, a specialized chair, installing hurricane shutters, furniture repairs, home depot costs, window screens, piping for propane system, a new generator system)

\$27.97

\$335.59

Sub-Total

\$17,557.67

\$210,691.94

Recurring Annual Expenses

December Aguinaldo

\$6,631.77

Accounting and Tax Planning

\$1,965.87

Accounting - Tax Return

\$324.38

Income Taxes payable for 2022

\$35,170.69

Sub-Total

\$44,092.71

TOTAL

\$254,784.65

Extraordinary Expenses during the review period

Caregiving Coverage for May

\$0.00

Administrative fees - Computer London Drugs

\$1,624.54

Community Postages

\$71.68

Certified court orders copies

\$285.48

Storage locker

\$0.00

Income Taxes for 2021

\$22,394.06

Automatic Generator

\$0.00

Hurricane Shutters

\$0.00

Balnce of Hurricane Shutters payment

\$0.00

Legals to vary order after trial

\$0.00

\$0.00

Portable scanner

\$500.00

Scanner for receipts

\$0.00

Sub-Total

\$24,875.76

Total Expenses Allowed

\$279,660.41

* changes to the amounts allowed at the Initial Hearing are identified by underlining.

- [108] In order to ensure that Ms. Cameron has no confusion with respect to the effect of my decision as varied herein, my allowance or disallowance of any items is neither an express nor an implicit approval for any of those amounts to be expended beyond the subject accounting period. Each passing of the accounts will be done based upon the circumstances before the court in respect of those specific accounts. In other words, it may be that the court finds that some of the expenses incurred for this accounting period are excessive or unreasonable in a subsequent accounting period, that there is no basis for an increase in rent, or that the allocation for maintenance costs ought to be significantly lower to the Estate, particularly having regard to the overall amount being charged to the Estate for the care and maintenance of the Patient.
- [109] Finally, as to the costs for this reconsideration, other than the error as to the use of CDN rather than USD for the rent, Ms. Cameron has been wholly unsuccessful on this application for reconsideration.
- [110] As such, she is not entitled to her costs for this application.
- [111] Ms. Primerano and the PG&T were substantially successful in their opposition. As such, Ms. Primerano shall have her costs on a Tariff Scale B basis for preparation and attendance at a half day opposed application, which I summarily assess at \$750 inclusive of tax and disbursements, to be paid from the Estate. The PG&T shall have its costs from the Estate on a solicitor and own client basis.
- [112] I summarize the orders, as varied from that pronounced March 19, 2024, as follows:
- a) The 2023 Accounts are allowed in the revised amount of \$279,660.41;
 - b) Ms. Cameron compensation for the period covered by the 2023 Accounts is fixed at the revised amount of \$9,600 plus reimbursement for disbursements in the nature of travel in the amount of \$2,044.53.
 - c) In drawing upon the Budget, in accordance with the Appointment Order Ms. Cameron is entitled to pre-take up to \$800 per month for her compensation, with such amounts to be subject to review and approval upon the passing of accounts for the relevant time period.
 - d) All other findings in respect of the Initial Hearing remain in place as previously ordered, namely the orders made at para. 154(e) and (f) of the Initial Reasons.
 - e) Ms. Cameron is not entitled to any costs of this reconsideration application from the Estate;
 - f) Ms. Primerano is entitled to her costs of this application from the Estate, summarily assessed at the all-inclusive amount of \$750.
 - g) The PG&T is entitled to its costs of preparation and attendance at this application from the Estate on a solicitor and own client basis.

[113] I expect that it will make sense to draft the order from the Initial Hearing with these variations, noting these supplementary reasons. If there is any issue with entering the order as drafted given these variations, the parties have leave to have it forwarded directly to me for approval once they are each in agreement as to its form, or to seek further time before me if necessary to settle its terms.

"Associate Judge Robertson"

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/24/11/2024BCSC1197.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/cameron-re-2024-bcsc-1197>

Prepared on 26 October 2026 · Esheria