



3415
No. 07 345
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE PATIENTS PROPERTY ACT
R.S.B.C. 1996, CHAPTER 349 AS AMENDED

-AND-

IN THE MATTER OF KATHLEEN PALAMAREK, PATIENT

AFFIDAVIT

I, Elizabeth McMillan, legal secretary, of 704-880 Douglas Street, in the City of Victoria, in the Province of British Columbia, MAKE OATH AND SAY THAT:

1. I am a legal assistant to John Edward Jordan who practices law with the law firm of Straith and Company and as such have personal knowledge of the matters and facts hereafter deposed to, except where stated on information and belief and where so stated, I believe them to be true.
2. Attached as Exhibit A to this affidavit is a true copy of a letter dated October 28, 2008, signed by John E. Jordan, along with a true copy of the revocation of the December 12, 2006, representation agreement signed by Kathleen Palamarek which was hand delivered to Canada Revenue Agency on October 28, 2008
3. Attached as Exhibit B is a true copy of the acknowledgement of receipt of that letter and revocation by an authorized representative of Canada Revenue Agency on behalf of Ralph Palamarek.
4. I was responsible for instructing the courier and did so instruct the courier on October 28, 2008, to Ernest Palamarek and attached as Exhibit A.
5. Attached as Exhibit C is a copy of the first letter dated October 28, 2008, signed by John E. Jordan delivered to the Lodge at Broadmead along with Section 7 Representation Agreement
6. Attached as Exhibit D is a copy of the Letter from John E. Jordan sent to the Public Guardian and Trustee which I placed in Canada Post October 28, 2008.
7. Attached as Exhibit E is a copy of John E. Jordan's letter dated October 28, 2008, faxed to Horne Coupar lawyers

SWORN BEFORE ME at the City of)
 Victoria, in the Province of British)
 Columbia, this 14th day of)
 November, 2008.)
 _____)
 A Commissioner for taking Affidavits)
 for British Columbia)

 Elizabeth McMillan

***Straith & Company* FILE COPY**

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
William A. Buchan (Ret'd.)
Robert K. Bryden (Ret'd.)
Michael B. Ellis (Ret'd.)

* Law Corporation
+Articled Student

Jerry McLean*
Ruth P. Magnusson*
John Campbell*
Wm. Arthur Luney*
John E. Jordan*
Karen Henry
Erik A. Albrecher+

704 - 880 Douglas Street
Victoria, British Columbia
V8W 2B7

Telephone: (250) 386-1434
Toll free: 1 877 686-14
Fax: (250) 386-1421
email: jjordan@straithlaw.ca

REPLY ATTENTION OF: John E. Jordan

File Number: 10195-001

October 28, 2008

VIA COURIER

Mr. Ralph James Palamarek
C/o Canada Revenue Agency
1415 Vancouver Street
Victoria, BC V8V 3W4

Dear Sir:

Re: Kathleen Palamarek – Revocation of Representation Agreement dated December 12th, 2006

I am writing to advise that I have been independently contacted by your mother, Kathleen Palamarek. Over the last several months I have met with her on a number of occasions.

Your mother has, in every instance, expressed a strong desire to change her Representation Agreement and to live independently outside the confines of Broadmead Lodge.

Our meetings over this time period have taken place between Mrs. Palamarek and myself without any family members present.

I am enclosing for your information, a true copy of the Revocation of the previous Representation Agreement.

Yours sincerely,

STRAITH & COMPANY

Per:

John E. Jordan
JEJ/em

This is Exhibit "A" referred to in the
Affidavit of Elizabeth McMillan
Sworn before me at Victoria BC
this 14th day of November 2008

Name:
A Commissioner for taking Affidavits
for British Columbia

John E. Jordan
Barrister & Solicitor
Straith & Company
704 - 880 Douglas Street
Victoria BC V8W 2B7

•
Straith & Company
To Palamarek
October 28, 2008

Page 2 of 2

Enclosures

cc: Ernest Palamarek

REVOCATION OF REPRESENTATION AGREEMENT

I, Kathleen Palamarek, hereby revoke the Representation Agreement appointing my son, Ralph James Palamarek signed by me on the 12th day of December, 2006.

Any Health Care Representative hereunder is instructed to take no further steps pursuant to the aforesaid Representation Agreement that I have given, and to give notice to any party to whom that Health Care Representative has provided a copy of the Representation Agreement.

Signed by Kathleen Palamarek
in my presence on October 27, 2008

Signature

John E. Jordan
Barrister & Solicitor
Straith & Company
704 - 880 Douglas Street
Victoria BC V8W 2R7


Kathleen Palamarek

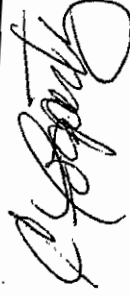
STRAITH & COMPANY

BARRISTERS AND SOLICITORS
704 - 880 Douglas Street, Victoria
British Columbia
V8W 2B7

RECEIVED REÇU
Canada Revenue Agency
Agence du revenu du Canada

OCT 28 2008

CONTENTS NOT EXAMINED
CONTENU NON EXAMINÉ



Canada Revenue Agency
1415 Vancouver Street
Victoria, BC V8V 3W4

Attention: Ralph Palamarek

PERSONAL AND CONFIDENTIAL

This is Exhibit "B" referred to in the
Affidavit of Shabir M. Mian
Sworn before me at Victoria BC
this 18 day of November 2008

Name:
A Commissioner for taking Affidavits
for British Columbia

John E. Jordan
Barrister & Solicitor
Straith & Company
704 - 880 Douglas Street
Victoria BC V8W 2B7

*Envelope & Contents
Acknowledged Received
October 28, 2008,
1:20 pm*

Straith & Company

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
William A. Buchan (Ret'd.)
Robert K. Bryden (Ret'd.)
Michael B. Ellis (Ret'd.)

* Law Corporation
+Articled Student

Jerry McLean*
Ruth P. Magnusson*
John Campbell*
Wm. Arthur Luney*
John E. Jordan*
Karen Henry
Erik A. Albrecher+

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Victoria, British Columbia
V8W 2B7

Telephone: (250) 386-1434
Toll free: 1 877 686-14
Fax: (250) 386-1421
email: jjordan@straithlaw.ca

REPLY ATTENTION OF: John E. Jordan

October 28, 2008

Lodge at Broadmead and Veterans Health Care
4579 Chatterton Way
Victoria, BC V8X 4Y7

Attention: Fiona Sudbury, Director of Care

Dear Madam:

Re: Kathleen Palamarek

I have been retained by Kathleen Palamarek, who has been a resident in the Lodge at Broadmead for many months now.

I was contacted independently by Mrs. Palamarek, and have met with her on a number of occasions over the summer of 2008 without any family members present.

From the beginning, she has consistently expressed a desire to change the current Representation Agreement which she executed December 12th, 2006 and also expressed to me consistently a wish to move out of the Lodge at Broadmead and have her daughter, Mrs. Lois Sampson, assist her with that move.

As a result of my many meetings with Mrs. Palamarek over the summer, I am satisfied not only that she is able to retain me, but that she is also mentally capable to give me the instructions to change her Representation Agreement and appoint a new Representative and execute a new Agreement.

I am enclosing a copy of Mrs. Palamarek's Revocation of the Representation Agreement executed by her on December 12th, 2006 and an executed copy of the new Representation Agreement executed by her on October 27th, 2008, wherein she has appointed her daughter, Lois Sampson.

This is Exhibit *C* referred to in the
Affidavit of *SHIRAZI NEMMAN*
Sworn before me at *Victoria BC*
this *28* day of *November*, 2008
File Number: 10195-001

Name:
A Commissioner for taking Affidavits
for British Columbia By hand

John E. Jordan
Barrister & Solicitor
Straith & Company
880 Douglas Street
Victoria BC V8W 2B7

FILE COPY

Straith & Company
To Broadmead Lodge
October 28, 2008

Page 2 of 2

Please be advised that effective immediately, Mrs. Palamarek no longer resides at Broadmead Lodge. Her possessions will be collected later on today.

Yours sincerely,

STRAITH & COMPANY

Per:

John E. Jordan
JEJ/em

Enclosures

Straith & Company

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
William A. Buchan (Ret'd.)
Robert K. Bryden (Ret'd.)
Michael B. Ellis (Ret'd.)

* Law Corporation
+Articled Student

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V8W 2B7

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Toll free: 1 877 686-14
Fax: (250) 386-1421
email: jjordan@straithlaw.ca

REPLY ATTENTION OF: John E. Jordan

File Number: 10195-001

October 28, 2008

Public Guardian and Trustee of British Columbia
700-808 West Hastings Street
Vancouver, BC V6C 2X4

Dear Sir/Madam:

FILE COPY

Re: Kathleen Palamarek

The writer has been consulted by Mrs. Kathleen Palamarek in connection with the Representation Agreement she executed December 12th, 2006. I have met with her on a number of occasions over the past summer months without family members present.

I have determined that she has the mental capacity to retain me and also to provide me with instructions to prepare a document revoking her Representation Agreement dated December 12th, 2006 and execute a new Representation Agreement.

I am enclosing a copy of the executed Revocation of the December 12th, 2006 Representation Agreement and a copy of the new Agreement dated October 27th, 2008.

My client has also expressed the wish to me that she move out of Broadmead Lodge to live independently in the community and have her daughter, Lois Sampson, assist her with that move and relocation.

Yours sincerely,

STRAITH & COMPANY

Per.

John E. Jordan
JEJ/em

This is Exhibit "D" referred to in the
Affidavit of Elizabeth McMillan
Sworn before me at Victoria
this 17 day of November, 2008

Name: _____
A Commissioner for taking Affidavits
for British Columbia

MODE = MEMORY TRANSMISSION

START=OCT-28 14:47

END=OCT-28 14:48

FILE NO.=512

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	2503885974	004/004	00:00:30

-STRAITH & COMPANY -

***** UF-8000 v2 ***** - ***** - 2503861421- *****

Straith & Company

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
 William A. Buchan (Ret'd.)
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 Michael B. Ellis (Ret'd.)

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 Victoria, British Columbia
 V8W 2B7

Telephone: (250) 386-1434
 Toll free: 1 877 686-143
 Fax: (250) 386-1421
 email: jjordan@straithlaw.ca

FACSIMILE COVER LETTER

FIRM: Home Coupar DATE: October 28, 2008
 ATTENTION: Heather Fisher, Fiona Hunter FAX NUMBER: 250-388-5974
 FROM: John E. Jordan/Elizabeth McMillan
 RE: Kathleen Palamarek
 No. of Pages (Including this cover sheet): 4

MESSAGE:

Please see attached.

This is Exhibit "F" referred to in the
 Affidavit of Elizabeth McMillan
 Sworn before me at Victoria BC
 this 15 day of November 2008

Name:
 A Commissioner for taking Affidavits
 for British Columbia

John E. Jordan
 Barrister & Solicitor
 Straith & Company
 704 - 880 Douglas Street
 Victoria BC V8W 2B7

ORIGINAL TO BE: RETAINED ON FILE (X)
 DELIVERED ()

WARNING: This facsimile contains confidential information intended only for the person named above. If you are not the intended recipient or the agent thereof, you are hereby notified that any dissemination, distribution or copying of this facsimile is prohibited. If you are not the intended recipient or agent thereof, please notify us immediately at the telephone number noted above and return the original to us at the address noted above by mail at our expense.

Straith & Company

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
William A. Buchan (Ret'd.)
Robert K. Bryden (Ret'd.)
Michael B. Ellis (Ret'd.)

* Law Corporation
+Articled Student

Jerry McLean*
Ruth P. Magnusson*
John Campbell*
Wm. Arthur Luney*
John E. Jordan*
Karen Henry
Erik A. Albrecher+

704 - 880 Douglas Street
Victoria, British Columbia
V8W 2B7

Telephone: (250) 386-1434
Toll free: 1 877 686-14
Fax: (250) 386-1421
email: jjordan@straithlaw.ca

REPLY ATTENTION OF: John E. Jordan

File Number: 10195-001

October 28, 2008

Via facsimile:250-388-5974

Horne Coupar
3rd Floor
612 View Street
Victoria, BC V8W 1J5

Attention: Heather Fisher, Fiona Hunter

Dear Mesdames:

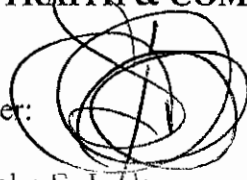
Re: Kathleen Palamarek

Please be advised that the attached letter directed to Fiona Sudbury at Broadmead Lodge has been hand delivered to Broadmead Lodge this afternoon.

Yours sincerely,

STRAITH & COMPANY

Per:



John E. Jordan
JEJ/em

Straith & Company

BARRISTERS & SOLICITORS

William T. Straith, Q.C. (1980)
William A. Buchan (Ret'd.)
Robert K. Bryden (Ret'd.)
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* Law Corporation
+Articled Student

Jerry McLean*
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V8W 2B7

Telephone: (250) 386-1434
Toll free: 1 877 686-14
Fax: (250) 386-1421
email: jjordan@straithlaw.ca

REPLY ATTENTION OF: John E. Jordan

File Number: 10195-001

October 28, 2008

Lodge at Broadmead and Veterans Health Care
4579 Chatterton Way
Victoria, BC V8X 4Y7

By hand

Attention: Fiona Sudbury, Director of Care

COPY

Dear Madam:

Re: Kathleen Palamarek

I have been retained by Kathleen Palamarek, who has been a resident in the Lodge at Broadmead for many months now.

I was contacted independently by Mrs. Palamarek, and have met with her on a number of occasions over the summer of 2008 without any family members present.

From the beginning, she has consistently expressed a desire to change the current Representation Agreement which she executed December 12th, 2006 and also expressed to me consistently a wish to move out of the Lodge at Broadmead and have her daughter, Mrs. Lois Sampson, assist her with that move.

As a result of my many meetings with Mrs. Palamarek over the summer, I am satisfied not only that she is able to retain me, but that she is also mentally capable to give me the instructions to change her Representation Agreement and appoint a new Representative and execute a new Agreement.

I am enclosing a copy of Mrs. Palamarek's Revocation of the Representation Agreement executed by her on December 12th, 2006 and an executed copy of the new Representation Agreement executed by her on October 27th, 2008, wherein she has appointed her daughter, Lois Sampson.

Straith & Company
To Broadmead Lodge
October 28, 2008

Page 2 of 2

Please be advised that effective immediately, Mrs. Palamarek no longer resides at Broadmead Lodge. Her possessions will be collected later on today.

Yours sincerely,

~~STRAITH & COMPANY~~

Per

John E. Jordan
JEJ/em

Enclosures

COPY

REPRESENTATION AGREEMENT

Pursuant to Section 9 of the *Representation Agreement Act*

THIS REPRESENTATION AGREEMENT ("this Agreement") is made by me, **KATHLEEN PALAMAREK**, of Victoria, BC, on 27th day of October, 2008.

REVOCAATION

1. I REVOKE the Representation Agreement executed by me on December 12th, 2006, appointing my son, Ralph James Palamarek to be my Heath Care Representative.

APPOINTMENT

Representative

2. I APPOINT my daughter, **LOIS JOAN SAMPSON**, currently of 168 Valdez Avenue, Qualicum Beach, BC, to be my Health Care Representative in relation to personal and health care (my "Health Care Representative") in accordance with the *Representation Agreement Act*, R.S.B.C. 1996, c. 405 ("the Act"). In the rest of this Agreement, I will refer to my health care representative as my "Health Care Representative".

Monitors

3. I have consulted with my solicitor and have determined that a monitor is not required and therefore I decline to appoint a monitor. A certificate confirming this consultation is attached to and forms part of this Agreement.

EFFECTIVE DATE

4. This Agreement becomes effective when my Health Care Representative, **LOIS JOAN SAMPSON** and I have both signed it.

AUTHORITY

5. My Health Care Representative shall have the authority to make decisions on my behalf in relation to:
 1. my personal care;
 2. major health care and minor health care, as defined in the *Health Care (Consent) and Care Facility (Admission) Act*.

For the purposes of assisting my Health Care Representative, I DECLARE that my general wishes about health care are as follows: If the time comes when I, **KATHLEEN PALAMAREK**, can no longer take part in decisions for my own future, let this statement stand as an expression of my

wishes while I am still of sound mind. If the situation should arise in which there is no reasonable expectation of my recovery from physical or mental disability, I wish to be allowed to die, and not be kept alive by artificial means or "heroic measures". I do not fear death itself as much as the indignities of deterioration, dependence and hopeless pain. I THEREFORE ASK that medication be mercifully administered to me to alleviate suffering, even though this may hasten the moment of death.

The above statement is intended to supplement any specific directions I have given.

RESIGNATION

Representatives

6. My Health Care Representative may resign at any time. The resignation will take effect once my Health Care Representative has personally delivered their notice of resignation to me and by mail to all other persons appointed under this Agreement, provided that if I no longer have mental capacity and if there is no person appointed under this Agreement who is living or has mental capacity, then the resignation must be delivered to the Public Guardian and Trustee of British Columbia.

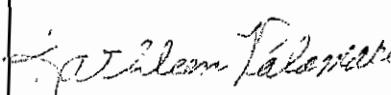
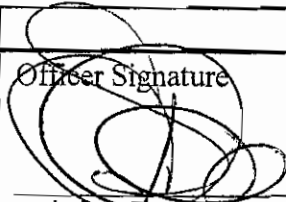
COMPENSATION OF REPRESENTATIVE

7. I DIRECT that any person acting as my Health Care Representative pursuant to this Agreement shall not be entitled to receive compensation.

GENERAL

8. All terms used in this Agreement which are defined in the Act or Regulations thereto or in the *Health Care (Consent) and Care Facility (Admission) Act* or the Regulations thereto, as amended from time to time, shall have such meaning for the purposes of this Agreement


IN WITNESS OF THIS AGREEMENT, I HAVE SIGNED THIS DOCUMENT IN THE PRESENCE OF THE WITNESSES NAMED:

Officer Signature	EXECUTION DATE			 _____ KATHLEEN PALAMAREK
	YY	M	D	
 _____ John F. Jordan Barrister & Solicitor Straith & Company 704 - 880 Douglas Street Victoria BC V8W 2P7	08	10	27	

OFFICER CERTIFICATION
 Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124 to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

ACCEPTANCE BY REPRESENTATIVE

I HEREBY AGREE TO ACT AS REPRESENTATIVE HEREUNDER:



Lois Joan Sampson

FORM 1

REPRESENTATION AGREEMENT ACT
Section 5(4), 6(2)

CERTIFICATE OF REPRESENTATIVE

I, **Lois Joan Sampson**, of 168 Valdez Avenue, in the Village of Qualicum Beach, in the Province of British Columbia,

250.752.6328
(phone)

Date of Birth May 22 1952
(month) (day) (year)

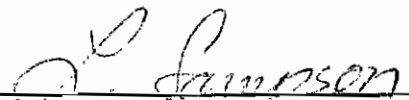
certify that:

I am named as representative or alternate representative in the Representation Agreement made on 27th day of October, 2008 by **Kathleen Palamarek**, of the City of Victoria, in the Province of British Columbia.

I was 19 years of age or older on the date that I signed the representation agreement referred to in this certificate.

I am not a witness to the representation agreement.

I understand and will comply with the duties and responsibilities of a representative as set out in section 16 of the *Representation Agreement Act* and described on the reverse of this certificate.


(signature of representative)

October 27, 2008
(date)

Section 16 (Duties of Representatives)

- (1) A representative must
 - (a) act honestly and in good faith,
 - (b) exercise the care, diligence and skill of a reasonably prudent person, and
 - (c) act within the authority given in the Representation Agreement
- (2) When helping the adult to make decisions or when making decisions on behalf of the adult, a representative must
 - (a) consult, to the greatest extent possible, with the adult to determine his or her current wishes, and
 - (b) comply with those wishes if it is practicable to do so.
- (3) If the adult's current wishes cannot be determined or it is not practicable to comply with them, the representative must comply with any instructions or wishes the adult expressed while he or she was capable.
- (4) If the adult's instructions or expressed wishes are not known, the representative must act
 - (a) on the basis of the adult's known beliefs and values, or
 - (b) in the adult's best interests, if his or her beliefs and values are not known.
- (5) On application by a representative, the court may exempt the representative from the duty under subsection (3) to comply with any instructions or wishes the adult expressed while he or she was capable.
- (6) A representative may not delegate any authority given in the Representative Agreement.
- (7) *Section 19(3) of the Health Care (Consent) and Care Facility (Admission) Act [the criteria for making a best interests decision]* applies when a representative makes health care decisions on behalf of an adult.
- (8) A representative who is authorized under Section (7)(1) or 9(1)(g) or (h) to make decisions about an adult's financial affairs, business or assets must
 - (a) keep accounting records, and
 - (b) keep the adult's assets separate from the representative's assets.
- (9) A representative who is required under subsection 8(a) to keep accounting records must produce the records for inspection and copying at the request of
 - (a) the adult,
 - (b) the adult's monitor, or
 - (c) the Public Guardian and Trustee.
- (10) Subsection 8(b) does not apply to assets that were jointly owned by the adult and the representative before the Representation Agreement became effective, but in that case the representative holds the adult's interest in the assets in trust for the adult.
- (11) If a conflict of interest or a potential conflict of interest arises between an adult and the adult's representative, the representative must
 - (a) promptly notify the adult and the Public Guardian and Trustee, and
 - (b) consider any advice, or follow any instructions, the Public Guardian and Trustee gives about the conflict.
- (12) A person who, on the death of an adult, will be or might be a beneficiary of the adult's estate does not, for that reason have a conflict of interest with the adult.

FORM 2

REPRESENTATION AGREEMENT ACT

Section 9(2) (b), 12(1) (c), 26(1) (c) (ii) and 29 (1.1)(b)

CONSULTATION CERTIFICATE

I, **JOHN E. JORDAN**, of Straith & Company, Barristers and Solicitors, 704-880 Douglas Street, in the City of Victoria, in the Province of British Columbia, V8W 2B7 certify that I am:

- (a) a practicing member in good standing of the Law Society of British Columbia, or
- (b) a member of a prescribed class of persons under section 9(2) (a) of the *Representation Agreement Act*.

and that I was consulted by **Kathleen Palamarek**, of the City of Victoria, in the Province of British Columbia,

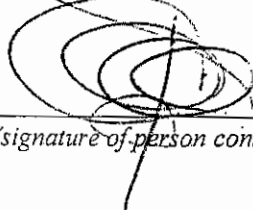
(check all that apply)

- regarding the making of the agreement
- regarding a change to the agreement
- regarding the witnessing of the agreement.

Dated October 27, 2008, made by the above named adult under the *Representation Agreements Act*.

The consultation took place on: October 27, 2008 at Straith & Company.

I explained the provisions of the representation agreement to the adult making or changing the agreement, and she appeared to understand the nature of the authority given to her representative and the effect of such authority.



(signature of person consulted)

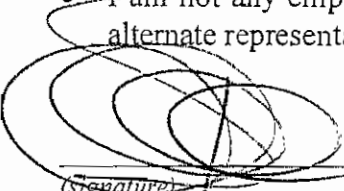
October 27, 2008
(date)

WITNESS CERTIFICATION

I certify that I witnessed the signing of the representation agreement described above by **Kathleen Palamarek**.

I understand independently or through an interpreter the form of communication used by the adult. I also certify the following:

- I am not named in the agreement as a representative or alternate representative,
- I am not a spouse, child or parent of anyone named in the agreement as a representative or alternate representative,
- I am not any employee or agent of a person named in the agreement as a representative or alternate representative.


(signature)

John E. Jordan
Barrister & Solicitor
Straith & Company
704 - 880 Douglas Street
Victoria BC V8W 2R7

October 27, 2008

(date)