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Tuula DUFFY's Affidavit sworn 14 Mar 2014... & Filed.  
with Defence 27 Mar. 2014.

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inspection by appointment at my home in Tweed Heads, as they were stored in filing cabinets and could not be brought down to Sydney without some difficulty. In any case, as they were the past records of contracts which had largely expired, they were largely irrelevant to the status of the deceased's two businesses as at the date of the deceased's death and as at today. The Plaintiff failed to avail herself of this invitation to inspect the same. As a result of this, the Plaintiff's tutor continued to believe that the two businesses operated by Migebe Pty Ltd still generated a substantial income by way of trailer commissions similar to those which had been generated by the deceased during the 2 ½ years prior to his death. As a result of the Tutor's failure to conduct due diligence in inspecting the said past financial records of the said businesses and thereby in understanding the current status in terms of value of the said commissions and of the two businesses themselves, the said tutor has caused me as well as the deceased's daughter Juliette Duffy to incur considerable and unnecessary legal costs in defending a claim for Family Provision made on behalf of the Plaintiff which could never have been substantiated due to the intrinsic negative value of the Deceased's Estate.

13. In any case, it has always been my position that the trailer commissions referred to in the sum of \$474,021.82 do not (and could never) form part of the deceased's estate or notional estate as they constitute past income and are not a lump sum asset. Hence, I have always denied that they form part of the deceased's Estate or Notional Estate. Moreover, I have been advised by my said solicitor and counsel briefed in the matter, that the Plaintiff has the burden of establishing that the said sum in fact constitutes part of the Estate or the Notional Estate and not me. I submit that there has been no evidence adduced by the Tutor for the Plaintiff which would constitute a sufficient basis for the said amount of \$474,021.82 to be added back as Notional Estate as such monies constituted the gross income of the company business over a 2 ½ year period prior to the deceased's death. These were monies which the deceased had lawfully earned and expended towards his day to day living expenses and for the payment of the outgoings of his company business as well as the loans associated with his home mortgage, car loan, and credit cards. Indeed, if the tutor's own admissions as to the existence of an illicit affair between herself and the deceased prior to his death are in fact true, then some of these monies would have been used by the deceased himself to entertain the Plaintiff's Tutor in their private affair.

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