

I ANNA MARIA ITSINES of 5 Frobisher Avenue Flinders Park in the State of South Australia Home Duties TAKE AN OATH AND SAY:

1. Erini Stiliano late of 33 Halifax Avenue Parafield Gardens in the said State deceased ("the deceased") died on the 7th day of March 2006 leaving a will dated the 30th day of November 1993 ("the Will").
2. I am the daughter of the deceased and the proving executor of the Will, leave being reserved for the other executor named in the Will, namely my brother Gary Stiliano of 7 Jennifer Terrace Parafield Gardens in the said State.
3. Probate of the Will was granted to me by this Honourable Court on the 25th day of September 2006. Now produced to me and marked "AMI1" is a copy of the Grant of Probate.
4. The persons affected by this application are:
 - 4.1. Philip Stilianos, the first defendant being a son of the deceased and the sole residuary beneficiary named in the Will.
 - 4.2. Sara Stilianos, the second defendant being an infant great granddaughter of the deceased and one of the devisees named in the Will.
 - 4.3. Shamona Stilianos the third defendant being an infant great granddaughter of the deceased and one of the devisees named in the Will.
 - 4.4. Gary Stiliano, the fourth defendant being a son of the deceased and a potential claimant to a number of Greek properties held in the name of the deceased.
 - 4.5. Gary Stiliano, the fourth defendant in his capacity as executor of the estate of George Stiliano. George Stiliano, a son of the deceased, died on 26 December 2001. George's estate is a potential claimant to a number of Greek properties held in the name of the deceased.
 - 4.6. Stella Stiliano, the fifth defendant being a daughter of the deceased and a potential claimant to a number of Greek properties held in the name of the deceased.



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5. The second and third defendants were born on the 9th day of February 1990 and are 17 years of age.
6. The net estate of the deceased for probate purposes was disclosed at \$143,087.91. Now produced to me and marked "AMI2" is a copy of the statement of assets and liabilities lodged by my solicitors on my behalf in the Probate Registry of the Supreme Court of South Australia. The said statement of assets and liabilities includes assets of the deceased in Greece which are not in dispute.
7. In the Will the deceased:
 - 7.1. appointed the fourth defendant and I to be the executors and trustees;
 - 7.2. gave the whole of her estate both real and personal of whatsoever kind and wheresoever situated to her trustees upon trust to pay all just debts funeral and testamentary expenses and all estate succession and other death duties payable in respect of any of the gifts devises or bequests under the Will;
 - 7.3. gave the whole of her estate in the residential property situate at 33 Halifax Avenue Parafield Gardens aforesaid ("the Australian house property") to the second and third defendants respectively upon their attaining eighteen years of age equally between them as tenants in common); and
 - 7.4. gave the rest residue and remainder of her estate to be held upon trust for the first defendant absolutely.

Purported gift of Greek properties

8. The deceased was married to her husband Steve George Stiliano. Steve Stiliano is my father and the father of all of the deceased's children.
9. In the year 1987 the deceased executed a Greek Power of Attorney (written in the Greek language) appointing her husband Steve Stiliano and a lawyer in Greece, Dimitris Salamastrakis, to be her attorneys with a view to selling the Greek properties owned by her and giving the proceeds of the same to her


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children. I do not have a copy of this Greek Power of Attorney because I have been advised by the fifth defendant and do verily believe that the Greek Consulate in Adelaide in the said State has the original document in their possession. I undertake to attempt to obtain a copy of this Greek Power of Attorney and to produce the same to the Court.

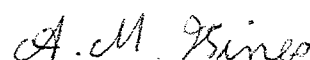
10. The fourth defendant, fifth defendant and I executed a Greek Power of Attorney appointing our father Steve Stiliano and Dimitris Salamastrakis as our attorneys to authorise them to transfer and or sell the Greek properties on our behalf. The first defendant also executed a Greek Power of Attorney appointing Steve Stiliano and Dimitris Salamastrakis to carry out the same. Now produced to me and marked "AMI3" is a copy of the Greek Powers of Attorney. I undertake to obtain a translation of these Greek Powers of Attorney and produce the same to the Court when it becomes available.
11. The deceased allocated a number of Greek properties to me and to the first, fourth and fifth defendant by instructing her attorney to write our names on the various Greek Certificates of Title to the properties. The deceased also allocated a number of properties for her deceased son George Stiliano who died during the lifetime of the deceased.
12. The deceased and my father then gave me the Greek Certificates of Title on which my name had been written and I am instructed and do verily believe that the deceased or the deceased's attorney, being my father, gave the fourth defendant his respective Greek Certificates of Title with his name written on the same.
13. Sometime during the year 2001 after the death of my father, the first defendant asked me if I had his Greek Certificates of Title. I did not have his Greek Certificates of Title. I told the first defendant that our father or the Greek lawyer, Dimitris Salamastrakis, might have his Greek Certificates of Title. My husband and I later found the Greek Certificates of Title with the first defendant's name written on them under my father's bed. I cannot recall whether I left the first



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defendant's Greek Certificates of Title at our father's house or whether I gave them to the fourth or fifth defendant. I do not have the first defendant's Greek Certificates of Title.

14. The deceased also instructed her attorney, being my father, to write the names of her children next to the respective titles listed on a piece of paper. Now produced to me and marked "AMI4" is a copy of that document. I undertake to obtain a translation of this document and produce the same to the Court when it becomes available.
15. All of the deceased's children were aware of these purported gifts of the Greek properties. Although the first defendant now claims that the gifts fail, he was also aware of the said purported gifts.
16. Sometime after these arrangements had been put in place, on 30 November 1993 the deceased executed the Will which was prepared by Niarchos and Co Solicitors.
17. The deceased's attorney and husband died on 20 March 2001 before completing the sale and or transfer of all of the Greek properties to the children of the deceased in the manner conveyed by the deceased to her attorney.
18. In accordance with exhibit "AMI4", it was the deceased's intention that the Greek properties be transferred to or sold for the benefit of the deceased's children in the manner set out below:

Title Number	Donee
129	Myself
189	Myself, Stella Stiliano, Philip Stilianos and Gary Stiliano
671	Stella Stiliano
683	Stella Stiliano
891	Gary Stiliano
1122	Philip Stilianos
1752	Philip Stilianos


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A. M. Wins

2067	Gary Stiliano
2096	Gary Stiliano
2490	George Stiliano
2723	Philip Stilianos
2977	Stella Stiliano
3134	George Stiliano
4155	George Stiliano
4331	Myself
4378	Stella Stiliano

19. Ownership of some of the abovenamed Greek properties remains unclear. There is a dispute as to whether some of the Greek properties form part of the deceased's estate because certain Greek Certificates of Title were in the possession of the various children of the deceased but the legal ownership had not changed due to the premature death of the deceased's attorney. There is no dispute that the Greek properties in Certificates of Title 1122, 1752, 2723, 2931, 3854 and 4325 form part of the deceased's estate. This is because the properties were either not purportedly given to any of the deceased's children during her life or the properties were intended to be given to the first defendant by virtue of him being the sole residuary beneficiary named in the Will.
20. During the life of the deceased, on 26 November 2001, Public Trustee was appointed Limited Administrator of the estate by the Guardianship Board primarily for the purpose of investigating property held by the deceased in Greece. The application to the Guardianship Board was initiated by the first defendant. Now produced and shown to me marked "AM15" is a copy of the Administration Order.
21. On 26 August 2004 the Administration Order was reviewed by the Guardianship Board. Orders were made re-appointing Public Trustee as the Limited Administrator. The first defendant made an application to be appointed administrator but his application was refused. Now produced and shown to me


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marked "AMI6" is a copy of the Statement of Reasons of the Guardianship Board. There is an error on page 6 of the Statement of Reasons in that paragraph 4 provides that the deceased's husband left his estate to the deceased. This was not the case.

22. The first defendant then appealed the Orders made by the Guardianship Board on 26 August 2004. The appeal was heard in the District Court of South Australia on 15 November 2004. The first defendant's appeal was dismissed.
23. The Guardianship Board again reviewed the matter on 29 August 2005 and Orders were made at that hearing. Now produced and shown to me marked "AMI7" is a copy of the Orders made at that hearing.
24. As evidenced in a letter from the Crown Solicitor's Office to the Guardianship Board dated 17 February 2005, Public Trustee formed the view that as the deceased had no current use for the funds in Greece, there was no need for Public Trustee to sell the properties during her life. Now produced and shown to me marked "AMI8" is a true copy of that letter.
25. I do not know whether the Greek properties form part of the estate or whether there was a valid gift to the deceased's children during the deceased's life. Now produced and shown to me and marked "AMI9" is a true copy of a letter from the Crown Solicitor's Office to the Guardianship Board dated 10 August 2004 setting out Public Trustee's investigations of preliminary findings.
26. I am instructing Mrs Niki Pantazis of Pantazis-Kanellopoulos & Partners, a lawyer in Greece, to advise me regarding the applicable Greek law.
27. The first defendant has informed my solicitors Messrs Treloar and Treloar that legal proceedings have been issued by a third party in relation to Title number 671 situate in Rhodes, Greece. I am instructing Mrs Pantazis to act on behalf of the estate regarding these legal proceedings.
28. I am also instructing a Greek lawyer, Dimitris Salamastrakis, to act on my behalf (in my capacity as a claimant beneficiary) and make enquiries regarding the properties allegedly given to me.


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Sale of the house property

29. On 20 March 2003 the deceased's interest in the house property was sold to the fifth defendant for the sum of \$62,500.00. After taking out adjustments and Public Trustee's commission (\$2,750.00), the net amount of \$59,507.46 was transferred to Public Trustee's "01" sub account on the 1st day of April 2003.
30. Public Trustee has advised my solicitors that after payment of the deceased's funeral account, the only funds in the estate of the deceased in Australia are those resulting from the sale of the Australian house property. The Australian house property was specifically devised in the Will to the second and third defendants.
31. Given that there is no residuary estate in Australia, I am unsure whether I should pay the estate debts from the funds which constitute the proceeds of sale of the Australian house property or whether I should arrange for the sale of one or more of the estate Greek properties to facilitate the payment of debts and testamentary expenses.
32. The guardian of the second and third defendants has also requested the release of the proceeds of sale of the Australian house property to facilitate the payment of their education and maintenance expenses. As Public Trustee sold the Australian house property during the life of the deceased, I have been advised that an application must be made by an interested person pursuant to Section 43 of the *Guardianship and Administration Act 1993* to save the gift anticipated in the Will. No such application has been made pursuant to the *Guardianship and Administration Act 1993* as at the date of swearing this my affidavit.
33. I have been informed by my solicitors that the first defendant has threatened to bring an action to remove me as executor and that he has requested an exemplification of probate to transfer all of the abovenamed Greek properties to himself.



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A.M. - Jones

34. I say that the Greek properties were intended to be transferred by the deceased to the deceased's children during her life in the manner set out aforesaid. I further say that when the deceased made the Will, she did not intend the Greek properties to form part of her estate as she had taken steps to procure the transfer or sale of the same six years prior.
35. My solicitors have contacted both Bill and Nicholas Niarchos seeking the Will instructions of the deceased. My solicitors have advised me that Nicholas Niarchos advised her that the deceased's file was destroyed in a flooding incident sometime during the year 2003.
36. I am therefore seeking advice and directions from this Honourable Court concerning the following:
- 36.1. As to what assets in Greece fall into and form part of the estate of the deceased.
- 36.2. Directing the plaintiff as to what enquiries ought to be made to ascertain what assets in Greece form part of the estate of the deceased.
- 36.3. Directing what steps the plaintiff must take to ascertain what assets in Greece form part of the estate.
- 36.4. An order restraining the first defendant from taking any steps to deal with the following real properties situated in Greece, namely Certificates of Title 129, 189, 671, 683, 891, 2067, 2096, 2490, 2977, 3134, 4155, 4331 and 4378.
- 36.5. As to what persons should be served with notice of this application and the manner of such service.
- 36.6. A determination as to whether the debts and funeral and testamentary expenses of the deceased are payable out of:
- 36.6.1. The residuary estate of the deceased.
- 36.6.2. The proceeds of sale of the Australian house property.
- 36.6.3. Any asset or assets of the deceased in Greece.


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36.7. Leave to the plaintiff to pay out of the net proceeds of sale of the Australian house property all current and future debts and funeral testamentary expenses of the deceased upon such terms and conditions as the Court may think fit.

36.8. The costs of and incidental to this application to be paid out of the estate of the deceased.

36.9. Such other or further orders the Court may think fit.

37. I know the facts deposed of herein to be of my own knowledge except where otherwise appears.

SWORN at Adelaide)
 by the said ANNA MARIA ITSINES on the) A. M. Itsines
 15th day of February 2007)
 Before me:)
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