

FORM P40
(Rule 25-13(6))
STATEMENT OF ACCOUNT AFFIDAVIT

General Notes

Form P40 Affidavit is sworn by the personal representative in response to a request for an accounting by an interested party and is filed in addition to any other materials that may be required for an application for either a passing of accounts of the personal representative or to fix and approve the personal representative's remuneration, or both.

This affidavit must have a *Statement of Account* (see next pages) as exhibit **A** attached to it. The *Statement of Account* must contain information required by Rule 25-13(6).

If the applicant is not a personal representative, he or she must file an affidavit explaining why an accounting is required.

Preparation

If a person other than the personal representative applies to pass accounts, the supervising lawyer should dictate the appropriate affidavit.

Processing

Prepare the Schedule (on the next pages) entitled "*Statement of Account*".

FORM P40 (RULE 25-13(6))

This is the *{1st/2nd/3rd/etc.}* affidavit of *{Name}* in this case and was made on *{dd/mmm/yyyy}*.

No. _____
{Location} Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of
{LEGAL NAME OF DECEASED}, Deceased

STATEMENT OF ACCOUNT AFFIDAVIT

I, *{NAME OF PERSONAL REPRESENTATIVE}*, of *{address}*, *{Occupation}*,
SWEAR/AFFIRM THAT:

- Attached and marked as Exhibit A is a Statement of Account for the Estate of *{LEGAL NAME OF DECEASED}*.
- The information set out in this statement of account is true and complete to the best of my knowledge.

SWORN/AFFIRMED BEFORE ME at)
{Name of City/Town}, *{British Columbia}*,)
this ___ day of _____, 20__)

)
)
)
)
_____)
A commissioner for taking affidavits)
for British Columbia)
{print name or affix stamp of commissioner})

{NAME OF PERSONAL REPRESENTATIVE}

FORM 40
(Rule 25-13(6))
STATEMENT OF ACCOUNT AFFIDAVIT

General Notes (Continued)

This Statement of Account is attached as Exhibit A to *Form P40 – Statement of Account Affidavit* and contains information required by Rule 25-13(6).

Note: This schedule to the *Statement of Account Affidavit* and all the tables which form part of the schedule are referred to as “*Statement of Account*” in the descriptions on the following pages.

Preparation

- ❶ Insert the “commencement date” which is either:
 - the date of death, if this is the first *Statement of Account* since the date of death of the Deceased; or
 - the effective (cut-off) date of the prior statement, if a prior Statement of Account was filed with respect to this estate.
- ❷ Insert the effective date of the statement of account. It is the cut-off date at which you have reconciled the assets, liabilities, income etc. It is not necessarily the date of the affidavit.
- ❸ Delete if no remuneration is sought at this time.

Note: If you delete this paragraph, the numbering underneath will adjust automatically.

Continued ...

Form P40

This is Exhibit A referred to in the affidavit of *{NAME}* sworn/affirmed before me on *{dd/mmm/yyyy}*.

A commissioner for taking affidavits for British Columbia

**STATEMENT OF ACCOUNT FOR THE ESTATE
OF *{LEGAL NAME OF DECEASED}*, DECEASED**

For the period from ❶*{commencement date - dd/mmm/yyyy}* to ❷*{effective date of this statement of account - dd/mmm/yyyy}*.

1. In this Statement of Account, the “commencement date” means:
 - (a) the deceased’s date of death, or
 - (b) if one or more statements of account have been filed in respect of the estate under Rule 25-13(6) of the *Supreme Court Civil Rules*, the effective date of the most recent of those statements of account.

2. This Statement of Account consists of the following:
 - (a) Statement of Assets and Liabilities of the Estate of as at *{commencement date - dd/mmm/yyyy}*;
 - (b) Statement of Capital Transactions of the Estate of *{LEGAL NAME OF DECEASED}*;
 - (c) Statement of Income Transactions of the Estate of *{LEGAL NAME OF DECEASED}*;
 - (d) Statement of Assets and Liabilities of the Estate of *{LEGAL NAME OF DECEASED}* as at *{effective date of this statement of account - dd/mmm/yyyy}*;
 - (e) ❸Statement of Proposed Remuneration in relation to the Estate of *{LEGAL NAME OF DECEASED}*;
 - (f) Statement of Distribution of the Estate of *{LEGAL NAME OF DECEASED}*;
 - (g) Statement of Proposed Distribution of Residue of the Estate of *{LEGAL NAME OF DECEASED}*.

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STATEMENT OF ACCOUNT AFFIDAVIT

STATEMENT OF ASSETS AND LIABILITIES OF THE ESTATE

General Notes

This statement lists all the assets from the commencement date (see definition opposite the 1st page of the *Statement of Account*) to the date of the statement – in other words, it spans a year (or 12 months). If the estate administration has not been completed, you will have to prepare another *Statement of Assets and Liabilities of the Estate*, which will have the commencement date as the effective date of this Statement.

Preparation

When you insert additional rows or delete a row, the item number in the first column will adjust automatically. In the total row at the bottom of each table, if all the cells in the column above are completed, the amounts will total automatically.

- ❶ Describe all estate assets as at the commencement date (see ❶ on definition opposite the 1st page of the *Statement of Account*). If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❷ Insert fair market value of each asset as at the commencement date of this statement of account.
- ❸ Describe all liabilities (debts) of estate as at the commencement date (see ❶ on the previous page). If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❹ Insert the amounts of liabilities as at the commencement date.
- ❺ List the capital transactions in chronological order.
 “Capital transactions” means sale or purchase of any capital asset; for example, an “asset of a permanent or fixed nature or employed in carrying on business or trade,”⁽¹⁾ such as real estate or machinery.
- ❻ Insert the date of each transaction in chronological order.
- ❼ Describe each capital transaction. If space is insufficient, include that information in an attached Schedule and bring forward totals here.

Continued...

⁽¹⁾ Black’s Law Dictionary

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STATEMENT OF ASSETS AND LIABILITIES
OF THE ESTATE OF {LEGAL NAME OF DECEASED}
As at {commencement date - dd/mmm/yyyy}

Item	Assets	Asset value
A1	① {Describe asset}	\$ ② _____
A2	① {Describe asset}	\$ ② _____
	Total asset values	\$ _____

Item	Liabilities	Liabilities ④
B1	③ {Describe liability/debt}	\$ ③ _____
B2	③ {Describe liability/debt}	\$ ③ _____
	Total amount of liabilities	\$ _____

STATEMENT OF CAPITAL TRANSACTIONS
OF THE ESTATE OF {LEGAL NAME OF DECEASED}

For the period from {commencement date - dd/mmm/yyyy}
to {effective date of this statement of account - dd/mmm/yyyy}

Item	Date	Transaction	Debit	Credit
C1 ⑤	⑥	⑦	\$ _____	\$ _____
C2			\$ _____	\$ _____
		Totals	\$ _____	\$ _____

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(Rule 25-13(6))
STATEMENT OF ACCOUNT AFFIDAVIT

Preparation (Continued)

- ❶ List the income transactions in chronological order during the period between the commencement date of this *Statement of Account* (see definition of commencement date on page 22) and its effective date. An example of an income transaction is interest earned on GIC or dividends on shares held in a company.
- ❷ Insert the date of each income transaction in chronological order.
- ❸ Describe the income transaction. If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❹ Insert the effective date of the Statement of Account (see ❷ on page 1 of the *Statement of Account*).
- ❺ Describe estate assets as at the effective date of the *Statement of Account* (see ❷ on page 1 of the *Statement of Account*). If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❻ Describe liabilities of estate as at the effective date – in other words after all the capital and income transactions have been listed on this and the previous page. This is the “image” of what happened at the end of the reporting period. If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❼ Describe liabilities of estate as at the effective date. If space is insufficient, include that information in an attached Schedule and bring forward totals here.
- ❽ Insert the amounts of liabilities as at the effective date.

Continued...

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**STATEMENT OF INCOME TRANSACTIONS
OF THE ESTATE OF {LEGAL NAME OF DECEASED}**

**For the period from {commencement date - dd/mmm/yyyy}
to {effective date of this statement of account - dd/mmm/yyyy}**

Item	Date	Transaction	Debit	Credit
D1 ①	②	③	\$ _____	\$ _____
D2			\$ _____	\$ _____
		Totals	\$ _____	\$ _____

**STATEMENT OF ASSETS AND LIABILITIES
OF THE ESTATE OF {LEGAL NAME OF DECEASED}**

As at ④ {effective date of this statement of account - dd/mmm/yyyy}

Item	Assets	Asset value
E1	⑤	\$ ⑥ _____
E2	⑤	\$ ⑥ _____
	Total asset values	\$ _____

Item	Liabilities	Liabilities
F1	⑦	\$ _____
F2	⑦	\$ _____
	Total amount of liabilities	\$ _____

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STATEMENT OF ACCOUNT AFFIDAVIT

General Notes

Section 88(1) of the Trustee Act, states that “A trustee under a deed, settlement or will, an executor or administrator, ... is entitled to, and it is lawful for the Supreme Court, or a registrar of that court if so directed by the court, to allow him or her a fair and reasonable allowance, not exceeding **5%** on the gross aggregate value, including capital and income, of all the assets of the estate by way of remuneration for his or her care, pains and trouble and his or her time spent in and about the trusteeship, executorship, guardianship or administration of the estate and effects vested in him or her under any will or letters of administration, and in administering, disposing of and arranging and settling the same, and generally in arranging and settling the affairs of the estate as the court, or a registrar of the court if so directed by the court thinks proper.”

If the personal representative is seeking remuneration with respect to the administration of the estate, include this *Statement of Proposed Remuneration*. Otherwise, delete the whole page.

Preparation

- ❶ Copy the totals from the *Statement of Capital Transactions* (C1, C2, etc.) – this is the value of the capital assets that have been sold between the commencement date and the effective date of the *Statement of Account* (for example, income property sold by the personal representative).
- ❷ Insert the total market value as at the effective date of any assets that have been transferred but for which the estate did not receive any proceeds (for example, bequest of real estate to a child).
- ❸ Insert the value of assets that have neither been realized nor transferred – that is, which remain in the name of the personal representative in the form in which they were at the commencement date of the Statement of Account.
- ❹ Insert claimed percentage up to a maximum of 5 per cent (authorized by section 88(1) of the *Trustee Act*) and calculate the amount by multiplying (D) x percentage.
- ❺ Insert gross income earned from Statement of Income Transactions (D1, D2, etc.).
- ❻ Insert claimed percentage up to a maximum of 5 per cent on (F).
- ❼ Prepare one set of the following calculations for each year following the commencement date from date of death to the date of final distribution.
- ❽ Insert the claimed percentage pursuant to Section 88(3) of the *Trustee Act*, which authorizes a person entitled to an allowance under subsection (1) to apply annually to the Supreme Court for a care and management fee, and the court to allow a fee not exceeding **0.4%** of the average market value of the assets.
- ❾ Add :
 - (E) Capital Fee
 - (G) Income Fee
 - (K) Care Management Fee for every year (see ❸).

Continued...

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STATEMENT OF PROPOSED REMUNERATION IN RELATION TO THE ESTATE OF {LEGAL NAME OF DECEASED}

As at {effective date of this statement of account - dd/mm/yyyy}

Capital Fee		
(A)	Proceeds of disposition of capital assets realized since the commencement date	① \$ _____
(B)	Market value of capital assets, realized or transferred since the commencement date, in respect of which no proceeds of disposition have been obtained	② \$ _____
(C)	Current value of unrealized capital assets included, on the commencement date, in the estate	③ \$ _____
(D)	Gross aggregate value of capital assets of estate {Add (A) + (B) + (C) to obtain D}	\$ _____
(E)	Capital Fee: (D) x ④%	④ \$ _____

Income Fee		
(F)	Gross income earned by the estate for the period from {commencement date - dd/mm/yyyy} to {effective date of this statement of account - dd/mm/yyyy} except interest income already capitalized and included in (D)	⑤ \$ _____
(G)	Income Fee: (F) x ⑥% {insert claimed percentage, up to a maximum of 5%}	\$ _____

Care Management Fee ⑦		
(H)	Market value of estate assets as at the beginning of the reporting period	\$ _____
(I)	Market value of estate assets at the end of the reporting period	\$ _____
(J)	Average market value of estate assets for the reporting period {H} + (I)/2}	\$ _____
(K)	Care and Management Fee for reporting period ⑧ {(J) x 0.4%}	⑧ \$ _____

Total of Fees Claimed		
(L)	Total Remuneration sought ⑨	\$ _____

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General Notes

This table of distribution is included only if there was a Will and if there were bequests and legacies in the Will.

Preparation

- ❶ Complete the table of specific Bequests and Legacies by describing each item given under the Will or the amount of the legacy. Indicate whether or not the item or the amount of money has been distributed, as well as the date of distribution. If there was no Will or there were no bequests, insert “N/A” in the first column.
- ❷ Include the total from the table entitled “Assets” (A1, A2, etc.).
- ❸ Insert the amount of holdback as specified. With respect to the holdback, consult the estate accountants and confirm with the supervising lawyer.
- ❹ Identify the beneficiaries who receive assets or cash from residue.
- ❺ Identify assets distributed to the named beneficiary and the market value of those assets.
- ❻ Indicate amount of cash paid to the named beneficiary or the cash value of the asset distributed in specie to the beneficiary.

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**STATEMENT OF DISTRIBUTION
OF THE ESTATE OF {LEGAL NAME OF DECEASED}**

Specific Bequests and Legacies ❶

Item	Distribution (Yes/No)	Date of Distribution	Beneficiary
❶	Yes/No		
	Yes/No		
	Yes/No		

RESIDUE OF ESTATE

(R1)	Market value of estate assets at effective date of this statement of account	❷ \$ _____
(R2)	Applicant's estimated reserve for final income tax, accounting and legal costs and remuneration	❸ \$ _____
(R3)	Distributable estate (R1) - (R2)	\$ _____

**STATEMENT OF PROPOSED DISTRIBUTION OF RESIDUE
OF THE ESTATE OF {LEGAL NAME OF DECEASED}**

Beneficiary ❹	Assets ❺	Cash ❻
❹	❺	❻ \$ _____