

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

CIV-2016-485-125

IN THE MATTER OF            section 21 of the Administration Act 1969

BETWEEN                      FRILLY ANGELICA PERDUTA

   Plaintiff

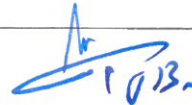
AND                              JAN-MARC SERVAAS SCAIFE and ROBIN  
   MICHAEL SCAIFE

   Defendants

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**AFFIDAVIT OF CHRISTOPHER COLIN WRIGHT IN OPPOSITION TO  
APPLICATION FOR REMOVAL OF DEFENDANTS AS ADMINISTRATORS**

5th July ~~29 June~~ 2016



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**Solicitor acting:**  
Richard Farry  
Farry and Co  
Level 7, Forsyth Barr House  
The Octagon  
PO Box 5419  
Dunedin 9058  
Tel: 03 477 8870  
Fax: 03 474 0390  
Email: rfarry@farry.co.nz

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**Counsel acting:**  
A N Isac  
Stout Street Chambers  
PO Box 117  
Wellington  
Tel: 04 915 9270  
Fax: 04 472 9029  
Email: andru.isac@stoutstreet.co.nz

I, **Christopher Colin Wright**, solicitor, of Nelson, solemnly and sincerely swear:

1. I make this affidavit in my capacity as a barrister and solicitor of the High Court of New Zealand.
2. Except where I indicate my knowledge of certain matters has come from some other source (such as documents in my possession), I have personal knowledge of everything that I state in this affidavit.
3. In this affidavit I:
  - 3.1. Summarise my usual approach to satisfying myself that an elderly appointor has capacity to appoint enduring power of attorney.
  - 3.2. Recount my involvement with the deceased, Pauline Henriette Marie Scaife, in preparing her powers of attorney.

**Ascertaining that a person has capacity**

4. I was admitted as a barrister and solicitor in 1990. Over the years I have frequently arranged enduring powers of attorney for clients.
5. In each case I recognise that I have an obligation to ascertain that any person seeking to appoint powers of attorney has mental capacity to do so. This is particularly important when working for elderly clients, which I have done often over the years.
6. It is my usual practice to ascertain whether a person has capacity by:
  - 6.1. Asking them general details about themselves, such as their home address or telephone number.
  - 6.2. Asking them about general activities they have participated in recently and in the last few years, such as holiday activities, family events, social activities.
  - 6.3. Asking them for details about their family and friends.
  - 6.4. Asking them if they are suffering from any recent medical condition.
  - 6.5. Asking them who are the people that they have the most regular, ongoing contact and support with.

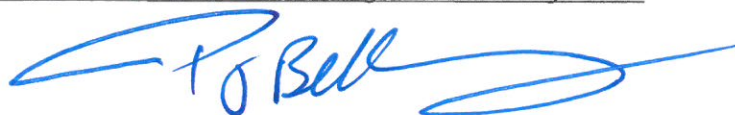
**Pauline's enduring powers of attorney**

7. I met with Pauline in 2001. I recall my meeting with Pauline Scaife although I no longer hold records of that meeting now after many years. Pauline met at my office. Her son, Marc, also attended the meeting but I recall that he was not there the entire time.
8. As is my usual practice, I had a general conversation with Pauline to satisfy myself that she had capacity to appoint powers of attorney. I was satisfied that Pauline had capacity to make such appointments.
9. Accordingly, I was able to effect enduring powers of attorney in favour of Marc for both property, and personal care and welfare. I annex and mark "A" and "B" copies of those enduring powers of attorney, dated 20 April 2001.

SWORN at )  
)  
this <sup>5th</sup> day of ~~June~~ 2016 )  
)  
before me: )

  
\_\_\_\_\_  
**Christopher Colin Wright**

A Justice of the Peace/Solicitor/Registrar of the High Court



Philip James Bellamy  
Lawyer  
Nelson

**A**

**FORM OF ENDURING POWER OF ATTORNEY IN RELATION TO  
PROPERTY**

THIS ENDURING POWER OF ATTORNEY is made this 20<sup>th</sup> day of April 2001

by **PAULINE HENRIETTE MARIE SCAIFE** of Nelson, Retired

1. I hereby appoint my son **JAN-MARC SERVAAS SCAIFE** of Queenstown, Architect (if more than one then jointly and severally) to be my attorney for the purpose of Part IX of the Protection of Personal and Property Rights Act 1988 with

\* general authority to act on my behalf and in particular to continue any gifting programme that I may have instituted before I become mentally incapable. *or*

\* authority to act on my behalf in the following respects only:-

\* in relation to the whole of my property *or*

\* in relation to the following property only:-

\* subject to the following conditions and restrictions:

2.\* I intend that the authority in paragraph 1 of the instrument shall not be revoked if I become mentally incapable *or*

\* I intend that the authority in paragraph 1 of this instrument shall have effect only if I become mentally incapable.

Signed by **PAULINE HENRIETTE MARIE SCAIFE**

in the presence of:-

Signature: .....

Witness Name: ..... Christopher Colin Wright .....

Occupation: ..... Solicitor .....

Address: ..... NELSON .....

Signed by **JAN-MARC SERVAAS SCAIFE**

in the presence of:-

Signature: .....

Witness Name: ..... Christopher Colin Wright .....

Occupation: ..... Solicitor .....

Address: ..... NELSON .....

Signed by

in the presence of:-

Signature: .....

Witness Name: .....

Occupation: .....

Address: .....

*Pauline Scaife*

*JM Scaife*

This is the annexure marked "A" referred to in the affidavit of **CHRISTOPHER COLIN WRIGHT** sworn at me this 5<sup>th</sup> day of June 2016 before  
Signature: *Philip James Bellamy*  
A Solicitor of The High Court of New Zealand (Solicitor to sign in part on Exhibit)

Philip James Bellamy  
Lawyer  
Nelson

**NOTES TO THE ABOVE FORM**

1. The effect of this document is to authorise the person you have named as your attorney to act on your behalf in respect of your affairs in relation to your property. As you will see from the form, you can authorise your attorney to act in respect of all your property affairs, or only some of them. If you want the attorney to act in respect of some of them only, you must specify which they are.
2. You must also indicate whether you wish this document to be effective even while you are mentally capable and to continue if you become mentally incapable, or whether you want it to have effect only if you become mentally incapable.
3. You should consider very carefully what conditions you may wish to impose on the attorney's right to act to his or her own benefit or to the benefit of other persons. Subject to anything you may state in this document, the attorney may act in such a way as to benefit the attorney or other persons if you might be expected to provide for the needs of the attorney or those other persons. The attorney will also be able to make seasonal gifts and charitable donations on your behalf.
4. The term "property" includes all property and is not limited to real estate (land) or to personal property.
5. Before signing this document you should seek legal advice.

*PS  
PS  
PS  
PS  
PS*

DATED 20 APRIL 2001

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P H M SCAIFE

to

J-M S S

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**ENDURING POWER OF ATTORNEY  
IN RELATION TO PROPERTY**

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FLETCHER VAUTIER MOORE  
SOLICITORS  
NELSON

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**B**

**ENDURING POWER OF ATTORNEY IN RELATION TO  
PERSONAL CARE AND WELFARE**

THIS ENDURING POWER OF ATTORNEY is made this 20<sup>th</sup> day of April 2001

by **PAULINE HENRIETTE MARIE SCAIFE** of Nelson, Retired

1. I hereby appoint my son **JAN-MARC SERVAAS SCAIFE** of Queenstown, Architect to be my attorney for the purpose of Part IX of the Protection of Personal and Property Rights Act 1988 to act on my behalf, if I become mentally incapable,

\* in relation to my personal care and welfare generally or

\* in relation to the following specific matters relating to my personal care and welfare:-

\*subject to the following conditions and restrictions:-

This is the annexure marked "B" referred to in the affidavit of **CHRISTOPHER COLIN WRIGHT** sworn at this 5<sup>th</sup> day of June 2016 before me  
Signature.....  
A Solicitor of The High Court of New Zealand (Solicitor to sign in part on Exhibit)

Signed by **PAULINE HENRIETTE MARIE SCAIFE**

in the presence of:-

Signature: .....

Witness Name: .....

Occupation: .....

Address: .....

*Philip James Bellamy*  
Philip James Bellamy  
Lawyer  
Nelson

Signed by **JAN-MARC SERVAAS SCAIFE**

in the presence of:-

Signature: .....

Witness Name: .....

Occupation: .....

Address: .....

*[Signature]*

**NOTES TO THE ABOVE FORM**

- The effect of this document is to authorise the person you have named as your attorney to act on your behalf in relation to your personal care and welfare. As you will see from this form you can authorise your attorney to act in relation to your personal care and welfare generally, or only in relation to specific matters. If you want the attorney to act in respect of specific matters only, you must specify what they are.
- You can appoint only one person to act as your attorney at any one time. A trustee company cannot act as an attorney under this form.
- The attorney cannot act for you on certain matters. These are:-
  - To make any decisions relating to your entering into marriage, or the dissolution of your marriage; or
  - To make any decisions relating to the adoption of a child of yours; or
  - The refusal of consent to any standard medical procedure intended to save your life or to prevent serious damage to your health; or
  - The giving of consent to the administering of electro- convulsive treatment; or
  - The giving of consent to the performance on you of any surgery or other treatment designed to destroy any part of your brain or any of your brain functions for the purposes of changing your behaviour; or
  - The giving or consent to your taking part in any medical experiment (except for the purpose of saving your life or of preventing serious damage to your health).
- Before signing this document you should seek legal advice.

DATED 20 APRIL 2001

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P H M SCAIFE

to

J-M S SCAIFE

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**ENDURING POWER OF ATTORNEY  
IN RELATION TO PERSONAL CARE  
AND WELFARE**

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FLETCHER VAUTIER MOORE  
SOLICITORS  
NELSON

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