



SUBJECT	ENDOWMENT VARIATION: HAWA PATEL BURSARIES
MEETING DATE	FEBRUARY 7, 2019

Forwarded on the Recommendation of the President

APPROVED FOR SUBMISSION

Santa J. Ono, President and Vice-Chancellor

DECISION REQUESTED	IT IS HEREBY REQUESTED that approval be granted to add the gift which was stated in Dr. Patel’s Will to be added to the “Ameena and Mohammed Patel Memorial Bursary Fund” to instead be added equally to the existing Ameena Patel Memorial Bursary in Medicine Endowment Fund and the existing Mohammed Patel Memorial Bursary in Medicine Endowment Fund, as recommended by the President and University Counsel.
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Report Date	January 16, 2019
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Presented By Hubert Lai, Q.C., University Counsel

EXECUTIVE SUMMARY

The Development and Alumni Engagement office wishes the Board to approve this request to simplify the administration of Dr. Patel’s will. The effect of the request will be that the University will add Dr. Patel’s bequest to existing endowment funds that Dr. Patel created during her lifetime rather than establishing a new endowment.

Attachments

1. Hawa Patel’s Will dated Oct 2013
2. Ameena Patel Memorial Bursary in Medicine Endowment Deed (Board approved March 18, 1999)
3. Mohamed Patel Memorial Bursary in Medicine Endowment Deed (Board approved March 18, 1999)

STRATEGIC CORE AREAS SUPPORTED

- People and Places Research Excellence Transformative Learning Local / Global Engagement

DESCRIPTION & RATIONALE BACKGROUND:

Dr. Hawa Patel was a neuro-pediatrician and a faculty member in the Department of Pediatrics in the UBC Faculty of Medicine from 1967 to 1983. She died in 2016 and left a gift in her Will to UBC. Her Will provided that a portion of the residue of her estate was “to be added, in equal shares, to ‘The Mohamed Patel and Ameena Patel Memorial Bursary Fund. and ‘The Hawa Patel Memorial Bursary Fund’” to support bursaries for students enrolled in the Faculty of Medicine at UBC.

During her lifetime, Dr. Patel established two endowments at UBC: the “Ameena Patel Memorial Bursary in Medicine Endowment” in memory of her mother, and the “Mohamed

Patel Memorial Bursary in Medicine Endowment” in memory of her father (together, the “Funds”). She signed the endowment deeds as the donor to establish the Funds.

Dr. Patel prepared her Will in 2013, approximately 14 years after the Funds were established. Dr. Patel’s will, taken on its face, would require UBC to establish a new endowment in the names of her parents (in addition to the new fund that UBC is establishing in Dr. Patel’s own memory, which is not the subject of this docket, and will be established in the normal course). UBC would then have three funds in Dr. Patel’s parents’ names, all for the identical purpose of supporting bursaries for students in Medicine.

We believe that Dr. Patel made an error in her Will when she referred to the “Ameena and Mohammed Patel Memorial Bursary Fund”, and that she intended to add her estate gift to the Funds that she had created during her lifetime.

Instead of creating a new endowment in the name of her parents, the Development and Alumni Engagement office wishes the Board of Governors to approve its request to add the portion of the bequest gift that was given in memory of her parents to the existing Funds in equal amounts.

APPROVAL REQUESTED:

The Vice President, Development and Alumni Engagement, requests that the Board approve that Dr. Patel’s estate gift be added equally to the existing Funds.

Dr. Patel’s executors are supportive of this request.

The Office of University Counsel is also supportive of this request.

LEGAL AUTHORITY:

Dr. Patel’s Will grants authority to the Board of Governors to make changes as follows:

“If unforeseen circumstances make the specified use of the Funds no longer practical or desirable, the Board of Governors of UBC is authorized to make any changes to the terms of the Funds that it considers desirable, those changes to be in keeping as far as possible with the spirit and general intent of the gift.”

I, **Hawa Patel**, presently of 903 – 1450 Pennyfarthing Drive, Vancouver, British Columbia, hereby revoke all former testamentary dispositions made by me except for beneficiary designations contained in any and all registered retirement savings plans, registered retirement income funds, pension plans and insurance policies owned by me unless specifically dealt with herein, and declare this to be my last Will.

1. I appoint **MD Private Trust Company**, presently of 200 – 575 8th Avenue, Vancouver, British Columbia, V5Z 0B2, and my friend, **Cassim Behra**, presently of 4230 Royal Oak Avenue, Burnaby, British Columbia, V5G 3M4, to be the Executors and Trustees of this my Will;

I declare that the expression "my Trustees" used throughout this my Will shall include, where the context permits, the Executors and Trustees for the time being of this my Will, whether original or substituted.

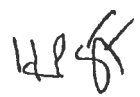
2. It is my intention and I so direct that should **MD Private Trust Company** act as one of my Trustees, it shall assume the burden of administration of my estate, maintain the custody of all the assets of my estate, have charge of all accounts and have the power to contract with and deal with advisors to my estate such as lawyers and accountants.

3. I direct that **MD Private Trust Company** shall be entitled to receive, and shall be paid out of my estate, the fees, reimbursement and other compensation for acting as an Executor and Trustee provided for in the Fee Agreement annexed to my Will dated June 5, 2002, and signed by me, for identification, prior to the execution of my Will, which Agreement is hereby incorporated into my Will.

4. It is my wish that:

- (a) according to my religious conviction no post mortem be permitted;
- (b) I have a simple Muslim funeral; and
- (c) my remains be buried in a plot already acquired from the British


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Columbia Muslim Association, 12300 Blundell Road, Richmond, British Columbia.

5. For the purposes of this my Will:
- (a) "Discretion" means absolute and uncontrolled discretion to the extent enabled by law; and
 - (b) "Material Date" means the date of my death.
6. I give all my property of every nature and kind and wheresoever situate, including any property over which I may have a general power of appointment, to my Trustees upon the following trusts, namely:

Payment of Debts

- (a) to pay out of and charge to the capital of my general estate my Just debts, funeral and testamentary expenses and all estate, inheritance and succession duties and taxes whether imposed by or pursuant to the law of this or any other jurisdiction whatsoever that may be payable in connection with any property passing (or deemed so to pass by any governing law) on death or in connection with any insurance on my life or with any gift or benefit given or conferred by me either during my lifetime or by survivorship or by this my Will or any Codicil thereto and whether such duties or taxes be payable in respect of estates or interests which fall into possession at my death or at any subsequent time, to the end that my beneficiaries shall receive and enjoy their respective benefits as though all such taxes, duties and the like had been ordinary debts of my estate; and I hereby authorize my Trustees to commute or prepay any such taxes or duties;

Articles

- (b) to deliver to my Trustees all articles of personal, household and


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domestic use or ornament belonging to me at the Material Date, including all automobiles and boats and accessories thereto then owned by me (collectively, the "Articles"), and without imposing any trust or binding obligation upon my Trustees, it is my wish that my Trustees distribute the Articles in accordance with any existing or future memorandum that I may leave;

Provided that if no such memorandum exists, or if any Articles are not so disposed of by such memorandum, to distribute any Articles not so disposed of by such memorandum, among such of my siblings as are living at the Material Date in equal shares as is reasonably practical. And I request my Trustees (without however imposing any binding trust in that behalf) to consult with each of my said siblings as to his or her individual wishes so that the said distribution may be made if possible by agreement between or among them all. And I suggest that failing any such agreement, then my Trustees may distribute the same by drawing of lots with a view to securing as fair and equitable a distribution as possible. Lastly, in this respect I declare that whatever distribution shall be made by my Trustees (even though actually made in unequal amounts) the same shall be final and binding upon all beneficiaries of my estate and that any such Articles not wanted by any of my said siblings shall fall into and form part of the residue of my estate;

Disposition of Residue

- (c) to divide and distribute the residue of my estate as follows:
 - (i) fifty (50 %) percent of the residue to be divided among such of the following organizations as shall be in existence at the Material Date, in equal shares:

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- A. **Amnesty International Canadian Section (English Speaking)**, presently of 312 Laurier Avenue East, Ottawa, Ontario, K1N 1H9;
- B. **Vancouver Symphony Foundation**, presently of 601 Smithe Street, Vancouver, British Columbia, V6B 5G1;
- C. **Oxfam Canada**, presently of 300 - 294 Albert Street, Ottawa, Ontario, K1P 6E6;
- D. **Save The Children – Canada**, presently of 4141 Yonge Street, Suite 300 Toronto, Ontario M2P 2A8;
- E. **The Governing Council of the Salvation Army in Canada**, presently of 3833 Henning Drive, Burnaby, British Columbia, V5C 6N5;
- F. **SOS Children's Villages**, presently of 200 – 244 Rideau Street, Ottawa, Ontario, Canada, K1N 5Y3;
- G. **Help The Aged (Canada)**, presently of 1300 Carling Avenue, Unit 205, Ottawa, Ontario, K1Z 7L2;
- H. **Doctors Without Borders**, presently of 720 Spadina Avenue, Suite 402, Toronto, Ontario, M5S 2T9;
- I. **Ecojustice**, to its Vancouver Head Office, presently of 214 – 131, Water Street, Vancouver, British Columbia, V6B 4M3;
- J. **Heart and Stroke Foundation of British Columbia and Yukon**, presently of 100 – 1212 West Broadway, Vancouver, British Columbia, V6H 3V2;

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- K. **British Columbia Cancer Foundation**, for support and work at the **British Columbia Cancer Agency**, presently of 150 – 686 West Broadway, Vancouver, British Columbia, V5Z 1G1;
- (II) twenty-five (25 %) percent of the said residue to be divided between the following organizations as shall be in existence at the Material Date, in equal shares:
- A. **The University of British Columbia**, presently of 6253 NW Marine Drive, Vancouver, British Columbia, V6T 1Z1 (hereinafter called "UBC"), to be added, in equal shares, to **The Mohamed Patel and Ameena Patel Memorial Bursary Fund** and **The Hawa Patel Memorial Bursary Fund** (together hereinafter called the "Funds"), the income of which shall be used to award one or more bursaries annually to one or more deserving and needy students enrolled in the Faculty of Medicine at UBC, and the amounts, conditions and recipients of such bursary or bursaries shall be set or selected as UBC may from time to time determine. I direct that:
- I. UBC may invest and reinvest the Funds in such investments as it shall in its absolute discretion think fit and in making such investments UBC shall not be restricted to investments permitted by the law of British Columbia for trustees;
 - II. UBC may invest the Funds as part of its pooled endowment funds;
 - III. UBC may in its Discretion either accumulate any

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Income of the Funds not so employed by investing the same and the resulting income therefrom with the intent that such accumulations of Income shall be added to and form part of the capital of the Funds or may invest any Income of the Funds not so employed and the resulting income therefrom with the intent that It shall retain the status of Income;

IV. If unforeseen circumstances make the specified use of the Funds no longer practical or desirable, the Board of Governors of UBC is authorized to make any changes to the terms of the Funds that it considers desirable; those changes to be in keeping as far as possible with the spirit and general intent of this gift;

B. **University of Cape Town, presently of Rondebosch, 7701, Republic of South Africa, (hereinafter called "UCT"), to be divided into equal shares, and used to establish The Gadija Bayat (also known as Sissie) and Aisha Mohamed Ka – Asa Memorial Bursary Fund and The Hawa Patel Memorial Bursary Fund, (together hereinafter called the "Funds"), the income of which shall be used to award one or more bursaries annually to one or more deserving and needy students from the Western Cape of the Cape Province of South Africa enrolled in the Faculty of Medicine at UCT, and the amounts, conditions and recipients of such bursary or bursaries shall be set or selected as UCT may from time**

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to time determine. I direct that:

- I. UCT may invest and reinvest the Funds in such investments as it shall in its absolute discretion think fit and in making such investments UCT shall not be restricted to investments permitted by the law for trustees;
 - II. UCT may invest the Funds as part of its pooled endowment funds;
 - III. UCT may in its discretion either accumulate any income of the Funds not so employed by investing the same and the resulting income therefrom with the intent that such accumulations of income shall be added to and form part of the capital of the Funds or may invest any income of the Funds not so employed and the resulting income therefrom with the intent that it shall retain the status of income;
 - IV. If unforeseen circumstances make the specified use of the Funds no longer practical or desirable, the Board of Governors of UCT is authorized to make any changes to the terms of the Funds that it considers desirable; those changes to be in keeping as far as possible with the spirit and general intent of this gift;
- (iii) fifteen (15 %) percent to be divided among such of my sisters who shall be living at the Material Date in equal shares *per*

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capita;

Without imposing any trust or binding obligation upon any of my sisters, it is my wish that if any of my sisters alive at the Material Date do not need the share of the residue of my estate, that such sister shall divide the said share equally between such of my other sisters who shall be in financial need, and if none of my sisters are in financial need, then among such of my immediate needy relatives or a charity of her choice;

- (iv) ten (10 %) percent to be divided among such of the child or children of my siblings (hereinafter referred to collectively as my "nieces and nephews", and individually as my "niece or nephew"), who shall be living at the Material Date in equal shares *per capita*;

Without imposing any trust or binding obligation upon any of my nieces and nephews, it is my wish that if any of my nieces and nephews alive at the Material Date do not need the share of the residue of my estate, that such niece or nephew shall divide the said share equally between such of my other nieces and nephews who shall be in financial need, and if none of my nieces and nephews are in financial need, then among such of my immediate needy relatives or a charity of his or her choice;

7. For the purposes of this my Will, the receipt or receipts of any person purporting to be the Secretary or Treasurer or other officer or officers, as the case may be, of any organization, society, association, corporation or the like, being a legatee hereof, shall be a full and sufficient receipt and discharge to my Trustee as to such legacy and my Trustee shall neither be bound to see to the application thereof nor to enquire as to the authority to give any such receipt.

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8. Any benefit given to or conferred upon a legatee or a beneficiary under this my Will or any Codicil hereto shall be in addition to and not in substitution for any remuneration to which he or she may be lawfully entitled to for services rendered in the administration of my estate if he or she acts as the Executor or Executrix of this my Will and the Trustee of my estate.

9. I direct my Trustees to use their Discretion in the realization of my general estate, with power to my Trustees to sell, call in and convert into money any part of my general estate not consisting of money at such time or times, in such manner and upon such terms, and either for cash or credit or for part cash and part credit as my said Trustees may in their Discretion decide upon, or to postpone such conversion of my estate or any part or parts thereof for such length of time during the continuance of the trusts hereof as they may think best, and I hereby declare that my Trustees shall have a separate and substantive power to retain any of my investments or assets in the form existing at the date of my death at their Discretion without responsibility for loss to the intent that investments or assets so retained shall be deemed to be authorized investments for all purposes of this my Will.

10. My Trustees may make any required division of my estate or set aside or pay any share or interest therein either wholly or in part in the assets forming my estate at the time of such division, setting aside, or payment and I expressly will and declare that my Trustees may fix the value of my estate or any part thereof for the purpose of making any such division, setting aside, or payment and in this regard the decisions of my Trustees, acting in good faith, shall be final and binding upon all persons concerned.

11. My Trustees may make any payments, pursuant to the provisions of this my Will, for any beneficiary of mine under the age of majority or under any legal disability, to his or her guardian or acting guardian or directly to anyone providing (with the approval of my Trustees) goods or services for his or her benefit, and the receipt of such guardian or acting guardian or a receipt for payment of such goods or services shall

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be a sufficient discharge therefor to my Trustees.

12. I expressly empower my Trustees, during the continuance of the trusts provided in this my Will, to retain as an investment of my estate any business or company which I may own or in which I may have an interest at the time of my death, to join in or take any action in connection with such investment, to continue and carry on or to participate in the carrying on of any such business or company, to reorganize, incorporate, wind up or dispose of the same, to advance capital thereto out of my general estate, to exercise any rights, powers or privileges which at any time may exist or arise in connection with any such investment and generally to do all things in connection therewith to the same extent and as fully as I could if I were alive and the sole owner of such investment.

13. I hereby declare that my Trustees, in making investments for my estate, shall not be limited to investments authorized by law for trustees, but may make any investments which in their discretion they consider advisable including any securities, mutual funds, pooled funds, unit trusts or obligations notwithstanding that such investments may not be investments authorized by law for trustees or they may be considered a delegation of their investment duties, and my Trustees shall not be liable for any loss that may happen to my estate in connection with any such investments made by them in good faith, and I authorize my Trustees to vary and transpose such investments from time to time without the consent of any beneficiary, not being a Trustee hereof. My Trustees may delegate their investment making authority to investment counsel of their choice, including MD Private Investment Management Inc., upon such terms and subject to such supervision as my Trustees, in their discretion consider advisable. My Trustees may retain, make investments in and to cause to be redeemed or repurchased assets issued by the MD Group of Companies including, without limitation, the MD family of mutual funds.

14. So long as any real property shall form part of my estate my Trustees shall be at liberty to let or lease the same from month to month, year to year or for any

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term of years and subject to such covenants and conditions as they shall think fit; to accept surrenders of leases and tenancies, to expend money in repairs and improvements, in payment of rates, taxes and insurance, and generally to manage the property; and with a view to the sale thereof to give any options they may consider advisable. My Trustees shall also be at liberty to renew and keep renewed any mortgage or mortgages upon any of my real estate and to borrow money on any of my real estate upon the security of any mortgage or mortgages and to pay off any mortgage or mortgages prior to the due date thereof.

15. I declare that my Trustees shall have Discretion from time to time and at any time or times to make or not to make any election, determination or designation pursuant to any taxing statute including the *Income Tax Act (Canada)* which they deem to be in the best interests of my estate or the

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beneficiaries thereunder.

IN TESTIMONY WHEREOF I have hereunto set my hand this 10th day of October, 2013.

SIGNED, PUBLISHED AND DECLARED by the said Testatrix, **Hawa Patel**, as and for her last Will and Testament, in the presence of us, both present at the same time, who at her request, in her presence, and in the presence of each other have hereunto subscribed our names as witnesses.

H. Patel

Signature of Testatrix

SIGNATURE: 

PRINT NAME: _____

M. DOUGLAS HOWARD

Barrister & Solicitor

ADDRESS: _____

CLARK WILSON LLP

900 - 885 WEST GEORGIA STREET

VANCOUVER, BC V6C 3H1

T. 604.687.5700

OCCUPATION: _____

SIGNATURE: 

PRINT NAME: Shaina Forber

ADDRESS: 900 - 885 West Georgia St.

Vancouver, BC V6C 3H1

OCCUPATION: Legal Assistant.



THE UNIVERSITY OF BRITISH COLUMBIA

AMEENA PATEL MEMORIAL BURSARY IN MEDICINE
ENDOWMENT DEED

1. The Endowment Fund shall be known as the **Ameena Patel Memorial Bursary in Medicine Endowment Fund**.

2.
 - (1) The capital of the Fund shall be held by The University of British Columbia and may be invested and reinvested by the University in such investments as the University shall decide; and in making such investments the University shall not be restricted to the investments for trustees set out in the Trustee Act of the Province of British Columbia, in any similar legislation or in any amendments to the Act or similar legislation.

 - (2) Without restricting the generality of the provisions of sub-clause (1) above, the University may invest the Fund as part of its pooled endowment investments.

 - (3) In making investment decisions, the University shall have as its objective the maintenance of the real capital value of the Fund and the generation of a sufficient flow in income to fund properly the Bursary.

 - (4) The University may accept further contributions, from any other source, whether by gift, will or otherwise, or may add to the capital of the Fund, provided that the terms and conditions of any such donation or addition to the capital shall be in conformity with this deed of Endowment.

3.
 - (1) The income of the Fund shall be used by the University to fund a Bursary for students in Medicine and without restricting the generality of the authority of the University to use the income in any manner it sees fit in support of that object, the University may:
 - (a) use income to award the Bursary;

 - (b) use income to pay the expenses associated with the administration of the Fund;


 - (c) where income is not for the time being used invest such income in accordance with the provisions of clauses 2(1) and (2), but so that the investments shall retain the status of income;

 - (d) capitalize income in order to preserve the real capital value of the Fund.

- (2) If in the opinion of the University it is clearly necessary to do so in order to carry out the purposes of the Fund, the University may from time to time encroach upon the capital of the Endowment; provided however that such encroachment may take place only upon the recommendation of the President to the Board of Governors and the approval of the Board.
4. Decisions on the making of the Bursary, and on the continuing eligibility of a holder of the Bursary to receive the Bursary or to obtain a renewal of the Bursary, and decisions on the administration, financial and otherwise, of the Fund shall be made in accordance with the policies of the University as they may be amended from time to time.
5. If in the opinion of the University the operation of the Endowment becomes impossible or impractical or is not achieving its purpose in a satisfactory manner the University may vary the terms of this Deed of Endowment, but so that the name of **Ameena Patel** shall always be associated with it; provided that such a variation may be made only upon the recommendation of the President to the Board of Governors and the approval of the Board.

Id Patel
Signature of Donor

8th May 1998
Date


Authorized Signatory for
The University of British
Columbia
(Acting President)

APR 16 1999
Date



THE UNIVERSITY OF BRITISH COLUMBIA

**MOHAMED PATEL MEMORIAL BURSARY IN MEDICINE
ENDOWMENT DEED**

1. The Endowment Fund shall be known as the **Mohamed Patel Memorial Bursary in Medicine Endowment Fund**.

2.
 - (1) The capital of the Fund shall be held by The University of British Columbia and may be invested and reinvested by the University in such investments as the University shall decide; and in making such investments the University shall not be restricted to the investments for trustees set out in the Trustee Act of the Province of British Columbia, in any similar legislation or in any amendments to the Act or similar legislation.

 - (2) Without restricting the generality of the provisions of sub-clause (1) above, the University may invest the Fund as part of its pooled endowment investments.

 - (3) In making investment decisions, the University shall have as its objective the maintenance of the real capital value of the Fund and the generation of a sufficient flow in income to fund properly the Bursary.

 - (4) The University may accept further contributions, from any other source, whether by gift, will or otherwise, or may add to the capital of the Fund, provided that the terms and conditions of any such donation or addition to the capital shall be in conformity with this deed of Endowment.

3.
 - (1) The income of the Fund shall be used by the University to fund a Bursary for students in Medicine and without restricting the generality of the authority of the University to use the income in any manner it sees fit in support of that object, the University may:
 - (a) use income to award the Bursary;

 - (b) use income to pay the expenses associated with the administration of the Fund;

 - (c) where income is not for the time being used invest such income in accordance with the provisions of clauses 2(1) and (2), but so that the investments shall retain the status of income;

 - (d) capitalize income in order to preserve the real capital value of the Fund.

- (2) If in the opinion of the University it is clearly necessary to do so in order to carry out the purposes of the Fund, the University may from time to time encroach upon the capital of the Endowment; provided however that such encroachment may take place only upon the recommendation of the President to the Board of Governors and the approval of the Board.
4. Decisions on the making of the Bursary, and on the continuing eligibility of a holder of the Bursary to receive the Bursary or to obtain a renewal of the Bursary, and decisions on the administration, financial and otherwise, of the Fund shall be made in accordance with the policies of the University; as they may be amended from time to time.
5. If in the opinion of the University the operation of the Endowment becomes impossible or impractical or is not achieving its purpose in a satisfactory manner the University may vary the terms of this Deed of Endowment, but so that the name of **Mohamed Patel** shall always be associated with it; provided that such a variation may be made only upon the recommendation of the President to the Board of Governors and the approval of the Board.

H. Patel
Signature of Donor

8th May 1998
Date

Bruce W. Gude
Authorized Signatory for
The University of British
Columbia
(Acting President)

APR 16 1999
Date