

## But for the Plan

### Estate Debts - Collection Agency Letters - Limitations Act Defences

Mary was the executor of the modest estate of her late brother, Sam (not their real names). She retained Michael Maddalena, at our St. Catharines office, to help her administer the estate.

In particular, there was a letter from a collection agency that disturbed her, and for which she sought Michael's advice. The collection agency stated that Sam owed more than \$25,000, but that they were offering to settle for \$17,000. Before he died, Sam had written a letter to the creditor (a credit card company) denying that he had incurred the debt, and speculating that someone must have stolen his credit card information.

Mary was ready to pay the \$17,000 settlement offer, but Michael advised her not to do anything until the agency responded to a letter he proposed to write, requesting proof of the debt.

Upon receiving a statement from the collection agency, Michael examined it and saw that the last payment was made so long ago that the debt was unenforceable, due to the Limitations Act. There was no longer any need to advance the argument that the card had been stolen.

Michael informed the collection agency that they were out of time, and neither he nor Mary heard from them again.

But for the Plan, the \$17,000 that Mary was going to pay to the collection agency may not have gone to her nephew, Sam's only surviving child, who put it to good use.



*... Submitted by Michael Maddalena,  
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