

In the Month of February in the Year of Our Lord, Jesus the Christ, 2004

**AFFIDAVIT
OF
LILLIAN FRANCES GUNDER**

I, Lillian Frances Gunder, Affiant, brings this Affidavit of her own personal first hand knowledge, competent to bring forth this Affidavit and testify, does declare and attest in a good faith manner to the facts herein stated are True, Correct, Certain and not to be misleading so help me God, and do state:

1. Affiant, is over 18 years of age, competent to testify, and has first hand knowledge of the facts stated herein, and,
2. Affiant, has lived in Montana for better than eighteen (18) years, in Ravalli County for approximately 18 years, and,
3. Affiant, is the mother of two (2) children, Theodore (hereto after referred to as 'Teddy') Alexander Warren, D.O.B. 11/24/89 and Alexander Elroy Gunder, D.O.B. 9/26/99 and the daughter of Alexander Kostuk (deceased) and Hildegarde Kostuk (83 years of age), sister of Arthur Kostuk (51 years of age), and,

SHORT HISTORY:

4. Affiant, states that in the month of January in the year of 2001, a caseworker from Child Protective Services of Ravalli County and a Ravalli County Sheriff's officer took affiant's son, Teddy, from the care and custody of the affiant while under the supervision of affiant's brother, Arthur, from the parking lot of the Stevensville IGA (previously called Bi-Lo) and,
5. Affiant, states that there had been some emotional problems prior to the taking by CPS with affiant's son, Teddy, after the death of affiant's father (Teddy's grandfather), Alexander Kostuk in December 2000, affiant's son had left affiant's home without permission and wanted to stay at his grandparent's home (1/2 mile from affiant's home) with his uncle Arthur and grandmother Hildagarde, affiant tried to talk Teddy, into coming home but relented, giving way to the emotional state of her son, thinking that with time he would return, affiant even called the Ravalli County Sheriff's department in hopes that affiant's son would consider coming home after they had visited, the officer inquired into the situation, found Teddy to be safe in the care of his uncle and grandmother and had no problem leaving him there, the officer conceded that the situation was best dealt within the family unit, and,
6. Affiant, states that on February 16th of 2001, Adult Protective Services of Ravalli County caseworker, Jim Mason, took custody of the affiant's mother, Hildegarde Kostuk from the parking lot of the Missoula Wal-Mart, it was affiant's mother's birthday, she was with Arthur, the affiant's brother, and,
7. Affiant, states that affiant's mother had been having problems with her medical care decisions and her doctor (Dr. Evert, now retired) had not been giving her the correct medications resulting in erratic behaviors, which was subsequently blamed on the affiant's brother, Arthur, who was taking care of her at the time. Adult protective services became involved and developed a treatment plan, affiant's mother did not make efforts to adhere to the arrangements made by APS as is the prerogative of the individual and their right to be in charge of their person, other stipulations were made by APS that

were not followed through with due to circumstances beyond the control of her, son, Arthur and affiant's aging father (this situation started in the spring before affiant's father died) and,

8. Affiant, states that matters concerning her mother escalated due to her resistance at being forced to do things against her will and choice, affiant also states that previous to a broken hip in 1996 or 1997, her mother was in control of her person, after the hip injury she experienced some problems with arthritis and some depression, she was put on pain medication and mood-altering drugs which seemed to aggravate her personality and she began hallucinating which caused her to go to the Missoula Providence Center on her own accord that was when APS was called in by her doctor then she really began to have problems with the drugs and administering them correctly which ended in her being taken from the care of her son Arthur and taken by APS and put into a nursing home, now she resides in a senior independent living home, affiant's brother, Arthur was blamed for the end results, and,
9. Affiant, states that her brother tried his best to comply but had to deal with his mother's stubbornness which is still experienced by workers in her present living situation, and,
10. Affiant, states that it is the circumstances of the forced removal of her mother from the family by APS caseworker, Jim Mason (he shoved her into his pickup when she resisted him), the forced sale of the family home in which her brother had residence for 18 years (Arthur has been diagnosed with Tourettes syndrome), the subsequent treatment of the affiant and her brother by APS, the selling of the family home, the lack of concerned, fair representation of her mother by court appointed attorney, Mark McLaverty, the 'alleged theft' of family heirlooms by the court appointed conservator, Richard Weber, for his own profit, violations of U.S. Constitutionally protected rights, MCA and the rights of the elderly, and,

INREFERENCE TO AFFIANT'S SON, TEDDY:

11. Affiant, states that it has been exactly 3 years since they took affiant's son, Teddy; affiant was not financially able to hire her own attorney and one was appointed to her by Judge Langton of the 21st Judicial Court, and,
12. Affiant, states that affiant's court ordered attorney, Charles Umhey, did not afford the affiant with 'due process' defense counsel because affiant's attorney stated, "The department has too much power" and that he "could not fight them alone." He also stated there was "nothing he could do", and,
13. Affiant, states that Child Protective Services by and through community caseworker of Ravalli County, Rhonda Harris, has 'run rough-shod' over her family and children through abuses of her authority in the situation with her son, Teddy, and,
14. Affiant, states that she finished the treatment plan and all other requirements stipulated by Child Protective Services, to no avail in being reunited with her son, and,
15. Affiant, states that department approved psychologist, Carol Blum, did an evaluation on the affiant that suggested the affiant was incapable of raising 'two children' and that according to 'expert opinion' Teddy is suffering from attachment and defiant disorders and was diagnosed with 'fetal alcohol syndrome' upon the accusations by affiant's parents and brother, that the affiant had a problem with alcohol while pregnant which was never proven through urinalysis testing or other medical means when Teddy was 3 years old, at that time there was a family power struggle involving Teddy, the evaluation was also based on the assumption that because he was small for his age (he was premature by 1 month), his 'inherited' delayed speech problem and shyness was also a basis for concluding he had 'fetal alcohol' syndrome; the evaluation was done by Shodair 'experts' who applied no hands on testing for the alleged 'fetal alcohol' syndrome just interviewed Lillian and Teddy, and,
16. Affiant, states that she tried to tell the evaluators that she did not have a problem with alcohol at the time but has completed all requirements involving any drug/alcohol treatment evaluations, classes and

counseling against her will and better judgment in order to reunite with her son, Teddy, to no avail, and,

17. Affiant, states that in November 2002, Child Protective Services was granted permanent legal custody with the right of placing her son, Teddy, into a permanent living situation with the current foster parents until he is 18 years old, and,
18. Affiant states that the truth of her case with her son, Teddy, has never received 'due process' because of the lack of competent counsel and the 'rubber stamping' of department requests by the judges involved in the case, without actual facts or evidence that she is incapable of caring for her child considering she is raising another son with little or no difficulty, and,
19. Affiant states that in the court hearing involving her son, Teddy, in November 2002, caseworker, Rhonda Harris, made threatening remarks about the possibility of removing her younger son based on Carol Blum's testimony that the younger son had the same speech problem as Teddy; affiant states that the speech problem is one of inherited genetics and that the issue of genetics has never been addressed for both of her son's speech problems or growth delays, and,
20. Affiant, states that when she mentioned that she wanted to appeal the court's decision of permanent placement her visitations were withheld, not by and through the court but in 'contempt' of the court's order for visitation (see exhibit A from treatment plan, court order withheld, after numerous requests, from affiant by her appointed attorney, Charles Umhey), by Teddy's therapist, Debra Ruggerio and backed up by caseworker, Rhonda Harris, because they did not want Teddy to know that affiant was continuing reunification efforts, and,
21. Affiant states that she was told in a meeting on November 21st 2002, with Dr. Ruggerio, as witnessed by her personal advocate, Kandi Matthew-Jenkins, to consider the permanent placement of affiant's son, Teddy, as a 'divorce' and to just take the supervised visits as was court ordered without seeking reunification; no visits took place from November 2002 until August 2003 and then twice every other week for 2 hours, this only happened after affiant directed her court appointed attorney, Charles Umhey, to stop appeal efforts because her visits with Teddy were being withheld due to her desire to appeal the court's decision and reunite with her son, Teddy, (see exhibit B) and,
22. Affiant states that Teddy is still in foster care, that visitations are limited in contempt of the court order of November 8th 2002, Teddy has been allowed to be removed from the state of Montana on numerous occasions and in under bad weather conditions, without the knowledge of the affiant whose 'parental rights' have not been terminated, these trips have caused the affiant great stress and duress about Teddy's safety and well-being, that Teddy remains in a foster care home that is not of the same religious affiliation as the affiant, Teddy has been brought up as a Catholic attending Mass with his natural family in the past, that he is being indoctrinated into the Mormon religion, that Teddy was put into daycare for the summer at the age of 13 years old because the foster parents do not have the time to watch the children due to their business activities, it has been reported to the affiant that her son has been hit by the foster father and as punishment one time he was not allowed to go to the bathroom when needed, that the affiant is worried and concerned that the 'best interests' of her son are not being met in foster care, that the affiant states he is being taken care of outside the home by hanging around one of the businesses owned by the foster parents and Super 1 grocery store, that the affiant's son, Teddy, has been enticed with expensive vacations at the taxpayer's expense and in competition with the affiant's ability to provide such types of vacations, affiant's son, Teddy, has shown evidence of intimidation by the foster parents, always looking to see if they are watching him when affiant meets Teddy and the foster parents in public (as did the other 2 children that were in the foster parents care), and,
23. Affiant finally states in the case of her son, Teddy, that there was no factual evidence presented in court proving she was unfit to care for her son and that her Constitutional right to the enjoyment of her son, Teddy, has been taken 'under color of law' violating her parental rights, and,

IN REFERENCE TO AFFIANT'S MOTHER, HILDEGARDE KOSTUK:

24. Affiant states in the case of her mother, Hildegard Kostuk, that the same patterns employed by Child Protection Services apply to the situation concerning Adult Protective Services and her mother, and,
25. Affiant, states in the process of taking over guardianship of affiant's mother that her rights have also been violated through 'abuses of power' concerning the guardian, Lori Smith, APS caseworker and previous caseworker, James Mason, of Ravalli County, that the affiant was restricted in her visitations with her mother, that affiant's family home was sold for well under market value without consideration of her brother's disabilities and his abilities to care for affiant's mother under false allegations and assumptions brought into court by APS and it's various stakeholders who stood to make a profit by and through a contested guardianship, that her mother had drugs forced upon her so as not to be able to stand up for herself in the matters concerning her living arrangements and disposal of any personal property, that her mother was subjected against her will to a psychiatric evaluation by a doctor contracted by the state and not of her own choosing insuring that the evaluation would give government employees the right to control her life and property, that the conservator appointed to affiant's mother's estate, Richard Weber, literally took without permission several works of art from her parents home in April of 2001 and sold them under appraised value in January of 2003 and the accounting thereof seems to be very 'unlawful' but the accuracy of such accounting and explanation of laws governing such sales and splits of monies gained have never been thoroughly explained by anyone to the affiant or her brother, Arthur, and,
26. Affiant being without sufficient funds to hire legal counsel has been kept from receiving any accurate information about her mother's estate and contends that her mother's appointed conservator is in breach of his fiduciary duties to manage her mother's estate not just dispose of it the way he sees fit, that the family home and it's personal family heirlooms and belongings should have been passed down to the affiant's heirs and not confiscated by a governmental agency and it's appointed stakeholders to pay their outrageous bills, and,
27. Affiant, states that she has been deprived of the enjoyment of relationship with her mother due to the suspension of visits with her mother between April of 2001 until September 2001, after September 2001 affiant was given supervised visits twice a month, affiant states that starting in May 2002 affiant was able to freely visit with her mother, Hildegard Kostuk, that affiant's mother is under the influence of behavioral drugs against her mother's will and personal wishes for no apparent medical reason, that Jim Mason threatened the affiant with withholding visitation with her mother and did so because of an article in the Missoula Independent, in the spring of 2001, concerning the affiant's mother and dealings with APS and it's associated stakeholders, Jim Mason also threatened to have affiant's husband arrested for speaking out when affiant's mother refused to go back to the rest home, Jim Mason threatened the affiant's brother, Arthur with arrest for defending affiant's mother when he didn't take her to the rest home when she requested to be taken to Wal-Mart the day of her birthday in 2001, that false allegations have been made against the affiant and she has suffered not only loss of relationship with her mother but has had her character slandered and defamed, and,
28. Affiant finally states that her mother no longer needs constant care, that her mother's estate and legal situation should be investigated for Medicaid and conservator fraud, that her mother's rights should be respected and that her mother has suffered grievous treatment while in the care of Adult Protective Service providers, and,

CONCLUSION:

29. Affiant in conclusion states in both the case of Child Protective Services and her son, Teddy Warren and her mother, Hildegard Kostuk's case with Adult Protective Services, divisions of the Department of Health and Human Services of the state of Montana, that the state has invaded family privacies and violated the rights of all family members involved as protected by the Constitution of the united States

