



Clerk's Stamp

**COURT FILE NUMBER:** 1501 00955

**COURT:** COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

**JUDICIAL CENTRE:** CALGARY  
IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**APPLICANTS:** LUTHERAN CHURCH-CANADA, THE ALBERTA  
BRITISH COLUMBIA DISTRICT, ENCHARIS  
COMMUNITY HOUSING AND SERVICES,  
ENCHARIS MANAGEMENT AND SUPPORT  
SERVICES, AND LUTHERAN CHURCH-CANADA  
, THE ALBERTA-BRITISH COLUMBIA DISTRICT  
INVESTMENTS LTD.

**DOCUMENT:** APPLICATION BY RANDY KELLEN

**ADDRESS FOR SERVICE  
AND CONTACT INFORMATION  
OF PARTY FILING THIS  
DOCUMENT:** Terry L. Czechowskyj  
Miles Davison LLP  
1600, 205 – 5<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 2V7  
Telephone: (403)298-0326  
Facsimile: (403)263-6840

**NOTICE TO APPLICANTS(S)**

This application is made against you. You are the Applicants.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: Monday June 8th , 2015

Time: 2 P.M.

Where: Calgary - Calgary Courts Centre, 601-5 Street SW, Calgary, AB T2P 5P7

Before Whom: The Honourable Madam Justice Streckfuss, Commercial List

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. An Order to terminate and lift the stay of proceedings as against the officers and directors of the Applicants in order that proceedings may be commenced as against them for alleged breaches of their fiduciary duties and negligence in the performance of their duties to Randy Kellen and other investors, depositors and creditors of the Applicants
2. An Order to vary paragraph 46 of the initial order to disclose the contact information of the investors and creditors of the Applicants

**Grounds for making this application:** The grounds for the Application are as follows:

3. As a Court sanctioned CRO has been appointed for the Applicants the stay is not required as against the officers and directors
4. The allegations of negligence and breach of fiduciary duties are not claims that can be compromised in the CCAA proceedings in regards to the officers and directors of the Applicants
5. There is no substantial prejudice to the Applicants to have the stay lifted in regards to the officers and directors . The lifting of the stay will not unduly interfere with the efforts of the Applicants to restructure and present a plan of compromise to its creditors.
6. Such further and other grounds as counsel for the Applicants may advise.

**Material or evidence to be relied on:** The Applicants will rely on the following:

7. The Affidavit of Randy Kellen sworn May 15, 2015
8. The Initial Order granted in the within proceedings on January 23, 2015
9. Such further and other material and evidence as counsel for the Applicants may advise.

**Applicable rules:**

10. Rule 6.1- 6.3 and 6.9 of the *Alberta Rules of Court*, Alta. Reg. 124/2010.
11. Such further and other rules as counsel for the Petitioners may advise.

**Applicable Acts and regulations:**

8. The Companies' Creditors Arrangement Act R.S.C. 1985 c C-36, as amended
9. Such further and other acts and regulations as the Applicants may advise.

**Any irregularity complained of or objection relied on:**

10. There are no irregularities complained of or objections relied on.

**How the application is proposed to be heard or considered:**

11. In person.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.