

Clerk's Stamp:

COURT FILE NUMBER 1401-05914

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT **CP ENERGY MARKETING LP**

RESPONDENT **KYOTO FUELS CORPORATION**

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

Dentons Canada LLP
Bankers Court
15th Floor, 850 - 2nd Street S.W.
Calgary, Alberta T2P 0R8
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File No.: 131079-90

NOTICE TO RESPONDENT(S):

This application is made against you. You are a respondent.

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 | May 1, 2015 |
| Time | 3:00 pm |
| Where | Calgary Courts Centre 601 – 5 th Street SW Calgary AB, T2P 5P7 |
| Before Whom | Justice Jeffrey |

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

Remedy claimed or sought:

1. An Order, in substantially the form attached hereto as Schedule "A", approving the sale of the lands and assets (collectively, the "**KFC Property**") of Kyoto Fuels Corporation ("**KFC**"), by the Receiver of KFC to 1866768 Alberta Ltd. (the "**Purchaser**").
2. Such further and other relief as may be sought and this Honourable Court deems just and appropriate.

Grounds for making this application:

3. On May 29, 2014, an Order was made appointing Ernst & Young Inc. (the "**Receiver**") as receiver and manager of KFC with the power to take possession, protect, manage, market and sell the KFC Property.
4. Following the conclusion of an extended sale process, from which no acceptable bids were received, the Receiver retained Avison Young Lethbridge Inc. to implement a marketing and sale strategy for the KFC Property.
5. The Receiver has negotiated a Purchase and Sale Agreement, dated January 21, 2015, with Pelican Transfer Inc. (the "**Pelican Agreement**"). The Pelican Agreement was extended by the Receiver and Pelican, but ultimately failed to close.
6. The Receiver has negotiated a new Purchase and Sale Agreement, dated April 14, 2015, with 1866768 Alberta Ltd. (the "**186 Agreement**"). The salient terms and conditions of the 186 Agreement include:
 - a) an aggregate purchase price of \$3,000,000;
 - b) the KFC Property is being sold on an as is where is basis; and
 - c) the 186 Agreement is subject only to the granting of the requested vesting order by this Honourable Court.
7. The Receiver believes the sale to the Purchaser represents the best achievable price for the KFC Property at the time of the filing of this Application. The sale to the Purchaser is supported by the senior secured creditors of KFC and recommended by the Receiver.
8. The earlier marketing efforts in respect of the KFC Property are described in greater detail in the Receiver's First and Second Reports.

Material or evidence to be relied on:

1. The First Report, Second Report and Third Report of the Receiver, all filed.

Applicable Rules:

1. *Alberta Rules of Court*, rule 6.25.

Applicable Acts and Regulations:

1. N/A

Any irregularity complained of or objection relied on:

1. N/A

How the Application is proposed to be heard or considered:

1. In person in Chambers.

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 time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of the affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.