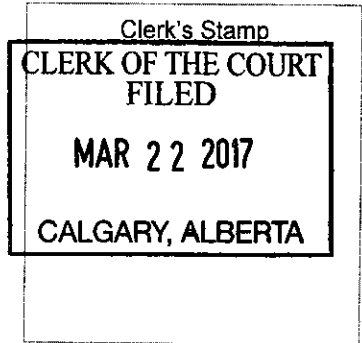


COURT FILE NUMBER 1501-00955
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS LUTHERAN CHURCH – CANADA, THE ALBERTA-BRITISH COLUMBIA DISTRICT, ENCHARIS COMMUNITY HOUSING AND SERVICES, ENCHARIS MANAGEMENT AND SUPPORT SERVICES, AND LUTHERAN CHURCH-CANADA, THE ALBERTA-BRITISH COLUMBIA DISTRICT INVESTMENTS LTD.



DOCUMENT: **APPLICATION BY GEORG BEINERT IN HIS CAPACITY AS CHAIRMAN OF THE DISTRICT SUBCOMMITTEE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Attn: Allan Garber
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Barrister and Solicitor
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Phone: (587) 400-9310
Fax: (587) 400-9313

NOTICE TO RESPONDENTS:

This application is made against you. You are a respondent. You have the right to state your side of this matter before the master

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

Date: April 19, 2017
Time: 1:00 p.m.
Where: Calgary Court Center, 601 – 5th Street SW, Calgary, Alberta
Before Whom: The honourable Justice B.E.C. Romaine in Chambers

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. A Declaration that the amended Alberta action no. 1603-03142 is compliant with the Fifth Amended Plan of Compromise and Arrangement filed June 10, 2016 and the District Subcommittee Order filed August 5, 2016.
2. In the alternative, if the amended Alberta Action is found not to be compliant with the Fifth Amended Plan of Compromise and Arrangement, an Order amending the Fifth Amended Plan of Compromise and Arrangement by adding the words “and/or take up and continue Alberta action no. 1603-03142 as part of the District Representative Action” at the end of the first sentence of paragraph 5.1, and an identical amendment to paragraph 20 of the District Subcommittee Order.
3. An Order lifting the stay of proceedings contained in the Initial Order, as amended from time to time.

Grounds for making this application:

4. The action filed in Court of Queen’s Bench of Alberta on February 22, 2016 as action no. 1603-03142 (the “Alberta Action”) was amended on December 16, 2016 by adding as Defendants Lutheran Church –Canada, the Alberta British-Columbia District and Encharis Community Housing Service, their officers and directors, and removing claims with respect to DIL.
5. Paragraph 9 of the District Subcommittee Order authorizes the District Subcommittee to take reasonable steps to maximize the amount of funds that are ultimately available for distribution to the District Representative Action Class.
6. The District Subcommittee instructed counsel to amend the Alberta Action in order to preserve an ultimate limitation date against Ronald Chowne and Prowse Chowne which expired June 10, 2016.
7. Prior to the Alberta Action being amended, counsel for the Monitor was advised of the proposed course of action. Counsel for the Monitor had no issue with the District Subcommittee proceeding with the amendments.
8. The Monitor is of the view that the Amendments do not undermine the District Plan or the various transactions contemplated thereby.
9. 75% of the individual members of the Representative Action class are in their retirement years (65 years of age or older). 57% of the individual members of the Representative Action class are 75 years of age and older. These elderly people are in many cases

impecunious and unable to pay for their care. It is imperative that the Representative Action proceed expeditiously on their behalf.

10. Only two non-core assets remain to be sold.

11. The balance of convenience favours lifting the stay of proceedings.

Material or evidence to be relied on:

12. The Affidavit of Georg Beinert filed March 21, 2017.

13. Initial Order filed January 23, 2015.

14. Order staying the Alberta Action filed March 22, 2016.

15. Fifth Amended Plan of Compromise and Arrangement filed June 10, 2016.

16. District Subcommittee Order filed August 5, 2016.

17. District Sanction Order filed August 5, 2016.

Applicable rules:

18. Rules 1.2(1)(2)(3); 1.4(1) (2) and 13.5(2) of the Alberta *Rules of Court*.

Applicable Acts and regulations:

19. N/A

Any irregularity complained of or objection relied on:

20. N/A

How the application is proposed to be heard or considered:

21. Before the presiding Justice 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 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.