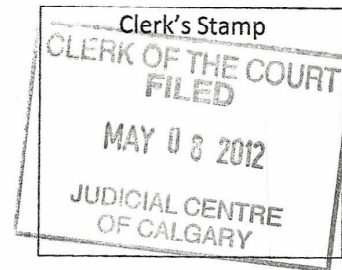


COURT FILE NO. 1101-17318
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



APPLICANTS

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A.
2000, c. B-9

AND IN THE MATTER OF LEGACY COMMUNITIES INC., AIRDRIE CAPITAL
CORPORATION, AIRDRIE COUNTRY ESTATES INC., RAILSIDE CAPITAL
INC., RAILSIDE INDUSTRIAL PARK INC., FOUNDATION PLACE CAPITAL
INC. and FOUNDATION PLACE INC.

DOCUMENT

AFFIDAVIT OF ERIC EVERITT

Sworn on May 7, 2012

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

ERIC EVERITT
13 – 49 St. Close Sylvan Lake Ab T4S 1K5
Alberta

AFFIDAVIT OF ERIC EVERITT
SWORN ON MAY 7, 2012

I, Eric Everitt, a businessman of Sylvan Lake, Alberta, swear and say that:

1. I make this Affidavit in response to the Application of the Unsecured Creditors Committee for the appointment of a Chief Restructuring Officer ("CRO") and the removal of Ron Aitkens as a director of the Debtors.
2. All the facts in this Affidavit are within my personal knowledge, except where I have stated something on the basis of my information and belief.

The Composition of the UCC

3. I have expressed my interest in serving on the Unsecured Creditors Committee (the "UCC"), but have been advised that because I was involved in selling these investments, I am not at arm's length to the Debtors and therefore cannot be on the UCC.
4. I have invested approximately \$1,200,000 in the different projects. I believe that I am the biggest single investor in Railside Capital Inc. and Railside Industrial Park Inc. (together, "Railside").
5. In late 2007, I attended a land syndication seminar in Red Deer and met Roy Beyer, sales manager of Foundation Capital Inc. ("Foundation"). I was impressed with the opportunity. In early 2008, I approached Roy Beyer and Ron Aitkens and applied for a sales position with Foundation. I was immediately successful and was soon the top salesman in the company, while I was still a full-time teacher. By May of 2008, I decided to retire from teaching to become a full-time salesman. I have sold investments in the projects of the various debtors of approximately \$10 million – most of these to people I know in the small community where I have lived and worked for a large part of my life, including my two sons, my brother and sisters, my nephew and niece and my niece's family.
6. I have not sold any investments relating to the Debtors for the last year or so. I am presently working as a salesman for Privest, an exempt market dealer. I have no relationship with Foundation at all and I have not been paid or promised any benefit for opposing the present application.
7. In March 2012, Kyle Brown called me because I was a large investor in Airdrie. We spent two hours on the phone discussing Harvest and my various investments. He asked me to consider being on the UCC.
8. However, at the meeting of the UCC in Calgary a few days later, on March 22, 2012, he pointed out that I had been one of the top salesmen for the Harvest Group. He was clearly opposed to having me on the UCC. He referred me to the lawyer, who was also not interested in having me on the UCC, despite acknowledging that I was a large investor.
9. On May 2, I emailed the lawyer for the UCC regarding my request to be on the UCC. I was told that although I was the largest single investor, I could not sit on the UCC because, as a result of the fact that I had been a salesman with Foundation, I was not at arms' length with the debtor. I attach copies of the email, as Exhibits A and B respectively. I do not accept this explanation. In fact, Shurko has also been a salesperson for Foundation.
10. I do not agree with the way the UCC has acted, while it is purportedly representing me. It does not represent my views or interests and the present application is a clear example of that.

Investor Meetings

11. Nicole Shurko ("Shurko") chaired the meeting in Calgary on March 22, 2012. I felt that she was obviously biased and I was concerned about a number of things she said to investors. When I pointed these out to her before the meeting the next night in Red Deer, she said that the presentation had already been prepared and that she could not change it. She referred me to Mr. LeGeyt, the lawyer for the UCC. We sat in the hallway going over my concerns. After every point

that I made - except for concerns I raised with respect to privacy - he agreed that Shurko had gone too far or had not stated the facts accurately. For example:

- 11.1. She criticized Ron for putting Airdrie and Legacy into bankruptcy protection when they did not have to do that. I pointed out that to protect all of the investors, it was in fact a prudent step to put the projects into CCAA. Mr. LeGeyt agreed with that.
- 11.2. She said that 8 million for Railside was missing. In fact, Ron's affidavit mentioned that \$7 million had been spent on servicing.
- 11.3. She suggested that Ron's team was going to get a 70/30 split or a 60/40 split for being the developer going forward with the projects. In fact, the Offering Memorandum does not state this and there is nothing on which this statement could have been based.
- 11.4. She stated that the Harvest Group would not release email addresses or phone numbers to the UCC, suggesting that this was sinister in some respect. It seems to me that there must have been privacy concerns, but I understand that Harvest has in fact released the email addresses and phone numbers.
- 11.5. She stated that the Offering Memorandum for Railside refers to about 320 acres. In fact, it talks about 304 acres.
- 11.6. During the question and answer period, one very angry investor threatened Ron Aitkens and dared him to show his face in Red Deer. In fact, Ron had wanted to attend the meeting to answer everyone's concerns, but Shurko would not allow it. She confirmed that after I had stated it.

Although at least one investor urged others at the meeting to consider all the facts before making any decisions, Shurko pressed investors to sign proxies as soon as possible, in support of the UCC.

12. My clear impression of these meetings was that the UCC was not interested in presenting a balanced view of the situation or at least allow Ron Aitkens to answer investors' questions, but that Shurko wanted to present a worst case scenario in order to obtain proxies to allow the UCC to take control of the present proceedings.

May 7 Discussion

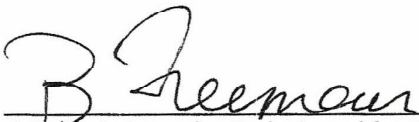
13. Mr. LeGeyt, counsel for the UCC, called me on May 7, 2012. We specifically discussed my request to be a member of the UCC.
14. He asked me a number of questions regarding my views on different issues, including the appointment of a CRO. I made my position clear - that there has simply not been enough time to determine if the present process will work and that the consequences of bringing in someone new at this point in time will seriously prejudice investors.

15. It appears to me that, despite my desire to become involved and my significant involvement in the projects and in Railside in particular, my request to become a member of the UCC is considered simply on the basis of whether my views agree with those of Mr. LeGeyt's clients.

The Application

16. I believe that the composition of the UCC does not adequately represent the interests of all investors and, in particular, that my exclusion is unreasonable. I also believe that the UCC has not presented a balanced view of the situation to investors to obtain proxies, in order to obtain control of the projects for its own purposes.
17. There is simply no basis, after only two months, to suggest that the current management is unreasonably impairing the possibility of a restructuring and that the appointment of a CRO is required and that the UCC has now lost all faith in the existing management.
18. In any event, for someone new to take over at this point will involve substantial costs and delay and will prejudice creditors.
19. I oppose the application to replace Ron Aitkens with a CRO.

Sworn before me at Sylvan Lake, Alberta on this,
the 7th day of May, 2012.


A Commissioner for Oaths in and for the
Province of Alberta


ERIC EVERITT

Elizabeth Gale Freeman
A Commissioner for Oaths in
and for the Province of Alberta
My Commission Expires July 23, 2013

Eric Everitt

From: "LeGeyt, David" <David.LeGeyt@fmc-law.com>
Date: May-04-12 1:55 PM
To: "Eric Everitt" <ericeveritt@shaw.ca>
Cc: "Wheatley, Gail" <Gail.Wheatley@fmc-law.com>; "Kyle Brown" <brownke@shaw.ca>
Subject: RE: UCC members
Eric,

Are you available for a conference call Monday morning to discuss these issues with Kyle Brown and myself?
We are available from 9:00 to noon. Please advise, thanks.

David LeGeyt, Partner
Fraser Milner Casgrain LLP | www.fmc-law.com
T 403 268 3075 | F 403 268 3100
E david.legeyt@fmc-law.com
15th Floor, Bankers Court, 850 - 2nd Street SW, Calgary AB, T2P 0R8
[Bio](#) | [vCard](#)

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From: Eric Everitt [<mailto:ericeveritt@shaw.ca>]
Sent: Thursday, May 03, 2012 8:16 AM
To: LeGeyt, David
Subject: Re: UCC members

Could you please explain how I'm ineligible to sit on this committee. I do not work for the Harvest Group, just like Nicole Shurko, I did sell for Foundation Capital but do not and have not sold anything for approximately a year. I am a extremely large investor in all four of these projects and have an interest for myself and especially for all of the investors that I sold to , just like Nicole Shurko.
Eric

From: LeGeyt, David
Sent: Thursday, May 03, 2012 8:06 AM
To: Eric Everitt
Cc: Wheatley, Gail
Subject: FW: UCC members

THIS IS EXHIBIT "A" referred to in the
Affidavit of Eric Everitt
Sworn before me this 7th
Day of May, A.D. 2012
B. Freeman
Commissioner for Oaths in and for the Province of Alberta

Mr. Everitt,

See below my email to Robyn Gurofsky which responds to your email to me of yesterday evening.

Regards.

David LeGeyt, Partner
Fraser Milner Casgrain LLP | www.fmc-law.com
T 403 268 3075 | F 403 268 3100

Elizabeth Gale Freeman
A Commissioner for Oaths in
and for the Province of Alberta
My Commission Expires July 23, 2013

07/05/2012

E david.legeyt@fmc-law.com

15th Floor, Bankers Court, 850 - 2nd Street SW, Calgary AB, T2P 0R8

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From: LeGeyt, David
Sent: Thursday, May 03, 2012 8:05 AM
To: Gurofsky, Robyn
Cc: Wheatley, Gail; Mann, David
Subject: UCC members

Robyn,

Further to your request of yesterday, here is the list of people we will seek court approval of as UCC members:

Legacy - Pentti Makila
Railside - Eldon Schechtel and Carol Cooper
Foundation Place - James Roemmich and Reg Slaymaker

Eric Everitt applied for a number of seats on the UCC, however it was determined that he is not eligible to sit on the UCC as he is not arms-length from the debtors.

I will file our application materials today or tomorrow and the hearing will be set for May 10 at 2:00 pm.

Regards.

David LeGeyt, Partner
Fraser Milner Casgrain LLP | www.fmc-law.com
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E david.legeyt@fmc-law.com
15th Floor, Bankers Court, 850 - 2nd Street SW, Calgary AB, T2P 0R8
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THIS IS EXHIBIT "B" referred to in the
Affidavit of Eric Everitt
Sworn before me this 7th
Day of May, A.D. 2012
B. Cheeman
A Commissioner for Oaths in and for the Province of Alberta

Elizabeth Gale Freeman
A Commissioner for Oaths in
and for the Province of Alberta
My Commission Expires July 23, 2013

07/05/2012