



Clerk's stamp:

COURT FILE NUMBER 1101-17318

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 and AIRDRIE
COUNTRY ESTATES INC., RAILSIDE CAPITAL INC.,
RAILSIDE INDUSTRIAL PARK INC., FOUNDATION
PLACE CAPITAL INC., and FOUNDATION PLACE INC.,**

DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT



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File No.: 548427-1

AFFIDAVIT OF KYLE BROWN

Sworn on May 7, 2012

I, Kyle Brown, of the City of Calgary, in the Province of Alberta, Professional Engineer, SWEAR AND SAY THAT:

1. I am directly or through my company a creditor of Legacy Communities Inc. ("Legacy") in the original principal amount of \$25,000.00, and a creditor of Airdrie Capital Corporation ("ACC") in the original principal amount of \$120,000.00. I have been personally involved in the events

hereinafter deposed to, and as such I have personal knowledge thereof, except where stated to be based on information and belief, and where so stated, I do verily believe the same to be true.

2. By Order granted on January 19, 2012 this Honourable Court established a committee of the Unsecured Creditors of the debtors in these proceedings (the "UCC"). The initial members of the UCC are myself, Nicole Shurko and Lucille Gans.
3. By order granted March 21, 2012 four new members were added to the UCC, Barry Devlin and Don Stewart for Legacy, and Wayne McKeen and Doug Nyesetvoldt for Airdrie. Subsequently Don Stewart resigned from the UCC.
4. By order granted March 21, 2012 Railside Capital Inc. and Railside Industrial Park Inc., and Foundation Place Capital Inc. and Foundation Place Inc. were added as debtors in these proceedings. The Affidavit sworn in these proceedings on April 11, 2012 contains at Exhibits "B" and "C" the letters and questionnaires legal counsel to the UCC sent to all of the bondholders of Railside Capital Inc. ("Railside"), Foundation Place Capital Inc. ("Foundation Place") and Legacy canvassing their desire to serve on the UCC.
5. Since those letters and questionnaires were mailed out to all of the bondholders of Railside, Foundation Place and Legacy a total of 15 questionnaires have been returned by individuals indicating that they consented to serving on the Unsecured Creditors Committee.
6. Subject to approval by this Honourable Court, and paragraphs 7-13 below, the following individuals have qualified, and have been accepted for membership on the UCC as a result of having the largest claim against Legacy, and the two largest claims against either Foundation Place or Railside, and being arms-length from the debtors and their management:

Legacy

- a) Mr. Pentti Makila

Railside

- a) Mr. Eldon Schechtel
- b) Ms. Carol Cooper

Foundation Place

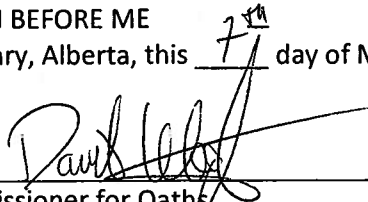
- a) Mr. James Roemmich
- b) Mr. Reg Slaymaker

7. The UCC requires the advice and direction with respect to whether Mr. Eric Everitt is qualified to sit on the UCC as a Railside member.
8. The Order previously granted in these proceedings which speaks to the addition of new UCC members when new debtors are added to these proceedings requires that the individuals in question be "arms length" and "hold the largest claims against each new debtor".
9. An individual named Eric Everitt has applied to join the UCC. While Mr. Everitt holds one of the two largest claims against Railside, the UCC is concerned that he is not arms length from the

debtors or their management and therefore is not qualified to sit as a Railside member of the UCC.

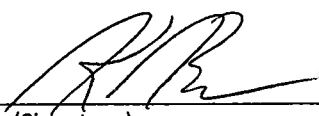
10. As a result of the UCC's concerns about Mr. Everitt a teleconference was held on May 7, 2012 involving Mr. Everitt, myself, and legal counsel to the UCC.
11. In our conference call I was advised by Mr. Everitt, and do verily believe that:
 - (a) Mr. Everitt has been a direct sales agent of Foundation Capital/Harvest Group selling investments on behalf of those issuers commencing in January of 2007;
 - (b) Eric Everitt was "exclusive" to Foundation Capital/Harvest Group, meaning he did not sell securities on behalf of any other issuer;
 - (c) From June, 2007 to April or May of 2011, selling investments for Foundation Capital/Harvest Group was Mr. Everitt's full time occupation;
 - (d) During this time Mr. Everitt sold approximately \$10 million of Founation Capital/Harvest Group investments;
 - (e) Mr. Everitt refused to disclose the number of investors he sold these investments to;
 - (f) Mr. Everitt was one of the top selling agents for Foundation Capital/Harvest Group; and
 - (g) Mr. Everitt has signed a proxy against the appointment of a CRO and he stated that he shares this opinion with other investors every day.
12. After about 25 minutes on the telephone conference Mr. Everitt disclosed that he had legal counsel, however he refused to identify that legal counsel to the UCC's legal counsel. As a result the teleconference was concluded.
13. For these reasons and others the UCC does not believe Mr. Everitt is arms-length from the Debtors and is therefore ineligible to sit as a Railside member of the UCC.
14. I make this Affidavit in support of an application for an Order amending the Order granted in these proceedings on January 19, 2012, and for advice and direction in respect of Mr. Everitt.

SWORN BEFORE ME
at Calgary, Alberta, this 7th day of May,
2012


(Commissioner for Oaths
in and for the Province of Alberta)

PRINT NAME AND EXPIRY/LAWYER

David LeGeyt
Barrister & Solicitor


(Signature)

Kyle Brown