

COURT FILE NUMBER Q.B.G. No. 1038 of 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

APPLICANT HUMBOLDT BRONCOS MEMORIAL FUND INC.

IN THE MATTER OF *THE INFORMAL PUBLIC APPEALS ACT*, SS 2014, c I-9.0001

AND IN THE MATTER OF FUNDS DONATED THROUGH THE GOFUNDME ONLINE FUNDRAISING PLATFORM IN RESPONSE TO AN ACCIDENT ON APRIL 6, 2018 INVOLVING PERSONS TRAVELLING ON THE HUMBOLDT BRONCOS JUNIOR HOCKEY TEAM BUS

ORDER
(Initial Order Under the IPAA)

Before the Honourable Mr. Justice N.G. Gabrielson on Wednesday, the 15th day of August, 2018.

Upon the Application of Jeffrey M. Lee, Q.C. and Paul Olfert, counsel on behalf of **HUMBOLDT BRONCOS MEMORIAL FUND INC.** ("HBMFI"), and upon reading the Notice of Application dated July 24, 2018; the Affidavit of Darrin Duell sworn on June 29, 2018; the Affidavit of Sylvie Kellington sworn on June 22, 2018; the Brief of Law dated July 24, 2018 and the draft Order, all filed, and the pleadings and proceedings herein, and upon hearing from counsel for HBMFI;

The Court Orders, Adjudges and Declares As Follows:

Declarations Under the IPAA

1. The appeal for donations entitled "Funds For Humboldt Broncos" hosted on the online "crowdfunding" platform known as "GoFundMe" from April 6 to April 18, 2018 (the "**GoFundMe Campaign**") which was established as a result of the tragic accident of April 6, 2018 involving the team bus (the "**Bus**") transporting the Humboldt Broncos Junior hockey team and associated persons (the "**Accident**") is a "public appeal" within the meaning of *The Informal Public Appeals Act*, SS 2014, c I-9.0001 (the "**IPAA**").
2. The funds donated pursuant to the GoFundMe Campaign, net of payment processing fees charged by "GoFundMe" and net of other deductions made by "GoFundMe", in the approximate amount of \$14,641,989.18 (the "**Net Funds**") are subject to a "trust" (the "**Trust**"), within the meaning of the IPAA, for the benefit of the object of the GoFundMe Campaign.
3. The object of the GoFundMe Campaign, as expressed in the following words by Ms. Sylvie Kellington, organizer of the GoFundMe Campaign:

"Please help us raise money for the players and families affected. Money will go directly to families to help with any expenses incurred".

is the object of the Trust (the "**Object of the Trust**").

4. The Trust is enforceable in accordance with the IPAA.
5. HBMFI is the trustee of the Trust, within the meaning of the IPAA.

6. The Trust and the Net Funds are governed by the laws of Saskatchewan and the Courts of Saskatchewan have jurisdiction over the Trust and the Net Funds.
7. The IPAA applies to the Trust and the Net Funds.
8. This Initial Order is the "governing authority" of the Trust. No "trust document" in regard to the Trust exists or is necessary under the IPAA.

Investment of the Net Funds

9. HBMFI (and/or its counsel, on behalf of and in trust for HBMFI) shall be and is hereby authorized and directed to invest the Net Funds in one or more high interest savings accounts managed by the Saskatoon, Saskatchewan branch of the brokerage firm RBC Dominion Securities Inc. ("**RBCDS**"), with such investment management services to be provided by RBCDS to HBMFI at no cost to HBMFI.

Interim Distribution

10. HBMFI (and/or its counsel, on behalf of HBMFI) shall be and is hereby authorized and directed to make an interim distribution of the Net Funds (not to exceed ten percent of the Net Funds) by paying the sum of Fifty Thousand (\$50,000.00) Dollars:
 - a) to each of those thirteen persons who were injured in the Accident; and
 - b) to the families of those sixteen persons who lost their lives as a result of the Accident;

all in the manner more particularly described in Schedule "A" to this Initial Order.

Advisory Committee, Information Resource Persons & Legal Counsel to HBMFI

11. HBMFI shall be and is hereby authorized to engage the services of the following persons at no cost to HBMFI:
 - a) an advisory committee of those five prominent, experienced and knowledgeable persons more particularly described in Schedule "B" to this Initial Order (the "**Advisory Committee**") to inquire into and to prepare a report to the board of directors of HBMFI (the "**Advisory Committee Report**") containing the recommendations of the Advisory Committee regarding the allocation of the Net Funds, in a fair, equitable and transparent manner which is consistent with the Object of the Trust;
 - b) those three information resource persons more particularly described in Schedule "C" hereto (or such other information resource persons as the board of directors of HBMFI may designate in writing to act in the place and stead of any of such three persons who may be unavailable to provide those services hereinafter described)(the "**Information Resource Persons**") to gather information pertaining to the current circumstances and the anticipated future needs and interests of those twenty-nine persons who were travelling on the Bus at the time of the Accident (and their respective families, as may be applicable in the circumstances) and to prepare and deliver reports regarding such matters to the Advisory Committee;
 - c) the law firm of MLT Aikins LLP, to serve as legal counsel to HBMFI; and

- d) the accounting firm of MNP LLP, to serve as accountants to HBMFI.
12. In carrying out its mandate to prepare the Advisory Committee Report, the Advisory Committee shall adhere to the following terms of reference established for the Advisory Committee by the board of directors of HBMFI on June 20, 2018:

To determine how to distribute the funds raised through the GoFundMe website among the 29 persons on the Humboldt Broncos team bus at the time of the accident on April 6, 2018, or if such persons are deceased, the families of such persons.

13. The Advisory Committee shall use its reasonable best efforts to prepare the Advisory Committee Report on or before October 15, 2018 (or such later date as may be ordered by this Court on subsequent application by HBMFI).

14. None of:

- a) the former, current or future members, directors or officers of HBMFI;
- b) the former, current or future legal counsel, accountants or other professional advisors to HBMFI;
- c) the members of the Advisory Committee;
- d) the Information Resource Persons; and/or
- e) the directors, officers, employees and partners of those persons described above in paragraphs 14(a), 14(b), 14(c) and 14(d) hereof;

shall incur any liability or obligation as a result of their respective appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

15. No person shall commence or continue a proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") against any one or more of:

- a) the former, current or future members, directors or officers of HBMFI;
- b) the former, current or future legal counsel, accountants or other professional advisors to HBMFI;
- c) the members of the Advisory Committee;
- d) the Information Resource Persons; and/or
- e) the directors, officers, employees and partners of those persons described above in paragraphs 15(a), 15(b), 15(c) and 15(d) hereof;

arising from, relating to or in connection with:

- f) their respective appointment under this Order;
- g) their carrying out of the provisions of this Order;
- h) the Accident;

- i) the Net Funds; or
- j) the GoFundMe Campaign;

without first obtaining an Order of this Court (on notice to such persons against whom it is proposed that a Proceeding be commenced or continued) granting such person leave to commence such Proceeding, and any such Proceeding commenced without such leave being obtained is a nullity.

Declaration Under the *Canada Not-for-profit Corporations Act*

16. The Special Purpose Indemnity Agreement dated June 24, 2018 which was granted by HumboldtStrong Community Foundation in favour of Robert Eichorst, Dalyn Graff, Kevin Garinger, Darrin Duell, Randolph MacLean, Jay Fitzsimmons and Kathleen Keen shall be and is hereby approved as a valid and enforceable indemnity under section 151 of the *Canada Not-for-profit Corporations Act*, SC 2009, c 23.

Final Order Application

17. The hearing of an application by HBMFI for a final order of the Court approving of the proposed allocation of the Net Funds (the "**Final Order Application**") shall take place before the Honourable Mr. Justice N.G. Gabrielson at the Court House, 520 Spadina Crescent East, Saskatoon, Saskatchewan at 10:00 o'clock in the forenoon, on ____ day, the ____ day of _____, 2018 (the "**Final Order Application Hearing Date**").

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this ____ day of August, 2018.

(DEPUTY) LOCAL REGISTRAR

This **Initial Order** was delivered by:

If prepared by a lawyer for the party:

Name of firm:	MLT Aikins LLP
Name of lawyer in charge of file:	Jeffrey M. Lee, Q.C.
Address of legal firms:	1500 - 410 22nd Street East Saskatoon, Saskatchewan S7K 5T6
Telephone number:	(306) 975-7136
Fax number (<i>if any</i>):	(306) 975-7145
E-mail address (<i>if any</i>):	jmlee@mltaikins.com
File Number:	68034.1

Schedule "A" – Particulars of Interim Distribution

Person on the Bus at the time of the Accident on whose account an Interim Distribution is being made	Amount of Interim Distribution	Interim Distribution payable to
Logan Alexander Boulet	\$50,000	Bernadine and Toby Boulet (parents)
Adam Scott Herold	\$50,000	Russell and Raelene Herold (parents)
Logan William Hunter	\$50,000	Shauna Nordstrom (mother)
Jaxon Christopher Joseph	\$50,000	Chris and Andrea Joseph (parents)
Jacob Paul Benjamin Leicht	\$50,000	Kurt Leicht and Celeste Leray-Leicht (parents)
Conner Jamie Lukan	\$50,000	Lorne and Robin Lukan (parents)
Logan Evan Schatz	\$50,000	Bonnie and Kelly Schatz (parents)
Evan Thomas	\$50,000	Laurie and Scott Thomas
Parker Allen Tobin	\$50,000	Eddie Tobin and Rhonda Clarke-Tobin (parents)
Stephen Wack	\$50,000	Alan and Trish Wack (parents)
Tyler Anthony Bieber	\$50,000	Marilyn Hay (mother)
Dayna Brons	\$50,000	One, all, or some combination of the following, as agreed to in writing by the following persons or as ordered by the Court: 1) Lyle and Carol Brons (parents) 2) Brenden Prokopchuk (spouse)
Mark Travis Cross	\$50,000	One, all, or some combination of the following, as agreed to in writing by the following persons or as ordered by the Court: 1) Brad and Marilyn Cross (parents) 2) Molly Schnell (spouse)
Glen Doerksen	\$50,000	Karen Doerksen (spouse)
Darcy Haugan	\$50,000	Christina Haugan (spouse)
Brody Joseph Hinz	\$50,000	Darlene Hinz (mother)
Graysen Cameron	\$50,000	Graysen Cameron
Brayden Camrud	\$50,000	Brayden Camrud
Kaleb Dahlgren	\$50,000	Kaleb Dahlgren
Bryce Fiske	\$50,000	Bryce Fiske

Morgan Gobeil	\$50,000	Morgan Gobeil
Matthieu Gomercic	\$50,000	Matthieu Gomercic
Xavier Labelle	\$50,000	Xavier Labelle
Layne Matechuk	\$50,000	Layne Matechuk
Derek Patter	\$50,000	Derek Patter
Nick Shumlanski	\$50,000	Nick Shumlanski
Tyler Smith	\$50,000	Tyler Smith
Ryan Straschnitzki	\$50,000	Ryan Straschnitzki
Jacob Wassermann	\$50,000	Jacob Wassermann

Schedule "B" – Members of Advisory Committee

<u>NAME</u>	<u>RESIDENCE</u>
The Honourable Dennis Ball	Regina, Saskatchewan
Mark Chipman	Winnipeg, Manitoba
Hayley Wickenheiser	Calgary, Alberta
Dr. Peter Spafford	Saskatoon, Saskatchewan
Kevin Cameron	Lethbridge, Alberta

Schedule "C" – Information Resource Persons

Name	Residence
John Gabrysh	Tisdale, Saskatchewan
Penny Lee	Humboldt, Saskatchewan
Sandra Boswell	Saskatoon, Saskatchewan