Clerk's stamp:

EDMONTON

1103 14112 **COURT FILE NUMBER**

COURT OF QUEEN'S BENCH OF ALBER COURT

IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN, OF THE SAWRIDGE INDIAN BAND, NO. 19 now known as SAWRIDGE FIRST NATION ON APRIL 15, 1985

(the "1985 Sawridge Trust")

APPLICANTS ROLAND TWINN,

WALTER FELIX TWIN,

BERTHA L'HIRONDELLE, and

CLARA MIDBO,

CATHERINE TWINN, as trustees for the 1985

Sawridge Trust (the "trustees")

DOCUMENT

JUDICIAL CENTRE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **APPLICATION**

Dentons Canada LLP 2900 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3V5

Attention:

Doris C.E. Bonora

Telephone:

(780) 423-7100

Fax:

(780) 423-7276

File No:

551860-001-DCEB

Reynolds Mirth Richards & Farmer LLP

3200, 10180 101 Street Edmonton AB T5J 3W8

Attention:

Marco S. Poretti

Telephone:

(780) 497-3325

Fax:

(780) 429-3044

NOTICE TO RESPONDENT

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

June 30, 2015

Time

2:00pm

Where

Law Courts Building,

Edmonton Alberta

Before Whom

Justice D. Thomas

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

Remedy claimed or sought:

- Advice and direction with respect to the litigation plan which is attached hereto as Schedule "A".
- 2. Advice and direction with respect to the offer of settlement which is attached hereto as Schedule "B".
- 3. Advice and direction with respect to the Public Trustee of Alberta retaining out-of-province lawyers to advise and provide research at significant costs to the trustees, when able lawyers exist in Alberta.
- 4. Advice and direction with respect to a full audit and review of this matter with all accounts including those of agents retained by the Public Trustee, produced in full without redaction.
- 5. Such further and other relief as this Honourable Court deems just and appropriate.

Grounds for making this application:

- 6. The litigation in this action seems to have stalled and the trustees seek the direction of the Court to set a litigation plan as set out in Schedule "A" or as may be directed by the Court.
- 7. The trustees have made a settlement offer to the Public Trustee of Alberta which settles all issues for the minor children who are affected by a change in definition of the 1985 Sawridge Trust. The trustees seek direction on the narrow issues which must be addressed if all the minor children who would be excluded by the change in definition are given irrevocable beneficiary status in the 1985 Sawridge Trust.
- 8. The Court in its inherent jurisdiction in the protection of minors and its *parens patriae* jurisdiction, must review the settlement and determine if it is appropriate for the Public Trustee of Alberta to refuse the generous settlement that is offered to the minor children. There are significant benefits to being granted beneficiary status without the need to apply for membership in the Sawridge Band. Such an offer should not be disregarded. There is no guarantee that these minors would be granted beneficiary status in the final result of this action.
- 9. The Public Trustee of Alberta was granted advance costs in this action. The expenditures are reviewable by this Court. To date the accounts of the Public Trustee have been paid without question although given the redacting of the accounts, it is difficult for the trustees to challenge the accounts.
- 10. The Public Trustee has now requested that out-of-province lawyers at significantly higher hourly rates than the Alberta lawyers involved in this action be retained and paid. The first account was submitted in excess of \$5,000 as a disbursement to the account of Ms. Hutchison. The account and letter from Ms. Hutchison are attached hereto as Schedule "C".

11. The applicants will rely on such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

- 12. Schedules to this Application.
- 13. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

- 14. Alberta Rules of Court.
- 15. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

- 16. Trustee Act, RSA 2000, c. T-8, and regulations and amendments thereto.
- 17. *Minors' Property Act*, SA 2004, CM-18.1, and regulations and amendments thereto.
- 18. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

How the application is proposed to be heard or considered:

19. In person, with all parties present.

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 this 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.

SCHEDULE "A"

CLERK'S STAMP

COURT FILE NUMBER

1103 14112

COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE

Edmonton

IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c, T-8, AS AMENDED

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN OF THE SAWRIDGE INDIAN BAND, NO. 19 now known as SAWRIDGE FIRST NATION ON APRIL 15, 1985 (the "1985 Sawridge Trust")

_ ____

APPLICANTS

ROLAND TWINN
CATHERINE TWINN
WALTER FELIX TWIN
BERTHA L'HIRONDELLE and

CLARA MIDBO, as Trustees for the 1985

Sawridge Trust (the "Trustees")

DOCUMENT

PROPOSED LITIGATION PLAN

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

ATTENTION: DORIS BONORA DENTONS CANADA LLP #2900, 10180 – 101 STREET EDMONTON, AB T5J 3V5

FILE NUMBER: 551860-1-DCEB

PH: 780-423-7100 FAX: 780-423-7276 1. The remaining steps and procedures are to be completed on or before the dates specified below:

ACTION	DUE ON OR BEFORE			
Questioning of Paul Bujold on documents and undertakings	July 30, 2015			
Application on Objections and documents	September 30, 2015			
Questioning resulting from Application	November 30, 2015			
Mediation to come up with joint proposal	December 31, 2015			
Briefs for Applicant	January 31, 2016			
Brief for Respondent	February 29, 2016			
Application	March 31, 2016			

This Litigation Plan is agreed to by the Parties

Dentons Canada LLP	Reynolds Mirth Richards & Farmer LL	
Per: Doris Bonora Solicitors for the Applicants	Per: Marco S. Poretti Solicitors for the Applicants	
Chamberlain Hutchison		
Per: Janet L. Hutchison Solicitors for the Office of the Public Trustee of Alberta		

SCHEDULE "B"



Dorls C.E. Bonora

dorls.bonora@dentons.com D +1 780 423 7188

Denions Canada LLP 2900 Manuilfe Place 10180 - 101 Street Edmonton, AB, Canada T5J 3V5

T +1 780 423 7100 F +1 780 423 7278 Salans FMC SNR Denton dentons-com

File No.: 551860-1

June 1, 2015

SENT VIA E-MAIL

WITH PREJUDICE

Chamberlain Hutchlson Suite 155, Glenora Gates 10403 - 122 Street Edmonton AB T5N 4C1

Attention: Ms. Janet L. Hutchison

Dear Madam:

RE: Sawridge Band Inter Vivos Settlement ("1985 Sawridge Trust" or "Trust" Action No. 1103 14112

These proceedings were initiated on August 31, 2011. At that time, the trustees of the 1985 Sawridge Trust obtained an Order directing that an application for advice and directions was to be brought regarding the definition of "beneficiaries" contained in the Trust deed. It is coming upon 4 years since the issuance of that Order, and despite great expense incurred by our clients,

we are no nearer resolution of this issue. The time that has elapsed and the costs that have been incurred are detrimental to the Trust and are not in the best interests of the beneficiaries.

We are now in receipt of your letter dated May 15, 2015, wherein you advise that you will be seeking joinder of our action with Action No. 1403 04885. It is our respectful view that the two actions are unrelated, and joinder of these actions would result in further significant delay and expense to the Trust.

Our clients have considered how to best proceed given the circumstances and we wish to propose a settlement. As you know, the concern of the trustees is that the current definition of "beneficiaries" is discriminatory, and we are seeking the advice and direction of the Court to address this concern. By changing the definition of "beneficiaries" to one that references membership in the Band, it was thought that this would best express the intentions of all parties concerned including the settlors and trustees of the original trust. However, we acknowledge that such a change is a concern to your client and the minors that you represent. We have our list of beneficiaries and have included beneficiaries who were born after the litigation began and included children who have become adults and further included children who have become members. In particular, there are 24 children that are currently beneficiaries of the 1985 Sawridge Trust, and all but 4 of them would lose their beneficiary status should the definition of "beneficiaries" be changed to equate to membership. There are 4 children who have attained



June 1, 2015 Page 2

membership status and thus they will continue to be beneficiaries if the definition of beneficiary changed to "members". See table 1 for a list of the children who would lose beneficiary status. See Table 2 for a list of the children who have been admitted as members. There are 4 minors who have become adults since the litigation began (or will be adults in 2015). They have remained on the tables despite becoming adults.

Our client is prepared to "grandfather" the 20 children who have not yet been admitted to membership whereby they would not lose their beneficiary status, despite the change in the definition. These individuals would maintain their beneficiary status throughout their lifetime. Thus we are essentially offering these minors a complete victory in this matter. They would not be excluded from the trust regardless of their ability to obtain membership. While we maintain that they are likely to become members, we would now guarantee their beneficiary status in the trust which could offer them significant benefits in the future. There is no guarantee that a change in definition if approved by the court would provide benefits for these children.

The perpetuation of discrimination in the current definition of beneficiaries is evident in respect the women who were excluded from beneficial status in the 1985 Trust by the Indian Act, 1970 even though they may have regained membership in the Sawridge First Nation. These women were granted membership in the Sawridge First Nation as a result of Bill C-31 either through application to the First Nation or as a result of a Court Order. Since these women are all current members of the Sawridge First Nation and since it is the intent of the Trustees to apply for a variance to the 1985 Trust definition of beneficiary which includes all members of the Sawridge First Nation as beneficiaries, these women will be included as beneficiaries in the 1985 Trust should the Court agree to the proposed variance to the 1985 Trust. The delay in this litigation and the delay in the change of definition perpetuates the discrimination for these women. They cannot receive benefits from this trust and they continue to be singled out as members who do not enjoy the same status as other members of the First Nation. A change in definition is a very good step to remedying the discrimination for these women as they are presently excluded from the trust and with the change in definition will be included as beneficiaries.

We believe that such a solution of grandfathering the minors on Table 1 is not only fair but provides the Public Trustee with everything that it could reasonably expect in these proceedings. Not only is the discriminatory provision removed, but all of the minor "beneficiaries" who would lose their status are protected. While we acknowledge that the Court will ultimately have to decide whether such a proposal is appropriate, we are hopeful that a joint submission to that effect will convince Justice Thomas of the same. We are also hopeful that your client will view such a proposal as a good faith attempt by the trustees to address the interests of the minor beneficiaries, and that you will agree to join us in seeking the necessary Order from the Court without delay. As noted above, we are essentially offering these minors a complete victory in this matter.

As we are proposing to grandfather as beneficiaries all of the minor children who would lose their status we feel that the Public Trustee has fulfilled the mandate provided to it by the court. We are offering to grandfather all of these children in the interests of fairness and in the interests of stopping the litigation and proceeding to use the trust assets for the benefit of the beneficiaries instead of the costs of litigation.

We would also seek consent or at least no opposition to the nunc pro tunc approval of the transfer of assets from the 1982 trust to the 1985 trust. We believe that this was clearly intended and the trust has been operating since 1982. It would be impossible to overturn the transactions and events that have occurred since 1982. Thus we seek the approval for the transfer of assets. It is a benefit to all the beneficiaries to remove this uncertainty. To be clear, if the transfer is not approved we believe that the assets would need to return to the 1982 trust in which the definition of beneficiary is the members of the First Nation and thus the children you represent would not be included.

Thus we seek your approval for an order

1. To amend the definition of beneficiaries as follows:

"Beneficiaries" at any particular time shall mean:

- a. all persons who at that time qualify as members of the Sawridge Indian Band under the laws of Canada in force from time to time including, without restricting the generality of the foregoing, the membership rules and customary laws of the Sawridge Indian Band as the same may exist from time to time to the extent that such membership rules and customary laws are incorporated into, or recognized by, the laws of Canada;
- b. the individuals who are listed as Schedule A to this trust (Schedule A would include all the individuals listed on Table 1).

2. Approving the transfer of assets from the 1982 trust to the 1985 trust nunc pro tune.

This offer is open for acceptance until June 29, 2015. We look forward to hearing from you.

Yours yery truly,

Dentons Canada LLP

Doris C.E. Bonora

Reynolds Mirth Richards & Farmer LLP

Marco Poretti
DCEB/pach



dorla.bonora@dentons.com D +1 780 423 7188

Denions Canada LLP 2900 Manulife Place 10180 - 101 Street Edmonton, AB, Canada T5J 3V5

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Table 1: Minor Beneficiaries of the 1985 Trust as at August 31, 2011 updated to 2015

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Beneficiary	Birthdate	Age in 2015	Category
Lamouche-Twin, Everett (Justin Twin)	05/10/2003		Illegitimate Child of Illegitimate Male
Lamouche-Twin, Justice (Justin Twin)	02/04/2001	14	Illegitimate Child of Illegitimate Male Child of Female Band member Not Protested
3. Lamouche-Twin, Kalyn (Justin Twin)	24/08/2007	8	Protested
4. Lamouche-Twin, Maggie (Justin Twin)	27/03/2009	6	Illegitimate Child of Illegitimate Male Child of Female Band member Not Protested
5. Moodie, Jorja L. (Jeanine Potskin)	29/01/2008	7	Illegitimate Child of Female Band member Not Protested
6. Potskin, Ethan E.R. (Trent Potskin)	15/01/2004	11	Illegitimate Child of Male Illegitimate Child of Female Band member Not Protested
7. Potskin, Jaise A. (Jeanine Potskin)	25/03/2003	12	Illegitimate Child of Female Illegitimate Child of Female Band member Not Protested
8. Potskin, Talia M.L. (Trent Potskin)	16/03/2010	5	Illegitimate Child of Male Illegitimate Child of Female Band member Not Protested
9. Robberstad, Jadyn (Jaclyn Twin)	04/07/2011	4	Illegitimate Child of Female Band member Not Protested
10. Twin, Alexander L. (Wesley Twin)	23/01/2005	10	Child of Married Male Band member
11. Twin, Autumn J. (Darcy Twin)	26/09/2002	13	Child of Married Male Band member
12. Twin, Destin D. (Jaclyn Twin)	24/06/2008	7	Illegitimate Child of Female Band member Not Protested
13. Twin, Justice W. (Wesley Twin)	20/09/2001	14	Child of Married Male Band member
14. Twin, Logan F. (Darcy	17/04/2007	8	Child of Married Male Band member



Beneficiary	Birthdate	Age in 2015	Category
Twin)			
15. Twin, River C. (Darcy Twin)	03/05/2010	5	Child of Married Male Band member
16. Twinn, Clinton (Irene Twinn)	03/02/1997	18	 Illegitimate Child of Female Band Member Not Protested Adult after 30 August 2011
17. Twinn-Vincent, Seth (Arlene Twinn)	01/07/2001	14	Child of Female Band member who married Non-Band member
18. Twinn-Vincent, W. Chase (Arlene Twinn)	31/07/1998	17	Child of Female Band member who married Non-Band member
19. Potskin, William (Aaron Potskin	19/09/2013	2	 Child of Male band member Born after the litigation began
20. Twinn, Kaitlin (Paul Twinn)	23/02/1995	20	 Child of male band member Adult after 30 August 2011

Table 1: Minor Beneficiaries of the 1985 Trust as at August 31, 2011 updated to 2015



doris.bonora@dentons.com

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Salans FMC SNR Denton dentons.com

Table 2: Beneficiaries to the 1985 Trust who have become members

Non-Beneficiary	Birthdate	Age in 2015	Category
1. Twinn, Alexander G. (Roland Twinn)	01/10/1997	18	 Child of Married Male Band member Admitted as a member of the First nation Adult (this year) after 30 August 2011
2. Twinn, Corey (Ardell Twinn)	18/01/1994	21	 Child of male band member Admitted as a member of the First nation Adult after 30 August 2011
3. Twin, Starr (Winona Twin)	29/11/2002	13	 Illegitimate Child of Female Band member Not Protested Admitted as a member of the First nation
4. Twin, Rainbow (Winona Twin)	31/05/1998	17	 Illegitimate Child of Female Band member Not Protested Admitted as a member of the First nation

Table 2: Beneficiaries to the 1985 Trust who have become members





#155 Glenora Gates 10403 122 Street Edmonton, Alberta T5N 4C1

Telephone: (780) 423-3661 Fax: (780) 426-1293 Email: jhutchison@jlhlaw.ca Website: www.jlhlaw.ca

* Janet L. Hutchison, L.L.B. Rebecca C. Warner, B.A., J.D., Student-at-Law

Our File: 51433 JLH

SENT BY EMAIL ONLY

May 22, 2015

Reynolds Mirth Richards & Farmer LLP Suite 3200 Manulife Place 10180 - 101 Street Edmonton, Alberta T5J 3W8 Dentons LLP 2900 Manulife Place 10180 - 101 Street Edmonton Alberta T5J 3V5

Attention: Marco Poretti

Attention: Doris Bonora

Dear Sir and Madam:

Re: In the Matter of the Sawridge Band Inter Vivos Settlement – Court of Q.B. Action No. 1103 14112

We are taking this opportunity to enclose our Statement of Account, File 51433, Invoice #4015, for services rendered between April 16, 2015 and May 19, 2015, balance owing \$19,369.69. In accordance with our agreement with the Sawridge Trustees, we are providing you with an account showing total time and charges but with privileged information blocked out. Should you have any questions or concerns on the account, please contact me directly.

We look forward to receiving payment of this account in the amount of \$19,369.69 within 30 days of the issuance of this account.

If the Sawridge Trustees are objecting to Supreme Advocacy charges, we would request that all amounts other than the Supreme Advocacy disbursement be paid as per our costs agreement.

We look forward to continuing to provide you with quality legal services in this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/nl Enclosure



#155, Glenora Gates 10403 122 Street Edmonton, AB T5N 4C1

Telephone: (780) 423-3661 Fax: (780) 426-1293 Email: jhutchison@jlhlaw.ca Website: www.jlhlaw.ca

STATEMENT OF ACCOUNT

Public Trustee of Alberta 400 South, 10365 97 Street Edmonton, Alberta T5J 3Z8

File #:51433

Inv #:

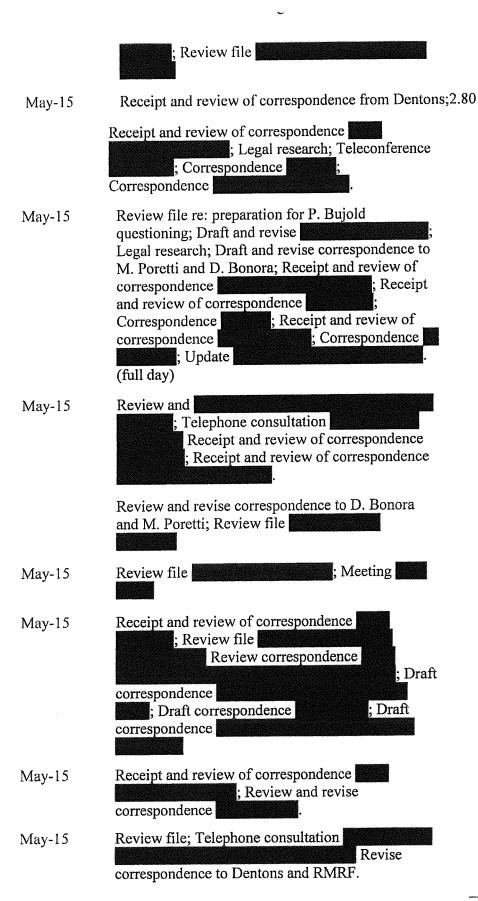
4015

May 21, 2015

RE: In the Matter of the Sawridge Band Inter Vivos Settlement - Court of Q.B. Action No. 1103 14112

To all legal services rendered in connection with the above-noted matter, including the following:

<u>DATE</u>	DESCRIPTION	<u>HOURS</u>	AMOUNT
Apr-15	Review file; Receipt and review of correspondence; Correspondence to		
Apr-15	Receipt and review of correspondence from D. Bonora and M. Poretti; Correspondence to M. Poretti; Receipt and review of correspondence ; Correspondence to ; Receipt and review of correspondence from D. Bonora. Review file; Correspondence to D. Bonora.		
Apr-15	Receipt and review of correspondence from D. Bonora, M. Poretti and N. Cummings; Review file; Correspondence ; Teleconference Review file Review file ; Review file ; Review file re: questioning on P. Bujold's undertakings; Draft correspondence		
Apr-15	Receipt and review of correspondence; Review file ; Meeting with Review P. Bujold answers to undertakings; Draft correspondence.		
Apr-15	Legal research		



FEES FOR PROFESSIONAL SERVICES

32.10

\$13,642.50

OTHER CHARGES Photocopies	\$272.75		
Total Other Charges			\$272.75
<u>DISBURSEMENTS</u>			
Accusript Reporting Services Invoice #17739 Parking - Meeting	\$221.00 \$5.71		
Supreme Advocacy Invoice #2254	\$4,955.00		
Total Disbursements	epptingstrand propagation over year the analysis of the fact of the second second second second second second		\$5,181.71
GST			\$272.73
Total Fees, Disbursements & GST			\$19,369.69
Balance Due			\$19,369.69
Hutchison Law			E. & O.E.
Per: Janet L. Hutchison		GST#	* tax-exempt 87325 1573

Payable upon receipt. Interest charged at 18% per annum on accounts over 30 days.

TRUST STATEMENT

	DISBURSEMENTS	<u>RECEIPTS</u>	
May-05-15 Received From: Sawridge Trust Conduct Monies for Elizabeth Poitras			338.76
May-06-15	Paid To: Liz Poitras Payment of Conduct money to witness	288.76	
	Paid To: Janet Hutchison Prof Corp Reimbusement of Conduct money advance to	50.00 witness	
	Total Trust	\$338.76	\$338.76
	Trust Balance		\$0.00

Invoice # 2254 Date: 05/15/2015 Due On: 06/14/2015



340 Gilmour Street Suite 100 Ottawa, Ontario K2P 0R3 Phone: 613-695-8855 613-695-8580

Janet L. Hutchison Hutchison Law #155, Glenora Gates 10403 - 122 Street Edmonton, Alberta T5N 4C1

0274-006

1985 Sawridge Trust v. Alberta (Public Trustee)

Attorney	Description					
TS		Receive emails from client and review same; discussion crepare for teleconference; teleconference debrief				
MFM	Review of email sent				April 2015	
EM	Email correspondence, detailed re	mail prespondence, detailed review of same, & making notes, meeting			April ²⁰¹⁵	
TS	Discussion	ussion .				
EM	Email	teleconference		meetings	April ²⁰¹⁵	
TS	Review summary email	; discussion			April 2015	
	revie	review				
MFM	Review	•			April 2015	
	Time Keeper	Position	Quantity	Rate	Total	
Marie-Fra	nce Major	Attorney	2.05	\$500.00	\$1,025.00	
Eugene M	leehan	Attorney	4.3	\$750.00	\$3,225.00	

\$705.00	\$300.00	2.35	Attorney	Thomas Slade
\$4,955.00	Subtotal			
\$644.15	HST (13.0%)			
\$5,599.15	Total			

All invoice totals are in CDN funds. HST #839003308 Please make all amounts payable to: Supreme Advocacy LLP

Please pay within 30 days.

E & OE

Supreme Advocacy LLP

Per: Eugene Meehan, Q.C.

Page 2 of 2