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# SUBMISSION TO THE COURT OF APPEAL OF ALBERTA

**RE: Appeal No. 2503-0193AC Application for Standing as Dissenting Trustee**

## 1. INTRODUCTION

The Applicant, Jonathon Potskin, respectfully requests that this Honourable Court grant him standing as a dissenting trustee in the above-noted appeal. The purpose of this application is not to delay the scheduled hearing on June 11, 2026, but to ensure that this Court is provided with the complete, accurate evidentiary record required to make a just and equitable decision regarding the interpretation of the *1982 Deed*.

## 2. THE NECESSITY OF THE EVIDENCE

The current appeal concerns the definition of beneficiaries under the *1982 Deed*. The Applicant contends that the current administrative framework and the interpretation being presented to this Court are fundamentally incomplete.

Central to this issue is the validity of the *1985 Deed*. The Applicant asserts that the Settlor lacked the legal authority to create or settle the *1985 Deed* because the beneficiaries identified in the *1982 Deed* had already become the vested owners of the trust property. Once the *1982 Deed* established these interests, the Settlor no longer held the requisite control to unilaterally divest or alter those rights through a subsequent instrument. By failing to account for this transition of ownership, the current record ignores the legal limitations on the Settlor's power and the resulting preservation of the original beneficiaries' rights.

As a trustee, it is my fiduciary duty to ensure the equitable treatment of all beneficiaries. The present record reflects a restricted interpretation that has systematically excluded eligible family lineages based on these later, unauthorized instruments. If this appeal proceeds without consideration of this evidence, the Court will be asked to render a decision based on an incomplete record, which risks perpetuating a systemic miscarriage of justice. This exclusion represents a substantive failure to uphold the obligations mandated by the *1982 Deed*, and a breach of the trustee's fiduciary duty to all beneficiaries.

Furthermore, this evidence includes critical historical documentation that clarifies the intent behind the *1982 Deed*, providing the necessary context that is currently missing from the record.

### **3. IMPACT ON THE JUNE 11 APPEAL**

The Applicant is acutely aware of the proximity of the June 11, 2026, appeal date. However, the potential prejudice to the beneficiaries—including their permanent exclusion from the Trust—far outweighs the procedural inconvenience of a potential adjustment to the schedule. Failure to admit this evidence would cause irreparable harm to these beneficiaries, as they would lose a substantive right to inclusion that may never be recovered.

To proceed in the absence of this evidence would be to ignore the foundational rights of the excluded lineages. The Court's ability to resolve the Trust's obligations is hindered if it does not have the benefit of the perspective of a trustee who directly represents those impacted by these exclusionary practices. The Applicant is prepared to submit his materials to the Court immediately, in a format and on a timeline that minimizes any disruption to the Court's schedule, and has been transparent with all parties regarding his intention to bring this motion.

### **4. CONCLUSION**

The Applicant respectfully submits that the admission of this evidence is essential to the integrity of these proceedings and the Court's determination of the rights of all beneficiaries under the *1982 Deed*. Accordingly, the Applicant requests that this Honourable Court:

1. Grant the Applicant standing as a dissenting trustee for the limited purpose of introducing this evidence;
2. Admit the tendered documentation into the evidentiary record; and
3. Direct such further or other relief as this Court deems just to ensure that the final decision is based on a complete and accurate understanding of the Trust's history.