

QUEEN'S BENCH FOR SASKATCHEWAN

Citation: **2018 SKQB 341**

Date: **2018 11 28**
Docket: QB 1038 of 2018
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

Counsel:

Jeffrey M. Lee and Paul D. Olfert for the Humboldt Broncos Memorial Fund Inc.
Timothy W. Hodgson for the parents of Evan Thomas Kevin C.
Mellor for the parents of Adam Herold

Kerry R. Gellrich for the parents of Logan Boulet

FIAT

November 28, 2018

GABRIELSON J.

[1] It is a rare occasion that from great tragedy comes great generosity. Such was the genesis of the money raised by the Humboldt Broncos Memorial Fund Inc. [HBMFI].

[2] The fund was created to remember and honour the 29 persons who, in April of 2018, were involved in a horrific bus crash on a highway between Tisdale and Nipawin, Saskatchewan. Sixteen persons lost their lives and 13 survived with various injuries that will affect them for the rest of their lives.

[3] Sylvie Kellington, a Humboldt resident, started a GoFundMe Campaign for the players and their families. In the 12 days that followed, there was raised a total of \$15,172,948.00 from donors around the world. The generosity of persons wanting to help in this time of tragedy was truly amazing.

[4] The money raised by the GoFundMe Campaign led to the creation of a non-profit corporation in June, the HBMFI, to distribute the funds to those on the bus at the time of the crash.

[5] An application was made to the court by the HBMFI. I was appointed by the Chief Justice of our court to supervise the fund.

[6] Fortunately, we had an Act in Saskatchewan, *The [Informal Public Appeals Act, SS 2014 c I-9.0001 \[IPAA\]](#)*, a new statute which was enacted in 2015 based upon legislation developed by the [Uniform Law Conference of Canada](#). Saskatchewan, for some reason, was the only province in Canada to enact the legislation. In any event, through good government management or good fortune, this *Act* laid out the framework by which the monies raised by the GoFundMe Campaign could be dealt with.

[7] The HBMFI was approved as trustee of the fund. Darrin Duell, Robert Eichorst, Dalyn Graf, Kevin Garinger, Randolph Maclean, Kathleen Keen and Jay Fitzsimmons were its first directors. The HBMFI obtained legal advice and counsel from MLT Aikins who I am told acted on a *pro bono* basis.

[8] HBMFI applied to the court for directions in August of 2018. At that time, an interim distribution of \$50,000.00 was made to each of the individuals who were on the bus. As well, an Advisory Committee consisting of five prominent, experienced and respected individuals from Saskatchewan, Alberta and Manitoba was approved. The five were The Honourable Dennis Ball of Regina, a retired justice of the Court of Queen's Bench, Kevin Cameron of Lethbridge, Alberta, Mark Chipman of Winnipeg, Manitoba, Hayley Wickenheiser of Calgary, Alberta and Dr. Peter Spafford of Saskatoon, Saskatchewan. Information Resource Persons were tasked with providing the Advisory Committee with personal information concerning the 29 individuals on the bus, their spouses, families or next of kin. The Information Resource Persons were Sandra Boswell of Saskatoon, John Gabrysh of Tisdale and Penny Lee of Humboldt.

[9] The Advisory Committee filed its recommendation to the HBMFI November 10, 2018. In a 17-page report the Advisory Committee recommended that the funds held by the Humboldt Broncos Memorial Fund Inc. be allocated as follows:

- (a) in addition to the initial payment of \$50,000.00 made to each of the families of the 16 persons who died in the accident, to pay the sum of \$475,000.00 to each such family for a total of \$525,000.00.
- (b) in addition to the initial payment of \$50,000.00 made to each of the 13 surviving claimants, to pay the sum of \$425,000.00 to each claimant; and
- (c) to distribute any remaining funds in trust to the 13 surviving claimants in equal shares, share and share alike.

[10] HBMFI accepted the recommendation of the Advisory Committee and applied to the court for approval of a final order under the [IPAA](#).

[11] I have decided to accept the recommendation of the Committee. The Committee went through in detail the options they faced and made thoughtful recommendations. They took into account the fact that the survivors of the crash may have available to them insurance under [The Automobile Accident Insurance Act, RSS 1978, c A-35](#), [The Workers' Compensation Act, 2013, SS 2013, c W-17.11](#), Hockey Canada, the Western Hockey League and other insurance sources. They took into account the wishes of the survivors that they all benefit equally no matter what their medical condition so as to not create any rift between them by the allocation of funds. Finally, they explained their reasons for the slight difference in the allocation as to those who died in the crash and those who survived as follows:

[57] Finally, we have considered the logic and fairness of our recommendations by asking two simple questions. First, would any of the 13 survivors and their families trade places with any of the other 16 members in return for any amount of money? Of course, they would not.

Second, would any of the 16 families who have lost a loved one forego any amount of money if they could have their sons, daughters or partners back? Of course they would, in a heartbeat.

[12] The simplicity and the reasonableness of the recommendation appeals to me and I adopt the reasons for the distribution recommended.

[13] I therefore approve the draft order as to the final distribution and the other matters covered by it.

[14] I would like to commend counsel for their work in coming to this final order. I also appreciate the comments of Ms. Gellrich who spoke to an equal distribution of funds to everyone but I have decided to follow the recommendations of the Advisory Committee for the reasons stated. I also commend the members, directors and officers of the HBMFI, the members of the Advisory Committee, the Information Resource Persons, Sylvie Kellington, who started the GoFundMe Campaign, and the persons in the global community who made contributions to the Campaign. I would finally recognize the 29 persons who were on the bus, as well as their family and friends. Everyone has proven that together we can face adversity and move forward if we remain "Humboldt Strong".

_____ J.

N.G. GABRIELSON