

ENTERED

COURT FILE NUMBER 2101 06388
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT ATB FINANCIAL
RESPONDENTS ALBERTA FOOTHILLS PROPERTIES LTD., 1367803 ALBERTA LTD. o/a HOLMES COMMUNITIES, and DREW ATKINS
DOCUMENT AFFIDAVIT OF SERVICE



COM
May 17, 2021
Justice Eidsvik

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Fasken Martineau DuMoulin LLP
Barristers and Solicitors
3400 First Canadian Centre
350 – 7 Avenue SW
Calgary, Alberta T2P 3N9
Attention: Travis Lysak / Mihai Tomos
Tel: (403) 261- 5501 / (403) 261 - 7386
Email: tlysak@fasken.com / mtomos@fasken.com
File No.: 279839.00045

AFFIDAVIT OF JELINE WATSON
Sworn on May 14, 2021

I, Jeline Watson, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a legal assistant at the law firm of Fasken Martineau DuMoulin LLP (“**Fasken**”), which is counsel to ATB Financial in the within proceedings. As such, I have personal knowledge of the facts and matters hereinafter deposed to, save where stated to be based on information and belief, and where so stated I believe the same to be true.
2. On May 11, 2021, I sent for service the following materials:
 - a) Service Letter;
 - b) Application with Form of Order;

- c) Affidavit of John Sullivan sworn May 11, 2021; and
- d) WebEx details,

(together, the “**Application Materials**”),

as follows:

- a) by email to the email recipients listed in the Service Letter (together, the “**Email Recipients**”);
 - b) by courier via FedEx to M. Holmes Holdings Limited, c/o 100-80 Jutland Road Toronto, ON M8Z 2H1; and
 - c) by Xpress Post to The Town of Okotoks, PO BOX 20, Okotoks, AB T1S 1K1.
3. Attached hereto as **Exhibit “A”** is a copy of the Service Letter.
 4. Attached hereto as **Exhibit “B”** is a copy of my service email dated May 11, 2021.
 5. Attached hereto as **Exhibit “C”** is a copy of the XpressPost tracking details with respect to the delivery of the Application Materials to the Town of Okotoks.
 6. I understand from FedEx that M. Holmes Holdings Limited is no longer located at the address at which the Application Materials were delivered.
 7. Attached hereto as **Exhibit “D”** is a copy of the FedEx tracking details indicating that M. Holmes Holdings Limited is no longer located at 100-80 Jutland Road Toronto, ON M8Z 2H1.
 8. I am advised by Mihai Tomos, and believe to be true, that on May 13, 2021 he sent an email to Brian Lund enclosing the Application Materials for the attention of M Holmes Holdings Limited.

9. Attached hereto as **Exhibit "E"** is a copy of Mr. Tomos' email and Mr. Lund's response dated May 14, 2021, pursuant to which Mr. Lund acknowledged receipt of the Application Materials.

SWORN BEFORE ME at the City of
Calgary, in the Province of Alberta, this 14th
day of May, 2021



Commissioner for Oaths in and for the
Province of Alberta



JELINE WATSON

Janie Hart

My Commission Expires August 20, 2023

THIS IS EXHIBIT "A"

Referred to in the Affidavit of

Jeline Watson,

Sworn before me this 14th

day of May, 2021

Janie Hart

A COMMISSIONER/NOTARY FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

Janie Hart

My Commission Expires August 20, 2023

FASKEN

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
Patent and Trade-mark Agents

350 7th Avenue SW, Suite 3400
Calgary, Alberta T2P 3N9
Canada

T +1 403 261 5350
+1 877 336 5350
F +1 403 261 5351
fasken.com

May 11, 2021
File No.: 279839.00045/19994

Mihai Tomos
Direct +1 403.261.7386
mtomos@fasken.com

TO THE SERVICE LIST ATTACHED HERETO

Dear Sir/Madam:

Re: ATB Financial v Alberta Foothills Properties Ltd. et al, Action No. TBD

We are counsel to ATB Financial in the above noted matter. We are scheduled to appear before The Honourable Justice K.M. Eidsvik on May 17, 2021 at 2:00 p.m. to make an application in the above-noted matter for a Consent Receivership Order.

To this end, please find enclosed for service upon you unfiled copies of:

1. Application with proposed form of Order;
2. Affidavit of John Sullivan sworn May 11, 2021; and
3. WebEx Details for the May 17, 2021 Hearing.

We trust that you find the foregoing to be in order. Please contact the writer should you have any questions or concerns.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Mihai Tomos

MT/
Enclosures

FASKEN

SERVICE LIST

PARTIES	VIA	REPRESENTING
Miles Davison LLP 900, 517 – 10th Avenue S.W. Calgary, Alberta T2R 0A8 Attention: Terry Czechowskyj, Q.C.	Email: tczech@milesdavison.com	Counsel to Alberta Foothills Properties Ltd., 1367803 Alberta Ltd. o/a Holmes Communities, and Drew Atkins
ATB Financial Suite 600, 585 8 th Avenue SW Calgary AB T2P 1G1 Attention: Trina Holland / John Sullivan / Alexandra Dudek	Email: tholland@atb.com jsullivan@atb.com adudek@atb.com	ATB Financial
Fasken Martineau DuMoulin LLP 3400, 350-7th Avenue SW Calgary, AB T2P 3N9 Attention: Travis Lysak / Mihai Tomos	Email: tlysak@fasken.com mtomos@fasken.com	ATB Financial
FTI Consulting Canada Inc. 1610, 520 - 5 Ave SW Calgary AB T2P 3R7 Attention: Deryck Helkaa / Dustin Olver	Email: deryck.helkaa@fticonsulting.com dustin.olver@fticonsulting.com	Proposed Receiver
Ackroyd LLP #1500 10665 Jasper Avenue Edmonton, AB T5J 3S9	Email: stymiak@ackroydlaw.com	Ackroyd LLP
Borden Ladner Gervais 1900, 520 – 3 rd Avenue S.W. Calgary, AB T2P 0R3 Attention: Paul S. Taylor	Email: pataylor@blg.com	771981 Alberta Ltd.
M. Holmes Holdings Limited. c/o 100-80 Jutland Road Toronto, ON M8Z 2H1	By Courier	M. Holmes Holdings Limited.
The Town of Okotoks P.O. BAG 20 Okotoks, AB T1S 1K1	By Mail	The Town of Okotoks



THIS IS EXHIBIT "B"
Referred to in the Affidavit of

Jeline Watson,

Sworn before me this 14th
day of May, 2021



A COMMISSIONER/NOTARY FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

Janie Hart

My Commission Expires August 20, 2023

Jeline Watson

From: Jeline Watson
Sent: May-11-21 2:17 PM
To: czech@milesdavison.com; tholland@atb.com; jsullivan@atb.com; adudek@atb.com; Travis Lysak; Mihai Tomos; Deryck.Helkaa@fticonsulting.com; Dustin.Olver@fticonsulting.com; stymiak@ackroydlaw.com; pataylor@blg.com
Subject: ATB Financial v Alberta Foothills Properties Ltd. et al, Action No. TBD

[tb.com](#) [adudek@atb.com](#) [tlysak@fasken.com](#) [mtomos@fasken.com](#) [Deryck.Helkaa@fticonsulting.com](#) [Dustin.Olver@fticons](#)

Good afternoon,

With respect to the above matter, please see the attached for service on you.

Thank you,

 Jeline Watson
LEGAL ASSISTANT

FASKEN

Fasken Martineau DuMoulin LLP
T. +1 403 261 9432 | F. 1 403 261 5351
jwatson@fasken.com | www.fasken.com
350 7th Avenue SW, Suite 3400, Calgary, Alberta T2P 3N9

Jeline Watson

From: Jeline Watson
Sent: May-11-21 2:28 PM
To: tczech@milesdavison.com
Cc: Mihai Tomos
Subject: FW: [Postmaster] Email Delivery Failure | ATB Financial v Alberta Foothills Properties Ltd. et al, Action No. TBD
Attachments: ATB Financial v Alberta Foothills Properties Ltd. et al, Action No. TBD

Good afternoon,

With respect to the above matter and below bounce-back, please see the attached.

Thank you,

Jeline Watson
Legal Assistant
T. +1 403 261 9432 | F. 1 403 261 5351

-----Original Message-----

From: Fasken Postmaster <postmaster@fasken.com>
Sent: May-11-21 2:18 PM
To: Jeline Watson <jwatson@fasken.com>
Subject: [Postmaster] Email Delivery Failure

This is a delivery failure notification message indicating that an email you addressed to email address :
-- czech@milesdavison.com

could not be delivered. The problem appears to be :
-- Recipient email address is possibly incorrect

Additional information follows :
-- 5.4.1 Recipient address rejected: Access denied. AS(201806281) [TO1CAN01FT020.eop-CAN01.prod.protection.outlook.com]

This condition occurred after 1 attempt(s) to deliver over a period of 0 hour(s).

If you sent the email to multiple recipients, you will receive one of these messages for each one which failed delivery, otherwise they have been sent.

THIS IS EXHIBIT "C"
Referred to in the Affidavit of
Jeline Watson,
Sworn before me this 14th
day of May, 2021


A COMMISSIONER/NOTARY FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

Janie Hart
My Commission Expires August 20, 2023

Jeline Watson

From: neoship@neopost.com
Sent: May-11-21 2:12 PM
To: Jeline Watson
Subject: [EXT] A package has been shipped from FASKEN MARTINEAU DUMOULIN LLP

Hello,
You have been identified to receive tracking information for the following shipment;

From:
FASKEN MARTINEAU DUMOULIN LLP
FASKEN MARTINEAU DUMOULIN LLP
3400-350 7 AVE SW
CALGARY, AB T2P 3N9

To:
THE TOWN OF OKOTOKS
The Town of Okotoks
PO BOX 20
OKOTOKS, AB T1S 1K1

Class of Service:
Xpresspost

Tracking number:
7113209936776221

Contact for questions:
4032616146
rbenitez@fasken.com

This is an automatically generated email from the Neopost eShipping system. Please do not reply

THIS IS EXHIBIT "D"

Referred to in the Affidavit of

Jeline Watson,

Sworn before me this 14th

day of May, 2021

Janie Hart

A COMMISSIONER/NOTARY FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

Janie Hart

My Commission Expires August 20, 2023

Jeline Watson

From: FedEx Canada <fedexcanada@fedex.com>
Sent: May-11-21 3:37 PM
To: Jeline Watson
Subject: [EXT] A parcel was picked up by FedEx today 773695450360:FASKEN MARTINEAU DUMOULIN LLP.



Hi, M. Holmes Holdings Limited, your package from FASKEN MARTINEAU DUMOULIN LLP is on its way.

Need to make changes to your delivery?

MANAGE DELIVERY

If the button doesn't work, copy this link into the browser:

<https://www.fedex.com/ca/delivery?e=43f4LRaPLrwX>

Enter Code: 43f4LRaPLrwX

SCHEDULED DELIVERY

Wednesday, 05/12/2021



PICKED UP

TRACKING NUMBER [773695450360](https://www.fedex.com/ca/delivery?e=43f4LRaPLrwX)

FROM	FASKEN MARTINEAU DUMOULIN LLP
SERVICE TYPE	FedEx Priority Overnight
NUMBER OF PIECES	1
WEIGHT	1.3 kg

© 2021 Federal Express Corporation. The content of this message is protected by copyright and trademark laws under U.S. and international law. This email has been sent to you in connection with the management of a shipment where you are the Consignee. FedEx handles your data in accordance with our **Error! Hyperlink reference not valid..** All rights reserved.

✉ Please do not respond to this message. This is an automated message. If you no longer wish to receive communications relating to your shipments, you can unsubscribe at any time by clicking [here](#).

ID ENS 6005

Bonjour M. Holmes Holdings Limited, votre colis de FASKEN MARTINEAU DUMOULIN LLP est en route.

Vous devez modifier votre livraison?

[GÉRER LA LIVRAISON](#)

Si le bouton ne fonctionne pas, copiez le lien suivant dans le navigateur :

<https://www.fedex.com/ca/delivery?e=43f4LRaPLrwX>

Entrez le code : 43f4LRaPLrwX

LIVRAISON PLANIFIÉE

Mercredi, 05/12/2021





TRACK ANOTHER SHIPMENT

773695450360

[ADD NICKNAME](#)



No scheduled delivery date available at this time.

Scheduled delivery: Pending



IN TRANSIT

At FedEx destination facility
MISSISSAUGA, ON

[GET STATUS UPDATES](#)

Direct signature required



Is your delivery already on its way?

If you won't be home to receive it, please click **Manage Delivery** below, then **Hold at Location** to redirect it to a FedEx Retail location for pickup. Or, [view other available options](#).

FROM

CALGARY, AB CA

TO

TORONTO, ON CA

[MANAGE DELIVERY](#)

Travel History

TIME ZONE

Local Scan Time



Thursday, May 13, 2021

6:52 PM MISSISSAUGA, ON At local FedEx facility

Wednesday, May 12, 2021

1:03 PM MISSISSAUGA, ON At local FedEx facility

11:14 AM	MISSISSAUGA, ON	Delivery exception Incorrect address - Recipient moved
10:13 AM	MISSISSAUGA, ON	On FedEx vehicle for delivery
8:37 AM	MISSISSAUGA, ON	At local FedEx facility
3:42 AM	MISSISSAUGA, ON	At destination sort facility

Tuesday, May 11, 2021

10:19 PM	CALGARY, AB	In transit
5:45 PM	CALGARY, AB	Left FedEx origin facility
3:28 PM	CALGARY, AB	Picked up
3:06 PM		Shipment information sent to FedEx

Shipment Facts

TRACKING NUMBER

773695450360

DIMENSIONS

13x11x2 in.

TERMS

Shipper

SPECIAL HANDLING SECTION

Deliver Weekday, Direct Signature Required

STANDARD TRANSIT

5/12/21 by 12:00 pm [?](#)

SERVICE

FedEx Priority Overnight

TOTAL PIECES

1

SHIPPER REFERENCE

379839.00045/19994

SHIP DATE

5/11/21 [?](#)

SCHEDULED DELIVERY

Pending

WEIGHT

3 lbs / 1.36 kgs

TOTAL SHIPMENT WEIGHT

3 lbs / 1.36 kgs

PACKAGING

FedEx Box

SIGNATURE SERVICES

Direct signature required [?](#)

THIS IS EXHIBIT "E"

Referred to in the Affidavit of

Jeline Watson,

Sworn before me this 14th

day of May, 2021



A COMMISSIONER/NOTARY FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

Janie Hart

My Commission Expires August 20, 2023

Jeline Watson

From: Brian Lund <brian@financial-logic.com>
Sent: May-14-21 8:53 AM
To: Mihai Tomos
Cc: Travis Lysak
Subject: [EXT] Re: ATB Financial v Alberta Foothills Properties Ltd. ("AFPL") et al, Action No. TBD

Mihai:

Thanks for sending. I'll convey them to MHH. You can use me as a point of contact for MHH for the time being. I'll connect with them and ask if they have a preferred alternative, and if so, I will update you directly.

Best regards,

Brian Lund
Managing Director
Financial Logic
[✉ brian@financial-logic.com](mailto:brian@financial-logic.com)
[☎ \(604\) 916 1910](tel:6049161910)

From: Mihai Tomos <mtomos@fasken.com>
Date: Thursday, May 13, 2021 at 2:46 PM
To: Brian Lund <brian@financial-logic.com>
Cc: "Travis P. Lysak" <tlysak@fasken.com>
Subject: ATB Financial v Alberta Foothills Properties Ltd. ("AFPL") et al, Action No. TBD

I'm using Mimecast to share large files with you. Please see the attached instructions.

Hi Brian,

We understand you have been representing Mike Holmes with respect to the ATB / AFPL matter.

We have sent the attached materials for delivery to M. Holmes Holdings Limited, a secured creditor of Alberta Foothills Properties Ltd., at the address included in its Land Titles Office registration, but understand from the courier that M. Holmes Holdings Limited is no longer at that address.

As such, we thought we would send you these materials in the event that you have yet to see them.

Best,
Mihai

 Mihai Tomos
ASSOCIATE

FASKEN

Fasken Martineau DuMoulin LLP
T. +1 403 261 7386 | F. +1 403 261 5351

