

CA No. _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

EVAN BENNETT as one of THE BENEFICIARIES OF THE SURPLUS IN THE
RETIREMENT ANNUITY FUND OF THE CAPITAL PENSION PLAN

Appellant (*Respondent*)

- and -

CROWN INVESTMENTS CORPORATION OF SASKATCHEWAN

Respondent (*Applicant*)

NOTICE OF APPEAL

TAKE NOTICE:

1. THAT EVAN BENNETT, the above named Appellant, hereby appeals to the Court of Appeal from the order of the Honourable Madam Justice Dovell issued on the 31st day of August, 2009.
2. THAT the whole of the order is being appealed.
3. THAT the source of the Appellant's right of appeal and the court's jurisdiction to entertain the appeal is section 7(2)(a) of *The Court of Appeal Act*.
4. THAT the appeal is taken upon the following grounds:
 - (1) The Learned Chambers Judge erred in fact and law in identifying the beneficiaries of the Retirement Annuity Fund surplus and trust as employees of the settlor employers to the exclusion of all other members of the Capital Pension Plan. In particular, the Learned Chambers Judge:
 - (i) failed to correctly apply the principles determined by Cameron J.A. in his decision in *Crown Investments Corporation of*

Saskatchewan v. Potash Corporation of Saskatchewan Inc., dated the 25th of May, 2004.

- (ii) lacked an evidentiary basis on which to determine the only beneficiaries of the trust were members and former members of the Capital Pension Plan whose employers contributed to the Retirement Reserve Account; and,
 - (iii) lacked an evidentiary basis on which to find the settlors intended the purpose of the trust as for the exclusive benefit of their own employees to the exclusion of all other members of the Capital Pension Plan.
- (2) The Learned Chambers Judge erred in law in arbitrarily identifying a single relevant date of employment for members otherwise eligible for a share in the surplus, to the exclusion of any "former and subsequent employees of the contributing employers in 1986 as at January 1, 1994."
5. THAT the Appellant requests the following relief:
- (1) An order setting aside the order of Madam Justice Dovell in Queen's Bench No. 569 of 2007;
 - (2) An order determining the class of beneficiaries of the trust;
 - (3) An order instructing Crown Investments Corporation as to use of the Retirement Annuity Fund surplus; and
 - (4) That the costs of this application to be paid from the trust monies.
6. THAT the Appellant's address for service is:
- ROBERTSON STROMBERG PEDERSEN LLP
Barristers & Solicitors
600 - 105 21st Street East
SASKATOON SK S7K 0B3

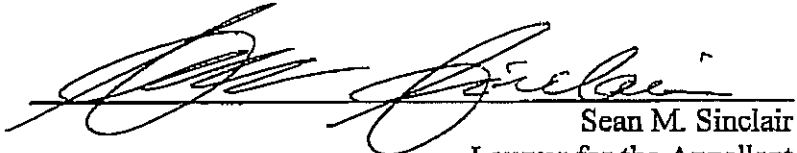
Telephone Number: (306) 652-7575

Fax number: (306) 652-2445

The lawyer in charge of the file is: Sean M. Sinclair

7. THAT the Appellant requests that this appeal be heard at Saskatoon.

DATED at Saskatoon, Saskatchewan, this 30th day of September, 2009.


Sean M. Sinclair
Lawyer for the Appellant

TO: Gary L. Bainbridge for the Respondent, Crown Investment Corporation of
Saskatchewan

AND TO: Neil B. Fisher for PCS Inc., Saskatchewan Government Insurance and
Cafeteria Board

AND TO: Douglas C. Hodson, Q.C. for Cameco Corporation