

COURT FILE NUMBER Q.B.G. No. 211 of 2020

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE YORKTON

PLAINTIFF CONEXUS CREDIT UNION 2006

DEFENDANTS VOYAGER RETIREMENT III GENPAR INC., VOYAGER  
RETIREMENT III LP, and CALEB MANAGEMENT LTD.

**AND**

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE MELFORT

PLAINTIFF CONEXUS CREDIT UNION 2006

DEFENDANTS VOYAGER RETIREMENT II GENPAR INC., VOYAGER  
RETIREMENT II LP, and CALEB MANAGEMENT LTD.

**REVISED NOTICE OF APPLICATION**

**NOTICE TO RESPONDENTS**

The application in respect of these matters is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where	Court of Queen's Bench 520 Spadina Crescent East, Saskatoon, Saskatchewan
Date	August 20, 2021
Time	1:00 p.m.

"Due to the health risks posed by the COVID-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. To confirm the telephone number where you can be reached on the date of the application, **you must immediately** contact the office of the local registrar at **(306) 933-5135** and provide your telephone number. You must remain available by telephone at that number on that date

until your matter is heard." **Please note that the Judge has directed that this matter will be heard in person at the Court House.**

*(Read the Notice at the end of this document to see what else you can do and when you must do it.)*

**Remedy claimed or sought:**

1. Conexus seeks an Order abridging the service of this Notice of Application and the hearing of the application hereunder on the date and time set forth above pursuant to Rule 13-7(2) of the Queen's Bench Rules.
2. An application will be made by the Plaintiff, Conexus Credit Union 2006 ("**Conexus**") for an Order appointing MNP LLP as receiver over the property, assets and undertaking of the Defendants, Voyager Retirement II Genpar Inc. and Voyager Retirement II LP (collectively, "**Voyager II**") and the Defendants, Voyager Retirement III Genpar Inc. and Voyager Retirement III LP (collectively, "**Voyager III**" and with Voyager II, the "**Voyagers**") for the purpose of securing, preserving and disposing of the property, assets and undertakings of each of Voyager II and Voyager III.

**Grounds for making this application:**

3. The abridgment of time is sought as the matters herein are serious matters and the relief sought in the appointment of a receiver over the property, assets and undertaking of the Voyagers is important given the failed operations, the significant defaults by each of the Voyagers and the risk of further deterioration of the value of the assets and undertaking and the increase in the amounts owing by each of Voyager II and Voyager III and the deficiencies that are being incurred by Conexus.
4.
  - (a) Conexus is a secured creditor of each of Voyager II and Voyager III in respect of a loan extended to Voyager II and a loan extended to Voyager III (each a "**Loan**" and collectively, the "**Loans**") to assist each of them in constructing and commencing operations of a seniors retirement residence, one located in Tisdale, Saskatchewan and operating under the name "Caleb Village" (by Voyager II) one located in Melville, Saskatchewan and operating under the name "Caleb Village" (by Voyager III).
  - (b) As security for the obligations of Voyager II to Conexus, Conexus holds a mortgage over real property (currently consisting of 67 condominium units owned by Voyager II), an assignment of rents in respect of such condominium units and

a charge over all other present and after-acquired personal property of Voyager II.

- (c) As security for the obligations of Voyager III to Conexus, Conexus holds a mortgage over real property (currently consisting of 64 condominium units owned by Voyager III), an assignment of rents in respect of such condominium units and a charge over all other present and after-acquired personal property of Voyager III.
- (d) each of the Voyagers are in breach of their respective obligations to Conexus including failure by each to pay the amounts due and owing to Conexus (no payments having been made since January of 2019 in each case), the term of the loans expired on or about January 4, 2020 in respect of each of the Voyagers and no extension or renewal has been granted by Conexus (and therefore all amounts are due, owing and in arrears and a material and significant default by each of the Voyagers in that they each have not paid the real property taxes owing to the Town of Tisdale (by Voyager II) and to the City of Melville (by Voyager III)).
- (e) Conexus demanded payment in full of the amounts owing by Voyager II and the amounts owing by Voyager III in January, 2020 and each of Voyager II and Voyager III have failed and continue to fail to pay the amounts owing and each is unable to pay the amounts owing to Conexus. The property taxes owing by Voyager II and the property taxes owing by Voyager III continue to be unpaid and tax enforcement proceedings have been or are being taken by the City of Melville (in respect of Voyager III) and by the Town of Tisdale (in respect of Voyager III).
- (f) Conexus has caused each of Voyager II and Voyager III to be served with a Notice of Intention to Enforce Security under section 244 of the *Bankruptcy and Insolvency Act* which Notices were dated January 9, 2020.
- (g) each of Voyager II and Voyager III are insolvent and it is just, convenient and appropriate that a receiver be appointed in respect of each of them.
- (h) Conexus proposes that MNP Ltd. be appointed as receiver of the assets and undertaking of each of Voyager II and Voyager III, with the primary initial mandate of securing and preserving the condominium units owned by each of



Voyager II and Voyager III and attempting to locate a reasonable sales prospect for the said condominium units and other property of each of Voyager II and Voyager III and reporting back to the Court.

**Material or evidence to be relied on:**

5. In support of this application will be read the following material, all filed:
- (a) This Revised Notice of Application with proof of service;
  - (b) Affidavit of Terry Wrishko sworn July 8, 2021 in respect of Voyager II (previously served on July 13, 2021);
  - (c) Affidavit of Terry Wrishko sworn July 8, 2021 in respect of Voyager III (previously served on July 13, 2021);
  - (d) Draft Receivership Orders for each of the Voyagers (previously served on July 13, 2021);
  - (e) Consents of MNP Ltd. to appointment as Receiver; (previously served on July 13, 2021);
  - (f) Such further and other material as counsel may advise and the learned Presiding Judge may allow.

**Applicable rules:**

6. (a) Rule 13-7(2);
- (b) Rule 6-41 (re: appointment of a receiver).

**Applicable Acts and regulations:**

7. (a) Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
- (b) Section 65(1) of *The Queen's Bench Act, 1998*, S.S. 1998, c. Q-1.01; and
- (c) Section 64(8) of *The Personal Property Security Act, 1993*, S.S. 1993, c. P-6.2.

DATED at Regina, Saskatchewan, this 12<sup>th</sup> day of August.

**MILLER THOMSON LLP**

Per: 

Solicitors for the Plaintiff, Conexus  
Credit Union 2006

**NOTICE**

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 the 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.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

**If prepared by a lawyer for the party:**

Name of firm:	Miller Thomson LLP
Name of lawyer in charge of file:	Rick Van Beselaere, Q.C.
Address of legal firm:	2103-11th Avenue, Suite 600 REGINA, SK S4P 3Z8 <i>(set out the street address)</i>
Telephone number:	306.347.8300
Fax number <i>(if any)</i> :	306.347.8350
Email address <i>(if any)</i> :	rvanbeselaere@millerthomson.com
File number:	237270.0048 RMV