

FEDERAL COURT

B E T W E E N :

**THE JEWISH COMMUNITY COUNCIL OF MONTREAL, KASHRUTH COUNCIL OF
CANADA, RABBI ABRAHAM BANON, 4412532 CANADA INC. (D/B/A KOSHER
MEHADRIN), 1458935 ONTARIO LTD. (D/B/A SHEFA MEATS)**

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION FOR JUDICIAL REVIEW
(Sections 18(1), 18(3) and 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7)

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FEDERAL COURT

BETWEEN:

**THE JEWISH COMMUNITY COUNCIL OF MONTREAL
KASHRUTH COUNCIL OF CANADA
RABBI ABRAHAM BANON
4412532 CANADA INC. (D/B/A KOSHER MEHADRIN)
1458935 ONTARIO LTD. (D/B/A SHEFA MEATS)
Applicants**

AND

**ATTORNEY GENERAL OF CANADA
Respondent**

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW
(Sections 18(1), 18(3) and 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7)**

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicants. The relief claimed by the Applicants appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the Applicants. The Applicants request that this application be heard in Montreal.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicants' solicitor **WITHIN 10 DAYS** of being served with this notice of application.

Copies of the *Federal Courts Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

Date: March 8, 2024

Issued by:

Registry
Federal Court
30 McGill Street
Montreal, Québec
H2Y 3Z7

TO:

Attorney General of Canada
Department of Justice Canada
284 Wellington Street
Ottawa, Ontario
Canada K1A 0H8

APPLICATION

1. **THIS IS AN APPLICATION FOR JUDICIAL REVIEW PURSUANT TO SECTIONS 18(1), 18(3) AND 18.1 OF THE *FEDERAL COURTS ACT*** to declare inoperative and invalid the requirement, imposed by the *Guidelines for ritual slaughter of food animals without pre-slaughter stunning* (the “**Guidelines**”), adopted by the Canadian Food Inspection Agency (the “**CFIA**”), and/or by sections 143 and 144 of the *Safe Food for Canadians Regulations*, SOR/2018-108 (the “**SFCR**”) as interpreted in the Guidelines, that licence holders performing kosher slaughter on a food animal confirm the animal's state of unconsciousness before suspending it by testing up to three (3) so-called “Indicator signs to assess whether animal is unconsciousness”, namely “Absence of rhythmic breathing (2 or more regular rib movements in and out)”; “Absence of palpebral reflex (after 3 consecutive negative results, 20 seconds apart)”; and “Absence of corneal reflex (after 3 consecutive negative results, 20 seconds apart)” (the “**CFIA indicators**”) (together, the “**Guidelines Requirements**”).
2. The Guidelines Requirements should be declared inoperative and invalid because, among other things:
 - (a) they unjustifiably infringe the Applicants' freedom of religion under subsection 2(a) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”) and the right to equality on the basis of religion under subsection 15(1) of the *Charter*, and/or
 - (b) they are an incorrect and unreasonable interpretation and application of sections 143 and 144 of the *SFCR*.

and alternatively, if the Guidelines Requirements are the correct or reasonable interpretation of Sections 143 and 144 of the *SFCR*, then these provisions are inoperative and invalid because, among other things:

- (c) they unjustifiably infringe the Applicants' freedom of religion under

subsection 2(a) of the *Charter* and the right to equality on the basis of religion under subsection 15(1) of the *Charter*; and

- (d) they are *ultra vires* the governing statutory scheme, namely subsection 51(1)(h) of the *Safe Food for Canadians Act*, S.C. 2012, c. 24 (the “*SFCA*”);
- (e) they are unreasonable as they are unfounded scientifically.

3. **THE APPLICANTS MAKE APPLICATION TO:**

- (a) **DECLARE** that the Guidelines Requirements are inoperative and invalid;
and alternatively,
- (b) **DECLARE** that sections 143 and 144 of the *SFCR* are inoperative and invalid;
- (c) **GRANT** the Applicants all reasonable and proper costs that this Court deems just and equitable in the circumstances; and
- (d) **GRANT** such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS OF THE APPLICATION ARE:

PART I –FACTUAL AND REGULATORY BACKGROUND

I. THE PARTIES

- 4. The Applicant Jewish Community Council of Montreal (“**MK**”) is a not-for-profit, multifaceted organization that was created to facilitate the maintenance of Jewish traditional life in Montreal. Its activities include the supervision and certification of meat as kosher. Its “MK” symbol on product labels, including meat, signifies that the product is kosher.
- 5. The Applicant Kashruth Council of Canada (“**COR**”) is a not-for-profit

organization that is responsible for the certification of kosher meat production and numerous other products. The COR symbol is found on the labels of many kosher food products.

6. MK and COR certify the process performed at the only four licenced abattoirs in Canada at which kosher meat was produced prior to recent events, namely: Viandes Forget Ltd. ("**Viandes Forget**") located in Terrebonne, Quebec; Montpak International ("**Montpak**") located in Saint-Germain-de-Grantham, Quebec; Viandes Valleyfield Inc. ("**Valleyfield**") located in Valleyfield, Quebec; and Viande Richelieu Inc. ("**Richelieu**") located in Massueville, Quebec.
7. The Applicant Mehadrin Meat ("**Mehadrin**"), a corporation incorporated under the *Canada Business Corporations Act*, is the largest kosher meat distributor in Canada.
8. The Applicant Shefa Meats ("**Shefa**"), a corporation incorporated under the *Business Corporations Act (Ontario)*, is another significant kosher meat distributor in Canada.
9. Together, Mehadrin and Shefa procure and distribute all of the kosher meat from Canadian licenced abattoirs, with Mehadrin having approximately 80% of the market for such distribution and Shefa having the remainder.
10. The Applicant Rabbi Abraham Banon is a *shochet*, who has received intensive practical training and religious certification on how to slaughter animals humanely according to the religious laws of *shechita* and how to determine whether a slaughtered animal is kosher. His ability to carry out his religious duty and his means of living are threatened as a result of the Guidelines Requirements.
11. The Respondent Attorney General of Canada is impleaded in these proceedings pursuant to s. 303(2) of the *Federal Courts Rules*, SOR/98-106.

II. **SHECHITA**

12. Respect for religiously prescribed dietary laws (*kashrut*) is one of the keystones

of Jewish practice. These laws include restrictions on the species of animals that may be eaten and on the manner of slaughter of the permitted species (*shechita*) and also mandates inspections of internal organs for certain aberrations before an animal is considered fit to eat (*kosher*).

13. The process of religious slaughter must be undertaken by highly trained professionals (*shochetim* - singular: *shochet*) and supervised by a trained supervisor under the auspices of a reputable certifying agency, such as Applicants COR and MK. Only meat slaughtered in accordance with these requirements may be sold and consumed as kosher.
14. *Shechita* is a pillar of traditional Jewish societies and is a tenet of the Jewish faith.
15. *Shechita* is a religious act by which the *shochet* cuts—using a specialized surgically sharp knife—the animal's trachea, oesophagus, carotid arteries and jugular veins in a single motion.
16. Jewish law opposes cruelty to animals (*tzar baalei haim*) and requires that animals be treated with consideration, kindness and respect.
17. After the incision is made, the animal quickly and irreversibly loses consciousness. This was recognized in the *SFCR*'s predecessor, the *Meat Inspection Regulations*, 1990, SOR/90-288, until January 15, 2019. This has been reversed with the coming into force of the *SFCR* on January 15, 2019, as interpreted and applied by the CFIA in the Guidelines.
18. Conventional slaughtering methods employ one of several techniques to stun a live animal after which the animal is suspended and bled to death. Under both conventional and *shechita* slaughter, the first act renders the animal unconscious and the animal subsequently dies by bleeding out. It is Applicants' position that with *shechita* the massive bleeding and rapid drop in arterial pressure caused by the complete severing of the trachea, oesophagus, carotid arteries and jugular veins leads to near instantaneous unconsciousness.

19. The immediate and irreversible loss of consciousness of an animal that is subjected to *shechita* contrasts with other slaughtering practices as the incision can be visually inspected, whereas stunning, which causes internal damage to the brain, cannot be and therefore irreversible unconsciousness cannot be guaranteed. The captive bolt method generally employed in Canada can miss the precise spot it is required to hit in the animal's head or can be applied at the wrong angle, thereby requiring that the animal be stunned a second time.
20. Electrical stunning is also a recognized stunning method. When electrical stunning is carried out effectively, the result is essentially an epileptic seizure, during which the brain is severely stimulated, the body exhibits tonic/clonic activity, and there is complete loss of consciousness. On occasion, this method can also fail such that a stunned animal is only paralyzed and continues to suffer despite the fact that it may not show overt signs.

III. THE REGULATION OF SHECHITA IN CANADA

21. The *SFCA* and, more precisely, the *SFCR*, regulate food animal slaughter.
22. Section 141 of the *SFCR* requires that a licence holder¹ render a food animal unconscious in a manner that prevents it from regaining consciousness before death or slaughter, prior to bleeding the animal, by use of a blow to the head with a mechanical device, an electrical current or a gas or gas mixture.
23. However, this requirement does not apply to so-called “ritual slaughter” in accordance with Judaic law, which is expressly permitted under section 144, provided that the licence holder:
 - (a) restrains the food animal;
 - (b) administers one continuous, fluid cut with a knife, without the knife being lifted off the food animal, resulting in the rapid, simultaneous and complete

¹ This is the expression used in the *SFCA* and the *SCFR* to designate persons authorized under such enactments to conduct regulated activities, including and relevant to these proceedings, slaughtering of food animals.

severance of the jugular veins and carotid arteries, in a manner that causes the animal to bleed immediately; and

(c) rapidly and completely bleed it, to render it unconscious in a manner that prevents it from regaining consciousness before death.

24. The CFIA, a federal public body established by the *Canadian Food Inspection Agency Act*, SC 1997, c 6, is responsible for the administration and enforcement of various statutes and regulations, including the *SFCA* and the *SFCR*.
25. Among other things, the CFIA monitors licence holders' compliance with the requirements of the *SFCR*, including requirements regarding slaughtering and dressing.

IV. **THE CONTEXT GIVING RISE TO THIS APPLICATION**

26. Following the coming into force of the *SFCR*, the CFIA published the Guidelines.
27. The Guidelines set out norms to be followed by licence holders in their application of the *SFCR*.
28. Towards the end of April, 2023, CFIA announced to licence holders that licence holders would be required to bring their Preventive Control Plans (“PCPs”)² into conformity with the Guidelines by the end of May, 2023 and that on June 5, 2023 it would begin assessing compliance with the Guidelines through on-site inspections.
29. Beginning in June, 2023, the CFIA has been enforcing the Guidelines Requirements in a manner that severely hampers—and effectively prohibits—the proper conduct of *shechita* in Canada.
30. The Guidelines Requirements build upon the premise that there is a gradual loss of consciousness, rather than an immediate loss of consciousness, following the

² The *SFCR* provide that the CFIA may request that licence holders prepare, keep and maintain a written PCP, and implement it, for any activity in their licence that they conduct in respect of a food animal. The PCP is intended to ensure that licence holders' practices comply with the requirements contained in the *SFCR*.

shechita cut. This, according to the Guidelines, complicates the assessment of the loss of consciousness before the animal is allowed to be suspended.

31. Accordingly, the Guidelines require that licence holders who perform kosher slaughter on a food animal verify the animal's state of unconsciousness before suspending it by testing up to three (3) CFIA-mandated "indicators of unconsciousness", namely "Absence of rhythmic breathing (2 or more regular rib movements in and out)"; "Absence of palpebral reflex (after 3 consecutive negative results, 20 seconds apart)"; and "Absence of corneal reflex (after 3 consecutive negative results, 20 seconds apart)".
32. Such requirements are incompatible with a viable and sustainable kosher meat production chain.
33. Since the CFIA has begun to actively enforce the Guidelines Requirements, it has progressively shut down – and is well underway to effectively prohibit – the performance of *shechita* and the access to kosher meat produced in Canada.
34. In June 2023 when the CFIA began to actively enforce the Guidelines, kosher meat production was already under pressure. Between August 2022 and January 2023, the number of abattoirs which included kosher slaughter in their production lines had dropped from six to four because of the closure of two plants, with total weekly head of cattle slaughtered dropping almost by half from approximately 3400 to 1750. When the CFIA began enforcing the Guidelines, Montpak – the largest of the four remaining abattoirs which was slaughtering approximately 1100 head a week – immediately ceased production of kosher meat, and production at the remaining three was severely impeded as further set out below. Currently production does not exceed 650 head a week in total, from which less than 200 can be certified kosher.
35. The four abattoirs that were doing *shechita* in May, 2023, before the CFIA began enforcing the Guidelines Requirements all hold licences from the Minister of Agriculture and Agri-Food, and are subject to inspections and enforcement by the

CFIA.

36. As noted above, as soon as the CFIA began demanding compliance with the Guidelines Requirements, Montpak completely stopped its kosher meat production as a direct result of the CFIA's enforcement of the Guidelines Requirements.
37. Montpak was the only producer of kosher veal in Canada, other than for a very small volume produced at Valleyfield (about 80 head of which typically 30% or less would be kosher). Therefore, as a direct result of the enforcement of the Guidelines Requirements by the CFIA, kosher veal production in Canada has virtually ceased.
38. Applicants MK, COR, Mehadrin and Shefa made numerous and sustained efforts to engage with the CFIA and Justice Canada to try to find a solution, but all those efforts have proven fruitless.
39. In June, 2023, the CFIA took issue with the indicators of unconsciousness included in Viandes Forget's PCP. In the following weeks, it issued letters of non conformity against Viandes Forget, claiming notably that an animal had been moved before all three of the CFIA indicators of unconsciousness had been tested even though the animal had been moved in order to be stunned.
40. The repeated interventions and, indeed, threats from the CFIA and its inspectors led Viandes Forget on several occasions to pause its *shechita* operations, which created serious kosher meat supply issues and conveyed a clear message that the CFIA views *shechita* as inherently problematic from an animal welfare perspective, a position which the Applicants and their experts strenuously contest.
41. Because of the CFIA's repeated interventions, Viandes Forget initially decided to stop doing *shechita*, as had Montpak, but then decided it could resume it on the condition that animals be stunned after *shechita* prior to being suspended. This would accelerate the operation by circumventing the mandated testing of

indicators of unconsciousness and would prevent any perception of cruelty from leaving animals to bleed out on the ground as required by the Guidelines Requirements.

42. Stunning after the *shechita* incision is not authorized by normative Jewish law.
43. However, the Applicant certifying agencies faced a major problem. Strict application of normative Jewish law would lead to the abrupt cessation of all *shechita* in Canada and lead to a major problem for the community. At the same time, the parties were actively engaging the CFIA in the hope of finding a solution.
44. Jewish law offers some limited flexibility in the application of the rules of religious slaughter in situations of short-term urgency (*b'dieved*). The Vaad Rabonnim of Montreal decided that the urgency of the situation as well as the hope that a solution could be found in the short-term justified issuing a temporary lenient ruling to tolerate post-*shechita* stunning on certain strict conditions concerning timing of stunning and additional rabbinic supervision.
45. As per Jewish law, this cannot be a permanent solution. This means that when the religious authorities will no longer be able to justify its use, meat produced through such process will no longer be certified fit for consumption according to Judaic laws.
46. The alternative, monitoring the three CFIA indicators (or even one or two CFIA indicators) before suspending the animal, is not something that Viandes Forget is able or willing to do to maintain a kosher meat production line.
47. Richelieu and Valleyfield are smaller operations and produce only a small volume of kosher meat. However, they too are in a similar position: they maintain their *shechita* operations while satisfying the CFIA's demands only by stunning the animal after *shechita* prior to suspension.
48. The Guidelines Requirements are severely threatening access to kosher meat by

Canadian Jews through the production problems described above and by making other licence holders unwilling to include *shechita* in their production.

49. The *shochetim*' performance of the religious act of *shechita* and their employment are also both in jeopardy.
50. Applicant Rabbi Abraham Banon undertook training that lasted for over three years and required significant study and commitment. It included everything from learning *halacha* (Jewish law), to knife-sharpening techniques, and practical training.
51. He has been working as a certified *shochet* for about 15 years, performing the *shechita* at the licenced abattoirs.
52. Because of the reduction in kosher meat production at the licenced abattoirs as a result of the Guidelines Requirements, demand for Rabbi Banon's services has been considerably reduced. He has seen a reduction of approximately 75% of his activity as a *shochet*.
53. Obviously, if the remaining licenced abattoirs were to stop their *shechita* operations, he would find himself without work as a *shochet*.
54. Not only is Rabbi Banon's capacity to perform the religious act for which he dedicated many years of training and of practice under threat, but so too his livelihood.
55. For more than a year, MK, COR, Mehadrin and Shefa made the point with the CFIA and Justice Canada that the Guidelines Requirements infringe the freedom of religion and the right to equality protected by the *Charter*, and that the Guidelines Requirements were an incorrect interpretation of the applicable regulatory framework.
56. As well, the Applicants' position is that the CFIA has based its position on an incomplete or faulty understanding of the physiologic effect of a properly done *shechita* as it is performed in Canada. The better scientific view is that a properly

performed *shechita* will cause immediate unconsciousness in bovines and, therefore, that it is a humane alternative form of slaughter and that there is no reason to delay suspending animals following *shechita* as mandated by the CFIA. Alternatively, the Guidelines Requirements constitute an extreme and unreasonable application of the precautionary principle.

57. Despite the foregoing, the CFIA and Justice Canada maintained that the Guidelines, and particularly the Guidelines Requirements, do not infringe on the Jewish community's rights and freedoms and are otherwise legal.
58. Justice Canada and CFIA further confirmed that the CFIA will continue to enforce the Guidelines, including the Guidelines requirements.

V. THE GUIDELINES ARE INOPERATIVE AND INVALID

A. THE CFIA'S GUIDELINES UNJUSTIFIABLY INFRINGE *CHARTER* RIGHTS

59. The Guidelines Requirements are inoperative as they unjustifiably infringe the Applicants' freedom of religion under subsection 2(a) of the *Charter* and the right to equality on the basis of religion under subsection 15(1) of the *Charter*.
60. The Guidelines Requirements infringe the freedom of religion of observant Canadians Jews and of *shochetim* in at least two respects.
61. First, the Guidelines Requirements prevent Canadian Jews from having access to domestic kosher meat. As appears from the facts above, the Guidelines Requirements have resulted in the direct reduction of the number of licence holders who are willing to perform *shechita*, and the licence holders who continue to perform *shechita* accept doing so only if they can stun the animal after the cut. This is normally unauthorized by Jewish law.
62. But faced with the prospect of losing all production of kosher meat in Canada and because Jewish law offers some limited flexibility in the application of the rules of religious slaughter in situations of short-term urgency (*b'dieved*), the Vaad Rabbonim of Montreal, Province of Québec, issued the temporary lenient ruling on September 13, 2023, to tolerate post-shechita stunning on certain strict

conditions concerning timing of stunning and additional rabbinic supervision, all this only on a temporary basis while the community attempted to resolve the matter directly with the CFIA.

63. This measure has helped save the small fraction of kosher meat production that remained in Canada. But as per Jewish law, it cannot be a permanent solution. This means that when the religious authorities will no longer be able to justify this temporary authorization, kosher production will completely disappear from the Canadian landscape.
64. Not all authorities are prepared to accept this leniency. The *kashrut* of meat production at Viandes Forget was also being certified by Star-K, a well-known American certifier of kosher products. In November, 2023, it withdrew its certification and publicly announced that Mehadrin had lost its certification.
65. In any case, it is trite to say that freedom of religion does not require citizens to change or abandon their religious beliefs or their religious laws in order to feed themselves.
66. Second, the Guidelines Requirements prevent *shochetim* from participating in the religious practice of *shechita*. The impact of this prohibition is profound. The *shochet* receives intense practical training and religious certification to determine when animals are kosher and how to prepare animals according to the religious laws of *shechita*.
67. As a direct result of the Guidelines, many *shochetim*, like the Applicant Rabbi Banon, are being impaired in their ability to carry out their religious duty. As the practice of *shechita* is increasingly ceased, there will be fewer *shochetim* needed and the practice will disappear in Canada.
68. Third, the Guidelines Requirements are discriminatory in effect because they burden the exercise of the Jewish faith by imposing conditions upon the slaughter of kosher meat that cannot be reasonably complied with and that holds

shechita to a higher standard of animal welfare than other forms of slaughter permitted by law.

69. There is no reasonable justification for the Guidelines Requirements and their current application by the CFIA — and the consequent *Charter*-violation — in a free and democratic society.
70. It follows that the Guidelines Requirements and their application cannot be the correct and reasonable interpretation of the SFCR.

B. THE CFIA'S GUIDELINES ARE AN INCORRECT AND UNREASONABLE INTERPRETATION OF THE SFCR

71. In any event, the Guidelines' Requirements are also an incorrect and unreasonable interpretation of the SFCR.
72. Section 141 of the SFCR sets out the rule requiring stunning before bleeding to “render it [the animal] unconscious in a manner that prevents it from regaining consciousness before death or slaughter”. This rule does not apply to *shechita*, which renders the animal unconscious through rapid bleeding. Indeed, section 144 of the SFCR expressly exempts *shechita* from the rule provided at section 141.
73. Section 144 of the SFCR sets out the requirements for so-called “ritual” slaughter:

144 Despite section 141, a licence holder who ritually slaughters a food animal to comply with Judaic or Islamic law must

(a) restrain the food animal;

(b) administer one continuous, fluid cut with a knife, without the knife being lifted off the food animal, resulting in the rapid, simultaneous and complete severance of the jugular veins and carotid arteries, in a manner that causes the animal to bleed immediately; and

(c) rapidly and completely bleed it, to render it unconscious in a manner that prevents it from regaining consciousness before death.

74. Section 143 of the SFCR sets out a rule for when an animal may be suspended:

143 (1) A licence holder must not suspend a food animal before it is rendered unconscious or slaughtered in accordance with section 141, before it is ritually slaughtered in accordance with section 144 or before it is humanely killed.

75. Once an incision is made in accordance with subsection 144(b), an animal will naturally rapidly bleed out on its own. However, subsection 144(c) imposes a further duty on the licence holder– “must” – to “rapidly and completely bleed” the animal so as “to render it unconscious in a manner that prevents it from regaining consciousness”. This suggests a further positive action by the licence holder to “rapidly and completely” bleed the animal and to do so “in a manner that prevents it from regaining consciousness”. Suspending the animal is a fulfilment of this duty.
76. This proposed reading of subsection 144(c) is consistent with the wording of the provision and also reflects the scientific position that an animal becomes unconscious immediately following the incision. It is also entirely at odds with the Guidelines Requirements that force licence holders to leave the animal bleeding on the ground for a prolonged period.
77. Indeed, the CFIA’s position has been that the law prohibits moving an animal, let alone suspending it, until it is proved beyond all possible doubt to be unconscious. This requires that the licence holder passively wait for the animal to bleed out and even prevents the licence holder from intervening to reposition the animal should it fall in a position that might impede bleeding.
78. The Guidelines Requirements in essence constitute a very strict application of the precautionary principle as they seek to ensure that there be zero risk that a food animal could be suspended or even moved before it is “fully” unconscious according to the CFIA indicators, thereby effectively requiring that animals be dead before being suspended. This is an unreasonable interpretation of what is required by sections 143 and 144 of the *SFCR* and of what constitutes “humane treatment” under subsection 51(1)(h) of the *SFCA*.

VI. SECTIONS 143 AND 144 OF THE *SFCR* ARE INOPERATIVE AND INVALID

A. SECTIONS 143 AND 144 OF THE *SFCR* UNJUSTIFIABLY INFRINGE FREEDOM OF RELIGION

79. If the Guidelines Requirements are the correct or reasonable interpretation of Sections 143 and 144 of the *SFCR*, then these provisions are invalid and inoperative because they unjustifiably infringe the freedom of religion under subsection 2(a) of the *Charter* and the right to equality on the basis of religion under subsection 15(1) of the *Charter* for the reasons mentioned at paragraphs 59 to 70 above.

B. SECTIONS 143 AND 144 OF THE *SFCR* ARE *ULTRA VIRES* THE *SFCA* AND UNREASONABLE

80. If the Guidelines Requirements are the correct or reasonable interpretation of Sections 143 and 144 of the *SFCR*, then these provisions are *ultra vires* the governing statutory scheme, namely subsection 51(1)(h) of the *SFCA*, and unreasonable for the reasons mentioned at paragraphs 71 to 78 above.

VII. THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

81. This application will be supported by the following material:

- (a) The affidavits to be sworn for the Applicants and the exhibits in support;
- (b) Such further and other evidence as counsel may advise and this Court may permit.

DATED AT MONTRÉAL, this 8th day of March, 2024

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Lawyers for the Applicants

No. T-

FEDERAL COURT OF CANADA

**THE JEWISH COMMUNITY COUNCIL OF
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ORIGINAL

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