Clerk's Stamp:

COURT FILE NUMBER	24-3260771 24-3280927
COURT	COURT OF KING'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	EDMONTON
	IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT,* R.S.C. 1985, C. B-3, AS AMENDED AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FORDEN ENERGY INC. AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 2150865 ALBERTA LTD.
DOCUMENT	**BOOK OF AUTHORITIES OF THE APPLICANTS**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**DLA Piper (Canada) LLP** 2700, 10220-103 Ave NW Edmonton, AB T5J 0K4 **Attention: Jerritt R. Pawlyk / Anthony Mersich / Isaac P. Belland** Phone: 780.429.6835 Email: jerritt.pawlyk@ca.dlapiper.com / anthony.mersich@ca.dlapiper.com / isaac.belland@ca.dlapiper.com File No.118995.00001

Commercial List Chambers Application
Scheduled for the 28th day of October, 2025
before the Honourable Justice Harris

TABLE OF AUTHORITIES

TAB	DOCUMENT
1.	*Re Walter Energy Canada Holdings, Inc.,* 2016 BCSC 107
2.	*Royal Bank of Canada v Soundair Corp,* (1991), 4 OR (3d) 1 (CA)
3.	*Re Cleo Energy Corp (Sale Process Order),* Court File No B301-163430 (AB KB), Order dated January 22, 2025 [unreported]
4.	*Gray Aqua Group of Companies, Re*, 2015 NBQB 107
5.	*Mustang GP Ltd, Re*, 2015 ONSC 6562
6.	*Electro Sonic Inc, Re*, 2014 ONSC 942
7.	*Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
8.	*Oil and Gas Conservation Act*, RSA 2000, c O-6.

TAB 1

2016 BCSC 107
British Columbia Supreme Court

Walter Energy Canada Holdings, Inc., Re

2016 CarswellBC 158, 2016 BCSC 107, [2016] B.C.W.L.D. 844,
23 C.C.P.B. (2nd) 201, 263 A.C.W.S. (3d) 300, 33 C.B.R. (6th) 60

In the Matter of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 as Amended

In the Matter of the Business Corporations Act, S.B.C. 2002, c. 57, as Amended

In the Matter of a Plan of Compromise or Arrangement of Walter Energy Canada Holdings, Inc. and the Other Petitioners Listed on Schedule "A"

Fitzpatrick J.

Heard: January 5, 2016
Judgment: January 5, 2016
Written reasons: January 26, 2016
Docket: Vancouver S1510120

Counsel: Marc Wasserman, Mary I.A. Buttery, Tijana Gavric, Joshua Hurwitz, for Petitioners
John Sandrelli, Tevia Jeffries, for United Mine Workers of America 1974 Pension Plan and Trust
Matthew Nied, for Steering Committee of First Lien Creditors of Walter Energy, Inc.
Aaron Welch, for Her Majesty the Queen in Right of the Province of British Columbia
Kathryn Esaw, for Morgan Stanley Senior Funding, Inc.
Peter Reardon, Wael Rostom, Caitlin Fell, for KPMG Inc., Monitor
Neva Beckie, for Canada Revenue Agency
Stephanie Drake, for United States Steel Workers, Local 1-424

Subject: Civil Practice and Procedure; Corporate and Commercial; Insolvency

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

Insolvent corporations ("petitioners") were granted initial order under Companies' Creditors Arrangement Act — Petitioners were on path towards equity or debt restructuring, or sale and liquidation of their assets — Petitioners brought application for approval of sale and solicitation process, appointment of professionals to manage that process, key employee retention plan, and extension of stay — Application granted — Proposed sale and investment solicitation process represented best opportunity to restructure as going concern, was reasonable, was not opposed by any stakeholders, and was approved — It was appropriate to appoint chief restructuring officer (CRO) and financial advisor, as they were necessary for successful restructuring — Petitioners' assets and operations were significantly complex so as to justify appointments and proposed compensation and charges — Recommendations for financial advisor and CRO were accepted as being most qualified candidates — Key employee retention plan was approved, even in light of earlier salary raise and pension plan's objections, as employee was most senior remaining executive — Loss of this person's expertise now or during process would be extremely detrimental to chances of successful restructuring — Stay that was granted under initial order was extended in order to provide sufficient time to solicit letters of intent — Union was not entitled to proceed with its claims as it was not imperative that they be determined now.

APPLICATION by insolvent corporations for extension of stay of proceedings and other relief to lead to potential restructuring.

and the appointment of further professionals to manage that process and complete other necessary management functions. They also seek a key employee retention plan. Finally, the petitioners seek an extension of the stay to early April 2016.

10 For obvious reasons, the financial and environmental issues associated with the coal mines loom large in this matter. For that reason, the Walter Canada Group has engaged in discussions with the provincial regulators, being the B.C. Ministry of Energy and Mines and the B.C. Ministry of the Environment, concerning the environmental issues and the proposed restructuring plan. No issues arise from the regulators' perspective at this time in terms of the relief on this application. Other stakeholders have responded to the application and contributed to the final terms of the relief sought.

11 The stakeholders appearing on this application are largely supportive of the relief sought, save for two.

12 Firstly, the United Mine Workers of America 1974 Pension Plan and Trust (the "1974 Pension Plan") opposes certain aspects of the relief sought as to who should be appointed to conduct the sales process.

13 The status of the 1974 Pension Plan arises from somewhat unusual circumstances. One of the U.S. entities, Jim Walter Resources, Inc. ("JWR") is a party to a collective bargaining agreement with the 1974 Pension Plan (the "CBA"). In late December 2015, the U.S. bankruptcy court issued a decision that allowed JWR to reject the CBA. The court also ordered that the sale of the U.S. assets would be free and clear of any liabilities under the CBA. As a result, the 1974 Pension Plan has filed a proof of claim in the U.S. proceedings advancing a contingent claim against JWR with respect to a potential "withdrawal liability" under U.S. law of approximately US$900 million. The U.S. law in question is the *Employee Retirement Income Security Act of 1974*, 29 USC § 101, as amended, which is commonly referred to as "*ERISA*".

14 The 1974 Pension Plan alleges that it is only a matter of time before JWR formally rejects the CBA. In that event, the 1974 Pension Plan contends that *ERISA* provides that all companies under common control with JWR are jointly and severally liable for this withdrawal liability, and that some of the entities in the Walter Canada Group come within this provision.

15 It is apparent at this time that neither the Walter Canada Group nor the Monitor has had an opportunity to assess the 1974 Pension Plan's contingent claim. No claims process has even been contemplated at this time. Nevertheless, the standing of the 1974 Pension Plan to make submissions on this application is not seriously contested.

16 Secondly, the Union only opposes an extension of the stay of certain proceedings underway in this court and the Labour Relations Board in relation to some of its employee claims, which it wishes to continue to litigate.

17 At the conclusion of the hearing, I granted the orders sought by the petitioners, with reasons to follow. Hence, these reasons.

The Sale and Investment Solicitation Process ("SISP")

18 The proposed SISP has been developed by the Walter Canada Group in consultation with the Monitor. By this process, bidders may submit a letter of intent or bid for a restructuring, recapitalization or other form of reorganization of the business and affairs of the Walter Canada Group as a going concern, or a purchase of any or all equity interests held by Walter Energy Canada. Alternatively, any bid may relate to a purchase of all or substantially all, or any portion of the Walter Canada Group assets (including the Brule, Willow Creek and Wolverine mines).

19 It is intended that the SISP will be led by a chief restructuring officer (the "CRO"), implemented by a financial advisor (both as discussed below) and supervised by the Monitor.

20 Approvals of SISPs are a common feature in *CCAA* restructuring proceedings. The Walter Canada Group refers to *CCM Master Qualified Fund Ltd. v. blutip Power Technologies Ltd.*, 2012 ONSC 1750 (Ont. S.C.J. [Commercial List]). At para. 6, Brown J. (as he then was) stated that in reviewing a proposed sale process, the court should consider:

> (i) the fairness, transparency and integrity of the proposed process;
>
> (ii) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and,

(iii) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.

21 Although the court in *CCM Master Qualified Fund* was considering a sales process proposed by a receiver, I agree that these factors are also applicable when assessing the reasonableness of a proposed sales process in a *CCAA* proceeding: see *PCAS Patient Care Automation Services Inc., Re*, 2012 ONSC 2840 (Ont. S.C.J. [Commercial List]) at paras. 17-19.

22 In this case, the proposed timelines would see a deadline of March 18 for letters of intent, due diligence thereafter with a bid deadline of May 27 and a target closing date of June 30, 2016. In my view, the timeline is reasonable, particularly with regard to the need to move as quickly as possible to preserve cash resources pending a sale or investment; or, in the worst case scenario, to allow the Walter Canada Group to close the mines permanently. There is sufficient flexibility built into the SISP to allow the person conducting it to amend these deadlines if the circumstances justify it.

23 The SISP proposed here is consistent with similar sales processes approved in other Canadian insolvency proceedings. In addition, I agree with the Monitor's assessment that the SISP represents the best opportunity for the Walter Canada Group to successfully restructure as a going concern, if such an opportunity should arise.

24 No stakeholder, including the 1974 Pension Plan, opposed this relief. All concerned recognize the need to monetize, if possible, the assets held by the Walter Canada Group. I conclude that the proposed SISP is reasonable and it is approved.

Appointment of Financial Advisor and CRO

25 The more contentious issues are who should conduct the SISP and manage the operations of the Walter Canada Group pending a transaction and what their compensation should be.

26 The Walter Canada Group seeks the appointment of a financial advisor and CRO to assist with the implementation of the SISP.

27 In restructuring proceedings it is not unusual that professionals are engaged to advance the restructuring where the existing management is either unable or unwilling to bring the required expertise to bear. In such circumstances, courts have granted enhanced powers to the monitor; otherwise, the appointment of a CRO and/or financial advisor can be considered.

28 A consideration of this issue requires some context in terms of the current governance status of the Walter Canada Group. At present, there is only one remaining director, who is based in West Virginia. The petitioners' counsel does not anticipate his long-term involvement in these proceedings and expects he will resign once the U.S. sale completes. Similarly, the petitioners have been largely instructed to date by William Harvey. Mr. Harvey is the executive vice-president and chief financial officer of Walter Energy Canada Holdings, Inc., one of the petitioners. He lives in Birmingham, Alabama. As with the director, the petitioners' counsel expects him to resign in the near future.

29 The only other high level employee does reside in British Columbia, but his expertise is more toward operational matters, particularly regarding environmental and regulatory issues.

30 Accordingly, there is a legitimate risk that the Walter Canada Group ship may become rudderless in the midst of these proceedings and most significantly, in the midst of the very important sales and solicitation process. This risk is exacerbated by the fact that the management support traditionally provided by the U.S. entities will not be provided after the sale of the U.S. assets. Significant work must be done to effect a transition of those shared services in order to allow the Canadian operations to continue running smoothly. It is anticipated that the CRO will play a key role in assisting in this transition of the shared services.

31 In these circumstances, I am satisfied that professional advisors are not just desirable, but indeed necessary, in order to have a chance for a successful restructuring. Both appointments ensure that the SISP will be implemented by professionals who will enhance the likelihood that it generates maximum value for the Walter Canada Group's stakeholders. In addition, the appointment of a CRO will allow the Canadian operations to continue in an orderly fashion, pending a transaction.

TAB 2

1991 CarswellOnt 7706
Ontario Court of Justice (General Division)

Royal Bank of Canada v. Soundair Corp.

1991 CarswellOnt 7706, 26 A.C.W.S. (3d) 683

BETWEEN: THE ROYAL BANK OF CANADA Plaintiff and SOUNDAIR CORPORATION, CANADIAN PENSION CAPITAL LIMITED and CANADIAN INSURERS' CAPITAL CORPORATION Defendant

Rosenberg J

Judgment: May 1, 1991
Docket: 48593/90Q

Counsel: Lyndon Barnes and Lawrence Ritchie for the Royal Bank of Canada
William G. Horton, Nancy Spies and Carmen theriault for Ontario Express Ltd. and Frontier Air Ltd., Sean F. Dunphy for Ernst & Young Inc., Receiver of Soundair Corporation, Jack Berkow and S. Goldman Canadian Pension Capital Limited and Canadian Insurer's Capital Corporation, John Morin for Air Canada

***ROSENBERG J*:**

NATURE OF PROCEEDINGS

1 Ernst & Young Inc. (the "Receiver") moved for an order approving the share Purchase agreement dated March 8, 1991 between Frontier Air limited, Ontario Express Limited ("OEL"), 174590 Canada Inc. and the Receiver (the "OEL Offer") and for an order authorizing and directing the Receiver and 174590 Canada Inc., as vendors, to complete that agreement in accordance with its terms.

2 The defendants, Canadian Pension Capital limited and Canadian Insurers' Capital Corporation (collectively "CCFL"), moved for an order approving the offer of 922246 Ontario Limited ("922") dated April 5, 1991 (the "922 Offer") to purchase the assets of Air Toronto, a division of Soundair Corporation ("Air Toronto" and "Soundair", respectively), or in the alternative for directions regarding the sale of the assets of Air Toronto.

3 Either as a result of the motion by CCFL or as a practical matter, the third possibility before the court is to order that neither offer be accepted and to make an order setting out the procedure to be adopted by the Receiver in dealing with the two competing groups wishing to purchase the assets of Air Toronto.

PARTIES

4 Matters involving the Soundair receivership came before me on a number of occasions and it was necessary to make a number of preliminary orders with regard to the aforesaid motions (i.e. ordering disclosure of certain information setting out time tables for offers to be submitted, scheduling cross-examinations, etc.). As a result of these preliminary appearances and on hearing what cross-examinations had taken place and who participated, it became clear that the real issue to be determined was whether OEL or 922 would be successful in purchasing Air Toronto assets. This was the real contest before me. The OEL offer was supported by Canadian International Airlines Limited ("Canadian International") and the CCLF offer was supported by Air Canada and Air Canada was a substantial participant in this 922 offer by the time the motion was heard. Accordingly, I added OEL as a party with the full right to participate in the proceedings. CCFL being a party to the one motion was allowed to participate fully as a party with regard to both motions and Air Canada was allowed to participate to the extent that they wished to counter any allegations that were made against Air Canada. In fact, Air Canada did not make any submissions.

> that the trustee has not properly carried out its duty to endeavour to obtain the best price for the estate. In such a case the proper course might be to refuse approval and to ask the trustee to recommence the process.

55 The 922 offer is superior but the difference is not of such a magnitude as to warrant the disruption of the process.

56 In the *Crown Trust v. Rosenberg* case, *supra*, Anderson J. in considering a higher bid than that approved by the receiver made statements that appear to be equally applicable to the case at bar when he stated at p.547:

> The Larco offer is the highest bid. The difference between it and the recommended offers is substantial in absolute amount but not material in proportion or relation to the over-all amounts involved in the transaction. *The difference is not such as to create any inference that the Disposition Strategy and its application by the Receiver was inadequate or unsuccessful*. (Emphasis added).

Applying that reasoning to the present case, the process having been determined to have been appropriate, the difference between the CCFL offer and the OEL offer is only marginal and the difference is not such as to create an inference that the disposition strategy of the Receiver was inadequate or unsuccessful.

57 Anderson J. further stated:

> In essence the position of the Receiver was this: having before it the Larco offer with the concerns about it which it entertained, having before it the offers which it now recommends which occasioned no such concerns, considering that in relative terms the difference in return was not material, the Receiver elected to recommend the somewhat lower offers which were not attended by troublesome concerns against the higher one which was. In my view the Receiver acted reasonably in doing so.

Those words are equally applicable to the Receiver's decision on March 8th where he had before it the OEL offer which had not been fully negotiated and reduced to an acceptable agreement and the 922 offer which contained provisions which were not acceptable and beyond the control of the Receiver.

58 At p.550 Anderson J. stated:

> It is equally clear, in my view, though perhaps not so clearly enunciated, that it is only in an exceptional case that the court will intervene and proceed contrary to the Receiver's recommendations if satisfied, as I am, that the Receiver has acted reasonably, prudently and fairly and not arbitrarily.

And further on the same page:

> ... In all of those cases the courts have recognized that they are not making a decision in a vacuum; that they were concerned with the process not only as it affected the case at bar, but as it stood to be effected in situations of a similar nature in the future. In what was called by MacDonald J.A. in *Cameron v. Bank of Nova Scotia et al.* (1981), 45 N.S.R. (2d) 3039, 38 C.B.R. (N.S.) 1, 86 A.P.R. 303, "the delicate balance of competing interests". that is a relevant and material one.

59 Anderson J. further commented on the balancing of these criteria when he said at p.551:

> Its decision was made as a matter of business judgment on the elements then available to it. It is of the very essence of a receiver's function to make such judgments and in the making of them to act seriously and responsibly so as to be prepared to stand behind them ....
>
> Plainly, each case must be decided upon its own facts, and with a view to producing a proper result within the legal framework to which I have made reference. Such policy considerations as I have just enunciated are: as they were said to be by Saunders J., secondary, but they are none the less relevant and material.

60 In the case of *Canadian Commercial Bank et al. v. Pilum Investments Limited*, (unreported, released January 14, 1987), Anderson J. again considered a similar situation and repeated very much of the reasoning that he had followed in the *Crown Trust* case and recited some of his reasoning in that case and further stated at p.10:

> I add one thing arising out of the circumstances of this case. The court, upon the motion for approval, ought not to be asked to review the entire stewardship of the receiver from the inception of the receivership, and if asked to do so, should decline.

61 That reasoning commends itself to the circumstances of the case at bar. As of March 1st, CCFL and Air Canada had all the information that they needed and any allegations of unfairness in the negotiating process by the Receiver had disappeared. They created a situation as of March 8th, where the Receiver was faced with two offers, one of which was in acceptable form and one of which could not possibly be accepted in its present form. The Receiver acted appropriately in accepting the OEL offer.

62 In the case of *Re Selkirk* (1987), 64 C.B.r. (N.S.) 140 McRae J. stated at p.142:

> The court will not lightly withhold approval of a sale by the receiver, particularly in a case such as this where the receiver is given rather wide discretionary authority as per the order of Mr. Justice Trainor and, of course, where the receiver is an officer of this court. Only in a case where there seems to be some unfairness in the process of the sale or where there are substantially higher offers which would tend to show that the sale was improvident will the court withhold approval. It is important that the court recognize the commercial exigencies that would flow if prospective purchasers are allowed to wait until the sale is in court for approval before submitting their final offer. This is something that must be discouraged.

63 In a decision of the Manitoba Court of Appeal in the matter of the *Winding Up Act, R.S.C. 1970, c.W-10 and in the matter of Northland Bank between Touche Ross Limited (Applicant/Respondent) and Mauricio Kuperman et al.* an unreported decision released April 21, 1989, Kuperman had entered into an agreement with the receiver subject to court approval to purchase certain property in Grande Prairie for $4.58 million. Between the date of the signing and the date when court approval was sought there were some remarkable developments affecting Grande Prairie. Proctor and Gamble announced that it expected to spend $365 million in the expansion of its existing pulp mill that would result in 900 new direct or indirect jobs in the community. Also, the price of oil increased from $15 U.S. a barrel to $18 U.S. a barrel. Both factors materially affected the value of real estate in the Grande Prairie area. Before court approval the liquidator received a further offer from Osgoode Properties for $4.75 million which the liquidator also accepted. Kuperman then revised his offer under protest to $4.8 million. The judge in the lower court then decided that there should be an opportunity given to the two bidders to tender and Kuperman made a tender again under protest for $5,257,000 which was approved by the court, the other tender of Osgoode Properties having been for a lower amount. On appeal the court remarked that Kuperman was bound by his first agreement and the court confirmed the first agreement and price notwithstanding the impact on the creditors by the reduction of the price. The court stated at the bottom of p.4:

> It is certainly true that the principal function of the court is to obtain as high a price as possible in a liquidation as in a receivership. Nevertheless, where, as in this case, a process is set up with the consent of the major creditors to have a sale procedure which will normally result in the highest price being obtained, it is not reasonable that court discretion should be withheld or that an auction sale should be carried on by the court.

64 In the present case the Royal Bank who had originally obtained the court appointment of the Receiver was made aware of the process throughout and tacitly approved it. The Royal Bank knew the terms of the letter of Intent in February 1991 and made no comment although that letter set out the very terms of the OEL offer which it now opposes. To quote from the decision of the Manitoba Court of appeal in the *Northland Bank* case at p.6:

> In my opinion the discretion to be exercised by a judge under s.35(1) of the *Winding Up Act* in approving or disapproving of a sale made by a liquidator must be exercised fairly. The discretion cannot be used as a means of getting a higher price due to changed circumstances. If the court is satisfied with the process (and here the court itself set up the process or approved of the process), then the discretion should be exercised in favour of the sale *where the price was not improvident at the material time*. (Emphasis added).

TAB 3

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COURT FILE NO.	B301-163430
COURT	COURT OF KING'S BENCH OF ALBERTA (IN BANKRUPTCY & INSOLVENCY)
JUDICIAL CENTRE	CALGARY
APPLICANTS	IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, C C-8, AS AMENDED AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CLEO ENERGY CORP.
DOCUMENT	**ORDER (Sale Process)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**Gowling WLG (Canada) LLP** 1600, 421 – 7th Avenue SW Calgary, AB T2P 4K9 Attn: **Sam Gabor / Tom Cumming** Phone: 403.298.1938 Fax: 403.263.9193 Email: sam.gabor@gowlingwlg.com / tom.cumming@gowlingwlg.com File No.: G10010664

DATE ON WHICH ORDER WAS PRONOUNCED: January 22, 2025

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice J.T. Nielson in Commercial Chambers

UPON THE APPLICATION of Cleo Energy Corp. (the "**Applicant**"), filed January 20, 2025; **AND UPON** reading Affidavit of Chris Lewis, sworn January 20, 2025, and the Affidavit of Service of Sherry Langley, sworn January 21, 2025; **AND UPON** reading the Second Report of Alvarez & Marsal Canada Inc. in its capacity as proposal trustee of the Applicant (in such capacity, the "**Proposal Trustee**") dated January 20, 2025 (the "**Second Report**"); **AND UPON** hearing submissions by counsel for the Applicant, counsel for the Proposal Trustee and any other counsel or other interested parties present,

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other than those persons served is entitled to service of the notice of application.

2. The sale and solicitation process ("**Sale Process**") commenced by the Applicant prior to the granting of this Order, as described in the Second Report and as attached hereto as **Appendix "A"**, is commercially reasonable and is hereby approved.

3. The Applicant, with the assistance of and in consultation with the Proposal Trustee, is hereby authorized and directed to conduct the Sale Process, and do all things reasonably necessary to give full effect thereto and carry out its obligations thereunder, including taking any additional steps or executing additional documents as may be necessary or desirable in order to carry out and complete the Sale Process and a transaction or transactions thereunder.

4. Nothing herein shall act as authorization or approval of the transfer or vesting of any or all of the Applicant's property, assets or undertakings under any agreement negotiated in connection with the Sale Process, or otherwise. Such transfer and vesting shall be dealt with and shall be subject to further Order of this Court.

5. The Applicant and the Proposal Trustee are hereby authorized and empowered to apply to this Court to amend, vary or seek any advice, directions or the approval or vesting of any transaction in connection with the Sale Process.

6. This Court hereby requests the aid and recognition of any court, tribunal, regulatory, or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order, and to assist the Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Proposal Trustee, as an officer of the Court, as may

be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

7. Service of this Order shall be deemed good and sufficient:

   (a) by serving same on the persons who were served with notice of this Application and any other parties attending or represented at the hearing of this Application; and

   (b) by posting a copy of this Order on the Proposal Trustee's website as:

   https://www.alvarezandmarsal.com/content/CLEO

8. Service of this Order on any other person is hereby dispensed with.

9. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

James T. Nielson

J.C.K.B.A.

APPENDIX "A"

SALE AND SOLICITATION PROCESS

Introduction

1. On December 8, 2024, CLEO Energy Corp. (the "**Company**") filed a notice of intention to make a proposal (a "**NOI**") under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") with the Office of the Superintendent of Bankruptcy (the "**OSB**"). Alvarez & Marsal Canada Inc. was appointed as proposal trustee of the Company (in such capacity, the "**Proposal Trustee**").

2. The Company and the Proposal Trustee intend to commence this sale and solicitation process (the "**SSP**") in order to solicit interest in the purchase of or investment in all or part of the business or operations of the Company or its undertaking, property and assets (the "**Property**"), and within a reasonable period following the launch of the SSP seek an Order of the Court of King's Bench of Alberta (the "**Court**") approving and ratifying the SSP. The Company has engaged Sayer Energy Advisors ("**Sayer**") to act as the sale advisor to the Company and Proposal Trustee in the SSP.

3. The SSP as described herein shall, together with any order issued by the Court pertaining to the SSP, exclusively govern the process for soliciting and selecting bids in connection with the SSP.

4. Mr. Chris Lewis, the president and sole director of the Company, has informed the Proposal Trustee that he does not currently intend to directly or indirectly participate in any purchase from or investment in the Company pursuant to the SSP, and has undertaken to notify the Proposal Trustee if that should change at any time during the proceedings under the BIA. In such an event, the Proposal Trustee will conduct the SSP, with the advice of Sayer, but without consulting the Company and the Proposal Trustee will establish the appropriate ethical walls with Mr. Lewis and the Company to protect confidential information with respect to any offers received in the SSP.

5. The offer submission and evaluation stage of the SSP will, as more fully described herein, be comprised of a two-phase process:

   (a) Phase 1 – the submission and evaluation of non-binding letters of intent (a "**Non-Binding LOI**") from Qualified Bidders; and

   (b) Phase 2 – the submission and evaluation of binding offers from bidders that have submitted a Non-Binding LOI and that have been invited to submit a Bid.

6. All dollar amounts expressed herein, unless otherwise noted, are in Canadian currency.

7. Unless otherwise indicated herein, any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day.

Defined Terms

8. All capitalized terms used herein and not otherwise defined shall have the meaning given to them in **Schedule "A"** hereto.

Sale and Solicitation Process

9. The SSP describes, among other things:

   (a) the manner in which prospective bidders may gain access to due diligence materials concerning the business, operations, or Property of the Company;

   (b) the guidelines for the ultimate selection of the Successful Bid and Back-Up Bid, as applicable; and,

   (c) the process for obtaining such approvals (including the approval of the Court) as may be necessary or appropriate in respect of the Successful Bid and the Back-up Bid, as applicable.

Conduct of SSP

10. The Company shall conduct the SSP in consultation with and with the assistance of the Proposal Trustee and Sayer. In the event there is a disagreement regarding or clarification required as to the interpretation or application of the SSP or the responsibilities of any Person hereunder, upon application of the Company, the Proposal Trustee or any other interested Person, the Court will have jurisdiction to hear such matters and provide advice and directions.

11. Notwithstanding that the SSP contemplates that a transaction will be concluded by way of an asset purchase, participants may propose alternative transaction or investment structures in connection with the SSP, including but not limited to transactions to refinance, reorganize, or recapitalize the Company or a reverse vesting order transaction.

12. Participants in the SSP shall be responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, including in respect of all due diligence activities or other actions undertaken by such participant, whether or not they lead to the consummation of a transaction.

13. The SSP does not and will not be interpreted to create any contractual or other legal relationship between the Company, the Proposal Trustee or any Potential Bidder, Bidder, Qualified Bidder, Successful Bidder, Back-up Bidder or any other Person, other than as specifically set forth in a definitive agreement that may be entered into with the Company.

"As Is, Where Is"

14. Any transaction involving the Company and the Property will be on an "as is, where is" basis without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Company, the Proposal Trustee, Sayer or any of their respective agents, estates, advisors, professionals or otherwise, other than as specifically set forth in a definitive agreement that may be entered into with the Company.

Free of Any and All Claims and Interests

15. All of the right, title and interest of the Company in and to any Property sold or transferred in connection with the SSP will, at the time of such sale or transfer, be sold or transferred free and clear of all pledges, liens, security interests, encumbrances, claims, charges,

options and interests pursuant to an approval and vesting order made by the Court under Section 65.13(7) of the BIA.

Timeline

16. The following table sets out key milestones and anticipated deadlines for the SSP:

MILESTONE	DATE
Commencement Date	Estimated to be no later than January 22, 2025
SSP Approval Application	As soon as reasonably possible
Non-Binding LOI Submission Date	February 27, 2025, or such later date as determined by the Proposal Trustee in consultation with the Company and Sayer
Binding Bid Submission Date	March 13, 2025, or such later date as determined by the Proposal Trustee in consultation with the Company and Sayer
Bid Approval Application	Week of March 24, 2025, or as soon thereafter as Court time can be confirmed, or such later date as determined by the Proposal Trustee in consultation with the Company and Sayer
Target Closing Date	March 31, 2025, or 3 days after Court approval is obtained
Outside Date	April 17, 2025

Solicitation of Interest

17. The SSP will be commenced by the Company and Sayer, in consultation with the Proposal Trustee, compiling a list of potential bidders (the "**Known Potential Bidders**"). Such list can include both strategic and financial parties who, in the reasonable business judgment of the Company, Sayer and the Proposal Trustee, may be interested in and have the financial capacity to make a Qualified Bid.

18. For the purposes of the SSP, the following Persons shall be considered potential bidders (each, a "**Potential Bidder**"): (i) the Known Potential Bidders, and (ii) any other Person that executes and delivers the documents listed in paragraph 23 and is permitted by the Company or the Proposal Trustee, in consultation with Sayer, to participate in the SSP.

19. The Company, with the assistance of Sayer and the Proposal Trustee, shall:

    (a) prepare a teaser letter describing the SSP and inviting interested participants to express their interest in the SSP (the "**Teaser**");

    (b) prepare a non-disclosure agreement ("**NDA**"), a template Non-Binding LOI and a Template APA; and

    (c) gather all required due diligence materials, including information relating to the business, operations, or Property of the Company, and establish a virtual data room (the "**VDR**") containing same.

    Further, (i) Sayer and the Company shall contact Known Potential Bidders to determine their interest in the SSP by forwarding them a Teaser and, if interested, providing such party with a copy of the SSP and the NDA; and (ii) Sayer shall publish a notice regarding

the SSP in the *Daily Oil Bulletin, Insolvency Insider* and any other publications or newswires as determined by the Proposal Trustee.

20. The Company, Sayer and the Proposal Trustee will grant access to the VDR to any Potential Bidder that executes and delivers the NDA to the Company and Sayer. Access to the VDR will be granted as soon as reasonably practicable following the delivery of the NDA.

21. Neither the Company, the Proposal Trustee, Sayer, nor any of their respective advisors make any representation or warranty as to the information contained in the VDR, or other information to be provided through the due diligence process or otherwise, except to the extent contemplated under any definitive document negotiated with a Successful Bidder or Back-Up Bidder which is executed and delivered by the Company and approved by the Court.

Phase 1

22. A Potential Bidder who wishes to participate in this SSP must deliver a Non-Binding LOI to the Proposal Trustee, with a copy to the Company and Sayer, at the e-mail addresses specified in **Schedule "B**" hereto, by the Non-Binding LOI Submission Date.

23. A Non-Binding LOI will be considered a qualified LOI (a "**Qualified LOI**") only if the Non-Binding LOI:

    (a) is submitted to the Proposal Trustee on or before the Non-Binding LOI Submission Date;

    (b) specifies:

        (i) the total proposed consideration payable in the transaction;

        (ii) the identity, the type, and the jurisdiction of organization of the Potential Bidder;

        (iii) the contact information for such Potential Bidder;

        (iv) full disclosure of the direct and indirect owners and principals of the Potential Bidder;

        (v) confirmation that the Potential Bidder has a subsisting business associate code issued through Petrinex and has general eligibility to acquire and hold licenses or approvals for wells, facilities and pipelines through the Alberta Energy Regulator; and

        (vi) such financial disclosure and credit quality support or enhancement that allows the Proposal Trustee to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a transaction; and

    (c) includes an executed letter acknowledging receipt of the SSP and agreeing to accept and be bound by the provisions contained therein.

24. The Proposal Trustee, in consultation with the Company and Sayer, will assess all Non-Binding LOI's submitted on or before the Non-Binding LOI Submission Date. If it is determined by the Proposal Trustee that:

    (a) a Potential Bidder: (i) has complied with each of the requirements described in paragraph 23, (ii) has a *bona fide* interest in concluding a transaction, and (iii) has the financial wherewithal to conclude a transaction, then such Potential Bidder may be deemed a "**Qualified Bidder**" and advanced to Phase 2; or

    (b) no Qualified LOI's have been submitted or, alternatively, that no Qualified LOI is likely to result in a Successful Bid (as defined below), the Proposal Trustee, in consultation with the Company and Sayer, may immediately terminate the SSP.

25. The Proposal Trustee shall notify all Potential Bidders that deliver a Non-Binding LOI to the Proposal Trustee whether or not they have been designated as a Qualified Bidder.

Phase 2

26. Qualified Bidders shall be entitled to conduct further due diligence prior to submitting a binding bid (a "**Bid**"). Such further due diligence shall, at the discretion of the Proposal Trustee, include on-site inspections or meetings with the senior management of the Company.

27. A Qualified Bidder that wishes to make a Bid must deliver their Bid to the Proposal Trustee, with a copy to Sayer and the Company (provided that the Company or Mr. Lewis is not considered a Qualified Bidder), at the e-mail addresses specified in **Schedule "B**" hereto, by no later than the Binding Bid Submission Date.

28. Bids submitted to the Proposal Trustee for consideration must comply with all of the following requirements, and any such complying Bid shall be a "**Qualified Bid**":

    (a) Template: Each Bid must be submitted in the form of a template agreement of purchase and sale (the "**Template APA**"), a copy of which shall be provided in the VDR;

    (b) Purchase Price: Each Bid must clearly set forth the purchase price in Canadian dollars, stated on a total enterprise value basis (including the cash and non-cash components thereof);

    (c) Binding Bid Submission Date: Each Bid must be received on or before 12:00 pm (Calgary time) on the Binding Bid Submission Date;

    (d) Irrevocable Offer: Each Bid must include a letter stating that the Bid is irrevocable until approval of the Successful Bid or Back-up Bid by the Court, as applicable, provided that if such Bidder is selected as the Successful Bidder or Back-up Bidder, the Bid shall remain irrevocable until the closing of a transaction;

    (e) Executed Documents: Each Bid must be accompanied by a duly authorized and executed form of transaction document, an electronic Word copy of such agreement, a marked-up version showing all edits to the transaction document as compared to the Template APA, as well as duly authorized and executed

documents necessary to effectuate the transactions contemplated thereby, which specifies, at a minimum:

(i) Identity: Each Bid must fully disclose the identity of each entity that will be sponsoring or participating in the Bid and the complete terms of such participation;

(ii) Contact Information: Each Bid must contain contact information for any business, financial or legal advisors retained or to be retained in connection with the proposed transaction;

(iii) Deposit: Each Bid must be accompanied by a deposit (the "**Deposit**") in the form of a wire transfer to a non-interest bearing account specified by the Proposal Trustee, payable to the order of the Proposal Trustee, on behalf of the Company, in trust, in an amount equal to fifteen (15%) percent of the cash consideration contemplated by the Bid or as otherwise contemplated in any fully executed transaction document, to be held and dealt with in accordance with the terms of the SSP;

(iv) Financial Wherewithal: Each Bid must include:

A. written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Proposal Trustee to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction, fund the business, and implement post-Closing measures and transactions; and

B. the identification of any Person or entity who may provide debt or equity financing for the Bid and any material conditions to be satisfied in connection with such financing;

(v) Authorization: Each Bid must include evidence, in form and substance reasonably satisfactory to the Proposal Trustee, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and Closing of the transaction contemplated by the Bid;

(vi) No Other Authorization, Diligence, Financing Conditions: A Bid may not be conditional upon the following:

A. any internal approval(s);

B. the outcome of unperformed due diligence by the Qualified Bidder; or

C. obtaining financing;

(vii) Regulatory Approvals: Each Bid must be in compliance with Alberta Energy Regulator requirements and outline any anticipated regulatory

and other approvals required to close the transaction, and the anticipated time frame and any anticipated impediments for obtaining such approvals and confirms that the Qualified Bidder will make and submit all necessary and applicable regulatory filings and pay all fees associated therewith;

(viii) Disclaimer of Fees: Each Bid must disclaim any right to receive a fee analogous to a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation;

(ix) Timeline: Each Bid must provide a timeline to Closing with critical milestones and shall confirm that the Qualified Bidder will use commercially reasonable efforts to Close by the Target Closing Date;

(x) Confirmation of no collusion: Each Bid should include confirmation by the Qualified Bidder that it has not engaged in any discussions or any other collusive behaviour with any other Qualified Bidder regarding the SSP or any Bids submitted or contemplated to be submitted in the SSP; and

(xi) Other Information: Each Bid must contain such other information as may be reasonably required to evaluate the Bid or as may be requested by the Proposal Trustee from time to time.

29. Notwithstanding anything herein to the contrary, the Proposal Trustee, the Company and Sayer will review each Bid to assess whether they are Qualified Bids, with the final decision resting with the Proposal Trustee, following consultation with the Company and Sayer. In performing such review and assessment, the Bids will be evaluated based on the following non-exhaustive list of considerations:

(a) the purchase price and net value (including assumed liabilities and other obligations to be assumed or otherwise performed by the Qualified Bidder);

(b) the firm, irrevocable commitment for financing of the transaction;

(c) the claims likely to be created by such Bid in relation to other Bids;

(d) the counterparties to the transaction;

(e) the terms of transaction documents;

(f) the Closing conditions and other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transaction);

(g) planned treatment of stakeholders;

(h) the assets or liabilities included or excluded from the Bid, including whether the Property subject to such Bid is on a “white map” basis and includes all Property within one or more bid areas delineated by Sayer;

(i) compliance with Alberta Energy Regulator requirements;

(j) any restructuring costs that would arise from the Bid;

(k) the likelihood and timing of consummating the transaction,

(l) the financing or cash *pro forma* available post-Closing to fund the Company's business; and

(m) the capital sufficient to implement post-Closing measures and transactions.

30. The Proposal Trustee, in consultation with the Company and Sayer, may reject any Bid that is (a) inadequate or insufficient; (b) not in conformity with the requirements pursuant to the SSP; (c) contrary to the best interest of the Company; or (d) not a Qualified Bid; provided that the Proposal Trustee may waive strict compliance with any one or more of the requirements specified in the SSP and deem a non-compliant Bid to be a Qualified Bid.

Selection of Successful Bid

31. The Proposal Trustee, in consultation with the Company and Sayer, may clarify or negotiate amended terms with respect to any Qualified Bid, and such Qualified Bid may be amended, modified, or varied as a result of such clarification or negotiation. For greater certainty, the Proposal Trustee, in consultation with the Company and Sayer, shall be entitled to request that any Qualified Bidder submit a revised bid.

32. In the event that no Qualified Bid is: (a) acceptable to the Proposal Trustee, acting reasonably, or (b) likely to result in a Successful Bid (as defined below), the Proposal Trustee, in consultation with the Company and Sayer, may immediately terminate the SSP.

33. The Proposal Trustee, in consultation with the Company and Sayer, may, but is not obligated to, select the highest or best Qualified Bid received during the SSP (the "**Successful Bid**" and the party submitting such Successful Bid, the "**Successful Bidder**") and has the discretion to identify and record the next highest or best Qualified Bid (the "**Back-Up Bid**" and the party submitting such Back-Up Bid, the "**Back-Up Bidder**"). For greater certainty, the Proposal Trustee shall have no obligation to select a Successful Bid or Back-Up Bid and expressly reserves the right to reject any or all Qualified Bids.

34. If a Successful Bid, and Back-Up Bid, as applicable, is selected, the Proposal Trustee shall advise: (a) the Successful Bidder and the Back-Up Bidder of such determination, and (b) all other Qualified Bidders that they are not a Successful Bidder or Back-Up Bidder.

Bid Approval Application

35. The Company shall take all necessary steps to implement the transaction contemplated by the Successful Bid and either the Company or the Proposal Trustee shall apply to the Court (the "**Bid Approval Application**") for an Order approving the Successful Bid and authorizing the Company to enter into any and all necessary agreements with respect to the Successful Bid and to undertake such other actions as may be necessary or appropriate to implement and give effect to the Successful Bid.

36. The hearing of the Bid Approval Application will be held as soon as practical after the selection of the Successful Bid. The Bid Approval Application may be adjourned or rescheduled by the Company or the Proposal Trustee, as applicable.

37. All Qualified Bids (other than the Successful Bid and the Back-Up Bid) will be deemed rejected on the date the Successful Bid is approved by the Court.

Closing the Successful Bid

38. The Company and the Successful Bidder shall take all reasonable steps to complete the transaction contemplated by the Successful Bid by the Target Closing Date, and in any event no later than the Outside Date, unless otherwise agreed by the parties.

39. If the transaction contemplated by the Successful Bid does not close for any reason, the Proposal Trustee, in consultation with the Company and Sayer, may elect to seek to complete the transaction contemplated by the Back-Up Bid and will promptly seek to Close the transaction contemplated by the Back-Up Bid. The Back-Up Bid will be deemed to be the Successful Bid and the Company will be deemed to have accepted the Back-Up Bid only when the Proposal Trustee has made such election and provided written notice of such determination to the Successful Bidder and the Back-Up Bidder.

Deposits

40. All Deposits shall be retained by the Proposal Trustee in a trust account with a chartered bank in Canada. The Deposit (without interest thereon) paid by the Successful Bidder and Back-Up Bidder, as applicable, whose Qualified Bid(s) is/are approved at the Bid Approval Application will be applied to the purchase price to be paid by the Successful Bidder and/or Back-Up Bidder, as applicable, upon Closing of the approved transaction, and will be non-refundable other than as set out in the Successful Bid or the Back-Up Bid, as applicable.

41. The Deposits of Qualified Bidders not selected as the Successful Bidder or Back-Up Bidder will be returned to such Qualified Bidders within five (5) Business Days of the date the Successful Bid or the Back-Up Bid is approved by the Court. The Deposit of the Back-Up Bidder, if any, shall be returned to such Back-Up Bidder no later than five (5) Business Days after Closing of a transaction with the Successful Bidder.

42. If the Successful Bidder or Back-up Bidder, as applicable, breaches its obligations under the terms of the SSP, its Deposit shall be considered non-refundable and forfeited as liquidated damages and not as a penalty.

43. If the Company is unable to complete the Successful Bid as a result of its own actions and not as a result of steps or conditions contained in the Successful Bid (or the actions of the Successful Bidder), then the Deposit shall be returned to the Successful Bidder.

Notice

44. The addresses used for delivering documents as prescribed by the terms and conditions of the SSP are set out in **Schedule "B"** hereto. All documents required to be delivered to the Company and Sayer or the Proposal Trustee pursuant to the SSP shall be delivered to the Company and Sayer and the Proposal Trustee by e-mail, personal delivery, or by

courier. Persons requesting information about the SSP should contact the Proposal Trustee at the contact information contained in **Schedule "B".**

Amendment

45. The Proposal Trustee, in consultation with the Company and Sayer, shall have the right to modify the SSP, including any deadlines set out herein, if, in its reasonable business judgment such modification will enhance the process or better achieve the objectives of the SSP.

Credit Bid

46. Any secured creditor of the Company, including an interim financing lender, shall be entitled to participate in this SSP as a credit bidder (the "**Credit Bidder**"). Any credit bid submitted by a Credit Bidder shall be based on the form of the Template APA, with such changes as are appropriate for credit bids (the "**Credit Bid**").

47. For the purposes of any Credit Bid submitted by a Credit Bidder, such Credit Bidder shall be entitled to credit all or any portion of its secured indebtedness but must either:

    (a) irrevocably pay, in cash and in full, all of the obligations in priority (the "**Priority Obligations**") to the Credit Bidder's secured indebtedness, including for reference any amounts that are priority charges (the "**Priority Charges**") created in the Proposal Proceedings (namely, the Administration Charge, the D&O Charge or any DIP Charge (as defined in the Court's January 6, 2025 Order or any subsequent Order)); or

    (b) assume or otherwise satisfy any of the Priority Obligations on terms and conditions acceptable to the beneficiary of the security for such Priority Obligations (except for the Administration Charge, the D&O Charge or the DIP Charge (if applicable), which must be paid in cash and in full if there are amounts owing on them at the conclusion of the Proposal Proceedings).

48. Any Credit Bid shall be accompanied by a Deposit sent by wire transfer to the Proposal Trustee. Any such Deposit is to be held by the Proposal Trustee and dealt with in accordance with the SSP.

Further Orders

49. The Proposal Trustee may at any time apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder, including to terminate the SSP if deemed to be necessary by the Proposal Trustee, acting reasonably.

Schedule "A"

Defined Terms

"**Back-Up Bid**" has the meaning given to it in paragraph 33.

"**Back-Up Bidder**" has the meaning given to it in paragraph 33.

"**BIA**" has the meaning given to it in paragraph 1.

"**Bid**" has the meaning given to it in paragraph 26.

"**Bid Approval Application**" has the meaning given to it in paragraph 35.

"**Binding Bid Submission Date**" has the meaning given to it in paragraph 16.

"**Business Day**" means a day (other than Saturday or Sunday) on which banks are generally open for business in Calgary, Alberta.

"**Closing**" means the completion of the transaction contemplated by the Successful Bid.

"**Company**" has the meaning given to it in paragraph 1.

"**Court**" has the meaning given to it in paragraph 2.

"**Credit Bid**" has the meaning given to it in paragraph 46.

"**Credit Bidder**" has the meaning given to it in paragraph 46.

"**Deposit**" has the meaning given to it in paragraph 28(e)(iii).

"**Known Potential Bidders**" has the meaning given to it in paragraph 17.

"**NDA**" has the meaning given to it in paragraph 19(b).

"**NOI**" has the meaning given to it in paragraph 1.

"**Non-Binding LOI**" has the meaning given to it in paragraph 5(a).

"**Non-Binding LOI Submission Date**" has the meaning given to it in paragraph 16.

"**OSB**" has the meaning given to it in paragraph 1.

"**Outside Date**" has the meaning given to it in paragraph 16.

"**Person**" will be broadly interpreted and includes, without limitation: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a Company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an

unincorporated organization or any other association, organization or entity of any kind; and (iii) a governmental authority.

"**Potential Bidder**" has the meaning given to it in paragraph 18.

"**Priority Charges**" has the meaning given to it in paragraph 47(a).

"**Priority Obligations**" has the meaning given to it in paragraph 47(a).

"Property" means all of the Company's current and future assets, undertakings, and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof.

"Proposal Proceedings" means collectively the proceedings commenced by the Company upon the filing of a notice of intention to make a proposal on December 8, 2024, as applicable, in Court and Estate No.: B301-163430.

"Proposal Trustee" has the meaning given to it in paragraph 1.

"**Qualified Bid**" has the meaning given to it in paragraph 28.

"**Qualified Bidder**" has the meaning given to it in paragraph 24(a).

"**Qualified LOI**" has the meaning given to it in paragraph 23.

"**Sayer**" has the meaning given to it in paragraph 2.

"**SSP**" has the meaning given to it in paragraph 2.

"**Successful Bid**" has the meaning given to it in paragraph 33.

"**Successful Bidder**" has the meaning given to it in paragraph 33.

"**Target Closing Date**" has the meaning given to it in paragraph 16.

"**Teaser**" has the meaning given to it in paragraph 19(a).

"**Template APA**" has the meaning given to it in paragraph 28(a).

"**VDR**" has the meaning given to it in paragraph 19(c).

Schedule "B"

Notice

(a) If to the Company:

CLEO Energy Corp.
117 8 Ave SW #200
Calgary, AB T2P 1B4
Attention: Chris Lewis
E-mail: clewis@cleoenergy.com

with a copy to:

Gowling WLG
Suite 1600, 421 7 Ave SW
Calgary, AB T2P 4K9
Attention: Sam Gabor / Tom Cumming
E-mail: sam.gabor@gowlingwlg.com / tom.cumming@gowlingwlg.com

(b) If to the Proposal Trustee

Alvarez & Marsal Canada Inc.
Bow Valley Square IV
Suite 1110, 250 – 6th Avenue SW
Calgary, AB T2P EH7
Attention: Orest Konowalchuk / David Williams
E-mail: okonowalchuk@alvarezandmarsal.com / david.williams@alvarezandmarsal.com

with a copy to:

Miller Thomson LLP
525-8th Avenue SW, 43RD Floor
Eighth Avenue Place East
Calgary, AB T2P 1G1
Attention: James Reid
Email: jwreid@millerthomson.com

(c) If to Sayer

Sayer Energy Advisors
1620, 540 5th Avenue SW
Calgary, AB T2P 0M2
Attention: Tom Pavic, CFA, President
Email: TPavic@sayeradvisors.com

TAB 4

2015 NBQB 107
New Brunswick Court of Queen's Bench

Gray Aqua Group of Companies, Re

2015 CarswellNB 222, 2015 NBQB 107, 1139 A.P.R. 197, 254 A.C.W.S. (3d) 25, 436 N.B.R. (2d) 197

In the Matter of the bankruptcy of Gray Aqua Group of Companies

Reg. Natalie H. LeBlanc

Heard: January 7, 2014
Judgment: May 25, 2015
Docket: NB 19425, Estate No. 51-1780540

Counsel: John D. Stringer, Q. C., Ben R. Durnford, for Ernst & Young Inc. - Trustee
Joshua J.B. McElman, for Business Development Bank of Canada
Ian Purvis, Q.C., for Gray Aqua Farms Ltd, Gray's Aqua Management Ltd, Gray Aqua Processing Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., and Goblin Bay Aqua Farms Ltd.
Celine Leicher, for Europharma Inc.

Subject: Insolvency

Headnote

Bankruptcy and insolvency --- Proposal — Approval by court — General principles

Group filed notices of intention to make proposal ("NOI") — Proposal trustee was appointed — Order allowed for service on all creditors and affected parties to NOIs via telecommunications — Group companies were vertically and financially integrated with singular management and accounting structure — Group companies operated as integrated enterprise with centralized management, sales and accounting based in New Brunswick — Group shared common senior creditors — Proposal trustee brought motion for order to file consolidated proposal to respective and individual creditors — Motion granted — Historically, courts have been reluctant to grant right of consolidation to moving parties on basis of consolidation being seen as extraordinary remedy under Bankruptcy and Insolvency Act — Group was suitable candidate for order for consolidated proposal — All creditors were served and none contested motion — Evidence was sufficiently integrated from financial and practical perspective that it functioned as centralized company — Purpose of Act is to facilitate financial rehabilitation in fair and structured atmosphere while protecting integrity of process and all of its participants, including creditors — Proposal trustee's evidence struck right balance of efficiency and equity that would serve to streamline proposal, create savings for all parties and facilitate faster restructuring of group.

MOTION brought by proposal trustee for order to file consolidated proposal to respective and individual creditors.

***Reg. Natalie H. LeBlanc*:**

Background

1 On August 21, 2013 various Notices of Intention to Make a Proposal ("NOI") were filed by Gray Aqua Farms Ltd, Gray's Aqua Management Ltd, Gray Aqua Processing Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., and Goblin Bay Aqua Farms Ltd., (collectively the "Group").

2 As a result of the filing of the NOIs, Ernst & Young ("Proposal Trustee) was appointed as the Proposal Trustee ("Proposal Trustee"). On September 24, 2013 the Proposal Trustee presented a Motion for an Order Respecting Service and Accessibility Protocol which was granted. This Order allowed, *inter alia*, for service on all creditors and affected parties to the NOIs filed by the Group via telecommunications.

3 On or about January 7, 2014 solicitors for the Proposal Trustee applied to the Court for an Order allowing the filing of a Consolidated Proposal to the respective and individuals creditors of the Group, pursuant to sections 34, 66, 183 and 192 of the *Bankruptcy and Insolvency Act* (Canada).

4 Evidence contained in various reports from the Proposal Trustee, in particular the sixth report of the Proposal Trustee and the sixth affidavit of Tim Gray, which documents submit evidence supporting the Group's suitability for the filing of a Consolidated Motion.

5 In particular, the Group companies are vertically and financially integrated with a singular management and accounting structure. Moreover, solicitors for the Proposal Trustee submit uncontested evidence that Group companies operated at all times as an integrated enterprise with centralized management, sales and accounting based in Northampton, New Brunswick.

6 The Group also shares several common senior creditors, which include Callidus Capital Corporation ("Callidus") who acquired debt and security from HSBC Canada ("HSBC") on a number of the Group companies and Business Development Bank of Canada ("BDC").

7 It is submitted that the shared and respective creditors of the Group, if an Order allowing a Consolidated Proposal would not be deprived of any rights and would not suffer any measurable prejudice.

8 The largest individual respective group of creditors who require accommodation deriving from a Group company would be the unsecured creditors of Gray Aqua Processing Limited ("GAPL") who are proposed as a distinct class of creditors under a Consolidated Proposal.

Analysis

9 Historically, Courts have been reluctant to grant the right of consolidation to moving parties on the basis of consolidation being seen as an extraordinary remedy under the BIA, *supra.*

10 The BIA is void of any statutory test establishing benchmarks for the consolidation of corporate entities. Limited caselaw on point seems to rely on the equitable jurisdiction of the Court under Section 183.

11 Counsel for the Proposal Trustee submitted two cases for review by the Court. In *Ashley v. Marlow Group Private Portfolio Management Inc.* (2006), 22 C.B.R. (5th) 126 (Ont. S.C.J. [Commercial List]), the consolidation was opposed and ultimately denied by the Court. A thorough review of the issue was nonetheless undertaken by Justice Mesbur of the Ontario Superior Court, Commercial List.

12 Justice Mesbur said the following:

> [70] Essentially, a substantive consolidation would treat all of the corporate defendants as one entity. The assets of each would fall into one common pool, to be shared by all their creditors on a *pari passu* basis.
>
> [71] There is no specific authority in the *Bankruptcy and Insolvency Act* to grant an order for substantive consolidation. It is common ground, however, that the court has the authority to do so under its equitable jurisdiction under section 183 of the *Act.*
>
> [...]
>
> [74] The Receiver goes on to say that all four companies operated as an interrelated entity, with shared premises, telephone, fax, bank accounts and accounting records. The Receiver says that they were operated as a single, consolidated enterprise, and should be treated as such for bankruptcy purposes, because to do so would be most expedient and cost-effective.
>
> [...]

TAB 5

2015 ONSC 6562
Ontario Superior Court of Justice

Mustang GP Ltd., Re

2015 CarswellOnt 16398, 2015 ONSC 6562, 259 A.C.W.S. (3d) 623, 31 C.B.R. (6th) 130

In the Matter of the Notice of Intention to Make a Proposal of Mustang GP Ltd.

In the Matter of the Notice of Intention to Make a Proposal of Harvest Ontario Partners Limited Partnership

In the Matter of the Notice of Intention to Make a Proposal of Harvest Power Mustang Generation Ltd.

H.A. Rady J.

Heard: October 19, 2015
Judgment: October 28, 2015
Docket: 35-2041153, 35-2041155, 35-2041157

Counsel: Harvey Chaiton, for Mustang GP Ltd., Harvest Ontario Partners Limited Partnership and Harvest Power Mustang Generation Ltd.
Joseph Latham, for Harvest Power Inc.
Jeremy Forrest, for Proposal Trustee, Deloitte Restructuring Inc.
Robert Choi, for Badger Daylighting Limited Partnership
Curtis Cleaver, for StormFisher Ltd.

Subject: Civil Practice and Procedure; Corporate and Commercial; Insolvency

Headnote

Bankruptcy and insolvency --- Proposal — Approval by court — General principles

In September 2015, debtors filed intention to make proposal — Debtors were indirect subsidiaries of HP Inc. — SE Ltd. was competitor of HP Inc., and it expressed interest in purchasing debtors' business as going concern — SE Ltd. offered to make DIP loan of up to $1 million to fund projected shortfall in cash flow — Debtors brought motion for orders consolidating their proposal proceeding, authorizing debtors to enter into an interim financing term sheet with SE Ltd. as DIP lender, approving DIP term sheet and granting SE Ltd. super priority charge to secure all of debtors' obligations to SE Ltd. under DIP term sheet, granting charge not to exceed $150,000 in favour of debtors' legal counsel to secure payment of their reasonable fees and disbursements, granting charge up to $2,000,000 in favour of debtors' directors and officers, approving process for sale and marketing of debtors' business and assets, approving agreement of purchase and sale between SE Ltd. and debtors and granting debtors extension of time to make proposal to their creditors — Motion granted — Consolidation of debtors' notice of intention proceedings was appropriate — It avoided multiplicity of proceedings, associated costs and need to file three sets of motion materials — Three debtors were closely aligned and shared accounting, administration, human resources and financial functions — Debtors' assets were to be marketed together and form single purchase and sale transaction — DIP term sheet was approved and super priority granted — Administration charge was granted — Involvement of professional advisors was critical to successful restructuring — Process was reasonably complex and their assistance was self evidently necessary to navigate to completion — Debtors had limited means to obtain that professional assistance — Directors' of officers' charge was warranted — It was only required in event that sale was not concluded and wind down of facility was required — Directors and officers whose participation in process was critical might not continue their involvement if relief was not granted — Sale process and stalking horse agreement were approved — It permitted sale of debtors' business as going concern — Stalking horse bid established floor price for debtors' assets — Process seemed fair and transparent and there was no viable alternative — Proposal trustee supported process and agreement — Time to file proposal was extended so sale process could be carried out.

MOTION by debtors for approval of proposal.

21 StormFisher Environmental Ltd. has offered to make a DIP loan of up to $1 million to fund the projected shortfall in cash flow. In return, the DIP lender requires a charge that ranks in priority to all other claims and encumbrances, except the administration and D&O charges. The administration charge protects the reasonable fees and expenses of the debtors' professional advisors. The D&O charge is to indemnify the debtors for possible liabilities such as wages, vacation pay, source deductions and environmental remedy issues. The latter may arise in the event of a wind-down or shut down of the plant and for which existing insurance policies may be inadequate. According to Mr. Davis, the risk if such a charge is not granted is that the debtors' directors and officers might resign, thereby jeopardizing the proceedings.

22 The debtors have other creditors. Harvest Power Partners had arranged for an irrevocable standby letter of credit, issued by the Bank of Montreal to fund the payment that might be required to the Ministry of Environment arising from any environment clean up that might become necessary.

23 Searches of the *PPSA* registry disclosed the following registrations:

(a) *Harvest Ontario Partners:*

(i) FCC in respect of all collateral classifications other than consumer goods. On August 12, 2015, change statement filed to reflect the assignment of FCC's Debt and Security to 2478223;

(ii) BMO in respect of accounts.

(b) *Harvest Power Mustang Generation Ltd.*

(i) FCC in respect of all collateral classifications other than consumer goods. On August 12, 2015, change statement filed to reflect the assignment of FCC's Debt and Security to 2478223;

(ii) BMO in respect of accounts; and

(iii) Roynat Inc. in respect of certain equipment.

24 There are two registrations on title to 1087 Green Valley Road. The first is for $11 million in favour of FCC dated February 28, 2012 and transferred to 2478223 on October 8, 2015. The second is a construction lien registered by Badger Daylighting Limited Partnership on July 2, 2015 for $239,191. The validity and priority of the lien claim is disputed by the debtors and 2478223.

Analysis

a) the administrative consolidation

25 The administration order, consolidating the debtors' notice of intention proceedings is appropriate for a variety of reasons. First, it avoids a multiplicity of proceedings, the associated costs and the need to file three sets of motion materials. There is no substantive merger of the bankruptcy estates but rather it provides a mechanism to achieve the just, most expeditious and least expensive determination mandated by the *BIA General Rules*. The three debtors are closely aligned and share accounting, administration, human resources and financial functions. The sale process contemplates that the debtors' assets will be marketed together and form a single purchase and sale transaction. Harvest Ontario Partners and Harvest Power Mustang Generation Ltd. have substantially the same secured creditors and obligations. Finally, no prejudice is apparent. A similar order was granted in *Electro Sonic Inc., Re*, 2014 ONSC 942 (Ont. S.C.J. [Commercial List]).

b) the DIP agreement and charge

26 S. 50.6 of the *BIA* gives the court jurisdiction to grant a DIP financing charge and to grant it a super priority. It provides as follows:

TAB 6

2014 ONSC 942
Ontario Superior Court of Justice [Commercial List]

Electro Sonic Inc., Re

2014 CarswellOnt 1568, 2014 ONSC 942, 14 C.B.R. (6th) 256, 237 A.C.W.S. (3d) 585

In the Matter of the Notice of Intention to Make a Proposal of Electro Sonic Inc.

In the Matter of the Notice of Intention to Make a Proposal of Electro Sonic of America LLC

D.M. Brown J.

Heard: February 10, 2014
Judgment: February 10, 2014
Docket: 31-1835443, 31-1835488

Counsel: H. Chaiton for Applicants, Electro Sonic Inc. and Electro Sonic of America LLC
I. Aversa for Royal Bank of Canada

Subject: Insolvency; Civil Practice and Procedure

Headnote

Bankruptcy and insolvency --- Proposal — Practice and procedure

Companies were owned by same parties and were involved in distribution of electronic and electrical parts — One company was Ontario corporation and other was Delaware corporation — On February 6, 2014, both companies filed notices of intention to make proposals pursuant to s. 50.4 of Bankruptcy and Insolvency Act (BIA) — Companies applied for administrative consolidation, administrative professionals charge, and authorization for proceedings in United States — Application granted — Court ordered administrative consolidation of two proceedings — There was possibility of applicants applying together at future dates for relief such as stay extensions and sale approvals, and companies shared same lender — Applicants were granted administrative charge in amount of $250,000 on property of companies to secure payment of reasonable fees and expenses of legal advisors and proposal trustee — Factors taken into account included: senior secured did not oppose granting of charge, operations of two companies were highly integrated, and Ontario company technically met BIA definition of "insolvent person" — Proposal trustee was authorized to apply to United States Bankruptcy Court for relief pursuant to Chapter 15 of United States Bankruptcy Code — Proposal trustee was most appropriate person to act as representative in respect of any proceeding under BIA for purpose of having it recognized in jurisdiction outside Canada.

APPLICATION by companies for administrative consolidation, administrative professionals charge, and authorization for proceedings in United States.

***D.M. Brown J.*:**

I. Motions for administrative consolidation of NOI proceedings, an Administrative Professionals Charge and authorization to initiate Chapter 15 proceedings

1 Electro Sonic Inc. ("ESI") is an Ontario corporation with its registered office in Markham, Ontario. Electro Sonic of America LLC ("ESA") is a Delaware limited liability corporation which carries on business from a facility in Tonawanda, New York. Both companies are owned by the Rosenthal family. Both companies are involved in the distribution of electronic and electrical parts.

2 On February 6, 2014, both companies filed notices of intention to make proposals pursuant to section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3. MNP Ltd. was appointed proposal trustee.

3 Both companies applied for three types of relief: (i) the administrative consolidation of the two proceedings; (ii) the approval of an Administrative Professionals Charge on the property of both companies to secure payment of the reasonable fees of the legal advisors; and, (iii) authorization that the proposal trustee could act as foreign representative of the NOI proceedings and could apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code* (the "Code"). At the hearing I granted the orders sought; these are my reasons for so doing.

II. Administrative consolidation

4 Bankruptcy proceedings in this Court operate subject to the general principle that the litigation process should secure the just, most expeditious and least expensive determination of every proceeding on its merits: *Bankruptcy and Insolvency General Rules*, s. 3; *Ontario Rules of Civil Procedure*, Rule 1.04(1). One practical application of that general principle occurs when courts join together two closely-related bankruptcy proceedings so that they can proceed and be managed together. This procedural or administrative consolidation does not involve the substantive merger or consolidation of the bankruptcy estates, merely their procedural treatment together by the court. Administrative consolidation of two bankruptcy proceedings would be analogous to bringing two separate civil actions under common case management.

5 In the present case, the evidence disclosed that the operations of ESI and ESA are highly integrated, sharing a common managing director as well as consolidated accounting, finance and human resource functions, including payroll. As well, ESI has been the sole customer of ESA in 2013 and 2014.

6 Given the possibility of the applicants applying together at future dates for relief such as stay extensions and sale approvals, and given that both companies share the same lender — Royal Bank of Canada — it made sense to order that both bankruptcy proceedings be consolidated for the purposes of future steps in this order. For those reasons, I granted the administrative consolidation order sought.

III. Administrative Charge

7 The applicants seek a charge in the amount of $250,000 on the property of ESI and ESA to secure payment of the reasonable fees and expenses of the legal advisors retained by the applicants, MNP and its legal counsel (the "Administrative Professionals"). The applicants sought an order granting such an Administrative Professionals Charge priority over security interests and liens, save that the Charge would be subordinate to the security held by RBC and all secured claims ranking in priority thereto.

8 The applicants filed evidence identifying their creditors, as well as the results of searches made under the Personal Property Registration systems in Ontario and British Columbia and under the Uniform Commercial Code in respect of ESA. The applicants complied with the service requirements of *BIA* s. 64.2(1).

9 RBC did not oppose the Charge sought, but advised that it might later bring a motion to lift the stay of proceedings to enable it to enforce its security or to appoint an interim receiver.

10 As noted, ESA is a Delaware corporation with its place of business in New York State. ESA filed evidence that it has a U.S. dollar bank account in Canada, although it did not disclose the amount of money in that account.

11 *BIA* s. 50(1) authorizes an "insolvent person" to make a proposal. Section 2 of the *BIA* defines an "insolvent person" as, *inter alia*, one "who resides, carries on business or has property in Canada". That statutory definition would seem to establish the criteria upon which an Ontario court can assume jurisdiction in proposal proceedings, rather than the common law real and substantial connection test articulated by the Supreme Court of Canada in *Van Breda v. Village Resorts Ltd.*, 2012 SCC 17 (S.C.C.).

12 In the present case, I took into account several factors in granting a Charge over the property of both applicants, including property in New York State:

(i) the senior secured for both companies, RBC, did not oppose the granting of the Charge;

(ii) according to the results of the UCC search, the other secured creditor of ESA which has filed a collateral registration is ESI, a related company, which seeks the Charge;

(iii) the operations of ESI and ESA are highly integrated;

(iv) ESA has filed evidence of some assets in Canada, thereby technically meeting the definition of "insolvent person" in the *BIA*: *Callidus Capital Corp. v. Xchange Technology Group LLC*, 2013 ONSC 6783 (Ont. S.C.J. [Commercial List]), para. 19; and,

(v) the proposal trustee intends to apply immediately for recognition of these proceedings under Chapter 15 of the *Code* which will afford affected persons in the United States an opportunity to make submissions on the issue.

IV. Proposal trustee as representative in foreign proceedings

13 The proposal trustee was the most appropriate person to act as a representative in respect of any proceeding under the *BIA* for the purpose of having it recognized in a jurisdiction outside Canada: *BIA*, s. 279. It followed that the proposal trustee should be authorized to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *Code*.

Application granted.

End of Document

TAB 7

Canada Federal Statutes
Bankruptcy and Insolvency Act
Part III — Proposals (ss. 50-66.4)
Division I — General Scheme for Proposals

R.S.C. 1985, c. B-3, s. 50.4

s 50.4

Currency

50.4

50.4(1)Notice of intention

Before filing a copy of a proposal with a licensed trustee, an insolvent person may file a notice of intention, in the prescribed form, with the official receiver in the insolvent person's locality, stating

(a) the insolvent person's intention to make a proposal,

(b) the name and address of the licensed trustee who has consented, in writing, to act as the trustee under the proposal, and

(c) the names of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the debtor's books,

and attaching thereto a copy of the consent referred to in paragraph (b).

50.4(2)Certain things to be filed

Within ten days after filing a notice of intention under subsection (1), the insolvent person shall file with the official receiver

(a) a statement (in this section referred to as a "cash-flow statement") indicating the projected cash-flow of the insolvent person on at least a monthly basis, prepared by the insolvent person, reviewed for its reasonableness by the trustee under the notice of intention and signed by the trustee and the insolvent person;

(b) a report on the reasonableness of the cash-flow statement, in the prescribed form, prepared and signed by the trustee; and

(c) a report containing prescribed representations by the insolvent person regarding the preparation of the cash-flow statement, in the prescribed form, prepared and signed by the insolvent person.

50.4(3)Creditors may obtain statement

Subject to subsection (4), any creditor may obtain a copy of the cash-flow statement on request made to the trustee.

50.4(4)Exception

The court may order that a cash-flow statement or any part thereof not be released to some or all of the creditors pursuant to subsection (3) where it is satisfied that

(a) such release would unduly prejudice the insolvent person; and

(b) non-release would not unduly prejudice the creditor or creditors in question.

50.4(5)Trustee protected

If the trustee acts in good faith and takes reasonable care in reviewing the cash-flow statement, the trustee is not liable for loss or damage to any person resulting from that person's reliance on the cash-flow statement.

50.4(6)Trustee to notify creditors
Within five days after the filing of a notice of intention under subsection (1), the trustee named in the notice shall send to every known creditor, in the prescribed manner, a copy of the notice including all of the information referred to in paragraphs (1)(a) to (c).

50.4(7)Trustee to monitor and report
Subject to any direction of the court under paragraph 47.1(2)(a), the trustee under a notice of intention in respect of an insolvent person

(a) shall, for the purpose of monitoring the insolvent person's business and financial affairs, have access to and examine the insolvent person's property, including his premises, books, records and other financial documents, to the extent necessary to adequately assess the insolvent person's business and financial affairs, from the filing of the notice of intention until a proposal is filed or the insolvent person becomes bankrupt;

(b) shall file a report on the state of the insolvent person's business and financial affairs — containing the prescribed information, if any —

(i) with the official receiver without delay after ascertaining a material adverse change in the insolvent person's projected cash-flow or financial circumstances, and

(ii) with the court at or before the hearing by the court of any application under subsection (9) and at any other time that the court may order; and

(c) shall send a report about the material adverse change to the creditors without delay after ascertaining the change.

50.4(8)Where assignment deemed to have been made
Where an insolvent person fails to comply with subsection (2), or where the trustee fails to file a proposal with the official receiver under subsection 62(1) within a period of thirty days after the day the notice of intention was filed under subsection (1), or within any extension of that period granted under subsection (9),

(a) the insolvent person is, on the expiration of that period or that extension, as the case may be, deemed to have thereupon made an assignment;

(b) the trustee shall, without delay, file with the official receiver, in the prescribed form, a report of the deemed assignment;

(b.1) the official receiver shall issue a certificate of assignment, in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed under section 49; and

(c) the trustee shall, within five days after the day the certificate mentioned in paragraph (b.1) is issued, send notice of the meeting of creditors under section 102, at which meeting the creditors may by ordinary resolution, notwithstanding section 14, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

50.4(9) Extension of time for filing proposal
The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

(a) the insolvent person has acted, and is acting, in good faith and with due diligence;

(b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and

(c) no creditor would be materially prejudiced if the extension being applied for were granted.

50.4(10)Court may not extend time
Subsection 187(11) does not apply in respect of time limitations imposed by subsection (9).

50.4(11)Court may terminate period for making proposal
The court may, on application by the trustee, the interim receiver, if any, appointed under section 47.1, or a creditor, declare terminated, before its actual expiration, the thirty day period mentioned in subsection (8) or any extension thereof granted under subsection (9) if the court is satisfied that

(a) the insolvent person has not acted, or is not acting, in good faith and with due diligence,

(b) the insolvent person will not likely be able to make a viable proposal before the expiration of the period in question,

(c) the insolvent person will not likely be able to make a proposal, before the expiration of the period in question, that will be accepted by the creditors, or

(d) the creditors as a whole would be materially prejudiced were the application under this subsection rejected,

and where the court declares the period in question terminated, paragraphs (8)(a) to (c) thereupon apply as if that period had expired.

Amendment History
1992, c. 27, s. 19; 1997, c. 12, s. 32(1); 2005, c. 47, s. 35; 2007, c. 36, s. 17; 2017, c. 26, s. 6

Judicial Consideration (2)

Currency
Federal English Statutes reflect amendments current to July 30, 2025
Federal English Regulations Current to Gazette Vol. 159:5 (February 26, 2025)

End of Document

Canada Federal Statutes
Bankruptcy and Insolvency Act
Part III — Proposals (ss. 50-66.4)
Division I — General Scheme for Proposals

R.S.C. 1985, c. B-3, s. 64.2

s 64.2

Currency

64.2

64.2(1) Court may order security or charge to cover certain costs

On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of

(a) the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties;

(b) any financial, legal or other experts engaged by the person for the purpose of proceedings under this Division; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for the effective participation of that person in proceedings under this Division.

64.2(2)Priority

The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

64.2(3)Individual

In the case of an individual,

(a) the court may not make the order unless the individual is carrying on a business; and

(b) only property acquired for or used in relation to the business may be subject to a security or charge.

Amendment History

2005, c. 47, s. 42; 2007, c. 36, s. 24

Currency

Federal English Statutes reflect amendments current to July 30, 2025
Federal English Regulations Current to Gazette Vol. 159:5 (February 26, 2025)

End of Document

Canada Federal Statutes
Bankruptcy and Insolvency Act
Part III — Proposals (ss. 50-66.4)
Division I — General Scheme for Proposals

R.S.C. 1985, c. B-3, s. 65.13

s 65.13

Currency

65.13

65.13(1) Restriction on disposition of assets

An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

65.13(2)Individuals

In the case of an individual who is carrying on a business, the court may authorize the sale or disposition only if the assets were acquired for or used in relation to the business.

65.13(3)Notice to secured creditors

An insolvent person who applies to the court for an authorization shall give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

65.13(4) Factors to be considered

In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the trustee approved the process leading to the proposed sale or disposition;

(c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

65.13(5)Additional factors — related persons

If the proposed sale or disposition is to a person who is related to the insolvent person, the court may, after considering the factors referred to in subsection (4), grant the authorization only if it is satisfied that

(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the insolvent person; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

65.13(6)Related persons

For the purpose of subsection (5), a person who is related to the insolvent person includes

(a) a director or officer of the insolvent person;

(b) a person who has or has had, directly or indirectly, control in fact of the insolvent person; and

(c) a person who is related to a person described in paragraph (a) or (b).

65.13(7) Assets may be disposed of free and clear

The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the insolvent person or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

65.13(8)Restriction — employers

The court may grant the authorization only if the court is satisfied that the insolvent person can and will make the payments that would have been required under paragraphs 60(1.3)(a) and (1.5)(a) if the court had approved the proposal.

65.13(9)Restriction — intellectual property

If, on the day on which a notice of intention is filed under section 50.4 or a copy of the proposal is filed under subsection 62(1), the insolvent person is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (7), that sale or disposition does not affect the other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Amendment History

2005, c. 47, s. 44; 2007, c. 36, s. 27; 2018, c. 27, s. 266

Judicial Consideration (1)

Currency

Federal English Statutes reflect amendments current to July 30, 2025
Federal English Regulations Current to Gazette Vol. 159:5 (February 26, 2025)

End of Document

Canada Federal Statutes
Bankruptcy and Insolvency Act
Part VII — Courts and Procedure(ss. 183-197)
Jurisdiction of Courts

R.S.C. 1985, c. B-3, s. 183

s 183.

Currency

183.

183(1) Courts vested with jurisdiction

The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

(a) in the Province of Ontario, the Superior Court of Justice;

(b) [Repealed 2001, c. 4, s. 33(2).]

(c) in the Provinces of Nova Scotia and British Columbia, the Supreme Court;

(d) in the Provinces of New Brunswick and Alberta, the Court of Queen's Bench;

(e) in the Province of Prince Edward Island, the Supreme Court of the Province;

(f) in the Provinces of Manitoba and Saskatchewan, the Court of Queen's Bench of the Province;

(g) in the Province of Newfoundland and Labrador, the Trial Division of the Supreme Court; and

(h) in Yukon, the Supreme Court of Yukon, in the Northwest Territories, the Supreme Court of the Northwest Territories, and in Nunavut, the Nunavut Court of Justice.

183(1.1)Superior Court jurisdiction in the Province of Quebec

In the Province of Quebec, the Superior Court is invested with the jurisdiction that will enable it to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during its term, as it is now, or may be hereafter, held, and in vacation and in chambers.

183(2)Courts of appeal — common law provinces

Subject to subsection (2.1), the courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act.

183(2.1)Court of Appeal of the Province of Quebec

In the Province of Quebec, the Court of Appeal, within its jurisdiction, is invested with the power and jurisdiction, according to its ordinary procedures, except as varied by this Act or the General Rules, to hear and determine appeals from the Superior Court.

183(3)Supreme Court of Canada

The Supreme Court of Canada has jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs.

Amendment History
R.S.C. 1985, c. 27 (2nd Supp.), s. 10 (Sched., item 2); 1990, c. 17, s. 3; 1993, c. 28, s. 78 (Sched. III, item 6) [Repealed 1999, c. 3, s. 12 (Sched., item 3).]; 1998, c. 30, s. 14(a); 1999, c. 3, s. 15; 2001, c. 4, s. 33(2), (3); 2002, c. 7, s. 83; 2015, c. 3, s. 9

Judicial Consideration (6)

Currency
Federal English Statutes reflect amendments current to July 30, 2025
Federal English Regulations Current to Gazette Vol. 159:5 (February 26, 2025)

End of Document

TAB 8

Alberta Statutes
Oil and Gas Conservation Act
Part 6 — Licences and Approvals (ss. 11-32)

R.S.A. 2000, c. O-6, s. 16

s 16. Entitlement for well licence

Currency

16.Entitlement for well licence

16(1) No person shall apply for or hold a licence for a well

(a) for the recovery of oil, gas or crude bitumen, or

(b) for any other authorized purpose

unless that person is a working interest participant and is entitled to the right to produce the oil, gas or crude bitumen from the well or to the right to drill or operate the well for the other authorized purpose, as the case may be.

16(2) If, after 30 days from the mailing of a notice by the Regulator to a licensee at the licensee's last known address, the licensee fails to prove entitlement under subsection (1) to the satisfaction of the Regulator, the Regulator may cancel the licence or suspend the licence on any terms and conditions that it may specify.

16(3) Where a licence is cancelled or suspended pursuant to subsection (2),

(a) all rights conveyed by the licence are similarly cancelled or suspended, and

(b) notwithstanding the cancellation or suspension of the licence, the liability of the licensee to complete or abandon the well and reclaim the well site or suspend operations as the Regulator directs continues after the cancellation or suspension.

Amendment History
2012, c. R-17.3, s. 97(31)

Currency
Alberta Current to Gazette Vol. 121:6 (March 31, 2025)

End of Document