

COURT FILE NUMBERS

2401-01422

Clerk's stamp

COURT

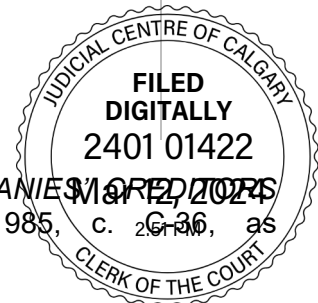
COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

MATTERS

IN THE MATTER OF THE COMPANIES ~~MORE TOPS~~  
ARRANGEMENT ACT, R.S.C. 1985, c. 29 (1), as  
amended



AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF GRIFFON PARTNERS  
OPERATION CORPORATION, GRIFFON PARTNERS  
HOLDING CORPORATION, GRIFFON PARTNERS  
CAPITAL MANAGEMENT LTD., STELLION LIMITED,  
2437801 ALBERTA LTD., 2437799 ALBERTA LTD.,  
2437815 ALBERTA LTD., and SPICELO LIMITED

DOCUMENT

**APPLICATION BY TAMARACK VALLEY ENERGY LTD.**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**STIKEMAN ELLIOTT LLP**  
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Counsel for Tamarack Valley Energy Ltd.

File No.: 136603.1015

## NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

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

Date March 26, 2024  
Time 2:00 p.m.  
Where Edmonton Law Courts  
Before Whom: The Honourable Justice J.J. Gill

Go to the end of this document to see what you can do and when you must do it.

**Remedy claimed or sought:**

1. The applicant, Tamarack Valley Energy Ltd. (“**TVE**”), respectfully seeks an Order substantially in the form attached hereto as Schedule “**A**”:

- a. abridging the time for service of notice of this Application (if necessary), deeming service of notice of this Application to be good and sufficient, and declaring that there is no other person who ought to have been served with notice of this Application;
- b. abridging the time for service of notice of any Notices of Appointment for Questioning served under Rule 6.8 of the Alberta *Rules of Court* (if necessary), and deeming service of any such Notices of Appointment to be good and sufficient;
- c. directing that pursuant to the doctrine of marshalling, Signal Alpha C4 Limited and Trafigura Canada Ltd. (collectively, the “**Lenders**”), are required to realize upon the Share Pledge (as defined below) provided by Spicelo Limited (“**Spicelo**”) in satisfaction of the debt owing by Griffon Partners Operation Corp. (“**GPOC**”) in priority to the proceeds from the SISP (as defined below);
- d. declaring that Spicelo is not entitled to subrogate to the Lenders’ security position as against GPOC in priority to TVE; and
- e. such further and other relief as counsel may request and this Honourable Court deem just.

**Grounds for making this application:**

***Priority of Secured Interests of the Lenders and TVE***

2. On July 21, 2022, Griffon Partners Operation Corp. (“**GPOC**”) purchased certain oil and gas assets located in Alberta and Saskatchewan from TVE for CAD\$70 million (the “**TVE Transaction**”).

3. To finance the TVE Transaction, GPOC entered into a Loan Agreement with the Lenders dated July 21, 2022, and amended as of August 31, 2022 (collectively, the “**Loan Agreement**”), whereby the Lenders agreed to advance USD\$35,869,565.21.

4. Pursuant to the Loan Agreement, the Lenders are GPOC's senior secured creditors with a security interest in all of GPOC's present and future real and personal property.

5. As security for payment of performance of GPOC's obligations under the Loan Agreement, Spicelo and the Lenders entered into a Limited Recourse Guarantee and Securities Pledge Agreement dated July 21, 2022 (the "**Share Pledge**"), pursuant to which Spicelo pledged all of the common shares it holds in Greenfire Resources Ltd. as collateral (the "**Pledged Shares**").

6. Under the terms of the Share Pledge, in the event of a default by GPOC of the Loan Agreement, *inter alia*:

- a. Spicelo is absolutely and unconditionally liable to the Lenders for GPOC's obligations under the Loan Agreement as primary obligor; and
- b. the Lenders are entitled to realize upon the Pledged Shares by sale, transfer, delivery or the appointment of a receiver over the Pledged Shares.

7. The TVE Transaction was also financed by TVE pursuant to a Subordinated Secured Promissory Note in the amount of \$20 million plus interest granted by GPOC in favour of TVE (the "**Promissory Note**"), pursuant to which TVE has a second priority security interest in all of GPOC's present or after-acquired property, subordinate only to the security interests in same granted to the Lenders.

### ***GPOC Insolvency Proceedings***

8. Within four months of entering into the Loan Agreement, GPOC defaulted on same.

9. On August 16, 2023, the Lenders issued Demands for Payment and Notices of Intention to Enforce Security pursuant to section 244 of *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") to GPOC, Spicelo, and all other debtors and guarantors in these proceedings (Griffon Partners Holding Corporation, Griffon Partners Capital Management Ltd., Stellion Limited, 2437801 Alberta Ltd., 2437799 Alberta Ltd., 2437815 Alberta Ltd., collectively with GPOC and Spicelo, the "**Debtors**"), demanding payment for the full amount owing under the Loan Agreement by GPOC.

10. On August 25, 2023, the Debtors filed Notices of Intention to Make a Proposal under the BIA (the "**NOI Proceedings**").

11. On October 18, 2023, an Order was granted by this Honourable Court approving a Sale and Investment Solicitation Process through which GPOC's assets were to be marketed and sold (the "**SISP**").

12. The SISP was extended on several occasions without a proposal being put to the Lenders and TVE prior to the expiry of the NOI Proceedings.

13. On February 7, 2024, the NOI Proceedings were continued in the within proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, with a view of concluding the SISP and presenting a proposal to the Lenders and TVE.

### ***Marshalling and Subrogation***

14. The Lenders are presently owed in excess of CAD\$51 million by GPOC and have recourse to recover this debt from two sources: the proceeds from the sale of GPOC's assets under the SISP, and/or by realizing upon Spicelo's Pledged Shares.

15. TVE is owed in excess of CAD\$23 million by GPOC under the Promissory Note. TVE is not a party to any share pledge agreement with Spicelo and does not have any recourse for recovery of amounts owing by GPOC against Spicelo or any other of the Debtors.

16. As such, TVE's sole source of recovery of the amount owing by GPOC under the Promissory Note is from the proceeds of the SISP.

17. The SISP is nearing its conclusion and the proceeds from same will be insufficient satisfy the amount owing to the Lenders. As such, it is highly probable that there will be no funds available to TVE in the event the Lenders exercise their first priority security and realize upon all of the proceeds from the SISP.

18. TVE submits that, pursuant to the equitable doctrine of marshalling, the Lenders must first realize upon the Pledged Shares in full under the Share Pledge prior to any outstanding balance owing by GPOC from the SISP, as this would allow TVE to recover some portion of the amount owing by GPOC under the Promissory Note.

19. TVE further submits that under the terms of the Share Pledge and at equity, Spicelo does not have a right to subrogate to the Lenders' security position as against GPOC in priority to TVE.

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

20. The pleadings filed in the within Action;

21. The pleadings filed in Court of King's Bench File Numbers 25-2979735 and B201-979735;
22. Such further and other material as counsel may rely upon and this Court may permit.

**Applicable rules:**

23. Parts 1 and 6, Rules 1.3, 1.4 of the *Alberta Rules of Court*, Alta Reg 124/2010.
24. Such further and other rules as counsel may advise and this Honourable Court may rely upon.

**Applicable Acts and regulations:**

25. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
26. *Judicature Act*, RSA 2000, c J-2, as amended.
27. *Statute of Elizabeth*, 1571 (UK) 13 Eliz, c 5.
28. *Fraudulent Preferences Act*, RSA 2000, c F-24, as amended.
29. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

30. None.

**How the application is proposed to be heard or considered:**

31. By WebEx, before the Honourable Justice J.J. Gill at the Edmonton Law Courts at 2:00 p.m. on March 26, 2024 or so soon thereafter as counsel may be heard.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**Schedule "A"**

COURT FILE NUMBERS 2401-01422

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

MATTERS IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF GRIFFON PARTNERS OPERATION CORPORATION, GRIFFON PARTNERS HOLDING CORPORATION, GRIFFON PARTNERS CAPITAL MANAGEMENT LTD., STELLION LIMITED, 2437801 ALBERTA LTD., 2437799 ALBERTA LTD., 2437815 ALBERTA LTD., and SPICELO LIMITED

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**ORDER**

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**STIKEMAN ELLIOTT LLP**  
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**Matti Lemmens**  
Tel: (403) 266 9064  
Fax: (403) 266 9034

Counsel for Tamarack Valley Energy Ltd.

File No.: 136603.1015

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**DATE ON WHICH ORDER WAS PRONOUNCED:** March 26, 2024

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary, Alberta

**JUSTICE WHO MADE THIS ORDER:** The Honourable Justice J.J. Gill

**UPON THE APPLICATION** of Tamarack Valley Energy Ltd. ("**TVE**"); **AND UPON** noting that the proceeds from GPOC's sale and investment solicitation process ("**SISP**") will be insufficient to pay the amounts owing to the Secured Creditors by GPOC (the "**SISP Proceeds**"); **AND UPON** noting that the Lenders have recourse to recover the amounts

owing by GPOC from the SISP Proceeds and by realizing upon shares of Greenfire Resources Ltd. pledged by Spicelo (the “**Pledged Shares**”) pursuant to a Limited Recourse Guarantee and Securities Pledge Agreement dated July 21, 2022 (the “**Share Pledge**”); **AND UPON** noting that TVE, as the second subordinated debtor has recourse only against the SISP Proceeds for amounts owing by GPOC; **AND UPON** reading the Bench Brief of TVE; **AND UPON** reading the Bench Brief of Trafigura Canada Limited and Signal Alpha C4 Limited (the “**Lenders**” and with TVE, the “**Secured Creditors**”); **AND UPON** reading the Bench Brief of Griffon Partners Operation Corporation (“**GPOC**”) and Spicelo Limited (“**Spicelo**”); **AND UPON** hearing submissions by counsel for the Secured Creditors, GPOC and Spicelo;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

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.
2. The time for service for any notices for appointment for questioning under Rule 6.8 of the *Alberta Rules of Court* are hereby abridged and deemed good and sufficient and this application is properly returnable today.

**MARSHALLING AND SUBROGATION**

3. The Lenders shall realize upon all of the Pledged Shares in accordance with the Share Pledge in satisfaction of debt owing by GPOC to the Lenders prior to realizing upon any of the SISP Proceeds.
4. TVE shall be entitled to any remaining SISP Proceeds following the Lenders’ realization as set forth in paragraph 3 above, subject only to any administration charges or other charges ranking in priority to the Lenders’ senior secured position.

5. Spicelo shall not advance any subrogated claim against GPOC for the recovery from the SISP Proceeds the value of the Pledged Shares or any other amount paid or transferred to the Lenders under the Share Pledge.

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Justice of the Court of King's Bench of Alberta