

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 15 Case
	§	
ENERGERA, INC. (F/K/A FRAC SHACK INC.),	§	
	§	Case No. 26-90433 (ARP)
	§	
Debtor in a Foreign Proceeding.	§	
	§	(Joint Administration Requested)
	§	

In re:	§	
	§	Chapter 15 Case
	§	
ENERGERA AMERICA INC. (F/K/A FRAC SHACK AMERICA INC.),	§	
	§	Case No. 26-90434 (ARP)
	§	
Debtor in a Foreign Proceeding.	§	
	§	(Joint Administration Requested)
	§	

In re:	§	
	§	Chapter 15 Case
	§	
SANDTINEL LLC,	§	
	§	Case No. 26-90435 (ARP)
	§	
Debtor in a Foreign Proceeding.	§	
	§	(Joint Administration Requested)
	§	

DECLARATION OF FOREIGN COUNSEL

I, Kyle Kashuba, declare as follows:

1. I am over the age of 18, and I am authorized to submit this declaration (the “Declaration”) on behalf of my law firm and its client, the Receiver (as defined below).

2. I am a Partner at Torys LLP (“Torys”). My office is located at 525 - 8th Avenue S.W., 46th Floor, Eighth Avenue Place East, Calgary, AB T2P 1G1 Canada. I graduated with an

L.L.B. from the University of Alberta in 2005 and was called to the bar of Alberta in 2006. I am a member of the Insolvency Institute of Canada, the Canadian Bar Association – Insolvency Section, and the Northwest Chapter of the Turnaround Management Association.

3. Torys represents Alvarez & Marsal Canada Inc., solely in its capacity as court appointed receiver, manager, and authorized foreign representative (“Receiver” or “Foreign Representative”) of Energera, Inc., (formerly known as Frac Shack Inc.); Energera America Inc. (formerly known as Frac Shack America Inc.); and Sandtinel LLC (collectively, the “Debtors”) pursuant to the *Consent Receivership Order* dated March 17, 2026 (the “Receivership Order”), entered by the Court of King’s Bench of Alberta in Judicial Centre of Edmonton, Alberta, Canada, Court File No. 2603-02889 (the “Canadian Court” and the “Canadian Proceeding”) pending under Canada’s *Bankruptcy and Insolvency Act* (“BIA”). I serve as lead counsel in the representation of the Receiver in the Canadian Proceeding.

4. I submit this Declaration in support of the *Verified Petition for (I) Recognition of Foreign Main Proceeding, (II) Recognition of Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* (the “Verified Petition”) and the *Foreign Representative’s Emergency Motion for Provisional Relief Pursuant to Bankruptcy Code Section 1519* (the “Provisional Relief Motion”).¹

5. On March 17, 2026, the Canadian Court entered the Receivership Order pursuant to section 243(1) of the BIA.²

¹ Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Verified Petition.

² A certified copy of the Receivership Order is attached as **Exhibit 1** to the Verified Petition and can also be downloaded free of charge at Alvarez & Marsal Canada Inc.’s website: <https://www.alvarezandmarsal.com/Energera> and is incorporated herein for all purposes. Energera International Inc. (formerly known as Frac Shack International Inc.) (“Energera International”) is a Canadian entity that is also part of the Canadian Proceeding and subject to the Receivership Order.

6. The Receivership Order appointed the Receiver over the Canadian estates of the Debtors and their affiliate, Energera International, Inc. (Receivership Order ¶ 3). The Receivership Order specifically authorizes the Receiver to act “as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.” (Receivership Order ¶ 32). It empowers and authorizes the Receiver to take various steps involving all property of the Debtors, which is subject to the Canadian Proceeding. (Receivership Order ¶ 4). The Receivership Order grants the Receiver access to all of the Debtors’ books, records, contracts, securities, and information. (Receivership Order ¶¶ 5-7). Additionally, the Receivership Order imposes a stay of initiation or continuation of proceedings against the Receiver, the Debtors, and their respective Canadian estates. (Receivership Order ¶¶ 8-12).

7. The Receivership Order also grants the Receiver a charge (the “Receiver’s Charge”) on all of the Debtors’ current and future assets, undertakings, and properties of every nature or kind whatsoever, and wherever located, including all proceeds thereof (collectively, the “Property”) to secure payment of the reasonable fees and expenses of the Receiver and its counsel. (Receivership Order ¶ 19). The Receiver’s Charge has the priority set forth in paragraph 19 of the Receivership Order.

8. Consistent with section 14.06(1.2) of the BIA, the Receivership Order provides that “[t]he Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities . . . , other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*” (Receivership Order ¶ 15).³

³ Section 14.06(1.2) of the BIA provides:

9. The Receivership Order includes a request by the Canadian Court for “aid and recognition of any court . . . having jurisdiction in Canada or in any foreign jurisdiction to give effect to [the Receivership Order] and to assist the Receiver and its agents in carrying out the terms of [the Receivership Order].” (Receivership Order ¶ 31).

10. In light of the above, I have been asked by the Receiver to opine (pursuant to my knowledge of relevant Canadian law only) on whether the Canadian Proceeding, specifically including the Receivership Order, satisfies the definition of “foreign proceeding” set forth in the Bankruptcy Code, which defines a “foreign proceeding” as:

A collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23).

11. In the Canadian Proceeding, I believe that the affairs of the Debtors are “under a law relating to insolvency” through the BIA, and “subject to control or supervision by a foreign court for the purpose of reorganization or liquidation” through the appointment of the court-appointed Receiver by the Canadian Court.

12. The BIA is one of two pieces of federal legislation in Canada applicable to bankruptcies and insolvencies.⁴ The BIA governs both voluntary and involuntary bankruptcy liquidations and provides for debtor reorganizations.

Despite anything in federal or provincial law, if a trustee, in that position, carries on the business of a debtor or continues the employment of a debtor’s employees, the trustee is not by reason of that fact personally liable in respect of a liability, including one as a successor employer,

(a) that is in respect of the employees or former employees of the debtor or a predecessor of the debtor or in respect of a pension plan for the benefit of those employees; and

(b) that exists before the trustee is appointed or that is calculated by reference to a period before the appointment.

⁴ The second federal legislation in Canada concerning insolvencies is the *Companies’ Creditors Arrangement Act* (“CCAA”), which affords financially troubled corporations the opportunity to restructure their financial affairs through a “Plan of Arrangement.” *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (Can.). The CCAA

13. The BIA also authorizes the appointment of a court-appointed receiver upon a secured creditor's application. BIA at § 243(1). Such court-appointed receivers are given a mandate and specific powers as set out in the order appointing the receiver. As is typical, pursuant to the Receivership Order granted in this case, these duties include: (a) taking possession and control of the property and assets of the debtor; (b) marketing and selling such property and assets in a commercially reasonable manner (whether as a going concern, en-bloc, or otherwise) and under the supervision and approval of the appointing court; and (c) distributing the proceeds of such sales to the stakeholders in accordance with the legal entitlement. The appointing court has broad discretion to authorize the receiver to "take any other action that the court considers advisable." *Id.* at § 243(1)(c).

14. Under the BIA, a court-appointed receiver is a "national" receiver, with the ability to administer assets in each of Canada's ten (10) provinces and three (3) territories, typically without further order of provincial courts. The BIA is federal legislation. Provincial legislative jurisdiction governs property and civil rights, potentially affecting some insolvency-related matters. Nonetheless, the BIA provides a statutory framework for a court-appointed receiver to carry out its mandate on a national basis without reliance on the various provincial statutes or courts for its authority.

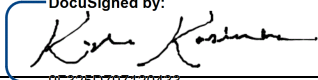
15. Accordingly, upon my review of the Receivership Order and other pleadings entered of record in the Canadian Proceeding, it is my professional opinion based only on my knowledge of relevant Canadian law that the Canadian Proceeding satisfies the elements of a "foreign proceeding" as best I can determine by reviewing the definition in the Bankruptcy Code.

process is akin to chapter 11 of the Bankruptcy Code, affording companies an opportunity to restructure operations rather than liquidate. See *In re Fracmaster, Ltd.*, 237 B.R. 627, 629 n.3 (Bankr. E.D. Tex. 1999).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Respectfully submitted this 30th day of March, 2026.

TORYS LLP

DocuSigned by:
By: 
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Kyle Kashuba