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COURT	COURT OF KING'S BENCH OF
JUDICIAL CENTRE	ALBERTA
	CALGARY
PLAINTIFF	ROBUS SERVICES LLC.
DEFENDANT	ROBUS RESOURCES INC.
DOCUMENT	AFFIDAVIT NO.1 OF DAVID KITTAY

Clerk's Stamp

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Burnet, Duckworth & Palmer LLP 2400, 525—8 Avenue SW Calgary, Alberta T2P 1G1 Lawyer: David LeGeyt / Ryan Algar Phone Number: 403-260-0210 / 0126 Fax Number: 403-260-0332 Email Address: dlegeyt@bdplaw.com / ralgar@bdplaw.com File. No.: 77883-1
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AFFIDAVIT NO.1 OF DAVID KITTAY

Sworn on January 12, 2023

I, David Kittay, of the City of Dallas, in the State of Texas, MAKE OATH AND SAY THAT:

1. At all materials times I was a Member of Robus Services LLC ("**Robus Services**"), the Plaintiff in these proceedings, and as such have personal knowledge of the matters deposed to except where stated to be based on information and belief, in which case I believe the same to be true. I ceased to be a Member of Robus Services in 2022, but became a consultant to Robus Services at about the same time. I am authorized by Robus Services to make this Affidavit.

2. I make this affidavit on behalf of Robus Services in opposition to the application (the "**Application**") brought by Pamoco Resources Ltd. ("**Pamoco**") seeking, among other things, a declaration:
 - (a) that the Tangibles (as defined in the Application) were purchased by Pamoco from the Robus Resources Inc. (the "**Debtor**"); and
 - (b) that the Tangibles are the property of Pamoco, are not subject to the interests of the Debtor's creditors, and that the Tangibles do not form part of the Debtor's estate for sale or distribution in these proceedings; or, in the alternative
 - (c) that Pamoco is entitled to be repaid the amounts advanced for or on behalf of the Debtor as consideration for the Tangibles in the amount of CAD \$103,800 from the Debtor's estate, in priority to any other creditor, including Robus Services.
3. Capitalized terms not otherwise defined herein have the meaning set forth in (i) the Affidavit of Robert Brantman sworn on January 27, 2022 (the "**Brantman Affidavit**") and filed in these proceedings in support of Robus Services' April 12, 2022 application (the "**Receivership Application**") appointing of Alvarez & Marsal Canada Inc. (the "**Receiver**") as receiver and manager over the Debtor or (ii) the Loan Agreement (as defined below).
4. I have reviewed the business records of Robus Services relevant to the Debtor and the within Application and have satisfied myself that I have sufficient information and knowledge to swear this Affidavit on behalf of Robus Services. I have also reviewed, among other things, the following:
 - (a) an Affidavit of Terry O'Connor sworn March 9, 2021 ("**O'Connor Affidavit No.1**") in Action No. 2110 00289 (the "**Pamoco Action**");
 - (b) a Supplemental Affidavit of Terry O'Connor sworn March 30, 2021 in the Pamoco Action ("**O'Connor Affidavit No.2**"); and
 - (c) an Affidavit of Terry O'Connor Sworn January 9, 2023 in these proceedings ("**O'Connor Affidavit No.3**" and collectively, the "**O'Connor Affidavits**").

5. While I have reviewed the O'Connor Affidavits and I have responded to certain allegations made therein, I have not responded to every statement I disagree with. The fact that I do not specifically address any particular allegation made in the O'Connor Affidavits does not mean that I agree with it.

The Parties

6. Robus Services is the senior-secured creditor of the Debtor. As at the date of this Affidavit, the indebtedness owing to by the Debtor to Robus Services is at least USD \$14,000,000 plus interest, costs, and legal fees, which continue to accrue.
7. As far as is known to Robus Services, Pamoco, Mr. Connor and the related corporations, Androco Industries Ltd. and Teroco Industries Ltd. (collectively, the "**O'Connor Group**") were, together, the prior secured lenders of the Debtor, advancing the "**Pamoco Loans**" and the "**O'Connor Loans**" (as those terms are defined in the Application).
8. As detailed below, and as is acknowledged by Mr. O'Connor in his evidence, the Pamoco Loans and the O'Connor Loans were repaid in full on February 21, 2020 as a result of Robus Services refinancing the Debtor pursuant to the Loan. As a result of this complete repayment the O'Connor Group discharged their Personal Property Registry ("**PPR**") registrations against the Debtor.

The Loan Agreement and the Security

9. As is further detailed in the Brantman Affidavit, Robus Services extended a loan in the principal amount of USD \$7,000,000.00 (the "**Loan**") to the Debtor pursuant to a February 21, 2020 Loan Agreement, as amended on December 23, 2020 (the "**Loan Agreement**").
10. Pursuant to the terms of the Loan Agreement, the Debtor granted, among others, the following security and other interest to Robus Services (the "**Security**"):
 - (a) a demand debenture constituting a lien on all of the present and after-acquired property of the Debtor and its subsidiaries, including a floating charge over all property and a fixed charge over all petroleum property; and

(b) fixed charges registered with Alberta Energy under the *Mines and Minerals Act* (Alberta), against the petroleum property.

11. During the negotiation of the Loan Agreement and Security I learned of the secured indebtedness owing by the Debtor to the O'Connor Group, and the Debtor's desire use the Loan proceeds to fully repay the indebtedness owing to the O'Connor Group. Robus Services was in agreement with this, and I directly turned my mind to ensuring this was accomplished as part of the refinancing of the Debtor, and also ensuring that all of the security interests of the O'Connor Group were discharged as well. This would be required for Robus Services to become the first-ranking senior secured creditor of the Debtor (subject only to Permitted Liens as defined in the Loan Agreement), which was the intention and expectation of Robus Services. Based on my communications with the personnel of the Debtor, and the negotiation of the Loan Agreement, I believe this was the intention and expectation of the Debtor as well.
12. As a result of this intention and expectation, there are a number of conditions and covenants contained in the Loan Agreement which are designed to ensure all of the indebtedness owing to the O'Connor Group was repaid using the Loan proceeds, and the security interests of the O'Connor Group were discharged. These provisions of the Loan Agreement are discussed below.
13. Becoming the first-ranking senior secured creditor of the Debtor was important to Robus Services, and Robus Services would not have entered into the Loan Agreement and advanced the Loan if Robus Services thought it would not achieve first-ranking senior secured creditor status. I believe Terry O'Connor was informed and was aware of the expectations and requirements of Robus Services in this regard. And yet despite this knowledge, at no time during the negotiation of the Loan Agreement or the repayment of the amounts owing to the O'Connor Group, did Mr. O'Connor communicate anything about the \$90,000 amount then allegedly owing to Pamoco, or that Pamoco had acquired the "Tangilbes" of the Debtor.

Conditions Precedent to the Loan

14. Pursuant to the Loan Agreement, Robus Services' obligation to advance the Loan was subject to the satisfaction of, among others, the following conditions precedent:
 - (a) delivery of evidence of repayment in full of all Debt that was not Permitted Debt, including the Bridge Loan (defined below);
 - (b) delivery of releases, discharges, estoppels and postponements with respect to all Liens which were not Permitted Liens, if any (or applicable solicitors' undertakings to obtain and register same coupled with the appropriate discharge statements); and
 - (c) that all representations and warranties made by the Borrower and applicable Obligor in the Loan Documents being true and correct in all material respects.
15. Schedule 1.1 of the Loan Agreement provides the definition of "Permitted Debt" and "Permitted Liens". Neither the Bridge Loan nor any other amounts owing to the O'Connor Group are included in the definitions of Permitted Debt or Permitted Liens. Further, The Debtor covenanted, among other things, that it would not, create, incur, assume or permit any Debt to remain outstanding, other than Permitted Debt.
16. At the closing of the Loan Agreement it was the understanding of Robus Services that all of the conditions contained in the Loan Agreement had been satisfied. More specifically, it was the understanding of Robus Services that the indebtedness owing under the Bridge Loan constituted the entire amount owing by the Debtor to the O'Connor Group and that the same would be fully retired by the advances under the Loan.

Representations and Warranties under the Loan Agreement

17. Pursuant to Section 7.1 of the Loan Agreement, the Debtor represented and warranted, among other things, the following in favour of Robus Services:
 - (a) that no security agreement, financing statement or analogous instrument existed as at the Closing Date with respect to any of the Collateral (as defined therein)

other than any security agreement, financing statement or analogous instrument evidencing Permitted Liens;

- (b) that the Security constituted a valid and perfected first priority security interest and floating charge on the Property of the Obligors subject only to Permitted Liens;
- (c) that each Obligor was the lawful owner of all Collateral (including, without limitation, the Oil and Gas Properties) then purportedly owned or thereafter purportedly acquired by it, free from all Liens, whether voluntarily or involuntarily created and whether or not perfected, other than Permitted Liens and, as of the Closing Date, no Person has any agreement or right to acquire an interest in such assets other than pursuant to a Permitted Disposition;
- (d) as of the Closing Date, no Obligor was obligated, whether directly or indirectly, for any Debt other than the Permitted Debt; and
- (e) that all information provided or to be provided to the Robus Services by or on behalf of each Obligor in connection with the Loan was, to each Obligor's knowledge, true and correct in all material respects and none of the documentation furnished to the Robus Services by or on behalf of it, to the best of each Obligor's knowledge, omits or will omit as of such time, a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds (and any other Person who furnished such material on behalf of it),

(collectively, the "**Representations and Warranties**").

18. But for these Representations and Warranties, Robus Services would not have advanced the Loan. A transfer of the Tangibles to Pamoco would have unquestionably have resulted in a breach of the Loan Agreement by the Debtor. It was Robus Services' understanding at the time of the Loan Agreement, and it remains to this day, that the Debtor did not have the intention of immediately breaching the Representations and

Warranties upon entering in to the Loan Agreement, and that the Debtor was and is the owner of the Tangibles.

Use and Flow of Funds

19. Pursuant to section 2.3(c) of the Loan Agreement, the purpose of advances of the Loan included, among other things, paying out the "**Bridge Loan**", defined in the Loan Agreement as:

(a) that certain loan in the total aggregate principal amount of CA\$2,829,313.09 made to the Borrower, as borrower, by Terry O'Connor and his affiliate corporation Pamoco Resources Ltd. ("**Pamoco**") and Androco Holdings Ltd., each as lender, as evidenced by that certain Bridge Loan Agreement for a principal amount of CA\$2,061,518.88 dated December 9, 2016, together with:

(i) a promissory note in the amount of CA\$637,100.00 made by the Borrower in favour of Pamoco dated November 22, 2018;

(ii) a promissory note in the amount of CA\$59,325.00 dated December 10, 2018 made by the Borrower in favour of Pamoco;

(iii) a promissory note in the amount of CA\$18,112.50 dated April 24, 2019 made by the Borrower in favour of Pamoco; and

(iv) a promissory note in the amount of CA\$39,396.71 made by the Borrower in favour of Pamoco dated June 11, 2019; and

(b) that certain advance in the amount of CA\$13,860 made to, or for the benefit of, the Borrower on January 28, 2019.

20. Attached as **Exhibit "A"** is a redacted copy of the Flow of Funds Letter with respect to the Loan (the "**Funds Letter**"). Schedule 1 to the Funds Letter confirms that the following funds from the Loan were distributed to the respective members of the O'Connor Group:

Amount	Payee and Payment Instructions
US\$ 1,775,366.46	Beneficiary: Terrance O'Connor Recipient Bank: TD Canada Trust Address: 421 – 7th Avenue SW, Calgary, AB T2P 4K9 Transit #: [REDACTED] Swift Code: [REDACTED]

Account Name: Terroco Industries Ltd.
 Institution #: [REDACTED]
 Account #: [REDACTED]

US\$617,339.26

Beneficiary: Pamoco Resources Ltd.
 Recipient Bank: TD Canada Trust
 Address: 6320 – 50th Avenue, Red Deer, AB T4N 4C6
 Transit #: [REDACTED]
 Swift Code: [REDACTED]
 Account Name: Quality Tubing Canada Inc.
 Institution #: [REDACTED]
 Account #: [REDACTED]

21. As is evidenced by the terms of the Loan Agreement and the Funds Letter, it was always Robus Services' understanding and intention that the O'Connor Group was being repaid in full by the foregoing payments, allowing Robus Services to become the senior-ranking secured creditor of the Debtor.
22. Not only did the Debtor benefit from Robus Services advancing the Loan, but the O'Connor Group also benefitted, as the Bridge Loans were satisfied.
23. At no point during the discussions surrounding the Loan Agreement or the repayment of the O'Connor Group did Pamoco communicate that it had obtained, nor did the Debtor communicate, that it had transferred, the Tangibles.

Receivership

24. At the hearing of the Receivership Application this Honorable Court appointed the Receiver over all of the current and future assets, undertakings and properties of the Debtor.
25. I am informed by Robus Services' counsel, David LeGeyt of Burnet, Duckworth & Palmer LLP ("**BD&P**"), and do verily believe that:

(a) Pamoco was and is included on the Service List maintained in the within proceedings as a PPR registrant against the Debtor;

- (b) Pamoco's address for service is its former counsel, Christopher Forgues of C.E. Forgues & Company, who has appeared on Pamoco's behalf in these proceedings;
 - (c) Pamoco was served with Robus Services' materials in support of the Receivership Application;
 - (d) neither Mr. Forgues nor anyone else on Pamoco's behalf attended the Receivership Application; and
 - (e) since the date of the Receivership Application and until Pamoco filed the within Application, BD&P did not receive any communication or court pleading from Pamoco seeking to assert a proprietary interest in the Tangibles, all of which remain subject to the Robus Services' Security.
26. Until Pamoco's position was communicated to BD&P in December of 2022, Robus Services received no communication from Pamoco with respect to its purported interest the Tangibles, including when the entire amount of the Bridge Loan was repaid.

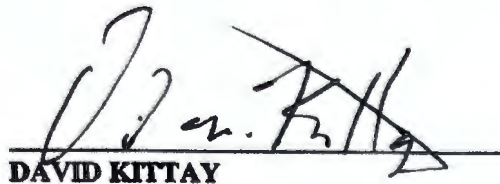
Conclusion

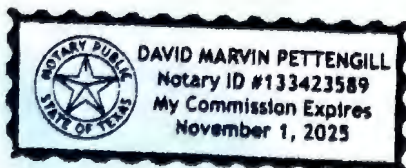
27. I make this Affidavit in opposition to Pamoco's Application, and in support of an Order awarding enhanced costs in favour of Robus Services against Pamoco.

SWORN BEFORE ME at Dallas, this 12th day)
of January, 2022.)



A Notary Public in and for the State of Texas)


DAVID KITTAY

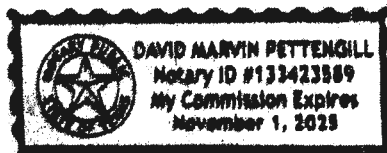


THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF DAVID KITTAY.

SWORN BEFORE ME THIS 12TH DAY OF
JANUARY, 2023.



A Notary Public in and for the State of Texas



**FLOW OF FUNDS MEMO
ROBUS RESOURCES INC.**

FEBRUARY 21, 2020

The following Flow of Funds Memo outlines the flow of funds on the Closing Date of, and in connection with, Lender's funding of the Funded Amount of the Loan pursuant to that certain Loan Agreement, dated as of the date hereof (the "**Loan Agreement**") by and among Robus Resources Inc. (the "**Borrower**") and Robus Services LLC (the "**Lender**"). Capitalized terms used herein without definition shall have the meaning assigned thereto in the Loan Agreement.

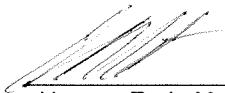
All transfers and disbursements reflected in this Flow of Funds Memo are limited to those scheduled to occur on the Closing Date pursuant to the Loan Agreement.

The Borrower hereby instructs the Lender to disburse the proceeds for the Funded Amount of the Loan in the amounts and to the recipients set forth on Schedule 1 attached hereto, and that the Lender's disbursement of such funds in accordance with Schedule 1 constitutes the Lender's delivery of the Funded Amount proceeds to the Borrower under the Loan Agreement. The Borrower hereby acknowledges and agrees that such disbursements are being made strictly on the basis of the information set forth on Schedule 1 attached hereto even if any of such information is inaccurate. In the event that any of the information set forth on Schedule 1 (except for any information directly provided by the Lender) is incorrect, the Borrower hereby agrees that the Borrower shall be fully liable for any and all losses, costs and expenses arising therefrom. The Borrower agrees to cooperate in correcting any error on this Flow of Funds Memo. This Flow of Funds Memo may be executed in any number of counterparts (which may be by facsimile or in the form of a .pdf file), each of which when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. Any reference in this Flow of Funds Memo to "Dollars", "dollars" or the sign "\$" shall be deemed to be a reference to lawful money of the United States.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower has duly executed this Agreement with effect as of the date set out on the first page hereof.

ROBUS RESOURCES INC.

By: 
Name: Ernie Methot
Title: President

SCHEDULE 1**Disbursement of Proceeds**

Amount	Payee and Payment Instructions
US\$2,381,823.28	Beneficiary: Robus Resources Inc. Recipient Bank: ATB Financial Address: 4877 50 Street Camrose, Alberta T4V 1P6 Transit #: [REDACTED] Swift Code: [REDACTED] Account Name: Robus Resources Inc. Account #: [REDACTED]
US\$75,471 [CAD\$100,000]	Beneficiary: Norton Rose Fulbright Canada LLP Recipient Bank: TD Bank Address: 340 – 5 th Avenue SW Calgary, Alberta T2P 0L3 Transit #: [REDACTED] Institution #: 004 Swift Code: [REDACTED] Account Name: Norton Rose Fulbright Canada LLP Trust Account Account #: [REDACTED]
US\$1,775,366.46	Beneficiary: Terrance O'Connor Recipient Bank: TD Canada Trust Address: 421 – 7 th Avenue SW, Calgary, AB T2P 4K9 Transit #: [REDACTED] Swift Code: [REDACTED] Account Name: Terroco Industries Ltd. Institution #: [REDACTED] Account #: [REDACTED]
US\$617,339.26	Beneficiary: Pamoco Resources Ltd. Recipient Bank: TD Canada Trust Address: 6320 – 50 th Avenue, Red Deer, AB T4N 4C6 Transit #: [REDACTED] Swift Code: [REDACTED] Account Name: Quality Tubing Canada Inc. Institution #: [REDACTED] Account #: [REDACTED]
US\$50,000	Beneficiary: Dentons US LLP Recipient Bank: Citi Private Bank Address: 227 West Monroe Chicago, IL 60606 ABA #: [REDACTED] Account Name: Dentons US LLP Account #: [REDACTED] Reference: Client/Matter# 581288-1

US\$75,000.00	Beneficiary: Robus Services LLC Closing Fee due on Closing Date pursuant to Section 4.8 of the Loan Agreement is being netted out of the Funded Amount proceeds pursuant to Sections 4.8 and 10.1(m) of the Loan Agreement.
US\$25,000.00	Beneficiary: Robus Services LLC Servicing Fee due on Closing Date pursuant to Section 4.8 of the Loan Agreement is being netted out of the Funded Amount proceeds pursuant to Section 10.1(m) of the Loan Agreement.
US\$5,000,000.00	TOTAL