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COURT/ESTATE FILE NUMBER 25-2851343
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



APPLICANT IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, OF PETROLAMA ENERGY CANADA INC.

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C80371

DOCUMENT **APPLICATION**
(Extension of Time to File Proposal, etc.)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **JENSEN SHAWA SOLOMON DUGUID HAWKES LLP**
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File: 15378.001

NOTICE TO RESPONDENTS

This Application is made against you. You are a Respondent.

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

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

Date: August 10, 2022
Time: 11:00 am
Where: Calgary Courts Centre, 601 - 5 Street S.W.
Calgary, AB T2P 5P7
Before Whom: Madam Justice K.M. Horner

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

Remedy claimed or sought:

1. The Applicant, Petrolama Energy Canada Inc. (the “**Company**” or “**Petrolama**”), respectfully seeks:
 - (a) An Order substantially in the form attached hereto as Schedule “A”, *inter alia*:
 - (i) Abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient;
 - (ii) Pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”); extending the time by which the Company may file a proposal to its creditors for a 45 day period from the date following the current deadline to do so such that the Company may file a proposal up to and including 11:59 pm (local Calgary time) on October 10, 2022 or such other date as this Honourable Court may order;
 - (iii) Granting an “**Administration Charge**” on the Collateral as security for the payment of the professional fees and disbursements incurred and to be incurred by counsel for the Company, Alvarez & Marsal Canada Inc. (the “**Proposal Trustee**”) and the Proposal Trustee’s counsel;
 - (iv) Approving the executed Interim Lending Terms and authorizing the Company to obtain a debtor-in-possession non-revolving loan facility thereunder (the “**Interim Facility**”), permitting the Company to obtain advances in the maximum aggregate amount of \$300,000 to allow the Company to pay its restructuring expenses;
 - (v) Granting an “**Interim Lending Charge**” on all present and after-acquired property of the Company (the “**Collateral**”), to secure obligations incurred by the Company under the Interim Facility;
 - (vi) Granting a “**Directors’ and Officers’ Charge**” on the Collateral in a maximum amount of \$65,000 in favour of the directors and officers of the Company, as security for the Company’s obligation to indemnify such directors and officers for obligations and liabilities which they may incur in such capacities after the commencement of these proceedings, except to the extent that such obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct;
 - (vii) Granting an order (the “**Approval Order**”), among other things, approving the Company’s proposed sales and investment solicitation process (the “**SISP**”), including its deeming of the Company’s stalking horse proposal to creditors (the “**Stalking Horse Proposal**”) as a Qualified Bid under the SISP, and authorizing and directing the Company to implement and perform the SISP; and

- (viii) Granting such further and other relief as counsel may request and this Honourable Court may permit.

Grounds for making this Application:

General

2. Capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Stalking Horse Proposal which is attached to the Affidavit of Paul Farley Joslyn sworn on August 2, 2022 as **Exhibit "3"**.
3. The Company is incorporated pursuant to the laws of Alberta and operates a crude oil and natural gas liquids marketing and trading business. It is insolvent and filed a Notice of Intention to Make a Proposal with the Official Receiver on July 27, 2022. It seeks to restructure its affairs for the benefit of its stakeholders.
4. The time for filing a proposal with the Superintendent of Bankruptcy will expire on August 26, 2022.
5. The Company has no secured creditors.
6. The Proposal Trustee supports the relief being sought by the Company through this Application.

Interim Lending Facility

7. The Company's Cash Flow Forecast projects that the Company will require up to \$300,000 in interim financing to pay its restructuring expenses.
8. The Company will not have sufficient funding to complete the restructuring unless the Interim Facility is approved.
9. The Interim Facility is expected to enhance the prospects of a viable proposal being made in respect of the Company.

BIA Charges

10. The Administration Charge is necessary in order to ensure that counsel to the Company, the Proposal Trustee and the Proposal Trustee's counsel have security for their fees and disbursements.
11. The Interim Lender Charge is necessary to ensure the Interim Lender has security for the Company's obligations arising under the Interim Facility. No creditor would be materially prejudiced as a result of the Interim Lender Charge, especially given that the Company has no secured creditors.

12. The Directors' and Officers' Charge is necessary in order to ensure that the directors of the Company will continue to serve in such capacity and have assurance that they will have secured indemnification against liability for obligations which they may occur as directors.
13. The Company is of the view, with the support of the Proposal Trustee, that the quantum of the Administration Charge, the Interim Lender Charge and the Directors' and Officers' Charge (the "**BIA Charges**") are appropriate given the anticipated complexity of this proceeding and the potential personal liabilities that may be incurred by the directors.
14. The priorities of the BIA Charges as among them, are proposed by the Company with the support of the Proposal Trustee to be as follows:
 - (a) First: Administration Charge;
 - (b) Second: Directors' and Officers' Charge; and
 - (c) Third: Interim Lender Charge;

The Stalking Horse Proposal and the SISP

15. The Company has determined that it is in the best interests of its creditors and other stakeholders to undertake the Restructuring Process. The central component of the Restructuring Process is the Stalking Horse Proposal, which contemplates the following key steps if it is the Successful Bidder as defined in the SISP:
 - (a) The Company's Articles will be amended and filed with the Alberta Registrar of Corporations as required by Section 192(4) of the ABCA, such that two classes of shares shall be authorized: New Shares and Redeemable Shares, and the Class C Common Shares Class D Common Shares, Class E Common Shares, and Preferred Shares in the capital of the Company of which there are no issued or outstanding shares shall be cancelled in their entirety;
 - (b) All Existing Shares will be re-designated as fully paid and non-assessable Redeemable Shares, on a one-for-one basis;
 - (c) All Redeemable Shares will be redeemed, cancelled, and extinguished for their fair market value (being nil);
 - (d) The Company will issue 10,000 New Shares to the Purchaser in full and final satisfaction of the Interim Financing Obligations;
 - (e) Each Affected Creditor shall be assigned its *pro rata* share of the Net Creditor Recovery Amounts in full satisfaction of their Affected Claims as more particularly outlined in Section 6.6 of the Stalking Horse Proposal and the Company will be

ordered to pay, on behalf of the Proposal Trustee, the levy payable to the Superintendent of Bankruptcy;

- (f) Unaffected Creditors will not be affected by the Stalking Horse Proposal;
 - (g) All Claims that are not Unaffected Claims shall be released, barred, and extinguished;
 - (h) The releases contained within the Stalking Horse Proposal will become effective;
 - (i) The New Director will be appointed as director of the Company; and
 - (j) The BIA Charges will be deemed to be fully satisfied, released, and discharged.
16. The Company will test the market for higher and better offers than the Stalking Horse Proposal pursuant to a SISP.

Extension of Time to File Proposal

- 17. The Company is acting in good faith and with due diligence in pursuing the Stalking Horse Bid and the SISP.
- 18. The Company will likely be able to make a viable proposal through either the Stalking Horse Bid or a Superior Offer.
- 19. No creditors will be materially prejudiced by the requested extension.

Material or evidence to be relied on:

- 20. The materials filed in these proceedings;
- 21. The Affidavit of Paul Farley Joslyn, sworn on August 2, 2022, to be filed;
- 22. The Affidavit of Service, to be filed;
- 23. The First Report of the Proposal Trustee, to be filed, and;
- 24. Such further or other material or evidence as counsel may advise and this Court may permit.

Applicable rules:

- 25. Rules 1.2, 1.3, 3.2(d), 6.10, 11.27, 13.5 of the Alberta *Rules of Court*, Alta Reg 124-2010;
- 26. Such other Rules as counsel may refer to or that this Honourable Court may permit.

Applicable Acts and regulations:

27. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, including Division I of Part III, and without limitation, and in particular, sections 50.4, 50.6, 64.1, and 64.2;
28. The Bankruptcy and Insolvency General Rules, CRC, c 368; and
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. Via WebEx before the Honourable Madam Justice K.M. Horner in Virtual Courtroom 60: <https://albertacourts.webex.com/meet/virtual.courtroom60>

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 time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

Schedule A

COURT/ESTATE FILE NUMBER 25-2851343

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



APPLICANT IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER SECTION 50.4(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, OF PETROLAMA ENERGY CANADA INC.

DOCUMENT **ORDER**
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800, 304 - 8 Avenue SW
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Christa Nicholson QC / Angad Bedi
Tel: 403 571 1053
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nicholsonc@jssbarristers.ca / bedia@jssbarristers.ca
File: 15378.001

DATE ON WHICH ORDER WAS PRONOUNCED: August 10, 2022

NAME OF JUDGE WHO MADE THIS ORDER: Justice K.M. Horner

LOCATION OF HEARING: **Calgary, Alberta**

UPON THE APPLICATION of Petrolama Energy Canada Inc. (the "**Company**") filed August 2, 2022 (the "**Application**"); **AND UPON** having read the Application and the Affidavit of Paul Farley Joslyn sworn August 2, 2022 (the "**Joslyn Affidavit**"); **AND UPON** having read the First Report of the Proposal Trustee, Alvarez & Marsal Canada Inc. (the "**Proposal Trustee**") filed on [DATE]; **AND UPON** having read the Affidavit of Service, to be filed of [TBD], sworn August 2, 2022; **AND UPON** noting the submissions of counsel for the Company, counsel for the Proposal Trustee and the other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service of the Application

1. The time for service of this Application, together with all supporting materials, is hereby abridged, if necessary, and declared to be good, valid, timely and sufficient and no other person is required to have been served with such documents, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.

Defined Terms

2. Unless otherwise expressly indicated, all capitalized terms used herein and not otherwise defined shall have the meanings used in the Sales and Investment Solicitation Process (the "SISP") attached as **Exhibit "2"** to the Joslyn Affidavit.

Administration Charge

3. The Proposal Trustee, counsel to the Proposal Trustee, and counsel to the Company, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a first ranking charge (the "**Administration Charge**") on all of the Collateral, which charge shall not exceed \$150,000 in an aggregate amount.

Interim Financing

4. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from 884304 Alberta Ltd., (in such lender capacity, the "**Interim Lender**"; also referred to as the "**Stalking Horse Bidder**") in order to finance the Company's restructuring expenses, provided that borrowings under such credit facility (the "**Interim Facility**") shall not exceed \$300,000 unless permitted by further order of this Court. The Interim Facility shall be extended on the terms and subject to the conditions set forth in the agreement entitled "Interim Financing Terms" between the Company and the Interim Lender, a copy of which is attached as **Exhibit "5"** to the Joslyn Affidavit (the "**Interim Financing Terms**").
5. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "**Interim Lender Charge**") on all of the Collateral to secure the Interim Financing Obligations (as defined in the "**Interim Financing Terms**" which are attached as **Exhibit "5"** to the Joslyn Affidavit) , which charge shall not exceed the aggregate amount advanced on or after the date of this Order together with any Interim Financing Obligations under the Interim Financing Terms, and which charge shall not secure an obligation that exists before this Order is made. The Interim Lender Change shall have the priority set out in paragraphs 8 and 10 hereof.

Directors' and Officers' Charge

6. The Company shall indemnify its directors and officers against obligations and liabilities that they may incur as its directors or officers after the commencement of the BIA Proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
7. Each of the directors and officers of the Company shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' and Officers' Charge**") on all of the Collateral, which charge shall not exceed an aggregate amount of \$65,000, as security for the indemnity provided in this Order. The Directors' and Officers' Charge shall have the priority set out in paragraphs 8 and 10 hereof.

Priority of the BIA Charges

8. The priorities of the Administration Charge, the Interim Lender Charge and the Directors' and Officers' Charge (collectively, the "**BIA Charges**"), as among them, shall be as follows:
 - (a) First: Administration Charge, up to the maximum amount of \$150,000;
 - (b) Second: Directors' and Officers' Charge, up to the maximum amount of \$65,000.
and
 - (c) Third: Interim Lender Charge up to a maximum principal amount of \$300,000 plus all other Interim Financing Obligations.
9. The filing, registration or perfection of the BIA Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
10. Each of the BIA Charges (all as constituted and defined herein) shall constitute a charge on all the Collateral and each such charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person except in the case of the Interim Lender Charge which shall be subject to the Permitted Priority Liens as defined in the Interim Financing Terms.
11. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any Encumbrances over any Collateral that rank in priority to, or *pari passu* with, any of the BIA Charges, unless the Company also obtains the prior written consent of the Proposal Trustee and the beneficiaries of the Administration Charge, the Interim Lender Charge, and the Directors' and Officers' Charge, or same is authorized by further order of this Court.
12. The BIA Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by:

- (a) The pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) Any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
 - (c) The filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) The provisions of any federal or provincial statutes; or
 - (e) Any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") that binds the Company, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the BIA Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Company of any Agreement to which it is a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any agreement caused by or resulting from the creation of the BIA Charges; and
 - (iii) the payments made by the Company pursuant to this Order, and the granting of the BIA Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.
13. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the BIA Charges amongst the various assets comprising the Collateral.

Approval of SISP including Stalking Horse Proposal as a Qualified Bid

14. The SISP, including the SISP Procedures, substantially in the form attached as **Exhibit "2"** to the Joslyn Affidavit, shall be and are hereby approved, including its deeming of the Stalking Horse Proposal as a Qualified Bid and the Company and the Proposal Trustee are authorized and directed to carry out the SISP in accordance with the SISP Procedures and this Order, and are hereby authorized and directed to take such steps as they consider necessary or appropriate in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before the completion of any transaction(s) resulting pursuant to the SISP.

15. For greater certainty, nothing herein approves the transaction contemplated in the Stalking Horse Proposal, and the approval of any transaction contemplated by the SISP shall be determined on a subsequent application made to this Court.

Extension of Time to file a Proposal

16. Pursuant to subsection 50.4(9) of the BIA, the period within which the Company is required to file a proposal to its creditors with the Official Receiver under subsection 62(1) of the BIA shall be and is hereby extended to 11:59 pm (local Calgary time) on October 10, 2022.

Service of This Order

17. Service of this Order shall be deemed to be achieved by posting a copy of this Order on the website of the Proposal Trustee, namely www.alvarezandmarsal.com/petrolama and by delivering an electronic copy of this Order to those parties listed on the Service List prepared by counsel for the Company.

Justice of the Court of Queen's Bench of Alberta