

COURT FILE NUMBER 1601-02201

COURT COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

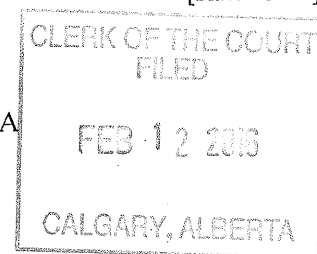
JUDICIAL CENTRE Calgary

PLANTIFF BANK OF MONTREAL

DEFENDANTS BUMPER DEVELOPMENT
CORPORATION LTD., and BUMPER
DEVELOPMENT CORPORATION

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
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AFFIDAVIT OF KINSLEY MCWHINNIE

Sworn on February 11, 2016

I, Kinsley McWhinnie, of the City of Calgary in the Province of Alberta, banker, SWEAR AND SAY THAT:

1. I am an Associate in the Corporate and U.S. Commercial Special Accounts Management Unit for the Plaintiff, Bank of Montreal ("BMO"), and am presently on the team responsible for the administration of the accounts of Bumper Development Corporation Ltd. ("Bumper"). As such, I have personal knowledge of the matters and facts hereinafter sworn to, except where stated to be based on information and belief, and where so stated, I verily believe the same to be true.
2. I am authorized by BMO to swear this Affidavit.

3. Bumper is a body corporate duly incorporated according to the laws of the Province of Alberta, with its registered office in the City of Calgary, in the Province of Alberta. Attached hereto and marked as **Exhibit "A"** is a copy of a Corporate Registries search for Bumper, dated February 10, 2016.
4. Bumper Development Corporation (the "**Guarantor**") is a wholly owned subsidiary of Bumper and duly incorporated accordingly to the laws of the State of Delaware. Attached hereto and marked as **Exhibit "B"** is a copy of a Certificate of Good Standing for the Guarantor, issued by the Delaware Secretary of State as of March 3, 2015.

Loans and Security

5. BMO provided a series of credit facilities to Bumper pursuant to various loan agreements as amended, restated and substituted from time to time, the most current loan agreement being the credit agreement dated March 27, 2015 (the "**Loan Agreement**"). Attached hereto and marked as **Exhibit "C"** is a copy of the Loan Agreement.
6. Pursuant to the Loan Agreement, the following credit facilities were advanced to Bumper:
 - (a) A demand revolving credit facility in the principal amounts of \$48,715,250.73 CAD and \$241,612.96 USD, as of April 30, 2015 following the scheduled reductions under the Loan Agreement;
 - (b) A MasterCard facility in the principal amount of \$15,000; and
 - (c) A standby letter of credit in the principal amount of \$171,000.
 (together, the "**Credit Facilities**").
7. As security for the amounts advanced under the Credit Facilities, Bumper executed in favour of BMO among other things: a general assignment under section 426 of the *Bank Act*, dated June 15, 1993 (the "**Bank Act Security**"); an assignment dated June 15, 1993 (the "**Assignment**"); a fixed and floating charge debenture in the principal amount of \$150,000,000, dated as of December 15, 2006 (the "**Debenture**"); and an instrument of pledge dated December 15, 2006 (the "**Debenture Pledge**"). Attached hereto and marked as **Exhibits "D", "E", "F" and "G"** respectively are copies of the Bank Act Security, the Assignment, the Debenture and the Debenture Pledge.

8. Additionally, the Credit Facilities were guaranteed by the Guarantor pursuant to a guarantee dated April 6, 2015 (the “**Guarantee**”) secured by among other things, a U.S. security agreement also dated April 6, 2015 (the “**Guarantor GSA**”). Attached hereto and marked as **Exhibits “H”** and “**T**” respectively are copies of the Guarantee and of the Guarantor GSA.
9. The Bank Act Security, the Assignment, the Debenture, the Debenture Pledge, the Guarantee, and the Guarantor GSA are sometimes collectively referred to herein as the “**BMO Security**”.

Forbearance Agreements and Forbearance Amending Agreements

10. As of May 26, 2015, Bumper was indebted to BMO pursuant to the Loan Agreement as follows:

Facility	Balance
Canadian Prime Loan	\$48,715,250.73
U.S. Base Rate Loan	\$241,612.96 USD
MasterCard Facility	\$ -nil-
Standby Letter of Credit	\$50,000.00
Standby Letter of Credit	\$50,000.00
Standby Letter of Credit	\$71,000.00

(collectively the “**BMO Indebtedness**”).

11. In the summer of 2015, Bumper defaulted under the terms of the Loan Agreement. In particular, Bumper (i) failed to repay amounts due in excess of the then-current borrowing base as required by the Loan Agreement, and (ii) sold or otherwise disposed of assets in breach of paragraph 2(e) of the Loan Agreement, both of which constituted events of default under the Loan Agreement.
12. Despite the defaults, BMO granted Bumper a period of forbearance pursuant to a forbearance agreement and fourteen forbearance amending agreements, more particularly set forth as follows:

- (a) Pursuant to a forbearance agreement dated June 30, 2015 (the “**Forbearance Agreement**”), BMO granted Bumper a period of forbearance until July 30, 2015. Amongst other things, the Forbearance Agreement required Bumper to continue to actively market for sale its oil and gas properties during the forbearance period, with such sale proceeds intended reduce the BMO Indebtedness. In addition, the Forbearance Agreement provided that it would be an event of default if Bumper failed to close a contemplated transaction with Luxxoil Canada Ltd. (“**Luxxoil**”) prior to the expiration of the forbearance period. Bumper and the Guarantor executed a Consent Receivership Order as part of the forbearance arrangement appended as a schedule to the Forbearance Agreement. Attached hereto and marked as **Exhibit “J”** is a copy of the Forbearance Agreement.
- (b) Pursuant to a forbearance amending agreement dated July 29, 2015 (the “**Forbearance Amending Agreement**”), BMO granted Bumper a further period of forbearance until August 7, 2015, with an automatic extended forbearance period until August 30, 2015 if Bumper could close the sale to Luxxoil prior to July 30, 2015. Attached hereto and marked as **Exhibit “K”** is a copy of the Forbearance Amending Agreement.
- (c) Bumper was unable to close the sale to Luxxoil prior to July 30, 2015. Regardless, BMO granted Bumper a further period of forbearance until August 27, 2015 pursuant to a second forbearance amending agreement dated August 6, 2015 (the “**Second Amendment**”). Bumper did close the sale to Luxxoil subsequent to July 30, 2015, and the grant of the Second Amendment was conditional upon delivery by Bumper to BMO of the \$3.5 million (net of costs) in sale proceeds from that transaction, which was applied to reduce the BMO Indebtedness. Attached hereto and marked as **Exhibit “L”** is a copy of the Second Amendment.
- (d) Pursuant to a third forbearance amending agreement, dated as of August 27, 2015 (the “**Third Amendment**”), BMO granted Bumper a further period of forbearance until September 3, 2015. Attached hereto and marked as **Exhibit “M”** is a copy of the Third Amendment.
- (e) Pursuant to a fourth forbearance amending agreement, dated September 3, 2015 (the “**Fourth Amendment**”), BMO granted Bumper a further period of forbearance until

September 11, 2015. The Fourth Amendment included that it would be an event of default under the Forbearance Agreement if the purchase and sale agreement entered into by Bumper and Canstone Energy Ltd., dated August 26, 2015, terminated during the forbearance period. Attached hereto and marked as **Exhibit “N”** is a copy of the Fourth Amendment.

- (f) Pursuant to a fifth forbearance amending agreement, dated September 11, 2015 (the “**Fifth Amendment**”), BMO granted Bumper a further period of forbearance until October 2, 2015. Amongst other things, the Fifth Amendment required the execution of an Inter-creditor Agreement between Bumper, BMO and Encana Corporation prior to September 18, 2015. Attached hereto and marked as **Exhibit “O”** is a copy of the Fifth Amendment.
- (g) Pursuant to a sixth forbearance amending agreement, dated October 2, 2015 (the “**Sixth Amendment**”), BMO granted Bumper a further period of forbearance until November 2, 2015. Attached hereto and marked as **Exhibit “P”** is a copy of the Sixth Amendment.
- (h) Pursuant to a seventh forbearance amending agreement, dated November 2, 2015 (the “**Seventh Amendment**”), BMO granted Bumper a further period of forbearance until December 7, 2015. The grant of the Seventh Amendment was conditional upon completion of several milestones by Bumper as follows:
 - (i) Delivery to BMO of the sale proceeds received from Bumper’s sale of its “Flexjet” property, totalling approximately \$500,000 prior to the expiration of the forbearance period;
 - (ii) Closing of the purchase and sale agreement between Bumper and Forent Energy Ltd. (“**Forent**”) dated October 16, 2015 (the “**Forent PSA**”), occurring no later than December 4, 2015;
 - (iii) Upon closing of the Forent PSA and release of funds from escrow, delivery to BMO of the sale proceeds received by Bumper under the Forent PSA, totalling no less than \$3.1 million; and
 - (iv) Delivery to BMO of a fully executed notice to Forent dated effective November 23, 2015 that Bumper elects to sell its entire interest in and to the overriding royalty to Forent pursuant to the Royalty Agreement between Bumper and Forent, dated effective December 4, 2015.

Attached hereto and marked as **Exhibit “Q”** is a copy of the Seventh Amendment.

- (i) Bumper was unable to close the sale to Forent prior to December 4, 2015, and as a result, pursuant to an eighth forbearance amending agreement, dated December 7, 2015 (the “**Eighth Amendment**”), BMO granted Bumper a further period of forbearance until December 18, 2015. The grant of the Eighth Amendment was conditional upon closing the sale under the Forent PSA prior to December 16, 2015 (the “**Revised Closing Date**”), and at the Revised Closing Date, delivery of the net sale proceeds from Bumper to BMO in an amount not less than \$4.0 million. Attached hereto and marked as **Exhibit “R”** is a copy of the Eighth Amendment.
- (j) Pursuant to a ninth forbearance amending agreement, dated December 18, 2015 (the “**Ninth Amendment**”), BMO granted Bumper a further period of forbearance until December 23, 2015. Attached hereto and marked as **Exhibit “S”** is a copy of the Ninth Amendment.
- (k) Pursuant to a tenth forbearance amending agreement, dated December 23, 2015 (the “**Tenth Amendment**”), BMO granted Bumper a further period of forbearance until January 8, 2016. The grant of the Tenth Amendment was conditional upon delivery by Bumper to BMO of certain inter-company receivables from its French subsidiaries, totalling approximately €450,000. In addition, the Tenth Amendment permitted Bumper to make severance payments to its employees totalling not more than \$95,000. Attached hereto and marked as **Exhibit “T”** is a copy of the Tenth Amendment.
- (l) Pursuant to an eleventh forbearance amending agreement, dated January 8, 2016 (the “**Eleventh Amendment**”), BMO granted Bumper a further period of forbearance until January 15, 2016. Attached hereto and marked as **Exhibit “U”** is a copy of the Eleventh Amendment.
- (m) Pursuant to a twelfth forbearance amending agreement, dated January 15, 2016 (the “**Twelfth Amendment**”), BMO granted Bumper a further period of forbearance until January 22, 2016. Attached hereto and marked as **Exhibit “V”** is a copy of the Twelfth Amendment.
- (n) Pursuant to a thirteenth forbearance amending agreement, dated January 22, 2016 (the “**Thirteenth Amendment**”), BMO granted Bumper a further period of forbearance until

January 29, 2016. The Thirteenth Amendment required Bumper to collect and deposit outstanding amounts owing under certain shareholder's loans in the amount of \$714,000, prior to January 27, 2016. Attached hereto and marked as **Exhibit "W"** is a copy of the Thirteenth Amendment.

- (o) Pursuant to a fourteenth forbearance amending agreement, dated January 29, 2016 (the "**Fourteenth Amendment**"), BMO granted Bumper a further period of forbearance until February 2, 2016. The Fourteenth Amendment permitted BMO to place a hold on Bumper's Canadian bank account in the amount of \$600,000. Attached hereto and marked as **Exhibit "X"** is a copy of the Fourteenth Amendment.

- 13. The Guarantor was a party to the Forbearance Agreement and its subsequent amendments.
- 14. Pursuant to the Forbearance Agreement, as amended, and the various milestones reached by Bumper throughout the lengthy forbearance period granted, Bumper reduced the BMO Indebtedness by approximately \$37 million.

Defaults & Receivership

- 15. Pursuant to the terms of the Forbearance Agreement, as amended, Bumper and the Guarantor agreed that BMO would be entitled to immediately seek the appointment of a receiver and receiver manager of Bumper and the Guarantor if the BMO Indebtedness was not repaid in full prior to the expiration of the forbearance period. In this regard, Bumper and the Guarantor each executed a Consent Receivership Order in favour of BMO, as well as an acknowledgment and waiver of the notice provisions required under section 244 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"). These documents are appended as schedules to the Forbearance Agreement, attached hereto and marked as Exhibit "J".
- 16. Bumper has failed to repay the BMO Indebtedness in its entirety prior to the expiration of the forbearance period on February 2, 2016. As of February 10, 2016, there remains \$11,352,237.87 due and owing by Bumper and the Guarantor to BMO, together with interest, fees and other chargeable costs continuing to accrue (the "**Outstanding Indebtedness**"). As a result, BMO is entitled to proceed with a receivership application under the terms of the Forbearance Agreement, as amended.

A Commissioner for Oaths in and for Alberta

STEVEN G. BODI
A Commissioner for Oaths
in and for Alberta
Student-At-Law, Notary Public

KINSLEY MCWHINNIE