

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. 500-11-057458-198

DATE: November 22, 2019

PRESIDING : THE HONOURABLE Pierre Kaufman, J.S.C.

IN THE MATTER OF THE LIQUIDATION OF:

BRITISH CONTROLLED OILFIELDS LTD.

Corporation/Co-Petitioner

-and-

STEPHEN MICHAEL ROSEFIELD

Co-Petitioner

-and-

KPMG INC.

Liquidator

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR
Jean-Pierre Nigacs
Personne désignée par le greffier

ORDER APPOINTING A LIQUIDATOR AND ORDERING A JUDICIAL LIQUIDATION

[1] ON READING the Co-Petitioner's *Motion for the Appointment of a Liquidator and the Issuance of a Claim Procedure Order* (the "**Motion**") pursuant to Article 211 and 215

of the *Canada Business Corporation Act, R.S.C. 1985, c. C-44, as amended* (the "CBCA"), the affidavit and the exhibits in support thereof;

- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Co-Petitioners' attorneys;
- [4] **SEEING** that it is appropriate to appoint a liquidator and that KPMG Inc. has consented to act as liquidator;

WHEREFORE THE COURT:

- [5] **GRANTS** the Motion;
- [6] **ORDERS** that the liquidation of British Controlled Oilfields Ltd (the "**Corporation**") should continue under the supervision of the court under sections 211 and 215 *CBCA*;

APPOINTMENT AND LIQUIDATOR'S POWERS

- [7] **APPOINTS** KPMG Inc. (the "**Liquidator**") to act as liquidator for all of the Corporation's assets, rights and obligations, present and future, of any kind and wherever they are located, whether held directly or indirectly by the Corporation or that they are held by others for the Corporation (collectively, the "**Property**");
- [8] **ORDERS** that the powers of the Corporation's shareholders and directors be vested in the Liquidator.
- [9] **AUTHORIZES** the Liquidator to take possession and control of the Property, to proceed with their liquidation (the "**Liquidation**");
- [10] **ORDERS** to the Liquidator to report to the court and obtain approval of his final accounts, including details of any sharing of the remainder of the Corporation's assets, if any;
- [11] **PROHIBITS** the Liquidator to distribute any funds to any shareholder or creditor of the Corporation as of the day of this Order without prior approval of this Court. For greater clarity nothing herein prohibits the Liquidator to pay the expenses that are required at its discretion to conduct the Liquidation which includes the professional fees of the Liquidator and of the attorneys of the Corporation;
- [12] **DECLARES** that the powers conferred on the Liquidator by the *CBCA* and by this Order (the "**Order**") may be exercised by the Liquidator at its discretion, and to the extent that it deems it necessary or desirable;

[13] **AUTHORIZES** the Liquidator, without limiting the generality of the above, to exercise the following powers:

- (a) receive, retain, protect, liquidate, maintain control and carry out the Property, or part of them;
- (b) hold and invest assets held in the form of money in bank accounts, term deposits or secured investment certificates from a Canadian chartered bank or in treasury bills issued by the Government of Canada;
- (c) take the necessary or desirable steps to maintain control over all receipts and disbursements, including to control the access and use of any bank, investment or brokerage account of the Corporation, in order to open a new bank, investment or brokerage account, approve all cheques or other payment instruments drawn from one of these accounts and allow payment of expenses that, at its discretion, are necessary or necessary for the Liquidation;
- (d) take the necessary or desirable steps to verify the existence and location of all Property, to verify the terms and conditions of any agreement or other agreement relating to them, whether written or verbal, to verify the existence or validity of any mortgage, security, charge or other interest related to the Property and to verify any other issues that may affect the value, existence, preservation or liquidation of the Property;
- (e) negotiate, conclude, amend, terminate or settle any agreement with respect to the Property;
- (f) collect all sums and accounts that are or will be owed to the Corporation and exercise all rights or remedies of the Corporation in the collection of such sums;
- (g) consult with the former directors and officers of the Corporation and obtain their opinions;
- (h) retain the services of any former employee of the Corporation, agent, expert, auditor, consultant, legal counsel and other professional adviser;
- (i) where applicable, prepare and file the Corporation's financial statements, income tax returns, forms, notices and other documents that may be required by or for the tax authorities;
- (j) to prepare and deliver to the Corporation's shareholders and to any other recipient of payments from the Liquidator, the tax information and tax statements required to be delivered under the applicable tax legislation and regulations;

- (k) maintain the books and other documents of the Corporation for a period of six (6) years from the date of the Dissolution, or for any period to comply with any applicable legal, regulatory or other requirement, to the Corporation;
- (l) to complete Liquidation in accordance with this Order and in compliance with the provisions of *CBCA* or any other applicable law;
- (m) make an application to the court for further directions regarding the exercise of its powers, duties and rights under this Order or for any additional authority or power; and;
- (n) proceed with the liquidation, dissolution or cancellation of the Corporation's subsidiaries as it deems appropriate.

[14] **AUTHORIZES** the Liquidator, at its discretion and if it deems it necessary or desirable to properly protect, preserve or realize on the Property, to:

- (a) introduce or continue any application or legal or administrative proceeding initiated by the Corporation before any court or administrative body; and
- (b) appear and defend any pending or subsequent claim, legal proceeding or administrative proceeding against the Corporation or the Liquidator in respect of the Property or the Corporation's obligations;

[15] **ORDERS** the Corporation, in the context of the sale and disposition of the Property, to execute the powers of attorney, acts and instruments of any nature whatsoever that may be required. The Liquidator is however authorized and empowered to execute proxies, deeds and instruments on behalf of the Corporation. These proxies, acts and instruments executed by the Liquidator have the same force and effect as if they were executed by the Corporation.

[16] **AUTHORIZES** the Liquidator to take reasonable measures that are incidental to the exercise of his powers or the performance of any legal obligation.

PROFESSIONALS CHARGES

[17] **ORDERS** that the Liquidator and the attorneys of the Corporation benefit and are hereby granted a charge on the Property, which may not exceed an amount of \$150,000.00 in the aggregate, as security for the payment of their fees and professional disbursements and other expenses incurred with respect to this file according to the tariffs and the standard expenses of the Liquidator and the prosecutors, both before and after the issuance of this Order (the "**Professionals Charge**").

DUTY TO COOPERATE

- [18] **ORDERS** that, upon the written request of the Liquidator, any person must immediately inform the Liquidator of the existence of any Property in his possession or control, must immediately grant immediate and continuous access to the Liquidator to said Property and shall give these to the Liquidator.
- [19] **ORDERS** that upon the written request of the Liquidator, any person must immediately inform the Liquidator of the existence of any book, title, contract or any other document related to the business or affairs of the Corporation. Any person must also, at the written request of the Liquidator, immediately notify it of any computer file or data storage medium containing such information (collectively, the "**Records**") in his possession or under his control and must also provide copies to the Liquidator or allow the Liquidator free access to use any accounting system, computer, computer program and any physical installation to access the Records. However, this Order does not allow the Liquidator to require the transmission of Records or the granting of access to the Records which cannot be disclosed or provided to the Liquidator by reason of a privilege related to the attorney-client privilege, the litigation privilege or legal provisions prohibiting such disclosure.
- [20] **ORDERS** that if any Records is registered on a computer or any other information storage medium, whether by an independent service provider or otherwise, any person in possession of a Record shall upon written request from the Liquidator, provide the Liquidator with all the assistance necessary to obtain immediate access to the information contained in said Records, including any instructions as to the use of any computer or other system and any code of access, password, name and account number required to obtain access to the information, and that person may not alter, erase or destroy a Record without the prior written consent of the Liquidator.

REPORT TO THE COURT

- [21] **ORDERS** the Liquidator to report to the court in accordance with its obligations under the *CBCA* and, where applicable, at the request of the court.

LIMITATION OF LIABILITY

- [22] **ORDERS** that unless prior leave is granted by the court, no application, judicial proceeding or enforcement action may be brought against the Liquidator in any court.
- [23] **DECLARES** that Liquidator incurs liability only as liquidator of the Corporation, that it does not incur personal liability and that it does not subscribe to any obligation by reason of its appointment as liquidator, except for any potential liability arising from its duty to act with care, diligence and skill pursuant to section 222 (2) of the *CBCA*. Nothing in this Order derogates from the protections afforded to the Liquidator under *CBCA* or any other applicable law.

[24] **DECLARES** that the Liquidator shall in no circumstances be considered as a successor employer, a related employer or a guarantor with respect to the former employees of the Corporation under any applicable law or any collective agreement or other agreement entered into by the Corporation and its former employees.

NOTICE

[25] **ORDERS** that any notice, document or other communication to be given under this Order by a creditor to the Liquidator shall be in writing and delivered by registered mail, by email, by courier, by facsimile or delivered by hand. Any notice, document or other communication sent to the Liquidator must be sent to the following coordinates:

Liquidator **KPMG inc.**
600 de Maisonneuve Blvd West
Montréal (Québec) H3B 4L8
Care of : Stephane De Broux / Patrick Ifergan
Phone : 514.840.7265 / 514.940.8591
Fax : 514.840.2121
Email : bco@kpmg.ca

Corporation : **Bloomfield et Avocats**
1155 Robert-Bourassa Blvd
Montréal (Québec) H3B 3A7
Care of : Me Christopher Audet
Phone: 514.871.9571
Fax: 514.397.0816
Email: caudet@fieldbloom.com

With a copy to:

Davies Ward Phillips & Vineberg, s.e.n.c.r.l., s.r.l.
1501 McGill College avenue, 26th Floor
Montréal (Québec) H3A 3N9
Care of : Me Christian Lachance
Phone : 514-841-6576
Fax : 514-841-6499
Email : clachance@dwpv.com

[26] **ORDERS** that any notice, document or other communication to be sent in writing by the Liquidator shall be sent by registered mail, by email, by courier, by fax or delivered by hand and that they shall be deemed to have been received three (3)

business days after the delivery date if sent by registered mail and one (1) business day after the delivery date if delivered by courier, email or fax.

[27] **ORDERS** the Liquidator to publish any document relating to this file on its website.

GENERAL

[28] **DECLARES** that the Liquidator may, if necessary, make an application to the court for directions regarding the exercise of his powers, rights and obligations or the execution of this Order;

[29] **DECLARES** that any interested person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the Liquidator, the Co-Petitioners' attorneys and any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order;

[30] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;

[31] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.



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AU DOCUMENT DÉTENU PAR LA COUR



Personne désignée par le greffier