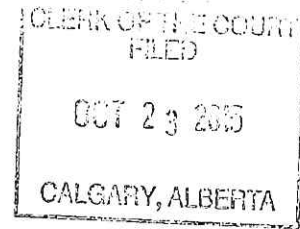


Form 7
[Rule 3.8]



Clerk's stamp:

COURT FILE NO. 1501 - 12220

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

ALBERTA TREASURY BRANCHES

RESPONDENTS

COGI LIMITED PARTNERSHIP, CANADIAN OIL & GAS INTERNATIONAL INC., AND CONSERVE OIL GROUP INC.

DOCUMENT

ORIGINATING APPLICATION (APPOINTMENT OF RECEIVER)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

BLAKE, CASSELS & GRAYDON LLP
855 - 2nd Street S.W.
Suite 3500
Bankers Hall East Tower
Calgary, AB T2P 4J8

Attention: **Kelly Bourassa / Ryan Zahara**
Tel: 403.260.9697/9628
Fax: 403-260-9700
Email: kelly.bourassa@blakes.com / ryan.zahara@blakes.com
File: 81518/79

NOTICE TO RESPONDENT

This application is made against you. You are a respondent.

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

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

| | |
|-------------|--|
| Date | <u>October 26, 2015</u> |
| Time | <u>2:30 p.m.</u> |
| Where | <u>Calgary Courts Centre, 601 - 5th Street S.W., Calgary, AB, T2P 5P7</u> |
| Before Whom | <u>The Honourable Justice A.D. Macleod</u> |

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. Alberta Treasury Branches ("**ATB**" or the "**Lender**") seeks a Receivership Order, substantially in the form attached hereto as Schedule "A":
 - (a) declaring service of this Application good and sufficient, and abridging time for notice of this Application to the time actually given, if necessary;
 - (b) denying the Debtors' application to extend the stay of proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985 c C-36, as amended ("**CCAA**");
 - (c) appointing MNP Ltd. ("**MNP**") as receiver (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3, as amended (the "**BIA**") over the current and future assets, undertakings and properties of COGI Limited Partnership ("**COGI**" or the "**Borrower**"), Canadian Oil & Gas International Inc. (the "**General Partner**"), and Conserve Oil Group Inc. ("**Conserve**"; together with COGI and the General Partner, the "**COGI Group**");
 - (d) granting costs of this Application to the Lender as provided for in the GSA (as defined below); and
 - (e) such further and other relief as may be sought by the Lender and this Honourable Court may deem appropriate.

Grounds for making this application:

2. All capitalized terms used herein and not otherwise defined have the meanings given to them in the Credit Agreement (defined below).
3. The grounds upon which the Lender relies in making the within Application are as follows:

- (a) the Lender provided demand credit facilities (the "**Credit Facility**") to COGI, as borrower, pursuant to a credit agreement dated August 30, 2013, as amended and restated as of December 23, 2014 (collectively, the "**Credit Agreement**");
- (b) the Credit Agreement provides that the Credit Facilities are payable in full on demand by the Lender;
- (c) as security for all amounts owing from COGI to ATB, COGI, among other things, entered into a floating charge demand debenture (the "**Debenture**"), a general security agreement (the "**GSA**") and Debenture Pledge Agreement (the "**Debenture Pledge**"), each dated August 30, 2013, granting ATB security over all of COGI's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, and all present and after-acquired real, immovable and leasehold property;
- (d) as security for all amounts owing from COGI to ATB, the GP, among other things, entered into a floating charge demand debenture (the "**GP Debenture**"), a general security agreement (the "**GP GSA**") and a Debenture Pledge Agreement (the "**GP Debenture Pledge**"), each dated August 30, 2013, granting ATB security over all of the GP's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, and all present and after-acquired real, immovable and leasehold property;
- (e) as security for all amounts owing from COGI to ATB, Conserve, among other things, entered into a floating charge demand debenture (the "**Conserve Debenture**"), a general security agreement (the "**Conserve GSA**") and a Debenture Pledge Agreement (the "**Conserve Debenture Pledge**"), each dated December 23, 2014, granting ATB security over all of the Conserve's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, and all present and after-acquired real, immovable and leasehold property;

- (f) pursuant to a guarantee granted by the General Partner to the Lender dated August 30, 2013 (the "**GP Guarantee**"), the General Partner guaranteed the payment and performance of all obligations owing by the Borrower to ATB under the Credit Agreement, including without limitation, all outstanding principal and all interest, commissions, legal and other costs, charges and expenses payable by COGI under the Credit Agreement;
- (g) pursuant to a guarantee granted by Conserve to the Lender dated December 23, 2014 (the "**Conserve Guarantee**"), Conserve guaranteed the payment and performance of all obligations owing by the Borrower to ATB under the Credit Agreement, including without limitation, all outstanding principal and all interest, commissions, legal and other costs, charges and expenses payable by COGI under the Credit Agreement;
- (h) the amount due and owing by COGI to ATB as of October 20, 2015 was \$33,888,734.41 (the "**Outstanding Indebtedness**"), with interest accruing thereafter at a rate of \$5,735.98 per diem;
- (i) the Lender provided demand credit facilities (together with the Credit Facility, the "**Credit Facilities**") to the Conserve, as borrower, pursuant to a commitment letter dated April 10, 2013 (the "**Commitment Letter**");
- (j) as security for all amounts owing from the Conserve to ATB, Conserve, among other things, entered into a general security agreement (the "**Commitment Letter GSA**") dated September 14, 2010, granting ATB security over all of the Conserve's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, and all present and after-acquired real, immoveable and leasehold property;
- (k) the Credit Agreement, GSA, Debenture, Debenture Pledge, GP GSA, GP Debenture, GP Debenture Pledge, Conserve GSA, Conserve Debenture, Conserve Debenture Pledge, GP Guarantee, Conserve Guarantee, Commitment

Letter, and Commitment Letter GSA are collectively referred to herein as the “**Security Documents**”;

- (l) the COGI Group is in default of the terms of the Security Documents, which collectively provide that the Lender is entitled to, among other things, apply to the Court for the appointment of a receiver of the members of the COGI Group;
- (m) further, the Security Documents collectively provide that the COGI Group is liable to the Lender for all reasonable costs, charges and expenses incurred by the Lender including, without restricting the generality of the foregoing, legal costs as between a solicitor and his own client on a full indemnity basis;
- (n) on August 28, 2015, the Court did not object to COGI’s and the GP’s Originating Application for protection pursuant to the *Companies’ Creditors Arrangement Act* on the understanding that COGI and the GP would proceed expeditiously towards preparing and presenting a plan of arrangement or compromise (the “**Plan**”) to their creditors, including the ATB;
- (o) despite being given ample time to develop a Plan in the course of the CCAA proceedings, COGI and the GP have failed to do so;
- (p) the Lender has lost faith in management and is not prepared to support the CCAA proceedings of the COGI or the GP;
- (q) there remains certain pre-filing payments that were made by COGI and the GP that have not been reconciled with the Monitor;
- (r) Conserve has not provided ATB with sufficient information, including cash flow and financial information, to demonstrate why it should remain outside of formal insolvency proceedings. In addition, ATB understands that the Monitor cannot get a complete financial picture of the financial circumstances of COGI and the GP until it has access to certain information from Conserve;

- (s) there is no stay of proceedings or forbearance agreement in place in respect of the outstanding obligations of Conserve to ATB;
- (t) receivership is just, convenient and appropriate in the circumstances and MNP has consented to act; and
- (u) such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

4. The Lender intends to rely upon the following materials:
- (a) the Affidavit of Clayton Martin, sworn on October 22, 2015;
 - (b) the Consent to Act as Receiver executed by a duly authorized representative of MNP; and
 - (c) such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable rules:

5. The Lender will rely upon and refer to the *Alberta Rules of Court* during the making of the Application.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must

attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.