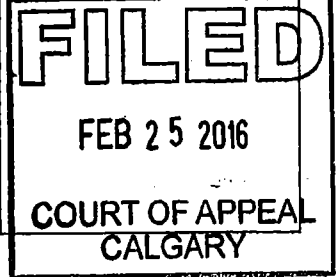


COURT OF APPEAL OF ALBERTA

Form AP-3
[Rule 14.53]

Registrar's Stamp



COURT OF APPEAL FILE NO: 1601-0023AC

TRIAL COURT FILE NUMBER: 1501-12220

REGISTRY OFFICE: CALGARY

PLAINTIFF: ALBERTA TREASURY BRANCHES

STATUS ON APPEAL: RESPONDENT

STATUS ON APPLICATION: RESPONDENT

DEFENDANT: CONSERVE OIL 1ST CORPORATION

STATUS ON APPEAL: APPELLANT

STATUS ON APPLICATION: APPLICANT

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

STATUS ON APPEAL: NOT PARTIES TO THE APPEAL

STATUS ON APPLICATION: NOT PARTIES TO THE APPLICATION

**DOCUMENT: MEMORANDUM OF CONSERVE OIL 1ST CORPORATION
RE: LEAVE TO APPEAL**

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I. Relief Sought

1. Conserve Oil 1st Corporation ("**Amalco**") seeks an Order: (i) granting Amalco leave to appeal the January 6, 2016 receivership Order of the Honourable Madam Justice Horner (the "**Second Receivership Order**"); (ii) granting Amalco costs of the within Application; and (iii) such further relief as this Honourable Court deems just and appropriate in these circumstances.

II. Summary of Facts¹

2. Amalco is the amalgamation successor of Conserve 1st Oil Corporation ("**COC1**"), Conserve Oil 2nd Corporation ("**COC2**"), Conserve Oil 6th Corporation ("**COC6**"), and Conserve Oil 7th Corporation ("**COC7**", collectively with COC1 and COC6, the "**Old GPs**").

3. The Old GPs, who were the general partners of limited partnerships (collectively, the "**Old LPs**") that obtained credit facilities from Alberta Treasury Branches ("**ATB**") in the period December 2011 to September 2012, provided guarantees to ATB (the "**Old Guarantees**") securing the Old LPs' credit facilities in the aggregate of \$28.8 Million (the "**Old LPs Credit Facilities**").

4. In February 2013, the amount of the credit facility obtained by COC1's limited partnership (the "**LP1 Credit Facility**") was reduced. ATB required COC1, as guarantor of the LP1 Credit Facility, to provide written consent to the amendment and confirmation that COC1's guarantee would continue in full force and effect as a guarantee of the obligations of its limited partnership under the amended credit facility (the "**COC1 Acknowledgement**").

5. In July 2013, by way of an arrangement agreement (the "**Arrangement**"): (i) all of the assets and liabilities of the Old LPs, as well as the assets and liabilities of three other limited partnerships (collectively, the "**6 LPs**"), were acquired by a new limited partnership, COGI Limited Partnership ("**COGI LP**"), the general partner of which was Canadian Oil & Gas International Inc. (the "**COGI GP**"); and (ii) the Old LPs were dissolved.

¹ Detailed Chronology attached as **Sch. "A"**; Schematic of Relationships attached as **Sch. "B"**.

6. In furtherance of the Arrangement, effective August 30, 2013: (i) COGI LP entered into a new credit facility agreement with ATB up to the principal amount of \$94.5 Million (the "**New Credit Facility**"), \$44.5 Million of which was to be used solely to repay the credit facilities of the 6 LPs and \$50 Million of which was to be used to develop the crown leases acquired by COGI LP from the 6 LPs; (ii) COGI LP provided security to ATB securing the whole of the New Credit Facility; (iii) COGI GP secured the whole of the New Credit Facility by way of a guarantee; (iv) COGI LP and COGI GP confirmed that the security provided by the 6 LPs, including the Old LPs, would continue to secure the obligations of COGI LP to ATB; and (v) the credit facilities relating to the 6 LPs, including the Old LPs Credit Facilities, were repaid and then cancelled.

7. ATB did not, as it had previously done with the COC1 Acknowledgement, require the Old GPs: (i) to consent to the \$94.5 Million New Credit Facility; (ii) to confirm that the Old Guarantees, given to secure the \$28.8 Million Old LPs Credit Facilities, remained in force and now secured COGI LP's obligations under the New Credit Facility; or (iii) to confirm that the Old GPs Security now secured COGI LP's obligations under the New Credit Facility.

8. On December 20, 2013, Amalco was created and the businesses of the Old GPs, as well as that of COC2, who had no involvement or liabilities with ATB, were amalgamated. Since its creation, Amalco has not had any contractual relationship with ATB.

9. Effective December 23, 2014, the New Credit Facility agreement was amended to specifically require the provision of additional security, including a guarantee from Conserve Oil Group Inc. ("**Conserve Oil Group**"), an amalgamation successor of Conserve Oil Corporation, a general partner of one of the 6 LPs that transferred its assets to COGI LP. ATB, as was its usual course of conduct, required that COGI LP and COGI GP provide a confirmation and acknowledgement that the guarantee they gave in 2013 securing the New Credit Facility would continue to be in force to secure the amended New Credit Facility.

10. At no time were the Old GPs or Amalco: (i) required to consent to the amendments to the New Credit Facility; (ii) requested to provide any security in relation to the amended New Credit

Facility; or (iii) requested to confirm and acknowledge that the Old Guarantees would secure the significantly changed obligations under both the New and amended New Credit Facility. Had ATB intended or expected the Old Guarantees to secure the New and amended New Credit Facility, it would have followed its usual practice with respect to the foregoing by requiring and obtaining the same from the Old GPs.

11. Pursuant to the provisions of the *Bankruptcy and Insolvency Act* (the "**BIA**"), in October 2015, ATB obtained a receivership order respecting COGI LP, COGI GP, and Conserve Oil Group and, in January 2016, obtained the Second Receivership Order respecting Amalco.

III. **Argument**

12. As there is no automatic right of appeal under the BIA, Amalco seeks leave to appeal the Second Receivership Order.² This Honourable Court has jurisdiction to hear and determine appeals and leave to appeal applications brought in relation to orders made pursuant to the BIA.

1. **The Basis of the Appeal**

13. In granting the Second Receivership Order, the Chambers Judge found: (i) there was no evidence from which to infer an intention by ATB that the Old Guarantees would not remain enforceable; (ii) paragraphs 1 and 8 of the Old Guarantees made it clear that ATB was permitted to enter into new credit arrangements with the existing customer or any corporation carrying on the business of the customer; and (iii) the New Credit Facility, and related documentation, implied consent by the Old GPs to have their Old Guarantees remain binding.³

14. The issues on appeal are: (i) was there evidence, as taken from ATB's course of conduct, from which to infer an intention by ATB that the Old Guarantees would not continue to be binding following the repayment of the Old LPs Credit Facilities and the dissolution of the Old LPs; (ii) can the provisions of paragraph 8 of the Old Guarantees (the "**Contested Paragraph**")

² *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, ss 183(2), 193(e); *Business Development Bank of Canada v Pine Tree Resorts Inc.*, 2013 ONCA 282 ["**Pine Tree**"], at para 12 [BOA, Tabs 1, 2].

³ Aff. of D. Crombie, sworn Feb. 16/16, Ex. EE, p. 45, ln 1-26; Schematic of Effect of Second Receivership Order – **Sch. "C"**.

[Sch. "D") that: "...this guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Customer...", demonstrate an intention that the Old Guarantees would secure the New Credit Facility, notwithstanding that COGI LP purchased the assets and liabilities of the three Old LPs and also of three other limited partnerships, and that the New Credit Facility was funding the development of the crown leases acquired from all 6 LPs; (iii) was there evidence sufficient to imply consent of the Old GPs that the Old Guarantees would secure a credit facility that was \$65.7 Million greater than the Old LPs Credit Facilities, or to explain why the Old GPs would risk amalgamating with, and exposing the assets of COC2, which had no prior liability to ATB, if they had intended such consent; (iv) does the repayment and cancellation of Old LPs Credit Facilities deem the Old Guarantees cancelled; (v) does the dissolution of the original debtors, the Old LPs, render their business as no longer being "carried on"; (vi) is the acquisition of crown leases from the Old LPs by COGI LP equivalent to COGI LP "carrying on the business" of the Old LPs; (vii) is the Contested Paragraph ambiguous such that its interpretation requires parol evidence; (viii) can an increase in a guarantor's potential liability by \$65 Million be implied, simply by examination and interpretation of records; (ix) what does "*the guarantee shall extend to a person...*" mean and would the guarantor be fully liable if the "person" incurred, for example, a further \$100 Million in debt by acquiring and developing new oil and gas leases, or even an interest in a real estate development; (x) does the guarantor's liability, initially limited to the debt related to the "business" carried on by the old borrower, extend to the "business" of the new borrower, even if the old "business" is only a portion of the new borrower's total business.

15. Amalco submits that the purpose of the Old Guarantees was to secure the debt of the Old LPs. The Old LPs are no longer indebted to ATB. COGI LP is a separate and distinct entity from the Old LPs and ATB did not require, as it had done on other occasions, the Old GPs to confirm the continuing security of the Old Guarantees to the new obligations of COGI LP. The terms of the Old Guarantees do not make the Old GPs liable for the obligations of COGI LP, or alternatively, ATB's failure to follow its usual practice of obtaining a confirmation of guarantee,

notwithstanding the significant changes to the secured obligations, render the Old Guarantees unenforceable.

16. Amalco submits that the Chambers Judge erred in her determinations. The Chambers Judge determined that ATB could enter into new increased credit arrangements with a customer or any "corporation" carrying on the business of the customer. The New Credit Facility is with a limited partnership, and the Chambers Judge made no ruling that the Contested Paragraph could be interpreted as permitting ATB to enter into new increased credit arrangements with any "limited partnership" carrying on the business of the existing customer. In any event, the Contested Paragraph is, at best, ambiguous as to whether the Old Guarantees were intended to secure the significantly changed obligations of a new borrower under the New Credit Facility. Upon the correct application of contractual interpretation principles and taking into account the material alteration in the terms of the indebtedness the Old GPs originally secured, it is clear the parties did not intend for the Old Guarantees to apply to the current circumstances and, in particular, to serve as security for the New Credit Facility. Further, there is substantial evidence from which could be inferred an intention of ATB that there would be no reliance on the Old Guarantees and that the implied consent of the Old GPs has no reasonable basis in fact.

2. The Test for Leave to Appeal

17. Granting leave to appeal is discretionary where such discretion is to be exercised in a flexible and contextual way. The five part test for leave to appeal is whether: (i) the point of appeal is of significance to the bankruptcy practice; (ii) the point is of significance to the action itself; (iii) the appeal is *prima facie* meritorious; (iv) the appeal will unduly hinder the progress of the action; and (v) the judgment appears to be contrary to law, amounts to an abuse of judicial power, or involves an obvious error causing prejudice, for which there is no remedy.⁴

⁴*Pine Tree*, at para 29; *Echino v Munro*, 2014 ABCA 422, 247 A.C.W.S. (3d) 746 ["*Echino*"] at para. 10 [BOA, Tabs 2, 3].

18. The appeal is of significance to the bankruptcy practice as: (i) provision of guarantees as security for indebtedness is a common practice, as is the consideration of this type of security in the bankruptcy context; (ii) whether a guarantee continues to be binding is of vital importance to the lender and the guarantor, including the circumstances in which a continuing guarantee may no longer be binding on the guarantor; and (iii) the Old Guarantees appear to be a standard form of continuing guarantee used by ATB that may have been used in relation to other credit facilities extended by ATB.

19. The determination of whether the Old Guarantees are binding is significant to the action, as it will impact whether ATB has any recourse against Amalco. This type of determination has been previously found to be significant to an action.⁵

20. A proposed appeal is *prima facie* meritorious when the appeal raises an arguable case: the issues raised by the applicant cannot be dismissed through a preliminary examination of the question of law or there "may have been an error of law". The ultimate merits of the proposed appeal do not need to be determined, nor it is necessary to determine "if any of the applicant's contentions are strong, let alone compelling".⁶

21. Where a detailed analysis of the wording of a guarantee is required to resolve differing interpretations of the guarantee, this Honourable Court has previously recognized that there is potential merit to the appeal.⁷

22. This appeal will turn on the interpretation of: (i) the Contested Paragraph, which Amalco submits is ambiguous; and (ii) the initial and subsequent credit facilities and amendments thereto, as well as the security granted thereunder, from which Amalco submits an intention can be inferred on the part of both ATB and Amalco that the Old Guarantees were not to extend to the significantly changed obligations of a new borrower, so as to equitably estop ATB from

⁵ *Simonelli v Mackin*, 2003 ABCA 47, 320 A.R. 330 at para 32 (QL) [BOA, Tab 4].

⁶ *Echino*, at para 11; *West Edmonton Mall Prop. Inc. v Duncan & Craig*, 2001 ABCA 40, 277 A.R. 93, at para 12 (QL); *Decker v. Canada*, 2009 ABCA 287, 59 C.B.R. (5th) 221 at para 9 (QL) [BOA Tabs 3, 5, 6].

⁷ *Koska v Alberta (Treasury Branches)*, 2002 ABCA 138, [2002] 8 W.W.R. 610 at paras 31-32 (QL) [BOA Tab 7].

relying on the Old Guarantees.⁸

23. There are a number of ambiguities in the Contested Paragraph, including whether: (i) the phrase "*carrying on the business*" can be interpreted to bind the guarantor when: (a) there has been a new credit facility obtained and the new debtor has obtained the assets of the original customers and three other entities; (b) the entities originally carrying on the business have been dissolved; (c) whether an acquisition of crown leases constitutes "*carrying on the business*"; and (d) whether "*business*" can be interpreted to extend the guarantor's liability from the "*business*" carried on by the old borrower to the "*business*" of the new borrower, where the "*business*" of the old borrower only constitutes a portion of the new borrower's "*business*"; and (ii) whether the phrase "*the guarantee shall extend to a person...*" can be interpreted to extend the guarantor's liability to include the additional debt incurred by a third party in relation to assets that did not form a part of the "*business*".

24. It is a fundamental precept that contractual interpretation requires an examination of the contract as a whole, not just a consideration of the specific words in dispute.⁹ However, the above-noted ambiguities cannot be resolved on the face of the Old Guarantees.

25. Guarantees are to be strictly interpreted and any doubt or ambiguity resolved in favour of the guarantor. In order to resolve these ambiguities, one may look to the events and circumstances surrounding the transactions and the parties' conduct.¹⁰ It is Amalco's submission that ATB and the Old GPs showed a common intent and understanding that the Old Guarantees would not secure the obligations of a new borrower under the New Credit Facility and, more specifically: (a) ATB provided confirmation that the indebtedness of the Old LPs to ATB had been repaid in full and any remaining credit cancelled, which should have brought the

⁸ *550 Capital Corp. v. David S. Cheetham Architect Ltd.*, 2008 ABQB 370, at para 41, 42 [BOA, Tab 8].

⁹ Geoff R. Hall, *Canadian Contractual Interpretation Law*, 2nd ed. (Markham: LexisNexis, 2012) ["Hall"] at p 15 [BOA, Tab 14].

¹⁰ *London Drugs Ltd. v. Kuehne & Nagel Int'l Ltd.*, [1992] 3 S.C.R. 299, at paras 200, 201 (QL); *Manulife Bank of Canada v Conlin*, [1996] 3 SCR 415, [1996] SCJ No. 101 (QL) ["*Manulife*"], at paras 6, 10, 15; *Scurry-Rainbow Oil L v Kasha*, 1996 ABCA 206 (CanLII), at paras 44, 45 [BOA Tabs 9, 10, 11].

Old Guarantees to an end;¹¹ (b) ATB required and was provided with a Confirmation and Assumption Agreement from COGI LP confirming its assumption of all of the obligations and liabilities of the Old LPs and confirming that the Old LPs' security documents would apply to the Old LPs' property and assets acquired by COGI LP; (c) the Old LPs were dissolved; (d) the Old GPs were not parties to the New Credit Facility; were not required to provide any security that was specific to the New Credit Facility; were not required to consent to the new obligations of a new borrower under the New Credit Facility; and were not required to confirm that their Old Guarantee would secure the new obligations of the new borrower under the New Credit Facility, despite ATB requiring such consent and confirmations when changes were made to the secured obligations under pre-existing facilities where such changes were less material and prejudicial than a \$66.5 Million increase in the obligations of the new borrower to ATB under the New Credit Facility; (e) in 2014, ATB specifically required Conserve Oil Group Inc., a corporation that was in an identical position to Amalco, as amalgamation successors of general partners, only some of whom had guaranteed the obligations of their Limited Partnerships to ATB under prior credit facilities, to provide a new guarantee specific to the New Credit Facility; (f) COGI LP operated the aggregate business of the Old LPs, as well as three other limited partnerships, where such aggregated business was different from the businesses of the Old LPs and the other limited partnerships as it had a different risk profile; and (g) ATB initially only sent demands for payment of the COGI LP indebtedness to COGI LP, COGI GP, Conserve Oil Corporation and, the amalgamation successor of Conserve Oil Corporation, Conserve Oil Group Inc. Five months later, ATB sent a similar demand to Amalco.

26. There is no evidence that the Old GPs or Amalco agreed or intended to act as a guarantor for COGI LP, nor is there any evidence that ATB intended to rely on the Old GPs or Amalco in that capacity. There is clear evidence based on ATB's usual practice and the circumstances of the dealings of ATB from which to infer an intention on the part of both ATB and Amalco that the

¹¹ *Canada Permanent Trust Co v King Art Developments Ltd.*, [1984] 4 W.W.R. 587 (Alta. C.A.), 1984 CarswellAlta 72 (WL), at para 177 [BOA, Tab 12].

Old Guarantees would not secure the significantly increased obligations of the new borrower, COGI LP, under the New Credit Facilities. The parties simply did not intend for the Old Guarantees and related collateral security to continue in the manner now alleged by ATB.

27. The interpretation proposed by Amalco accords with the principles that the Old Guarantees must be interpreted in a manner that does not create a commercially unreasonable or absurd result and in the context of the entire transaction to which they related. The latter consideration is to ensure that the guarantor is treated equitably, rather than to ensure an accurate interpretation of the guarantee.¹²

28. To interpret the Old Guarantees in a manner otherwise than as proposed by Amalco would result in guarantors, without the benefit of notice and confirmation of continued liability, being bound indefinitely to new debts incurred in relation to a "business" that is comprised only in part by the original "business" that had been secured, and with no other connection between the guarantor and debt existing.

29. Lastly, any ambiguity in the terms used in the Old Guarantees should be construed against ATB pursuant to the *contra proferentem* rule. As the guarantor, Amalco is entitled to a strict examination and enforcement of its obligations.¹³

30. Alternatively, if the Old Guarantees are not ambiguous, which it is submitted they are, Amalco submits that the Old Guarantees are not binding on Amalco, as there was a significant and material alteration to the terms of the debt, as: (i) there was a completely new principal debtor (COGI LP) with which none of the Old GPs had a relationship; (ii) COGI LP entered into an entirely new credit facility with ATB for credit up to an amount of \$94.5 Million, \$65.7 Million more than the aggregate of the debt of the Old LPs to which the Old Guarantees related; (iii) the risk profile of the COGI LP was different from that of each of the Old LPs, as it held a combined basket of assets, while the Old LPs had each held specific types of assets (collectively, the

¹² *Consolidated Bathurst Export Ltd. v Mutual Boiler and Machinery Insurance Co.*, [1980] 1 S.C.R. 888, 1979 CarswellQue 157, at para 26; *Manulife*, at para 16; Hall, at p 203 [BOA, Tabs 13, 10, 14].

¹³ *Manulife*, at para 8, 10; Hall, at pp 72-74 [BOA, Tabs 10, 14].

"Material Changes"). A material alteration to the terms of the debt releases a guarantor from liability, unless consented to by the guarantor or the guarantor clearly contracts out of the requirement for consent.¹⁴ Neither exception applies here.

31. It cannot have been in the contemplation of the parties that the continuing nature of the Old Guarantees meant that ATB did not require the explicit, written consent of the Old GPs to one or more of the Material Changes. This is particularly so when one considers ATB's consistent requirement that the Old GPs provide a confirmation of guarantee when relatively minor and non-prejudicial changes were made to pre-existing credit facilities.

32. Permitting the appeal to proceed will not hinder the bankruptcy and receivership proceedings, which are ongoing.

3. There is An Obvious Error In The Judgment

33. Amalco's proposed appeal is *prima facie* meritorious. Furthermore, the Second Receivership Order contains errors of law that prejudice Amalco, as it entitles the receiver to deal with all aspects of Amalco's affairs. Amalco has no recourse but to appeal the Second Receivership Order.

34. Based on the foregoing, Amalco respectfully seeks leave to appeal the Second Receivership Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 24th DAY OF FEBRUARY, 2016.

¹⁴ *Manulife*, at paras 2, 3, 4, 5 [BOA, Tab 10].

SCHEDULES

Schedule "A" – Chronology of Events

Schedule "B" – Schematic of Relationships

Schedule "C" – Effect of Second Receivership Order

Schedule "D" – Paragraph 8 of the Old Guarantees

AUTHORITIES

TAB DESCRIPTION

Legislation

- 1 *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, at ss 183(2), 193(e)

Case Law

- 2 *Business Development Bank of Canada v Pine Tree Resorts Inc.*, 2013 ONCA 282, [2013] OJ No 1918 (QL), at paras 12, 29
- 3 *Echino v Munro*, 2014 ABCA 422, [2014] AJ No 1386 (QL), at para 11
- 4 *Simonelli v Mackin*, 2003 ABCA 47, [2003] AJ No 142 (QL), at para 32
- 5 *West Edmonton Mall Property Inc. v Duncan & Craig*, 2001 ABCA 40, [2001] AJ No 158 (QL), at para 12
- 6 *Decker v Canada (Superintendent of Bankruptcy)*, 2009 ABCA 287, [2009] AJ No 941 (QL), at para 9
- 7 *Koska v Alberta (Treasury Branches)*, 2002 ABCA 138, [2002] AJ No 760 (QL), at paras 30-31, 42
- 8 *550 Capital Corp. v. David S. Cheetham Architect Ltd.*, 2008 ABQB 370, at para 41, 42
- 9 *London Drugs Ltd. v Kuehne & Nagel International Ltd.*, [1992] 3 SCR 299, [1992] SCJ No 84 (QL), at para 201
- 10 *Manulife Bank of Canada v Conlin*, [1996] 3 SCR 415, [1996] SCJ No 101 (QL), at paras 3, 8, 10, 15
- 11 *Scurry-Rainbow Oil Limited v Kasha*, 19996 ABCA 206 (CanLII), at paras 44, 45
- 12 *Canada Permanent Trust Co. v King Art Dev. Ltd.*, [1984] 4 W.W.R. 587 (Alta. C.A.), 1984 CarswellAlta 72 (WL), at para 177
- 13 *Consolidated Bathurst Export Ltd. v. Mutual Boiler and Machinery Insurance Co.*, [1980] 1 SCR 888, 1979 CarswellQue 157, at para 26

Secondary Sources

- 14 Geoff R. Hall, *Canadian Contractual Interpretation Law*, 2d ed. (Markham: LexisNexis, 2012) at 15, 72-74, 203

TAB A

SCHEDULE "A" – Chronology

Defined Terms

Defined Terms	
Amalco	Amalgamation successor of COC1, COC6, COC7 and Conserve Oil 2 nd Corporation
COC1	Conserve Oil 1 st Corporation
COC6	Conserve Oil 6 th Corporation
COC7	Conserve Oil 7 th Corporation
COGI GP	Canadian Oil and Gas International Inc.
COGI LP	COGI Limited Partnership
Conserve LP	Conserve Oil POC First Limited Partnership
COPII LP	Conserve Oil POC Second Limited Partnership
LP1	Conserve Oil POC Growth Limited Partnership
LP6	Conserve Oil POC Growth II Limited Partnership
LP7	Conserve Oil Natural Gas I Limited Partnership
Old GPs	COC1, COC6 and COC7 collectively
Old LPs	LP1, LP6 and LP7 collectively

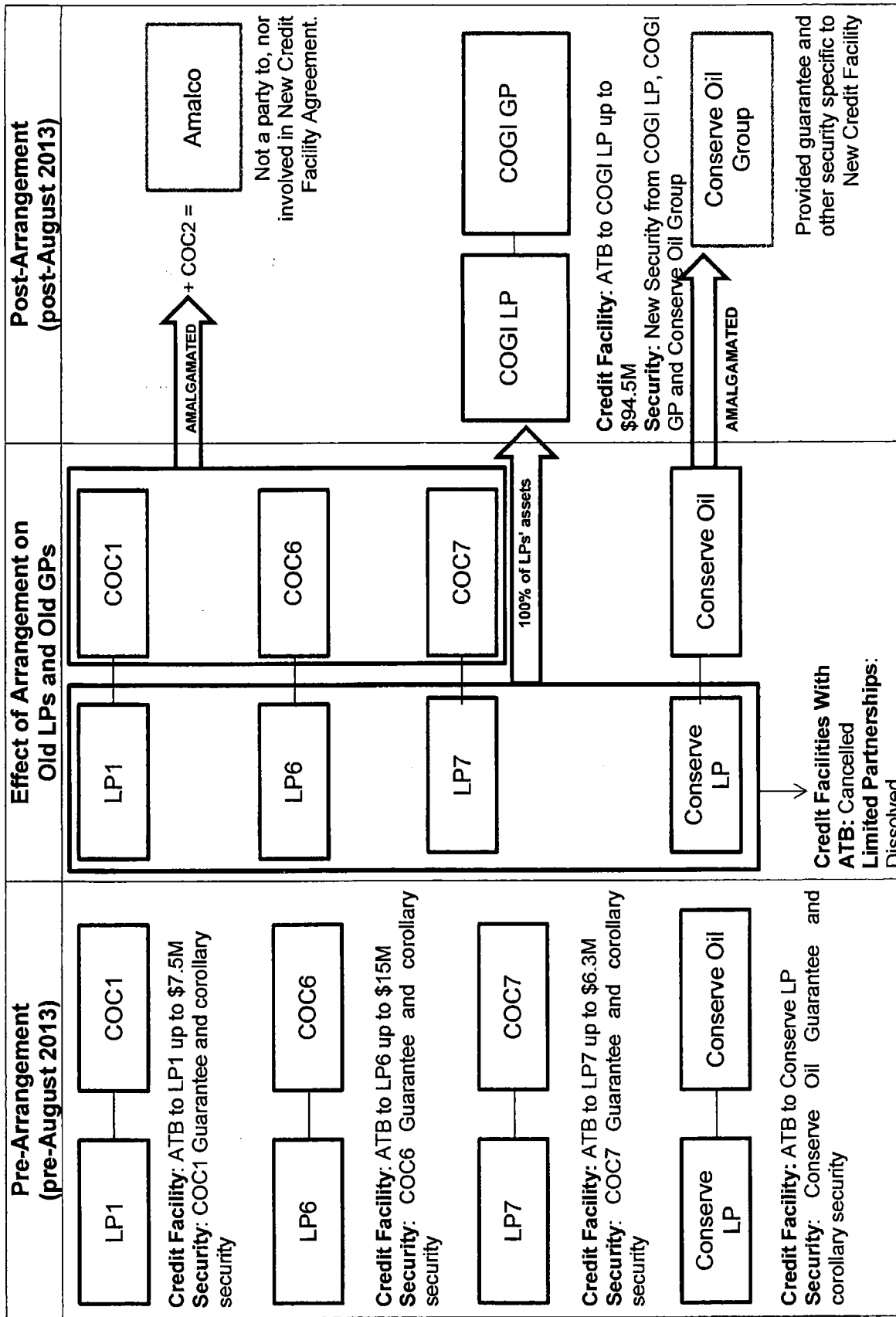
DATE	CHRONOLOGY (Capitalized terms not defined herein are set out in the list of defined terms)
Relationship between the Old LPs, Old GPs and ATB	
LP1, COC1, and ATB	
1. December 1, 2011	ATB provides credit facility to LP1 of up to \$9.5 million (the "LP1 Credit Facility") [Aff. of D. Crombie, sworn February 16, 2016 (the "Crombie Aff."), at para 10].
2. January 27, 2012	LP1's general partner, COC1, provides guarantee (the "COC1 Guarantee") [Crombie Aff., para 12, Ex B].
3. February 7, 2013	LP1 Credit Facility amended and reduced to \$7.5 million from \$9.5 million. COC1 executes acknowledgement consenting to amendment to acknowledge, agree and confirm that the COC1 Guarantee would remain binding and continue in full force and effect [Crombie Aff., paras 14-17, Ex C].
LP6, COC6, and ATB	
4. May 30, 2012	ATB provides revolving operating credit facility to LP6 of up to \$15 million (the "LP6 Credit Facility") [Crombie Aff., para 18, Ex D].
5. June 21, 2012	LP6's general partner, COC6, provides guarantee (the "COC6 Guarantee") [Crombie Aff., para 20, Ex E].
LP7, COC7, and ATB	
6. September 13, 2012	ATB provides credit facility to LP7 up to \$6.3 Million [Crombie Aff., para 22, Ex F].
7. September 21, 2012	LP7's general partner, COC7, provides guarantee (the "COC7 Guarantee") [Crombie Aff., para 24, Ex G].

Conserve LP, Conserve Oil, and ATB	
8. September 14, 2010	ATB provides credit facility to Conserve LP as amended December 1, 2010 and August 30, 2013 (the "Conserve LP Credit Facility"). The Conserve LP Credit Facility is secured by a continuing guarantee provided by Conserve LP's general partner, Conserve Oil Corporation ("Conserve Oil") [Crombie Aff., para 29].
The July 2013 Arrangement and ATB	
9. July 21, 2013	The Old LPs, Old GPs, Conserve LP, Conserve Oil and 10 other entities enter into arrangement agreement, as amended August 23, 2013, which, among other things, creates a new single limited partnership, COGI LP [Crombie Aff., paras 30, 32, Ex H].
10. August 30, 2013	ATB provides new credit facility to COGI LP for maximum principal amount of \$94.5 million (the "New Credit Facility") pursuant to a credit agreement (the "New Credit Facility Agreement") [Crombie Aff., para 34, Ex J].
	COGI LP's general partner, COGI GP, provides a guarantee [Crombie Aff., para 34(e), Ex Q].
	COGI LP enters confirmation and assumption agreement to confirm its assumption of all obligations, liabilities, and indebtedness (present or future, absolute or contingent, matured or otherwise) of the Old LPs [Crombie Aff., paras 41-43, Ex R].
	ATB confirms that the credit facilities of Old LPs have been repaid in their entirety and any unused portions of those credit facilities cancelled [Crombie Aff., para 44, 47, Ex S, T, U].
11. December 20, 2013	Amalco is created [Crombie Aff., para 3, Ex A].
12. November 1, 2014	The New Credit Facility Agreement is amended to require a guarantee from Conserve Oil Group Inc., the successor by amalgamation of Conserve Oil. A new guarantee is obtained from Conserve Oil Group Inc. and confirmations are obtained from COGI LP and COGI GP that the amendments to the New Credit Facility Agreement do not affect their obligations under the security provided in relation to

		the New Credit Facility [Crombie Aff., paras 50-54, Ex W, X, Y].
The Receivership Proceedings		
13.	June 11, 2015	ATB sends demand for payment to COGI LP, COGI GP and Conserve Oil Group Inc. [Crombie Aff., para 59, 60, Ex Z].
14.	October 26, 2015	ATB is granted the First Receivership Order relating to COGI LP, COGI GP and Conserve Oil Group Inc. [Crombie Aff., para 61, Ex AA].
15.	November 16, 2015	ATB sends demand for payment to Amalco [Crombie Aff., para 62, Ex BB].
16.	November 23, 2015	ATB applies to extend First Receivership Order to Amalco [Crombie Aff., para 63].
17.	November 27, 2015	ATB is granted order that limits steps Amalco can take in relation to its assets and liabilities [Crombie Aff., para 64, Ex CC].
18.	January 6, 2016	ATB is granted the Second Receivership Order extending the receivership to Amalco [Crombie Aff., para 65, Ex DD (Order), Ex. EE (Reasons for Judgment)].

TAB B

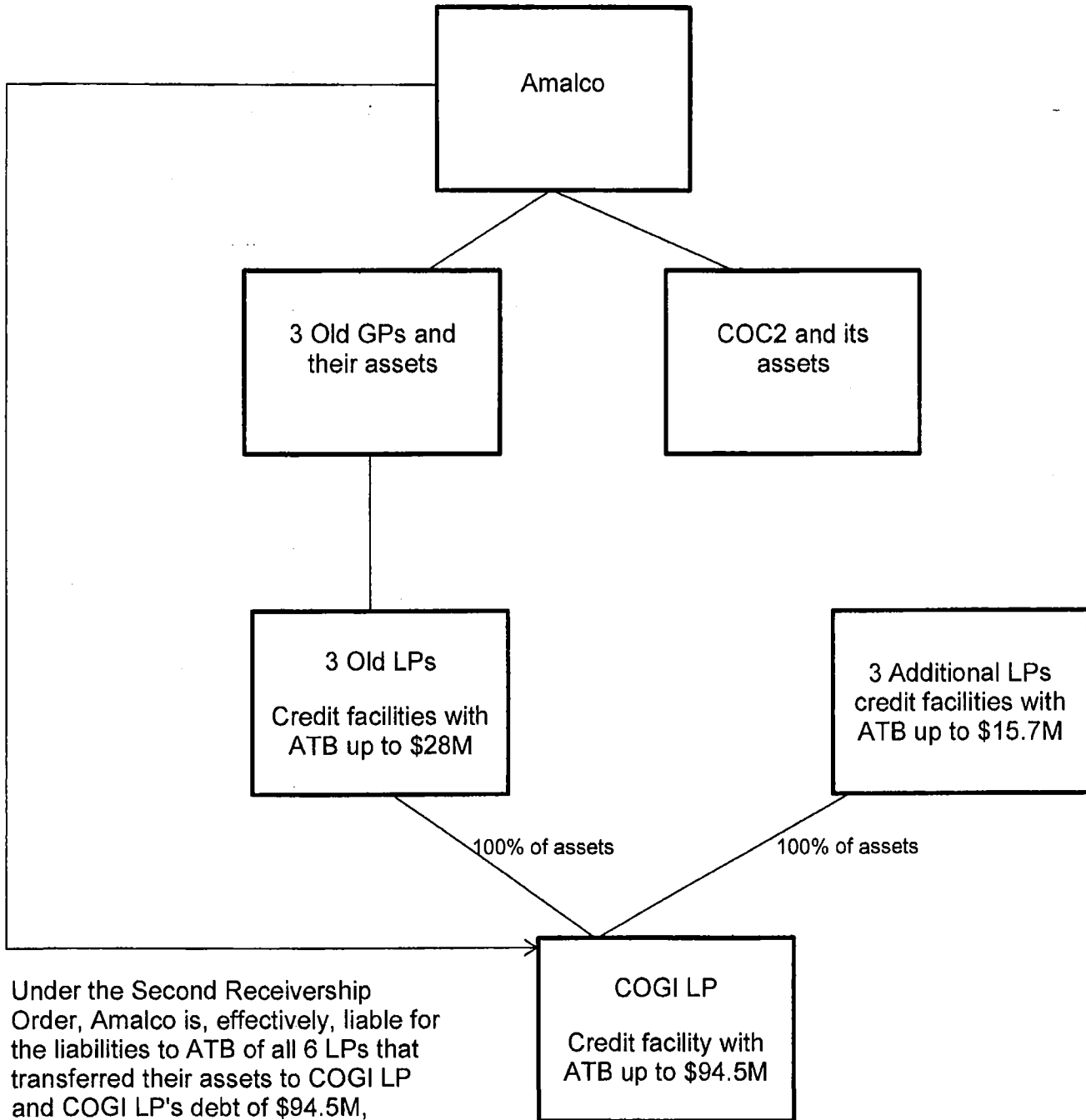
Schedule B – Schematic of Entity Relationships



Limited Partnership
 General Partner
 Stand Alone Corporation

TAB C

SCHEDULE "C" – Effect of Second Receivership Order



Under the Second Receivership Order, Amalco is, effectively, liable for the liabilities to ATB of all 6 LPs that transferred their assets to COGI LP and COGI LP's debt of \$94.5M, comprised of \$28M for Old LPs, \$15.7M for the additional 3 LPs, and \$50.8M for combination of the Old LPs and 3 Additional LPs.

TAB D

SCHEDULE "D"

Paragraph 8 of the Old Guarantees

No change in the name, objects, share capital, business, membership, directors' powers, organization or management of the [Old LPs] shall in any way effect the obligations of the [Old GPs] with respect to the transactions occurring before or after the any such change, it being understood that where the [Old LPs] is a partnership or corporation, the guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business of the [Old LPs], notwithstanding any change or changes in the name or membership of the [Old LPs]' firm or in the name of a corporate Customer, and notwithstanding any reorganization of a corporate Customer, or [a corporate Customer's] amalgamation with another or others or the sale or disposal of [a corporate Customer's] business in whole or in part to another or others.