

**FIAT:** Let the Clerk of the Court of Queen's Bench of Alberta file this Affidavit of Sonia de Lorenzi notwithstanding it is not the original.

Dated this \_\_\_\_ day of February, 2014

**Form 49**  
[Rule 13.19]

Clerk's stamp:

COURT FILE NUMBER

COURT  
JUDICIAL CENTRE

COURT OF QUEEN'S BENCH OF ALBERTA  
CALGARY

PLAINTIFF

NATIONAL BANK OF CANADA

DEFENDANTS

DO ALL INDUSTRIES LTD., P&O ASSETS LTD. and  
KORF DEVELOPMENTS LTD.

DOCUMENT

**AFFIDAVIT (Appointment of Receiver)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
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File Ref: 65306/15

**AFFIDAVIT OF SONIA DE LORENZI**

Sworn on February 5, 2014

I, SONIA de LORENZI, of the City of Toronto, in the Province of Ontario, SWEAR AND SAY THAT:

1. I am a Manager with the Special Loans Group of the National Bank of Canada (the "Bank"). I have been directly involved with the Do All Industries Ltd. ("Do All") account since approximately June 2013 and have also had the opportunity to review the business records of the Bank relevant to the Do All account. I have personal knowledge of the matters deposed to in this

Affidavit, except where stated to be based upon information, in which case I believe same to be true.

2. I am authorized to make this Affidavit on behalf of the Bank.
3. Capitalized terms used but not defined herein have the meaning ascribed to them in the Credit Agreement (as defined below).

#### **Overview**

4. As explained further below and based on the information provided to the Bank, Do All does not have sufficient funds to continue its operations absent a cash injection of \$3,000,000, the Bank has lost confidence in the management of Do All, and believes that Do All is currently operating at a significant loss. The Bank is not willing to advance additional amounts to Do All as a result of its financial position and the value of the Bank's existing security.

#### **Parties**

5. Do All is an extra-provincial corporation incorporated under the laws of the Province of Saskatchewan and registered under the laws of the Province of Alberta, and is engaged in the business of providing certain services to, and in the manufacturing of various products for, the oil and gas industry. Do All has locations in Estevan, Saskatchewan, as well as Nisku, Alberta. Attached hereto and collectively marked as Exhibit "A" are copies of corporate searches of Do All.

6. P&O Assets Ltd. (the "**Guarantor**") is an extra-provincial corporation incorporated under the laws of the Province of Saskatchewan and registered under the laws of the Province of Alberta. Attached hereto and collectively marked as Exhibit "B" are copies of corporate searches of the Guarantor.

#### **The Indebtedness**

7. Pursuant to a credit agreement (the "**Credit Agreement**") dated January 28, 2013 between Do All, as borrower, the Bank and those other financial institutions which may hereafter become lenders under the Credit Agreement, as lenders, and the Bank, as agent, the Bank made

certain credit facilities available to Do All. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked as Exhibit "C" is a copy of the Credit Agreement.

8. In accordance with the Credit Agreement, the Bank extended the following facilities to Do All:

- (a) a Revolving Facility with a limit up to \$12,000,000;
- (b) a Term Facility with a limit up to \$13,000,000;
- (c) a CAPEX Facility with a limit up to \$5,000,000;
- (d) a MasterCard Facility with a limit up to \$600,000; and
- (e) an EFT Facility with a limit up to \$500,000

(collectively, the "Facilities").

9. In accordance with the terms of the Credit Agreement, the Bank advanced various loans to Do All. Presently, there are no amounts remaining available to Do All under the Facilities and Do All has been unable to reduce its position under the Facilities, with the exception of the MasterCard Facility, which has been paid in full.

10. As at February 5, 2014, the total indebtedness owing by Do All to the Bank pursuant to the Credit Agreement was \$30,694,725.89 CDN and \$10.12 USD (the "Indebtedness") plus associated costs and disbursements (including legal fees and fees of the financial advisor) with additional interest and other charges accrued or accruing thereon at the rates and on the terms established by the Credit Agreement and the Forbearance Agreement (as defined below). Attached hereto and marked as Exhibit "D" is a copy of a payout statement for Do All as at February 5, 2014.

11. The terms of the Credit Agreement were negotiated by Do All with the Bank in January of 2013. Do All was represented by legal counsel during those negotiations and agreed to all of the terms of the Credit Agreement. The Bank, at all times was led to believe that Do All could

comply with the terms set out in the Credit Agreement and advanced funds to Do All on that basis.

### **The Security**

12. As security for the amounts advanced pursuant to the Credit Agreement, Do All granted various security to the Bank, including:

- (a) a demand debenture (the "**Do All Debenture**") in the amount of \$50,000,000 dated January 28, 2013 granting the Bank a fixed charge in all of Do All's present and after-acquired personal property, as well as a floating charge over all of Do All's present and after-acquired real property. Now shown to me but not attached in accordance with Rule 13.21 of the *Alberta Rules of Court* and marked as Exhibit "E" is a copy of the Do All Debenture;
- (b) security under section 427 of the *Bank Act*. Now shown to me but not attached in accordance with Rule 13.21 of the *Alberta Rules of Court* and marked as Exhibit "F" is a copy of an assignment of security under section 427 of the *Bank Act* dated January 28, 2013;
- (c) an assignment of life insurance from Kordel Korf and Do All to the Bank. Now shown to me but not attached in accordance with Rule 13.21 of the *Alberta Rules of Court* and marked as Exhibit "G" is a copy of said assignment

(collectively, the "**Security**").

13. The Bank has registered the Security against Do All at the Alberta and Saskatchewan Personal Property Registries (the "**PPRs**"). Attached hereto and collectively marked as Exhibit "H" are copies of searches of Do All conducted at the PPRs dated February 3, 2014.

### **Guarantee**

14. Pursuant to a guarantee (the "**Guarantee**") dated January 28, 2013 granted by the Guarantor to the Bank, the Guarantor guaranteed all of the indebtedness owing by Do All to the

Bank under the Credit Agreement. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked Exhibit "I" is a copy of the Guarantee.

15. As security for its obligations under the Guarantee, the Guarantor granted various security to the Bank, including:

- (a) a demand debenture (the "**Guarantor Debenture**") in the amount of \$35,000,000 dated January 28, 2013 granting the Bank a fixed charge in all of the Guarantor's present and after-acquired personal property, as well as a floating charge over all of the Guarantor's present and after-acquired real property. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked as Exhibit "J" is a copy of the Guarantor Debenture;
- (b) a mortgage (the "**First Alberta Mortgage**") dated January 28, 2013 with respect to certain lands located in the Province of Alberta. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked as Exhibit "K" is a copy of the First Alberta Mortgage;
- (c) a mortgage (the "**SK Mortgage**") dated January 28, 2013 with respect to certain lands located in the Province of Saskatchewan. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked as Exhibit "L" is a copy of the SK Mortgage;
- (d) a mortgage (the "**Second Alberta Mortgage**") dated January 28, 2013 with respect to certain lands located in the Province of Alberta. Now shown to me but not attached in accordance with Rule 13.21 of the Alberta *Rules of Court* and marked as Exhibit "M" is a copy of the Second Alberta Mortgage

(collectively, the "**Guarantor Security**").

16. The Bank has registered the Guarantor Security against the Guarantor at the PPRs and the Alberta and Saskatchewan Land Titles Registries as appropriate. Attached hereto and marked as Exhibits "N" and "O" are copies of searches of the Guarantor conducted at the PPRs dated

February 3, 2014, as well as title searches of the lands subject to the First Alberta Mortgage, the SK Mortgage and the Second Alberta Mortgage each dated February 3, 2014.

#### **Default, Demand and Notice**

17. As a result of certain financial difficulties experienced by Do All and as set out in further detail below, as at June 2013, Do All had committed the following defaults, under the Credit Agreement, which defaults are continuing and have not been waived or cured:

- (a) Do All's failure to comply with section 15.1(a)(i) and (ii) of the Credit Agreement with respect to the failure to make due and punctual payment of any principal amount, interest or fees due under the Credit Agreement;
  - (b) Do All's failure to comply with section 15.1(b) of the Credit Agreement with respect to the failure to eliminate a Borrowing Base Shortfall;
  - (c) Do All's failure to comply with section 14.3 of the Credit Agreement with respect to the breach of the Financial Covenants contained therein; and
  - (d) Do All's failure to comply with section 14.2 of the Credit Agreement with respect to its default in the performance of the Reporting Requirements set out therein
- (collectively, the "Events of Default").

18. As a result of the occurrence of the Events of Default, the Bank issued a demand and Notice of Intention to Enforce Security pursuant to section 244 of the BIA (the "**Demands**") to each of Do All and the Guarantor on June 24, 2013. Attached hereto and marked collectively as Exhibit "P" are copies of the Demands.

#### **Financial Difficulties**

19. During the period from June 4 to June 19, 2013 various representatives of the Bank had discussions with Do All in respect of the Events of Default under the Credit Agreement and to address the Bank's concerns regarding the urgent financial circumstances of Do All.

20. On June 6, 2013, the Bank notified Do All by letter correspondence (the "**Default Letter**") of the occurrence of certain Events of Default under the Credit Agreement, including, but not limited to, failure to remedy a Borrowing Base Shortfall in accordance with the Credit Agreement, and reserved all of its rights with respect to the same. Attached hereto and marked as Exhibit "**Q**" is a copy of the Default Letter.

21. Also on June 6, 2013, the Bank engaged Alvarez & Marsal Canada Inc. ("**A&M**") as financial advisor (the "**Advisor**") to, among other things, review the financial position and business plan of Do All. Attached hereto and marked as Exhibit "**R**" is a copy of the engagement letter entered into by the Bank with the Advisor.

22. The Bank and the Advisor subsequently engaged in discussions with Do All in attempts to gain further information and to assess the Bank's security position. During the course of such discussions, numerous requests were made of Do All for the provision of financial and related information with respect to its financial position and business plan. However, the information provided by Do All was largely incomplete or inaccurate.

#### **The Forbearance Agreement**

23. Do All initially prepared and served an application (the "**CCAA Application**") seeking protection under the *Companies' Creditors Arrangement Act* on June 26, 2013. In opposition to that application the Bank served application materials (the "**Interim Receivership Application**") seeking the appointment of an interim receiver over the property and assets of Do All and the Guarantor pending expiry of the 10-day notice period under the *Bankruptcy and Insolvency Act* ("**BIA**"). The CCAA Application and the Interim Receivership Application were not filed and never proceeded on their merits. The parties instead entered into a form of forbearance agreement (the "**Forbearance Agreement**") effective July 3, 2013. Attached hereto and marked as Exhibit "**S**" is a copy of the Forbearance Agreement.

24. Under the terms of the Forbearance Agreement and based upon representations by management and advisors of Do All, the Bank advanced an additional \$2,000,000 to Do All. The primary purpose of the Forbearance Agreement was to provide sufficient funding in the amount of \$2,000,000 in order to allow Do All to complete the manufacturing of a drilling rig (the "**Twilight Rig**") for Twilight Drilling Ltd. ("**Twilight**") by mid-August 2013.

25. The \$2,000,000 advanced under the Forbearance Agreement increased the Indebtedness and ultimately proved insufficient to meet the needs of Do All, despite the representations Do All made to the Bank prior to the Forbearance Agreement.

26. Pursuant to the Forbearance Agreement, among other things:

- (a) the Bank agreed to forbear from enforcement of the Security until August 31, 2013 (the "**Term of the Agreement**") in order to allow Do All to formalize a plan to satisfy its Obligations to the Bank in full;
- (b) Do All acknowledged the Events of Default and Further Defaults as set out therein and Do All and the Guarantor each acknowledged that the Obligations were immediately due and payable to the Bank, without further demand and that the Security remained in full force and effect in accordance with its terms;
- (c) the Bank agreed to make additional advances under the terms of the Credit Agreement in the maximum amount of \$2,000,000;
- (d) Korf Developments Ltd. agreed to provide a limited recourse guarantee in the amount of \$2,000,000 and additional security in the form of a collateral mortgage to the Bank in order to support further advances to Do All under the Credit Agreement;
- (e) Do All agreed to provide to the Bank by August 15, 2013 a plan for a recapitalization or restructuring of its business, which plan was to provide for the repayment in full of the Obligations.



27. Do All failed to complete the Twilight Rig by mid-August 2013 and, in fact, only delivered the Twilight Rig to Twilight on or around January 16, 2014. Since the expiry of the Term of the Agreement, the Bank has continued to forbear from enforcement of the Security on a day-to-day basis to allow Do All to complete the Twilight Rig and formulate a plan to satisfy the Obligations in full.

28. Do All has been unable to present any plan to satisfy the Obligations in full since July 2013.

29. Do All has advised, through its counsel and financial advisor, that without an additional advance of \$3,000,000, it has no option but an orderly wind down of its operations. The Bank is not prepared to advance additional funds and sees no other option than the appointment of a receiver and manager (the "Receiver") to oversee an orderly wind-down and to protect the interests of the Bank in the estates of Do All and the Guarantor.

#### **Current Financial Circumstances**

30. Throughout the Term of the Agreement and to date, Do All has committed further defaults under the Credit Agreement and Forbearance Terminating Events under the Forbearance Agreement, including but not limited to:

- (a) Do All's failure to comply with section 11(g) of the Forbearance Agreement to provide the Bank with a plan, satisfactory to the Bank, providing for the repayment in full of the Obligations;
- (b) the cumulative negative variance in Do All's actual cash flow from that set out in the Cash Flow Projection (as defined in the Forbearance Agreement) has exceeded \$150,000 in contravention of section 16(b) of the Forbearance Agreement;
- (c) Do All has permitted certain Liens to be registered over its property in contravention of sections 14.4(b) and 15.1(d) of the Credit Agreement, sections 13, 16(a) and 16(g) of the Forbearance Agreement;

- (d) Do All has disposed of assets other than Permitted Dispositions in contravention of section 14.4(k) of the Credit Agreement; and
- (e) Do All and other Loan Parties have entered into transactions with Affiliates with a view to limiting collateral value of the Bank, specifically the assignment and consent to assignment of accounts receivable to Kordel Korf Family Trust in contravention of section 14.4(k) of the Credit Agreement.

31. Under the terms of the Forbearance Agreement, the Bank provided Do All with an additional \$2,000,000 in financing in order to allow it to continue its operations and complete the Twilight Rig. Do All was unable to complete the Twilight Rig with those funds obtained, an equity injection in the approximate amount of \$3,000,000 from a related party in order to do so and has now, following completion of the Twilight Rig advised that it requires a further \$3,000,000, in order to complete ongoing projects or it will no longer be able to continue its operations.

32. The Bank does not have confidence in the ability of Do All's current management to comply with the obligations set forth in the Credit Agreement or the Forbearance Agreement and to effectively manage the business and affairs of Do All during any stay of proceedings. I do not believe, based on the information provided to date, that the \$3,000,000 that Do All indicates it requires immediately will ensure the long term viability of Do All, or result in repayment of the Indebtedness. The Bank remains unwilling to advance any further funds to Do All.

33. On February 5, 2014, I was advised by Kelly Bourassa of Blake, Cassels & Graydon LLP, legal counsel to the Bank, that Do All advised, through its counsel and financial advisor, that it did not have any viable restructuring options available to it and it and the Guarantor were prepared to consent to the appointment of a Receiver over their assets, properties and undertakings. The next scheduled payroll for Do All's employees is on Friday February 7, 2014, Do All's account at the Bank is currently in overdraft, and Do All does not have sufficient funds to satisfy the payroll obligations to its employees. As a result, I believe the immediate appointment of a Receiver is necessary at this time.

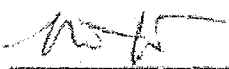
**Necessity of the Appointment of a Receiver**

34. As a result of the foregoing, I believe that the appointment of a Receiver pursuant to section 243 of the BIA over the undertakings, property and assets of Do All and the Guarantor is just and convenient, and necessary to protect the interests of the Bank and to preserve and realize on the Security and the Guarantor Security in an orderly fashion.

35. I believe that A&M is prepared to act and has consented to it being appointed as Receiver of Do All and the Guarantor. Attached hereto and marked as Exhibit "T" is a copy of the Consent to Act as Receiver, signed by Mr. Timothy Reid, an authorized signatory of A&M.

36. I swear this Affidavit in support of the Bank's Application for the appointment of A&M as Receiver with respect to Do All and the Guarantor.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario,  
this 5<sup>th</sup> day of February, 2014.

  
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A Notary Public in and for  
the Province of Ontario  
Matthew Lewis Slack Kenter

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