

Clerk's Stamp

COURT FILE NO.: 25-2332583
25-2332610
25-2335351

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

JUDICIAL CENTRE CALGARY

PROCEEDINGS IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF MANITOK ENERGY INC.

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF RAIMOUNT ENERGY CORP.

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF CORINTHIAN OIL CORP.

APPLICANT PERSIST OIL AND GAS INC.

DOCUMENT **APPLICATION**

ADDRESS FOR **Gowling WLG (Canada) LLP**
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FILING THIS File: A161689
DOCUMENT **Attn: Caireen E. Hanert / Tom Cumming**

NOTICE TO RESPONDENTS:

Alvarez & Marsal Canada Inc., solely in its capacity as the trustee in bankruptcy of Corinthian Oil Corp. and Convega Energy Ltd.

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: April 14, 2021

Time: 10:00 am

Where: Calgary Courts Centre – via Webex. Videoconference details are enclosed as **Appendix “A”** to this Application

Before Whom: Justice B.E.C. Romaine (on the Commercial List)

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. An Order substantially in the form attached hereto as **Schedule “A”**:
 - (a) Declaring service of this Application good and sufficient, and bridging the time for notice of this Application to the time actually given, if necessary;
 - (b) Rectifying the Purchase and Sale Agreement dated January 7, 2019 between Alvarez & Marsal Canada Inc., solely in its capacity as the trustee in bankruptcy (the “**Trustee**”) of Corinthian Oil Corp. (“**Corinthian**”), as vendor, and Tantalus Energy Corp. (“**Tantalus**”), as purchaser (the “**Persist PSA**”) to include certain gross overriding royalties (the “**GORRs**”, as set out in Schedule “B” to the Persist PSA) in the definition of Assets; and
 - (c) Awarding costs of this Application in favour of Persist.
2. Such further and other relief as counsel may advise and this Honourable Court may permit.

Grounds for making this application:

3. On January 18, 2019, this Honourable Court pronounced an approval and vesting order (the “**SAVO**”) approving the sale transaction contemplated by the Persist PSA (the “**Transaction**”), which vested all right, title and interest in certain assets of the estate of Corinthian (the “**Purchased Assets**”) in Tantalus effective January 7, 2019 (the “**Effective Date**”).
4. Persist Oil and Gas Inc. and Tantalus amalgamated on March 11, 2019, with the resulting corporation, Persist, becoming the purchaser under the Persist PSA.
5. The Transaction contemplated by the Persist PSA closed on April 15, 2019 (the “**Closing**”).
6. The assets to be purchased by Tantalus were discussed on several occasions by the Trustee and Tantalus, and an agreement was reached between the parties that the GORRs would be included as assets. This agreement was set out in correspondence between the parties. At

all material times, Persist had an agreement with the Trustee that it would purchase the GORRs listed in Schedule “B” to the Persist PSA from the Corinthian estate.

7. Schedule “C” of the SAVO contains Schedule “B” to the Persist PSA, which schedule listed the GORRs, thereby including the GORRs as Purchased Assets to be vested in Tantalus pursuant to the terms of the SAVO.
8. On April 15, 2019, the Trustee delivered a Notice of Assignment (the “**NOA**”) to Relentless Resources Ltd. (“**Relentless**”), which is a party to a farmout and option agreement dated June 6, 2014 (the “**Farmout Agreement**”), setting out that the gross overriding royalty interests pursuant to the Farmout Agreement held by Corinthian had been transferred and conveyed to Persist effective October 1, 2018. Pursuant to the terms of the NOA, the NOA was binding on all parties to the Farmout Agreement on the first day of the second calendar month following the month in which the NOA was served on Relentless. Relentless did not object within 20 days of receipt of the NOA and was therefore deemed to have consented. The binding date of the NOA was therefore July 1, 2019.
9. The overriding royalty held by the farmor (Corinthian and then Persist) is set out in paragraph 5 of Schedule “B” to the Farmout Agreement, which stipulates that there is an overriding royalty of 15% on gas production and 5% to 15% on oil production (the “**Relentless GORRs**”). The Relentless GORRs were listed on Schedule “B” to the Persist PSA and on Schedule “C” to the SAVO as Purchased Assets and are described as follows on those schedules:
 - (a) M01659C – relating to the production from 100/08-07-027-09W4/0 covered by Crown lease #0405030742;
 - (b) M01659D – relating to the production from 102/05-07-027-09W4/0 covered by Crown lease #0405030742; and
 - (c) M01655C – relating to the production from 100/06-12-027-1-W4/0 covered by Crown lease #0404050089.

10. Subsequent to Closing, Relentless paid the monthly Relentless GORR amounts to Persist. The Relentless GORR amounts paid to the Trustee between the Effective Date of October 1, 2018 and the Closing Date of April 15, 2019 were accounted for on the statement of adjustments.
11. To date, the only amounts that have been received by Persist pursuant to the GORRs listed in Schedule “B” to the Persist PSA and Schedule “C” to the SAVO have been paid in respect of the Relentless GORRs.
12. On October 25, 2020, Persist received a letter from Relentless (the “**October 25th Letter**”) advising that it was no longer prepared to pay the Relentless GORR amounts to Persist, as it was aware of overlapping claims to the Relentless GORRs that it had tried to address with the Trustee, but had not received a response to correspondence dated October 5, 2020 sent to the Trustee (the “**October 5th Letter**”).
13. The October 25th Letter was the first indication Persist received that there was any issue relating to the conveyance and assignment of the Relentless GORRs to Persist. In the October 5th Letter, Relentless advised the Trustee that it objected to the NOA and the assignment of the Relentless GORRs to Persist, more than 15 months after the binding date of the NOA. The basis for the objection was the failure by the Trustee to assign all of Corinthian’s interest under the Farmout Agreement to Persist.
14. Prior to receiving the October 25th Letter, Persist was not aware that the Trustee had purported to sell the Relentless GORRs to Convega Energy Ltd. (“**Convega**”) by way of a purchase and sale agreement dated January 20, 2020 with a closing date of January 30, 2020.
15. Had Persist or the Trustee adverted to the omission of the GORRs from the definition of Assets at the time the Persist PSA was entered into, Persist would have requested their inclusion, and is confident that, given the facts stated above, the Trustee would have agreed that it was appropriate and in accordance with the agreement reached between the parties.
16. Rectifying the definition of Assets in Persist PSA to include the GORRs is consistent with the agreement of the parties as set out above.

Material or evidence to be relied on:

17. Affidavit of Gregory Vavra sworn April 8, 2021, to be filed concurrently with this Application;
18. Second Report of the Trustee dated January 7, 2019, filed;
19. Fourth Report of the Trustee dated April 6, 2021, filed;
20. The pleadings previously filed in these proceedings; and
21. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

22. *Alberta Rules of Court*, AR 124/2010, and in particular, rules 1.3, Part 6, 11.27 and 13.5; and
23. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

24. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

25. None.

How the application is proposed to be heard or considered:

26. By Webex.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your

lawyer must attend in Court on the date and 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.

APPENDIX "A"
(Webex Instructions)

Virtual Courtroom 60 has been assigned for the following matter:

Date: Apr 14, 2021 10:00 AM

Style of Cause: B201 332583 + - BANKRUPTCY OF: v. MANITOK ENERGY INC. BANKRUPTCY OF: v. RAIMOUNT ENERGY CORP. PROPOSAL OF: v. CORINTHIAN OIL CORP.

Presiding Justice: ROMAINE, J

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, you must complete the undertaking located here:

<https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

SCHEDULE "A"
(Order)

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DOCUMENT **ORDER**

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Gowling WLG (Canada) LLP
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Calgary, AB T2P 4K9
Tel: (403) 298-1992 / (403) 298-1938
Fax: (403) 263-9193
File: A161689

Attn: Caireen E. Hanert / Tom Cumming

DATE ON WHICH ORDER WAS PRONOUNCED: April 14, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary Courts Centre

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice B.E.C. Romaine

UPON THE APPLICATION by Persist Oil and Gas Inc. ("**Persist**") for an order rectifying the purchase and sale agreement dated January 7, 2019 (the "**Persist PSA**") between Alvarez & Marsal Canada Inc. ("**A&M**") as trustee in bankruptcy of Corinthian Oil Corp. (the

“Trustee”) and Tantalus Energy Corp. (“Tantalus”) to include certain gross overriding royalties (collectively, the “GORRs”) in the assets purchased by Persist from the Trustee pursuant to the Persist PSA, which Persist PSA is appended to the Second Report of the Trustee dated January 7, 2019 (the “Second Report”);

AND UPON HAVING READ the Order (Terminating NOI) dated February 20, 2018, the Second Report and the Fourth Report of the Trustee dated April 6, 2021; **AND UPON HAVING READ** the Affidavit of Gregory Vavra sworn April 8, 2021 (the “Vavra Affidavit”), the Affidavit of Service of • sworn April •, 2021, both filed; **AND UPON HEARING** counsel for Persist, the Trustee and any other interested parties that may be present; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application; **AND UPON NOTING** no objections from other parties who were served; **AND UPON HAVING READ** the pleadings, proceedings, orders and other materials filed in this Action; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

Asset Purchase

2. The Persist PSA is hereby rectified to include the GORRs set out at Schedule “B” appended to the Persist PSA in the definition of Assets, being the Assets purchased by Persist from the Trustee. Specifically:

- (a) Article 2.1 of the Persist PSA is hereby replaced by the following:

“Subject to and in accordance with the terms of this Agreement, Vendor, exercising the powers of sale granted pursuant to the Appointment Order, hereby agrees to sell, assign, transfer, convey and set over to Purchaser, and Purchaser hereby agrees to purchase from Vendor, all of the Vendor’s interest in and to the following:

- (a) the Petroleum and Natural Gas Rights;

- (b) the GORRs; and
 - (c) the Miscellaneous Interests,
- (collectively, the “Assets”).”

J.C.C.Q.B.A.