

This is Affidavit #5 of Mark Berger in this proceeding and was made on November 1, 2019.

No. S1910194  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c.57**

**AND**

**IN THE MATTER OF ENERGO GOLD DRILLING CORP., CROS-MAN DIRECT  
UNDERGROUND LTD., EGD SERVICES LTD., BERTRAM DRILLING CORP., AND  
OMNITERRA INTERNATIONAL DRILLING INC.**

**PETITIONERS**

**AFFIDAVIT #5 OF MARK BERGER**

I, Mark Berger, of 300 N LaSalle Dr, Suite 4925, Chicago, Illinois, HEREBY SWEAR THAT:

1. I am the Chief Restructuring Officer of the Petitioners. Accordingly, I have personal knowledge of the facts set out in this Affidavit except where stated to be based on information and belief, in which case I believe both the information and the resulting statements to be true.
2. All capitalized terms used in this Affidavit that are not otherwise defined have the meanings given to them in the Affidavit #3 of Michael Bell sworn on October 31, 2019 (the "**Bell Affidavit**").
3. I swear this Affidavit in support of the Petitioners' application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for orders approving the following:
  - (a) the Cros-Man Sale Transaction;
  - (b) the Latin American Sale Transaction;
  - (c) the BDI Sale Transaction; and
  - (d) the EMEA Sale Transaction.

## Sale Process

4. In accordance with the SSP, I worked with the other members of the SSP Team, in consultation with the Monitor, throughout the Sale Process.

5. Pursuant to the SSP and as set out in the Bell Affidavit, the Financial Advisor had primary responsibility for marketing the Energold Property and soliciting offers from the Prospective Purchasers.

6. To the extent the Financial Advisor required information to market the property, including preparing the CIM, or to answer due diligence requests, I or another member of the Petitioners' management was diligent in providing responses, including documents and corporate or financial information.

7. On October 15, 2019, I received the Bid Summary Report from the Financial Advisor and attended a meeting with the SSP Team and the Monitor to review and consider the non-binding offers received. Following that meeting, the SSP Team determined that:

- (a) there were two Qualified Bids for the BDI Unit, subject to one bidder delivering its deposit (which was delayed due to a religious holiday) and the other bidder clarifying an aspect of its bid as described below;
- (b) there was one Qualified Bid for the EMEA Unit, subject the bidder clarifying an aspect of its bid; and
- (c) certain of the bids received did not meet the criteria for a Qualified Bidder under the SSP and that it was not in the best interests of Energold of its stakeholders for those parties to participate further in the SSP.

Further details on the Bid Summary Report and the determinations made by the SSP Team are set out in the Bell Affidavit.

8. With respect to the bids for the BDI Unit and EMEA Unit that required clarification, the SSP Team received the required clarification on or before October 18, 2019. I and the rest of the SSP Team, in consultation with the Monitor, determined that each such bid was a Qualified Bid in light of the clarifications provided.

9. Following the Bid Deadline, one of the Qualified Bidders made further due diligence requests. I and other members of Energold's management made commercially reasonable efforts to respond to these requests to the greatest extent possible given the limited time available and the Petitioners' constraints in respect of available personnel and funds. Further details on the practical difficulties faced by the SSP Team and the Petitioners in responding to these due diligence questions are set out in the Bell Affidavit.

10. On October 23, 2019, one of the Qualified Bidders requested that the SSP Team extend the deadline to submit definitive documents under the SSP to Tuesday, October 29, 2019. After consulting with the Financial Advisor and the Monitor, I and the rest of the SSP Team determined that this short extension was appropriate in the circumstances and in the best interests of the Petitioners and their stakeholders. The SSP Team granted this extension on the basis that the Qualified Bidder provide definitive documents by 10am PST on Tuesday October 29, 2019.

#### **Auction**

11. With respect to each of the BDI Unit and EMEA Unit, which each had more than one Qualified Bid, I and the other members of the SSP determined that it was in the best interests of the Petitioners and their stakeholders and appropriate in the circumstances to proceed to an Auction for those units in accordance with the SSP.

12. I attended the Auction, which was held on October 31, 2019.

13. At the Auction, after multiple rounds of bidding, Extract was the successful bidder for the EMEA Unit with a purchase price of \$3,050,000, payable as a credit bid in accordance with the terms of the EMEA Sale Agreement.

14. Prior to the start of the Auction for the BDI Unit, two of the Qualified Bidders for the BDI Unit declined to participate further in the Auction. As a result, the stalking horse bid for the BDI Unit submitted by Extract was the successful bid, with a purchase price of \$1,500,000, payable as a credit bid in accordance with the terms of the BDI Sale Agreement.

**Sale Transaction Resulting from the SSP**

15. Further details on the characteristics of the Cros-Man Sale Transaction, the Latin American Sale Transaction, the BDI Sale Transaction, and the EMEA Sale Transaction (collectively, the “**Sale Transactions**”) are set out in the Bell Affidavit.

16. Based on my experience in restructuring matters and sale processes in similar circumstances:

- (a) the process undertaken by the SSP Team was conducted in accordance with the SSP approved by the Court, and the process to market the assets was fair and reasonable in the circumstances including the Petitioners’ financial circumstances;
- (b) the amount of time provided by the SSP Team to enable Potential Bidders to inspect and assess the assets or shares comprising each of the Cros-Man Unit, Latin American Unit, BDI Unit and EMEA Unit (collectively, the “**Energold Units**”), and conduct additional due diligence in accordance with the terms and conditions of the SSP, was in each case fair and reasonable in the circumstances;
- (c) the sale of each of the Energold Units will, in each instance, yield the greatest possible recovery and security of outcome in the circumstances to Energold and its stakeholders;  
and
- (d) going back to the market to conduct another sale process with respect to each Energold Unit is unlikely to yield consideration that is superior to that achieved through the Sale Process.

17. The Petitioners are required to use commercially reasonable best efforts to achieve the timelines and activities set forth in the SSP as condition to the interim financing (the “**Interim Financing**”) provided by Energold DIP Lender, LLC (the “**DIP Lender**”) pursuant to the DIP Facility Term Sheet dated September 12, 2019. The Petitioners collectively have very limited cash or access to liquidity, and the full amount of the Interim Financing has been drawn as of the date of this Affidavit, with no assurance as to further liquidity being made available by the DIP Lender. Accordingly, the Petitioners require that the Sale Transactions complete within the timelines set out in the SSP to improve the Petitioners’ liquidity position.

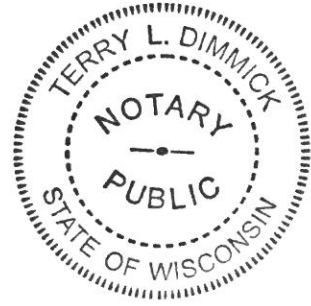
Among other things, completing the Sale Transactions will reduce the operating expenses of the Petitioners and facilitate the conclusion of these proceedings.

SWORN BEFORE ME at Manitowac, )  
Wisconsin, on the 1st )  
day of ~~November~~, 2019. )

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A notary public for the State of )  
Wisconsin Terry L. Dimmick )

  
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MARK BERGER



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PETITIONERS

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