



2:52 pm, 12/7/21

Tim J. Ellis
Clerk of Court

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF WYOMING**

In re:)
)
CUDA ENERGY INC.) Chapter 15
) Case No. 21-20484
)
)
Debtor in Foreign Proceeding.)

_____)
In re:)
)
CUDA OIL AND GAS INC.) Chapter 15
) Case No. 21-20486
)
)
Debtor in Foreign Proceeding.)

_____)
In re:)
)
JUNEX INC.) Chapter 15
) Case No. 21-20487
)
)
Debtor in Foreign Proceeding.)

PRELIMINARY INJUNCTION ORDER

FTI Consulting Canada Inc. (“FTI”) in its capacity as court-appointed receiver (the “Receiver”) and authorized foreign representative of Cuda Energy Inc., Cuda Oil and Gas Inc., Cuda Energy LLC, and Junex Inc. (collectively referred to as the “Cuda Debtors”), in the proceeding pending in the Court of Queen’s Bench of Alberta, Canada (the “Canadian Proceeding”), pursuant to sections 105(a) and 1519 of title 11 of the United States Code (the “Bankruptcy Code”), filed its motion (the “Motion”) for entry of a temporary restraining order and a preliminary injunction (the “Preliminary Injunction”), and this Court having considered and reviewed: (i) the Motion, (ii) the petitions (the “Petitions”) pursuant to Section 1515 of the Bankruptcy Code for entry of an order recognizing the Canadian Proceeding as a foreign main proceeding; (iii) the Declaration of Robb Cacovic (the “Declaration”) offered in support of the Motion and the Petitions; (iv) the Receivership Order entered in the Canadian Proceeding on November 18, 2021

(the “Receivership Order”); and (v) all other documents filed in support thereof (together with the Motion, Petitions, Declaration and Receivership Order, the “Supporting Papers”), and finding no objections or responses were filed, the court grants the Motion.

The Court finds and concludes as follows:

- A. There is a substantial likelihood that the Receiver will be able to demonstrate that the Canadian Proceeding is a “foreign proceeding” within the meaning of Section 101(23) of the Bankruptcy Code and that the Receiver is a “foreign representative” of the Cuda Debtors, as defined in Section 101(24) of the Bankruptcy Code;
- B. The commencement or continuation of any action or proceeding in the United States against the Cuda Debtors, the Receiver, in its role as foreign representative of the Cuda Debtors, or any of the Cuda Debtors’ assets or proceeds thereof should be enjoined pursuant to Sections 105(a) and 1519 of the Bankruptcy Code to permit the expeditious and economical administration of the Cuda Debtors’ estate in the Canadian Proceeding, and the relief requested either: (i) will not cause undue hardship to; or (ii) any hardship to parties in interest is outweighed by the benefits of the relief requested;
- C. Unless a preliminary injunction order issues, there is a material risk that the Cuda Debtors’ assets could be subject to efforts by creditors in the United States to control or possess such assets. Such acts could: (i) interfere with the jurisdictional mandate of this Court under Chapter 15 of the Bankruptcy Code; (ii) interfere with and cause harm to the Canadian Proceeding; and (iii) undermine the Receiver’s efforts to achieve an equitable result for the benefit of all of the Cuda Debtors’ creditors. Accordingly, there is a material risk that the Cuda Debtors may suffer immediate and irreparable injury for which it will have no adequate remedy at law and therefore it is necessary that the Court enter this Order;
- D. The interests of the public will be served by this Court’s entry of this Order;
- E. The Receiver, in its role as foreign representative of the Cuda Debtors, and the Cuda Debtors, are entitled to the full protections and rights available pursuant to Section 1519(a) of the Bankruptcy Code; and
- F. The security provision provided in Rule 65(c) of the Federal Rules of Civil Procedure, made applicable through Rule 7065 of the Bankruptcy Rules, is unnecessary in this case and is therefore waived.

THEREFORE, IT IS HEREBY ORDERED that, beginning on the date of this Order, and continuing until further Order of this Court, all persons and entities are:

1. enjoined from: (i) commencing or continuing any legal proceeding (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including any discovery, or taking any other action (each, an “Action”) against the Receiver, in its role as foreign representative of the Cuda Debtors, the Cuda Debtors, or the Cuda Debtors’ United States assets or the proceeds thereof, rights, obligations, or liabilities; (ii) the enforcement of any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Receiver, in its role as foreign representative of the Cuda Debtors, the Cuda Debtors, or the Cuda Debtors’ United States assets or the proceeds thereof; and (iii) the commencement or continuation of any Action to create, perfect or enforce any lien, setoff or other claim against the Cuda Debtors or against any of their assets or the proceeds thereof; provided, however, that no Action described in Sections 555, 556, 557, 559, 560, 561, 562 and 1519(d) and (f) of the Bankruptcy Code shall be enjoined by such preliminary injunction (the “Excepted Actions”);
2. requiring that, when informed of these proceedings, every person and entity that is a plaintiff in an Action in which Cuda Debtors are or were named as a party, or as a result of which liability against the Cuda Debtors may be established, to place the Receiver’s U.S. Counsel (as defined below) on the master service list of any such action or proceeding and take such other steps as may be necessary to ensure that such counsel receives: (i) copies of any and all documents served by the parties to such action or proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or proceeding, and (ii) any and all correspondence or other documents circulated to parties listed on the master service list; and
3. prohibiting all persons and entities other than the Receiver from possessing or exercising control over the Cuda Debtors’ assets located in the United States, except as authorized in writing by the Receiver, by Order of this Court, or in the Canadian Proceeding.

It is further Ordered that nothing in this Order shall be deemed to prohibit or enjoin any civil action pending in the United States against third parties and non-Cuda Debtor entities or enjoin discovery as otherwise authorized against third parties and non-Cuda Debtor entities.

It is further Ordered that, until further Order of this Court, the Receiver, in its role as foreign representative of the Cuda Debtors, is entitled to the full protection and rights available pursuant to Section 1519(a) of the Bankruptcy Code, including:

- a. In accordance with and subject to the terms of the Receivership Order, the right and power of the Receiver to administer and/or to realize all or part of the Cuda Debtors' assets located in the United States in order to protect and preserve the value of such assets;
- b. The right and power to transfer, encumber, or otherwise dispose of any assets of the Cuda Debtors is prohibited, except by the Receiver as provided in this Preliminary Injunction, the Receivership Order, or to facilitate the operation of the Cuda Debtors' business in the ordinary course; and
- c. The right and power to seek additional relief that is available to a trustee except for relief available under Sections 522, 544, 545, 547, 548, 550, and 724(a) of the Bankruptcy Code.

It is further Ordered that (i) any party in interest may make a motion seeking relief from, or modification to, this Preliminary Injunction, by filing a motion on not less than ten (10) business days' notice to the U.S. Counsel (as defined below), seeking an order for such relief, and any such request shall be the subject of a hearing scheduled by the Court, and (ii) any party in interest may file objections and be heard by the Court in accordance with the terms of any order of the Court providing for a hearing on any subsequent relief sought by the Receiver in this proceeding.

It is further Ordered that motions, if any, submitted for the purpose of opposing or seeking relief from this Preliminary Injunction must be made in writing and shall be filed with this Court electronically by registered users of the Court's ECF system and served upon counsel for the Receiver, Bradley T. Hunsicker, Markus Williams Young & Hunsicker LLC, bhunsicker@markuswilliams.com (the "U.S. Counsel").

It is further Ordered that, pursuant to Section 1519(b), this Preliminary Injunction shall terminate upon entry of an order granting the Receiver's Petitions.

It is further ordered that, pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure are waived.

It is finally Ordered this Order does not constitute the above-captioned cases are jointly administered.¹

BY THE COURT



12/7/2021

Honorable Cathleen D. Parker
United States Bankruptcy Court
District of Wyoming

¹ A Motion for Joint Administration is pending in each captioned case.