

UNITED STATES BANKRUPTCY COURT
DISTRICT OF WYOMING



10:30 am, 11/30/21

Tim J. Ellis
Clerk of Court

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:)
)
CUDA ENERGY LLC) Chapter 15
) Case No. 21-20485
)
)
Debtor in Foreign Proceeding.)
_____)

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

**ORDER GRANTING TEMPORARY RESTRAINING ORDER AND SETTING
PRELIMINARY INJUNCTION HEARING AND DEADLINE TO OBJECT**

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”), under the Bankruptcy and Insolvency Act (the “BIA”), pursuant to Sections 105(a) and 1519 of title 11 of the United States Code (the “Bankruptcy Code”), filed its motion for entry of a temporary restraining order (this “Order”) and scheduling a hearing on the Receiver’s request for a preliminary injunction (the “Motion”), 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 in Support of: (I) Petition for Recognition as a Foreign Main Proceeding; and (II) Application for Order to Show Cause with Temporary Restraining Order and Preliminary Injunctive Relief (the “Cacovic 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, Petition, the Cacovic Declaration and Receivership Order, the “Supporting Papers”), and based upon the record now before it, this 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 its 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 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 restraining order issues, there is a material risk that 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 Cuda Debtors' and 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. Notice of the Motion was not previously given due to the irreparable harm that would result before the adverse parties had been heard in opposition;
- E. The interest of the public will be served by this Court's entry of this Order;
- F. The Receiver, in its role as foreign representative of the Cuda Debtors is entitled to the full protections and rights available pursuant to Section 1519(a) of the Bankruptcy Code; and
- G. 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 all parties in interest come before the Honorable Judge Parker on December 8, 2021, at 10:30 a.m. mountain standard time (the "Hearing"), to show why a preliminary injunction should not be granted:

- 1. enjoining: (i) all persons and entities from 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’ 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, or the Cuda Debtors’ United States assets or the proceeds thereof; (iii) the commencement or continuation of any Action to create, perfect or enforce any lien, setoff or other claim against the Receiver, 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 Cuda Debtors from possessing or exercising control over the Cuda Debtors’ assets located in the United States, except as authorized in writing by the Cuda Debtors, by Order of this Court, or in the Canadian Proceeding.

The Hearing will be held by VIDEO CONFERENCE. A party requesting participation by video conferencing shall refer to Local Bankruptcy Rule 9074-2. Motions to appear by video conferencing and objections to the preliminary injunction shall be filed on or before 12:00 p.m. mountain standard time on December 7, 2021.

On or before **December 7, 2021**, any party intending to introduce exhibits or call witnesses at the Hearing shall file a schedule of proposed exhibits and anticipated

witnesses and shall serve the schedule and copies of the proposed exhibits on all parties. Exhibits shall be electronically submitted through the Court's CM/ECF system by following the Electronic Evidence Procedures Frequently Ask Questions (FAQs) located at www.wyb.uscourts.gov. Counsel should retain original exhibits for introduction at the Hearing if necessary. The Court will not have exhibits available for the parties' use. Electronic filing of the exhibits shall be considered service on all parties receiving electronic notice.

Pro se parties may submit his/her schedule and three copies (indexed and bound) of the proposed exhibits to the U.S. Bankruptcy Clerk's Office, 2120 Capitol Avenue, Suite 6004, Cheyenne, Wyoming 82001.

Parties with witnesses testifying by video conference are responsible to ensure witnesses at remote locations receive ALL exhibits in order to testify.

The Court requests the parties be prepared for the admission of uncontested exhibits as a preliminary matter at the evidentiary hearing.

In the event that no objections are filed, the Court may convert the Hearing to a telephonic hearing or may enter an order granting the preliminary injunction requested in the Motion without holding the Hearing.

It is further Ordered that, except with respect to Excepted Actions, pending the Hearing, all persons and entities are hereby enjoined from (i) continuing any Action or commencing any Action involving the Receiver, in its role as foreign representative of the Cuda Debtors, or relating to the Cuda Debtors' United States assets or the proceeds thereof, rights, obligations, or liabilities; (ii) enforcing or taking any steps to enforce any

judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Receiver, in its role as foreign representative to the Cuda Debtors or the Cuda Debtors' United States assets or the proceeds thereof; or (iii) commencing or continuing any Action to create, perfect or enforce any lien, setoff, or other claim against the Receiver, the Cuda Debtors, or against any of its property or the proceeds thereof.

It is further Ordered that the Receiver, in its role as foreign representative of the Cuda Debtors, is entitled to the full protections 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 Cuda Debtors to administer and/or 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) prohibiting the right and power to transfer, encumber, or otherwise dispose of any assets of the Cuda Debtors, except by the Cuda Debtors as provided in this Order, 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. Nothing in this Order shall be deemed to entrust or otherwise vest the Cuda Debtors or their assets to the Receiver, or to provide the Receiver with any greater rights or obligations than those afforded to it under the Receivership Order.

It is further ordered that, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, made applicable to these proceedings pursuant to Rule 7065 of the

Bankruptcy Procedure (the “Bankruptcy Rules”), no notice to any person is required prior to entry and issuance of this Order.

It is further Ordered that (i) any party in interest may make a motion seeking relief from, or modification of, this Order, by filing a motion on not less than two (2) business days’ notice to the U.S. Counsel (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 copies of this Order and the Supporting Papers shall be served by the Cuda Debtors upon the Office of the United States Trustee, all parties known by the Cuda Debtors against whom provisional relief is being sought under Section 1519 of the Bankruptcy Code, and all parties to any litigation in which the Cuda Debtors are a party and that is pending in the United States, in accordance with Bankruptcy Rule 2002(q), **by hand-delivery, overnight mail, facsimile or e-mail within 24 hours of entry of this Order. Debtor shall file a certificate of service within two (2) business days from the date of service of the Order, stating the name and address of the attorney or party served, the capacity in which the party was served, and the manner and date of service.** Service in accordance with this Order shall constitute adequate and sufficient service and notice.

It is further ordered that the Supporting Papers shall also be made available upon request to 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 Bankruptcy Rule 7065, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure are waived.

BY THE COURT



11/30/2021

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