



COURT FILE NUMBER 1601-12571

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE Calgary

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LIGHTSTREAM RESOURCES LTD, 1863359 ALBERTA LTD, LTS RESOURCES PARTNERSHIP, 1863360 ALBERTA LTD AND BAKKEN RESOURCES PARTNERSHIP

APPLICANTS LIGHTSTREAM RESOURCES LTD, 1863359 ALBERTA LTD AND 1863360 ALBERTA LTD

PARTIES IN INTEREST LTS RESOURCES PARTNERSHIP AND BAKKEN RESOURCES PARTNERSHIP

DOCUMENT **APPLICATION BY MUDRICK CAPITAL MANAGEMENT, LP, FRONTFOUR CAPITAL CORP. AND FRONTFOUR CAPITAL GROUP LLC**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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NOTICE TO RESPONDENT(S):

(Indicate name(s) and status of Respondent(s))

Lightstream Resources Ltd., defendant (respondent)

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Master/Judge.

You have the right to state your side of this matter before the Master/Judge.

To do so, you must be in Court when the Application is heard as shown below:

Date: September 26, 2016
Time: 2:30 PM
Where: Calgary Courts Centre, 601 - 5 Street S.W.
Calgary, AB T2P 5P7
Before Whom: Mr. Justice McLeod

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

Remedy claimed or sought:

1. An Order
 - (a) that the claims of Mudrick Capital Management LP ("**Mudrick**"), Frontfour Capital Corp and FrontFour Capital Group LLC (collectively, "**FrontFour**") to an oppression remedy against the Applicant Lightstream as pleaded in Court File Nos. 1501-08782 and 1501-07813 be as against the Applicant are excluded from the stay in any Initial Order herein; and
 - (b) directing a trial of the issues raised therein prior to hearing any further orders or proceedings following the Initial Order with respect to Lightstream's application under the *Companies Creditors Arrangement Act*, RSC 1985, c C-36;
2. The costs of this Application.
3. Such further and other relief as this Honourable Court deems just.

Grounds for making this Application:

4. The Plaintiff, Mudrick, is an SEC-registered investment advisor which manages capital for a diverse group of institutions and individuals.
5. The Plaintiff, FrontFour Capital Corp., is the Investment Fund Manager and Portfolio Manager of the FrontFour Opportunity Fund. FrontFour Capital Corp is based in Toronto, Ontario.
6. The Plaintiff, FrontFour Capital Group LLC, is the Investment Advisor to the FrontFour Master Fund Ltd. and separately managed accounts. FrontFour Capital Group LLC is headquartered in Greenwich, Connecticut, USA.
7. The Defendant, Lightstream Resources Ltd. ("**Lightstream**" or the "**Company**"), is a light oil exploration and production corporation with its registered and records office in Calgary, Alberta. Until May 22, 2013, when the company was renamed, Lightstream operated as Petrobakken Energy Ltd. ("**Petrobakken**").
8. In 2012, Lightstream issued \$900 million of 8.625% Senior Notes due 2020 (the "**Unsecured Notes**") issued pursuant to an indenture dated January 30, 2012 by and among PetroBakken (now Lightstream) as Issuer, PetroBakken Capital Ltd and PBN Partnership as Guarantors, US Bank National Association as Trustee, and Computershare Trust Company of Canada as Canadian Trustee (the "**Indenture**"). The holders of those Unsecured Notes ranked equally in their positions as creditors of Lightstream.
9. Mudrick and FrontFour acquired and continue to hold a substantial quantity of Unsecured Notes issued pursuant to the Indenture for their clients.
10. In July 2015, Lightstream announced a transaction whereby it agreed to exchange \$465 million of the Unsecured Notes for \$395 million of secured second lien notes (the "**Secured Notes**"), and issued a further \$200 million of Secured Notes ("**the Secured Notes Transaction**" and "**Transaction**"). The Secured Notes Transaction was entered into with some (the "**Secured Transaction Parties**"), but not all, of the holders of the

Unsecured Notes. Lightstream did not offer the Transaction to Mudrick or FrontFour, despite prior assurances that it would, and refused to extend such offer when requested to do so.

11. The Secured Notes Transaction had the effect of promoting the Secured Transaction Parties into secured creditors, thereby placing them in a superior security position to the remaining holders of Unsecured Notes who were excluded from the Secured Notes Transaction, including Mudrick, FrontFour and their clients. It also adversely affected the market price of the remaining Unsecured Notes.

12. An originating application was filed by Mudrick against Lightstream on July 30. An action was commenced by FrontFour against Lightstream by way of Statement of Claim filed July 13, 2015. Subsequently, Mudrick converted it originating application to an action, and filed a Statement of Claim on October 15, 2015.

13. Mudrick and FrontFour commenced their respective actions on the basis that Lightstream's conduct with respect to the Transaction was oppressive pursuant to section 242 of the *Alberta Business Corporations Act*, RSA 2000, c B-9 and in breach of the indenture governing such notes (the "**Oppression Actions**"). .

14. The primary remedy sought by Mudrick and FrontFour is a declaration that they are entitled to participate in the Transaction, and an order requiring Lightstream to issue securities (i.e. secured notes) under s. 242(3)(e) of the *Alberta Business Corporations Act* to remedy the oppressive conduct.

15. On or about July 28, 2016, Lightstream filed an application under section 192 of the *Canada Business Corporations Act*, RSC 1985, c C-44, involving a proposed arrangement of Lightstream Resources Ltd. and 9817158 Canada Ltd (the "**CBCA Application**").

16. Mudrick and FrontFour responded to this application, on August 2, 2016, reiterating that they were seeking a remedy that would give them the same secured status that they would have if they had not been improperly excluded from the Secured Notes Transaction. The CBCA Application failed to accurately describe the Oppression Actions

and significantly understated the magnitude of potential claims against Lightstream. The CBCA Application asserted that the Stay of Proceedings did not extend to the Oppression Actions.

17. On or about September 21 2016, Lightstream filed an application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 as amended (the "CCAA") and obtained an initial order thereto.

18. Discovery in the Oppression Actions has been completed, subject to applications dealing with discovery disputes. Mudrick and FrontFour have been seeking, through their joint counsel, an early trial date to resolve their claims.

19. The evidence elicited to date in the Oppression Actions supports the position of Mudrick and FrontFour in the Oppression Actions.

20. The balance of prejudice supports either an immediate declaration that Mudrick and FrontFour are entitled to treatment as secured creditors or, in the alternative, a trial of this issue prior to any further action in the CCAA Application.

21. The Transaction significantly increased the amount of secured debt ahead of the remaining Unsecured Notes and caused the Unsecured Notes to decrease in value. The trading price of the Unsecured Notes following the Transaction confirms how the Secured Notes Transaction has left the excluded holders in a much worse position:

- (a) The market price for the Unsecured Notes peaked at \$0.7900 on the dollar in the middle of May. As rumours began circulating that Lightstream was contemplating an exchange, the Unsecured Notes dropped to \$0.6400 on the dollar. Immediately following the announcement of the Transaction, the notes further dropped to \$0.5000 on the dollar and, at present, the Unsecured Notes are being offered at five cents on the dollar, well below the value of the Unsecured Notes at the time Mudrick and FrontFour made their acquisitions.

- (b) Prior to the Transaction, the Company had CDN\$638 million in debt senior to the Unsecured Notes. After the Transaction, the amount of debt ahead of the Unsecured Notes increased by CDN\$480 million such that there is now CDN\$1.121 billion in debt senior to the Unsecured Notes.

22. Lightstream will not suffer any prejudice if Mudrick and FrontFour are awarded the relief sought pursuant to this application. Further, granting the relief sought pursuant to this application would not prevent Lightstream from reorganizing its affairs pursuant to its CCAA Application.

Material or evidence to be relied on:

23. The Affidavit of David Kirsch, sworn September 22, 2016.

24. Such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

25. The Alberta *Rules of Court*, including Rules 6.1, 6.11, and 10.29, and the inherent jurisdiction of this Honourable Court.

Applicable Acts and regulations:

26. Section 242 of the *Alberta Business Corporations Act*, RSA 2000, c B-9.

27. The provisions of the CCAA, as amended, and this Honourable Court's equitable and statutory jurisdiction thereunder.

Any irregularity complained of or objection relied on:

28. None.

How the Application is proposed to be heard or considered:

29. The application is to be heard orally.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

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 the 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.