

COURT OF APPEAL OF ALBERTA

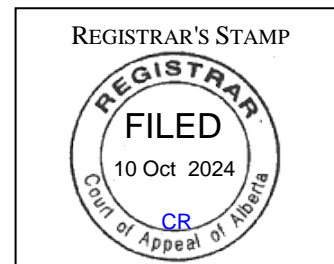
COURT OF APPEAL FILE NUMBER: 2401-0268AC

TRIAL COURT FILE NUMBER: 2401-02680

REGISTRY OFFICE: CALGARY

APPLICANT: CONIFER ENERGY INC.

STATUS ON APPEAL: Appellant
STATUS ON APPLICATION: Applicant



RESPONDENT: RAZOR ENERGY CORP.

STATUS ON APPEAL: Respondent
STATUS ON APPLICATION: Respondent

DOCUMENT: **MEMORANDUM OF ARGUMENT OF CONIFER ENERGY INC, APPELLANT**

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Service List in Court of King's Bench

Action 2401-02680

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I. INTRODUCTION

1. Conifer Energy Corp., ("**Conifer**") seeks leave to appeal a decision pronounced by the Honourable Justice Douglas R. Mah by written reasons dated September 19, 2024 (the "**Decision**") in the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), proceedings of Razor Energy Corp. ("**Razor**"), Razor Holdings GP Corp, and Blade Energy Services Corp.¹ The Decision dismissed Conifer's application for payment of post-filing arrears and/or a charge to secure that payment in respect of post-filing services provided to Razor for the benefit of its stakeholders.

2. The prospective appeal turns on the learned Justice's failure to correctly interpret and apply relevant principles and section 11.01 of the CCAA. Section 11.01 of the CCAA provides that a person can require immediate payment for goods, services, use of leased or licensed property provided after the commencement of CCAA proceedings. Contrary to this, the Decision has the effect of continuing to permit Razor to utilize Conifer's services without any immediate payment to Conifer. Rather, any payment to Conifer is wholly conditional on whether Razor conducts a transaction, which Razor advised the court would come together on or about September 20, 2024, resulting in Conifer being paid the post-filing arrears in full, thereby making the relief sought unnecessary.² As of the date of filing, the transaction has not been completed and Conifer has not been paid any post-filing arrears.

II. FACTS

3. Conifer and Razor both own interests in the Judy Creek Gas Conservation Plant ("**Judy Creek Gas Plant**") and the South Swan Hills Unit. Conifer is the operator of the Judy Creek Gas Plant and Canadian Natural Resources Limited ("**CNRL**") is the operator of the South Swan Hills Unit.³ As both Conifer and Razor own interests in the Judy Creek Gas Plant, they are both parties to the Agreement for the Ownership and Operation of the Judy Creek Gas Plant ("**CO&O**"), which includes the 1999 Operating Procedure. The CO&O provides for the Operator's and Owners' respective obligations including the Operator's obligation to maintain and operate the joint assets and provide services including receiving and processing gas for the Owners in return for payment of each Owner's allocated costs and expenses. There are eight other Owners in addition to Razor and Conifer who have ownership interests in the functional units in the Judy Creek Gas Plant.

¹ *Razor Energy Corp., (Re)*, [2024 ABKB 533](#) [*Decision*] at para. 2 [**TAB 1**].

² *Decision, supra* at paras 2, 21-22 [**TAB 1**].

³ Heather Wilkins Affidavit, affirmed September 3, 2024 [*Wilkins Affidavit*], at para 5 [**APPENDIX 1**].

4. The Judy Creek Gas Plant also processes third-party, custom user gas volumes through Gas Handling Agreements the (“GHAs”), for the benefit of all Owners, including Razor.⁴ Through the GHAs, the Owners have additional benefits and obligations, including payments to the Judy Creek Gas Plant for maintenance and administration.

5. In December 2023, after providing multiple notices to Razor in respect of its significant arrears of close to \$8 million and Conifer’s concerns with the accumulation of further arrears should Razor continue to fail to meet its obligations, Conifer physically locked Razor out of the South Swan Hills Gas Gathering System pursuant to its rights under section 602(b)(ii) of the CO&O (the “**Locked Out Properties**”).⁵ This was not a full lockout, as Razor was still able to send gas or processing through other system points that were also utilized by other third parties.

6. In January 2024, Razor filed a Notice of Intention to Make a Proposal (“NOI”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (“BIA”). Razor subsequently brought an application for a declaration that Conifer was in breach of the NOI stay of proceedings, and for direction that Conifer cease restricting Razor's access to the Judy Creek Gas Plant. Razor asserted that the revenue from the Locked-Out Properties was required to fund its working capital requirements, and that the associated revenue comprised a material portion of Razor's cash flow.⁶

7. On February 21, 2024, the Honorable Justice Michael J. Lema issued his decision directing Conifer to restore the system connections to the Locked-out Properties (the “**Lema Decision**”). Justice Lema also held that Conifer could rely on its contractual rights for post-filing payment obligations.⁷ This decision is subject to appeal.

8. Conifer subsequently reached out to Razor to discuss terms for providing access to the Judy Creek Gas Plant. However, Razor has not taken further steps to regain access.⁸

9. On February 28, 2024, Razor converted its NOI proceedings into a CCAA proceeding.

10. Conifer continues to process 830 e³m³ per month of Razor's gas through the Judy Creek Gas Plant, about 1/3 of Razor’s pre-Locked Out Properties volume, notwithstanding the disconnection of the Locked Out Properties and has billed Razor on or before the last day of each month for its

⁴ Wilkins Affidavit, *supra* at para 20 [APPENDIX 1].

⁵ Wilkins Affidavit, *supra* at para 9 [APPENDIX 1].

⁶ *Blade Energy Services Corp. (Re)*, [2024 ABKB 100](#) [*Blade Energy*] [TAB 2].

⁷ *Blade Energy*, *supra* at para 98 [TAB 2].

⁸ Wilkins Affidavit, *supra* at para 14 [APPENDIX 1].

proportionate share of the Joint Account.⁹ To date, Razor has refused to make any post-filing payments to Conifer on the basis that Razor disputes the charges and that Razor does not have the funds to make any post-filing payments to Conifer, despite paying other suppliers' post-filing amounts.¹⁰ Razor's inability to pay Conifer is in part because it has chosen not to fully regain access the Judy Creek Gas Plant.¹¹

11. To address this failure by Razor to pay, Conifer brought an application consistent with the guidance in *Arrangement relatif à Gestion Éric Savard inc.*¹²

III. ARGUMENT

12. The CCAA requires leave to appeal any order granted thereunder.¹³ To be granted leave to appeal from a CCAA order, the applicant must establish serious and arguable grounds of appeal of real and significant interest to the parties. This test subsumes four factors: (a) the point on appeal is significant to the practice; (b) the point is of significance to the action itself; (c) the appeal is *prima facie* meritorious; and (d) the appeal will not unduly hinder progress of the action.¹⁴ The court must then ascribe appropriate weight to each factor and decide whether, overall, the test is met.¹⁵

13. In determining whether a party has met the test for leave to appeal, failure to prove one or more of the factors is not determinative. The court must weigh all factors in reaching its final determination.¹⁶

A. The Points on Appeal are Significant to the Practice

14. There is no clear jurisprudence as to what post-filing amounts must be paid during a CCAA proceeding and the effect of the failure of the debtor to do so. Nor is there clear jurisprudence regarding the circumstances in which it would be appropriate to grant a charge in respect of post-filing arrears independent from a critical supplier's charge.

15. A determination of these issues, and specifically the proper interpretation of section 11.01 of the CCAA, is of significance both to the insolvency practice in Canada generally as well as the oil and gas industry. This is especially the case where services are provided in circumstances similar to those

⁹ Wilkins Affidavit, *supra* at para 18 [APPENDIX 1].

¹⁰ Fifth Report of the Monitor, filed July 18, 2024, at para 49(d) [APPENDIX 2].

¹¹ Wilkins Affidavit, *supra* at paras 14, 17 [APPENDIX 1]; Affidavit of Doug Bailey sworn September 6, 2024 at para 8 [APPENDIX 3].

¹² *Arrangement relatif à Gestion Éric Savard inc.*, 2019 QCCA 1434 at paras 17-24 [*Gestion Éric Savard*] [TAB 3]

¹³ *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, ss 13 [CCAA] [TAB 4].

¹⁴ *Liberty Oil & Gas Ltd. (Re)*, 2003 ABCA 158 at paras 15-16 [*Liberty Oil*] [TAB 5].

¹⁵ *Resurgence Asset Management LLC v Canadian Airlines Corporation*, 2000 ABCA 149 at para 46 [*Canadian Airlines*] [TAB 6].

¹⁶ *Royal Bank of Canada v Cow Harbour Construction Ltd*, 2010 ABQB 637 at para 29 [*Cow Harbour*] [TAB 7].

at issue in these proceedings. Agreements similar to the CO&O are standard and it is common for oil and gas companies to have partners and have third parties process their gas.

16. As there is no appellate authority on point and this issue is likely to arise in the future in other insolvency matters, the proposed appeal has significant precedential value, which weighs heavily in favour of granting leave.¹⁷

B. The Points on Appeal are Significant to the Action Itself

17. The Decision has the result of limiting any recovery for Conifer of post-filing arrears to whether or not a transaction is completed. This is notwithstanding that Razor continues to pay certain other parties for the processing of gas, thereby treating Conifer inequitably.

18. This Decision not only impacts Conifer but also CNRL who is similarly situated and is also not receiving post-filing amounts.¹⁸

19. Further, it has implications for the ability for Razor to continue to maintain the protections afforded under the CCAA where it is failing to meet its obligations to the increasing prejudice of certain creditors who are not being paid in favour of others. It also has implications for the outcome of the proceedings and the use and distribution of funds in the estate, should the Court agree that other stakeholders have been unjustly enriched by the failure of Razor to pay Conifer.

C. The Proposed Appeal is *Prima Facie* Meritorious

20. To satisfy this element, a full examination of the merits of the proposed appeal is unnecessary. Conifer must only show that it has an arguable case.¹⁹ An arguable case is one that is not frivolous.²⁰

21. There are four issues for determination by this Honorable Court on the proposed appeal and it is respectfully submitted that the prospective appeal is *prima facie* meritorious.

22. The Court erred in interpreting section 11.01; and in finding that the services provided by Conifer pursuant to the CO&O were not requested by Razor, despite Razor having not disclaimed the agreement, actively marketing its interest and Razor continuing to send gas to be processed. Further the Court erred in considering irrelevant and erroneous factors in refusing to grant a charge pursuant

¹⁷ *Liberty Oil*, *supra* at para 17 [TAB 5]; *Ketch Resources Ltd v Gauntlet Energy Corp*, 2005 ABCA 357 at para 14 [*Ketch Resources*] [TAB 8]; *Blue Range Resource Corp., (Re)*, 1999 ABCA 255 at para 5 [TAB 9].

¹⁸ Decision, *supra* at paras 7, 21 [TAB 1].

¹⁹ *Third Eye Capital v B.E.S.T Active 365 Fund*, 2020 ABCA 160 at para 10 [*Third Eye Capital*] [TAB 10]; *Cow Harbour*, *supra* at para 48 [TAB 7].

²⁰ *Mudrick Capital Management LP v Lightstream Resources Ltd.*, 2016 ABCA 401 at paras 51-52 [*Mudrick*] [TAB 11].

to sections 11 and 11.01; and by failing to consider and/or make a determination regarding the various relief sought.

1. The Justice erred in law in interpreting section 11.01 of the CCAA

23. The learned Justice's interpretation of section 11.01 of the CCAA is an issue of statutory interpretation and is thus a question of law reviewed for correctness.²¹

(a) The Judge erred in his narrow interpretation of “service” pursuant to section 11.01

24. The words of a statute are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme and object of the statute, and the intention of the Legislature.²² The common law forms a key part of the context in which legislation must be interpreted.²³

25. In particular, the term "service" in section 11.01 of the CCAA must be read in light of its ordinary meaning and previous interpretation of the term in the common law. "Service" has been broadly interpreted to include "some activity on behalf of the service provider which is performed after the date of the Initial Order."²⁴

26. The objective of section 11.01 is to prevent the unfairness that would result from requiring a person to continue to supply a debtor with goods or services during CCAA proceedings without that person being compensated for those goods, services or use.²⁵ This objective aligns with the broader objectives of the CCAA scheme, which is to facilitate reorganization under the CCAA to benefit the debtor company's creditors and to maximize creditor recovery in addition to benefitting the debtor.²⁶

27. Conifer's execution of its obligations under the CO&O to maintain and operate the jointly owned Judy Creek Gas Plant and continue processing of Razor's gas falls under the broad definition of "service" as it has been interpreted under section 11.01 of the CCAA. Razor continues to benefit from this service, which it initiates through sending gas to be processed, enabling Razor to produce

²¹ *Canadian National Railway Co v Canada*, [2014 SCC 40](#) at para 33 [TAB 12]; *Kent v Watts*, [2019 ABCA 326](#) at para 21 [TAB 13].

²² *Rizzo & Rizzo Shoes Ltd., (Re)*, [\[1998\] 1 SCR 27](#), [1998 CanLII 837](#) (SCC) at para 41 [TAB 14].

²³ Ruth Sullivan, *Sullivan on the Construction of Statutes*, 7th ed (Markham: LexisNexis, 2022) at § 17.01 [TAB 15].

²⁴ *Nortel Networks, (Re)*, [2009 CanLII 31600](#) (ONSC) at para 66 [TAB 16].

²⁵ *Royal Bank of Canada v Cow Harbour Construction Ltd*, [2012 ABQB 59](#) at para 16 [*Cow Harbour #2*] [TAB 17].

²⁶ Lloyd W Houlden, Geoffrey B Morawetz & Dr. Janis P Sarra, *Bankruptcy and Insolvency Law of Canada*, 4th ed (Toronto: Thomson Reuters Canada, 2009) (loose-leaf updated 2024) at §19.4, citing *Quintette Coal Ltd v Nippon Steel Corp*, (1990) 80 CBR (NS) 98 (BCSC) [TAB 18]; [9354-9186 Québec Inc v Callidus Capital Corp](#), [2020 SCC 10](#) at para 75 [*Callidus*] [TAB 19].

associated oil and reduce its post-filing arrears through set off. In addition to processing the gas, Razor and its stakeholders benefit from the continued maintenance of the Judy Creek Gas Plant which Razor has marketed its interest in and intends to sell.

28. In the Decision, the Court also held that for section 11.01 to be engaged, the service must be "of some utility to the debtor in conducting its business, even if the claimant is not a critical supplier under s 11.4."²⁷ With respect, this is incorrect. At common law, debtors are still required to make payment pursuant to section 11.01 even where the goods, service or use of leased or licensed property is not of utility to the debtor in conducting its business.²⁸ However, this is not the case here. Razor is benefitting from the maintenance of the Judy Creek Gas Plant and the processing of its gas.

(b) The Court erred in law in holding that to be a "service" pursuant to section 11.01, the service must be requested by the debtor company

29. In the Decision, the Court held that for section 11.01 to be engaged "in the least the services being claimed must be at the debtor's request."²⁹ The Court concluded that "Razor has not asked Conifer to provide services."³⁰ This is erroneous.

30. Razor has been and continues to be a willing party to the CO&O.³¹ As a party to the CO&O, Razor has expressly requested Conifer's services. Razor has not undertaken any efforts to disclaim their involvement in the CO&O, and, as such, continues to implicitly request these services. Razor also continues to benefit from Conifer's services as a result of the revenues being accrued and applied against their post-filing debt, and, in fact, is pursuing a transaction which includes the sale of its interest in the Judy Creek Gas Plant.³² The fact that Conifer may also derive some benefit in maintaining the asset which it also has an interest in, does not diminish the fact that Razor and its stakeholders similarly benefit from the maintenance of the asset, which it is marketing for the benefit of its stakeholders.

31. Finding, that Razor did not request the services provided, is contrary to the ordinary meaning of the term "service", which is not dependent upon an explicit request for the services from a debtor

²⁷ Decision, *supra* at para 14 [TAB 1].

²⁸ *Air Canada, (Re)*, (2003) 43 CBR (4th) 1, 2003 CanLII 36792 (ONCA) at paras 7 and 12 [*Air Canada*] [TAB 20]; *Budget Waste Inc., (Re)*, 2009 ABQB 752 at para 27 [TAB 21]; *Groupe Dynamite Inc., (Re)*, 2021 QCCS 3 at para 46 [TAB 22].

²⁹ Decision, *supra* at paras 13-14 [TAB 1].

³⁰ Decision, *supra* at paras 13-14 [TAB 1].

³¹ Wilkins Affidavit, *supra* at para 29 [APPENDIX 1].

³² Third Report of the Monitor, filed April 26, 2024, at para 20 [APPENDIX 4].

corporation. It also ignores that Razor is sending gas to be processed, and that the maintenance of the Judy Creek Gas Plant is for the benefit of all owners.

32. Moreover, if debtors were required to make an explicit request for a creditor's service in order for section 11.01 to be engaged, then all service providers who provide services on a contractual basis would be excluded from the protection provided by section 11.01 of the CCAA. This cannot have been what Parliament intended.

2. The Court erred in exercising its discretion by considering irrelevant and erroneous factors in refusing to grant a post-filing payment pursuant to section 11.01

33. Section 11 of the CCAA provides the Court with broad discretion to advance the purposes of the statute by making any order it considers "appropriate." Orders should respond to the circumstances of each case and "meet contemporary business and social needs" while balancing the interests of all stakeholders as fairly as possible in the circumstances.³³ The specific objective of section 11.01 is to prevent the unfairness that would result from requiring a creditor to continue to supply a debtor with goods or services during CCAA proceedings without that creditor being compensated for those services.³⁴

34. In rendering the Decision, the Court prioritized the possibility of a transaction over ensuring fairness to all of Razor's creditors. While certain partners and gas processors are receiving ongoing payment during the CCAA proceedings, Conifer is being forced to extend credit to its own detriment, when section 11.01 says it does not need to, with the only hope for payment being a potential transaction that Razor has advised may result in payment to Conifer.

35. In rendering the Decision, the Court found that requiring payment to Conifer would give Conifer an unfair advantage as against other creditors.³⁵ However, the Court has failed to recognize the unfair disadvantage Conifer currently faces, as compared to those certain partners who are receiving preferential payments.

36. Respectfully, if Conifer has provided post-filing services, it is not open to Razor to unilaterally deny payment on the basis that someone else might reimburse Conifer in the future. Nor should it be

³³ *Callidus*, *supra* at para 48, citing *Century Services Inc v Canada (Attorney General)*, [2010 SCC 60](#) [*Century*] [TAB 19]; *Century*, *supra* at para 70 [TAB 23]; *Sun Indalex Finance, LLC v United Steelworkers*, [2013 SCC 6](#) at para 205 [TAB 24].

³⁴ *Cow Harbour #2*, *supra*, at para 16 [TAB 17].

³⁵ Decision, *supra* at para 22 [TAB 1].

open to Razor to avoid its obligations by saying payment or use of Conifer's services are not necessary to stay in business, while at the same time using those services and marketing the fruits of them for sale as part of its process.

37. In considering whether Conifer provided services to Razor, it should also be irrelevant for the Court to consider whether Razor could pay for those services. The Decision emphasizes the Monitor's finding that Razor lacked the funds to pay Conifer. That was not a relevant consideration as to whether Conifer has provided services and was entitled to demand and receive payment.

38. While it is acknowledged that the exercise of discretion is typically given deference, that will not be the case where a judge has proceeded arbitrarily, on a wrong principle or failed to consider or properly apply the applicable test.³⁶

3. The Judge erred in fact and law by failing to consider and/or make a determination regarding Conifer's various relief sought.

39. On appeal, questions of mixed fact and law are reviewed on a standard of palpable and overriding error.³⁷

(a) The Court erred in failing to consider and make a determination regarding Conifer's entitlement to ongoing payment pursuant to the CO&O.

40. Courts are required to provide reasons to justify their decisions. The function of reasons is to justify and explain the result, tell the losing party why he or she lost, and facilitate meaningful appellate review.³⁸ Reasons are only sufficient where they are responsive to the live issues and key arguments of the case.³⁹ In the Decision, the learned Justice erred in fact and law by failing to provide reasons for his decision that Conifer was not entitled to post-filing payments or an associated charge despite the CO&O.

41. While Justice Mah refers to the CO&O in the background of Conifer's application and identifies Conifer's "unwieldy predicament" due to the CO&O, he ignores the interplay between the

³⁶ *Edmonton (City) v Alvarez & Marsal Canada Inc.*, [2019 ABCA 109](#) at para 2 [TAB 25].

³⁷ *Housen v Nikolaisen*, [2002 SCC 33](#) at para 36 [TAB 26]; *Third Eye Capital*, *supra*, at para 24 [TAB 10].

³⁸ *F.H. v McDougall*, [2008 SCC 53](#) at para 98 [*McDougall*] citing *R v Walker* [2008 SCC 34](#) at para 19 [*Walker*] [TAB 27].

³⁹ *McDougall*, *supra*, at para 99 citing *Walker*, *supra* at para 20 [TAB 27].

CO&O and section 11.01 of the CCAA, and he fails to consider that Razor's ongoing participation in the CO&O necessitates contemplation in his analysis of the scope and applicability of section 11.01.

42. Conifer submits that this failure to contemplate the CO&O in the context of post-filing payments or to provide reasons for any such decision is a palpable and overriding error.

(a) The Judge erred in failing to provide reasons in determining that a post-filing charge in favour of Conifer was inappropriate

43. The Court has the discretion to grant to Conifer a priority charge or, in the alternative, a constructive trust. Despite Conifer's application for this relief as an alternative, despite the Judge's outright denial of Conifer's application, no reasons or justification was provided for the denial of a priority charge on the filing amounts.

44. Courts have recognized that it may be appropriate, particularly where a debtor company is not in a position to immediately pay post-filing amounts, to impose terms under section 11 to protect a party from unreasonable risk associated with the advancement of money or credit through a payment guarantee or priority charge.⁴⁰

45. While the learned Justice outlined his discretion for refusing to make an order, all of the reasons are in contemplation of the application for immediate post-filing amounts; no contemplation has been given to the request for a priority charge. Such a charge would not result in the collapse of Razor's CCAA or the Corporate Transaction.⁴¹ Rather, it would simply provide a protection for Conifer that was consistent with Razor's articulated representations, upon which the Court relied.⁴²

D. The Appeal will not Unduly Hinder the Progress of the Action

46. This factor considers whether the delay due to the appeal process will unduly impede the ultimate resolution of the matter, considering the CCAA's purpose, the role of the supervising judge, the need for a timely and orderly resolution of the matter, and the effect on the interests of the parties pending a decision on appeal.⁴³ If CCAA proceedings can continue despite the proposed appeal, that will assist in a finding that there is no undue delay.⁴⁴

⁴⁰ *Air Canada*, *supra* at paras 24-25 [TAB 20]; *Gestion Éric Savard Inc.*, *supra* at paras 17-24 [TAB 3]; *Hydro-Québec v Fonderie Poitras ltée*, 2009 QCCA 1416, at paras 82-83 [TAB 28].

⁴¹ Decision, *supra* at paras 21-22 [TAB 1].

⁴² Decision, *supra* at para 21 [TAB 1].

⁴³ *Canadian Airlines*, *supra* at paras 41 and 42 [TAB 6].

⁴⁴ *Resort Funding LLC v Fairmont Resort Properties Ltd*, 2009 ABCA 265 at para 12 [TAB 29].

47. If leave to appeal is granted, the appeal process will not unduly impede the CCAA proceedings. The CCAA proceedings are continuing, and no delay will result.

48. Conifer continues to suffer undue prejudice as a result on the ongoing provision of services for which Razor is not paying. Further, Conifer is now also being asked to bear the costs associated with Razor's failure to pay another service provider, CNRL who is seeking to reallocate Razor's share of expenses. Given the ongoing harm to Conifer it will proceed expeditiously should leave be granted to mitigate against further damages.

IV. RELIEF SOUGHT

49. The Applicant respectfully asks that its Application for Permission to Appeal be granted; and

(a) Such further and other relief as this Honourable Court may deem just.

Calgary, Alberta

October 9, 2024

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Estimated Time for Argument: **BENNETT JONES LLP**

30 minutes

Per: *Keely Cameron*
Keely Cameron and Sarah Aaron, Counsel for the
Appellant/Applicant Conifer Energy Corporation

LIST OF APPENDICES AND AUTHORITIES

Appendices

Appendix 1 – Affidavit of Heather Wilkins affirmed September 3, 2024.

Appendix 2 – Fifth Report of the Monitor, filed July 18, 2024.

Appendix 3 – Affidavit of Doug Bailey sworn September 6, 2024.

Appendix 4 – Third Report of the Monitor, filed April 26, 2024.

Authorities

TAB

1. *Razor Energy Corp., (Re)*, [2024 ABKB 533](#).
2. *Blade Energy Services Corp., (Re)*, [2024 ABKB 100](#).
3. *Arrangement relatif à Gestion Éric Savard inc.*, [2019 QCCA 1434](#).
4. *Companies' Creditors Arrangement Act*, [RSC 1985, c C-36](#), as amended.
5. *Liberty Oil & Gas Ltd., Re*, [2003 ABCA 158](#).
6. *Resurgence Asset Management LLC v Canadian Airlines Corporation*, [2000 ABCA 149](#).
7. *Royal Bank of Canada v Cow Harbour Construction Ltd.*, [2010 ABQB 637](#).
8. *Ketch Resources Ltd. v Gauntlet Energy Corp.*, [2005 ABCA 357](#).
9. *Blue Range Resource Corp., (Re)*, [1999 ABCA 255](#).
10. *Third Eye Capital v B.E.S.T Active 365 Fund*, [2020 ABCA 160](#).
11. *Mudrick Capital Management LP v Lightstream Resources Ltd.*, [2016 ABCA 401](#).
12. *Canadian National Railway Co v Canada*, [2014 SCC 40](#).
13. *Kent v Watts*, [2019 ABCA 326](#).
14. *Rizzo & Rizzo Shoes Ltd., (Re)*, [\[1998\] 1 SCR 27, 1998 CanLII 837](#) (SCC).
15. Ruth Sullivan, *Sullivan on the Construction of Statutes*, 7th ed (Markham: LexisNexis, 2022).

16. *Nortel Networks Re.*, [2009, 55 CHR \(5th\) 68, 2009 CanLII 31600](#) (ONSC).
17. *Royal Bank of Canada v Cow Harbour Construction Ltd.*, [2012 ABQB 59](#).
18. Lloyd W Houlden, Geoffrey B Morawetz & Dr Janis P Sarra, *Bankruptcy and Insolvency Law of Canada*, 4th ed (Toronto: Thomson Reuters Canada, 2009) (loose-leaf updated 2024).
19. *9354-9186 Québec Inc v Callidus Capital Corp*, [2020 SCC 10](#).
20. *Air Canada, (Re)*, (2003), [43 CBR \(4th\) 1, 2003 CanLII 36792](#) (ONCA).
21. *Budget Waste Inc., (Re)*, [2009 ABQB 762](#).
22. *Groupe Dynamite Inc., (Re)*, [2021 QCCS 3](#).
23. *Century Services Inc v Canada (Attorney General)*, [2010 SCC 60](#).
24. *Sun Indalex Finance, LLC v United Steelworkers*, [2013 SCC 6](#).
25. *Edmonton (City) v Alvarez & Marsal Canada Inc.*, [2019 ABCA 109](#).
26. *Housen v Nikolaisen*, [2002 SCC 33](#).
27. *F.H. v McDougall*, [2008 SCC 53](#).
28. *Hydro-Québec v Fonderie Poitras ltée*, [2009 QCCA 1416](#).
29. *Resort Funding LLC v Fairmont Resort Properties Ltd*, [2009 ABCA 265](#).

Appendix 1

FORM 49
[RULE 13.19]

COURT FILE NO. 2401-02680

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

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 THE PLAN OF COMPROMISE OR
ARRANGEMENT OF RAZOR ENERGY CORP., RAZOR HOLDINGS
GP CORP., AND BLADE ENERGY SERVICES CORP.

DOCUMENT **AFFIDAVIT OF HEATHER WILKINS**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING
THIS DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Keely Cameron/Sarah Aaron
Telephone No.: 403-298-3324
Fax No.: 403-265-7219
Client File No.: 91565.9

AFFIDAVIT #3 OF HEATHER WILKINS

Affirmed September 3, 2024.

I, Heather Wilkins, of Calgary, Alberta, AFFIRM AND SAY THAT:

1. I am the Vice President Finance of Conifer Energy Inc. ("**Conifer**") and as such have personal knowledge of the matters described herein, except where stated to be based on information and belief, in which case I believe the same to be true.

2. Conifer is an energy production company with headquarters in Calgary, Alberta, specializing in the production and distribution of oil and natural gas predominantly in the areas of Judy Creek, Redwater and Greater Swan Hills. Conifer is a working interest partner in certain oil and gas assets in which Razor Energy Corp. ("**Razor**") also has an interest.
3. In addition to Affidavit #7 of Doug Bailey sworn May 29, 2024 ("**Seventh Bailey Affidavit**") and Fourth Report of the Monitor dated May 30, 2024 ("**Fourth Report**"), I have had an opportunity to review Affidavit #8 of Doug Bailey sworn July 10, 2024 ("**Eighth Bailey Affidavit**", collectively with the Seventh Bailey Affidavit, the "**Bailey Affidavits**") and Fifth Report of the Monitor dated July 12, 2024 ("**Fifth Report**", collectively with the Fourth Report, the "**Monitor's Reports**"). I swear this Affidavit in response to the Bailey Affidavits and Monitor's Reports, and in support of Conifer's Application for payment of Razor's outstanding post-filing payments as well as Razor's outstanding post-filing payments to Canadian Natural Resources Limited ("**CNRL**") that CNRL is now seeking to reallocate to Conifer.
4. Terms not otherwise defined herein, have the meaning provided in the Bailey Affidavits.

I. Judy Creek Gas Plant

5. Conifer and Razor both own interests in the Judy Creek Gas Conservation Plant ("**Judy Creek Gas Plant**") and the South Swan Hills Unit. Conifer is the operator of the Judy Creek Gas Plant and Razor is the operator of the South Swan Hills Unit.
6. For the purposes of the Judy Creek Gas Plant, a functional unit is a group equipment designed to work together for a specific function or purpose, such as gathering gas, gas compression, or distillation.
7. The Judy Creek Gas Plant consists of several functional units. Conifer, Razor, and eight other corporations have varying ownership interests in the functional units that make up the facility.

8. A critical component of the role of Operator is ensuring that the Owners pay amounts owing to ensure that there are sufficient funds available for the maintenance and operation of joint assets. The Operator in turn uses those funds to provide services to maintain the joint assets and provides services such as the processing of gas for the Owners.
9. In December 2023, after providing multiple notices to Razor in respect of its significant arrears of close to \$8 million and Conifer's concerns with the accumulation of further arrears should Razor continue to fail to meet its obligations, Conifer exercised its rights under section 602(b)(ii) of the Agreement for the Ownership and Operation of the Judy Creek Gas Plant ("**CO&O**") and stopped receiving and processing Razor's gas by physically closing and locking valves at 16 separate points within the South Swan Hills Gas Gathering System (the "**Locked Out Properties**").
10. On February 16, 2024, Razor brought an application as part of proposal proceedings under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended ("**BIA**"), for a declaration that Conifer was in breach of the stay of proceedings and for a direction that Conifer cease restricting Razor's access to the Judy Creek Gas Plant.
11. In support of its application, Razor filed Affidavit #1 of Doug Bailey, sworn on February 13, 2024. Mr. Bailey asserted that the application was necessary and urgent because Razor required the revenue that is derived from the Locked Out Properties to fund Razor's working capital requirements and its associated revenue that has comprised a material portion of Razor's cash flow. Razor asserted at the application that it required ongoing revenue from the Locked Out Properties to have sufficient cash flow to convert from a notice of intention under the *BIA* (the "**NOI**") to a proceeding pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
12. Given the low oil prices at the time, between \$73.86 US/bbl and \$76.61 US/bbl, and the significant Alberta Electric System Operator (**AESO**) pool power prices of between \$80.75 CAD/MWh to \$152.78 CAD/MWh, Conifer questioned Razor's cash flow statements and whether that much of its revenue came from the Locked Out Properties, as Judy Creek Gas Plant was operating at a loss.

13. The Honourable Justice Michael J. Lema issued his decision on February 21, 2024, directing Conifer to restore the system connections to the Locked Out Properties. Justice Lema also held that Conifer could rely on its contractual rights for post-filing payment obligations (the "**Decision**").
14. On this basis, Conifer reached out to Razor to discuss terms for providing access to the Judy Creek Gas Plant, which included providing payment in advance of services, in accordance with its contractual entitlement. No agreement was reached, despite the increase in oil prices to between \$78.62 US/bbl and \$84.39 US/bbl and the significant decrease in AESO pool power prices to between \$31.85 CAD/MWh and \$68.61 CAD/MWh.
15. Conifer filed notice to appeal the Decision on February 23, 2024. Razor has advised that it will not be participating in the appeal.

II. Value to the Estate

16. I understand that Razor's interest in the Judy Creek Gas Plant and South Swan Hills Unit form part of the assets for which Razor has found a purchaser. I further understand that the Alberta Energy Regulator and Orphan Well Association have taken the position that they will only support a transaction that involves the sale of all Razor's oil and gas assets. Therefore, any recovery by Razor's creditors will depend on the ability to sell or otherwise monetize these assets, with the Judy Creek Gas Plant being required to enable the production of the majority of Razor's oil assets.

III. Razor's Failure to Pay

17. Razor has refused to make any post-filing payments to Conifer on the basis that, as set out in the Fourth Report and Fifth Report, Razor disputes the charges, incorrectly asserting that Conifer is not processing Razor's gas from the South Swan Hills Assets.

(a) **Conifer Continues to Process Razor's Gas**

18. Conifer continues to process some of Razor's gas through the Judy Creek Gas Plant notwithstanding the disconnection of the Locked Out Properties and has billed Razor on or before the last day of each month for its proportionate share of the Joint Account.
19. Razor's production from its non-operated proportionate share of Swan Hills Unit No. 1 and Razor's 100% operated East Swan Hills Unit of around 830 e³m³ per month continues to flow through the Judy Creek Gas Plant through Swan Hills Unit No. 1 and Conifer's operated South Swan Hills Gas Gathering System ("**Razor's Processed Gas**"). This is about 1/3 of the volume of gas that Razor used to put through the Judy Creek Gas Plant before Conifer disconnected the Locked Out Properties.
20. Conifer cannot lock out Razor's Processed Gas without locking out the entire Swan Hills Unit No. 1 and all other production to the east and northeast of it, including Conifer and CNRL's volumes, as well as the volumes of Allied Energy II Corp. ("**Allied**") and Aspenleaf Energy Limited ("**Aspenleaf**"). Allied and Aspenleaf are two third-party, custom user gas partners whose gas flows into the Judy Creek Gas Plant via Swan Hills Unit No. 1 and is processed by Conifer at the Judy Creek Gas Plant pursuant to two Gas Handling Agreements executed on May 1, 2015 (the "**Non-Owner/Custom Users**"). Locking out these volumes may reduce the total gas flows to the Judy Creek Gas Plant to a level where it could not operate properly, forcing Conifer to lock out all of the Judy Creek Gas Plant production.

(b) **Conifer Has Not Agreed to Razor Withholding Payment**

21. Section 107 of the 1996 PASC Accounting Procedure (the "**Accounting Procedure**") that applies to the Operation of the Judy Creek Gas Plant does not permit a Non-Operator to withhold payment in the event of a dispute unless the Operator agrees. Attached hereto as **Exhibit "A"** is a true copy of the key provisions from the Accounting Procedure.
22. Further, section 102 of Appendix IV of Exhibit "A" to the CO&O provides that Owners must reimburse the Operator for variable operating costs on an interim basis in proportion

to their estimated throughput of inlet substances. Attached hereto as **Exhibit "B"** is a true copy of the provision from Appendix IV of Exhibit "A" to the CO&O.

23. At no point since filing its NOI has Razor submitted a dispute of its payment obligations under the CO&O. Conifer, as Operator, has also not agreed to payment being withheld while it continues to provide service to Razor. Conifer has continued to invoice Razor with little success in obtaining payment. Similarly, Razor has not paid to Conifer its share of variable operating costs in proportion to its throughput of inlet substances. Since Razor filed its NOI, Razor has only paid Conifer \$8.81 for post-filing amounts. To the best of my knowledge, this payment was for a lease rental.

(c) **Razor Appears to Have No Intention of Paying Conifer**

24. As identified in the Fifth Report, Razor has not contemplated allocating any of its cash to Conifer for Razor's Processed Gas and has separately identified that it does not intend to address any of the post-filing amounts owed to Conifer despite its stated commitment to paying other suppliers' and stakeholders' post-filing payments, including paying other parties' processing fees.
25. Conifer continues to process Razor's gas without receiving any payment from Razor, resulting in Conifer incurring significant and unnecessary liabilities.

(d) **The Outstanding Post-Filing Arrears**

26. In calculating the post-filing amounts, Conifer deducts Razor's revenues for Razor's Processed Gas from the outstanding post-filing amounts. However, Razor's revenue is insufficient to meet its financial obligations.
27. At the time of swearing this Affidavit, Razor owes to Conifer post-filing amounts of approximately \$1.89 million (the "**Post-Filing Arrears**"), with the following breakdown:
- (a) \$1.21 million in joint billings, after netting off approximately \$1.07 million in amounts owed to Razor, that include approximately:
- (i) \$2.15 million for Razor's share of costs incurred to operate the Judy Creek

Gas Plant;

- (ii) \$50,000.00 for Razor's share of net costs incurred to operate the Carson Creek North Beaverhill Lake Unit No. 1, in which Razor owns a 3% working interests;
 - (iii) \$80,000.00 for South Swan Hills Unit revenue for February and March 2024 that Razor allocated to Conifer on joint billings but has not been paid;
- (b) \$680,000.00 in operating deposit invoices billed to Razor under (i) the terms of the CO&O, representing Razor's share of 10% of the estimated annual costs to operate the Judy Creek Gas Plant, and (ii) under the terms of the Carson Creek North Beaverhill Lake Unit No. 1 Unit Operating Agreement, representing Razor's share of 1/12 of the estimated annual costs to operate the unit.

(e) **Razor's Use and Availability of Funds**

28. I have read the Fifth Report and the Cash Flow provided. I understand that Razor has been paying some processing costs, lease rentals and operating expenses. Other than the \$8.81 referenced in paragraph 23, no other amounts have been paid to Conifer. I understand from the Fifth Report that the basis for Razor's ongoing refusal to pay Conifer is that Razor has not received any production revenue and disputes some of these amounts on the basis that their South Swan Hills Unit production is locked out or otherwise not being processed at the Judy Creek Gas Plant, and particularly that their production is not flowing through Functional Unit C of the South Swan Hills Gas Gathering System.
29. However, Conifer has retained Razor's production revenue to offset the post-filing operating expenses that Razor owes to Conifer. This production revenue has not been sufficient to fully offset the Post-Filing Arrears. Further, Conifer continues to operate the South Swan Hills Gas Gathering System, and the Non-Owner/Custom Users continue to send volumes through it to the Judy Creek Gas Plant. Pursuant to the CO&O, for the purposes of allocating variable operating expenses, Razor is allocated third party volumes based on its ownership in that functional unit. This means that even where Razor's own

gas is not flowing through the line, its allocated volumes are still the majority of the volume, so it is still responsible for most of the operating expenses.

30. I also understand from the Eighth Bailey Affidavit, Razor sought an order approving each of the FutEra Transaction and the HWN Transaction (collectively, the "**Transactions**"). I understand from the Fifth Report that Razor does not intend to use any of the funds from the Transactions to address Razor's significant post-filing arrears owed to Conifer.
31. I further understand that there has been a delay with the conclusion of Razor's sales process. The associated bid deadline was March 12, 2024, with Razor and the Monitor soon after identifying the Corporate Transaction (as defined in Razor's materials) as being the highest and best available option.
32. However, Conifer has not received the full details of the Corporate Transaction or updates regarding the anticipated closing date despite the significant time since the bid deadline. Conifer is concerned about the ongoing delays in concluding the Sales and Investment Solicitation Process and that there does not appear to be a backup plan should the Corporate Transaction not proceed.
 - (f) **Razor's Failure to Pay other Stakeholders is being Reallocated to Conifer**
33. Razor's failure to pay other Owners pre- and post-filing amounts is resulting in these amounts being re-allocated to Conifer. As set out in CNRL's letter dated July 25, 2024, due to Razor's failure to pay its share of costs and expenses for Swan Hill Unit No. 1 and Swan Hills Gas Gathering System, for which CNRL is the Operator, CNRL is seeking to re-distribute Razor's costs to the other Owners. As identified in Appendix A to CNRL's letter, CNRL is seeking greater than \$4.15 million from Conifer to cover Razor's arrears from July 1, 2020, to be paid by Conifer within 30 days of the letter. Approximately \$360,000

of this is for post-filing amounts (the "CNRL Post-Filing Arrears") Attached hereto as **Exhibit "C"** is a true copy of CNRL's letter dated July 25, 2024, with enclosures.

(g) **Razor's Failure to Pay the Post-Filing Arrears is causing Significant Harm to Conifer**

34. As a result of Razor's ongoing refusal to pay post-filing amounts, Conifer continues to take on additional debt and liability which impacts its operations by requiring it to divert funds.
35. As identified above, Conifer is currently covering Razor's debts of approximately \$1.89 million in Post-Filing Arrears and is being requested to pay approximately \$360,000 in CNRL Post-Filing Arrears.
36. The Post-Filing Arrears will continue to increase daily. Conifer projects that it costs Conifer an average of approximately \$385,000 per month in joint interest billings to continue to process Razor's Processed Gas. After deducting approximately \$135,000 each month in Razor's revenues from Razor's Processed Gas, Conifer is left with an ongoing and increasing debt of approximately \$250,000 each month to process Razor's Processed Gas.
37. Unlike Conifer's disconnection of the Locked Out Properties, Conifer is unable to disconnect Razor's Processed Gas without also disconnecting the other Non-Operators/Owners who are complying with their contractual obligations. Such an action would result in Conifer contravening its obligations pursuant to the CO&O and the amount of volumes that would need to be shut-in would impact the functioning of the Judy Creek Processing Plant.
38. I make this Affidavit in support of Conifer's application to have this Honourable Court grant the relief described in Conifer's Application being served concurrently with this Affidavit, and for no other or improper purpose.

AFFIRMED BEFORE ME
at Calgary, Alberta, this
3rd day of September, 2024.



A Commissioner for Oaths
in and for Alberta

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HEATHER WILKINS

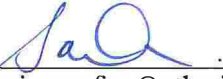
Sarah Aaron

Barrister & Solicitor

A Notary Public/Commissioner for Oaths
in and for the Province of Alberta

My Commission expires at the pleasure of
the Lieutenant Governor in Council

This is **Exhibit "A"** referred to in the Affidavit Heather Wilkins sworn before me this 3 day of September, 2024



A Commissioner for Oaths in and for Alberta

Sarah Aaron
Barrister & Solicitor
A Notary Public/Commissioner for Oaths
in and for the Province of Alberta
My Commission expires at the pleasure of
the Lieutenant Governor in Council

**PASC
PASC ACCOUNTING PROCEDURE**

Recommended by the Petroleum Accountants Society of Canada

EXHIBIT " "

Attached to and a part of _____

ARTICLE I - GENERAL PROVISIONS

101. Definitions

In this Accounting Procedure the following words and phrases shall have the following respective meanings, namely:

- (a) "Administrative Services" means support services such as accounting, purchasing, clerical, secretarial, and administrative whether On-Site or not.
- (b) "Affiliate" means, with respect to the relationship between corporations, that one of them is controlled by the other or that both of them are controlled by the same person, corporation or body politic; and for this purpose a corporation shall be deemed to be controlled by those persons, corporations or bodies politic who own or effectively control, other than by way of security only, sufficient voting shares of the corporation (whether directly through the ownership of shares of the corporation or indirectly through the ownership of shares of another corporation which owns shares of the corporation) to elect the majority of its board of directors, provided that a partnership which is a party and which is comprised solely of corporations which are Affiliates, as described above, shall be deemed to be an Affiliate of each such corporation and its other Affiliates.
- (c) "Agreement" means the Agreement to which this Accounting Procedure is attached.
- (d) "Alliance" means a contractual arrangement whereby a third party provides services to the Operator and which involves the sharing of employees and/or office spaces.

- (e) "Completion" means the installation in, on, or with respect to a well of all such production casing, tubing and wellhead equipment and all such other equipment and material necessary for the permanent preparation of the well for the taking of petroleum substances therefrom up to and including the outlet valve on the wellhead and includes, as necessary, the perforating, stimulating, treating, fracturing and swabbing of the well and the conduct of such production tests with respect to such well as are reasonably required to establish the initial production of the well.
- (f) "Construction Project" means construction, abandonment and reclamation of facilities or installation activity undertaken for the Joint Account, including each subsequent addition thereto or alteration thereof and Equipping wells but does not include Drilling. For purposes of Clause 302 of this Accounting Procedure, each addition or alteration hereunder will be considered as a separate Construction Project except that multiple projects of a similar nature being constructed under a single program will be consolidated as a single Construction Project. Replacement of Material in kind should be considered Operations and Maintenance unless the Owners agree otherwise.
- (g) "Controllable Material" means Material which at the time is so classified in the Controllable Material Price Catalogue as most recently recommended by the Petroleum Accountants Society of Canada.
- (h) "Drilling" means all activities with respect to the drilling of a well, including surface access and the construction of roads to and from the site of the well, preparation of the site of the well, the installation of all surface and intermediate casing respecting the well, logging, coring, capping, deepening, abandoning, reclaiming, plugging back, sidetracking, re-drilling, production testing of a well or the converting of a well to a source, injection, observation or producing well and including stratigraphic tests, and includes Completion but does not include Equipping, routine clean-out and pump or rod pulling operations which are Operations and Maintenance. Without limiting the generality of the foregoing this also includes environmental or socioeconomic studies required by governmental authorities as a prerequisite to the issuance of approval for the drilling of such well.
- (i) "Equipping" means the installation of such equipment as is required to produce petroleum substances from a completed well, including, without restricting the generality of the foregoing, a pump (or other artificial lift equipment), the installation of the flow lines and production tankage serving the well and, if necessary, a heater, dehydrator or other wellsite facility for the initial treatment of petroleum substances produced from the well to prepare such production for transportation to market, but specifically excludes any such equipment, installation, or facility that is (or is intended to be) a production facility.

- (j) "Exploration" means geological, geophysical and geochemical examinations and other investigations relating to geology, and any related environmental studies, other than Drilling, for the purpose of defining field limits or defining development well locations, conducted pursuant to the terms of the Agreement.
- (k) "Initial Construction" means construction conducted to place the Joint Property on stream to the date of initial operations.
- (l) "Joint Account" means the account showing, in Canadian funds, the charges paid and credits received as a result of Joint Operations and which are to be shared by the Owners in accordance with the terms of the Agreement.
- (m) "Joint Operations" means Exploration, Drilling, Completion, Equipping, Construction Projects, and Operations and Maintenance activities conducted pursuant to the terms of the Agreement.
- (n) "Joint Property" means all property subject to the Agreement.
- (o) "Material" means equipment or supplies acquired for use in the conduct of Joint Operations, which shall be classified as follows:
- (1) Condition "A" means that which is new;
 - (2) Condition "B" means that which has been used but is suitable for its original function without reconditioning;
 - (3) Condition "C" means that which has been used and would be suitable for its original function after reconditioning or that which cannot be reconditioned for, but has a limited service in, its original function;
 - (4) Condition "D" means that which is not suitable for its original function but is usable for another function;
 - (5) Condition "E" means that which is junk.
- (p) "New Price" means the current price of Condition "A" Material at the nearest reputable supply store where such Material is available or at the nearest receiving point to which such Material could be delivered, whichever is closer to the Joint Property. Tubular goods fifty and eight tenths millimetres (50.8 mm) or two inches (2 inches) in diameter and over shall be priced on a carload basis. Costs of special services to tubular goods, including transportation for that service, shall be included when determining the New Price. Any cash discount that may be allowed by a dealer shall not be deducted in determining the New Price.
- (q) "Non-Operator" means an Owner or a Party to the Agreement other than the Operator.

- (r) "Operations and Maintenance" means activities and Material required to directly operate, repair, and maintain wells and facilities on the Joint Property.
- (s) "Operator" means the Owner or Party designated pursuant to the Agreement to conduct Joint Operations.
- (t) "On-Site" means within the legal boundaries of the Joint Property or in the Production Office or in the general vicinity of the Joint Property when in direct conduct of Joint Operations.
- (u) "Owner" or "Party" means a person, partnership, corporation or other entity who is bound by the Agreement.
- (v) "Production Engineering" means facilities and operations engineering support for Operations and Maintenance. This includes the following activities:
 - (1) facilities engineering which includes evaluation, optimization, testing, and if required, modifications to wellsite facilities, pipelines, production satellites, oil treating facilities, gas treating facilities, production storage and custody transfer facilities, gas and natural gas liquid injection facilities, produced water handling and injection facilities, fresh water supply and handling facilities, gas compression facilities, controls and data acquisition, loss prevention, utilities, corrosion control and classification, environmental protection, quality control and assurance, operational problem resolution and process optimization and maintenance planning.
 - (2) operations engineering which includes preparation of expense recompletion programs, remedial workover and stimulation programs (acidizing, fracturing, slick line and wireline programs, coiled tubing, snubbing, nitrogen and carbon dioxide programs); preparation of well control and safety programs; design and optimization of artificial lift systems (dynamometer and fluid level analysis, well bore gradient and interpretation, water analysis, pressure, volume, temperature data, open and cased hole logs, absolute open flow data and the like required to evaluate well performance and workover candidate); and optimization of downhole completion assemblies excluding reservoir performance optimization but including tubing force analysis and packer design, wellhead design, sand control equipment and procedures, downhole equipment for quality assurance and quality control as well as metallurgical design for critical service, selection of workover candidate to rectify mechanical problems, design and implementation of field bottom hole pressure survey and interpretation of pressure data, and interpretation of data required for optimization of downhole completion assemblies.
- (w) "Production Office" means an office or a portion of an office, the primary function of which is to directly serve the daily Operations and Maintenance.

- (x) "Professional Consulting Services" means the services of a professional individual or firm employed to provide professional advice for the benefit of Joint Operations.
- (y) "Supervision" means the supervision of employees and/or contract labour directly employed On-Site in the conduct of Joint Operations.
- (z) "Technical Services" means the services providing specific engineering, geological or other professional skills such as, but not limited to those performed by engineers, geologists, geophysicists, technologists, environmentalists, safety specialists, and surface landmen required to handle specific operating conditions and problems for the benefit of Joint Operations which are not Production Engineering or Administrative Services.
- (aa) "Warehouse" means a building, pipe yard and/or storage point where idle equipment is stored.

102. Statement and Billings

The Operator shall bill each Non-Operator on or before the last day of each month for its proportionate share of the Joint Account for the preceding month. Such bills shall be accompanied by statements which identify the authority for expenditure, lease or facility, and all charges and credits, summarized in accordance with the Joint Interest Billing Exchange Chart of Accounts as most recently recommended by the Petroleum Accountants Society of Canada classifications, as a minimum.

In the event that production revenue settlement statements are submitted by the Operator, sufficient volumetric, pricing, and revenue information by product, production month and year shall be provided to enable each Non-Operator to correctly calculate and record its income and pay its obligations attached thereto.

103. Payments by Non-Operators

Unless otherwise provided in the Agreement, each Non-Operator shall pay all bills as rendered pursuant to Clause 102 of this Accounting Procedure within thirty (30) days of receipt thereof. When the due date falls on a weekend or a statutory holiday, the payment will be due on the preceding business day.

104. Capital Advances

Unless otherwise provided in the Agreement, the Operator may require each Non-Operator to advance its proportionate share of the estimated costs to be paid in the succeeding month for approved capital projects for Joint Operations. If the Operator so elects, it shall, not earlier than thirty (30) days prior to the first day of each month,

submit to each Non-Operator a reasonably detailed estimate of the costs proposed to be paid for the Joint Account in that month, with a request for payment by each Non-Operator of its proportionate share thereof. Each Non-Operator shall pay the Operator its proportionate share of the costs so estimated on or before the fifteenth (15th) day of the month for which the advance is requested or twenty (20) days after receipt of such estimate, whichever is later.

The Operator shall adjust each monthly billing to reflect advances received from the Non-Operator. Expenditures in excess of the advances shall be billed to and paid by each Non-Operator pursuant to Clause 103 of this Accounting Procedure. Amounts advanced by each Non-Operator in excess of actual costs shall be refunded by the Operator with the related billing for the month in which the advance was paid. Any such excess amounts not refunded will, at each Non-Operator's option, bear interest, payable by the Operator for the account of each Non-Operator, at the rate specified pursuant to Clause 106 of this Accounting Procedure from the day the billing is rendered pursuant to Clause 102 of this Accounting Procedure.

105. Operating Fund

Unless otherwise provided in the Agreement, the Operator may require each Non-Operator to advance for an operating fund its proportionate share of _____ percent (____%) of an approved forecast of expenditures for Operations and Maintenance for a year. The amount of this operating fund shall be increased or decreased annually in accordance with the current year's approved forecast of expenditures for Operations and Maintenance. This adjustment shall be done within ninety (90) days after the end of the previous year or when the current year's forecast is approved, whichever is later. Each Non-Operator shall remit such advance thirty (30) days after receipt of request for payment. After the establishment of the operating fund, each Non-Operator shall remit its share of actual costs in accordance with each month's billing, thus maintaining the operating fund intact.

106. Unpaid Accounts

Unless otherwise provided for in the Agreement, if payment of any bills or requests for advances is not made within the time stipulated in this Accounting Procedure, the unpaid amount may, at the Operator's option, bear interest payable by the Non-Operator and compounded monthly, for the account of the Operator at the rate of two percent (2%) per annum higher than the average prime rate charged by the principal Canadian Chartered bank used by the Operator, regardless of whether the Operator has notified such Non-Operator in advance of its intention to charge interest with respect to such unpaid amount, for the period in which such interest is payable.

.07. Adjustment and Right to Protest/Question Bills

- (a) A Non-Operator shall not withhold payment of any portion of a bill presented by the Operator due to protest or question related to such a bill unless there is a significant item under dispute and the Operator agrees to the Non-Operator withholding payment for the disputed item. Questions by the Non-Operator related to bills shall be responded to by the Operator within fourteen (14) days of receipt of the Non-Operator's query. In the event the Operator agrees that the questioned charges require adjustment, such adjustment shall be made by the Operator within thirty (30) days after such agreement to the adjustment. Notwithstanding the foregoing provisions, the Operator shall not unreasonably deny the Non-Operator's request to withhold payment for significant disputed charges which require adjustment and for which written notice has been received.
- (b) Subject to Subclause 107(c) hereof, payment of any bills or requests for advances shall not prejudice the right of the Non-Operator to protest or question the correctness thereof; provided however, all bills and statements rendered to the Non-Operator during any calendar year shall be presumed to be true and correct after the later of twenty-six (26) months following the end of such calendar year or any approved extensions pursuant to Subclause 108(b) of this Accounting Procedure, unless before the end of the said twenty-six (26) months the Non-Operator takes written exception thereto and makes claim on the Operator for an adjustment.
- (c) If within the period referred to in Subclause 107(b) hereof, the Non-Operator or the Operator establishes that an error in the books, accounts and records relating to Joint Operations existing in the said period also existed previous to the period, the Operator shall make the required adjustments retroactively either to the inception of the error or in a manner as approved by the Owners. The provisions of this Subclause are neither intended to extend the Non-Operator's audit rights to access books and records beyond the twenty-four (24) month audit limitation pursuant to Subclause 108(a) of this Accounting Procedure; nor is it intended that the Non-Operator request such an adjustment without being able to adequately support the request. The adjustments shall be subject to the Non-Operator's right to audit.
- (d) The provisions of this Clause shall not prevent adjustments resulting from physical inventory of Controllable Material pursuant to Article V of this Accounting Procedure.

This is **Exhibit "B"** referred to in the Affidavit Heather Wilkins sworn before me this 3 day of September, 2024



A Commissioner for Oaths in and for Alberta

Sarah Aaron

Barrister & Solicitor

A Notary Public/Commissioner for Oaths
in and for the Province of Alberta

My Commission expires at the pleasure of
the Lieutenant Governor in Council

APPENDIX IV of EXHIBIT "A"
to the
Agreement for the Ownership and Operation of the
Judy Creek Gas Plant

STRUCTURE AND SHARING OF
THE JOINT ACCOUNT


101. Structure of the Joint Account

The Joint Account for the Facility and all statements thereof furnished to the Owners shall be segregated by Functional Units and divided into Capital Costs and Operating Costs. Operating Costs shall be further subdivided into Fixed Operating Costs and Variable Operating Costs.

102. Sharing of Joint Account Amongst Owners

- (a) The Owners shall reimburse Operator for Capital Costs and Operating Costs as follows:
- (i) Capital Costs and Fixed Operating Costs - in proportion to their Functional Unit Participation.
 - (ii) Variable Operating Costs Monthly on an interim basis in proportion to their estimated throughput of Inlet Substances in the prior Year, which shall be subject to an annual adjustment pursuant to Subclause (d) hereof.
- (b) Operator shall distribute non-Owner fee income, as may be charged from time to time pursuant to Clause 104 of Appendix V to Exhibit "A" entitled "CAPACITY USAGE", to the Owners Monthly on an interim basis in proportion to their Functional Unit Participation and such distribution shall be subject to an annual adjustment pursuant to Subclause (d) hereof. For the purpose of allocating Operating Costs only, the volumes of non-Owner Inlet Substances, distributed to the Owners in proportion to their Functional Unit Participation, shall be considered as being a part of an Owner's Inlet Substances.
- (c) Operator shall distribute the Surplus Capacity usage charges, as may be charged from time to time pursuant to clause 103 of Appendix V to Exhibit "A" entitled "CAPACITY USAGE", to the Owners Monthly on an interim basis in proportion to their Functional Unit Participation and such distribution shall be subject to an annual adjustment pursuant to Subclause (d) hereof.
- (d) Operator shall, within one hundred and eighty (180) Days of the end of the preceding year adjust the distribution of the costs, fee income and Surplus Capacity usage charges made pursuant to Subclauses (a), (b) and (c) hereof to reflect the following basis for sharing:
- (i) Variable Operating Costs and non-Owner fee income (Operating Cost Component) shall be shared by the Owners on the basis of each Owner's volume of Inlet Substances.
 - (ii) Fixed Operating Costs shall be shared by the Owners on the basis of their Functional Unit Participation.
 - (iii) Surplus Capacity usage charges and non-Owner fee income (Capital Component) shall be shared by the Owners contributing Surplus Capacity on the basis of each such Owner's prorated share of Surplus Capacity so contributed.

This is **Exhibit "C"** referred to in the Affidavit Heather Wilkins sworn before me this 3 day of September, 2024



A Commissioner for Oaths in and for Alberta

Sarah Aaron
Barrister & Solicitor
A Notary Public/Commissioner for Oaths
in and for the Province of Alberta
My Commission expires at the pleasure of
the Lieutenant Governor in Council



Canadian Natural

July 25, 2024

Working Interest Owners
(Addressee List Attached)

**RE: Razor Energy Corp. ("Razor")
Payment Default – Contribution by Parties
Swan Hills Unit No. 1 Unit Operating Agreement ("Unit")
Swan Hills Gas Gathering System CO&O ("CO&O"),
(The Unit and CO&O are collectively called the "Agreements")
CNR Files: SWA.U1.5A; SWA.G1.5A**

Canadian Natural Resources Limited ("CNRL") has noted that Razor has failed to pay its share of costs and expenses in accordance with the terms of the Agreements. Razor has been served with multiple Default Notices since 2019 and effective February 28, 2024, Razor went into CCAA.

The outstanding balance owed by Razor from July 1, 2020 until June 30, 2024, currently stands at \$10,053,806.56 (the "**Current Unpaid Balance**"), the details of which are set out in the attached Appendix A.

Accordingly, pursuant to Article 1107, 1108 and 1804 of the Unit and Article 602 and 603 of the CO&O, Canadian Natural is seeking a pro-rata contribution of the Current Unpaid Balance from each of the other non-defaulting Parties. The amount owed by each party is set out in the attached Appendix A. The redistributed interest used to determine the amounts owed is outlined in Appendix B. Please note that the working interest changes charted in Appendix B are not revisions to the exhibits in the Agreements. The outstanding charges will be redistributed amongst the remaining parties based on the interest used when the invoice was sent.

For the Current Unpaid Balance and for future billings, CNRL as Operator, will be invoking its rights under Article 1105 of the Unit Operating Agreement to require the net payment due in 15 days. Please see Appendix A "Swan Hills Unit No. 1 Expenses and AFEs" for amount owed in 15 days.

Under the terms of the CO&O, CNRL as Operator, will be invoking its rights under Clause 103 of the PASC Accounting Procedure forming part of the CO&O, to require the net payment due in 30 days. Please see Appendix A "Swan Hills GGS FU 1, 2 & 3 Expenses and AFEs" for the amount owed in 30 days.

CNRL will not be generating a Joint Interest Billing invoice via Energylink, this letter represents the manual invoice. The back-up package for this manual invoice will be provided to all partners in an excel spreadsheet through email.

Canadian Natural Resources Limited

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We trust you will find the foregoing to be in order. Should you have any questions, please contact the undersigned.

Yours truly,

CANADIAN NATURAL RESOURCES LIMITED

Bruce Kohrs
Joint Venture Supervisor
Bruce.Kohrs@cnrl.com

.encl

Canadian Natural Resources Limited

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Canadian Natural

Swan Hills Unit No. 1/Swan Hills Gas Gathering CO&O Working Interest Owners Addressee List

439 Royalty Corp

600, 999 8 St SW
Calgary, AB, T2R 1J5
Attention: Joint Ventures

Arc Resources Ltd.

1200-308 4 Ave SW
Calgary, AB, T2P 0H7
Attention: Joint Ventures

Canadian Kenwood Company

730 2 Ave South, Suite 1400
Minneapolis, MN, 55402
Attention: Joint Ventures

Chair Holdings Limited

2 Bloor St West
Suite 3404 Box 17
Toronto, ON, M4W 3E2
Attention: Joint Ventures

Chair Resources Inc.

2 Bloor St West
Suite 3404 Box 17
Toronto, ON, M4W 3E2
Attention: Joint Ventures

Conifer Energy Inc.

2500-700 9 Ave SW
Calgary, AB, T2P 3V4
Attention: Joint Ventures

Jane Corporation

2711 Lionel Cr SW
Calgary, AB, T3E 6B1
Attention: Joint Ventures

New North Resources Ltd.

320-700 4 Ave SW
Calgary, AB, T2P 3J4
Attention: Joint Ventures

Razor Energy Corp.

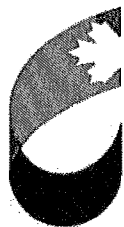
800, 500 5 Ave SW
Calgary, AB, T2P 3L5
Attention: Joint Ventures

Sabre Energy Partnership

800-1122 4 St SW
Calgary, AB, T2R 1M1
Attention: Joint Ventures

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Appendix A

Breakdown of Razor's unpaid balance associated with Swan Hills Unit No. 1 and Swan Hills Gas Gathering System

Company Name	BA #	80043452			80043453			80043454			80100144			Total CC	Total AFE	Grand Total
		Swan Hills GGS FU #1	Swan Hills GGS FU #2	Swan Hills GGS FU #3	Swan Hills GGS FU #1	Swan Hills GGS FU #2	Swan Hills GGS FU #3	Swan Hills GGS FU #1	Swan Hills GGS FU #2	Swan Hills GGS FU #3	AFES Swan Hills GGS FU #2	AFES Swan Hills GGS FU #3	AFES Swan Hills Unit No 1			
Canadian Natural Resources Limited	1	70,207.56	226,382.27	49,559.69	2,966,849.78	23,541.04	545.43	1,580,329.65	3,312,999.30	1,604,416.12	4,917,415.43					
439 Royalty Ltd.	567046	1,742.16	6,293.17	1,025.79	98,683.02	762.90	28.09	52,564.74	107,744.13	53,355.73	161,099.86					
ARC Resources Ltd.	10910	3,350.38	11,417.66	2,176.51	165,444.43	1,285.96	39.26	88,126.05	182,388.98	89,451.27	271,840.25					
Canadian Kenwood Company	12439	3,945.75	11,813.84	3,154.95	64,143.51	1,082.53	11.07	34,166.84	83,658.05	35,260.44	118,318.49					
Chair Holdings Limited	10306	394.34	1,416.30	234.56	21,713.28	170.52	6.18	11,565.85	23,758.48	11,742.55	35,501.03					
Chair Resources Inc.	31019	1,640.84	5,928.95	965.66	93,087.74	719.00	26.49	49,584.35	101,623.19	50,329.84	151,953.03					
Comifer Energy Inc.	876778	123,955.01	436,331.97	118,639.62	2,234,923.72	51,256.90	1,752.27	1,190,460.08	2,913,850.33	1,243,469.25	4,157,319.58					
Jane Corporation	884323	3,816.39	14,918.94	2,049.42	137,276.30	1,970.97	85.94	73,121.94	158,961.05	75,178.85	233,239.90					
New North Resources Ltd.	67727	118.35	431.96	68.34	7,045.97	53.00	2.00	3,753.12	7,664.62	3,808.13	11,472.75					
Sabre Energy Partnership	562947	(152.72)	(779.90)	-	(3,845.75)	-	-	424.62	(4,778.37)	424.62	(4,353.74)					
Total Redistribution		209,018.06	714,155.17	177,874.53	5,785,322.00	80,842.81	2,496.74	3,084,097.25	6,886,369.76	3,167,436.80	10,053,806.56					

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Appendix B

SWAN HILLS UNIT NO. 1

Owner	Working Interest	Redistributed Interest
Canadian Natural Resources Limited	31.8715426%	51.2482953%
439 Royalty Corp.	1.0601076%	1.7046149%
Arc Resources Ltd.	1.7772957%	2.8578276%
Canadian Kenwood Company	0.6890651%	1.1079919%
Chair Holdings Limited	0.2332560%	0.3750673%
Chair Resources Inc.	1.0000000%	1.6079641%
Conifer Energy Inc	24.0087878%	38.6052680%
Jane Corporation	1.4746980%	2.3712614%
New North Resources	0.0756917%	0.1217095%
Razor Energy Corp	37.8095555%	0.0000000%

Note: From July 1, 2020 to September 30, 2021, Sabre Energy Partnership had a 24.7056822% WIO which was acquired by Razor Energy Corp.

SWAN HILLS GAS GATHERING SYSTEM

Functional Unit #1: INLET PIPELINES & VRU'S

Owner	Capital %	Redistributed Capital %	OCBI %	Redistributed OCBI %
Canadian Natural Resources Limited	11.48824%	21.84577%	16.67846%	29.11952%
439 Royalty Corp.	0.59160%	1.12497%	0.54050%	0.94368%
Arc Resources Ltd.	0.82700%	1.57260%	0.91108%	1.59069%
Canadian Kenwood Company	0.23320%	0.44345%	0.76695%	1.33905%
Chair Holdings Limited	0.13020%	0.24759%	0.12081%	0.21093%
Chair Resources Inc.	0.55800%	1.06108%	0.50940%	0.88938%
Conifer Energy Inc	36.90746%	70.18238%	36.31470%	63.40316%
Jane Corporation	1.81003%	3.44191%	1.39640%	2.43803%
New North Resources	0.04220%	0.08025%	0.03755%	0.06556%
Razor Energy Corp	47.41207%	0.00000%	42.72415%	0.00000%

Note: From July 1, 2020 to September 30, 2021, Sabre Energy Partnership had a 27.56822% WIO and a 21.80491% OCBI which was acquired by Razor Energy Corp.

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Functional Unit #2: 03-18-067-10W5 COMPRESSOR STATION

Owner	Capital %	Redistributed Capital %	OCBI %	Redistributed OCBI %
Canadian Natural Resources Limited	11.48824%	21.84577%	16.67846%	29.11952%
439 Royalty Corp.	0.59160%	1.12497%	0.54050%	0.94368%
Arc Resources Ltd.	0.82700%	1.57260%	0.91108%	1.59069%
Canadian Kenwood Company	0.23320%	0.44345%	0.76695%	1.33905%
Chair Holdings Limited	0.13020%	0.24759%	0.12081%	0.21093%
Chair Resources Inc.	0.55800%	1.06108%	0.50940%	0.88938%
Conifer Energy Inc	36.90746%	70.18238%	36.31470%	63.40316%
Jane Corporation	1.81003%	3.44191%	1.39640%	2.43803%
New North Resources	0.04220%	0.08025%	0.03755%	0.06556%
Razor Energy Corp	47.41207%	0.00000%	42.72415%	0.00000%

Note: From July 1, 2020 to September 30, 2021, Sabre Energy Partnership had a 27.56822% WIO and a 21.80491% OCBI which was acquired by Razor Energy Corp.

Functional Unit #3: TRANSPORT PIPELINE

Owner	Capital %	Redistributed Capital %	OCBI %	Redistributed OCBI %
Canadian Natural Resources Limited	11.48824%	21.84577%	9.44557%	25.23134%
439 Royalty Corp.	0.59160%	1.12497%	0.30564%	0.81644%
Arc Resources Ltd.	0.82700%	1.57260%	0.51520%	1.37622%
Canadian Kenwood Company	0.23320%	0.44345%	0.44624%	1.19201%
Chair Holdings Limited	0.13020%	0.24759%	0.06831%	0.18247%
Chair Resources Inc.	0.55800%	1.06108%	0.28806%	0.76948%
Conifer Energy Inc	36.90746%	70.18238%	25.53946%	68.22191%
Jane Corporation	1.81003%	3.44191%	0.80615%	2.15342%
New North Resources	0.04220%	0.08025%	0.02123%	0.05671%
Razor Energy Corp	47.41207%	0.00000%	62.56414%	0.00000%

Note: From July 1, 2020 to September 30, 2021, Sabre Energy Partnership had a 27.56822% WIO and a 12.43883% OCBI which was acquired by Razor Energy Corp.

Canadian Natural Resources Limited

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Appendix 2



COURT FILE NUMBER 2401-02680

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

C70919

Jul 17, 2024

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

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF RAZOR ENERGY CORP.,
RAZOR HOLDINGS GP CORP., AND BLADE ENERGY
SERVICES CORP.

DOCUMENT

**FIFTH REPORT TO COURT OF FTI CONSULTING
CANADA INC., IN ITS CAPACITY AS MONITOR
OF RAZOR ENERGY CORP., RAZOR HOLDINGS
GP CORP., AND BLADE ENERGY SERVICES
CORP.**

July 12, 2024

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

MONITOR

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FIFTH REPORT OF THE MONITOR**TABLE OF CONTENTS**

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Appendix “A” – Sixth Cash Flow Forecast for the period ending October 13, 2024

INTRODUCTION

1. On January 30, 2024, Razor Energy Corp. (“**Razor Energy**”), Razor Holdings GP Corp. (“**Razor Holdings**”), Razor Royalties Limited Partnership (“**Razor Royalties LP**”), and Blade Energy Services Corp. (“**Blade**” and collectively with Razor Energy, Razor Holdings and Razor Royalties LP, the “**Razor Entities**”) filed Notices of Intention to Make a Proposal (“**NOI**”), pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3, as amended (the “**BIA**”). FTI Consulting Canada Inc. (“**FTI**”) consented to act as proposal trustee (the “**Proposal Trustee**”) in the NOI proceedings (the “**NOI Proceedings**”) of the Razor Entities.
2. On February 16, 2024, the Honourable Justice M.J. Lema of the Court of King’s Bench of Alberta (the “**Court**”) heard an application (the “**Supply Application**”) in respect of a dispute between Razor Energy and Conifer Energy Inc. (“**Conifer**”) regarding amongst other things, access to the Judy Creek Conversion Gas Plant (“**JCGP**”) in which Razor Energy holds an ownership interest, which has impacted the assets related to the Swan Hills Beaverhill Lake formation, including the South Swan Hills assets (the “**South Swan Hills Assets**”). The Reasons for Judgment (the “**Lema Decision**”) of Justice Lema were released on February 21, 2024. On February 23, 2024, Conifer filed notice to appeal the Lema Decision.
3. On February 28, 2024, (the “**Filing Date**”), Razor Energy, Razor Holdings, and Blade (collectively referred to as, the “**Applicants**”) sought and obtained an initial order (the “**Initial Order**”) from the Court granting, among other things, a continuation of the NOI Proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c C-36, as amended (the “**CCAA**” and the “**CCAA Proceedings**”).
4. The Initial Order granted, among other things, the following relief within the CCAA Proceedings:
 - (a) a stay of proceedings until March 8, 2024 (the “**Stay Period**”);

- (b) an extension of the stay of proceedings to Razor Royalties LP for the duration of the Stay Period;
 - (c) the appointment of FTI as monitor (FTI in such capacity, the “**Monitor**”) of the Razor Entities;
 - (d) approval of the sale and investment solicitation process (the “**SISP**”);
 - (e) approval of the engagement letter dated January 25, 2024 (the “**Sales Agent Agreement**”) between Razor Energy and Peters & Co. Limited (the “**Sales Agent**”);
 - (f) a sealing order in respect of an unredacted copy of the Sales Agent Agreement; and
 - (g) approval of the priority and amount of the charges in favour of: (i) the Monitor, the Monitor’s counsel, and the Applicants’ legal counsel (the “**Administration Charge**”) in the amount of \$100,000; and (ii) the Applicants’ obligations to indemnify the Applicants’ directors and officers for liabilities they may incur after the Filing Date (the “**Directors’ Charge**”) in the amount of \$335,000 (together, the “**Initial Order Charges**”).
5. On March 6, 2024 (the “**Comeback Hearing**”), the Applicants sought and obtained an Amended and Restated Initial Order from the Court (the “**ARIO**”). The ARIO granted, among other things, the following relief within the CCAA Proceedings:
- (a) an extension of the Stay Period up to and including March 29, 2024;
 - (b) confirmed the quantum and priority of the Initial Order Charges as provided in the Initial Order;

- (c) authorized the Applicants' decision to incur no further expenses during the stay of proceedings, in relation to certain securities or capital markets reporting obligations;
 - (d) relieved Razor Energy of any obligations to call or hold its next annual general meeting of shareholders until further Order of this Court; and
 - (e) a sealing order in respect of the desktop appraisal conducted by McDougall Auctioneers Ltd. of the equipment in the possession of Blade.
6. On March 25, 2024, the Applicants sought and obtained an Order from the Court (the "**March 25 Order**"). The March 25 Order granted, among other things, an extension of the Stay Period up to and including May 3, 2024.
 7. On April 10, 2024, Justice M.E. Burns of this Court heard an application of Alberta Petroleum Marketing Commission ("**APMC**") with respect to outstanding pre-filing royalties (the "**January Royalty Amounts**"). To date, no decision on the January Royalty Amounts has been rendered.
 8. On May 3, 2024, the Applicants sought and obtained an Order from the Court (the "**May 3 Order**"). The May 3 Order granted, among other things, an extension of the Stay Period up to and including June 7, 2024.
 9. On June 6, 2024, the Applicants sought and obtained an Order from the Court (the "**June 6 Order**"). The June 6 Order granted, among other things, an extension of the Stay Period up to and including August 2, 2024.
 10. This report (this "**Report**") is being delivered in connection with the Applicants' application currently scheduled to be heard on July 17, 2024 (the "**July 17 Application**"), seeking from the Court, among other things:

- (a) an Order extending the Stay Period, up to and including October 13, 2024, or such other date as this Honourable Court may order;
- (b) an Order (the "**HWN Approval and Vesting Order**") approving the sale transaction (the "**HWN Transaction**") contemplated by an Asset Purchase and Sale Agreement, dated June 27, 2024 (the "**APA**"), between Razor Energy, as vendor, and HWN Energy Ltd., as purchaser (the "**Purchaser**"), and the sale, transfer, and assignment of the properties, assets, lands, fixtures, improvements, attachments, agreements, and chattels, as identified in the APA (collectively referred to as, the "**Purchased Assets**") and assigning and vesting all of the right, title, and interest, of Razor Energy, in the Purchased Assets, in the Purchaser, free and clear of any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts, reservations of ownership, privileges, interests, assignments, actions, judgements, executions, levies, taxes, linear and non linear municipal taxes, writs of enforcement, charges, or other claims other than the Permitted Encumbrances (as contemplated and defined in the APA). An unredacted copy of the APA is attached to the Eighth Bailey Affidavit marked as **Confidential Exhibit "1"** (the "**HWN Confidential Exhibit**");

- (c) an Order (the "**FutEra Approval and Vesting Order**") (a) authorizing the execution and delivery, by Razor Energy, of the irrevocable Share Transfer Power of Attorney dated effective as of July 17, 2024 (the "**FutEra Transactional Document**"), to be granted by Razor Energy, to and in favour of FutEra Power Corp. ("**FutEra**"); and, (b) approving the transaction (collectively, the "**FutEra Transaction**") contemplated by the FutEra Transactional Document, and the sale, transfer, and assignment of the 210,000 common shares of the equity of FutEra, currently owned by Razor Energy, (collectively, the "**Shares**"), and assigning and vesting all of the right, title, and interest of Razor Energy, in the Shares, to Seibu Investments Ltd. (the "**Share Purchaser**"), free and clear of any and all Encumbrances. An unredacted copy of the FutEra Transactional Document is attached to the Eighth Bailey Affidavit marked as **Confidential Exhibit "2"** (the "**FutEra Confidential Exhibit**", the HWN Confidential Exhibit, the FutEra Confidential Exhibit, and the FutEra Valuation Information Confidential Exhibit (as defined in the Eighth Bailey Affidavit), are collectively referred to as, the "**Confidential Exhibits**"); and
- (d) an Order (the "**Restricted Court Access Order**") sealing the Confidential Exhibits, on the Court file.
11. This Report should be read in conjunction with Affidavit #8 of Doug Bailey sworn on July 10, 2024 (the "**Eighth Bailey Affidavit**") and Supplemental Affidavit to the Eighth Bailey Affidavit sworn on July 11, 2024 (the "**Supplemental Eighth Bailey Affidavit**"), which provides further background information concerning the July 17 Application.
12. Electronic copies of all materials filed by the Razor Entities in connection with the July 17 Application and other materials are available on the Monitor's website at: <http://cfcanada.fticonsulting.com/razor-blade> (the "**Website**").

PURPOSE

13. The Monitor has reviewed the application materials filed by the Applicants in support of the July 17 Application. The purpose of this Report is to provide the Court and the Razor Entities' stakeholders with information and the Monitor's comments and recommendations with respect to the following:
- (a) the activities of the Monitor since its report dated May 30, 2024 (the "**Fourth Monitor's Report**");
 - (b) an update on the status of the SISP;
 - (c) the terms of the APA and proposed HWN Transaction;
 - (d) the proposed FutEra Transaction;
 - (e) the budget to actual cash flow results for the six-week period ending July 7, 2024;
 - (f) an overview of the Razor Entities' revised cash flow forecast (the "**Sixth Cash Flow Forecast**") for the fourteen-week period ending October 13, 2024 (the "**Forecast Period**") as well as the key assumptions which the Sixth Cash Flow Forecast are based on; and
 - (g) the Monitor's recommendations with respect to the relief requested at the July 17 Application.

TERMS OF REFERENCE

14. In preparing this Report, the Monitor has relied upon unaudited financial information, other information available to the Monitor and, where appropriate, the Razor Entities' books and records and discussions with various parties (collectively, the "**Information**").

15. Except as described in this Report:
- (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*;
 - (b) the Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*; and
 - (c) future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
16. The Monitor has prepared this Report in connection with the July 17 Application. This Report should not be relied on for other purposes.
17. Information and advice described in this Report that has been provided to the Monitor by its legal counsel, Blake, Cassels & Graydon LLP (the “**Monitor’s Counsel**”), was provided to assist the Monitor in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
18. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms used but not defined herein are given the meaning ascribed to them in the Eighth Bailey Affidavit.

BACKGROUND

19. Detailed information with respect to the Razor Entities' business, operations and causes of financial difficulty are described in the Affidavit of Doug Bailey sworn on February 20, 2024.
20. Additional background information on the Razor Entities and the CCAA Proceedings is available on the Monitor's Website.

ACTIVITIES OF THE MONITOR

21. The Monitor's activities since the date of the Fourth Monitor's Report include the following:
 - (a) monitoring the Razor Entities' finances (including cash flows) and operations;
 - (b) participating in discussions with Razor Energy, the Sales Agent and other stakeholders in respect of the SISP, including the Corporate Transaction (defined below), and attending to certain due diligence requests in respect of same;
 - (c) reviewing the APA in connection to the proposed HWN Transaction;
 - (d) reviewing the transaction materials in connection to the proposed FutEra Transaction;
 - (e) consulting with key stakeholders including, the Alberta Energy Regulator ("AER") and Orphan Well Association ("OWA") with respect to the SISP;
 - (f) assisting the Razor Entities in preparing the Sixth Cash Flow Forecast;
 - (g) responding to inquiries from suppliers and creditors who contacted the Monitor in connection with these CCAA Proceedings; and

- (h) preparing this Report.

SALE AND INVESTMENT SOLICITATION PROCESS

22. A summary of the SISP undertaken by the Applicants is included in the Second Monitor's Report dated March 18, 2024. The Monitor has provided updates on the SISP in its Third Report dated April 25, 2024 and its Fourth Report dated May 30, 2024. As at the date of this Report, the following additional activities have been undertaken, among other things, regarding the SISP:

- (a) reviewing the terms of the APA, negotiated and finalized by Razor Energy for the sale of the Purchased Assets, subject to approval by this Court;
- (b) continuing to support negotiations with key stakeholders including Canadian Natural Resources Limited ("CNRL"), Paramount Resources Ltd. ("**Paramount**"), AER and OWA, various municipalities, and the prospective purchaser, concerning a letter of intent (the "**LOI**") received as a result of the SISP that contemplates a corporate transaction (the "**Corporate Transaction**") wherein the prospective purchaser would acquire all of Razor Energy's issued and outstanding shares, by way of a reverse vesting order, which would enable the Razor Energy to continue its operations, as a private company and as a going concern, with the corresponding resumption and payment, of Razor Energy's post-closing obligations to creditors and counterparties, together with the continuation and assumption of all abandonment and reclamation obligations;
- (c) assisting with due diligence pertaining to the Corporate Transaction, including discussions with Razor Energy and its counsel regarding the matters related to key stakeholders and their information requests; and
- (d) reviewing the terms of the FutEra Transaction.

HWN TRANSACTION

23. The HWN Transaction contemplates an asset sale for certain minor and non-operated assets which have been carved out of the Corporate Transaction. The Purchaser is the current operator of the Purchased Assets to be sold pursuant to the APA, and Razor Energy is the sole joint venture partner with respect to the Purchased Assets. As a result, the Purchaser is the logical buyer for the Purchased Assets.
24. The material terms of the APA include, among other things:
- (a) that the Purchased Assets consist of Razor Energy's interests in certain specified, non-operated petroleum and natural gas assets located in the Kaybob area, as more particularly described in Schedule "A" to the APA;
 - (b) a fixed purchase price, in a specific amount (the "**Purchase Price**"), to be paid in cash, subject to certain adjustments set out in the APA;
 - (c) a deposit paid by the Purchaser to Razor Energy's counsel, in escrow, in the amount of ten percent of the Purchase Price;
 - (d) the HWN Transaction is on an "as is, where is" basis; and
 - (e) the HWN Transaction is scheduled to close five (5) business days following the date on which all conditions are satisfied or waived.
25. The APA is conditional on, among other things, Court approval.

The Monitor's Comments on the HWN Transaction

26. The proposed HWN Transaction provides funding needed to advance the Corporate Transaction which represents a more substantial component of the Razor Entities' business operations.
27. The Sales Agent has completed an assessment of the financial capacity of the Purchaser, to fund the APA, and is satisfied that the Purchaser has sufficient capital to close the HWN Transaction.
28. The potential Corporate Transaction placed minimal value on the Purchased Assets contemplated in the APA and the HWN Transaction is anticipated to increase overall recoveries without impacting the ability to advance the Corporate Transaction.
29. The SISP was a broad process which fully canvassed the market for potential purchasers and, accordingly, the Monitor is satisfied that the Company's assets were adequately exposed to the market. The SISP was fair and transparent and provided all participants with equal access to information and the opportunity to submit an offer or proposal with respect to the Purchased Assets.
30. The HWN Transaction is the only transaction that is being proposed or advanced in respect of the Purchased Assets and, therefore, provides the highest and best recovery available in the circumstances.
31. For the reasons outlined above, the Monitor is of the view that the HWN Transaction offers fair value in the circumstances. From an economic standpoint, the Monitor recommends that this Honourable Court approve the HWN Transaction.

FUTERA TRANSACTION

32. FutEra is incorporated as a special purpose vehicle to house power generation assets and liabilities in connection with a geothermal power project. Razor Energy holds 210,000 common shares of FutEra which represents an approximately 1.81% equity interest in FutEra as at July 5, 2024.
33. The two other shareholders of FutEra consist of the Share Purchaser holding 97.72%, which is a wholly-owned subsidiary of AIMCO, and Doug Bailey holding 0.471% which relates to the exercise of employee options in July 2023.
34. The Shares are subject to the terms of the Unanimous Shareholder Agreement between the shareholders of FutEra, made effective June 16, 2023 the (“**FutEra USA**”). The terms of the FutEra USA include, among other things, a right of first refusal clause affecting the Shares.

The Monitor’s Comments on the FutEra Transaction

35. The Shares were not directly marketed by the Sales Agent as part of the SISP. Therefore, the Monitor completed additional analysis to determine if the value being offered to Razor Energy for the Shares pursuant to the proposed FutEra Transaction is reasonable.

36. The Monitor is aware that FutEra completed a recent equity raise in January 2024, which was completed at a valuation consistent with the value being offered to Razor Energy for the Shares (considering dilution of the shares from the completed equity raise). At the time of the equity raise in January 2024, FutEra management prepared an internal valuation (“**Internal Valuation**”) to support the equity raise. The Internal Valuation was reviewed by an independent third party valuator who prepared a report (“**Valuator Review Report**”) to the board of directors of FutEra in respect of the Internal Valuation. The Monitor notes that the Valuator Review Report was not a complete independent valuation opining on the value of FutEra; rather, it was a review of the methodology and approach used to prepare the Internal Valuation. The Valuator Review Report agreed with the overall methodology adopted by FutEra management to complete the Internal Valuation, but noted that certain risk adjustments were likely necessary.
37. The Monitor obtained and reviewed a copy of the Internal Valuation and the Valuator Review Report and agrees with the conclusions in the Valuator Review Report. The Monitor notes that the FutEra Transaction is beneficial to Razor Energy’s estate and its stakeholders as the value being offered pursuant to the proposed FutEra Transaction for the Shares is consistent with the Internal Valuation completed in conjunction with the January 2024.

38. Although the January 2024 equity raise was relatively current the Monitor requested additional financial information to determine if there has been any fundamental change to FutEra's business or financial results since January 2024 that would materially change its value. The Monitor received and reviewed additional information from FutEra which included: unaudited Q1 financial statements, monthly financial information for May 2024, the FutEra unanimous shareholder agreement dated June 16, 2023 (the "FutEra USA"), and updated discounted cash flow and share price valuation, in the same format as the January Internal Valuation, with corresponding assumptions. In the Monitor's review of these documents, it determined that there has not been any fundamental change to FutEra's business or financial results since January 2024 that would materially change its value and, accordingly, is of the view that using the January 2024 equity raise value to price the Shares in the proposed FutEra Transaction is reasonable.
39. Razor Energy has discussed the sale of the Shares with the prospective purchaser under the Corporate Transaction. The Monitor understands that the Corporate Transaction prospective purchaser has no objection to the sale of the Shares and, therefore, they can be sold without impact on the advancement of the Corporate Transaction. The purchase price for the Shares will represent a dollar-for-dollar positive adjustment in the consideration contemplated to be received for the Corporate Transaction. The prospective purchaser under the Corporate Transaction is supportive of the FutEra Transaction.
40. FutEra is a privately held entity and the market for potentially interested parties is limited due to the Shares being subject to the terms of the FutEra USA, which includes a right of first refusal.
41. The FutEra Transaction provides funding to advance the Corporate Transaction.
42. For the reasons outlined above, the Monitor is of the view that the FutEra Transaction offers fair value in the circumstances. From an economic standpoint, the Monitor recommends that this Honourable Court approve the FutEra Transaction.

USE OF PROCEEDS

43. The Monitor understands that Razor Entities intend to use the proceeds from the FutEra Transaction and the HWN Transaction to fund ongoing operations and restructuring efforts. The Razor Entities do not have access to interim financing and, therefore, these funds are necessary to continue ongoing operations as the Razor Entities continue to progress the Corporate Transaction. Without access to these funds the Razor Entities would likely have to cease operations which would prevent the Corporate Transaction from advancing and likely result in a bankruptcy of the Razor Entities. Accordingly, the Monitor supports the intended use of proceeds.

BUDGET TO ACTUAL RESULTS

44. The Razor Entities, in consultation with the Monitor, prepared the cash flow statement (the “**Fifth Cash Flow Statement**”) which was appended to the Fourth Monitor’s Report.
45. Actual cash flows as compared to those contained in the Fifth Cash Flow Statement for the six-week period of May 27, 2024, to July 7, 2024, are summarized below.

The Razor Entities			
For the 6 week period of May 27, 2024 to July 7, 2024			
Budget to Actual Results			
(C\$ 000s)	Actual	Budget	Variance
Receipts			
Net production revenue	\$ 2,015	\$ 2,053	\$ (38)
Other receipts	141	190	(49)
Total - Receipts	2,155	2,243	(87)
Disbursements			
Operating expenses	(1,811)	(2,365)	554
Transportation and processing costs	(38)	(150)	112
Lease rentals	(40)	(37)	(3)
Insurance	(372)	(382)	9
Payroll	(516)	(595)	79
Professional & sales agent fees	(230)	(413)	183
G&A expense	(283)	(263)	(20)
Total - Disbursements	(3,291)	(4,205)	914
Net cash flow	(1,136)	(1,962)	827
Opening cash balance	2,730	2,730	-
Ending cash balance	\$ 1,594	\$ 768	\$ 827

46. The variances in actual receipts and disbursements are primarily due to the following:
- Net production revenue – negative variance of approximately \$38,000 due to slightly lower than anticipated pricing;
 - Other receipts – negative variance of approximately \$49,000 due to lower than anticipated miscellaneous other receipts such as third-party road use fees;
 - Operating expenses – positive variance of approximately \$554,000 primarily due to timing variances expected to reverse in future periods related to payments to suppliers;

- (d) Transportation and processing costs – positive variance of approximately \$112,000 a portion of which is timing related to payment of processing costs;
 - (e) Lease rentals – substantially in line with forecast and relates to payment of crown rentals only;
 - (f) Insurance – substantially in line with forecast;
 - (g) Payroll – positive variance of \$79,000 related to reduction in corporate headcount;
 - (h) Professional & Sales Agent fees – positive variance of \$183,000 due partially to timing of receipt and payment of invoices, and expected to reverse in future periods. Overall, professional fees are substantially in line with forecast; and
 - (i) G&A expense – negative variance of \$20,000 due to the retention of contractors resulting from reduction in corporate headcount.
47. The cash balance at the end of the period is approximately \$1.6 million which is higher than previously forecast by approximately \$827,000 and is primarily driven by timing variances related to operating expenses and professional fees over the period.

CASH FLOW FORECAST

48. The Razor Entities, in consultation with the Monitor, have prepared the Sixth Cash Flow Forecast to estimate liquidity for the Forecast Period, a summary of which is presented below and attached hereto as Appendix “A”.

The Razor Entities	
For the 14 week period of July 8, 2024 to October 13, 2024	
Cash Flow Forecast	14 Week
(C\$ 000s)	Total
Receipts	
Net production revenue	\$ 5,709
Other receipts	1,460
Total - Receipts	7,169
Disbursements	
Operating expenses	(5,685)
Transportation and processing costs	(288)
Lease rentals	(156)
Insurance	(50)
Payroll	(1,050)
Professional & sales agent fees	(510)
G&A expense	(814)
Total - Disbursements	(8,552)
Net cash flow	(1,383)
Opening cash balance	1,594
Ending cash balance	\$ 211

49. The Sixth Cash Flow Forecast projects a negative net cashflow of approximately \$1.4 million over the Forecast Period, which includes the following assumptions:
- (a) Net production revenue receipts are derived from petroleum and natural gas sales based on forecast production and third-party pricing. Crown royalties are paid in kind and included within this amount;
 - (b) Other receipts consist of the proceeds from the HWN Transaction, third-party road use fees, partner joint interest billings, monthly payments from Swan Hills Geothermal Power Corp. to settle an outstanding receivable owing to Blade, and other miscellaneous collections;

- (c) Operating expenses based on critical payments to suppliers to maintain the operation of oil and natural gas wells. Payments to the AER and OWA for annual administration fees and orphan fund levy are not included within the Forecast Period. Razor Energy does not dispute the amounts;
 - (d) Transportation and processing costs associated with the transportation of petroleum and natural gas production from well head to market. This does not include payments to Conifer related to the JCGP as Razor Energy is disputing these charges given Conifer has not processed gas from the South Swan Hills Assets;
 - (e) Lease rentals are based on the annual budget and exclude freehold rentals;
 - (f) Insurance is based on current premium installments;
 - (g) Payroll is based on payroll registers and includes costs related to employees including payroll, benefits, and payroll remittances;
 - (h) Professional & Sales Agent fees are costs and disbursements of the Monitor, the Monitor's Counsel, the Razor Entities' legal counsel, and the Sales Agent, including payment of arrears for prior periods; and
 - (i) G&A expense includes overhead costs such as rent and other similar expenses, in addition to corporate contractors and the margin call expense on hedging contracts.
50. The Monitor is aware that certain joint venture parties, including Conifer and CNRL have not been paid post-filing obligations and Razor Energy has not received any production revenue from those assets. These amounts relate to properties where Razor is a non-operated working interest partner and Razor Energy has disputed certain of these charges. The Sixth Cash Flow Forecast does not contemplate payment of these amounts.

The Monitor's Comments on the Cash Flow Forecast

51. Pursuant to section 23(1)(b) of the CCAA and in accordance with the Canadian Association of Insolvency and Restructuring Professionals Standard of Practice 09-1, the Monitor hereby reports as follows:

- (a) the Sixth Cash Flow Forecast has been prepared by management of the Razor Entities, for the purpose described in the notes to the Sixth Cash Flow Forecast, using probable and hypothetical assumptions set out therein;
- (b) the Monitor's review of the Sixth Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to the Information supplied to it by the Razor Entities. Since hypothetical assumptions need not be supported, the Monitor's procedures were limited to evaluating whether they were consistent with the purpose of the Sixth Cash Flow Forecast, and there are no material assumptions contained therein which seem unreasonable in the circumstances. The Monitor has also reviewed the support provided by management for the probable assumptions, and the preparation and presentation of the Sixth Cash Flow Forecast;
- (c) based on the Monitor's review, as at the date of this Report, nothing has come to its attention that causes it to believe that, in all material respects:
 - (i) the hypothetical assumptions are not consistent with the purpose of the Sixth Cash Flow Forecast;
 - (ii) the probable assumptions developed by management are not supported and consistent with the plan of the Razor Entities or do not provide a reasonable basis for the Sixth Cash Flow Forecast, given the hypothetical assumptions;or

- (iii) the Sixth Cash Flow Forecast does not reflect the probable and hypothetical assumptions;
- (d) since the Sixth Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Sixth Cash Flow Forecast will be achieved. The Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information present in this Report, or relied upon by the Monitor in preparing this Report; and
- (e) the Sixth Cash Flow Forecast has been prepared solely for the purpose described in the notes to the Sixth Cash Flow Forecast and readers are cautioned that it may not be appropriate for other purposes.

REQUEST TO EXTEND THE STAY OF PROCEEDINGS

52. The Monitor has considered the Applicants' request to extend the Stay Period up to and including October 13, 2024, and has the following comments:
- (a) while certain creditors have not and may not be paid, during the proposed extension of the Stay Period, for certain post-filing obligations, the proposed extension of the Stay Period will allow the Razor Entities to advance the Corporate Transaction, which, if successful would preserve the most value to all stakeholders and avoid licensed assets being turned over to the OWA;
 - (b) if the proposed extension of the Stay Period is not granted, parties may exercise self-help remedies which would erode any potential value that could have been preserved by the Corporate Transaction and would be detrimental to the stakeholders of the Razor Entities;

- (c) the additional time will allow for Razor Energy to close the proposed HWN Transaction and FutEra Transaction which will provide additional funds to advance the Corporate Transaction;
- (d) the Sixth Cash Flow Forecast indicates that the Razor Entities will have sufficient liquidity to continue to fund critical operations and the cost of these CCAA Proceedings for the duration of the proposed extension of the Stay Period; and
- (e) the Applicants and their management have and continue to act in good faith and with due diligence in taking steps to facilitate a restructuring of the business.

RECOMMENDATIONS

- 53. Other stakeholders including the secured creditor of Razor Energy, Arena Investors, LP, are supportive of the completion of the HWN Transaction and FutEra Transaction.
- 54. Based on the foregoing, the Monitor is of the view that the relief being sought by the Applicants' is reasonable and justified in the circumstances and respectfully recommends that this Honourable Court grant the following relief:
 - (a) an extension of the Stay Period, up to and including October 13, 2024;
 - (b) the HWN Approval and Vesting Order;
 - (c) the FutEra Approval and Vesting Order; and
 - (d) the Restricted Court Access Order.

All of which is respectfully submitted this 12th day of July 2024.

FTI Consulting Canada Inc.,
Licensed Insolvency Trustee in its capacity as
Monitor of Razor Energy Corp., Razor Holdings
GP Corp., and Blade Energy Services Corp., and
not in its personal or corporate capacity.



Name: Deryck Helkaa, CPA, CA, CIRP, LIT
Title: Senior Managing Director
FTI Consulting Canada Inc.



Name: Dustin Olver, CPA, CA, CIRP, LIT
Title: Senior Managing Director
FTI Consulting Canada Inc.

Appendix “A” – Cash Flow Forecast for the period ending October 13, 2024

Razor Energy Corp., Razor Royalties Limited Partnership, Razor Holdings GP Corp., and Blade Energy Services Corp. (the "Razor Entities")
 Projected Cash Flow Forecast for the Period of July 8, 2024 to October 13, 2024

Cash Flow Forecast (C\$ 000s)	Week Ending	Week 1 14-Jul	Week 2 21-Jul	Week 3 28-Jul	Week 4 4-Aug	Week 5 11-Aug	Week 6 18-Aug	Week 7 25-Aug	Week 8 1-Sep	Week 9 8-Sep	Week 10 15-Sep	Week 11 22-Sep	Week 12 29-Sep	Week 13 6-Oct	Week 14 13-Oct	Total
Receipts																
Net production revenue	1	\$ -	\$ -	\$ 2,061	\$ -	\$ -	\$ -	\$ 1,820	\$ -	\$ -	\$ -	\$ -	\$ 1,828	\$ -	\$ -	\$ 5,709
Other receipts	2	15	15	1,115	65	15	15	15	65	15	15	15	15	65	15	1,460
Total - Receipts		15	15	3,176	65	15	15	1,835	65	15	15	15	1,843	65	15	7,169
Disbursements																
Operating expenses	3	(223)	(313)	(870)	(1,058)	(196)	(196)	(186)	(868)	(196)	(186)	(196)	(567)	(368)	(263)	(5,685)
Transportation and processing costs	4	(63)	-	-	(75)	-	-	-	(75)	-	-	-	(75)	-	-	(288)
Lease rentals	5	-	(53)	-	-	-	(51)	-	-	-	(51)	-	-	-	-	(156)
Insurance	6	(27)	-	-	-	-	(11)	-	-	-	(11)	-	-	-	-	(50)
Payroll	7	(150)	-	(150)	-	-	(150)	-	(150)	-	(150)	-	(150)	-	(150)	(1,050)
Professional & sales agent fees	8	(60)	-	(150)	-	-	-	-	(150)	-	-	-	-	(150)	-	(510)
G&A expense	9	(50)	(50)	(50)	(104)	(50)	(50)	(50)	(85)	(50)	(50)	(50)	(50)	(75)	(50)	(814)
Total - Disbursements		(573)	(416)	(1,220)	(1,237)	(246)	(458)	(236)	(1,328)	(246)	(448)	(246)	(842)	(593)	(463)	(8,552)
Net cash flow		(558)	(401)	1,956	(1,172)	(231)	(443)	1,599	(1,263)	(231)	(433)	(231)	1,001	(528)	(448)	(1,383)
Opening cash balance		1,594	1,036	635	2,591	1,419	1,188	745	2,344	1,081	850	417	186	1,187	659	1,594
Ending cash balance		\$ 1,036	\$ 635	\$ 2,591	\$ 1,419	\$ 1,188	\$ 745	\$ 2,344	\$ 1,081	\$ 850	\$ 417	\$ 186	\$ 1,187	\$ 659	\$ 211	\$ 211



RAZOR ENTITIES

Per: Doug Bailey, President and CEO

Notes:

Management of the Razor Entities has prepared this Projected Cash Flow Forecast solely for the purposes of determining the liquidity requirements of the Razor Entities during the period of July 8, 2024 to October 13, 2024. This Projected Cash Flow Forecast is based on probable and hypothetical assumptions detailed in the notes below. Consequently, actual results will likely vary from actual performance and such variances may be material.

- Net production revenue relates to the sale of Razor Energy Corp.'s petroleum and natural gas production and is based on forecast production volumes and third-party pricing. Further, it assumes no operated production can be sent to the Judy Creek Gas Plant and no additional net revenue received from non-operated production. Crown royalties for oil production are paid in kind.
- Other receipts consist of the proceeds from the HWN Transaction, third-party road use fees, partner joint interest billings, the SHGPC payments, etc.
- Operating expenses are based on the annual operating budget and relates to the costs associated with the operation of oil and natural gas wells.
- Transportation and processing costs relate to transporting petroleum and natural gas production from well head to market and is based on projected production volumes and transportation rates.
- Lease rentals are based on annual budget (excluding freehold).
- Insurance is based on current policy premiums.
- Payroll is based on recent payroll registers.
- Professional fees include estimates for the Monitor, the Monitor's legal counsel, Razor Entities' legal counsel, and Sales Agent.
- G&A expense includes overhead costs based on the annual budget, corporate contractors, and margin call expense on hedging contracts.

Appendix 3

COURT FILE NUMBER	2401-02680	Clerk's Stamp
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANTS	IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED	

AND IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF RAZOR ENERGY CORP., RAZOR
HOLDINGS GP CORP., AND BLADE ENERGY SERVICES
CORP.

DOCUMENT **AFFIDAVIT #9 OF DOUG BAILEY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCarthy Tétrault LLP 4000, 421 – 7 th Avenue SW Calgary, AB T2P 4K9 Attention: Sean Collins KC / Pantelis Kyriakakis / Nathan Stewart Tel: 403-260-3531 / 3536 / 3534 Fax: 403-260-3501 Email: scollins@mccarthy.ca / pkyriakakis@mccarthy.ca / nstewart@mccarthy.ca
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AFFIDAVIT #9 OF DOUG BAILEY
Sworn on September 6th, 2024

I, Doug Bailey, of the City of Calgary, of the Province of Alberta, **SWEAR AND SAY THAT:**

1. I am the CEO of Razor Energy Corp. ("**Razor Energy**"), Razor Holdings GP Corp. ("**Razor Holdings**"), and Blade Energy Services Corp. ("**Blade**", Razor Energy, Blade, and Razor Holdings, are collectively referred to as, the "**Applicants**"). Razor Energy is the sole limited partner, and Razor Holdings is the sole general partner, of Razor Royalties Limited Partnership ("**Razor Royalties LP**", and collectively with the Applicants, the "**Razor Entities**"). I am also a member of the board of directors of each of the Applicants. I have reviewed the books and records prepared and maintained by the Razor Entities, in the ordinary course of business. I have personal knowledge of the facts and matters sworn to in this Affidavit, except where information was received from someone else or some other source of information, as identified herein. Where the information contained herein was received from another source, I believe such information to be true.

Summary of Relief Sought

2. This Affidavit is sworn in opposition to Conifer Energy Inc.'s ("Conifer") application, seeking, among other things, orders directing Razor to pay Conifer on September 20, 2024: (i) post-filing amounts owing Conifer; and, (ii) post-filing amounts owed by Razor to Canadian Natural Resources Inc. ("CNRL") that CNRL seeks payment of from Conifer, together with a court-ordered charge in favour of Conifer to secure all amounts owing to Conifer with respect to all goods and services provided by Conifer under the CO&O from the date of the initial order subordinate only to the Administration Charge and the Directors' Charge.

Corporate Transaction Status Update

3. On 30, 2024, I met with Mr. Patrick Manuel, the newly appointed CEO of Conifer. At the meeting, I advised Mr. Manuel that Razor Energy and the purchaser under the corporate transaction are negotiating the transaction documents in earnest. At present, there is a well-advanced draft Subscription Agreement that is subject to ongoing discussion between Razor Energy and the corporate offeror. As at today's date, there is a structuring matter under active discussion with the Orphan Well Association and CNRL.
4. In any event, of note, is that the current structure of the transaction contemplates payment of Conifer's post-filing claim, other than the \$680,000 deposit as referenced in the Affidavit of Heather Wilkins filed on September 3, 2024. I advised Mr. Manuel of this fact at our meeting noting that Razor Energy would not be able to pay pre-filing amounts and that payment of the post-filing amounts will be facilitated by and paid from the proceeds of the corporate transaction.
5. Mr. Manuel indicated to me that in concept the proposal was acceptable, subject to further details, and that receiving payment of the post-filing claim is a better outcome than that which will be available to Conifer in a receivership.
6. The corporate offeror has advised Razor Energy that definitive documentation must be executed and delivered, subject only to Court approval, by September 20, 2024.
7. Based on my discussions with the corporate offeror, I am reasonably confident that the agreement will be signed and delivered on or before September 20, 2024. In such event, Razor Energy will move promptly to secure a date to have the approval application heard.

Razor Has Continued Operations Despite Being Locked out of Judy Creek

8. Following the decision of Lema, J. issued on February 21, 2024, Razor Energy and Conifer entered into discussions surrounding the bases upon which Conifer would resume processing Razor Energy's gas and NGL's. Conifer sought advance payment for services in the amount of \$680,000.00. Razor Energy disagreed with Conifer's calculation in this regard and, in any event, did not then have sufficient funds to make an advance payment in such amount. Rather than incurring the administrative time and additional cost and expense of continued litigation with Conifer, Razor Energy decided, in consultation with the Monitor, to forego access to the Judy Creek Gas Plant. Part of the rationale behind Razor's business decision in this regard is that Justice Lema's decision served to assuage potential purchaser's concerns around the ability to restore access to the Judy Creek Gas Plant in connection with any transaction.
9. Razor Energy has been able to continue in operations and its cash flow requirements as manifest in the cash flow forecasts it has filed in these proceedings are such that Razor Energy does not require revenue from the gas and NGL's that would otherwise be processed by Conifer at the Judy Creek Gas Plant.

Conifer's Post-Filing Claim

10. Conifer is making a deliberate choice and business decision to continue to process Razor Energy's gas, at a loss.
11. As has been reported in Razor Energy's cash-flow forecasts, Razor Energy, owing to its insolvency, does not have sufficient funds to pay Conifer. The most recent cash-flow forecast was attached as an Appendix to the Fifth Report of the Monitor. If Razor Energy is ordered to pay Conifer the amounts it is seeking in this application, then Razor Energy will not have sufficient cash to continue operations which will most certainly result in the collapse of the corporate transaction.
12. Razor Energy joins issue with Conifer's assertion that the post-filing amounts are in the nature of a post-filing supply of goods or services contemplated by section 11.01 of the *Companies' Creditors Arrangement Act* (the "CCAA").

Appendix 4

COURT FILE NUMBER

2401-02680

COURT

COURT OF KING'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

C42023

May 3, 2024
COM

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF RAZOR ENERGY CORP.,
RAZOR HOLDINGS GP CORP., AND BLADE ENERGY
SERVICES CORP.

DOCUMENT

**THIRD REPORT TO COURT OF FTI CONSULTING
CANADA INC., IN ITS CAPACITY AS MONITOR
OF RAZOR ENERGY CORP., RAZOR HOLDINGS
GP CORP., AND BLADE ENERGY SERVICES
CORP.**

April 25, 2024

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

MONITOR

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THIRD REPORT OF THE MONITOR**TABLE OF CONTENTS**

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Appendix “A” – Fourth Cash Flow Forecast for the period ending June 9, 2024

INTRODUCTION

1. On January 30, 2024, Razor Energy Corp. (“**Razor Energy**”), Razor Holdings GP Corp. (“**Razor Holdings**”), Razor Royalties Limited Partnership (“**Razor Royalties LP**”), and Blade Energy Services Corp. (“**Blade**” and collectively with Razor Energy, Razor Holdings and Razor Royalties LP, the “**Razor Entities**”) filed Notices of Intention to Make a Proposal (“**NOI**”), pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3, as amended (the “**BIA**”). FTI Consulting Canada Inc. (“**FTI**”) consented to act as proposal trustee (the “**Proposal Trustee**”) in the NOI proceedings (the “**NOI Proceedings**”) of the Razor Entities.
2. On February 16, 2024, the Honourable Justice M.J. Lema of the Court of King’s Bench of Alberta (the “**Court**”) heard an application (the “**Supply Application**”) in respect of a dispute between Razor Energy and Conifer Energy Inc. (“**Conifer**”) regarding amongst other things, access to the Judy Creek Conversion Gas Plant (“**Judy Creek Gas Plant**”) in which Razor Energy holds an ownership interest, which has impacted the assets related to the Swan Hills Beaverhill Lake formation, including the South Swan Hills assets (the “**South Swan Hills Assets**”). The Reasons for Judgment (the “**Lema Decision**”) of Justice Lema were released on February 21, 2024.
3. On February 28, 2024, (the “**Filing Date**”), Razor Energy, Razor Holdings, and Blade (collectively referred to as, the “**Applicants**”) sought and obtained an initial order (the “**Initial Order**”) from the Court granting, among other things, a continuation of the NOI Proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c C-36, as amended (the “**CCAA**” and the “**CCAA Proceedings**”).
4. The Initial Order granted, among other things, the following relief within the CCAA Proceedings:
 - (a) a stay of proceedings until March 8, 2024;

- (b) an extension of the stay of proceedings to Razor Royalties LP until March 8, 2024;
 - (c) the appointment of FTI as monitor (FTI in such capacity, the “**Monitor**”) of the Razor Entities in these CCAA Proceedings;
 - (d) approval of the sale and investment solicitation process (the “**SISP**”);
 - (e) approval of the engagement letter dated January 25, 2024 (the “**Sales Agent Agreement**”), between Razor Energy and Peters & Co. Limited (the “**Sales Agent**”);
 - (f) a sealing order in respect of an unredacted copy of the Sales Agent Agreement; and
 - (g) approval of the priority and amount of the charges in favour of: (i) the Monitor, the Monitor’s counsel, and the Applicants’ legal counsel (the “**Administration Charge**”) in the amount of \$100,000; and (ii) the Applicants’ obligations to indemnify the Applicants’ directors and officers for liabilities they may incur after the Filing Date (the “**Directors’ Charge**”) in the amount of \$335,000 (together, the “**Initial Order Charges**”).
5. On March 6, 2024 (the “**Comeback Hearing**”), the Applicants sought and obtained an Order from the Court (the “**Amended and Restated Initial Order**” or the “**ARIO**”). The ARIO granted, among other things, the following relief within the CCAA Proceedings:
- (a) an extension of the stay of proceedings up to and including March 29, 2024;
 - (b) an extension of the stay of proceedings to Razor Royalties LP up to and including March 29, 2024;

- (c) confirmed the quantum and priority of the Initial Order Charges as provided in the Initial Order;
 - (d) authorized the Applicants' decision to incur no further expenses during the stay of proceedings, in relation to certain securities or capital markets reporting obligations;
 - (e) relieved Razor Energy of any obligations to call or hold its next annual general meeting of shareholders until further Order of this Court; and
 - (f) a sealing order in respect of the desktop appraisal conducted by McDougall Auctioneers Ltd. of the equipment (the "**McDougall Appraisal**") in the possession of Blade.
6. On March 25, 2024, the Applicants sought and obtained an Order from the Court (the "**March 25 Order**"). The March 25 Order granted, among other things, the following relief within the CCAA Proceedings:
- (a) an extension of the stay of proceedings up to and including May 3, 2024 (the "**Stay Period**"); and
 - (b) an extension of the stay of proceedings to Razor Royalties LP for the duration of the Stay Period.
7. On April 10, 2024, Justice M.E. Burns of this Court heard an application of Alberta Petroleum Marketing Commission ("**APMC**") with respect to outstanding pre-filing royalties (the "**January Royalty Amounts**"). To date, no decision on the January Royalty Amounts has been rendered.

8. This report (this “**Report**”) is being delivered in connection with the Applicants’ application currently scheduled to be heard on May 3, 2024 (the “**May 3 Application**”), seeking an Order from the Court (the “**Second Stay Extension Order**”), among other things:
 - (a) extending the Stay Period up to and including June 7, 2024;
 - (b) a sale approval and vesting order in relation to the proposed sale by Blade of a 2007 Kenworth Bed Truck (the “**Kenworth**”); and
 - (c) such further and other relief as may be sought by the Applicants in connection with the May 3 Application.
9. This Report should be read in conjunction with Affidavit #6 of Doug Bailey sworn on April 24, 2024 (the “**Sixth Bailey Affidavit**”) which provides further background information concerning the May 3 Application.
10. Electronic copies of all materials filed by the Razor Entities in connection with the May 3 Application and other materials are available on the Monitor’s website at: <http://cfcanada.fticonsulting.com/razor-blade> (the “**Website**”).

PURPOSE

11. The Monitor has reviewed the application materials filed by the Applicants in support of the May 3 Application. The purpose of this Report is to provide the Court and the Razor Entities’ stakeholders with information and the Monitor’s comments with respect to the following:
 - (a) the activities of the Monitor since its report dated March 18, 2024 (the “**Second Monitor’s Report**”);

- (b) an update on the status of the SISP;
- (c) summary of the proposed sale of the Kenworth;
- (d) the budget to actual cash flow results for the five-week period ending April 21, 2024;
- (e) an overview of the Razor Entities' revised cash flow forecast (the "**Fourth Cash Flow Forecast**") for the seven-week period ending June 9, 2024 (the "**Forecast Period**") as well as the key assumptions which the Fourth Cash Flow Forecast are based on; and
- (f) the Monitor's recommendations with respect to the relief requested at the May 3 Application.

TERMS OF REFERENCE

12. In preparing this Report, the Monitor has relied upon unaudited financial information, other information available to the Monitor and, where appropriate, the Razor Entities' books and records and discussions with various parties (collectively, the "**Information**").
13. Except as described in this Report:
 - (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*;
 - (b) the Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*; and

- (c) future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
14. The Monitor has prepared this Report in connection with the May 3 Application. This Report should not be relied on for other purposes.
 15. Information and advice described in this Report that has been provided to the Monitor by its legal counsel, Blake, Cassels & Graydon LLP (the “**Monitor’s Counsel**”), was provided to assist the Monitor in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
 16. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms used but not defined herein are given the meaning ascribed to them in the Sixth Bailey Affidavit.

BACKGROUND

17. Detailed information with respect to the Razor Entities’ business, operations and causes of financial difficulty are described in the Affidavit of Doug Bailey sworn on February 20, 2024.
18. Additional background information on the Razor Entities and the CCAA Proceedings is available on the Monitor’s Website.

ACTIVITIES OF THE MONITOR

19. The Monitor’s activities since the date of the Second Monitor’s Report include the following:
 - (a) monitoring the Razor Entities’ finances (including cash flows) and operations;

- (b) participating in discussions with Razor Energy and the Sales Agent to conduct and carry out the SISP and assisting with due diligence requests in respect of the same;
- (c) reviewing the offers received in connection with the SISP;
- (d) consulting with the Alberta Energy Regulator (“**AER**”) with respect to the SISP;
- (e) continuing to review matters concerning Conifer and its appeal of the Lema Decision;
- (f) discussions with the Company on matters pertaining to APMC and its application on the January Royalty Amounts;
- (g) assisting the Razor Entities in preparing the Fourth Cash Flow Forecast;
- (h) responding to inquiries from suppliers and creditors who contacted the Monitor in connection with these CCAA Proceedings; and
- (i) preparing this Report.

SALE AND INVESTMENT SOLICITATION PROCESS

20. Razor Energy, after consultation with the Sales Agent and the Monitor, has executed two letters of intent (collectively, the “**LOIs**” and the parties or persons providing such offers, being an “**Offeror**”) which contemplate the following transactions:
- (a) one Offeror (the “**Corporate Offeror**”) contemplates entering into a subscription agreement to purchase all issued and outstanding shares of Razor Energy (the “**Corporate LOI**”). The Corporate LOI comprises of all of Razor Energy’s assets, properties, and undertakings, other than a relatively minor subset of certain petroleum and natural gas assets (the “**Excluded Assets**”); and

(b) the second Offeror contemplates acquiring the Excluded Assets (the “**Asset Acquirer**”). The Asset Acquirer is an AER licensee that conducts oil and gas exploration and production operations in Alberta.

21. The proposed extension to the Stay Period will allow the Applicants, in consultation with the Monitor and the Sales Agent, to continue to advance the LOIs to an executable transaction and to continue consultations with stakeholders.

The Monitor’s Comments on the SISP

22. The Sales Agent has indicated that the Corporate Offeror has the financial capacity to fund the acquisition contemplated by the Corporate LOI. Further, the Corporate Offeror has engaged in discussions regarding Razor Energy’s assets and conducted due diligence on the properties and infrastructure.

23. The Asset Acquirer is an AER licensee that conducts oil and gas exploration and production in Alberta. Moreover, the Asset Acquirer has the financial capacity to close the contemplated asset acquisition.

24. The Offerors have expressed a willingness to move forward with the negotiations, execution, and delivery of definitive transaction documents.

25. The LOIs would address the requirements of the AER and Orphan Well Association (“**OWA**”) for a transaction that results in all of Razor Energy’s operated and non-operated interests in its petroleum and natural gas assets being acquired by parties to assume the abandonment and reclamation obligations associated with such assets.

26. The Monitor notes that the proceeds from the proposed transactions will not be sufficient to repay creditors of the Razor Entities including those with potential security interests. The Monitor understands that the Razor Entities intend to consult with the various stakeholders in an effort to build support for the transactions outlined above.

SALE OF SURPLUS BLADE EQUIPMENT

27. Blade has entered into a sale agreement with Brandt Tractor Ltd., the agent to the purchaser, with respect to the Kenworth which is not being utilized in its commercial operations. Appended to the Sixth Bailey Affidavit as Exhibit “A” is a copy of the Alberta Personal Property Registry Serial Number Search. The Applicants intend to provide this Honourable Court with a copy of the purchase agreement prior to the May 3 Application.
28. The purchase price is \$150,000 and includes the following consideration:
- (a) a sales commission to the selling agent in the amount of \$19,500, representing 13% of the gross sales price;
 - (b) financing obligations owed to Stride Capital Corp. (“**Stride**”), the financier of the Kenworth, in the amount of \$67,416.52 (the “**Stride Collateral**”); and
 - (c) the balance of the sale is net proceeds of \$63,083.48 to be paid to Blade.

The Monitor’s Comments on the Sale of the Surplus Blade Equipment

29. The Monitor supports the Applicants’ request for approval to sell the Kenworth based on the following:
- (a) the value of the Kenworth, on an orderly liquidation value, set out in the McDougall Appraisal is less than the purchase price being paid by the purchaser;
 - (b) Stride supports the transaction and the Stride Collateral would be repaid in full;
 - (c) the commission to the selling agent is considered reasonable and within market;
 - (d) the contemplated sale of the Kenworth represents an arm’s-length transaction;

- (e) the Kenworth has no other registered security interest and consequently no creditors would be prejudiced by the sale of the Kenworth; and
- (f) the sale will generate net proceeds for the Razor Entities and provide additional liquidity in the CCAA Proceedings.

BUDGET TO ACTUAL RESULTS

30. The Razor Entities, in consultation with the Monitor, prepared the cash flow statement (the “**Third Cash Flow Statement**”) which was appended to the Second Monitor’s Report.
31. Actual cash flows as compared to those contained in the Third Cash Flow Statement for the five-week period of March 18, 2024, to April 21, 2024, are summarized below.

The Razor Entities			
For the 5 week period of March 18, 2024 to April 21, 2024			
Budget to Actual Results			
(C\$ 000s)	Actual	Budget	Variance
Receipts			
Net production revenue	\$ 1,866	\$ 1,903	\$ (37)
Other receipts	55	125	(70)
Total - Receipts	1,921	2,028	(107)
Disbursements			
Operating expenses	(768)	(1,320)	552
Transportation costs	(12)	(50)	38
Lease rentals	(43)	(44)	1
Insurance	(319)	(672)	353
Payroll	(409)	(460)	51
Professional & sales agent fees	(214)	(295)	81
G&A expense	(297)	(298)	1
Total - Disbursements	(2,062)	(3,138)	1,077
Net cash flow	(141)	(1,110)	970
Opening cash balance	1,203	1,203	-
Ending cash balance	\$ 1,062	\$ 93	\$ 970

32. The variances in actual receipts and disbursements are primarily due to the following:
- (a) Net production revenue – negative variance of approximately \$37,000 due to slightly lower than anticipated production volumes;
 - (b) Other receipts – negative variance of approximately \$70,000 due to lower than anticipated miscellaneous other receipts such as third-party road use fees;
 - (c) Operating expenses – positive variance of approximately \$552,000 primarily due to timing of receipt and payment of electricity invoices of approximately \$400,000 and lower variable costs over the period resulting from less operating activity;
 - (d) Transportation costs – positive variance of approximately \$38,000 partially due to timing and lower than anticipated pipeline costs;
 - (e) Lease rentals – substantially in line with forecast;
 - (f) Insurance – positive variance of approximately \$353,000 is primarily timing related as certain insurers required a renewal which will be paid over two installments. Additionally, the Third Cash Flow Statement assumed payment of the directors and officers run-off insurance premium which is expected to be paid in future periods;
 - (g) Payroll – positive variance of approximately \$51,000 due to lower payroll for Blade resulting from lower utilization over the period;
 - (h) Professional & Sales Agent fees – positive variance of \$81,000 due to timing of receipt and payment of invoices and expected to reverse in future periods; and
 - (i) G&A expense – substantially in line with forecast.

33. The cash balance at the end of the period is approximately \$1.1 million which is higher than previously forecast by approximately \$970,000 and was primarily driven by timing variances related to operating expenses and insurance over the period.

CASH FLOW FORECAST

34. The Razor Entities, in consultation with the Monitor, have prepared the Fourth Cash Flow Forecast to estimate the liquidity for the Forecast Period, a summary of which is presented below and attached hereto as Appendix “A”.

The Razor Entities	
For the 7 week period of April 22, 2024 to June 9, 2024	
Cash Flow Forecast	7 Week
(C\$ 000s)	Total
Receipts	
Net production revenue	\$ 4,442
Other receipts	205
Total - Receipts	4,647
Disbursements	
Operating expenses	(2,598)
Transportation costs	(432)
Lease rentals	(53)
Insurance	(1,066)
Payroll	(645)
Professional & sales agent fees	(435)
G&A expense	(308)
Total - Disbursements	(5,536)
Net cash flow	(890)
Opening cash balance	1,062
Ending cash balance	\$ 172

35. The Fourth Cash Flow Forecast projects a negative net cashflow of approximately \$890,000 over the Forecast Period, which includes the following assumptions:

- (a) Net production revenue receipts are derived from petroleum and natural gas sales based on forecast production and third-party pricing. Crown royalties are paid in kind and included within this amount;
- (b) Other receipts consist of third-party road use fees, partner joint interest billings, SHGPC payments described in the Second Monitor's Report, and other miscellaneous collections;
- (c) Operating expenses are based on the annual operating budget and relate to costs associated with the operation of oil and natural gas wells. Payments to the AER and OWA for annual administration fees and orphan fund levy are not included within the Forecast Period. Razor Energy does not dispute the amounts and intends to make payments if/when its cash flow permits;
- (d) Transportation costs associated with the transportation of petroleum and natural gas production from well head to market;
- (e) Lease rentals are based on the annual budget and exclude freehold rentals;
- (f) Insurance is based on current premium installments and estimated directors and officers run-off premium;
- (g) Payroll is based on payroll registers and includes costs related to employees including payroll, benefits, and payroll remittances;
- (h) Professional & Sales Agent fees are costs and disbursements of the Monitor, the Monitor's Counsel, the Razor Entities' legal counsel, and the Sales Agent; and
- (i) G&A expense includes overhead costs such as rent and other similar expenses, in addition to amounts to cover the margin call expense on hedging contracts.

36. The Fourth Cash Flow Forecast does not include payments with respect to a key employee retention plan or the receipt of any interim financing. However, as the LOIs are advanced towards an executable transaction, interim financing may be required, and the Applicants are in consultation with counterparties to obtain the necessary financing.

The Monitor's Comments on the Cash Flow Forecast

37. Pursuant to section 23(1)(b) of the CCAA and in accordance with the Canadian Association of Insolvency and Restructuring Professionals Standard of Practice 09-1, the Monitor hereby reports as follows:
- (a) the Fourth Cash Flow Forecast has been prepared by management of the Razor Entities, for the purpose described in the notes to the Fourth Cash Flow Forecast, using probable and hypothetical assumptions set out therein;
 - (b) the Monitor's review of the Fourth Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to the Information supplied to it by the Razor Entities. Since hypothetical assumptions need not be supported, the Monitor's procedures were limited to evaluating whether they were consistent with the purpose of the Fourth Cash Flow Forecast, and there are no material assumptions contained therein which seem unreasonable in the circumstances. The Monitor has also reviewed the support provided by management for the probable assumptions, and the preparation and presentation of the Fourth Cash Flow Forecast;
 - (c) based on the Monitor's review, as at the date of this Report, nothing has come to its attention that causes it to believe that, in all material respects:
 - (i) the hypothetical assumptions are not consistent with the purpose of the Fourth Cash Flow Forecast;

- (ii) the probable assumptions developed by management are not supported and consistent with the plan of the Razor Entities or do not provide a reasonable basis for the Fourth Cash Flow Forecast, given the hypothetical assumptions;
or
- (iii) the Fourth Cash Flow Forecast does not reflect the probable and hypothetical assumptions;
- (d) since the Fourth Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Fourth Cash Flow Forecast will be achieved. The Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information present in this Report, or relied upon by the Monitor in preparing this Report; and
- (e) the Fourth Cash Flow Forecast has been prepared solely for the purpose described in the notes to the Fourth Cash Flow Forecast and readers are cautioned that it may not be appropriate for other purposes.

REQUEST TO EXTEND THE STAY OF PROCEEDINGS

38. The Monitor has considered the Applicants' request to extend the Stay Period up to and including June 7, 2024, and has the following comments:
- (a) there will be no material prejudice to the Razor Entities' creditors and stakeholders as a result of the proposed extension of the Stay Period;
 - (b) the extension of the Stay Period will allow the Razor Entities to advance the potential transactions with respect to the LOIs, which if successful would be to the benefit of all stakeholders;

- (c) the Fourth Cash Flow Forecast indicates that the Razor Entities will have sufficient liquidity to continue to fund operations and the cost of these CCAA Proceedings for the duration of the proposed extension of the Stay Period; and
- (d) the Applicants and their management have and continue to act in good faith and with due diligence in taking steps to facilitate a restructuring of the business.

RECOMMENDATIONS

39. Based on the foregoing, the Monitor is of the view that the relief being sought by the Applicants' is reasonable and justified in the circumstances and respectfully recommends that this Honourable Court approve the extension of the Stay Period up to and including June 7, 2024.

All of which is respectfully submitted this 25th day of April 2024.

FTI Consulting Canada Inc.,
 Licensed Insolvency Trustee in its capacity as
 Monitor of Razor Energy Corp., Razor Holdings
 GP Corp., and Blade Energy Services Corp., and
 not in its personal or corporate capacity.

Name: Deryck Helkaa, CPA, CA, CIRP, LIT
 Title: Senior Managing Director
 FTI Consulting Canada Inc.

Name: Dustin Olver, CPA, CA, CIRP, LIT
 Title: Senior Managing Director
 FTI Consulting Canada Inc.

Third Report of FTI Consulting Canada Inc.,
In its capacity as Monitor of Razor Energy Corp., Razor Holdings GP Corp., and Blade Energy Services Corp.

Appendix “A” – Cash Flow Forecast for the period ending June 9, 2024

Razor Energy Corp., Razor Royalties Limited Partnership, Razor Holdings GP Corp., and Blade Energy Services Corp. (the "Razor Entities")
 Projected Cash Flow Forecast for the Period of April 22, 2024 to June 9, 2024

Cash Flow Forecast (C\$ 000s)	Week Ending	Week 1 28-Apr	Week 2 5-May	Week 3 12-May	Week 4 19-May	Week 5 26-May	Week 6 2-Jun	Week 7 9-Jun	Total
Receipts									
Net production revenue	1	\$ 2,214	\$ -	\$ -	\$ -	\$ 2,228	\$ -	\$ -	\$ 4,442
Other receipts	2	15	65	15	15	15	65	15	205
Total - Receipts		2,229	65	15	15	2,243	65	15	4,647
Disbursements									
Operating expenses	3	(595)	(323)	(218)	(195)	(194)	(877)	(195)	(2,598)
Transportation costs	4	(150)	-	-	-	-	(282)	-	(432)
Lease rentals	5	-	-	-	(53)	-	-	-	(53)
Insurance	6	(421)	-	(16)	(11)	-	(617)	-	(1,066)
Payroll	7	(215)	-	-	(215)	-	(215)	-	(645)
Professional & sales agent fees	8	(145)	-	(200)	-	-	(90)	-	(435)
G&A expense	9	(10)	(74)	(40)	(40)	(40)	(74)	(30)	(308)
Total - Disbursements		(1,536)	(398)	(474)	(514)	(234)	(2,155)	(225)	(5,536)
Net cash flow		693	(333)	(459)	(499)	2,008	(2,090)	(210)	(890)
Opening cash balance		1,062	1,755	1,423	964	465	2,473	383	1,062
Ending cash balance		\$ 1,755	\$ 1,423	\$ 964	\$ 465	\$ 2,473	\$ 383	\$ 172	\$ 172



RAZOR ENTITIES

Per: Doug Bailey, President and CEO

Notes:

Management of the Razor Entities has prepared this Projected Cash Flow Forecast solely for the purposes of determining the liquidity requirements of the Razor Entities during the period of April 22, 2024 to June 9, 2024. This Projected Cash Flow Forecast is based on probable and hypothetical assumptions detailed in the notes below. Consequently, actual results will likely vary from actual performance and such variances may be material.

- 1 Net production revenue relates to the sale of Razor Energy Corp's petroleum and natural gas production and is based on forecast production volumes and third-party pricing. Further, it assumes no operated production can be sent to the Judy Creek Gas Plant and no additional net revenue received from non-operated production. Crown royalties for oil production are paid in kind.
- 2 Other receipts consist of third-party road use fees, partner joint interest billings, the SHGPC payments, etc.
- 3 Operating expenses are based on the annual operating budget and relates to the costs associated with the operation of oil and natural gas wells.
- 4 Transportation costs relate to transporting petroleum and natural gas production from well head to market and is based on projected production volumes and transportation rates.
- 5 Lease rentals are based on annual budget (excluding freehold).
- 6 Insurance is based on current policy premiums and estimated D&O run off insurance.
- 7 Payroll is based on the most recent payroll registers.
- 8 Professional fees include estimates for the Monitor, the Monitor's legal counsel, Razor Entities' legal counsel, and Sales Agent.
- 9 G&A expense includes overhead costs based on the annual budget and margin call on hedging contracts.

TAB 15

[1] Common law as context

The Construction of Statutes, 7th Ed.

Ruth Sullivan

The Construction of Statutes, 7th Ed. (Sullivan) > CHAPTER 17 Common Law > § 17.01 Introduction

CHAPTER 17 Common Law

§ 17.01 Introduction

[1] Common law as context

The common law forms an important and complex part of the context in which legislation is enacted and operates and in which it must be interpreted.¹ In particular, interpreters must understand the relationship between the legislation to be interpreted and any relevant parts of the common law.² Because Acts or particular provisions may codify, partly codify, add to, change or contradict the common law, the range of possibility here is broad. The intentions a legislature may have in relation to the common law may be classified under the following headings:

- **Codification.** When an existing common law rule, principle, remedy or jurisdiction is reproduced without change in a statute, it is said to be “codified”. Most often codifications are narrow in that they relate to particular rules, principles or remedies or a particular aspect of jurisdiction. Such codifications are intended to clarify or stabilize the common law or make it more readily available without changing it. A legislature may codify any area of common law over which it has jurisdiction.
- **Modification.** When common law is modified, an existing common law rule, principle, remedy or jurisdiction is changed, added to or abrogated; however, the resulting legislation is meant to be integrated into the evolving common law. Reform legislation like the *Sale of Goods Act*, the *Negligence Act*, the *Occupiers' Liability Act* and the *Trustee Act* are good examples. In such cases, the common law is expected to supplement whatever is not dealt with in the legislation.³
- **Exhaustive code.** In an “exhaustive” (or “complete” or “exclusive”) code, a matter or area of law is exhaustively dealt with by the legislature with the intention of displacing the common law. Statutes like the *Bills of Exchange Act*, Labour Codes and No Fault Compensation Acts are examples. Such legislation may largely codify or largely modify existing common law but in either case the legislation is intended to occupy the field and exclude reliance on prior law.
- **Incorporation.** A common law term or concept is incorporated into legislation in the expectation that it will continue to bear its common law meaning. Incorporation is relied on in legislation designed to modify the common law as well as legislation designed to codify it. It may also be relied on in program legislation.⁴

The understanding of codes and codification differs in common law and civil law jurisdictions.

In common law jurisdictions,

- the common law is the *jus commune* — the body of concepts, principles and rules on which the legal system is built.
- codification refers to the adoption by the legislature of a common law rule or principle.
- a code is a statute that displaces the common law with a comprehensive legislative scheme.⁵

In civil law jurisdictions,

[1] Common law as context

- a civil code is the instrument that embodies the *jus commune* — the body of concepts, principles and rules on which the legal system is built.
- codification refers to the process of creating a new code.

In this chapter, the common law conception of codes and codification is adopted. However, it should be noted that when the terminology of codes and codification is used, things are not as tidy as one might wish. An important difference between codes and codification as defined above is that the former may modify the common law whereas the latter, by definition, does not. However, courts sometimes use the term codification when they seem to mean code. In *Kazemi Estate v. Islamic Republic of Iran*, for example, the Supreme Court of Canada considered the effect of section 3(1) of the *State Immunity Act* [SIA], which read as follows:

Except as provided by this Act, a foreign state is immune from the jurisdiction of any court in Canada.

The Court concluded that “the SIA is intended to be an exhaustive codification of Canadian law of state immunity in civil suits.”⁶ Speaking for the majority, LeBel J. wrote:

... I am of the view that the SIA provides an exhaustive list of exceptions to state immunity. For that reason, reliance need not, and indeed cannot, be placed on the common law, *jus cogens* norms or international law to carve out additional exceptions to the immunity granted to foreign states pursuant to s. 3(1) of the SIA.⁷

LeBel J. here describes the legal effect of a code (as defined above) rather than codification, which reproduces the law without changing it.

Footnote(s)

- ¹ *R. v. W. (D.L.)*, [2016] S.C.J. No. 22, 2016 SCC 22 at paras. 14-15 (S.C.C.); *Cuthbertson v. Rasouli*, [2013] S.C.J. No. 53, 2013 SCC 53 at paras. 12ff (S.C.C.). The common law context is relevant to federal legislation and legislation in the common law provinces, and also legislation dealing with public law matters in Quebec. In matters of private law, the relevant context is the *Civil Code of Québec*, supplemented by other Quebec legislation.
- ² In 2747-3174 *Québec Inc. v. Québec (Régie des permis d'alcool)*, [1996] S.C.J. No. 112, [1996] 3 S.C.R. 919 (S.C.C.), L'Heureux-Dubé J. stated, in a concurring judgment at para. 97:

... To determine what interaction there is between the common law and statute law, it is necessary to begin by analysing, identifying and setting out the applicable common law, after which the statute law's effect on the common law must be specified by determining what common law rule the statute law codifies, replaces or repeals, whether the statute law leaves gaps that the common law must fill and whether the statute law is a complete code that excludes or supplants all of the common law in the specific area of law involved....

See also *Cabezas v. Maxim*, [2016] B.C.J. No. 321, 2016 BCCA 82 at paras. 36ff (B.C.C.A.); *Pollock v. Manitoba*, [2006] M.J. No. 231, 2006 MBCA 78 at para. 9ff (Man. C.A.).

- ³ For an explanation of reform legislation, see Chapter 9, at §9.01[5].
- ⁴ For an explanation of program legislation, see Chapter 9, at §9.01[6].
- ⁵ Although a code displaces the common law, some — or even many — of its provisions may codify the pre-existing common law rules or remedies.
- ⁶ *Kazemi Estate v. Islamic Republic of Iran*, [2014] S.C.J. No. 62, 2014 SCC 62 at para. 44 (S.C.C.).
- ⁷ *Kazemi Estate v. Islamic Republic of Iran*, [2014] S.C.J. No. 62, 2014 SCC 62 at para. 56 (S.C.C.).

TAB 18

Bankruptcy and Insolvency Law of Canada, 4th Edition § 19:4

Bankruptcy and Insolvency Law of Canada, 4th Edition

The Honourable Mr. Justice Lloyd W. Houlden, Mr. Justice Geoffrey B. Morawetz, Dr. Janis P. Sarra

Part II. Companies' Creditors Arrangement Act

Chapter 19. General; Short Title (S. 1)

II. Short Title (S. 1)

§ 19:4. Purpose of the CCAA

While the CCAA does not have an express objective clause, its long title, *An Act to facilitate compromises and arrangements between companies and their creditors* indicates that its objective is to assist insolvent companies in developing and seeking approval of compromises and arrangements with their creditors. The CCAA has a broad remedial purpose, giving a debtor company an opportunity to find a way out of financial difficulties short of bankruptcy, foreclosure or the seizure of assets through receivership proceedings. It allows the debtor to devise a plan that will enable it to meet the demands of its creditors through refinancing with new lending, equity financing or the sale of the business as a going concern. This alternative may give the creditors of all classes a larger return and protect the jobs of the company's employees: *Diemaster Tool Inc. v. Skvortsoff (Trustee of)* (1991), 1991 CarswellOnt 168, 3 C.B.R. (3d) 133 (Ont. Gen. Div.). However, the CCAA should not be the last gasp of a dying company; if it is to be implemented, it should be implemented at a stage prior to the death throes: *Re Inducon Development Corp.* (1991), 8 C.B.R. (3d) 306, 1991 CarswellOnt 219 (Ont. Gen. Div.).

The decided cases have identified the following purposes of the legislation:

- to permit an insolvent company to avoid or be discharged from bankruptcy by making a composition or arrangement with its creditors: *Browne v. Southern Canada Power Co.* (1941), 23 C.B.R. 131, 71 Que. K.B. 136 (Que. C.A.); *Multidev Immoilia Inc. v. S.A. Just Invest.* (1988), 1988 CarswellQue 38, 70 C.B.R. (N.S.) 91, [1988] R.J.Q. 1928 (Que. S.C.);
- to preserve the insolvent company as a viable operation and to reorganize its affairs to the benefit not only of the debtor but of the creditors: *Quintette Coal Ltd. v. Nippon Steel Corp.* (1990), 80 C.B.R. (N.S.) 98, 1990 CarswellBC 425 (B.C. S.C.); *Milner Greenhouses Ltd. v. Saskatchewan* (2004), 2004 CarswellSask 280, [2004] 9 W.W.R. 310, 50 C.B.R. (4th) 214, 2004 SKQB 160 (Sask. Q.B.); *Re D.W. McIntosh Ltd.* (1939), 1939 CarswellOnt 87, 21 C.B.R. 206 (Ont. S.C.); *Re Avery Construction Co.* (1942), 1942 CarswellOnt 86, 24 C.B.R. 17, [1942] 4 D.L.R. 558 (Ont. S.C.); *Re Arthur Flint Co.* (1944), 1944 CarswellOnt 59, 25 C.B.R. 156, [1944] O.W.N. 325, [1944] 3 D.L.R. 13 (Ont. S.C.); *Citibank Canada v. Chase Manhattan Bank of Canada* (1991), 5 C.B.R. (3d) 165, 1991 CarswellOnt 182, 2 P.P.S.A.C. (2d) 21 (Ont. Gen. Div.);
- to maintain the *status quo* for a period to provide a structured environment in which an insolvent company can continue to carry on business and retain control over its assets while the company attempts to gain the approval of its creditors for a proposed arrangement that will enable the company to remain in operation for the future benefit of the company and its creditors: *Meridian Development Inc. v. Toronto Dominion Bank* (1984), 1984 CarswellAlta 259, 52 C.B.R. (N.S.) 109, 32 Alta. L.R. (2d) 150, [1984] 5 W.W.R. 215, 53 A.R. 39 (Q.B.); *Quintette Coal Ltd. v. Nippon Steel Corp.* (1990), 80 C.B.R. (N.S.) 98, 1990 CarswellBC 425 (B.C. S.C.); *Re Canadian Airlines Corp.* (2000), 19 C.B.R. (4th) 1, 2000 CarswellAlta 622 (Alta. Q.B.); *Milner Greenhouses Ltd. v. Saskatchewan* (2004), 2004 CarswellSask 280, [2004] 9 W.W.R. 310, 50 C.B.R. (4th) 214, 2004 SKQB 160 (Sask. Q.B.); *Re Blue Range Resource Corp.* (2000), 192 D.L.R. (4th) 281, 2000 ABCA 239, 20 C.B.R. (4th) 187, 2000 CarswellAlta 1004 (Alta. C.A.);

- to protect the interests of creditors and to permit an orderly administration of the debtor company's affairs: *Meridian Development Inc. v. Toronto Dominion Bank* (1984), 1984 CarswellAlta 259, 52 C.B.R. (N.S.) 109, 32 Alta. L.R. (2d) 150, [1984] 5 W.W.R. 215, 53 A.R. 39 (Q.B.);
- to protect an insolvent company from proceedings by creditors that would prevent it from carrying out the terms of a compromise or arrangement: *Feifer v. Frame Manufacturing Corp.* (1947), 1947 CarswellQue 15, 28 C.B.R. 124, [1947] Que. K.B. 348 (Que. C.A.);
- to permit equal treatment of creditors of the same class: *Re NsC Diesel Power Inc.* (1990), 79 C.B.R. (N.S.) 1, 1990 CarswellNS 33, 97 N.S.R. (2d) 295, 258 A.P.R. 295 (T.D.);
- to permit a broad balancing of stakeholder interests in the insolvent corporation: *Nova Metal Products Inc. v. Comiskey (Trustee of)* (1990), 1 C.B.R. (3d) 101, 41 O.A.C. 282, 1990 CarswellOnt 139, 1 O.R. (3d) 289 (Ont. C.A.); *Re Air Canada [Greater Toronto Airport Authority re gates at new terminal (Toronto)]* (2004), 47 C.B.R. (4th) 189, 2004 CarswellOnt 870 (Ont. S.C.J. [Commercial List]);
- in appropriate circumstances to effect a sale, winding-up or liquidation of a debtor company and its assets: *Re Anvil Range Mining Corp.* (2002), 34 C.B.R. (4th) 157, 2002 CarswellOnt 2254 (Ont. C.A.).

The Supreme Court of Canada has held that the *CCAA* offers more flexibility and greater judicial discretion than the rules-based mechanism under the *BIA*, making the former more responsive to complex reorganizations. The exercise of judicial discretion has allowed the *CCAA* to adapt and evolve to meet contemporary business and social needs. As reorganizations become increasingly complex, *CCAA* courts have been called on to innovate. In determining their jurisdiction to sanction measures in a *CCAA* proceeding, courts should first interpret the provisions of the *CCAA* before turning to their inherent or equitable jurisdiction. Noteworthy in this regard is the expansive interpretation the language of the *CCAA* is capable of supporting. The general language of the *CCAA* should not be read as being restricted by the availability of more specific orders. The requirements of appropriateness, good faith and due diligence are baseline considerations that a court should always bear in mind when exercising *CCAA* authority. The question is whether the order will usefully further efforts to avoid the social and economic losses resulting from liquidation of an insolvent company, which extends to both the purpose of the order and the means it employs. The Supreme Court of Canada held that Parliament understood when adopting the *CCAA* that liquidation of an insolvent company was harmful for most of those it affected, notably creditors and employees; and that a workout that allowed the company to survive was optimal. It held that courts must recognize that on occasion the broader public interest will be engaged by aspects of the reorganization and may be a factor against which the decision of whether to allow a particular action will be weighed. The Supreme Court of Canada has held that reorganization serves the public interest by facilitating the survival of companies supplying goods or services crucial to the health of the economy or saving large numbers of jobs: *Century Services Inc. v. Canada* (A.G.), 2010 CarswellBC 3419, 72 C.B.R. (5th) 170, 2010 SCC 60, [2010] S.C.J. No. 60, (*sub nom.* *Re Ted LeRoy Trucking Ltd.*) 326 D.L.R. (4th) 577 (S.C.C.). For a full discussion of this case, see § 22:54 “Claims under the *Excise Tax Act*”.

The Alberta Court of Queen's Bench dismissed the *CCAA* application of the debtor. Justice Romaine found that the debtor met the technical requirements for protection under the *CCAA*; however, it was also clear that if the application for an initial order under the *CCAA* did not succeed, a receivership would follow. In considering an initial order, Justice Romaine held that there should be a germ of a reasonable and realistic plan, particularly if there is opposition from the major stakeholders most at risk in the proposed restructuring. Justice Romaine acknowledged that the fundamental purpose of the *CCAA* is to permit a company to carry on business and where possible avoid the social and economic costs of liquidating its assets. Here, the debtor was a company with very few employees; relatively minor unsecured debt; it did not carry on a business that had broader community; and there were no social implications that could require greater flexibility from creditors. The major stakeholders in this case were the secured creditors who opposed the application and the equity holders. Justice Romaine concluded that the restructuring options proposed by the debtor were not realistic or commercially reasonable. This case was not one where the secured creditors had acted precipitously, or where the debtor had not had a more than adequate opportunity to canvass the market for refinancing

and restructuring options. The debtor was most likely a liquidating *CCAA*, and given the lack of confidence and the adversarial relationship between the debtor and the secured creditors at risk, a *CCAA* order was not appropriate in the circumstances: [Alberta Treasury Branches v. Tallgrass Energy Corp.](#), 2013 CarswellAlta 1496, 2013 ABQB 432 (Alta. Q.B.).

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