

COURT FILE NUMBER 2201-12828
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF EXPORT-IMPORT BANK OF CHINA
DEFENDANT CHANGHUA ENERGY CANADA LTD.
DOCUMENT **APPLICATION – DISTRIBUTION OF FUNDS
AND DISCHARGE OF RECEIVER**



C102432
Nov 7, 2023
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ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Norton Rose Fulbright Canada LLP
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Counsel for FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver of Changhua Energy Canada Ltd.
File No: 1001122095

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

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

Date: November 7, 2023
Time: 11:00 AM
Where: Calgary Courts Centre
Before Whom: The Honourable Justice E.J. Sidnell

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

Remedy claimed or sought:

1. This Application is brought by FTI Consulting Canada Inc. in its capacity as the Court-appointed receiver (**FTI** or the **Receiver**) of Changhua Energy Canada Ltd. (**Changhua**) in the above-captioned matter.

2. The Receiver hereby seeks an order substantially in the form attached hereto as **Schedule "A"**, providing the following relief and directions:
 - a. If necessary, abridging the time for service of this Application and its supporting materials and deeming service thereof to be good and sufficient;
 - b. authorizing the Receiver to make an interim distribution of funds in accordance with the distribution proposed in the Second Report of the Receiver, dated October 30, 2023 (the **Second Report**);
 - c. ratifying and approving the Receiver's activities as described in the Second Report, including the Receiver's statement of receipts and disbursements;
 - d. approving the current and further professional fees and disbursements of the Receiver and its legal counsel as set out in the Second Report, without the necessity of a formal passing of accounts or assessment of accounts;
 - e. authorizing the Receiver to hold back certain funds to complete the administration of these receivership proceedings (the **Holdback Fund**), as further set out and described in the Second Report;
 - f. authorizing the Receiver to distribute any residual amounts from the Holdback Fund upon completion of all administrative matters, as further set out and described in the Second Report;
 - g. discharging FTI as receiver of Changhua upon the filing of a sworn affidavit of a Licensed Insolvency Trustee employed by the Receiver confirming the completion of the administration of the Changhua estate;
 - h. declaring that the Receiver has duly and properly discharged its duties, responsibilities, and obligations as the receiver of Changhua, and that the Receiver shall not be liable for any act or omission on its part pertaining to the discharge of its duties in these proceedings, except for liability arising from the Receiver's gross negligence or wilful misconduct;
 - i. authorizing the Receiver to destroy or otherwise dispose of the books and records of Changhua upon delivery of notice to the current or former directors of the company, within 30 days of providing such notice;

- j. granting leave to the Receiver to apply to this Court for advice and directions as necessary to carry out the terms of the order sought; and
- k. granting such further and other relief as counsel may advise and this Honourable Court deems appropriate.

Grounds for making this application:

- 3. On November 23, 2022, the Honourable Justice G.S. Dunlop granted an order appointing FTI as the interim receiver of Changhua.
- 4. On December 7, 2022, the Honourable Justice G.S. Dunlop granted an order appointing FTI as receiver and manager of Changhua (the **Receivership Order**), authorizing the Receiver to, among other things, market any or all of Changhua's property.
- 5. On July 10, 2023, following an extensive marketing process, the Receiver entered into a purchase and sale agreement (the **PSA**) with Bitstone Resources (the **Purchaser**) to sell all of Changhua's petroleum and natural gas assets (the **PNG Assets**) to the Purchaser (the **Bitstone Transaction**).
- 6. On August 8, 2023, the Honourable Justice G.A. Campbell granted an approval and vesting order authorizing the PSA and approving the Bitstone Transaction, thereby vesting in the Purchaser all the rights, title, and interest in and to the PNG Assets, subject to approval by the Alberta Energy Regulator (the **AER**).
- 7. In October of 2023, the AER approved the license transfer application made in respect of the PNG Assets; the Bitstone Transaction subsequently closed on October 30, 2023.
- 8. The Receiver intends to make an interim distribution of funds to Export-Import Bank of China in partial satisfaction of debts owing thereto (the **Interim Distribution**), as further set out and described in the Second Report.
- 9. The Receiver proposes to hold back certain funds necessary to complete the administration of the receivership. Upon completion, and as further set out in the Second Report, the Receiver intends to distribute any residual amounts from the Holdback Fund to Export-Import Bank of China (the **Final Distribution**).
- 10. Both the Interim Distribution and Final Distribution are just, appropriate, and in the best interests of the receivership estate.

11. All of the actions in respect of the fees and disbursements incurred by the receiver and its legal counsel during the course of the administration of these proceedings are reasonable and have been validly incurred in connection with the conduct of the Receiver pursuant to their obligations under the Receivership Order.
12. The Receiver has completed, or is about to complete, all aspects concerning the administration of this receivership. Accordingly, the Receiver should be discharged from its mandate as receiver of Changhua upon the filing of an affidavit attesting to the completion of all outstanding matters related to this receivership.
13. Discharge of the Receiver is just and appropriate in the circumstances.

Material or evidence to be relied on:

14. The reports of the Receiver filed in these proceedings, and in particular the Second Report.
15. The pleadings, orders, and other materials filed in these proceedings.
16. Such other materials and evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

17. Rules 1.2, 1.3, 6.3, and 6.47 of the Alberta *Rules of Court*.

Applicable Acts and regulations:

18. The *Bankruptcy and Insolvency Act*, RSC 1985 c B-3, the *Judicature Act*, RSA 2000, c J-2, as amended, and any other Acts and Regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

19. None.

How the application is proposed to be heard or considered:

20. In person, at the date and time first noted hereon, or so soon thereafter as counsel may be heard.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

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DEFENDANT CHANGHUA ENERGY CANADA LTD.
DOCUMENT **ORDER FOR DISTRIBUTION OF FUNDS AND DISCHARGE OF RECEIVER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Norton Rose Fulbright Canada LLP
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Counsel for FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver of Changhua Energy Canada Ltd.
File No: 1001122095

DATE ON WHICH ORDER WAS PRONOUNCED: November 7, 2023
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice E. J. Sidnell
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION by FTI Consulting Canada Inc. in its capacity as the Court-appointed receiver (the **Receiver**) of all the undertakings, property and assets of Changhua Energy Canada Ltd. (**Changhua**) for an order authorizing an interim and final distribution of funds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities, and discharge of the Receiver;

AND UPON HAVING READ the Second Report of the Receiver, dated October 30, 2023 (the **Second Report**);

AND UPON HEARING the submissions of counsel for the Receiver and for any other parties that may be present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. Service of the notice of this application and supporting materials is hereby declared good and sufficient, no other person is required to have been served with notice of this application, and the time for service of this application is abridged to that actually given.

Interim Distribution

2. The Receiver is hereby authorized and directed to make an interim distribution of funds to Export-Import Bank of China, in the manner set out in the Second Report.

Holdback and Final Distribution

3. The Receiver is hereby authorized and directed to maintain a holdback fund in the amount and manner set out in the Second Report.
4. The Receiver is hereby authorized and directed to make a final distribution of any residual amounts in the holdback fund to Export-Import Bank of China upon completion of all remaining administrative activities set out and described in the Second Report.

Discharge of the Receiver

5. The current and further professional fees and disbursements of the Receiver and its legal counsel, as detailed in the Second Report, are hereby approved without the necessity of a formal passing or assessment of accounts.
6. The Receiver's activities as set out in the Second Report and in all other reports filed in these proceedings are hereby approved and ratified.
7. Upon the Receiver filing with the Clerk of the Court a sworn affidavit of a Licensed Insolvency Trustee employed by the Receiver confirming that all matters set out in paragraph 2 and 4 of this Order and in the Second Report have been completed, FTI Consulting Canada Inc. shall be unconditionally and absolutely discharged as Receiver of Changhua's property, and all duties, responsibilities, and obligations connected therewith.
8. Upon discharge, the Receiver shall not be liable for any act or omission on its part, or any reliance thereon, including without limitation, any act or omission pertaining to the discharge of its duties in these proceedings or with respect to any other duties or obligations, except in cases of gross negligence or wilful misconduct on its part, or with leave of the Court as provided in paragraph 9 of this Order. Subject to the foregoing, any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished, and forever barred.

9. No action or other proceeding shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as receiver for Changhua, except with prior leave of this Court, on notice to the Receiver, and upon such terms as the Court may direct.
10. The Receiver is hereby authorized to destroy or otherwise dispose of the books and records of Changhua upon delivery of notice to the current or former directors of the company, within 30 days of providing such notice.
11. The Receiver is at liberty to reapply for further advice, assistance, and direction as may be necessary to give full force and effect to, and in carrying out the terms of, this Order.
12. This Order must be served only upon those interested parties attending or represented at the within application, and service may be effected by facsimile, electronic mail, personal delivery, or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
13. Service of this Order on any party not attending this application is hereby dispensed with.

J.C.K.B.A.