[RULES 6.3 AND 10.52(1)]

COURT/ESTATE FILE B301-191521 NUMBERS B301-191522 B301-191523

B301-191523 B301-191524 B301-191525 B301-191526 CLERK'S STAMP

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PROCEEDINGS IN THE MATTER OF THE BANKRUPTCY OF

WOLVERINE ENERGY AND INFRASTRUCTURE INC.,

WOLVERINE EQUIPMENT INC., WOLVERINE CONSTRUCTION INC., WESTERN CANADIAN MULCHING LTD., HD ENERGY RENTALS LTD. and

LIBERTY ENERGY SERVICES LTD.

APPLICANT FTI CONSULTING CANADA INC., in its capacity as Licensed

Insolvency Trustee of the bankruptcy estate of WOLVERINE ENERGY AND INFRASTRUCTURE INC., WOLVERINE EQUIPMENT INC., WOLVERINE CONSTRUCTION INC., WESTERN CANADIAN MULCHING LTD., HD ENERGY RENTALS LTD. and LIBERTY ENERGY SERVICES LTD.

RESPONDENTS 1586329 ALBERTA LTD.,

WOLVERINE MANAGEMENT SERVICES INC. and

JESSE DOUGLAS

DOCUMENT APPLICATION

ADDRESS FOR SERVICE Torys LLP

AND CONTACT INFORMATION OF

PARTY FILING THIS

DOCUMENT:

Olys LLF

4600 Eighth Avenue Place East

525 - Eighth Ave SW Calgary, AB T2P 1G1

Attention: Kyle Kashuba / Bilal Qureshi

Telephone No.: +1 403.776.3744 / +1 403.776.3769 Email: <u>kkashuba@torys.com</u> / <u>bqureshi@torys.com</u>

Fax No.: +1 403.776.3800 File No.: 39586-2007

NOTICE TO RESPONDENTS:

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: Tuesday, September 9, 2025

Time: 10:00 a.m.

Where: Calgary Law Courts, via Webex videoconference (See **Schedule "A"**)

Before Whom: Justice B.B. Johnston, presiding on the Commercial Duty List

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. Except where otherwise stated, capitalized terms used but not otherwise defined have the meaning ascribed to them in the first report of FTI Consulting Canada Inc. ("FTI"), dated August 29, 2025 (the "First Report"), in its capacity as the licensed insolvency trustee (the "Trustee") of the bankruptcy estates of Wolverine Energy and Infrastructure Inc., Wolverine Equipment Inc., Wolverine Construction Inc., Western Canadian Mulching Ltd., HD Energy Rentals Ltd. and Liberty Energy Services Ltd. (collectively, the "Debtors").
- 2. The Trustee respectfully seeks from this Court an order substantially in the form attached as **Schedule "C"** to this Application, granting the following relief:
 - (a) declaring that the time for service of the within Application and supporting materials be abridged if necessary, that the Application is properly returnable on the scheduled date and that service of the Application on the Service List attached hereto as **Schedule "B"** is validated and deemed to be good and sufficient, and that further service of the Application be dispensed with;
 - (b) declaring that the Impugned Transactions totaling \$1,011,950.35 between WEI and the Douglas Corporations be set aside as:
 - (i) preferences for the purposes of section 95 of the BIA;

- (ii) fraudulent or preferential payments made contrary to the FPA, and fraudulent transfers made contrary to the SOE; and/or
- (iii) transfers at under value for the purposes of section 96 of the BIA,

and are void as against the Trustee, and therefore the Related Parties are required to repay \$1,011,950.35 to the estate of WEI;

- (c) in the alternative, directing the Related Parties to repay \$1,011,950.35 to the estate of WEI as a result of their unjust enrichment;
- (d) in the furthest alternative, finding Mr. Douglas liable as a director of WEI and directing him to repay \$1,011,950.35 plus 5% interest in annum to the estate of WEI for the purposes section 101 of the BIA;
- (e) granting costs of this Application, on a full indemnity, solicitor and own client basis; and
- (f) such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.

Grounds for making this Application:

Background

- 3. The Debtors were a diversified energy and infrastructure service provider in western Canada and the United States, and were in the business of water management, energy rentals and services, environmental clearing and construction production testing, production rentals in Canada, as well as production testing and rentals in the United States.
- 4. WEI is the parent corporation and sole shareholder of each of the other Debtors and serves as the headquarters for all operations, providing general administrative, management, accounting and human resources functions for the other Debtors.
- 5. On April 27, 2023, CWB, in its capacity as secured lender, issued a letter to the Debtors, addressed to Mr. Douglas, advising of its intent to terminate the banking relationship and demanding full repayment of the indebtedness by July 31, 2023 (the "CWB Letter").

- 6. On July 5, 2023, WEI made a payment totaling \$486,950.35 to WMSI; and on July 21, 2023, WEI made a payment totaling \$525,000.00 to 158 AB (collectively, the "Impugned Transactions").
- 7. In August 2023, FTI was appointed as financial advisor (the "**FA Engagement**") to Fiera. Fiera was a secured creditor of WEI and was owed approximately \$55.3 million at that time.
- 8. As part of the FA Engagement, FTI requested various financial information from Mr. Douglas and WEI management, among which included: (i) copies of the borrowing base calculation and compliance certificates for July, August and September 2023 (the "Borrowing Base Certificates") as provided to CWB; and (ii) copies of the covenant waiver as referenced in the audited consolidated financial statements for the fiscal year-ended March 31, 2023 (the "Audit Waiver").
- 9. The Borrowing Base Certificates indicated insufficient amounts to support the outstanding operating loan owed to CWB.
- 10. The Audit Waiver was requested as Fiera advised FTI that they had not waived any of the financial covenants for the fiscal year ended March 31, 2023; however, the audited financial statements indicated a waiver had been provided.
- 11. Ultimately, WEI was unable to address its financial difficulties, and on November 30, 2023, the Debtors, among other entities, sought and obtained the Initial Order and commenced the CCAA Proceedings.
- 12. The following events occurred in the days leading up to the CCAA comeback hearing on December 8, 2023:
 - (a) CWB filed an application to appoint FTI as receiver and manager of the assets, properties and undertakings of the Debtors;
 - (b) counsel to the Debtors consented to a Receivership Order in respect of the Debtors; and
 - (c) on December 7, 2023, Fiera, as secured lender to the Debtors, filed an Application to terminate the Initial Order.

- 13. On December 8, 2023, the Court granted an order to terminate the CCAA Proceedings and commenced the Receivership Proceedings.
- 14. On December 11, 2023, E&Y provided the Receiver with their draft desktop appraisal, the final report was received on February 28, 2024. Based on the desktop appraisal, the total recovery estimated under a FLV and an OLV were \$30.9 million and \$39.9 million, respectively. The secured debt as at the Appointment Date was approximately \$72.5 million.
- 15. The SISP resulted in gross recovery to the Debtors' estate of approximately \$24.4 million with the assets being sold on June 28, 2024. Recovery from the SISP was significantly below the FLV and OLV and the secured debt, resulting in: (i) a shortfall to the secured creditors, Fiera and CWB, of \$26.9 million and \$2.1 million, respectively; and (ii) no recoveries to the unsecured creditors.
- 16. On February 21, 2025, the Court granted an order declaring the Debtors bankrupt and appointing FTI as Trustee.
- 17. As of March 12, 2025, more than \$24 million in secured debt remained outstanding against the bankruptcy estate of the Debtors.

The Related Parties' relationship to WEI

- 18. At the time of the Impugned Transactions, Mr. Douglas, was a director and Executive Chair of WEI, and with the Related Parties and WGI, collectively held 45.71% of the outstanding shares of WEI.
- 19. Mr. Douglas was also the sole director and voting shareholder of 158 AB.
- 20. 158 AB was the sole voting shareholder of WMSI, and Mr. Douglas served as WMSI's sole director.
- 21. Mr. Douglas was also the sole director of WGI and WMSI was its sole shareholder.

The corporate veil should be pierced to hold Mr. Douglas personally liable, in addition to the Douglas Corporations

- 22. The Douglas Corporations have been used as shields for Mr. Douglas' fraudulent or improper conduct. Acting as their alter ego, Mr. Douglas exercised complete domination and control over the Douglas Corporations and caused WEI to make unauthorized payments to them without the required statutory disclosure.
- 23. In doing so, the Douglas Corporations have been used to shield funds that rightfully belong to the bankruptcy estate of WEI.
- 24. This abuse of the corporate form to conceal and retain estate property warrants piercing the corporate veil.

The Impugned Transactions are preferential transactions pursuant to paragraph 95(1)(b) of the BIA and therefore void as against the Trustee

- 25. At the time of each Impugned Transaction, WEI was insolvent and the Related Parties did not deal with WEI at arm's length. The Impugned Transactions occurred during the Look Back Period, were made to the Related Parties, and had the effect of giving the Related Parties a preference over other creditors of WEI, many of whom remain unpaid.
- 26. Accordingly, the elements of paragraph 95(1)(b) of the BIA are satisfied, rendering the Impugned Transactions void as against the Trustee.

The Impugned Transactions are fraudulent preferences contrary to the FPA, and fraudulent transfers contrary to the SOE

- 27. The Impugned Transactions are fraudulent preferences contrary to the FPA as: (i) a conveyance, transfer, or other specified transaction was made by WEI; (ii) it was made when WEI was in insolvent circumstances, was unable to pay its debts in full or knew that it is on the eve of insolvency; and (iii) WEI had the intent to give the Related Parties preference over one or more other creditors.
- 28. The Impugned Transactions are fraudulent transfers contrary to the SOE as: (i) WEI made a conveyance of real or personal property; (ii) for no or nominal consideration; (iii) with the

intent to defraud, delay or hinder creditors; (iv) the Trustee has legal or equitable right to claim against WEI; and (v) the Impugned Transactions had the intended effect.

The Impugned Transactions are transfers at undervalue pursuant to section 96 of the BIA and are therefore void as against the Trustee

- 29. Under paragraph 96(1)(b) of the BIA, a transfer at undervalue is void as against the Trustee where the parties were not dealing at arm's length and the transfer occurred within one year of the date of the initial bankruptcy event.
- 30. The Trustee is of the opinion that the fair market value of the consideration received by WEI in connection with the Impugned Transactions is nil.
- 31. WEI and the Related Parties were not dealing at arm's length, and the Impugned Transactions occurred within the Look Back Period.
- 32. Accordingly, the Impugned Transactions constitute transfers at undervalue and are void as against the Trustee.

The Impugned Transactions unjustly enriched the Related Parties

- 33. The test for unjust enrichment is well-established: (i) an enrichment of the defendant; (ii) a corresponding deprivation of the plaintiff; and (iii) an absence of juristic reason for the enrichment.
- 34. The Trustee has standing to pursue third parties under equitable cause of action such as unjust enrichment.
- 35. The Related Parties were enriched by the Impugned Transactions, and the creditors of WEI suffered a corresponding deprivation, as the Impugned Transactions were executed at WEI's creditors expense. There was no juristic reason to justify the Impugned Transactions.
- 36. Accordingly, the Related Parties are required to repay the Debtors' bankrupt estate.

The Impugned Transactions give rise to a judgment against Mr. Douglas pursuant to subsection 101(2.01) of the BIA

- 37. The Impugned Transactions were made at a time when WEI was insolvent or was rendered insolvent, were conspicuously in excess of the fair market value of the consideration received by WEI and were made outside the ordinary course of business.
- 38. Furthermore, Mr. Douglas did not have reasonable grounds to believe that the Impugned Transactions occurred at a time when WEI was not insolvent or would not be rendered insolvent, were not conspicuously over the fair market value of the consideration received, or were made in the ordinary course of business.
- 39. Accordingly, all elements of subsection 101(2.01) of the BIA are satisfied. As such, Court should grant judgment against Mr. Douglas in favour of the Trustee for the amounts of the Impugned Transactions, together with 5% per annum interest on such amounts pursuant to section 3 of the *Interest Act*, RSC 1985, c I-15.

Affidavits or other evidence to be used in support of this Application:

- 40. First Report of the Trustee dated August 29, 2025, to be filed.
- 41. Bench of Law of the Trustee in relation to claims herein, to be filed.
- 42. Preliminary Report of the Trustee dated March 12, 2025.
- 43. Such further and other material and evidence as counsel may advise and this Honourable Court permits.

Applicable rules:

44. Alberta Rules of Court, AR 124/2010.

Applicable Acts and regulations:

- 45. Bankruptcy and Insolvency Act, RSC 1985, c B-3.
- 46. Companies' Creditors Arrangement Act, RSC 1985, c C-36.

- 47. Fraudulent Preferences Act, RSA 2000, c F-24.
- 48. Statute of Elizabeth, 13 Eliz 1, Chapter 5 (UK).
- 49. Interest Act, RSC 1985, c I-15.
- 50. Business Corporations Act, RSA 2000, c B-9, and Business Corporations Regulation, Alta Reg 118/2000.
- 51. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

52. None.

How the application is proposed to be heard or considered:

53. Oral submissions by counsel at an Application in Commercial List Chambers scheduled to be heard via Webex videoconference on Tuesday, September 9, 2025 at 10:00 a.m. before the Honourable Justice B.B. Johnston, of the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this Application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the Application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

SCHEDULE"A"

Webex Information

The above booking is Confirmed – Matter now proceeding under the below bankruptcy numbers.

File #(s): B301 191521, B301 191522, B301 191523, B301 191524, B301 191525, B301 191526

Style of Cause: BANKRUPTCY OF: v. WOLVERINE ENERGY AND INFRASTRUCTURE INC.

BANKRUPTCY OF: v. WOLVERINE EQUIPMENT INC.
BANKRUPTCY OF: v. WOLVERINE CONSTRUCTION INC.
BANKRUPTCY OF: v. WESTERN CANADIAN MULCHING LTD.

BANKRUPTCY OF: v. LIBERTY ENERGY SERVICES LTD.
BANKRUPTCY OF: v. HD ENERGY RENTALS LTD.

Date/Duration:

Sep 09, 2025 10:00 AM Total: 120 Minute(s)

Booking Type/List: Commercial

Purpose of Hearing: Commercial Hearing

Counsel:

Special Requirements:

Requirements: Courtroom Required Equipment: Video Conferencing

Counsel: Please ensure that all relevant parties have received Webex information.

Virtual Courtroom 60 has been assigned for the above noted matter:

Virtual Courtroom Link:

https://albertacourts.webex.com/meet/virtual.courtroom60

Instructions for Connecting to the Meeting

- 1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
- 2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
- 3. Click on the Open Cisco Webex Meeting.
- 4. You will see a preview screen. Click on Join Meeting.

Key considerations for those attending:

- 1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
- 2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
- 3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
- 4. Note: Recording or rebroadcasting of the video is prohibited.

5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.

For more information relating to Webex protocols and procedures, please visit: https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

SCHEDULE"B"

Service List

COURT FILE NUMBER B301-191521

B301-191522 B301-191523 B301-191524 B301-191525 B301-191526

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PROCEEDINGS IN THE MATTER OF THE BANKRUPTCY OF WOLVERINE

ENERGY AND INFRASTRUCTURE INC., WOLVERINE EQUIPMENT INC., WOLVERINE CONSTRUCTION INC., WESTERN CANADIAN MULCHING LTD., HD ENERGY RENTALS LTD. and LIBERTY ENERGY SERVICES LTD.

APPLICANT FTI CONSULTING CANADA INC., in its capacity as Licensed

Insolvency Trustee of the bankruptcy estate of WOLVERINE ENERGY AND INFRASTRUCTURE INC., WOLVERINE EQUIPMENT INC., WOLVERINE CONSTRUCTION INC., WESTERN CANADIAN MULCHING LTD., HD ENERGY RENTALS LTD. and LIBERTY ENERGY SERVICES LTD.

RESPONDENTS 1586329 ALBERTA LTD.,

WOLVERINE MANAGEMENT SERVICES INC. and

JESSE DOUGLAS

DOCUMENT <u>SERVICE LIST</u>

UPDATED AUGUST 29, 2025

SERVICE RECIPIENT		RECIPIENT STATUS
FTI CONSULTING CANADA INC. 1610, 520 – 5th Ave S.W.		Trustee in Bankruptcy
Calgary, AB T2P 3R7		
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Attention: Email:	Dustin Olver Dustin.Olver@fticonsulting.com	
Attention: Email:	Lyndsay Shierman Lindsay.Shierman@fticonsulting.com	

SERVICE RECIPIENT		RECIPIENT STATUS
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Attention: Email:	Bilal Qureshi bqureshi@torys.com	
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Attention: Email:	Luc Rollingson rollingsonl@bennettjones.com	
STILLMAN LLP 100-17420 Stony Plain Rd NW Edmonton, AB T5S 1K6		Counsel to Wolverine Equipment Inc., Wolverine Construction Inc., HD Energy Rentals Ltd., Liberty Energy Services Ltd., Wolverine
Attention: Email:	Gregory R. Bentz gbentz@stillmanllp.com	Energy and Infrastructure Inc., and 1586329 Alberta Ltd.
Attention: Email:	Christopher G. Hoose choose@stillmanllp.com	
MICHAEL RE 450-1010 8 th Calgary, AB T2P 1J2		Agent for Service for Western Canadian Mulching Ltd.
Email:	mreid@wnrgi.com	

SERVICE RECIPIENT		RECIPIENT STATUS
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JESSE DOUG 2318 Warry C Edmonton, Al	Crt SW	Respondent
Email:	jessedouglas12@gmail.com jdouglas@greenipi.com	
THORNTON GROUT FINNIGAN LLP Suite 3200, TD West Tower 100 Wellington Street P.O. Box 329 Toronto, ON M5K 1K7		Counsel to Fiera Private Debt Fund V LP and Fiera Private Debut Fund VI LP
Attention: Email:	Leanne Williams LWilliams@tgf.ca	
Attention: Email:	Puya Fesharaki PFesharaki@tgf.ca	
Fiera Private Debt Fund GP Inc. and Fiera Private Debut Fund VI LP		Creditor
Email: Russell W. French rfrench@fieracapital.com Matthew Tokaruk mtokaruk@fieracapital.com		
MCCARTHY TÉTRAULT LLP 4000, 421 – 7 th Avenue SW Calgary, AB T2P 4K9		Counsel to Canadian Western Bank
Attention: Email:	Sean Collins scollins@mccarthy.ca	

SERVICE RECIPIENT	RECIPIENT STATUS
CANADA REVENUE AGENCY Surrey National Verification and Collection Centre Canada Revenue Agency 9755 King George Boulevard Surrey, BC V3T 5E1 Fax: 1-866-219-0311	Creditor

SCHEDULE "C"

Proposed form of Order

COURT FILE/ESTATE B301-191521
NUMBERS B301-191522
B301-191523
B301-191524
B301-191525
B301-191526

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PROCEEDING IN THE MATTER OF THE BANKRUPTCY OF

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Insolvency Trustee of the bankruptcy estate of WOLVERINE ENERGY AND INFRASTRUCTURE INC., WOLVERINE EQUIPMENT INC., WOLVERINE CONSTRUCTION INC., WESTERN CANADIAN MULCHING LTD., HD ENERGY RENTALS LTD. and LIBERTY ENERGY SERVICES LTD.

RESPONDENTS 1586329 ALBERTA LTD.,

WOLVERINE MANAGEMENT SERVICES INC. and

JESSE DOUGLAS

DOCUMENT ORDER

ADDRESS FOR SERVICE Torys LLP

AND CONTACT 4600 Eighth Avenue Place East

INFORMATION OF 525 - Eighth Ave SW PARTY FILING THIS Calgary, AB T2P 1G1

DOCUMENT:

Attention: Kyle Kashuba / Bilal Qureshi

Telephone No.: +1 403.776.3744 / +1 403.776.3769 Email: kkashuba@torvs.com / bqureshi@torvs.com

Fax No.: +1 403.776.3800 File No.: 39586-2007

DATE ON WHICH ORDER WAS PRONOUNCED: Tuesday, September 9, 2025

LOCATION OF HEARING OR TRIAL: Calgary Law Courts

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice B.B. Johnston

UPON THE APPLICATION by FTI Consulting Canada Inc. in its capacity as the licensed insolvency trustee (the "Trustee") of the bankrupt estates of Wolverine Energy and Infrastructure Inc. ("WEI"), Wolverine Equipment Inc., Wolverine Construction Inc., Western Canadian Mulching Ltd., HD Energy Rentals Ltd., and Liberty Energy Services Ltd. (collectively, the "Debtors") for an order (among other things) declaring that certain transactions totaling \$1,011,950.35 from WEI to 1586329 Alberta Ltd. and Wolverine Management Services Inc. (the "Douglas Corporations") be set aside and are void against the Trustee, and therefore the Douglas Corporations and Jesse Douglas ("Mr. Douglas") are directed to repay \$1,011,950.35 to the estate of the Debtors; AND UPON HAVING READ the First Report of the Trustee, filed August 29, 2025 (the "First Report"); AND UPON HAVING READ the Brief of Law of the Trustee filed August 29, 2025; AND UPON HEARING the submissions of counsel for the Trustee, Jesse Douglas, and such other parties present at the hearing of this Application;

IT IS HEREBY ORDERED AND DECLARED THAT:

- 1. Capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the First Report.
- 2. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application and time for service of this Application is abridged to that actually given.
- 3. The Impugned Transactions are preferential transactions pursuant to paragraph 95(1)(b) of the BIA and therefore void as against the Trustee.
- 4. The Related Parties are required to repay \$1,011,950.35 to the estate of the Debtors.
- 5. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the Application for this Order; and

(iv) Posting a copy of this Order on the Trustee's website at:

http://cfcanada.fticonsulting.com/wolverine/

and service on any other person is hereby dispensed with.

6. Service of this Order may be effected by facsimile, electronic mail, personal delivery, or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the King's Bench of Alberta