



COURT FILE NUMBER 1601-06765

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF ENDURANCE ENERGY LTD.

DOCUMENT

APPLICATION (KERP, KEIP AND STAY EXTENSION)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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**Attention: Robert I. Thornton /
Leanne Williams / Rachel Bengino**

Client File No: 1751-001

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 judge.

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

Date: Tuesday, August 2, 2016
Time: 10:00 am
Where: Calgary Courts Centre
601 5th Street S.W., Calgary, Alberta
Before Whom: The Honourable Mr. Justice C.M. Jones

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

This Application is being made by Endurance Energy Ltd. (the "**Applicant**").

Remedy claimed or sought:

1. An Order abridging the time for service of this Application and supporting materials and declaring service to be good and sufficient.
2. An Order in substantially the form of the proposed Order attached hereto as Schedule "A":
 - (a) approving the KERP, the KERP Charge, the KEIP and KEIP Charge (each as defined below);
 - (b) extending the Stay Period (as that term is defined in the Initial Order of this Court granted May 30, 2016, as amended and restated on June 8, 2016; the "**Initial Order**") to August 31, 2016; and
 - (c) such further and other relief as counsel may request and this Honourable Court may deem appropriate in the circumstances.

Grounds for making this Application

3. The Applicant was granted protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "CCAA") pursuant to the Initial Order. FTI Consulting Canada Inc. was appointed as monitor of the Applicant (the "**Monitor**").
4. The Initial Order granted a stay of proceedings until June 29, 2016, which was extended by this Honourable Court until August 5, 2016 on June 27, 2016.
5. Since the date of the Initial Order, the Applicant has been working diligently, in consultation with its Financial Advisor (as defined in the Initial Order) and the Monitor, to advance the restructuring proceedings. This includes, but is not limited to,

commencing and continuing the Sale Process (as defined in the Sale Process Order of this Court granted May 30, 2016 as revised pursuant to the Order dated June 22, 2016) in an attempt to sell the Applicant's operations as a going concern.

Key Employee Retention Plan and Key Employee Incentive Plan

6. The Applicant is seeking to approve a key employee retention plan (the "**KERP**"), which provides for the payment of retention bonuses to certain key employees (the "**KERP Employees**") during these CCAA proceedings. The Applicant is also seeking to approve a key employee incentive plan (the "**KEIP**"), which provides a percentage recovery based on the proceeds obtained by the Applicant through the Sale Process to certain key employees (the "**KEIP Employees**", and together with the KERP Employees, the "**Employees**").
7. The Employees are critical to the Applicant's CCAA proceedings because they are experienced employees with specialized skills. The Employees are not replaceable in the near term and are integral to the implementation of any transaction resulting from the Sale Process.
8. The KERP and KEIP are necessary to ensure that the Employees continue their employment with the Applicant throughout the CCAA proceedings. Without the KERP and KEIP, there is a significant risk that the Employees will find employment elsewhere which could hinder the implementation of any sale transaction.
9. In order to secure payment of the amounts payable under the KERP and KEIP, the Applicant is seeking a KERP and KEIP Charge (the "**KERP and KEIP Charge**") in favour of the Employees ranking immediately behind the Directors' Charge (as defined in the Initial Order).

Stay of Proceedings

10. The Applicant is working in good faith and with due diligence in these proceedings. Extending the Stay Period will provide the Applicant with the necessary time to finalize the Sale Process and work towards completing any resulting sale transaction resulting therefrom.
11. The Applicant's cash flow projections demonstrate that the Applicant will have sufficient funds to meet its post-filing obligations through to August 31, 2016.
12. No creditors will be materially prejudiced by the requested extension.

Material or evidence to be relied on:

13. The pleadings and proceedings had and taken in this Action;
14. The Affidavit of Steven VanSickle sworn July 27, 2016;
15. The Fourth Report of the Monitor, to be filed; and
16. Such further or other material or evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

17. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended; and
18. 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:

19. None.

How the application is proposed to be heard or considered:

20. In person and via teleconference before the Honourable Mr. Justice C.M. Jones.

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"

PROPOSED FORM OF KERP, KEIP AND STAY EXTENSION ORDER

CLERK'S STAMP

COURT FILE NUMBER

1601-06765

COURT

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**Attention: Robert I. Thornton /
Leanne Williams / Rachel Bengino**

Client File.No: 1751-001

DATE ON WHICH ORDER WAS PRONOUNCED: August 2, 2016

LOCATION OF HEARING OR TRIAL: Calgary Courts Centre

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice C.M. Jones

UPON THE APPLICATION of Endurance Energy Ltd. ("**Endurance**"); AND UPON reading the pleadings and proceedings filed herein; AND UPON hearing the submissions of counsel for Endurance, and the other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. Service of the Notice of Application for this Order is hereby validated and deemed good and sufficient, this application is properly returnable today, and no person other than those persons served is entitled to service of the Notice of Application.

KERP and KEIP Order

2. The key employee retention plan (“**KERP**”) and key employee incentive plan (“**KEIP**”), each of which are attached to the affidavit of Steven VanSickle, sworn July 27, 2016, as Confidential Exhibit “A”, are hereby authorized and approved and the Applicant (and any other person that may be appointed to act on behalf of the Applicant including without limitation, any trustee, liquidator, receiver, interim receiver, receiver and manager or other person acting on behalf of any such person) are authorized and directed to perform the obligations under the KERP and KEIP, including making all payments to the beneficiaries of the KERP and KEIP of amounts due and owing under the KERP and KEIP at the time specified and in accordance with the terms of the KERP and KEIP.

KERP and KEIP Charge

3. The beneficiaries of the KERP and KEIP are hereby granted a charge (the “**KERP and KEIP Charge**”) on the Property (as defined in the Initial Order, granted May 30, 2016, as amended and restated; the “**Initial Order**”), which charge shall not exceed \$386,304, plus any amounts that become payable under the KEIP, to secure all obligations under the KERP and KEIP. The KERP and KEIP Charge shall have the priority set out in paragraph 4 hereof.
4. The priorities of the Administration Charge, Interim Lender’s Charge, Directors’ Charge (each as defined in the Initial Order) and KERP and KEIP Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,500,000);

Second – Interim Lender’s Charge (to the maximum amount of USD\$20,000,000);

Third – Directors’ Charge (to the maximum amount of \$1,000,000); and

Fourth – KERP and KEIP Charge. (\$386,304, plus any amounts that become payable under the KEIP).

5. The filing, registration or perfection of the KERP and KEIP Charge shall not be required, and that both the KERP and KEIP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to both the KERP and KEIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

Sealing Order

6. The KERP and KEIP shall be sealed on the Court file and not form part of the public record.
7. The Clerk of this Honourable Court shall file the KERP and KEIP in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY
ENDURANCE ENERGY LTD.; and

THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE SEALING
ORDER ISSUED BY THE HONOURABLE MR. JUSTICE C.M. JONES ON AUGUST
2, 2016.

Stay Extension

8. The Stay Period as ordered and defined in paragraph 13 of the Initial Order, is hereby extended until and including August 31, 2016.

J.C.Q.B.A. or Clerk of the Court