



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, RSC 1985, c-36, AS AMENDED AND IN  
THE MATTER OF ENDURANCE ENERGY LTD.

DOCUMENT: **APPLICATION (Stay Extension, Third Interim Distribution  
and Termination of the Directors' Charge)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: **BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855-2nd Street SW  
Calgary, Alberta T2P 4K7

Attention: Chris Simard  
Telephone No.: 403-298-4485  
Fax No.: 403-265-7219  
Client File No.: 76142.2

### 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: January 30, 2017  
Time: 2:00 p.m.  
Where: Calgary Courts Centre  
601 – 5<sup>th</sup> Street S.W., Calgary, Alberta  
Before Whom: Justice K.M. Horner, on the Commercial List

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 FTI Consulting Canada Inc., the Court-appointed Monitor (the "**Applicant**" or the "**Monitor**") of Endurance Energy Ltd. ("**Endurance**").

## REMEDIES CLAIMED OR SOUGHT

### Service

1. An Order abridging service and declaring that service of this Application on the service list is valid and deemed good and sufficient.

### Stay Extension

2. An Order, in substantially the form of the proposed Order attached hereto as **Schedule "A"** extending the Stay Period, as ordered and defined in the June 15, 2016 Amended and Restated Initial Order granted herein (the "**Initial Order**") from January 31, 2017, until and including June 30, 2017.

### Third Interim Distribution and Termination of the Directors' Charge

3. An Order, in substantially the form of the proposed Order attached hereto as **Schedule "B"** approving a further interim distribution to Canadian Imperial Bank of Commerce (the "**Agent**"), in its capacity as the Administrative Agent to a syndicate of lenders (collectively, the "**Lenders**") in the amount of \$6 million, as well as the amount of the security deposits received from AER and SME and terminating the Directors' Charge (as defined in the Initial Order).

4. Such further and other relief as counsel requests and this Honourable Court may deem just in all of the circumstances.

## GROUND FOR MAKING THIS APPLICATION

### Introduction

5. On May 30, 2016, Endurance Energy Ltd., commenced an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended and were granted an Initial Order. The Initial Order, amended and restated, was granted on June 15, 2016.

### **Extension of the Stay Period**

6. The Stay Period has been extended from time to time. Most recently, on November 22, 2016, the Honourable Mr. Justice C. M. Jones extended the Stay Period to and including January 31, 2017.

7. Endurance no longer has any active business operations. As previously reported to this Court, the Court approved the sale of substantially all of Endurance's assets and the sale was completed on or about October 26, 2016.

8. On November 21, 2016, the Court approved an interim distribution to the Lenders of \$100 million. On December 5, 2016, the Court approved a second interim distribution to the Lenders of \$25 million. Both interim distributions have been made, in partial repayment of the debt owed by Endurance to the Lenders. The Lenders are still owed approximately \$71 million. The primary tasks that remain to be completed in the administration of Endurance's affairs are the final winding up of the affairs of Endurance, and a final distribution or distributions to the Lenders.

9. The extension of the Stay Period to June 30, 2017 is reasonable and appropriate in the circumstances. The Monitor expects that all final wind-up and administration matters, including the making of a final distribution and the discharge of the Monitor, can be completed by June 30, 2017.

### **Third Interim Distribution**

10. Endurance is indebted to the Lenders under the terms of the credit agreement dated June 27, 2013, as amended and restated, amongst the Applicant and the Lenders (the "**Credit Agreement**"). The Lenders have valid first-priority security over the assets of Endurance. No creditor has claimed an interest over the Applicant's assets in priority to the Lenders.

11. The Monitor proposes a third interim distribution to the Lenders, in the amount of \$5 million. If such distribution is made, the Lenders will still be owed approximately \$65.5 million.

The Monitor will continue to hold approximately \$2.5 million, which it estimates will be sufficient to cover the costs of the remaining steps necessary to wind-up Endurance.

### **Termination of Directors' Charge**

12. The Monitor has completed the Directors & Officers Claims Procedure pursuant to the November 22, 2016 Claims Procedure Order granted by this Court, and no valid claims have been proven as against the beneficiaries of the Directors' Charge. Claimants filed 10 Proofs of Claim under the Directors & Officers Claims Procedure. The Monitor has determined that all of those claims were claims properly made against Endurance, but were not valid claims against the beneficiaries of the Directors' Charge. As such, the Monitor issued Notices of Disallowance with respect to all those Proofs of Claim. The deadline for claimants to issue Notices of Dispute in response to the Monitor's Notices of Disallowance is 5:00 p.m. Mountain Time on Friday, January 27, 2017. As of the time of the filing of this Application, none of the ten claimants had issued a Notice of Dispute in response to the Monitor's Notices of Disallowance.

### **MATERIAL OR EVIDENCE TO BE RELIED ON**

13. The pleadings and proceedings had and taken in this Action, including the Eleventh Report of the Monitor.

14. Such further or other material or evidence as counsel may advise and this Honourable Court may permit.

### **APPLICABLE RULES**

15. Part 6, Division 1 of the *Alberta Rules of Court*; and

16. Such further and other rules 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 before the presiding Justice in Commercial List Chambers.

**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"**

CLERK'S STAMP

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: **ORDER (Stay Extension)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT:

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500, 855 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 4K7  
Attention: Chris Simard  
Telephone No.: (403) 298-4485  
Facsimile No.: (403) 265-7219  
Our File: 76142.2

DATE ON WHICH ORDER WAS PRONOUNCED: January 30, 2017

LOCATION OF HEARING OR TRIAL: Calgary

NAME OF JUDGE WHO MADE THIS ORDER: Justice K.M. Horner

**UPON THE APPLICATION** of FTI Consulting Canada Inc., the Court-appointed Monitor of Endurance Energy Ltd. (the "**Applicant**" or the "**Monitor**"); **AND UPON** having read the Application and the Eleventh Report of the Monitor, and the pleadings and proceedings in this Action, all filed; **AND UPON** hearing the submissions of counsel for the Monitor and counsel for other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Time for service of the application for this order is hereby abridged and service is deemed good and sufficient.

2. The Stay Period, as defined in the Amended and Restated Initial Order granted on June 15, 2016 in this Action, is hereby extended, from January 31, 2017, up to and including June 30, 2017.

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J.C.Q.B.A.



## SCHEDULE "B"

CLERK'S STAMP

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: **ORDER (Third Interim Distribution and Termination of Directors'  
Charge)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT:

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500, 855 – 2<sup>nd</sup> Street S.W.  
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**UPON THE APPLICATION** of FTI Consulting Canada Inc., the Court-appointed Monitor (the "**Applicant**" or the "**Monitor**") of Endurance Energy Ltd. ("**Endurance**"); **AND UPON** having read the Application and the Eleventh Report of the Monitor, and the pleadings and proceedings in this Action, all filed; **AND UPON** hearing the submissions of counsel for the Monitor and counsel for other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Time for service of the application for this order is hereby abridged and service is deemed good and sufficient.

2. The following terms shall have the following meanings for the purpose of this Order:
  - (a) “**Credit Facility**” means the senior secured credit facility pursuant to a Credit Facility Agreement dated June 27, 2013 between Canadian Imperial Bank of Commerce, as Administrative Agent to the Lenders and Endurance, as amended from time to time;
  - (b) “**Amended and Restated Initial Order**” means the Initial Order as amended and restated on June 21, 2106 in these CCAA Proceedings; and
  - (c) “**Lenders**” means the syndicate of lenders that granted the Credit Facility.
3. The Monitor is authorized, directed and empowered to make the following distributions to the Lenders in partial satisfaction of the amounts owing to the Lenders under the Credit Facility:
  - (a) a distribution in the amount of \$5 million to the Lenders, plus that portion of the D&O Claims Holdback (as defined in the Monitor’s Eleventh Report) with respect to which no Dispute Notice has been filed by 5:00 p.m. Mountain Time on January 27, 2017 (the “**Immediate Distribution**”); and
  - (b) the Monitor is authorized, directed and empowered to distribute to the Lenders all security deposits received from the AER or the SME, when received (the “**Future Distribution**”);  
  
(the Immediate Distribution and the Future Distribution are hereinafter referred to as the “**Lenders Distributions**”).
4. The Monitor is hereby authorized, directed and empowered to take any further steps that it deems necessary or desirable to complete the Lenders Distributions described in paragraph 3 above.
5. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Endurance and any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of Endurance,

the Lenders Distributions shall be binding on any trustee in bankruptcy that may be appointed in respect of Endurance and shall not be void or voidable by creditors of Endurance, nor shall they constitute nor be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers at undervalue, or other reviewable transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation, and shall, upon the receipt thereof by the Lenders be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to Endurance.

6. The Directors' Charge (as defined in the Amended and Restated Initial Order) is hereby discharged and extinguished. All other provisions of the Amended and Restated Initial Order shall remain in full force and effect unamended.

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J.C.Q.B.A.