

COURT FILE NUMBER 1501-02652  
COURT Queen's Bench of Alberta  
JUDICIAL CENTRE Calgary  
PLAINTIFF PACER CONSTRUCTION HOLDINGS CORPORATION  
DEFENDANTS PACER PROMEC ENERGY CORPORATION and  
PACER PROMEC ENERGY CONSTRUCTION CORPORATION  
DOCUMENT **AFFIDAVIT OF ROBERT CORRIVEAU**  
ADDRESS FOR SERVICE AND CONTACT **Rose LLP**  
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Attention: E. Jane Sidnell  
File No.: 10052-010

AFFIDAVIT OF ROBERT CORRIVEAU  
Sworn on May 5, 2015

I, Robert Corriveau of Denver Colorado, in the United States of America, SWEAR AND SAY THAT:

1. I am a Project Manager with ThyssenKrupp Industrial Solutions (Canada) Inc., formerly known as Krupp Canada Inc. ("TKIS"), for the supply, delivery, installation and testing of electrical instrumentation and controls for two crusher facilities, two crusher discharge conveyors and two surge bin feed conveyors at the Mildred Lake Mine Replacement Project (the "**Project**"), and as such have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief, in which case I believe such to be true.
2. TKIS entered into a subcontract with Pacer Promec Energy Corporation ("**PPEC**") on June 27, 2013, known as MLCP 9.2 6084 (the "**Contract**") for the Project.
3. The Project is at Syncrude's Mildred Lake Mine, located 30 kilometers north of Fort McMurray.
4. PPEC mobilized to the Project site on or around August 20, 2013 to perform the work described in the Contract (the "**Work**") and demobilized from the Project site in or around October 2014. PPEC was unable to complete the Work and, with agreement of PPEC and TKIS, other contractors were engaged to complete the Work.
5. The Contract is a lump sum contract whereby PPEC agreed to perform the Work for a fixed price. Not accounting for the Work that PPEC could not perform, an overview of the Contract accounting (all amounts in this Affidavit rounded to the nearest hundred thousand dollars) is as follows:

Original lump sum price of the Contract	\$17,000,000
Agreed changes	\$4,100,000
Revised Contract price, not accounting for de-scoped work	<u>\$21,100,000</u>

6. Notwithstanding that PPEC could not complete the Work, PPEC asserts claims in the order of \$25,500,000, in addition to the revised Contract price, related to: extras (\$14,500,000); indirect costs due to changes (\$6,200,000); and productivity losses due to changes and acceleration (\$4,800,000) (collectively the "PPEC Claim"). To date, PPEC has provided limited back-up documentation to TKIS to support the PPEC Claim and no back-up documentation relating to the claims relating to indirect costs due to changes (\$6,200,000) and productivity losses due to changes and acceleration (\$4,800,000).
7. TKIS denies that it is liable for the PPEC Claim under the lump sum Contract and it is TKIS' position that the alleged extras, indirect costs and productivity losses are the result of mismanagement of the Project by PPEC. As Richard Pelletier states in his Affidavit in support of the Receivership Application, sworn March 6, 2015, at paragraph 32: "The cost estimates used to formulate bids on projects in response to requests for proposals have regularly been exceeded, and PPEC has struggled to find the proper team to manage the projects it has taken on."
8. PPEC agreed to pay TKIS for cost of these other contractors to complete the Work. TKIS paid the other contractors \$10,700,000 for completion of PPEC's Work. In addition, TKIS incurred \$1,900,000 in additional costs to manage this work by others. PPEC was also late in completing the Work that it did perform resulting in over \$2,100,000 in liquidated damages being payable to PPEC to TKIS.
9. Not including the liquidated damages, PPEC owes TKIS \$7,600,000 under the Contract, calculated as follows:

Revised Contract Value	\$21,000,000
Less Cost to Complete PPEC scope by others	\$12,600,000
Adjusted Contract Price	<u>\$8,400,000</u>
Amount Paid to PPEC	\$16,000,000
Amount overpaid to PPEC	<u>\$7,600,000</u>

10. PPEC has registered builders' liens in the total amount of \$21,838,072.00 on the Mildred Lake Mine Replacement Project. In addition, two of PPEC's subcontractors have also registered builders' liens: Leavitt Machinery General Partnership for \$287,192.65 and Aluma Systems Inc. for \$1,016,596.13. All of the liens were discharged from title after TKIS posted a lien bond in the amount of \$22,038,072.00 as security for the same.
11. TKIS' cost of maintaining the lien bond is \$286,495.00 per year.
12. Resolving the PPEC Claim and counterclaim involves many detailed aspects of the Work and TKIS alone has hundreds of thousands of relevant documents relating to the issues of: purported

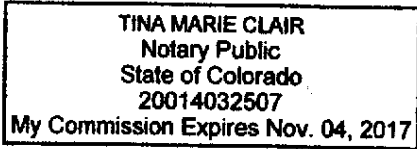
extras, indirect costs due to changes, productivity losses due to changes and acceleration and TKIS' counterclaim against PPEC.

- 13. TKIS requires further time to review the proposed Claims Officer's qualifications to take on the role proposed by the Receiver as the Receiver has provide no information as to the proposed Claims Officer's experience or expertise.
- 14. TKIS requires further time to review the claims procedure proposed by the Receiver and to provide the Court with its comments on the most effective and efficient method of resolving the PPEC Claim.
- 15. I make this Affidavit in support of an adjournment of that portion of the Receiver's Application dealing with the appointment of a Claims Officer and institution of a claims procedure and which is scheduled to be heard on May 7, 2015.

SWORN BEFORE ME at the City of Denver,  
 Colorado, United States of America, this 5<sup>th</sup>  
 day of May, 2015  
Tina Clair  
 A Notary Public

[Signature]  
 Robert Corriveau

Name of Notary: Tina Marie Clair  
 Position of Notary: Executive Assistant  
 Expiry of appointment, if applicable: November 4, 2017



- \* apply notary seal
- \* print name and position of Notary Public
- \* note date of expiry of appointment, if applicable