

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF CALGARY**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TRIDENT EXPLORATION CORP., FORT ENERGY CORP., FENERGY CORP., 981384  
ALBERTA LTD., 981405 ALBERTA LTD., 981422 ALBERTA LTD., TRIDENT  
RESOURCES CORP., TRIDENT CBM CORP., AURORA ENERGY LLC, NEXGEN  
ENERGY CANADA, INC. AND TRIDENT USA CORP.**

---

**BOOK OF SUPPLEMENTAL AUTHORITIES  
TO BRIEF OF ARGUMENT OF THE PETITIONERS**

---

**Prepared By:**

**FRASER MILNER CASGRAIN LLP**

Barristers and Solicitors

15<sup>th</sup> Floor Bankers Court  
850 2 Street SW  
Calgary, Alberta  
T2P 0R8

Solicitors: David W. Mann / Derek M. Pontin  
Telephone: (403) 268-7097 / (403) 268-6301  
Facsimile: (403) 268-3100

1 First Canadian Place  
100 King Street West  
Toronto, ON  
M5X 1B2

Solicitors: R. Shayne Kukulowicz / Michael J. Wunder  
Direct Line: (416) 863-4740 / (416) 863-4715  
Fax: 416-863-4592

**LIST OF AUTHORITIES**

**TAB**

- 1 Order, dated September 11, 2008, AB Action no. 0801-08510.  
[SemCanada Crude Company]
- 2 Order, dated April 22, 2009, Ont. Court file no. CV-09-8122-00CL  
[Indalex Holdings]
- 3 Order, dated March 13, 2009, AB Action no. 0901-02873  
[Canadian Superior Energy]
- 4 Order, dated March 2, 1999, AB Action no. 9901-04070  
[Blue Range Resource Corporation]
- 5 I.C. Ct. Filing 46969600001, certified text of original Order, dated March 9, 2001  
[Skiing Louise Ltd.]
- 6 Order, dated May 7, 2003, AB Action no. 0301-07229  
[Promax Energy Inc.]
- 7 Order, dated March 19, 2004, Que. Action no. 500-11-022700-047  
[Eaux Vives Harricana]
- 8 Order, dated April 1, 2004, AB Action no. 0401-05399  
[Questerre Beaver River]
- 9 Order, dated March 11, 2005, Que. Action no. 500-11-025198-058  
[Jetsgo Corporation]
- 10 Order, dated March 11, 2005, AB Action no. 0501-03870  
[Kodiak Energy Services]
- 11 Order, dated January 11, 1995, Ont. Court (Commercial List)  
[Dylex Limited]
- 12 Order, dated August 1, 2007, Ont. Court file no. 07-CL-7120  
[Hollinger Inc.]
- 13 Order, dated March 17, 2008, Ont. Court file no. 08-CL-7440  
[Asset-Backed Commercial Paper]
- 14 Order, dated April 17, 2009, Que Action no. 500-11-036133-094  
[AbitibiBowater Inc.]

- 15 Report of the Proposed Monitor – Ernst & Young Inc., dated April 16, 2009  
[AbitibiBowater Inc.]

**TAB I**

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SEMCANADA CRUDE COMPANY, SEMCAMS ULC, SEMCANADA ENERGY  
COMPANY, A.E. SHARP LTD., CEG ENERGY OPTIONS, INC., 3191278 NOVA  
SCOTIA COMPANY and 1380331 ALBERTA ULC

BEFORE THE HONOURABLE	)	AT THE COURTHOUSE, IN THE CITY
MADAME JUSTICE ROMAINE	)	OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS	)	ALBERTA, ON THURSDAY, THE
	)	11 <sup>th</sup> DAY OF SEPTEMBER, 2008

I hereby certify this to be a true copy of

the original

Dated this

*Order*  
11 day of Sept 2008

ORDER

(Re: Approval of Financial Advisor)  
for Clerk of the Court

UPON the application of SemCanada Crude Company ("SemCanada Crude") and SemCAMS ULC ("SemCAMS") (collectively, the "Applicants"); AND UPON noting the Amended and Restated Initial Order granted in these proceedings on July 30, 2008 (the "Amended and Restated Initial Order"); AND UPON having read the within Notice of Motion, filed; AND UPON having read the Affidavit of Darren Marine sworn September 10, 2008 (the "Marine Affidavit"); AND UPON having read the Fifth Report to the Court of Ernst & Young Inc., in its capacity as Monitor, dated September 10, 2008; AND UPON hearing submissions of counsel, including counsel for the Applicants, the Monitor, and Bank of America, IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of the Notice of Motion dated September 10, 2008 and materials in support thereof is hereby abridged, this application is properly returnable today and further service of the Notice of Motion, other than to those listed on the Service List attached to the Notice of Motion, is hereby dispensed with.

Approval of Appointment of Financial Advisor

2. The appointment of BMO Nesbitt Burns Inc. ("BMO Capital Markets") as financial advisor pursuant to the terms of the engagement letters dated September 10, 2008 (the "Engagement Letters") entered into by SemCAMS and SemCanada Crude, respectively, is hereby authorized and approved. SemCAMS and SemCanada Crude are authorized to enter into the Engagement Letters and to carry out and perform their rights and obligations thereunder (including payment of amounts due to be paid pursuant to the terms of the Engagement Letters) and the Engagement Letters shall be binding upon the Applicants, respectively.
3. All claims of BMO Capital Markets pursuant to the Engagement Letters are not claims that may be compromised pursuant to any plan of compromise or arrangement under the *Companies Creditors' Arrangement Act* or proposal under the *Bankruptcy and Insolvency Act* and no such plan or proposal shall be approved that does not provide for the payment of all amounts due to BMO Capital Markets pursuant to the terms of the Engagement Letters.
4. 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* in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicants, the terms of the Engagement Letter shall be binding on any trustee in bankruptcy that may be appointed in respect of the applicable Applicant and shall not be void or voidable by creditors of the applicable Applicant, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

Charge for Work Fees and Completion Fees

5. For the purposes of this Order, the current and future assets, undertakings and properties of SemCanada Crude of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, are defined as the "SemCanada Crude Property".

6. A charge (the "Financial Advisor Charge") is hereby granted to BMO Capital Markets over all of the proceeds (in whatever form) generated by any Sale Transaction (as defined in the Engagement Letters) as security for any Completion Fee (as described and calculated in accordance with the Engagement Letters), payable to BMO Capital Markets, and for greater certainty, whether the vendor with respect to a Sale Transaction is SemCanada Crude or SemCAMS, or any other person, including a trustee in bankruptcy, interim receiver, receiver and manager or other official appointed in respect of SemCanada Crude or SemCAMS. Where the proceeds of a Sale Transaction are not received by SemCanada Crude or SemCAMS, the Financial Advisor Charge shall attach at the time of the closing of such Sale Transaction to the SemCAMS Property (as defined in the Amended and Restated Initial Order) and the SemCanada Crude Property, as applicable, as security for the payment of the Completion Fee.

7. Paragraph 24 of the Amended and Restated Initial Order is hereby amended by adding "financial advisor charge" after "any administration charge" and before "or directors' charge".

8. The Amended and Restated Initial Order is hereby amended by adding the following paragraph 40.1 after paragraph 40:

40.1. BMO Nesbitt Burns Inc. as financial advisor shall also be entitled to the benefits of the Administration Charge as security for the work fees and reimbursable costs described in and payable under the Engagement Letters dated September 10, 2008 with SemCAMs and SemCanada Crude (the "Engagement Letters") approved by Order of this court dated September 11, 2008 (the "September 11 Order"), whether or not such work fees and costs were incurred before or after September 11, 2008.

9. Paragraph 41 of the Amended and Restated Initial Order is hereby deleted and replaced with the following paragraph:

The priorities of the Directors' Charge, the Administration Charge, the Financial Advisor Charge (as authorized and defined in the September 11 Order) and the Inter-Company Advances Charge among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$1,750,000) and the Financial Advisor Charge, *pari passu* with the Administration Charge in respect of SemCAMs and SemCanada Crude;
- (b) Second – Directors' Charge (to the maximum amount of \$4,000,000); and
- (c) Third – In respect of SemCAMs, Inter-Company Advances Charge (to the maximum amount of \$15,000,000).

10. Paragraph 42 of the Amended and Restated Initial Order is hereby deleted and replaced with the following paragraph:



The filing, registration or perfection of the Directors' Charge, the Administration Charge, the Financial Advisor Charge or the Inter-Company Advances Charge (collectively, the "Charges") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

11. Paragraph 43 of the Amended and Restated Initial Order is hereby deleted and replaced with the following paragraph:

Each of the Directors' Charge, the Administration Charge, the Financial Advisor Charge and the Inter-Company Advances Charge (all as constituted and defined herein) shall constitute a charge (i) with respect to the Directors' Charge and the Administration Charge, on the Property (ii) with respect to the Inter-Company Advances Charge, on the SemCAMs Property and (iii) with respect to the Financial Advisor Charge, as provided in the September 11 Order, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

12. Paragraph 44 of the Amended and Restated Initial Order is hereby deleted and replaced with the following paragraph:

Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge, the Financial Advisor Charge and, where applicable, the Inter-Company Advances Charge unless the relevant Applicant

also obtains the prior written consent of the Monitor, and the beneficiaries of the Directors' Charge, the Administration Charge, the Financial Advisor Charge and, where applicable, the Inter-Company Advances Charge, or further order of this Court.

13. Paragraph 45 of the Amended and Restated Initial Order is hereby amended by adding “, the Financial Advisor Charge”; after “the Administration Charge” and before “and the Inter-Company Advances Charge” in line one.

Sealing of Confidential Documents

14. The presentations by the potential financial advisors marked as Exhibit “A”, the summary of the proposed engagement terms of the potential financial advisors marked as Exhibit “B” and the Engagement Letters marked as Exhibit “C” to the Marine Affidavit contain confidential information and shall be sealed on the court file in these proceedings and segregated from, and not form part of, the public record (the “Confidential Documents”). On the application for approval of any Sale Transaction or Standalone Recapitalization (as such terms are defined in the Engagement Letters), SemCanada Crude and/or SemCAMS, as applicable, will disclose the Completion Fee payable to BMO Nesbitt Burns Inc. in respect thereof. Following such approval, if granted, any interested party is at liberty to apply for an order releasing the Engagement Letters from the sealing provisions of this paragraph.

15. The Clerk of the Court is hereby directed to file the Confidential Documents in a sealed envelope attached to a notice that sets out the title of these proceedings, the aforementioned description of documents contained therein and a statement that the envelope's contents are sealed pursuant to this Order.

  
\_\_\_\_\_  
J.C.Q.B.A.

ENTERED this 12 day of September, 2008.

  
\_\_\_\_\_  
Clerk of the Court

 COURT SEAL

Action No. 0801-08510

2008

IN THE COURT OF QUEEN'S BENCH OF  
ALBERTA  
JUDICIAL DISTRICT OF CALGARY

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

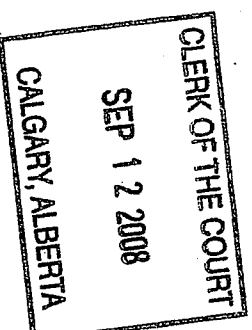
AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
SEMCANADA CRUDE COMPANY,  
SEMCAMS ULC, SEMCANADA ENERGY  
COMPANY, A.E. SHARP LTD., CEG  
ENERGY OPTIONS, INC., 3191278 NOVA  
SCOTIA COMPANY and 1380331 ALBERTA  
ULC

ORDER

Re: Approval of Financial Advisor

Blake, Cassels & Graydon LLP  
Barristers and Solicitors  
3500, 855 - 2<sup>nd</sup> Street S.W.  
CALGARY, AB T2P 4J8

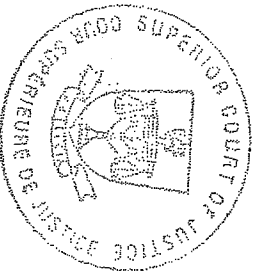
Attention: A. Robert Anderson, Q.C.  
Tel. No.: (403) 260-9624  
Fax No.: (403) 260-9700  
Our File No.:  
86684/24



**TAB 2**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. )  
 ) WEDNESDAY, THE  
JUSTICE MORA WETZ ) 22<sup>nd</sup> DAY OF APRIL, 2009



IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF INDALEX LIMITED, INDALEX  
HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC. (the "Applicants")

ORDER  
(Re Marketing Process and Stay Extension)

THIS MOTION made by the Applicants for an Order:

- a) abridging the time for service of the Notice of Motion and Motion Record, if necessary, and that the motion is properly returnable on Wednesday, April 22, 2009;
- b) approving a marketing process described at paragraph 15 of the second report (the "Second Report") of the Monitor, FTI Consulting Canada ULC, (the "Marketing Process");
- c) approving the engagement of Jefferies & Company, Inc. ("Jefferies") as consultant to assist with the Marketing Process, pursuant to an engagement letter dated April 14, 2009 (the "Engagement Letter"), attached as Appendix "C" to the Second Report; and

- d) approving an extension of the stay of proceedings from May 1, 2009 to June 26, 2009; and
- e) approving the first report of the Monitor dated April 8, 2009 (the "First Report"), the Second Report and the activities of the Monitor, (as described in the First Report and Second Report);

**ON READING** the Notice of Motion, the First Report and the Second Report, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and counsel for the JPMorgan Chase Bank, N.A.;

**SERVICE**

- 1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**STAY EXTENSION**

- 2. THIS COURT ORDERS that the Stay Period, provided for in paragraph 15 of the Amended and Restated Initial Order, be and is hereby extended from May 1, 2009 to and including June 26, 2009, and that all other terms of the Amended and Restated Initial Order shall remain in full force and effect, except as may be required to give effect to this paragraph.

**MONITOR'S ACTIVITIES**

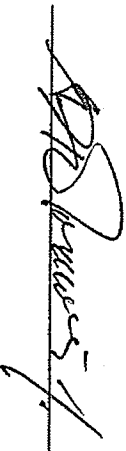
- 3. THIS COURT ORDERS that the First Report, the Second Report and the activities of the Monitor (as described in the First Report and Second Report) are hereby approved.

**MARKETING PROCESS**

- 4. THIS COURT ORDERS that the Marketing Process be and is hereby approved, and the Applicants are authorized, with the assistance of the Monitor to take such steps as it considers necessary or desirable in carrying out the Marketing Process.

**JEFFERIES' ENGAGEMENT**

5. THIS COURT ORDERS that the engagement of Jefferies, pursuant to the Engagement Letter, is hereby approved and the Applicants are hereby authorized and directed to pay the fees payable in accordance with section 5(b) of the Engagement Letter upon the consummation of a Restructuring (as defined in the Engagement Letter) or the M&A Fee (as defined in the Engagement Letter) upon the consummation of any M&A Transaction (as defined in the Engagement Letter) and such payments shall be paid by the Applicants on the basis set out in paragraph 25 of the Second Report prior to any distribution or repayment to the DIP Lenders (as defined in the Amended and Restated Initial Order dated April 8, 2009 in the proceedings), following the consummation of either a Restructuring or M&A Transaction.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 22 2009

PER/PAR: *ll*

THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c.C-36, AS AMENDED

Court File No. CV-09-8122-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and NOVAR INC. (the Applicants)

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER  
(Re Marketing Process And Stay Extension)**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers and Solicitors  
199 Bay Street, Suite 2800  
Box 25, Commerce Court West  
Toronto, Ontario M5L 1A9

**Line Rogers** LSUC No.: 43562N  
Tel: (416) 863-4168

**Katherine McEachern** LSUC No.: 38345M  
Tel: (416) 863-2566  
Fax: (416) 863-2653

**Jackie Moher** LSUC No.: 53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicants



**TAB 3**

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

ACTION NO: 0901-02873

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

AND IN THE MATTER OF CANADIAN SUPERIOR ENERGY INC.

AND IN THE MATTER OF SEEKER PETROLEUM LTD.

AND IN THE MATTER OF CANADIAN SUPERIOR TRINIDAD  
AND TOBAGO LIMITED

BEFORE THE HONOURABLE ) At the Calgary Courts Centre, in the City  
MR. JUSTICE S. J. LOVECCHIO ) of Calgary, in the Province of Alberta,

IN CHAMBERS ) on Friday, the 13<sup>th</sup> day of March, 2009.

I hereby certify this to be a true copy of

the original Order

Dated this 25 day of March, 2009

[Signature]  
for Clerk of the Court

ORDER AMENDING INITIAL ORDER

UPON the application of Scotia Waterous (USA) Inc. ("Scotia Waterous"); AND UPON HEARING READ the Affidavit of Lee Girardo (the "Girardo Affidavit"), filed; AND UPON REFERENCE BEING MADE to the Monitor's First Report; AND UPON HEARING counsel for various interested parties including Canadian Western Bank, BG International Limited, Deloitte & Touche Inc., as Receiver and Manager of certain of the property of Canadian Superior Energy Inc. ("CSEI") (the "Receiver"), counsel for the Monitor, Hardie & Kelly Inc., counsel for CSEI, and counsel for Scotia Waterous; AND UPON IT APPEARING that CSEI entered into an engagement letter with Scotia Waterous dated February 19, 2009 wherein Scotia Waterous agreed, inter alia, to sell CSEI's interest in Block 5(c) in Trinidad and Tobago, a copy of which is attached as Exhibit "A" to the Girardo Affidavit (the "Engagement Letter"); AND UPON REFERENCE BEING MADE to the Initial CCAA Order dated March 5, 2009 (the "Initial Order");

IT IS HEREBY ORDERED THAT:

1. The time for service of the notice of the application for this order is hereby abridged and service thereby deemed good and sufficient.
2. The Initial Order is hereby amended to add the following provisions:
  - 37(a) Subject to paragraph 37(b) below, the Engagement Letter is hereby affirmed and approved;
  - (b) the entitlement to the Success Fee (as defined in paragraph 2(b) of the Engagement Letter) in relation to any sale closing or completed other than in the CCAA proceedings shall be subject to Court Approval upon Scotia Waterous establishing a causal connection between the work performed by Scotia Waterous and a sale all within the time period provided for in the Engagement Letter;
  - (c) Subject to paragraph 37(b), the Success Fee shall be secured by a charge on all of the property of CSEI, present and future, without the requirement to file, register, record or perfect the charge (the "Post-Petition Consultant's Charge");
  - (d) The Post-Petition Consultant's Charge shall be subordinate to:
    - (i) any and all secured indebtedness of Canadian Western Bank, BG International Limited and the Receiver; and
    - (ii) the Receivership Charges as defined in the Initial Order.
3. Service may be effected by electronic or facsimile transmission.

  
\_\_\_\_\_  
J.C.Q.B.A.

ENTERED this 25<sup>th</sup> day of  
March 2009  
V.A. BRANDT COURT SEAL  
CLERK OF THE COURT

**ACTION NO: 0901-02873**

---

IN THE COURT OF QUEEN'S BENCH OF  
ALBERTA  
JUDICIAL DISTRICT OF CALGARY

---

IN THE MATTER OF THE  
*COMPANIES' CREDITORS' ARRANGEMENT*

*ACT,*

R.S.C. 1985, c. c-36, AS AMENDED

AND IN THE MATTER OF  
CANADIAN SUPERIOR ENERGY INC.

AND IN THE MATTER OF  
SEEKER PETROLEUM LTD.

AND IN THE MATTER OF CANADIAN  
SUPERIOR TRINIDAD AND TOBAGO  
LIMITED

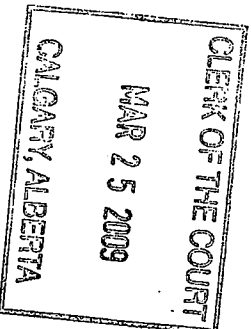
---

**ORDER AMENDING INITIAL ORDER**

---

BENNETT JONES LLP  
Barristers and Solicitors  
4500, 855 - 2nd Street S.W.  
Calgary, Alberta T2P 4K7

Frank R. Dearlove  
Telephone No.: 403-298-3202  
Fax No.: 403-265-7219  
Our File No.: 60141.5



TAB 4

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

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

AND IN THE MATTER OF BLUE RANGE RESOURCE  
CORPORATION

BEFORE THE HONOURABLE ) AT THE COURT HOUSE IN THE CITY  
MR. JUSTICE LOVECCHIO ) OF CALGARY, IN THE PROVINCE OF  
IN CHAMBERS ) ALBERTA, ON TUESDAY, THE 2ND  
DAY OF MARCH, 1999

ORDER

UPON the ex-parte application of the Petitioner Blue Range Resource Corporation (which together with its subsidiaries, where appropriate, is referred to herein as "Blue Range"); AND UPON having read the Petition, Notice of Motion and the Affidavit of A. Jeffery Tonken, and the consent of PricewaterhouseCoopers Inc. to act as proposed monitor (the "Monitor") of Blue Range filed; AND UPON on hearing the submissions of counsel for Blue Range and the Syndicate (as hereinafter defined), AND UPON it appearing that the Syndicate does not oppose the granting of this Order;

IT IS HEREBY ORDERED AND DECLARED THAT:

**SERVICE**

1. The time for service of the Petition be and it is hereby abridged and service thereof upon any interested party is hereby dispensed with.

**APPLICATION**

2. Blue Range is a company to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") applies.

## STAY OF PROCEEDINGS

3. Up to and including April 1<sup>st</sup>, 1999 or such later date as this Honourable Court may by further Order stipulate (the "Stay Termination Date"):

- a. any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings or remedies, enforcement processes, the termination, revocation, suspension or cancellation of any permits or licenses affecting Blue Range, its business, operations, assets or undertaking, or other remedies (collectively, "Proceedings"), commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any of Blue Range's creditors, customers, clients, suppliers, lessors, (including without limitation, lessors of real property and interests in mines and minerals), tenants, co-tenants, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, whether federal, provincial, state or municipal, in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, limited partners, joint or co-venturers, partners (including limited and general partners) or any other person, firm, corporation or entity (collectively, "Persons" and individually, a "Person") wherever situate or domiciled, against or in respect of Blue Range or any person who is from and after the date of this Order a director, officer or employee of Blue Range, or in respect of any present or future property, assets and undertakings of Blue Range of any kind or nature whatsoever, whether real or personal and wherever located (the "Property"), whether pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA"), the *Winding-up and Restructuring Act*, R.S.C. 1985 c. W-11 (the "WUA") or otherwise, shall be stayed and suspended;

- b. all Persons having arrangements or agreements, written or oral, with Blue Range for the supply of goods and/or services by or to Blue Range, or to any of the Property, including, without limitation, Persons having operating agreements, joint venture agreements, unit agreements, partnership agreements, transportation agreements, marketing agreements, processing agreements, aggregation agreements, delivery agreements or similar arrangements and lessors of real property and interests in mines and minerals of any nature or kind whatsoever, are hereby restrained from accelerating, terminating, suspending, modifying or cancelling any such agreements,

arrangements or supply of goods and services, and are also hereby restrained from exercising any right of distress, rescission, set-off or consolidation of accounts in relation to any indebtedness or obligation in favour of Blue Range or from retaining goods, without the prior written consent of Blue Range and the concurrence of the Monitor hereinafter appointed or leave of this Honourable Court on proper notice to Blue Range and the Monitor. Without limiting the generality of the foregoing, all Persons are hereby restrained until further Order of this Honourable Court from discontinuing or interfering with any utility or required services (including telephone, facsimile or other communication services at the present numbers used by Blue Range in respect of any of the Property), the furnishing of oil, gas, water, heat or electricity, the supply of equipment, computer software, hardware support and electronic, internet access, electronic mail and other data services, so long as Blue Range pays the normal prices or charges (other than security or other deposits whether by way of cash, letter of credit or guarantee or otherwise, stand-by fees or similar items, which Blue Range shall have no obligation to pay or grant) for such goods and services received after the date of this Order as the same become due and payable in accordance with present payment practices, or as may be hereafter agreed by Blue Range from time to time, provided that nothing herein shall prohibit any Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the date hereof, and that all such Persons shall continue to perform and observe the terms and conditions contained in any agreements entered into with Blue Range or in connection with any of the Property, as the case may be, in respect of the supply of any goods and services;

- c. notwithstanding subparagraph 3(b) hereof, this Order shall not prohibit any party to an "eligible financial contract" (as defined in section 11.1(1) of the CCAA), which contract was entered into before the date of this Order, from terminating, amending or claiming an accelerated payment under such eligible financial contract and setting off the obligations between Blue Range and such other party in accordance with its provisions, provided that if the "net termination value" (as defined in section 11.1(1) of the CCAA) determined in accordance with the eligible financial contract is owed by Blue Range to another party to the eligible financial contract, the other party shall be deemed to be a creditor of Blue Range with a claim in respect of that net termination value;



- d. the right of any Person to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, hypothec, prior claim or other security held in relation to, or any trust attaching to, the Property, including the right of any creditor to take any step in asserting or perfecting any right or interest, including, without limitation, any right to repossession of any goods supplied to Blue Range or to seize before or after judgment whether pursuant to the BIA or otherwise, is hereby restrained;
- e. the right of any Person to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, repudiation, rescission, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke any qualifications or registration), option or remedy available to it, including such right, option or remedy arising under or in respect of any agreement, whether written or oral, (including, without limitation, any operating agreement, joint venture agreement, unit agreement, partnership agreement, transportation agreement, marketing agreement, processing agreement, aggregation agreement, and any freight, demurrage, terminal contracts or other agreements related to transportation, any services, consulting or management agreement, any co-ownership agreement, any agreement of purchase and sale, any agreements for the purchase of oil or natural gas from Blue Range (always subject to sub-paragraph (c) hereof)) to which Blue Range is a party or is affected thereby, arising out of, relating to or triggered by the occurrence of any default or non-performance by Blue Range thereunder, the making or filing of these proceedings, or any allegation contained in these proceedings including, without limitation, the making of any demand on any other person, the sending of any notice, the declaration of any default, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness and the right to purchase any Property from Blue Range, is hereby restrained;
- f. the right of all creditors and shareholders of Blue Range to make demand for payment upon Blue Range is hereby restrained;
- g. any deposit made by Blue Range with any Person from and after the making of this Order, whether in an operating account or otherwise and whether for its own account or for the account of any other entity, shall not be applied by such Person in reduction

or repayment of any amount owing as of the date of this Order or which may become due on or before the Stay Termination Date or in satisfaction of any interest, fees, charges or other amounts accruing in respect thereof, and such Person shall have no right of lien, set-off, counterclaim, consolidation, or other right in respect of such deposits, and such deposits shall be remitted to Blue Range; and

h. no Person may commence or continue any Proceedings against any person who is from and after the date of this Order a director of Blue Range (or any entity having similar authority or responsibilities) on any claim against such director or entity that relates to obligations of Blue Range where directors are under any law liable in their capacity as directors for payment of such obligations.

4. Notwithstanding anything else contained herein no creditor of Blue Range shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to Blue Range except as provided in paragraph 6 of this Order.

5. This Order and the proceedings in this application leading to the granting of this Order, including the content of any affidavit filed in these proceedings, shall not, in and of themselves, constitute or be relied upon in evidence or otherwise as constituting a default or breach by Blue Range under or pursuant to any agreement (including without limitation any Canadian Association of Petroleum Landmen operating agreement or other operating or unit agreement or any joint venture, farmout or partnership agreement), statute, regulation, license, permit, contract, permission, covenant, undertaking or other instrument or requirement.

6. Notwithstanding paragraph 3 of this Order, any Person which, at the request of Blue Range provided letters of credit, standby letters of credit or similar instruments of any kind whatsoever (the "Issuing Party"), shall be required to continue honouring any and all such letters of credit, standby letters of credit, or similar instrument on or before the date of this Order. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining, refusing to honour or cancelling any such letters of credit, standby letters of credit, or similar instrument and the beneficiaries of such letters of credit, standby letters of credit, or similar instruments shall be entitled to draw on such letters of credit, standby letters of credit, or similar instruments as the case may be, in accordance with their respective terms and conditions, without the prior written consent of the Issuing Party and without the leave of this Court, provided however that any Issuing Party who is forced to honour any pre-existing standby letters of credit or similar instruments shall be entitled to set-off against Blue Range any cash collateral held by such Issuing Party as security for such letter

of credit or instrument.

7. From 9:30 a.m. (Calgary time) on the date of this Order to the time of the granting of this Order, any act or action taken or notice given by any of Blue Range's creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy will be deemed not to have been taken or given, as the case may be, subject to the right of any such Person to further apply to this Court on proper notice to Blue Range and the Monitor hereinafter appointed in respect of such step, act, action or notice given.

8. To the extent that any rights, obligations, or time or limitation periods relating to Blue Range or the Property may expire or terminate with the passage of time, the terms of such rights, obligations or periods shall hereby be deemed to be extended by a period of time equal to the duration of the stay of proceedings effected by this Order and any further Order of this Court and, for greater certainty, in the event that Blue Range becomes bankrupt or a receiver is appointed in respect of Blue Range within the meaning of section 243(2) of the BIA, the period between the date of this Order and the day on which such stay of proceedings is ended shall not be counted in determining the 30-day period referred to in Section 81.1 of the BIA or the 15-day period referred to in Section 81.2 of the BIA, provided that this paragraph shall not be construed to extend the terms of any lease that expires during the pendency of such stay of proceedings.

9. All Persons shall continue to perform and observe the terms, conditions and provisions contained in any agreements with Blue Range on their part to be performed and observed.

10. Until and including the Stay Termination Date, Her Majesty in Right of Canada may not exercise rights under subsection 224(1.2) of the *Income Tax Act* (Canada) in respect of Blue Range, where Blue Range is a tax debtor under that subsection and Her Majesty in Right of a Province may not exercise rights under provincial legislation substantially similar to that subsection in respect of Blue Range where Blue Range is a tax debtor under the provincial legislation.

11. The provisions of paragraph 3 to 10 of this Order apply in accordance with their terms to stay any and all Proceedings or to restrain any matter provided therein that may be commenced or taken against any Person who is or may be directly or indirectly obligated for any obligations of Blue Range otherwise than under any letter of credit or any guarantee in respect of any such obligations.

## **OPERATIONS**

12. Blue Range shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it is entitled to claim against amounts payable by Blue Range to any Person, including, without limitation, amounts payable to any joint venture partner, operator, supplier of goods and services or any landlord of premises leased or occupied by Blue Range and including rights arising in connection with any agreements or arrangements with any venture partner, operator or supplier.
13. Blue Range shall remit, in accordance with legal requirements, (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof, which from and after the date hereof are required to be deducted from employees' wages, including, without limitation, amounts in respect of unemployment insurance, Canada Pension Plan, and income taxes; (b) amounts accruing and payable by Blue Range from and after the date hereof, in respect of employment insurance, Canada Pension Plan, and workers compensation; (c) to the extent applicable, all goods and services or sales taxes payable by Blue Range to such customers from and after the date hereof; and (d) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind attributable to or in respect of the carrying on of business by Blue Range from and after the date hereof, with provision to be made in the Plan (as defined below) for any amounts accrued prior to the date hereof in respect of any of the foregoing.
14. From and after the date hereof, subject to compliance with the other provisions of this Order relating to the payment of expenses, Blue Range shall be entitled but not required to pay all reasonable expenses incurred by it in carrying on its business and carrying out all the provisions of this Order, which expenses, pending any further Order of this Honourable Court, may include, without limitation, payment of:
  - a. interest and other charges in connection with the DIP Financing (as hereinafter defined);
  - b. the reasonable fees and disbursements of the Monitor incurred both prior to and following the making of this Order (which for greater certainty shall include the fees and disbursements of Price WaterhouseCoopers Inc. as a consultant to Blue Range prior to its appointment as the Monitor), including the reasonable fees and disbursements, if any, on a solicitor and client basis, of any counsel retained by the Monitor;

- c. the reasonable fees and disbursements incurred both prior to and following the making of this Order, on a solicitor and client basis, of insolvency and corporate counsel retained by Blue Range in respect of these proceedings and the Plan or other matters affecting the business and operations of Blue Range, and the reasonable fees and disbursements of counsel for the Syndicate;
- d. all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course) statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof which were required to be deducted from employees' wages, including without limitation, amounts in respect of employment insurance, Canada Pension Plan, income taxes, and other like amounts due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by employees and present and future directors, and payments to operate and fund the payroll accounts (including source deductions) in respect of such employees, and management fees to Big Bear Exploration Ltd. ("Big Bear") in an amount to be approved by the Monitor;
- e. all required payments of principal and interest associated with Blue Range's obligations under leases relating to its gas processing facilities and equipment (the "Facilities Leases");
- f. with the approval of the Monitor, all payments, expenses and capital expenditures, whether incurred before or after the making of this Order, reasonably necessary for the economic preservation of the Property including, without limitation, payments in respect or on account of royalties, Crown or other leases or interests in real property and interests in mines and minerals of any nature or kind, insurance, safety, security, leases, capital or otherwise, of facilities and all other expenses and capital expenditures related to the production, processing, transportation, treatment or otherwise dealing with hydrocarbons, provided that expenditures which materially exceed amounts disclosed in the cash flow statement attached as Exhibit "C" to the affidavit of Jeffery Tonken shall be made only with the consent of the Syndicate;
- g. current interest, monthly in arrears, on the secured indebtedness of Blue Range to the Syndicate and Big Bear;

- h. all outstanding and future premiums on directors' and officers' liability insurance including, without limitation, any additional premium related to the extension of reporting periods thereof;
- i. any amounts secured by the Administration Charge (as hereinafter defined and constituted);
- j. any sales fees or commissions earned by or payable to Waterous Securities Ltd. in connection with the marketing and sale of Blue Range's oil and gas assets and properties; and
- k. any other amount specifically provided for by the terms of this Order.

The Monitor shall include in its reports a summary of all payments made in respect of items referred to in this paragraph 14.

#### **RESTRUCTURING**

15. Subject to the terms of this Order, Blue Range shall remain in possession and control of the Property and shall continue to carry on business in a manner consistent (except as herein otherwise contemplated) with the preservation of Blue Range's business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, advisors, servants, solicitors and consultants currently engaged and paid by Blue Range, with liberty to retain, with the concurrence of the Monitor or approval of this Court, such further or other Persons as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan (as hereinafter defined), the Restructuring (as hereinafter defined) or the carrying out of the terms of this Order.

16. Blue Range shall have the right to:

- a. cease, downsize or shut down any of its operations or locations and to make provision for any consequences thereof in the Plan (as hereinafter defined), with either the consent of the Monitor and the Syndicate or further Order of this Court;
- b. terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and, to the extent not paid in the ordinary course,

to make provision for any consequences thereof in the Plan (as hereinafter defined);

- c. make capital expenditures to preserve the value of the Property, with the permission of the Monitor and the Syndicate;
- d. proceed with an orderly liquidation of such of its Property as Blue Range deems appropriate pursuant to the agreement with Waterous Securities Ltd., or otherwise, provided that any sale of any real or personal property outside the ordinary course of business and not permitted by existing security agreements shall require the concurrence of the Monitor and the Syndicate, and the approval of the Court;
- e. terminate such of its arrangements or agreements of any nature whatsoever, including without limitation contracts for the purchase or sale of commodities, marketing agreements, transportation agreements, and service agreements, whether oral or written, as Blue Range deems appropriate and to make provision for any consequences thereof in the Plan (as hereinafter defined),

all of the foregoing to permit Blue Range to proceed with an orderly restructuring of its business, property and affairs (the "Restructuring").

17. In order to facilitate the Restructuring, Blue Range shall be permitted to carry on its business in the manner and to the extent determined by it, to dispose of any or all of its inventory and other assets, all subject to paragraph 16(d) hereof, wherever situate, and, for greater certainty, Blue Range shall have the right to realize upon its assets in such manner as Blue Range deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom.

18. Blue Range shall and does hereby indemnify any person who is from and after the date of this Order a director, officer or employee of Blue Range, (or any entity having similar authority or responsibilities) its legal counsel and its financial advisors of and from all claims, liabilities and obligations of any nature whatsoever, including, without limitation, legal fees and disbursements on a solicitor and client basis, which may arise out of their involvement with Blue Range, the Restructuring or the Plan, from and after the date hereof in the above-mentioned capacities save and except as may arise from wilful misconduct or gross negligence on the part of any of them.

19. No person shall commence or continue with any proceeding against any person who is from and after the date of this Order a director, officer or employee of Blue Range (or any entity having

similar authority or responsibilities), or any legal counsel or financial advisor to Blue Range for or in respect of the Restructuring or the extension and implementation of the Plan (as hereinafter defined), without first obtaining the leave of this Court, upon ten days' written notice to Blue Range, the Monitor, and all potential defendants' referred to in this paragraph.

#### **POWER TO BORROW AND CHARGING OF PROPERTY**

20. Blue Range is hereby authorized and empowered to borrow from the Syndicate or such replacement lender as it may in its judgement consider appropriate (the "DIP Lender") such monies as from time to time Blue Range may consider necessary or desirable, to a maximum aggregate principal sum of \$5 million in lawful money of Canada (or such greater amount as may be authorized by further order of this Court) on terms to be approved by the Monitor, to fund Blue Range's ongoing operations, capital expenditures, and working capital for the preservation of Blue Range's property, assets and undertaking and to pay such other amounts as are permitted by the terms of this Order (the "DIP Financing"). In the interim, Blue Range shall be permitted if necessary to draw down advances from Big Bear to a maximum amount of \$1 million, (the "Interim DIP Financing"), which advances plus interest at a rate equal to the prime rate of Bank of Montreal plus 2% per annum, shall be repaid in full upon funding of the DIP Financing.

21. The repayment of the Interim DIP Financing and the DIP Financing, together with all interest, fees, charges and other amounts payable in respect thereof, shall be secured by security on all of Blue Range's present and future Property, including, without limitation such further or other mortgages, charges, security interests, hypothecs, liens or other encumbrances from Blue Range as may be required by Big Bear or the DIP Lender, as applicable (collectively, the "DIP Security"), and the DIP Security shall have the priority set out in paragraph 40 hereof.

22. Blue Range is hereby authorized and directed to execute and deliver to Big Bear, with the consent of the Monitor, such credit documents as it may require in connection with the Interim DIP Financing and the DIP Financing, including the DIP Security.

23. Blue Range shall deposit, or cause to be deposited, all cash, cheques, notes, drafts, electronic funds remittances or other similar items of payment ("Remittances") into the bank accounts maintained by Blue Range with the National Bank of Canada (the "Accounts"). For greater certainty, National Bank of Canada shall have no rights of lien, set-off, counterclaim, consolidation or other rights whatsoever with respect to the Remittances until further order of this Court. The National Bank of Canada will remit such Remittances consistent with past practice.



24. The Administration Charge (as hereinafter defined and constituted), and the DIP Security shall attach to all present and future real and personal property of Blue Range, as the case may be.
25. The DIP Security shall rank prior to any and all other liens, charges, encumbrances or security of whatsoever nature or kind which may at any time exist with respect to the Property, including the Administration Charge (as hereinafter defined) other than any permitted encumbrances contemplated in relation to the DIP Financing.
26. The Administration Charge shall rank prior to any and all charges, encumbrances or security of whatsoever nature or kind that may at any time exist with respect to the Property, other than the DIP Security.
27. Subject to paragraphs 24, 25 and 26, all liens in favour of the Crown, federal and provincial, and all mortgages, liens, charges or security interests in favour of any Person created or granted before the date of this Order for advances made or obligations incurred prior to the date of this Order shall retain the same priorities as if this Order had not been made, and (ii) any Person whose security is affected by paragraph 24, 25 or 26 of this Order is at liberty to seek an Order of this Court applying the doctrine of marshalling.
28. Except as required or allowed pursuant to DIP Financing or the Interim DIP Financing, Blue Range shall not borrow any money from or grant any mortgage, charge, security interest, hypothec, lien or other encumbrance over, any of its present or future Property to any Person without the prior written consent of the Syndicate and the Monitor.
29. Notwithstanding (a) the pendency of these proceedings and the declarations of insolvency made herein, (b) the pendency of any petitions for receiving orders heretofore or hereafter issued pursuant to the BLA in respect of Blue Range and any receiving order issued pursuant to any such petitions, and (c) the provisions of any federal or provincial statute, (i) the obligations of Blue Range pursuant to the Interim DIP Financing, the DIP Financing, the DIP Security and any documents delivered pursuant thereto shall constitute legal, valid and binding obligations of Blue Range enforceable against it in accordance with the terms thereof, and (ii) any payments made by Blue Range to Big Bear as provided herein or pursuant to the Interim DIP Financing, the DIP Financing, the DIP Security do not and shall not be construed to constitute a fraudulent preference or other challengeable or reviewable transaction under any applicable law.

30. The security in favour of Big Bear in respect of the Interim DIP Financing, the Administration Charge, the Directors Charge and the DIP Security shall be deemed to be valid and effective notwithstanding any negative covenant, prohibition or any other provision with respect to incurring debt or the creation of liens or security contained in any existing agreement between Blue Range and other lenders, including without limitation those contained in the existing credit agreements between Blue Range and the Syndicate and that, notwithstanding any provision to the contrary in any such agreements, (a) neither the creation of the Administration Charge, the Directors Charge or the DIP Security nor the execution, delivery, perfection or registration of the DIP Security or notice in respect thereof shall create or be deemed to constitute a breach by Blue Range of any agreement to which it is a party, and (b) neither Big Bear nor the DIP Lender shall have any liability to any Person whatsoever as a result of any breach of any agreement caused by or resulting from Blue Range doing any act in connection with the implementation or operation of the Interim DIP Financing, the DIP Financing or the execution and delivery of the DIP Security.

31. The DIP Lender, and to the extent only of any advances outstanding under the Interim DIP Financing, Big Bear, shall be treated as unaffected creditors in these proceedings, but the exercise of any remedies by the DIP Lender or Big Bear arising under the DIP Security upon default by Blue Range under the terms of the DIP Financing or the Interim DIP Financing and any document delivered pursuant thereto shall be stayed pursuant to the provisions of this Order, except for: (a) the right of Big Bear or the DIP Lender upon a default under the terms of the DIP Financing or the Interim DIP Financing to terminate the making of any further advance to Blue Range, and (b) in the event of a default under the terms of the DIP Financing, the right of Big Bear or the DIP Lender to apply to this Court for the appointment of a receiver and manager, or from relief from the stay of proceedings hereby constituted to appoint a private receiver and manager and/or to seek the issuance of a receiving order in bankruptcy and the appointment of a trustee in bankruptcy.

32. The Syndicate shall continue to have the existing access and reporting rights granted in favour of the Syndicate and its designated representatives including, without limitation, National, Royal and First National, and their respective representatives in respect of the Property. In addition Blue Range shall provide to the Syndicate copies of all offers received for material properties or assets whether resulting from the sale program to be conducted by Waterous Securities Ltd. or otherwise.

#### **PAYMENT OF CREDITORS**

33. Obligations incurred by Blue Range to trade creditors for the supply of goods and/or services

after the date of the making of this Order ("Post-Petition Trade Creditors") shall be paid in accordance with their terms of credit. Amounts payable for or in respect of real property or interests in mines and minerals, including rent and royalties, shall not be considered to be payable in respect of goods and/or services for the purposes of this paragraph or paragraph 34. For greater clarity, in the event a trade creditor has a claim in respect of goods and/or services supplied over a period beginning before the date of the making of this Order, and continuing to or after the date of this Order, such creditor is a Post-Petition Trade Creditor only for the portion of such claim which relates to goods and/or services supplied on or after the date of this Order. For greater clarity, no trade creditor is a Post-Petition Trade Creditor for goods and/or services supplied before the date of this order solely because payment for such goods and/or services was due on or after the date of this Order, nor is a creditor a Post-Petition Trade Creditor for claims arising out of the termination or breach on or after the date of this Order of any pre-existing agreement, contract, lease, or other arrangement of whatever kind, between such creditor and Blue Range.

34. Post-Petition Trade Creditors shall be entitled to the benefit of and are hereby granted a charge to a maximum amount of \$3 million (the "Post-Petition Trade Creditors' Charge") against and a security interest in, the Property, as security for indebtedness incurred by them from the date of the making of this Order up to the Stay Termination Date, and the Post-Petition Trade Creditors' Charge shall rank in priority to the secured claims of the Petitioner and the Syndicate and shall rank subsequent to the DIP Security, and the Administrative Charge. In the event that claims of Post-Petition Trade Creditors shall exceed the amount of the Post-Petition Trade Creditors' Charge, such claims shall share in the benefit of the Post-Petition Trade Creditors Charge pro rata. A Post-Petition Trade Creditor's claim for interest (if any) shall not, however, be secured by the Post-Petition Trade Creditor's Charge.

35. Except as expressly permitted by the provision of this Order, Blue Range is hereby directed, until further Order by this Court:

- a. to make no payments, whether of principal, interest thereon or otherwise, on account of amounts owing by Blue Range to any of its creditors as of this date; and
- b. to grant no mortgages, charges or other security upon or in respect of any of its present or future Property other than the DIP Security, or as otherwise authorized by further Order of this Court.

36. The charges created pursuant to this Order shall rank in priority to the claims of Big Bear and

the Syndicate and rank, as between themselves, as follows:

- a. firstly, the DIP Security;
- b. secondly, the Administrative Charge; and
- c. thirdly, the Post-Petition Trade Creditors' Charge.

#### PLAN OF ARRANGEMENT

37. Big Bear is hereby authorized and permitted to file with this Court a formal plan of compromise or arrangement regarding Blue Range under the CCAA (the "Plan") on a date to be set upon further application to this Honourable Court and on terms to be set directing the process for service of the Plan on creditors and other parties, the timing of meetings and the classes of creditors called upon to vote upon the Plan in accordance with the directions of this Honourable Court.

#### THE MONITOR

38. Until further Order of this Court, PriceWaterhouseCoopers Inc. shall be and it is hereby appointed as an officer of this Court to monitor the business and affairs of Blue Range with the powers and obligations hereafter set forth and Blue Range and its shareholders, officers, directors, employees, servants, agents and representatives shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations. Without limiting the generality of the foregoing, the foregoing persons shall provide the Monitor with such access to Blue Range's books, records, assets and premises as the Monitor requires to exercise its powers and perform its obligations under this Order.

39. The Monitor shall:

- a. assist, as applicable, in the development of the Plan and any amendments to and the implementation of the Plan;
- b. monitor Blue Range's receipts and disbursements;
- c. assist Blue Range, as applicable, with the holding and administering of any meetings for voting on the Plan and shall act as chair at any such meeting;
- d. inquire into and report to creditors, at or prior to any meeting to consider the Plan,

upon the financial condition and prospects of Blue Range;

- e. be at liberty to engage legal counsel and engage such other agents as the Monitor deems necessary respecting the exercise of its powers and performance of its obligations under this Order;
  - f. report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the Plan, the Restructuring or the business of Blue Range or in respect of such other matters as may be relevant to the proceedings herein; and in any event shall produce its first report on or before March 31<sup>st</sup>, 1999.
  - g. perform such other duties as are required by this Order or further Order of this Court.
40. The Monitor is authorized but not obligated to provide all interested parties, including but not limited to the affected creditors and the Syndicate, with its report or assessment on the Plan. The Monitor shall incur no liability as a result of any report or assessment that it may make pursuant to this provision
41. In response to any reasonable request for information made in writing by any of Blue Range's creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by Blue Range is confidential, the Monitor shall not provide such information to the requesting creditor unless otherwise directed by this Court.
42. The Monitor is not empowered to take possession of any of the Property or to manage any of Blue Range's business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Property, or any part thereof.
43. The reasonable fees and disbursements of the Monitor (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor), the reasonable solicitor and client fees and disbursements of Blue Range's counsel in these proceedings and the fees and disbursements of Blue Range's financial advisors, shall be paid by Blue Range as part of the costs of these proceedings, the Plan and the Restructuring and Blue Range is hereby authorized and directed to pay the accounts of the Monitor, and Blue Range's counsel and any counsel for the Monitor on a weekly basis. In addition, Blue Range is hereby authorized to pay each of the Monitor, counsel to the Monitor, and counsel to Blue Range the existing retainers to be held by the Monitor

and each such counsel as security for payment of their fees and disbursements outstanding from time to time (including with respect to this Petition), subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor shall be taxed on the basis of a chartered accountant and its own client and the legal costs of the Monitor's and/or Blue Range's counsel shall be taxed on the basis of a solicitor and its own client.

44. The Monitor, counsel to the Monitor, if any, and Blue Range's counsel and financial advisors, if any, as security for their reasonable professional fees and disbursements incurred both before and after the making of this Order in respect of these proceedings, the Plan and the Restructuring in accordance with the provisions of paragraph 48 hereof shall be entitled to the benefits of and are hereby granted a charge in an amount not to exceed \$1 million against all present and future Property (the "Administration Charge").

45. Where the Monitor acts in good faith and takes reasonable care in preparing a report required by this Order, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report.

46. The Monitor shall not be liable for any other act or omission as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for gross negligence or willful misconduct on its part, or for any debt incurred by Blue Range whether before or after the date of this Order.

47. No action, application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Court first being obtained.

48. The appointment of the Monitor shall not disqualify it from being appointed receiver and manager of Blue Range by this Court, should it consent to such appointment.

49. The appointment of the Monitor shall not constitute the Monitor as an employer, successor employer, sponsor, or payor with respect to Blue Range under any collective agreement or other contract between Blue Range and any of its present or former employees, or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of Blue Range whether pursuant to any legislation enacted for the protection of the environment, the transportation of hazardous goods, health and safety or any other

statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.

### GENERAL TERMS

50. Blue Range shall be at liberty to:

- a. serve this Order, any other orders in these proceedings, all other proceedings, the Plan, any notices or meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing;

- b. with the concurrence of the Monitor, take such proceedings under the BIA as Blue Range at any time deems appropriate;

- c. with the concurrence of the Monitor, consent to the appointment of a receiver and/or receiver and manager of any of the Property otherwise protected by this Order, at any time; and

- d. register this Order against title to any of its Property.

51. Notwithstanding any other provision of this Order, Blue Range may apply at any time to this Court to seek any further relief, and the Syndicate and any interested Person may apply to this Court to vary or rescind this Order or seek other relief on two (2) days' notice to the Monitor, the Syndicate and to any other Person likely to be affected by the Order sought or on such other notice, if any, as this Court may order.

52. Blue Range, the Syndicate or the Monitor may, from time to time apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order, on notice only to the Syndicate or the Monitor, as the case may be.

53. This Order and any other Orders in these proceedings shall have full force and effect in all

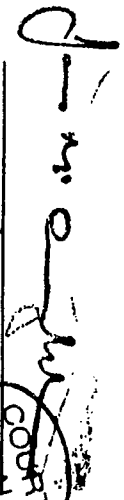

provinces and territories in Canada and abroad and as against all Persons whom it may otherwise be enforceable.

54. This Honourable Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to Section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

55. For the purposes of seeking the aid and recognition of any court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of Blue Range.

"Justice Loveckie"  
J.C.C.Q.B.A.

ENTERED THIS 3 DAY  
OF MARCH, 1999.

  
Clerk of the Court 



Action No.

*7091-01070*

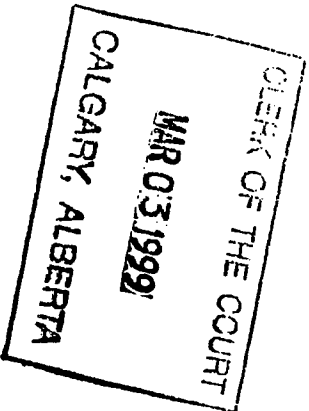
1999

IN THE COURT OF QUEEN'S BENCH OF  
ALBERTA  
JUDICIAL DISTRICT OF CALGARY

---

IN THE MATTER OF the Companies' Creditors  
Arrangement Act, R.S.C. 1985, c. C-36, as  
amended

AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
BLUE RANGE RESOURCE CORPORATION



---

ORDER

---

HOWARD, MACKIE  
Barristers and Solicitors  
1000 Canterra Tower  
400 - 3<sup>rd</sup> Avenue S.W.  
Calgary, Alberta  
T2P 4H2

Solicitors: Patrick T. McCarthy Q.C.  
Telephone: (403) 232-9441  
John L. Ircandia  
Telephone: (403) 232-9406  
File No.: JLI-126,221

**TABS**

I.C. Ct. Filing 46969600001

Insolvency Institute of Canada Court Filings  
Skiing Louise Ltd. et al.

1. - Ex Parte Initial Order under the Companies' Creditors Arrangement Act, made March 9, 2001 by Lovecchio, J.

Copyright © CARSWELL, a Division of Thomson Canada Ltd. or its licensors. All rights reserved.

**1. - Ex Parte Initial Order under the Companies' Creditors Arrangement Act, made March 9, 2001 by Lovecchio, J.**

*Re Skiing Louise Ltd., Fortress Mountain Skiing Inc., Wintergreen Family Resorts Ltd., Fernie Alpine Resort Ltd., Kimberley Alpine Resort Ltd., Station Mont-Sainte Anne Inc., Immobilier Mont Saint-Anne Inc., Development Mont-Saint Anne Inc., Properties of the Canadian Rockies Ltd., LMC Distributors Ltd., Les Entreprises De Stoneham Inc., Trickle Creek Resort Ltd., Resorts of the Canadian Rockies Ltd. and Trickle Creek Residences Inc. (Court of Queen's Bench, Calgary, Alberta)*

**I. - Ex Parte Order**

**In the Matter of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as Amended and In the Matter of Skiing Louise Ltd., Fortress Mountain Skiing Inc., Wintergreen Family Resorts Ltd, Nakiska Resorts Ltd., Fernie Alpine Resort Ltd., Kimberley Alpine Resort Ltd., Station Mont-Sainte Anne Inc., Immobilier Mont Sainte-Anne Inc., Development Mont-Sainte-Anne Inc., Properties of the Canadian Rockies Ltd., LMC Distributors Ltd., Les Entreprises De Stoneham Inc., Trickle Creek Resort Ltd., Resorts of the Canadian Rockies Ltd. and Trickle Creek Residences Inc.**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL DISTRICT OF CALGARY**

I hereby certify this to be elligible text the original Order

Dated this 9 day of March 2001

..... for Clerk of the Court

BEFORE THE HONOURABLE MR. JUSTICE )	AT THE COURT HOUSE, IN THE CITY OF
S.J. LOVECCHIO IN CHAMBERS	CALGARY, IN THE PROVINCE OF AL-
)	BERTA, ON FRIDAY, THE 9 {TH} DAY OF
)	MARCH, 2001
)	

UPON the Application of Skiing Louise Ltd., Fortress Mountain Skiing Inc., Wintergreen Family Resorts Ltd., Nakiska Resorts Ltd., Fernie Alpine Resort Ltd., Kimberley Alpine Resort Ltd. and Station Mont-Sainte Anne Inc., Immobilier Mont Sainte-Anne Inc., Development Mont-Sainte-Anne Inc., Properties of the Canadian Rock-

ies Ltd, LMC Distributors Ltd, Les Entreprises de Stonelham Inc., Trickle Creek Resort Ltd, Resorts of the Canadian Rockies Ltd. and Trickle Creek Residences Inc. (individually and collectively referred to as "the Corporations or the "Petitioners"); AND UPON reading the Petition and the affidavit of Charles Locke, filed; AND UPON hearing the submissions of PricewaterhouseCoopers Inc. to act as monitor of the Corporations, filed; AND UPON hearing the submissions of counsel for the Corporations and counsel for Bank of Montreal, acting on its own behalf and on behalf of Fleet National Bank (the "Banks"); AND UPON it appearing that the Banks consent to the granting of this Order;

IT IS HEREBY ORDERED AND DECLARED THAT:

#### Service

1. The time for service of the Petition herein be and it is hereby abridged and service thereof upon any interested party is hereby dispensed with.

#### Terminology

2. In this Order:

- a. "Agreement(s)" - includes any arrangement or agreement, written or oral, with the Corporations, including without limitation, agreements or arrangements for the sale, supply, purchase or lease of goods and/or services (inclusive of labour) and/or real property from, by or to the Corporations or with respect to any of the Property, or any service agreement, warrant agreement, transportation agreement, rental agreement, collective bargaining agreement, delivery agreement, consulting agreement, management agreement, insurance contract or agreement and/or similar contract or agreement;
- b. "BIA" - means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended from time to time;
- c. "CCAA" - means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended from time to time;
- d. "Core Assets" - means the assets described in Schedule 'A' to this Order;
- e. "Monitor" - means PricewaterhouseCoopers Inc.;
- f. "Non-Core Assets" - means the Property except for the Core Assets;
- g. "Persons(s)" - means any of the Corporations' creditors, shareholders, employees, directors, officers, partners, joint venturers, beneficiaries, trustees, customers, clients, purchasers, suppliers, consultants, agents, principals, lessors and lessees (including without limitation, lessors and lessees of real property and equipment), governments of any nation, province, state or municipality or any other entity, exercising the executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, whether federal, provincial, state or municipal, in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing or any other person, firm, corporation or entity wherever situate or domiciled;
- h. "Proceedings" - includes any act or process of or connected to realization, seizure, repossession and/or any suits, actions, extra-judicial proceedings or remedies, enforcement processes or the termination, re-

ocation, suspension or cancellation of any permits or licences affecting the Corporations, their business, operations, Property or other remedies including filings under the BIA or the *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-10;

i. "Property" - means any present or future property, assets, business and undertakings of the Corporations of any kind or nature whatsoever whether real or personal wherever located;

j. "Stay Termination Date" - means 30 days from the date of this Order or such later date as this Honourable Court may direct by further Order

#### Application

3. The Corporations are entities to which the CCAA applies.

#### Stay of Proceedings

4. Save as expressly provided in this Order, up to and including the Stay Termination Date:

- a. any and all Proceedings commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any Person against or in respect of the Corporations or against or in respect of any director, officer or employee of the Corporations, or in respect of the Property, shall be stayed and suspended;
- b. all Persons having Agreements with the Corporations are hereby restrained from accelerating, terminating, suspending, modifying or cancelling such Agreements or the supply of goods and services and are also hereby restrained from exercising any right of distress, rescission, set-off or consolidation of accounts in relation to any indebtedness or obligation in favour of the Corporations or from retaining goods, without the prior written consent of the Corporations and the concurrence of the Monitor or leave of this Honourable Court on proper notice to the Corporations and the Monitor. Without limiting the generality of the foregoing, all Persons are restrained until further Order of this Honourable Court from discontinuing or interfering with any utility or required services to or utilized by the Corporations (including telephone, facsimile or other communication services at the present numbers used by the Corporations in respect of any Property), the furnishing of oil, gas water, heat, or electricity, the supply of equipment, computer software, hardware support and electronic, internet access, electronic mail and other data services, so long as the Corporations pay (subject to the other provisions of this Order) the normal prices or charges (other than security or other deposits whether by way of cash, letter of credit or guarantee or otherwise, stand-by fees or similar items, which the Corporations shall have no obligation to pay or grant) for such goods and services received after the date of this Order as same become due and payable in accordance with present payment practices, or as may be hereafter agreed by the Corporations from time to time, or as otherwise may be provided for in this Order; provided that nothing herein shall prohibit any Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the date hereof, and all Persons shall continue to perform and observe the terms and conditions contained in any Agreements entered into with the Corporations whether in connection with any of the Property or otherwise;
- c. the right of any Person to commence or continue Proceedings in respect of any encumbrance, security interest, tax, lien, charge, mortgage, hypothec, prior claim or other security held in relation to Property, or to any trust attaching to the Property, including the right of any Person to take any step in asserting or per-

fecting any right or interest, is hereby restrained;

d. the right of any Person to assert, enforce or exercise any option, remedy or right, including, without limitation, any right of dilution, buy-out, divestiture, repudiation, recession, forced sale, forced purchase, acceleration, termination, suspension, modification, cancellation, or right to revoke any qualifications or registration, howsoever such remedy, option or right arises and whether such remedy, option or right arises under or in respect of any Agreement or by reason of any default under any Agreement, is hereby restrained;

e. the right of all Persons to make demand upon, send notice to or declare default with respect to the Corporations or the Property is hereby restrained;

f. the right of any Person to crystallize any security interest, accelerate the repayment of any outstanding indebtedness of the Corporations and the right to compel any sale or purchase of property to or from the Corporations, is hereby restrained;

g. no Person may commence or continue any Proceedings against any person who is from and after the date of this Order a director of the Corporations on any claim against such director that relates to obligations of the Corporations where directors are under any law liable in their capacity as directors for payment of such obligations;

h. no Person shall exercise any right of revindication or repossession with respect to any goods supplied to the Corporations; and

i. no Person shall require the Corporations without leave of this Honourable Court to file or post a bond, security for costs or any other security as a pre-condition to the Corporations being entitled to maintain or exercise any right or remedy.

5. Notwithstanding paragraph 4 of this Order, nothing in this Order shall prevent the Banks from demanding their indebtedness, issuing notices under section 244 of the BIA, commencing debt and security enforcement proceedings in British Columbia, Alberta, Quebec and in any other jurisdiction they choose, and filing a petition(s) under the BIA seeking a Receiving Order with respect to any one or more of the Corporations.

6. Any debt and security enforcement proceedings, and petition proceedings authorized pursuant to paragraph 5 of this order ("Bank Enforcement Proceedings"), once commenced, are thereafter stayed until the earlier of the date upon which:

a. the stay imposed in paragraph 4 of this order is lifted with respect to any other creditor except for the lifting of the stay for the purpose of preserving limitation periods;

b. the Corporations and the Banks have agreed that the continuation of the stay is no longer appropriate;

c. a further order of this court is made lifting this stay;

at which time the Banks are given leave to continue the Bank Enforcement Proceedings, or, at their option, to seek sales and vesting orders in this Action.

#### **No Obligation to Advance Credit**

7. Notwithstanding anything else contained herein, no person shall be under any obligation after the making of this Order to advance or re-advance any monies or credit to the Corporations.

#### **Letters of Credit and Bonds of Indemnity**

8. Notwithstanding paragraph 4 of this Order, any person (the "Issuing Party") which, at the request of the Corporations, provided letters of credit, bonds of indemnity, labour and material bonds, performance bonds or similar instruments of any kind whatsoever (the "Letters of Credit"), shall be required to continue honouring any and all Letters of Credit provided on or before the date of this Order. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining or refusing to honour or cancelling any Letters of Credit and the beneficiaries of Letters of Credit, shall be entitled to draw on Letters of Credit, in accordance with their respective terms and conditions, without the prior written consent of the Issuing Party and without the leave of this Court; provided, however, that any Issuing Party who is forced to honour any Letters of Credit, shall be entitled to set-off against the Corporations any cash collateral held by such Issuing Party as security for such Letters of Credit notwithstanding any other term of this Order.

#### **Action Taken the Day of this Order**

9. From 9:30 a.m. (Calgary time) on the date of this Order to the time of the granting of this Order, any act or action taken or notice given by any of the Corporations' creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy against the Corporations or its Property will be deemed not to have been taken or given as the case may be, subject to the right of any such Person to further apply to this Court on proper notice to the Corporations and the Monitor hereinafter appointed in respect of such step, act, action or notice given.

#### **Limitation and Other Time Period**

10. Nothing in this Order shall prevent any party from taking an action against the Corporations or any of them where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be provided to the Corporations at the first available opportunity.

#### **Continued Performance of Agreements**

11. For greater certainty, all Persons shall continue to perform and observe the terms, conditions and provisions contained in any Agreements with the Corporations, on their part to be performed and observed.

12. Notwithstanding any other provision herein:

- a. any reservation, travel, hotel or skiing vouchers or passes provided by or at the behest of the Corporations or any corporation affiliated with the Corporations ("Vouchers") and presented on or after the date of this Order shall be honoured by any third parties who supply goods and services as detailed in such Vouchers;
- b. Vouchers presented prior to the date of this Order but which are still in effect on the date of this Order (in that goods and services are continuing to be supplied under the Vouchers on the date of this Order) shall continue to be honoured by the third parties who are supplying goods and services as detailed in

such Vouchers;

c. the Corporations are hereby directed to pay and/or reimburse third parties who honour or continue to honour Vouchers pursuant to (a) and (b).

#### **Statutory Garnishment**

13. Until and including the Stay Termination Date, Her Majesty in Right of Canada or any province may not exercise any rights of garnishment or enhanced garnishment with respect to the Corporations whether such rights arise under legislation respecting income tax, excise tax, sales tax or otherwise.

#### **Extension of Stay to Third Parties**

14. The provisions of this Order apply in accordance with their terms to stay any and all Proceedings and/or to restrain any matter provided herein that may be commenced or taken against any person who is or may be directly or indirectly obligated for any obligations of the Corporations.

#### **Carry on Business**

15. The Corporations shall have the right to:

- a. cease, downsize or shut down any of their operations or locations and make provision for any consequences thereof in a plan of arrangement, with either the consent of the Monitor and the Banks or further Order of this Court;
- b. terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate and, to the extent such employees are not paid in the ordinary course, to make provision for any consequences thereof in a plan of arrangement;
- c. proceed with an orderly liquidation of such of the Property as the Corporations deem appropriate provided that any sale of any real or personal property outside of the ordinary course of business and not permitted by existing security agreements shall require the concurrence of the Monitor and the Banks, and the approval of the Court;
- d. terminate such arrangements or agreements of any nature whatsoever, including without limitation leases, sale agreements, marketing agreements and service agreements, whether oral or written, as the Corporations deem appropriate and to make provision for any consequences thereof in a plan of arrangement.

#### **Continued Possession**

16. Subject to the remaining terms of this Order, the Corporations shall remain in possession and control of the Property and shall be entitled to carry on business in a manner consistent (except as herein otherwise contemplated) with the preservation of the Corporations' business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, advisors, servants, solicitors and consultants currently engaged and paid by the Corporations, with liberty to retain, with the concurrence of the Monitor or approval of this Court, such further or other Persons as they deem reasonably necessary or desirable in the ordinary course of business or for the purpose of developing a restructuring or reorganization plan.



17. The Corporations shall co-operate with the Monitor's solicitation of offers to purchase any of the Non-Core Assets and, after June 1st, 2001, shall co-operate with the Monitor's solicitation of offers to purchase any of the Core-Assets.

#### **Right of Set-off**

18. The Corporations shall be entitled to exercise any rights of set-off and claim any allowances or benefits which they are entitled to claim against amounts payable by the Corporations to any Person, including, without limitation, amounts payable to any Person by reason of or in connection with any Agreement.

#### **Payment of Taxes**

19. The Corporations shall remit, in accordance with legal requirements:

- a. any statutory deemed trust amounts in favour of the Crown, which from and after the date hereof are required to be deducted from employees' wages, including, without limitation, amounts in respect of unemployment insurance, Canada Pension Plan, and income taxes;
- b. amounts accruing and payable by the Corporations from and after the date hereof, in respect of unemployment insurance, Canada Pension Plan, and workers' compensation;
- c. all goods and services or sales taxes billed subsequent to the date of this Order collected by the Corporations from customers from and after the date hereof; and
- d. any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof in respect of municipal reality, municipal business or other taxes, assessments or levies of any nature or kind attributable to or in respect of the carrying on of business by the Corporations from and after the date hereof,

with provision to be made in any plan of arrangement for any amounts accrued prior to the date hereof in respect of any of the foregoing.

#### **Payments and Expenses**

20. From and after the date hereof, subject to compliance with the other provisions of this Order relating to the payment of expenses, the Corporations shall be entitled but not required to pay all reasonable expenses incurred by it in carrying on its business and carrying out all the provisions of this Order, which expenses may include, without limitation:

- a. the reasonable fees and disbursements of the Monitor (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor), the reasonable solicitor and client fees and disbursements of the Corporations' counsel in these proceedings, whether incurred prior to or following the making of this Order, and the fees and disbursements of the Corporations' financial advisors and public relations consultants shall be paid by the Corporations as part of the costs of these proceedings. The Corporations are authorized and directed to pay such accounts on a weekly basis. In addition, the Corporations are authorized to pay each of the Monitor, counsel to the Monitor, and counsel and other consultants to the Corporations any necessary retainers, to be held by the Monitor, and each such counsel as security for payment of their fees and disbursements outstanding from time to time (including with respect

to these Pleadings), subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor shall be taxed on the basis of a chartered accountant and its own client and the legal costs of each of the Monitor's counsel and the Corporations' counsel shall be taxed on the basis of a solicitor and its own client;

- b. wages, salaries, employee benefits and vacation pay due or accruing due from the date of this Order (for continuing employees in the normal course and excluding, without limitation, any form of bonus or one time payment) and any statutory termination amounts for employees who may be terminated;
- c. with the approval of the Monitor, all future required payments of principal and interest associated with secured obligations (including for greater certainty, without limitation, lease obligations secured by security interests) and mortgages;
- d. with the approval of the Monitor, all payments, expenses and capital expenditures, whether incurred before or after the making of this Order, reasonably necessary for the economic preservation of the Property including, without limitation, payments in respect of real property and equipment leases, insurance, safety, security, leases, capital or otherwise, of facilities and all other expenses;
- e. all outstanding and future premiums on directors' and officers' liability insurance and general accident, property and third party liability insurance including, without limitation any addition premium related to the extension of reporting periods thereof, insofar only as such amounts owed relate to coverage from and after the date hereof, with provision to be made in any reorganization plan for any amounts owed in relation to coverage provided prior to the date hereof; and
- f. any other amounts specifically provided for by the terms of this Order.

The Monitor shall include in its reports a summary of all payments made in respect of items referred to in this paragraph.

21. Obligations incurred by the Corporations to trade creditors, including employees, for the supply of goods and/or services after the date of the making of this Order ("Post Petition Trade Creditor") shall be paid in accordance with their terms of credit. Amounts payable for or in respect of real property or interests in mines and minerals, including rent and royalties, shall not be considered to be payable in respect of goods and/or services for the purposes of this paragraph or paragraph 21. For greater clarity, in the event a trade creditor has a claim in respect of goods and/or services supplied over a period beginning before the date of the making of this Order and continuing to or after the date of this Order, such creditor is a Post Petition Trade Creditor only for the portion of such claim which relates to goods and/or services supplied on or after the date of this Order. For greater clarity, no trade creditor is a Post Petition Trade Creditor for goods and/or services supplied before the date of this Order solely because payment for such goods and/or services was due on or after the date of this Order, nor is a creditor a Post Petition Trade Creditor for claims arising out of the termination or breach on or after the date of this Order of any preexisting agreement, contract, lease or other arrangement of whatever kind, between such creditor and the Corporations.

22. Post Petition Trade Creditors shall be entitled to the benefit of and are hereby granted a charge to a maximum amount of \$3,000,000.00 (the "Post Petition Trade Creditors' Charge") against and a security interest in, the Property, as security for indebtedness incurred by them from the date of the making of this Order up to the Stay Termination Date and the Post Petition Trade Creditors' Charge shall rank subsequent to the Administration

Charge, the DIP Charge and the claims of all secured creditors of the Corporations, but *pari passu* with the Directors' Charge and before the claims of unsecured creditors. In the event that the claims of Post Petition Trade Creditors shall exceed the amount of the Post Petition Trade Creditors' Charge, such claims shall share in the benefit of the Post Petition Trade Creditors' Charge pro rata. A Post Petition Trade Creditors' claim for interest (if any) shall not, however, be secured by the Post Petition Trade Creditors' Charge.

#### **Restrictions on the Corporations' Business**

23. Until further Order of this Court, the Corporations shall:

- a. except with the approval of the Monitor or as authorized by this or any other order of this Court, on notice to the Monitor and the Banks, make no payments either for principal or interest on account of amounts owed by them to their creditors as of the date of this Order;
- b. not grant mortgages, charges, or other security upon or respect of their Property or become a guarantor surety or otherwise become liable in any manner with respect to any other persons or entity except as consented to by the Monitor in writing;
- c. not grant credit other than for goods or services actually supplied on payment terms approved by the Monitor in writing;
- d. not incur capital expenditures unless:
  - i. the Monitor concurs that such capital expenditures are required to preserve the Property, or
  - ii. the capital expenditures are for emergency repairs to the Property, the Corporations do not have adequate time to obtain the Monitor's prior concurrence, and the expenditures do not exceed \$25,000 for any one occurrence.

24. The net proceeds of sale of any assets that are subject to the security of the Banks or any other secured creditor shall be paid promptly to the secured creditor or creditors so entitled in accordance with existing security arrangements.

#### **Retention of Rights and Priorities**

25. Subject to the provisions of this Order in respect of the Administration Charge, the DIP Charge and the Directors' Charge, all liens in favour of the Crown, federal and provincial, and all mortgages, liens, charges or security interests in favour of any Person created or granted before the date of this Order for advances made or obligations incurred prior to the date of this Order shall retain the same priorities as if this Order had not been made.

26. The Banks and all other secured creditors shall continue to have their existing access and reporting rights granted under their security in their favour in respect of the Property. In addition, the Corporations shall provide to the Monitor copies of all offers received for the purchase of their assets.

#### **Monitor's Powers and Duties**

27. Until further Order of this Court, PricewaterhouseCoopers Inc. (referred to herein as the "Monitor") shall be



- k. to assist the Corporations with the preparation and filing of a plan of arrangement and any matters incidental thereto;
- l. to require the Corporations to update and report to the Monitor at such times, in such intervals, in such detail and with such supporting documentation as the Monitor requests with respect to the progress of the Corporations in its efforts at refinancing, reorganizing and preparing any draft or actual plan of arrangement;
- m. to recommend to the Corporations the hiring of new employees and to recommend the scope of responsibility for the jobs of any employees;
- n. to recommend the initiation, continuance, discontinuance or settlement of any legal action where the Monitor considers it appropriate for the operation of the business;
- o. to report to the Court and the Banks if it believes that there has been a material adverse change in the Corporations' projected cash flow or financial circumstances subsequent to the date of this Order of it believes that the Corporations have not complied with any of the terms of this Order;
- p. to review the payroll and make recommendations regarding the payroll or any part thereof;
- q. to report to this Court and, in its discretion, to the creditors of the Corporations periodically as to the matters referred to herein.
29. The Monitor is authorized, but not obligated, to provide all interested parties, including but not limited to, the affected creditors and the Banks, with its report or assessment on any reorganization plan. The Monitor shall incur no liability as a result of any information supplied and/or report or assessment that it may make pursuant to this Order.
30. In response to any reasonable request for information made in writing by any of the Corporations' creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by the Corporations is confidential, the Monitor shall not provide such information to the requesting creditor unless otherwise directed by this Court.
31. The Monitor is not empowered to take possession of any of the Property or to manage any of the Corporations' business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Property, or any part thereof nor to be managing any of the Corporations' business or affairs.
32. The fees and expenses (whether incurred prior to or after the date hereof) of the Monitor, its counsel, counsel to the Corporations pursuant to Paragraph 20 (a) and Hill and Knowlton (as public relations consultants to the Corporations), shall be entitled to the benefit of and are hereby granted a charge in an amount not to exceed \$1,500,000.00, against all present and future Property (the "Administration Charge"), which shall rank ahead of all existing security or other security, or charges of any kind whatsoever. The Monitor may incorporate the existing assignment of PricewaterhouseCoopers Securities Inc. for the sale or refinancing of certain of the Non-Core Properties located in the Province of Quebec into its mandate pursuant to subparagraph 28 (j) of this Order, and if it does so, the fees and disbursements of PricewaterhouseCoopers Securities Inc. shall also be included in the Administration Charge. Where any such fees and expenses are paid by the Banks, the Banks shall be subrogated

to the Administration Charge.

33. The Monitor shall not be liable for any other act or omission as a result of its appointment, the fulfillment of its duties in the carrying out of the provisions of this Order or for any debt incurred by the Corporations whether before or after the date of this Order, save and except for gross negligence or willful misconduct on its part or for any debt incurred by the Corporations whether before or after the date of this Order.

34. No action, application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Court first being obtained. Where the Monitor acts in good faith and is not guilty of gross negligence in preparing a report contemplated by this Order, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report.

35. The appointment of PricewaterhouseCoopers Inc. as the Monitor shall not disqualify it from being appointed Receiver and Manager and/or Trustee in Bankruptcy of any of the Corporations, should it consent to such appointment.

36. Neither this Order nor the appointment of the Monitor shall constitute the Banks or the Monitor as an employer, successor employer, sponsor, or payor with respect to the Corporations under any collective agreement or other contract between the Corporations and any of their present or former employees, or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that neither the Banks nor the Monitor shall be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of the Corporations whether pursuant to any legislation enacted for the protection of the environment, the transportation of hazardous goods, health and safety or any other statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.

#### DIP Financing

37. The Petitioners are hereby authorized and empowered to borrow from the Banks or any one of them (the "DIP Lender"), such monies from time to time as the Petitioners may consider necessary or desirable, up to an aggregate principal amount of \$2,000,000.00 CDN, to fund the ongoing operations and capital expenditures of the Petitioners (the "DIP Loan") on terms to be agreed upon between the DIP Lender and the Petitioners.

38. All of the Petitioners' present and future property is hereby charged in favour of the DIP Lender (the "DIP Charge") as security for the repayment of the DIP Loan, together with interest, fees, charges and other amounts payable in respect thereof and this Court orders that the Petitioners, is hereby authorized and directed to execute and deliver in favour of the DIP Lender all such security as may be contemplated or required by the DIP Lender, charging all of the existing and after-acquired Property, assets and undertaking of the Petitioners, (such security documents collectively referred to herein as the "DIP Security") and the DIP Lender is hereby authorized to take such steps as it deems necessary or appropriate to register, record or perfect the DIP Security.

39. The DIP Charge and DIP Security shall have first priority over all of the Property ranking in priority to all other charges, encumbrances or security but subject to the Administration Charge.

40. Notwithstanding the pendency of these proceedings and the declarations of insolvency made herein, any petitions for receiving orders hereafter issued pursuant to the BIA in respect of the Petitioners and any receiving orders pursuant to any petitions and the provisions of any federal or provincial statute:

- a. serve this Order, any other Orders in these proceedings, all other proceedings, any reorganization plan, any notices or meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claims, proxies and disallowances of claims, by forwarding tree copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing; and
- b. register this Order against title to any of the Property; and
- c. the Corporations shall, within ten (10) days of the date of entry of this Order, send a notice of these proceedings including a copy of this Order to their known creditors, other than employees and creditors to which the Corporations owe less than \$2,500.00 CDN, at their addresses as they appear on the Corporations' records and the Monitor is relieved of its obligation under Section 11 (5) of the CCAA to provide similar notice, other than to supervise this process.
45. Notwithstanding any other provision of this Order, the Corporations may apply to this Court to seek any further relief, and the Banks and any interested Person may apply to this Court to vary or rescind this Order or seek other relief. All such applications shall be by way of motion on two (2) days' notice to the Corporations, the Monitor, the Banks and to any other Person likely to be affected by the Order sought, or on such other notice, if any, as this Court may order.
46. The Corporations, the Banks or the Monitor may, from time to time apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order, on notice to the Banks and/or the Monitor, as the case may be.
47. This Order and any other Orders in these proceedings shall have full force and effect in all Provinces and the Territories in Canada and abroad and as against all persons whom it may otherwise be enforceable.
48. This Honourable Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any Province or Territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the Legislature of any Province and any court of any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
49. For the purposes of seeking the aid and recognition of any court or any judicial regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of the Corporations.
50. Any interested party may apply to this Court on two (2) days notice to all other interested parties to amend or vary the terms of this Order.
- ..... J.C.C.Q.B.A.
- ENTERED THIS 9 DAY OF March, 2001.

..... Clerk of the Court

COURT SEAL

CONSENTED TO BY:

BURNET DUCKWORTH & PALMER LLP

PER: ..... Brian P. O'Leary

Solicitors for the Corporations

CONSENTED TO BY:

FRASER MILNER CASGRAIN

PER: ..... John T. Prowse

Solicitors for the Banks

A - Appendix A

Lake Louise Ski Resort

1.

8311848

BLOCK SEVEN (7)

LOT OUR DASH TWO (4-2)

EXCEPTING THEREOUT ALL MINES AND MINERALS

ATS REFERENCE: 4; 4; 4; 4

ESTATE: LEASEHOLD, FOR A TERM OF 36 YEARS 05 MONTHS 12 DAYS

COMMENCING ON THE 19 DAY OF APRIL, 1985

851081880

2.

PLAN 8510048

BLOCK 7

LOT 7-1

EXCEPTING THEREOUT ALL MINES AND MINERALS



ATS REFERENCE: 5; 16; 28; 27; SW

ESTATE: LEASEHOLD, FOR A TERM OF 36 YEARS 5 MONTHS 12 DAYS  
COMMENCING ON THE 19 DAY OF APRIL, 1985

BY 851081880

3.

PLAN 8510048

BLOCK 7

LOT 2-1

EXCEPTING THEREOUT ALL MINES AND MINERALS

ATS REFERENCE: 5; 16; 28; 27; SW

ESTATE: LEASEHOLD, FOR A TERM OF 36 YEARS 5 MONTHS 12 DAYS  
COMMENCING ON THE 19 DAY OF APRIL, 1985

BY 851081879

4.

PLAN 8510449

PARCEL DZ

ESTATE: LEASEHOLD, FOR A TERM OF 036 YEARS 05 MONTHS 012 DAYS  
COMMENCING ON THE 19 DAY OF APRIL, 1985

BY 851125209, 30 07 1985

5.

LEGAL DESCRIPTION

PLAN 8111787

LOT 11A

EXCEPTING THEREOUT ALL MINES AND MINERALS  
ESTATE: LEASEHOLD, FOR A TERM OF 39 YEARS  
COMMENCING ON THE 01 DAY OF OCTOBER, 1982

BY 851082955

ATS REFERENCE: 5; 16; 28; 33; SE

6.

PLAN 8411098

PARCEL "CG-6"

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: LEASEHOLD, FOR A TERM OF 036 YEARS 05 MONTHS 012 DAYS

COMMENCING ON THE 19 DAY OF APRIL, 1985

851081881

7.

LEGAL DESCRIPTION

PLAN 4000JK

LOT 2

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: LEASEHOLD, FOR A TERM OF 39 YEARS

COMMENCING ON THE 01 DAY OF OCTOBER, 1982

BY 891073893

ATS REFERENCE: 5; 16; 28; 33; SE

**Fernie Ski Resort**

1. Lot A, DL 8901 KD Plan 1687

2. Lot 2, DL 11698, KD Plan 10145

3. Lot 1, DL 4126, 8900, 8901 and 11698, KD Plan 10145

4. Parcel A, DL 8900, KD Except (1) Parts included in Plans 10145, 15604, NEP 19224 and NEP 60894 (2) Part in SRW Plan 17500 (3) Part included in Plan 368

**Kimberley Ski Resort**

1. 016-430-280 District Lot 5631 Kootenay District

2. 016-495-250 District Lot 16286 Kootenay District
3. 016-399-501 District Lot 657 Kootenay District
4. 016-399-510 District Lot 658 Kootenay District
5. 016-416-490 District Lot 2994 Kootenay District
6. 011-169-770 District Lot 1382 Kootenay District
7. 011-169-826 District Lot 1384 Kootenay District
8. 016-416-511 District Lot 7324 Kootenay District except parts included in Plans 9971, 11608, 14174 NEP 61676 and NEP 61812
9. 016-486-293 District Lot 14278 Kootenay District
10. 013-318-021 District Lot 2995, Kootenay District except parts included in Plans 9971, 10839, 12327 and 12654
11. 024-147-168 Lot 1 District Lot 5585, Kootenay District, Plan NEP 61812

END OF DOCUMENT

**TAB 6**

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, as amended  
AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, c. B-9  
AND IN THE MATTER OF  
PROMAX ENERGY INC.

BEFORE THE HONOURABLE )  
JUSTICE B.E.C. ROMAINE ) AT THE COURT HOUSE, IN THE CITY  
IN CHAMBERS ) OF CALGARY, IN THE PROVINCE OF  
) ALBERTA, ON WEDNESDAY, THE 7TH  
) DAY OF MAY, 2003

ORDER

UPON the ex-parte application of Promax Energy Inc. ("Promax"); AND UPON having read the Petition and the Affidavit of Alexander Lemmens, filed; AND UPON being advised that KPMG Inc. has agreed to act as monitor of Promax; AND UPON hearing the submissions of counsel for Promax and The Royal Bank of Scotland plc ("RBS") AND UPON being advised that RBS does not oppose the granting of this Order;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the Petition be and it is hereby abridged and service thereof upon any interested party is hereby dispensed with.

APPLICATION

2. Promax is a company to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") applies.

STAY OF PROCEEDINGS

3. Up to and including May 28<sup>th</sup>, 2003 or such later date as this Honourable Court may by further Order stipulate (the "Stay Termination Date");

- (a) any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings or remedies, enforcement processes, the termination, revocation, suspension or cancellation of any permits or licenses affecting Promax, its business, operations, assets or undertaking, or other remedies (collectively, "Proceedings"), commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any of Promax's creditors, customers, clients, suppliers, lessors, (including without limitation, lessors of real property, tenants, co-tenants, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, whether federal, provincial, state or municipal, in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, limited partners, joint or co-venturers, partners (including limited and general partners) or any other person, firm, corporation or entity (collectively, "Persons" and individually, a "Person") wherever situate or domiciled, against or in respect of Promax or any person who is from and after the date of this Order a director, officer or employee of Promax, or in respect of any present or future property, assets, (including goodwill) and undertakings of Promax of any kind or nature whatsoever, whether real or personal and wherever located (the "Property"), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA"), or otherwise, shall be stayed and suspended;
- (b) all Persons having arrangements or agreements, written or oral, with Promax for the supply of goods and/or services by or to Promax, or to any of the Property, including, without limitation, Persons having operating agreements, joint venture agreements, unit agreements, partnership agreements, transportation agreements, marketing agreements, processing agreements, aggregation agreements, delivery agreements or similar arrangements and lessors of real property of any nature or kind whatsoever (including mines and minerals), are hereby restrained from accelerating, terminating, suspending, modifying or cancelling any such agreements, or any arrangements for the supply of goods and services, and are also hereby restrained from exercising any right of distress, rescission, set-off or consolidation of accounts, other than as permitted by the provisions of s.18.1 of

the CCAA, in relation to any indebtedness or obligation in favour of Promax or from retaining goods, without the prior written consent of Promax and the concurrence of the Monitor hereinafter appointed or leave of this Honourable Court on proper notice to Promax and the Monitor. Without limiting the generality of the foregoing, all Persons are hereby restrained until further Order of this Honourable Court from discontinuing or interfering with any utility or required services (including telephone, facsimile or other communication services at the present numbers used by Promax in respect of any of the Property), the furnishing of oil, gas, water, heat or electricity, the supply of equipment, computer software, hardware support and electronic, internet access, electronic mail and other data services, so long as Promax pays the normal prices or charges (other than security or other deposits whether by way of cash, letter of credit or guarantee or otherwise, stand-by fees or similar items, which, other than in accordance with the provisions of s.11.3 of the CCAA, Promax shall have no obligation to pay or grant) for such goods and services received after the date of this Order as the same become due and payable in accordance with present payment practices, or as may be hereafter agreed by Promax from time to time, provided that nothing herein shall prohibit any Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the date hereof, and that all such Persons shall continue to perform and observe the terms and conditions contained in any agreements entered into with Promax or in connection with any of the Property, as the case may be, in respect of the supply of any goods and services;

- (c) notwithstanding subparagraph 3(b) hereof, this Order shall not prohibit any party to an "eligible financial contract" (as defined in section 11.1(1) of the CCAA), which contract was entered into before the date of this Order, from terminating, amending or claiming an accelerated payment under such eligible financial contract and setting off the obligations between Promax and such other party in accordance with its provisions, provided that if the "net termination value" (as defined in section 11.1(1) of the CCAA) determined in accordance with the eligible financial contract is owed by Promax to another party to the eligible

financial contract, the other party shall be deemed to be a creditor of Promax with a claim in respect of that net termination value;

(d) the right of any Person to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, hypothec, prior claim or other security held in relation to, or any trust attaching to, the Property, including the right of any creditor to take any step in asserting or perfecting any right or interest, including, without limitation, any right to repossession of any goods supplied to Promax or to seize before or after judgment whether pursuant to the BIA or otherwise, is hereby restrained, provided however that nothing in this order shall prevent the filing of builders' liens;

(e) the right of any Person to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, repudiation, rescission, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke any qualifications or registration), option or remedy available to it, including such right, option or remedy arising under or in respect of any agreement, whether written or oral, including, without limitation, any operating agreement, joint venture agreement, unit agreement, partnership agreement, transportation agreement, marketing agreement, processing agreement, aggregation agreement, and any freight, demurrage or terminal contracts or other agreements related to transportation, any services, consulting or management agreement, any co-ownership agreement, any agreement of purchase and sale, and any other agreements to which Promax is a party or is affected thereby, arising out of, relating to or triggered by the occurrence of any default or non-performance by Promax thereunder, the making or filing of these proceedings, or any allegation contained in these proceedings including, without limitation, the making of any demand on any other person, the sending of any notice, the declaration of any default, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness and the right to purchase any property from Promax, is hereby restrained;

(f) the right of all creditors and shareholders of Promax to make demand for payment upon Promax is hereby restrained;



(g) except as permitted by ss. 11.3 and 18.1 of the CCAA, and subject to paragraph 3(b) hereof, any deposit made by Promax with any Person from and after the making of this Order and whether for its own account or for the account of any other entity, shall not be applied by such Person in reduction or repayment of any amount owing as of the date of this Order or which may become due on or before the Stay Termination Date or in satisfaction of any interest, fees, charges or other amounts accruing in respect thereof, and such Person shall have no right of lien, set-off, counterclaim, consolidation, or other right in respect of such deposits, and such deposits shall be remitted to Promax; and

(h) no person shall commence or continue with any proceeding against any person who is from and after the date of this Order a director, officer or employee of Promax (or any entity having similar authority or responsibilities), or any legal counsel or financial advisor to Promax for or in respect of the Restructuring or the extension and implementation of the Plan (as hereinafter defined), and no Person may commence or continue any Proceedings against any person who is from and after the date of this Order a director of Promax, or any entity having similar authority or responsibilities, in respect of any claim against such director or entity that relates to obligations of Promax where directors may under any law be liable in their capacity as directors for payment of such obligations without first obtaining the leave of this Court, upon ten days' written notice to Promax, the Monitor, and all potential defendants or respondents referred to in this paragraph.

4. Notwithstanding anything else contained herein no creditor of Promax shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to Promax.

5. This Order and the proceedings in this application leading to the granting of this Order, including the content of any affidavit filed in these proceedings, shall not, in and of themselves, constitute or be relied upon in evidence or otherwise as constituting a default or breach by Promax under or pursuant to any agreement (including without limitation any Canadian Association of Petroleum Landmen operating agreement or other operating or unit agreement or any joint venture, farmout or partnership agreement), statute, regulation, license, permit, contract, permission, covenant, undertaking or other instrument or requirement.

6. Notwithstanding paragraph 3 of this Order, any Person which, at the request of Promax has provided letters of credit, standby letters of credit or similar instruments of any kind whatsoever (the "Issuing Party"), shall be required to continue honouring any and all such letters of credit, standby letters of credit, or similar instrument on or before the date of this Order. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining, refusing to honour or cancelling any such letters of credit, standby letters of credit, or similar instrument and the beneficiaries of such letters of credit, standby letters of credit, or similar instruments shall be entitled to draw on such letters of credit, standby letters of credit, or similar instruments as the case may be, in accordance with their respective terms and conditions, without the prior written consent of the Issuing Party and without the leave of this Court, provided however that any Issuing Party who is forced to honour any pre-existing standby letters of credit or similar instruments shall be entitled to set-off against Promax any cash collateral held by such Issuing Party as security for such letter of credit or instrument.

7. From 9:30 a.m. (Calgary time) on the date of this Order to the time of the granting of this Order, any act or action taken or notice given by any of Promax's creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy will be deemed not to have been taken or given, as the case may be, subject to the right of any such Person to further apply to this Court on proper notice to Promax and the Monitor hereinafter appointed in respect of such step, act, action or notice given.

8. To the extent that any rights, obligations, or time or limitation periods relating to Promax or the Property may expire or terminate with the passage of time, the terms of such rights, obligations or periods shall hereby be deemed to be extended by a period of time equal to the duration of the stay of proceedings effected by this Order and any further Order of this Court and, for greater certainty, in the event that Promax becomes bankrupt or a receiver is appointed in respect of Promax within the meaning of s.243(2) of the BIA, the period between the date of this Order and the day on which such stay of proceedings is ended shall not be counted in determining the 30-day period referred to in s.81.1 of the BIA or the 15-day period referred to in s.81.2 of the BIA, provided that this paragraph shall not be construed to extend the terms of any lease or other agreement that expires during the pendency of such stay of proceedings.

9. Until and including the Stay Termination Date, Her Majesty in Right of Canada may not exercise rights under subsection 224(1.2) of the *Income Tax Act* (Canada) in respect of Promax,

where Promax is a tax debtor under that subsection and Her Majesty in Right of a Province may not exercise rights under provincial legislation substantially similar to that subsection in respect of Promax where Promax is a tax debtor under provincial legislation.

10. The provisions of paragraph 3 of this Order apply in accordance with their terms to stay any and all Proceedings or to restrain any matter provided therein that may be commenced or taken against any Person who is or may be directly or indirectly obligated for any obligations of Promax otherwise than under any letter of credit or any guarantee in respect of any such obligations.

#### **AUTHORIZED PAYMENTS**

11. Promax shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it is entitled to claim against amounts payable by Promax to any Person, including, without limitation, amounts payable to any supplier of goods and services or any landlord of premises leased or occupied by Promax and including rights arising in connection with any agreements or arrangements with any joint venture partner, operator or supplier.

12. Promax shall remit, in accordance with legal requirements:

- (a) (i) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof, which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan and income taxes, (ii) amounts accruing and payable by Promax in respect of employment insurance, Canada Pension Plan, workers compensation, employer health taxes and similar obligations with respect to employees, and (iii) all goods and services or other applicable sales taxes payable by Promax or its customers in connection with the sale of goods and services by Promax to such customers arising after the date of this Order;

- (b) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind attributable to or in respect of the carrying on of business by Promax from and after the date hereof, with provision to be made in the Plan (as defined below) for any amounts accrued prior to the date hereof in respect of any of the foregoing; and

(c) all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course) and other like amounts due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by employees and present and future directors, and payments to operate and fund payroll accounts (including source deductions) in respect of such employees.

13. From and after the date hereof, subject to compliance with the other provisions of this Order relating to the payment of expenses, Promax shall be entitled but not required, in consultation with the Monitor, to pay all reasonable expenses incurred by it in carrying on its business and carrying out all the provisions of this Order, which expenses, pending any further Order of this Honourable Court, may include, without limitation, payment of:

(a) the reasonable fees and disbursements of the Monitor (as hereinafter defined and constituted) incurred both prior to and following the making of this Order (which for greater certainty shall include the fees and disbursements of KPMG Inc. incurred in relation to Promax prior to its appointment as the Monitor), including the reasonable fees and disbursements, if any, on a solicitor and client basis, of any counsel retained by the Monitor;

(b) the reasonable fees and disbursements incurred both prior to and following the making of this Order, on a solicitor and client basis, of insolvency and corporate counsel retained by Promax in respect of these proceedings and the Plan or other matters affecting the business and operations of Promax, the reasonable fees and disbursements of Ernst & Young Inc in its capacity as financial advisor to Promax, incurred both prior to and following the making of this Order in respect of these proceedings and the Plan, and the reasonable fees and disbursements of counsel for RBS;

(c) all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course), statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof which were required to be deducted from employees' wages, including without limitation, amounts in respect of employment insurance, Canada Pension Plan, income taxes, and other like amounts due or accruing due to employees and present and future

directors and the reimbursement of business expenses properly incurred by employees and present and future directors, and payments to operate and fund the payroll accounts (including source deductions) in respect of such employees;

(d) all payments, expenses and capital expenditures, whether incurred before or after the making of this Order, reasonably necessary for the economic preservation of the Property or Promax's business including, without limitation, payments in respect or on account of leases or interests in real property of any nature or kind, insurance, safety, security, chattel leases (capital or otherwise), and all other expenses and capital expenditures provided that any such expenditures which materially exceed amounts disclosed in the cash flow statement attached as Exhibit "A" to the affidavit of Alexander Lemmens shall be made only with the consent of the Monitor;

(e) all outstanding and future premiums on directors' and officers' liability insurance including, without limitation, any additional premium related to the extension of reporting periods thereof;

(f) any amounts secured by the Administration Charge (as hereinafter defined and constituted); and

(g) any other amount specifically provided for by the terms of this Order.

#### **OPERATIONS AND RESTRUCTURING**

14. Subject to the terms of this Order, Promax shall remain in possession and control of the Property and shall (except as herein otherwise contemplated) continue to carry on business in a manner consistent with the preservation of Promax's business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, financial advisors, servants, solicitors and consultants currently engaged and paid by Promax, with liberty to retain such further or other Persons, with the consent of the Monitor, as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan (as hereinafter defined), the Restructuring (as hereinafter defined) or the carrying out of the terms of this Order.

15. In order to facilitate or permit Promax to proceed with an orderly restructuring of its business, property and affairs (the "Restructuring"), Promax shall have the right to:

- (a) cease, downsize or shut down any of its operations or locations and to make provision for any consequences thereof in the Plan (as hereinafter defined), either with the consent of the Monitor or further Order of this Court;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and, to the extent not paid in the ordinary course or pursuant to paragraph 13(c) hereof, to make provision for any consequences thereof in the Plan (as hereinafter defined);
- (c) make capital expenditures to preserve the value of the Property, in excess of the amounts disclosed in the cash flow statement attached as Exhibit "A" to the affidavit of Alexander Lemmens, with the permission of the Monitor;
- (d) proceed with an orderly disposition of such of the Property as Promax may deem appropriate, provided that any sale of any real or personal property outside the ordinary course of business and not permitted by existing security agreements shall require the concurrence of the Monitor or the approval of the Court, and in any event approval of the Court shall be required for any sale of assets (not including petroleum or natural gas produced and sold in the ordinary course of Promax's business) for a consideration exceeding \$100,000; and
- (e) terminate such of its arrangements or agreements of any nature whatsoever, including without limitation contracts for the purchase or sale of commodities, hedging agreements, transportation agreements, leases of real estate, chattel leases or financing arrangements, transportation agreements, and service agreements as Promax deems appropriate and to make provision for any consequences thereof in the Plan (as hereinafter defined).

16. In order to facilitate or permit the Restructuring, Promax shall be permitted to carry on its business in the manner and to the extent determined by it, to dispose of any or all of its inventory and other assets, in the ordinary course of business, all subject to the other provisions hereof, wherever situate, and, for greater certainty, subject to the other provisions of this Order, Promax

shall have the right to realize upon its assets in such manner as Promax deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom, provided that Promax shall not enter into any contract or arrangement for the forward sale or hedging of its production or any agreement for the sale of production at below market rates without the approval of the Monitor, or further order of this Court.

#### **DIRECTORS' INDEMNITY**

17. Promax shall and does hereby indemnify any person who is from and after the date of this Order a director, officer or employee of Promax (or any entity having similar authority or responsibilities), their legal counsel and their financial advisors of and from all claims, liabilities and obligations of any nature whatsoever, including, without limitation, legal fees and disbursements on a solicitor and client basis, which may arise out of their involvement with Promax, the Restructuring or the Plan, from and after the date hereof in the above-mentioned capacities save and except as may arise from wilful misconduct or gross negligence on the part of any of them.

#### **POWER TO BORROW AND CHARGING OF PROPERTY**

18. Promax is hereby authorized and empowered to enter into arrangements for the provision of additional credit with RBS to a maximum aggregate principal sum of \$500,000 in lawful money of Canada (or such greater amount as may be authorized by further order of this Court) on terms to be approved by the Monitor, to fund Promax' ongoing operations, capital expenditures, and working capital for the preservation of Promax' business, property, assets and undertaking and to pay such other amounts as are permitted by the terms of this Order (the "Interim Financing"), which Interim Financing shall be secured by the existing security held by RBS, and any further security granted pursuant to the terms of this order (the "Bank Security").

19. Promax is hereby authorized and directed to execute and deliver to RBS, with the consent of the Monitor, such credit and security documents as it may require in connection with the Interim Financing.

20. Promax shall deposit, or cause to be deposited, all cash, cheques, notes, drafts, electronic funds remittances or other similar items of payment ("Remittances") into the bank accounts maintained by Promax with the Alberta Treasury Branch (the "Accounts"). The Alberta Treasury Branch will remit such Remittances consistent with past practice.

21. Except as required or allowed pursuant to the Interim Financing Promax shall not borrow any money from or grant any mortgage, charge, security interest, hypothec, lien or other encumbrance over, any of its present or future Property to any Person without the prior written consent of RBS and the Monitor.
22. Notwithstanding (a) the pendency of these proceedings and the declarations of insolvency made herein, (b) the pendency of any petitions for receiving orders heretofore or hereafter issued pursuant to the BIA in respect of Promax and any receiving order issued pursuant to any such petitions, and (c) the provisions of any federal or provincial statute, the obligations of Promax pursuant to the Interim Financing and any documents delivered pursuant thereto shall constitute legal, valid and binding obligations of Promax enforceable against it in accordance with the terms thereof, and any payments made by Promax to RBS as provided herein or pursuant to the Interim Financing shall not be construed to constitute a fraudulent preference or other challengeable or reviewable transaction under any applicable law.
23. The security and charges granted in respect of the Administration Charge shall be deemed to be valid and effective notwithstanding any negative covenant, prohibition or any other provision with respect to incurring debt or the creation of liens or security contained in any existing agreement between Promax and other parties, including without limitation those contained in the existing credit agreements between Promax and RBS and that, notwithstanding any provision to the contrary in any such agreements, neither the creation of the Administration Charge, nor the execution, delivery, perfection or registration of any document or interest in relation to the Interim Financing or notice in respect thereof shall create or be deemed to constitute a breach by Promax of any agreement to which they are a party, and RBS shall have no liability to any Person whatsoever as a result of any breach of any agreement caused by or resulting from Promax doing any act in connection with the creation, implementation or operation of the Interim Financing or the execution and delivery of documents in relation thereto.
24. RBS shall continue to have the existing access and reporting rights granted in favour of RBS and its representatives in respect of the Property.

#### **PAYMENT OF CREDITORS**

25. Obligations incurred by Promax to trade creditors for the supply of goods and/or services after the date of the making of this Order ("Post-Petition Trade Creditors") shall be paid in



accordance with their terms of credit. Amounts payable for or in respect of the termination of arrangements or agreements of any nature whatsoever, including without limitation leases of real estate, chattel leases or financing arrangements, transportation agreements, and service agreements, which cause damages or the acceleration of payments or other amounts not related to the day-to-day provision of goods and services to become payable, and claims incurred after the date of the making of this Order which have the benefit of some other security or priority which would survive a bankruptcy shall not be considered to be claims of Post Petition Trade Creditors for the purposes of this Order. For greater clarity, in the event a party has a claim in respect of goods and/or services supplied over a period beginning before the date of the making of this Order, and continuing to or after the date of this Order, such creditor is a Post-Petition Trade Creditor only for the portion of such claim which relates to goods and/or services supplied on or after the date of this Order. Further, no trade creditor is a Post-Petition Trade Creditor for goods and/or services supplied before the date of this order solely because payment for such goods and/or services was due on or after the date of this Order, nor is a creditor a Post-Petition Trade Creditor for claims arising out of the termination or breach on or after the date of this Order of any pre-existing agreement, contract, lease, or other arrangement of whatever kind, between such creditor and Promax.

26. Post-Petition Trade Creditors shall be entitled to the benefit of and are hereby granted a charge to a maximum amount of \$500,000 (the "Post-Petition Trade Creditors' Charge") against, and a security interest in, the Property, as security for indebtedness incurred by them from the date of the making of this Order up to the Stay Termination Date. The Post-Petition Trade Creditors' Charge shall rank subsequent in priority to the Administrative Charge and the Bank Security. In the event that claims of Post-Petition Trade Creditors shall exceed the amount of the Post-Petition Trade Creditors' Charge, such claims shall share in the benefit of the Post-Petition Trade Creditors Charge pro rata. A Post-Petition Trade Creditor's claim for interest (if any) shall not, however, be secured by the Post-Petition Trade Creditor's Charge.

27. Except as expressly permitted by the provision of this Order, Promax is hereby directed, until further Order by this Court:

- (a) to make no payments, whether of principal, interest thereon or otherwise, on account of amounts owing by Promax to any of its creditors as of this date; and

- (b) to grant no mortgages, charges or other security upon or in respect of any of its present or future Property other than in relation to the Interim Financing, except as authorized by further Order of this Court.

28. The charges created pursuant to this Order and the claims of RBS shall rank, as between themselves, as follows:

- (a) firstly, the Administrative Charge;
- (b) secondly, the Bank Security; and
- (c) thirdly, the Post-Petition Trade Creditors' Charge.

#### **PLAN OF ARRANGEMENT**

29. Promax is hereby exclusively authorized and permitted to file with this Court a formal plan of compromise or arrangement under the CCAA (the "Plan") on a date to be set upon further application to this Honourable Court and on terms to be set directing the process for service of the Plan on creditors and other parties, the timing of meetings and the classes of creditors called upon to vote upon the Plan in accordance with the directions of this Honourable Court.

#### **THE MONITOR**

30. Until further Order of this Court, KPMG Inc. shall be and it is hereby appointed as an officer of this Court to monitor the business and affairs of Promax with the powers and obligations hereafter set forth (the "Monitor") and Promax and its shareholders, officers, directors, employees, servants, agents, financial advisors and representatives shall cooperate fully with the Monitor in the exercise of their powers and discharge of its obligations. Without limiting the generality of the foregoing, the foregoing persons shall provide the Monitor with such access to Promax's books, records, assets and premises as the Monitor requires to exercise its powers and perform its obligations under this Order.

31. The Monitor shall:

- (a) assist, as applicable, in the development of the Plan and any amendments to and the implementation of the Plan;

- (b) be entitled to receive such information as the Monitor considers relevant for purposes of monitoring Promax's business and affairs including the following information, on an ongoing basis satisfactory to the Monitor:
  - (i) summaries of Promax's cash receipts, cash disbursements, expenses, short term investments and bank balances;
  - (ii) projected cash flow information; and
  - (iii) any and all information which the Monitor considers relevant at such times as the Monitor considers appropriate;
- (c) conduct an ongoing review of expenses incurred and payments made by Promax subsequent to the date of this order to ensure that Promax is not incurring or paying any non-customary or unauthorized expenses;
- (d) review and approve operating budgets, forecasts and margin reports;
- (e) be provided with full particulars of Promax's efforts to pursue refinancing and restructuring options and negotiations with creditors, investors, potential purchasers and others, and upon the Monitor's request to be an observer in such negotiations;
- (f) report to the Court if it believes that there has been an adverse change in Promax's projected cash flow or financial circumstances subsequent to the date of this Order, or if it believes that Promax has not complied with this order in any material fashion;
- (g) assist Promax, as applicable, with the holding and administering of any meetings for voting on the Plan and shall act as chair at any such meeting;
- (h) inquire into and report to creditors, at or prior to any meeting to consider the Plan, upon the financial condition and prospects of Promax;
- (i) be at liberty to engage legal counsel and engage such other agents as the Monitor deems necessary respecting the exercise of its powers and performance of its obligations under this Order;

(j) report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the Plan, the Restructuring or the business of Promax or in respect of such other matters as may be relevant to the proceedings herein; and in any event shall produce its first report on or before May 27, 2003;

(k) perform such other duties as are required by this Order or further Order of this Court.

32. The Monitor is authorized but not obligated to provide all interested parties, including but not limited to the affected creditors and RBS, with its report or assessment on the Plan. The Monitor shall incur no liability as a result of any report or assessment that it may make pursuant to this provision.

33. In response to any reasonable request for non-confidential information made in writing by any of Promax's creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by Promax is confidential, the Monitor shall not provide such information to the requesting creditor unless otherwise directed by this Court.

34. The Monitor is not empowered to take possession of any of the Property or to manage any of Promax's business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Property, or any part thereof.

35. The reasonable fees and disbursements of the Monitor (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor), the reasonable solicitor and client fees and disbursements of Promax's counsel in these proceedings and the reasonable fees and disbursements of Promax's financial advisors, shall be paid by Promax as part of the costs of these proceedings, the Plan and the Restructuring and Promax is hereby authorized and directed to pay the accounts of the Monitor, Promax's counsel, Promax's financial advisors, and any counsel for the Monitor on a weekly basis. In addition, Promax is hereby authorized to pay counsel to Promax and Promax's financial advisors their existing retainers to be held by them as security for payment of their fees and disbursements outstanding from time to time (including with respect to this Petition), subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor and Promax's financial advisor shall be taxed on the basis of a chartered accountant and its own

client and the legal costs of the Monitor's and/or Promax's counsel shall be taxed on the basis of a solicitor and its own client.

36. The Monitor, counsel to the Monitor, if any, and Promax's counsel, as security for their reasonable professional fees and disbursements incurred both before and after the making of this Order in respect of these proceedings, the Plan and the Restructuring in accordance with the provisions of this Order shall be entitled to the benefits of and are hereby granted a charge in an amount not to exceed \$250,000 against all of Promax's present and future Property (the "Administration Charge").

37. Where the Monitor acts in good faith and takes reasonable care in preparing any report required by this Order, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report.

38. The Monitor shall not be liable for any other act or omission as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for gross negligence or wilful misconduct on its part, or for any debt incurred by Promax whether before or after the date of this Order.

39. No action, application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Court first being obtained, on notice to Promax and the Monitor.

40. The appointment of the Monitor shall not disqualify it from being appointed trustee in bankruptcy and/or receiver and manager of Promax by this Court, should it consent to such appointment.

41. The appointment of the Monitor shall not constitute the Monitor as an employer, successor employer, sponsor, or payor with respect to Promax under any collective agreement or other contract between Promax and any of its present or former employees, or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of Promax whether pursuant to any legislation enacted for the protection of the environment, the transportation of hazardous goods,

health and safety or any other statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.

42. The right of RBS to apply for the appointment of a Chief Restructuring Officer is expressly reserved.

#### GENERAL TERMS

43. Promax shall be at liberty to:

(a) serve this Order, any other orders in these proceedings, all other proceedings, the Plan, any notices or meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing;

(b) with the concurrence of the Monitor, take such proceedings under the BIA as Promax at any time deems appropriate;

(c) with the concurrence of the Monitor, consent to the appointment of a receiver and/or receiver and manager of any of the Property otherwise protected by this Order, at any time; and

(d) register this Order against title to any of its Property.

44. Notwithstanding any other provision of this Order, Promax may apply at any time to this Court to seek any further relief, and RBS and any interested Person may apply to this Court to vary or rescind this Order or seek other relief on two (2) days' notice to the Monitor, RBS and to any other Person likely to be affected by the Order sought or on such other notice, if any, as this Court may order.

45. Promax, RBS or the Monitor may, from time to time apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order, on notice only to Promax or RBS and the Monitor, as the case may be.

46. This Order and any other Orders in these proceedings shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons whom it may otherwise be enforceable.

47. This Honourable Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to s.17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

48. For the purposes of seeking the aid and recognition of any court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of Promax.

" REC. ROMANE "  
J.C.C.Q.B.A.

ENTERED THIS 7<sup>th</sup> DAY  
OF May, 2003.

KEVIN HOSCHKA  
COURT  
SERIAL

Clerk of the Court

Action No.: 0301-07229 2003

IN THE COURT OF QUEEN'S  
BENCH OF ALBERTA  
JUDICIAL DISTRICT OF  
CALGARY

IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, as amended  
AND IN THE MATTER OF THE BUSINESS  
CORPORATIONS ACT, R.S.A. 2000, c. B-9  
AND IN THE MATTER OF  
PROMAX ENERGY INC.

---

ORDER

---

**BORDEN LADNER GERVAIS LLP**  
Barristers and Solicitors  
1000 Canterra Tower  
400 Third Avenue S.W.  
Calgary, Alberta T2P 4H2

Attention: PATRICK T. MCCARTHY Q.C.  
Telephone: (403) 232-9441  
Fax: (403) 266-1395

File No. 639576-000023

CLERK OF THE COURT

MAY - 7 2003

CALGARY, ALBERTA