

COURT FILE NUMBER

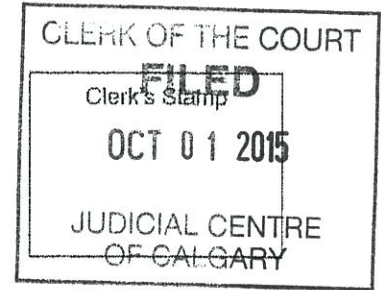
1501-11517

COURT

Court of Queen's Bench of Alberta

JUDICIAL CENTRE

Calgary



**IN THE MATTER OF THE
RECEIVERSHIP OF GROUNDFORCE
GEODRILLING SOLUTIONS INC.**

PLAINTIFF

HSBC BANK CANADA

DEFENDANT

GROUNDFORCE GEODRILLING SOLUTIONS INC.

DOCUMENT

STATEMENT OF CLAIM

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File No: 245056.00294

NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

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

Statement of facts relied on:

1. The Plaintiff HSBC Bank Canada (the "**Bank**") is a Canadian chartered bank which has offices, and carries on business, in Calgary, Alberta.
2. The Defendant GroundForce GeoDrilling Solutions Inc. (the "**Borrower**") is a drilling contractor that provides drilling services to oil & gas, mining, geothermal, and groundwater sectors in Western Canada.

The Debt and Security

3. The Bank has established and authorized certain credit facilities (the “**Credit Facilities**”) in favour of the Borrower pursuant to various agreements, including a most recently executed facility letter dated March 16, 2015, as well as a Line of Credit by Way of Current Account Overdraft Agreement dated January 20, 2011, a MasterCard Indemnity Agreement dated January 20, 2011, an Environmental Indemnity Agreement dated April 27, 2011, a Confirmation and Acknowledgment Agreement dated May 10, 2012, an Agreement for Foreign Exchange Contracts dated November 6, 2012, and a MasterCard Program limit Modification Agreement dated August 25, 2014 (collectively, the “**Credit Agreement**”).

4. The repayment of the monies from time to time due and owing by the Borrower to the Bank in respect of the Credit Facilities, including interest thereon and all other costs, charges and expenses from time to time due and owing to the Bank in connection therewith and hereunder (collectively, the “**Indebtedness**”), is secured in whole or in part by various security instruments granted by the Borrower. All security now or hereafter held by the Bank in respect of the Credit Facilities and the Indebtedness is collectively referred to as the “**Security Documents**” and includes, without limitation, the following:
 - (a) General Security Agreement dated January 20, 2011 granted by the Borrower in favour of the Bank in respect of, *inter alia*, all of the present and after acquired personal property, presently owned and after acquired intellectual property, and presently owned or held and after acquired property, assets, effects and undertakings of the Borrower;
 - (b) Security with Respect to Business Insurance Policies Agreement dated January 20, 2011 between the Borrower and the Bank;
 - (c) Security over Cash, Credit Balances and Deposit Instruments Agreement dated January 20, 2011 between the Borrower and the Bank;
 - (d) MasterCard Indemnity Agreement dated January 20, 2011 between the Borrower and the Bank;

- (e) Demand Collateral Mortgage dated April 27, 2011 between the Borrower and the Bank, relating to the lands located at 8010002, Block A, Lots 13 & 14;
- (f) Security over Cash, Credit Balances and Deposit Instruments Agreement dated August 8, 2014 between the Borrower and the Bank; and
- (g) Security with Respect to Business Insurance Policies Agreement dated November 10, 2014 between the Borrower and the Bank.

Default and Forbearance

5. The Borrower is in default under the Credit Agreement, and its breaches include, without limitation:
 - (a) the Borrower's Current Ratio, as defined in the Credit Agreement, is below what is permitted under the Credit Agreement;
 - (b) the Borrower's Debt to Tangible Net Worth ratio, as set out in the Credit Agreement, exceeds what is permitted under the Credit Agreement;
 - (c) the Borrower's Debt Service Coverage ratio, as set out in the Credit Agreement, is below what is permitted under the Credit Agreement; and
 - (d) the Borrower is in excess of its Margin Requirement on the Operating Facility, as set out in the Credit Agreement(collectively, the "**Breaches**").
6. As a result of the ongoing Breaches, the Bank determined it was necessary to issue a demand to the Borrower for the repayment of the Indebtedness and a Notice of Intention to Enforce Security pursuant to s. 244 of the *Bankruptcy and Insolvency Act (Canada)* to the Borrower. Both documents dated August 17, 2015 were issued to the Borrower.
7. Leading up to the issuance of the Demand, the Bank and the Borrower were negotiating a forbearance agreement. Concurrently with the issuance of the Demand, the Bank and the Borrower entered into a Forbearance Agreement dated August 17, 2015 (the

“**Forbearance Agreement**”), pursuant to which the Bank agreed to forbear from demanding payment of the Indebtedness and enforcing the Security Documents upon the terms and conditions set forth in the Forbearance Agreement.

8. As part of the Forbearance Agreement, the Borrower executed a Consent Receivership Order, which the Bank would be entitled to rely on in the event of a default under the Forbearance Agreement.
9. It was hoped that a recently built and commissioned slant drilling rig (“**Rig 14**”) would generate significant revenue and cash flow over the balance of 2015 through work to be completed under a newly signed drilling contract with Canadian Natural Resources Limited (“**CNRL**”). This was an important development to the Bank.

Deloitte Monitoring and Reporting

10. It was agreed that Deloitte Restructuring Inc. (“**Deloitte**”) would be appointed to, amongst other things, perform a review of the Borrower and its business to assess and monitor the Borrower’s strategy for curing the Breaches, to assess and monitor the collection of accounts receivable and the implementation of that strategy, to review the Borrower’s cash flow projections, based on the CNRL contract for Rig 14, and to assess the impact of those projections on the Bank’s security position, to determine the estimated net realizable value of the Borrower’s assets and to consider any other matters which the Bank from time to time considers to be relevant to the Borrower’s financial position and the Bank’s security position and to report its findings to the Bank.
11. The Bank has received an initial report from Deloitte dated September 18, 2015.

Deterioration of Business and Default under the Forbearance Agreement

12. During the forbearance period and through discussions with Deloitte, the Bank has learned that the CNRL contract for Rig 14 has been withdrawn, and that the management of the Borrower is uncertain whether it will secure any meaningful additional work for the balance of 2015. Further, during the forbearance period the Borrower had received Requests for Proposals (“**RFP**”) from CNRL and Brion Energy Corporation (“**Brion**”)

for additional short-term work. CNRL has subsequently withdrawn its RFP request. All these developments are extremely concerning to the Bank.

13. The Forbearance Agreement expressly provides that the Borrower is in default of the Forbearance Agreement if Deloitte, acting in good faith, reports to the Bank that the business of the Borrower, taken as a whole, is not viable or is insolvent.
14. On September 25, 2015, the bank received a letter from Deloitte, which states:

Further to our letter dated September 18, 2015 and our recent discussions with management, the Company continues to experience negative cash flow and has few prospects for additional work. The RFP from CNRL has now been withdrawn and management is uncertain if it will secure the work recently proposed for Brion Energy Corporation. As a result, the Company remains insolvent and is not viable in its current state.

Consent Receivership Order

15. As described above, given the Deloitte Letter, the Bank is entitled to immediately pursue its legal rights against the Borrower, including its rights under the Security Documents (and including making use of the Consent Receivership Order), to recover all of the Indebtedness if there is a default under the Forbearance Agreement.

Urgency

16. In addition to the recent material adverse changes relating to the Borrower, the Borrower also expects to close a sale of lands located at 8010002, Block A, Lots 13 & 14 (the “**Crossfield Lands**”) on September 30, 2015.
17. The Bank would like to ensure that the sale proceeds of the Crossfield Lands will be paid towards the Indebtedness as agreed-to in the Forbearance Agreement and would feel more comfortable if a receiver is appointed over the Borrower.

The Indebtedness

18. As of September 24, 2015, the Indebtedness includes the following:

- (a) an outstanding principal balance as at September 25, 2015 of \$16,980,531.25;
- (b) interest thereon, accrued and accruing; and
- (c) all other costs, charges and expenses from time to time due and owing to the Bank in connection therewith and hereunder.

Remedies Sought

- 19. Judgment for all amounts owing under the Credit Facilities plus interest including and up to the date of judgment, or alternatively, pre-judgment and post-judgment interest pursuant to the *Judgment Interest Act*, RSA 2000, c. J-1, as amended, or on such terms this Honourable Court deems just;
- 20. A declaration as to the amount secured under the Security Documents plus interest including and up to the date of judgment, or alternatively, pre-judgment and post-judgment interest pursuant to the *Judgment Interest Act*, RSA 2000, c. J-1, as amended, or on such terms this Honourable Court deems just;
- 21. A declaration that:
 - (a) the Security Documents are enforceable in accordance with their terms; and
 - (b) the Security Documents secure the payment of all obligations of the Borrower to the Bank and that the Bank's security interests pursuant to those instruments rank vis a vis the secured property in priority to all other interests, security or otherwise;
- 22. An Order for the Appointment of a receiver and manager over the assets of the Borrower;
- 23. A Preservation Order over the Borrower's assets that are subject to the Bank's security interests pursuant to the Security Documents;
- 24. All legal costs and expenses incurred by or allowed to the Bank, including those taxed as between solicitor and own client; and

25. Such further and other relief as the nature of the case may require and to this Honourable Court may seem just.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta.

1 month if you are served outside Alberta but in Canada.

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.