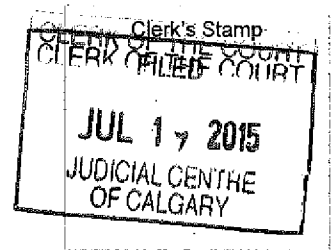


COURT FILE NO. 1501-06320
COURT COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF WELLS FARGO FOOTHILL CANADA ULC
DEFENDANTS BIG EAGLE HYDRO-VAC INC., BIG EAGLE LIMITED
PARTNERSHIP, BIG EAGLE HYDRO-VAC (NORTH) INC.,
and BIG EAGLE (NORTH) LIMITED PARTNERSHIP



DOCUMENT **APPLICATION FOR APPROVAL OF AUCTION
SERVICES AGREEMENT AND DISTRIBUTION ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling Lafleur Henderson LLP
Suite 1600, 421 7th Avenue SW
Calgary, AB T2P 4K9
Phone: (403) 298-1818
Fax: (403) 695-3558

File No.: A151267

Attention: Jeffrey Oliver

NOTICE TO RESPONDENT

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the judge.

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

Date: July 23, 2015
Time: 4:00 p.m.
Where: Calgary Law Centre
Before Whom: Justice LoVecchio

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

Remedy claimed or sought:

1. An order abridging the time for service and deeming service good and sufficient upon all interested parties.
2. An order substantially in the form attached as Schedule "A" hereto, *inter alia*:
 - (a) approving the interim distribution to Wells Fargo Foothills ULC (the "**Agent**") of funds in an amount equivalent to the non-refundable deposit paid to the Receiver pursuant to an Auction Services Agreement dated June 25, 2015 (the "**Auction Agreement**") between the Receiver and Great American Global Partners, LLC ("**Great American**");
 - (b) approving the future distribution to the Agent of such further and other funds as are necessary to satisfy the Defendants' indebtedness to the Plaintiff; and
 - (c) approving the activities of the Receiver as disclosed in the Second Report of the Receiver dated July 17, 2015.
3. An approval and vesting order substantially in the form attached as Schedule "B" hereto, or on such further and other terms as this Court may direct, *inter alia*:
 - (a) declaring the Auction Agreement as the Successful Bid pursuant to the Auction and Asset Purchase Solicitation Procedures (the "**Procedures**");
 - (b) vesting title to the assets in purchasers free and clear of all claims, liens and encumbrances; and
 - (c) approving the Auction Agreement, and authorizing the Receiver to proceed with the transactions contemplated by the Auction Agreement.
4. Such further and other relief as this Court may grant.

Grounds for making this application:Background

5. The Defendants are indebted under a second amended and restated credit and guaranty agreement dated February 15, 2011 (the "**Credit Agreement**") between, *inter alia*, the Agent, Big Eagle Hydro-Vac Inc. and Big Eagle Limited Partnership as borrowers and the Plaintiff in the amount of approximately \$53,900,000 CDN.
6. The Debtors' primary business was the provision of oilfield services across Western Canada.
7. On June 8, 2015, Deloitte Restructuring Inc. was appointed receiver and manager (the "**Receiver**") of all current and future assets, undertakings and properties (the "**Property**")

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of the Defendants pursuant to the provisions of a Receivership Order granted by Justice J. Strekof of this Honourable Court (the "**Receivership Order**").

8. The Receivership Order authorizes the Receiver to, *inter alia*:
- (a) market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
 - (b) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, with the approval of this Court in respect of any transaction in which the purchase price exceeds \$400,000 or the aggregate purchase price exceeds \$2,000,000. In each such case, notice under subsection 60(8) of the Personal Property Security Act, RSA 2000, c P-7 is not required;
 - (c) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property; and
 - (d) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligation.
9. The Property includes but is not limited to vehicles, rolling stock, machinery, equipment, office equipment and office furniture (collectively, the "**Assets**").

Auction Agreement

10. The Receiver's agent, Realization Services, Inc., procured the Auction Agreement from Great American in the form of a stalking horse bid (the "**Stalking Horse Bid**").
11. This Court approved the Auction Agreement and Procedures pursuant to an Auction and Asset Solicitation Procedures Order dated June 29, 2015.
12. The Receiver conducted marketing efforts to solicit bids that were superior to the Stalking Horse Bid (in addition to those general marketing efforts disclosed in the First Report of the Receiver, dated June 26, 2015), but received no such bids.
13. In such an event, the Procedures prescribe that the Stalking Horse Bid shall be the successful bid.
14. The Auction Agreement provides that Great American will sell the Assets and remit the proceeds of the sale of the Assets to the Receiver (the "**Sale Proceeds**").
15. The Auction Agreement also provides that Great American has agreed to pay the Receiver a guaranteed minimum amount of \$18,700,000.00 (the "**Net Minimum Guarantee**").

Error! No document variable supplied.

16. The Receiver has complied with the Procedures, and has sufficiently marketed the Stalking Horse Bid to potential bidders. In the circumstances, it is appropriate that the Auction Agreement be declared as the "Successful Bid" pursuant to the Procedures, and that the transactions contemplated thereunder be completed.

Distribution Order

17. Great American has paid a deposit of \$3,740,000.00 to the Receiver (the "Deposit"), which represents 20% of the Net Minimum Guarantee.
18. The Receiver has obtained an independent legal opinion with respect to the validity and enforceability of the Plaintiff's security, excluding the Plaintiff's security over any real property owned by the Defendants.
19. It is appropriate that the Deposit and further amounts up to the amount of the Plaintiff's indebtedness be paid to the Agent on the conditions specified in the draft Order affixed as Schedule "A" hereto.

Approval of the Second Report

20. The Receiver's actions and activities, as described in the Second Report, are lawful and proper, and consistent with its powers and duties under the Receivership Order.

Material or evidence to be relied on:

21. The First Report of the Receiver dated June 26, 2015;
22. The Second Report of the Receiver dated July 17, 2015; and
23. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

24. Rules 1.3, 1.4, 6.3, and 13.5(2) of the *Rules of Court*; and
25. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

26. *Bankruptcy and Insolvency Act*, RSC 1985, c B-9.
27. *Judicature Act*, RSA 2000 c J-2.
28. Such further and other Acts and Regulations as counsel for the Receiver may advise or this Honourable Court may permit.

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Any irregularity complained of or objection relied on:

29. Not applicable.

How the application is proposed to be heard or considered:

30. In person.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

COURT FILE NO. 1501-06320
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF WELLS FARGO FOOTHILL CANADA ULC
DEFENDANTS BIG EAGLE HYDRO-VAC INC., BIG EAGLE LIMITED PARTNERSHIP, BIG EAGLE HYDRO-VAC (NORTH) INC., and BIG EAGLE (NORTH) LIMITED PARTNERSHIP

DOCUMENT DISTRIBUTION ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling Lafleur Henderson LLP
Suite 1600, 421 7th Avenue SW
Calgary, AB T2P 4K9
Phone: (403) 298-1818
Fax: (403) 695-3558

File No.: A151267

Attention: Jeffrey Oliver

DATE ON WHICH ORDER WAS PRONOUNCED: July 23, 2015
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice LoVecchio
LOCATION OF HEARING: Calgary, Alberta

UPON the application of Deloitte Restructuring Inc. in its capacity as receiver and manager ("**Receiver**") of the assets, property and undertakings of Big Eagle Hydro-Vac Inc., Big Eagle Limited Partnership, Big Eagle Hydro-Vac (North) Inc., and Big Eagle (North) Limited Partnership (collectively, the "**Debtors**") for an order approving, *inter alia*, the distribution of proceeds of realization of certain of the Debtors' property to Wells Fargo Foothill Canada ULC (the "**Agent**") on account of the indebtedness outstanding under the second amended and restated credit and guaranty agreement dated as of February 15, 2011 (as amended, restated, supplemented or otherwise modified to the date hereof, the "**Credit Agreement**") between, *inter*

alia, the Agent, Big Eagle Hydro-Vac Inc. and Big Eagle Limited Partnership as borrowers and Wells Fargo Capital Finance Corporation Canada as lender (“**Lender**”);

AND UPON having read the Receivership Order granted on June 8, 2015 (the “**Receivership Order**”), the Order dated June 29, 2015 approving the Auction Agreement dated June 25, 2015 (the “**Auction Agreement**”) between the Receiver and Great American Global Partners, LLC (“**Great American**”) and the Auction and Asset Purchase Solicitation Procedures (the “**AASP**”), the Second Report of the Receiver dated July 17, 2015 (the “**Second Report**”), and the Affidavit of Service of Richard Comstock sworn July 17, 2015;

AND UPON hearing the submissions of counsel for the Receiver and counsel for the Agent, and from counsel for other interested parties and other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.
2. Upon approval by this Court of the Auction Agreement and the declaration that the Auction Agreement is the Successful Bid pursuant to the AASP, the Receiver is hereby authorized and directed to pay to the Agent:
 - (a) an interim distribution in the amount of \$3,740,000.00; and
 - (b) such further and other distributions required to satisfy the amounts owing by the Debtors to the Lender under the Credit Agreement, subject to such reserves as the Receiver deems necessary, acting reasonably.
3. The actions of the Receiver to date as reported in the Second Report are hereby ratified and approved.
4. The Receiver and any other interested party is at liberty to apply for further advice, assistance and direction as necessary in order to give full force and effect to the terms of this Order.

5. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.

Justice of the Court of Queen's Bench of Alberta

SCHEDULE "B"

| | | |
|---|--|---------------|
| COURT FILE NO. | 1501-06320 | Clerk's Stamp |
| COURT | COURT OF QUEEN'S BENCH OF ALBERTA | |
| JUDICIAL CENTRE | CALGARY | |
| PLAINTIFF | WELLS FARGO FOOTHILL CANADA ULC | |
| DEFENDANTS | BIG EAGLE HYDRO-VAC INC., BIG EAGLE LIMITED PARTNERSHIP, BIG EAGLE HYDRO-VAC (NORTH) INC., and BIG EAGLE (NORTH) LIMITED PARTNERSHIP | |
| DOCUMENT | AUCTION SERVICES APPROVAL AND VESTING ORDER | |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | Gowling Lafleur Henderson LLP Suite 1600, 421 7 th Avenue SW Calgary, AB T2P 4K9 Phone: (403) 298-1818 Fax: (403) 695-3558 File No.: A151267 Attention: Jeffrey Oliver | |
| DATE ON WHICH ORDER WAS PRONOUNCED: | July 23, 2015 | |
| NAME OF JUDGE WHO MADE THIS ORDER: | The Honourable Mr. Justice LoVecchio | |
| LOCATION OF HEARING: | Calgary, Alberta | |

UPON the application of Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, property and assets of Big Eagle Hydro-Vac Inc., Big Eagle Limited Partnership, Big Eagle Hydro-Vac (North) Inc., and Big Eagle (North) Limited Partnership (the "**Debtors**") for an order (i) declaring the auction services agreement entered into between the Receiver and Great American Global Partners, LLC ("**Great American**") dated June 25, 2015 (the "**Auction Agreement**") to be the successful bid as contemplated by the Auction and Asset Solicitation Procedures Order dated June 29, 2015 (the "**AASP Approval Order**"), (ii) authorizing and approving the Auction Agreement and the transaction contemplated thereby, (iii) providing for the vesting of the Assets (as defined in the

Auction Agreement) in the purchasers as set out in the Auction Agreement, and (iv) approving and authorizing at the Receiver's election, the vesting of any remaining unsold Assets in and to the Agent in accordance with the Auction Agreement;

AND UPON having read the Receivership Order dated June 8, 2015 (the "**Receivership Order**"), the AASP Approval Order, and the Second Report of the Receiver dated July 17, 2015 (the "**Second Report**");

AND UPON HEARING the submissions of counsel for the Receiver, counsel for Great American, counsel for Wells Fargo Foothill Canada ULC and from counsel for other interested parties, and from other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE AND DEFINITIONS

1. The time for service of the notice of application for this Order is hereby abridged and service thereof is deemed good and sufficient.
2. Unless otherwise indicated, capitalized terms used herein that are not otherwise defined herein shall have the meaning ascribed to such terms in the Auction Agreement.

SUCCESSFUL BID

3. The Auction Agreement is hereby declared to be the Successful Bid (as defined in the Auction and Asset Purchase Solicitation Procedures appended to the AASP Approval Order).

APPROVAL OF AUCTION AGREEMENT

4. The Auction Agreement (including all schedules attached thereto) and all steps or actions contemplated therein are hereby approved. The Receiver is hereby authorized and approved to proceed with the Auction Agreement and the transactions contemplated thereby. Subject to the provisions of this Order and the Receivership Order, the Receiver is hereby authorized and directed to take any and all actions as may be necessary or

desirable to implement the Auction Agreement and each of the transactions contemplated therein. Without limiting the foregoing, the Receiver is authorized to execute any other agreement, contract, deed or any other document, or take any other action, which could be required or be useful to give full and complete effect to the Auction Agreement.

MARKETING AND SALE OF ASSETS

5. Pursuant to the Auction Agreement, Great American is authorized to market and sell the Assets (the “**Asset Sale**”) free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, assignments, actions, taxes, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order; and
 - (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system (collectively with the Claims, the “**Encumbrances**”);
6. Upon completion of the Asset Sale and pursuant to the Auction Agreement, the Receiver is authorized, in its discretion, to elect to vest any remaining unsold Assets (collectively the “**Remaining Assets**” and each a “**Remaining Asset**”) in Great American free and clear of any and all Encumbrances.

ASSET SALES AND VESTING

7. Upon Great American completing the sale of any of the Assets to a purchaser and upon receipt of the purchase price by Great American and delivery by Great American of a bill of sale or similar evidence of purchase to such purchaser (the “**Purchaser Bill of Sale**”) all of the Debtors’ right, title and interest in and to the Assets described in the Purchaser Bill of Sale shall vest absolutely in such purchaser free and clear of and from any and all

Encumbrances and all of the Encumbrances affecting or relating to such Assets shall be expunged and discharged as against such Assets; provided however that nothing herein shall discharge the obligations of Great American pursuant to the Auction Agreement, or the rights or claims of the Receiver in respect thereof, including without limitation, the obligations of Great American to account for and remit the proceeds of the Asset Sale to the designated trust account pursuant to the terms of the Auction Agreement.

8. Upon the election of the Receiver to vest any Remaining Asset in Great American pursuant to paragraph 6 of this Order, all of the Debtors' right, title and interest in and to any Remaining Asset so elected shall vest in Great American free and clear of any and all Encumbrances and all of the Encumbrances affecting or relating to such Assets shall be expunged and discharged as against such Assets.
9. For the purposes of determining the nature and priority of Claims, and subject to the Auction Agreement, the monies payable to the Receiver under the Auction Agreement from the Asset Sale shall stand in the place and stead of the Assets, and from and after the delivery of the Purchaser Bill of Sale all Encumbrances shall attach to the net proceeds from the Asset Sale with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
10. From and after the closing of sale of any of the Asset to a purchaser or the vesting of any Remaining Asset in Great American, the Receiver is authorized to discharge from any personal property registry any Encumbrance registered against such Asset, to the extent the security interest is registered against the interest of a Debtor.
11. The Debtors and all persons who claim by, through or under the Debtors in respect of the Assets shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Assets and, to the extent that any such person remains in possession or control of any of the Assets, they shall forthwith deliver possession thereof to Great American.

12. Notwithstanding:

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

the vesting of the Assets in the purchasers or any Remaining Asset in Great American pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall any purchase constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

DESIGNATED ACCOUNT

13. Amounts deposited in the Account by or on behalf of Great American or the Receiver pursuant to the Auction Agreement shall be and be deemed to be held in trust for the Receiver and Great American, as the case may be, and, for clarity, no Person shall have ~~any claim, ownership interest or other entitlement in or against such amounts, including,~~ without limitation, by reason of any claims, disputes, rights of offset, set-off, or claims for contribution or indemnity that it may have against or relating to the Receiver.

GENERAL

- 14. This Order shall have full force and effect in all provinces and territories in Canada.
- 15. This Court requests the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effects to this Order and to assist the Receiver and its respective agents in carrying

out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist The Receiver and its respective agents in carrying out the terms of this Order.

16. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
17. Service of this Order on any party not attending this application is hereby dispensed with.
18. The Receiver, Great American and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Asset Sale.

Justice of the Court of Queen's Bench of Alberta