

FORM 27
[RULES 6.3 AND 10.52(1)]

CLERK'S STAMP

COURT FILE NUMBER 1001 – 17751
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF (APPLICANT) CANADIAN WESTERN BANK
DEFENDANT (RESPONDENT) WHITEMUD RESOURCES INC.
DOCUMENT APPLICATION BY DELOITTE & TOUCHE
INC., AS RECEIVER OF WHITEMUD
RESOURCES INC.
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **BENNETT JONES LLP**
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Chris Simard/Alexis Teasdale
Telephone No.:403-298-3067
Fax No.:403-265-7219
Client File No.: 27113.24

NOTICE TO RESPONDENTS

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

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

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

Date: May 10, 2011 on the Commercial Duty List
Time: 3:00 p.m.
Where: Calgary Courts Centre
Before Whom: The Honourable Justice K. M. Horner

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:
 - (a) approving the reported actions of Deloitte and Touche Inc. (the "Receiver") in its capacity as Court-appointed Receiver and Manager of Whitemud Resources Inc. ("Whitemud" or the "Company") since March 31, 2011, as reported in the Second Report of the Receiver dated May 6, 2011 (the "Second Report");
 - (b) authorizing the Receiver to pay to Olympia Trust Company ("Olympia"), in Olympia's capacity as Trustee for and on behalf of the holders of those 12% Convertible Secured Subordinated Debentures (the "Debentures") issued by Whitemud pursuant to the terms of that Trust Indenture dated August 6, 2009 (the "Indenture"), a sum sufficient to fully discharge Whitemud's obligations under the Debentures (the "Debenture Payment");
 - (c) declaring that, upon the Receiver making the Debenture Payment to Olympia, Whitemud's obligations to the holders of the Debentures shall be fully discharged;
 - (d) declaring that, upon the Debenture Payment being made, Kasten Energy Inc. ("Kasten") shall be entitled to the benefit of and shall be granted a charge (the "Debenture Payment Charge") on all of the Property (as defined in the December 15, 2010 Consent Order appointing Receiver and Manager granted in this Action, hereinafter the "Consent Receivership Order") to secure all of Whitemud's obligations to Kasten regarding the funds provided by Kasten to the Receiver for the purpose of making the Debenture Payment (the "Debenture Payment Funds");
 - (e) ordering and declaring that, upon the Debenture Payment being made, the Receiver is authorized and empowered to execute and deliver to Kasten, in the name of Whitemud, such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively the "Definitive Documents") as may be reasonably required by Kasten with respect to its provision of the Debenture Payment Funds;
 - (f) declaring that, upon the Debenture Payment being made:

- (i) the Debenture Payment Charge shall constitute a charge on the Property and shall rank in priority immediately subordinate to the security interests, mortgages and charges granted by Whitemud to Canadian Western Bank, which have since been assigned to and acquired by Kasten, and subordinate to any other claims that rank in priority to the charges granted by Whitemud to Canadian Western Bank;
- (ii) the filing, registration and perfection of the Distribution Payment Charge shall not be required; and
- (iii) the Distribution Payment Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Debenture Payment Charge;
- (g) requesting the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Saskatchewan or any other jurisdiction to give effect to the Order sought and to assist the Receiver and its agents in carrying out the terms of the Order sought;
- (h) respectfully requesting all courts, tribunals, regulatory and administrative bodies in Saskatchewan or any other jurisdiction 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 the Order sought or to assist the Receiver and its agents in carrying out the terms of the Order sought;
- (i) declaring that the Receiver will be at liberty to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of the Order sought and for assistance in carrying out the terms of the Order sought; and
- (j) granting such further and other relief as this Honourable Court deems just.

Grounds for making this application:

1. the Receiver filed a Proposal in Bankruptcy on behalf of Whitemud on April 1, 2011, pursuant to the Order of Mr. Justice LoVecchio, granted in this Action on March 31, 2011 (the "Proposal");

2. the funder and promoter of the Proposal is Kasten;
3. Kasten is the assignee of the loan and security granted by Whitemud to Canadian Western Bank, the first-ranking (subject only to statutory liens or charges) secured creditor of Whitemud;
4. the Receiver has obtained a legal opinion from its counsel and their Saskatchewan agent, opining that the security of Canadian Western Bank is valid and enforceable;
5. the security granted by Whitemud to the Debentureholders ranks subordinate to Canadian Western Bank's security;
6. the Receiver has obtained a legal opinion from its counsel and their Saskatchewan agent, opining that the security of the Debentureholders is valid and enforceable;
7. at the creditors' meeting convened to consider the Proposal held on April 21, 2011 (the "Creditors' Meeting"), Kasten put forward a significant series of amendments to the Proposal, and provided to the Receiver a bank draft in the full amount of the Debenture Payment Funds, for the purpose of paying out the Debentureholders;
8. the Creditors' Meeting was adjourned in order for Kasten to prepare a written Amended Proposal dated April 29, 2011 (the "Amended Proposal");
9. the Consent Receivership Order permits the Receiver to:
 - (a) settle, extend or compromise any indebtedness owing to or by Whitemud; and
 - (b) apply from time to time to the Court of Queen's Bench of Alberta for advice and directions in the discharge of its powers and duties under the Consent Receivership Order;
10. the Consent Receivership Order further directs the Receiver to deposit and hold all cheques, instruments, and other forms of payments received by the Receiver from and after the making of the Consent Receivership Order, from any source whatsoever, in

specified accounts, to be paid in accordance with the terms of the Consent Receivership Order or any further Order of the Court of Queen's Bench of Alberta.

11. the Receiver currently holds the Debenture Payment Funds in trust for the purpose of paying out the Debentureholders and Kasten and the Receiver requires an Order of this Court to permit the Receiver to pay out the Debenture Payment Funds in accordance with the terms of the Consent Receivership Order;
12. the order sought is just and equitable, will allow payment in full of the Debentureholders in a timely fashion and will not prejudice any other creditors or stakeholders of Whitemud, other than Kasten; and
13. such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

1. the First Report of the Receiver, dated March 23, 2011;
2. the Confidential Supplement to the First Report of the Receiver, dated March 28, 2011;
3. the Second Report; and
4. such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

1. Part 6 of the *Alberta Rules of Court*, A.R. 124/2010.

Applicable Acts and regulations:

1. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, Parts III and XI;
2. *Judicature Act*, R.S.A. 2000, c. J-2, section 13(2);
3. *Personal Property Security Act*, R.S.A. 2000, c. P-7, section 65(7); and

4. such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

1. None.

How the application is proposed to be heard or considered:

1. Before the Honourable Justice K. M. Horner in Chambers on the Commercial Duty List with one or more of the parties to this Action and other interested parties present.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.