

January 5, 2026

VIA EMAIL

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File No. 0291254.0001

The Honourable Justice Simard
c/o Commercial Coordinator
Court of King's Bench of Alberta
Calgary Courts Centre
601 5 St SW
Calgary, AB T2P 5P7

Attention: Commercial Coordinator

Dear Justice Simard:

**Re: In the Matter of the Notice of Intention to file a Proposal of CatalX CTS Ltd.,
Court File No. B301-223290
Hearing on the Calgary Commercial List on January 6, 2026 at 10:00 am**

We are solicitors to CatalX CTS Ltd. (“**CatalX**”) and Hyuk Jae Park (“**Park**”, and together with CatalX, the “**Respondents**”) in the application brought by the Alberta Securities Commission returnable January 6, 2026 at 10:00 am for advice and direction.

Please find enclosed a recently released judicial authority which the Respondents intend to rely on in their submissions at the hearing.

The authority is the oral reasons for decision of this Court, rendered on December 18, 2025, dismissing an application made by Department of Justice Canada on behalf of the Canada Revenue Agency (“**CRA**”) in the receivership proceedings of CLEO Energy Corp. (the “**Reasons**”).

The Court in dismissing the application of the CRA, found that the application was a collateral attack on previous orders of the Court approving the sale of CLEO’s assets, which authorized the Receiver to use sale proceeds to pay the administration charge and interim lender’s charge.

The Reasons are applicable to the hearing tomorrow given that the CRA had notice of the application directing the use of the sale proceeds and did not oppose same. The CRA’s application effectively asked the Court to vary the terms of previously granted approval and vesting orders outside of the appeal process.

Although the CRA may have believed that it was entitled to be paid the GST deemed trust amounts due to its own understanding of applicable law, this did not insulate it from the effect of failing to oppose the orders when it was clear the CRA's priority and rights to sale proceeds would be impacted by the approval and vesting orders.

Yours truly,

MILLER THOMSON LLP

Per:



James Reid
Partner
JR/mc

Enclosure

cc: *Service List*



89997947.4

ENCLOSURE



89997947.4

Action No.: 2501-09028
E-File Name: CVK25UCAPITAL
Appeal No.:_____

IN THE ALBERTA COURT OF JUSTICE
JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, RSC, 1985, C B-, AS AMENDED

AND IN THE MATTER OF THE RECEIVERSHIP OF
CLEO ENERGY CORP.

P R O C E E D I N G S

Calgary, Alberta
December 18, 2025

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TABLE OF CONTENTS

Description	Page
December 18, 2025	1
Ruling	1
Certificate of Record	4
Certificate of Transcript	5

1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary, Alberta

2 _____

3 December 18, 2025 Morning Session

4 _____

5 The Honourable Justice M.H. Bourque Court of King's Bench of Alberta

6 _____

7 D.G. Segal For Canada Revenue Agency

8 A.E. Reperto For Canada Revenue Agency

9 G.F. Body For Canada Revenue Agency

10 J. Reid For the Proposal Trustee Alvares & Marsal

11 B. Lavallee Court Clerk

12 _____

13

14 THE COURT: All right. Well, good morning, everyone. Sorry I
15 had to cancel the decision a few weeks ago. I had a scheduling conflict, so -- but here we
16 are today. So I am just going to read my oral decision and then we will go from there.

17

18 **Ruling**

19

20 THE COURT: The Minister of National Revenue applies for an
21 order allocating the receiver's charge and the receiver's borrowing charge amongst the
22 various assets comprising the property of CLEO Energy and directing the receiver to
23 forthwith pay to the Receiver General of Canada \$899,907.51, to be applied to the deemed
24 portion of CLEO's GST account. It is not disputed that the CRA has filed a \$1,355,296.64
25 GST claim in respect of CLEO's pre-filing unremitted GST, and of that amount,
26 \$899,907.51 is subject to the deemed trust and I am just going to refer to that as "the GST
27 deemed trust amount".

28

29 In its bench brief, the CRA states the issue as follows: Is the CRA entitled to be paid the
30 GST deemed trust amount from the sale proceeds of CLEO's assets? The short answer is
31 no.

32

33 On June 2nd, 2025, Justice Burns granted sale approval and vesting orders in respect of
34 two proposed transactions. In both cases, the sale approval and vesting orders authorized
35 the receiver to use the sale proceeds to pay off the administration charge and the interim
36 lenders charge. That is what the receiver did. The time to have sought a different outcome
37 about the use of the sale proceeds was at -- sales proceeds was at the hearing on June 2nd,
38 2025, not now as a collateral attack on Justice Burns' orders five months later.

39

40 I do agree with the CRA that a registrant like CLEO is required to remit GST collected on
41 behalf of the Crown, and if that happens, section 222 of the *Excise Tax Act* extends a

1 deemed trust over all the property of the registrant up to the amount of GST collected. It
2 requires that proceeds from the sale of that property be remitted in priority to other security
3 interests.

4 I also agree with the CRA that the GST priority is equivalent in terms to the payroll deemed
5 trust, but that only remains true unless the registrant becomes bankrupt, at which point, the
6 priority of the GST deemed trust amount ceases and unremitted GST debt is treated in the
7 same manner as any other unsecured debt.

8 The CRA acknowledges that the receivership order imposes a stay of collection on the
9 creditors of CLEO. However, according the CRA, the stay does not relieve the receiver of
10 its obligation to remit to the Receiver General proceeds from the sale of CLEO's assets
11 which it says subsection 222(3) of the *Excise Tax Act* requires it to do.

12 The CRA's argument fails because subsection 222(3) imposes the payment obligation on
13 the person who collected the amount as or on account of tax under division 2. In this case,
14 that person is CLEO, such that the resulting payment obligation in subsection 222(3)
15 applies to CLEO, not the receiver. The receiver seeks and follows the Court's orders, and
16 that is what the receiver has done.

17 With respect to the CRA's argument that sections 270 of the *Excise Tax Act* obliges
18 receivers to obtain a clearance certificate from the minister confirming that payment of all
19 amounts payable for the current period and any previous period has been made, whether
20 the receiver is liable under section 270 for the failure to do so is a matter that is within the
21 exclusive jurisdiction of the Tax Court of Canada, not this Court, and I will not comment
22 on that any further.

23 I would also dismiss the CRA's application to allocate the receiver's charge and the
24 receiver's borrowing charge amongst the various assets to exhaust other net assets before
25 depleting the sale proceeds. At paragraph 30 of its bench brief, the CRA describes the
26 payment of the administration charge and the borrowing charge out of the sale proceeds as
27 a "choice" made by the receiver. It was not a choice. It was what the sale approval and
28 vesting orders directed. The CRA's application to re-allocate proceeds is no more than a
29 ninth inning attempt to circumvent Parliament's deliberate legislative policy decision to
30 reverse the GST priority upon the bankruptcy of the registrant.

31 At the reverse vesting order hearing and likely earlier, it was abundantly clear that once the
32 transactions under the RVO were completed, residual co. would be bankrupted and the
33 GST deemed trust amount would be treated as any other unsecured debt. The CRA's current
34 applications are efforts to negate that result.

1 However, the CRA did not oppose the reverse vesting order, and the language it requested
2 was included in the resulting reverse vesting order. If the CRA is opposed to the inevitable
3 bankruptcy of residual co. and the resulting re-ordering of priorities, CRA ought to have
4 opposed the RVO. It did not do so. CRA's applications are dismissed.

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6 And that concludes my reasons.

7
8 Okay. We are adjourned.

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12 PROCEEDINGS CONCLUDED
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1 **Certificate of Record**

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3 I, Brooke Lavallee, certify this recording is a record made of the oral evidence in
4 proceedings, held in courtroom 1001 at the Court of King's Bench in Calgary, Alberta,
5 December 18th, 2025, and that I was the court official in charge of the sound-recording
6 machine during the proceeding.

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1 **Certificate of Transcript**

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3 I, Corie Dombrosky, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.

11

12 Corie Dombrosky, Transcriber

13 Order Number: TDS-1100098

14 Dated: December 18, 2025

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