Action No.: 1001-14376

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

BETWEEN:

HSBC BANK CANADA

Plaintiff

- and -

PAINTEARTH ENERGY SERVICES INC., PAINTEARTH ENERGY SERVICES LTD. and PES SUBSURFACE CANADA INC.

Defendants

STATEMENT OF CLAIM

1. The Plaintiff (hereinafter referred to as the "HSBC" or the "Bank") is a financial institution duly registered according to the laws of Canada with branches located in the City of Calgary and elsewhere throughout the province of Alberta.

2. The Defendants, Paintearth Energy Services Inc. ("Paintearth Inc.") and PES Subsurface Canada Inc. ("PES") are both bodies corporate duly registered according to the laws of the Province of Alberta, with registered offices in the City of Calgary, in the Province of Alberta.

3. The Defendant, Paintearth Energy Services Ltd. ("Paintearth Ltd.") is a body corporate duly registered according to the laws of the State of Delaware, in the United States of America.

4. Paintearth Ltd. and PES are wholly owned subsidiaries of Paintearth Inc.

Loans and Security

5. HSBC advanced substantial monies by way of loans to Paintearth Inc. pursuant to a credit facility letter between HSBC and Paintearth Inc. dated September 21, 2006, and various amendments thereto (the "Loans").

6. The security in support of the Loans, includes the following:

(a) General Security Agreement dated October 19, 2006;

(b) General Assignment of Book Debts dated October 19, 2006 pursuant to which Paintearth Inc. assigned and transferred to the Bank all present and after acquired debts, claims, demands, moneys and choses in action;

(c) Section 427 *Bank Act* Security dated October 27, 2006 pursuant to which Paintearth Inc. granted to the Bank a security interest in steel and various products, including but not limited to products of agriculture, forest, quarry and mine, sea lakes and rivers, purchased shipped or dealt with by Paintearth Inc.;

(d) Assignment of Life Insurance Policy dated October 19, 2006 assigned policies issued by Sun Life Assurance Company of Canada to the Bank; and

(e) Agreement as to Loans and Advances and Security therefor dated October 28, 2006.

All of the above security is sometimes referred to in this Statement of Claim as the "Security").

7. Also in support of the Loans, a guarantee in favour of HSBC was provided by Paintearth Ltd. pursuant to a guarantee dated October 19, 2006, limited to the principal amount of $14,730,000 (the "Paintearth Guarantee"). Also in support of the Loans, a guarantee in favour of HSBC was provided by PES pursuant to an unlimited guarantee dated April 30, 2010 (the "PES Guarantee"). The Paintearth Guarantee and the PES Guarantee are sometimes collectively referred to in this Statement of Claim as the "Guarantees."

Defaults and Demands

8. Despite ongoing defaults by Paintearth Inc. pursuant to the Loans and the Security, HSBC afforded Paintearth Inc. with numerous opportunities to repay the Loans or to otherwise resolve its ongoing financial difficulties. When such attempts by Paintearth Inc. failed, HSBC, by letters dated September 22, 2010, formally issued demand upon Paintearth Inc., Paintearth

Ltd. and PES for repayment of all amounts outstanding pursuant to the Loans and the Guarantees. To date, those demands remain unsatisfied.

9. In conjunction with the demands, HSBC also issued formal Notices of Intention to Enforce all security against the Defendants pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 advising the Defendants that HSBC intended to proceed with the realization of its security.

10. The total amounts properly due and owing on a joint and several basis, by Paintearth Inc. to the Bank in connection with the Loans and by Paintearth Ltd. and PES pursuant to the Guarantees, as of September 21, 2010, was the sum of $4,963,962.78.

11. By the terms of the Loans and Security, in the event of a default by Paintearth Inc. in the payment to HSBC of any of the monies secured thereby, the Bank is entitled to exercise various remedies, one of which is the appointment of a receiver and manager.

Ernst and Young "Look See"

12. By letter dated September 21, 2010, Ernst and Young, Inc. ("E&Y") was engaged by the Bank to conduct a "look see," and, in particular, to analyze and advise the Bank on both the short term and long term viability of Paintearth Inc.'s operations and financial position, the reasonableness of its cashflow projections and the Bank's position regarding the Security.

13. The Defendants are facing emergent circumstances that significantly prejudice the Security position and their ability to operate. These include:

(a) The Directors of Paintearth Inc. have resigned and the lone officer of Paintearth Inc. has advised that he has no authority to act thereby leaving said Defendant in a state of complete management paralysis;

(b) Further, inventory valued at approximately $440,000 was removed by suppliers over the past week.

Appointment of Receiver

14. The Bank has serious concerns regarding Paintearth Inc.'s declining financial position, its dissipation of assets, and the absence of authorized management to conduct Paintearth Inc.'s business. As a result, there is a serious risk that the Bank will suffer additional losses if a capable and experienced party is not appointed to take control of and manage Paintearth Inc.'s property, undertaking and assets. In addition, immediate steps are required to prevent the further dissipation of the assets, property and undertaking of the Defendants, Paintearth Ltd. and PES.

15. The Bank states and the fact is that all sums referred to as outstanding in this Statement of Claim are just debts properly due and owing, on a joint and several basis, by the Defendants.

16. The Plaintiff requests that the trial of this action be held at the Calgary Courts Centre, in the City of Calgary, in the Province of Alberta.

WHEREFORE THE PLAINTIFF CLAIMS JOINTLY AND SEVERALLY AGAINST EACH AND EVERY DEFENDANT:

(a) Judgment in the sum of $4,963,962.78 plus interest, costs, fees, taxes and other amounts properly due and owing pursuant to the Loans, the Security and the Guarantees as may be proven or acknowledged in the within action;

(c) A declaration that the Defendants are in default of payment of the outstanding indebtedness;

(d) A declaration that the Security and other security held by the Bank in support of the Loans, the Guarantees, or the obligations of the Defendants generally, has become enforceable, that any floating charge security created thereby has become specifically charged against all the property, assets and undertaking of Paintearth Inc., Paintearth Ltd. and PES and that such security constitutes valid and enforceable security in accordance with the terms thereof;

(e) A declaration that the principal, interest and other monies secured by the Security have become due and payable;

(f) An order appointing a receiver and manager of the property, assets and undertaking of Paintearth Inc., Paintearth Ltd. and PES on an interim or permanent basis or until further Order of this Honourable Court;

(g) Costs on a solicitor and client basis; and

(h) Such further and other relief as this Honourable Court may see fit to allow.

DATED at the City of Calgary, in the Province of Alberta this 27th day of September, 2010 and DELIVERED by Borden Ladner Gervais LLP, Barristers and Solicitors, 1900, 520 Third Avenue South West, Calgary, Alberta, T2P 0R3, Solicitors for the Plaintiff herein whose address for service in this action is in care of the said Solicitors.

ISSUED out of the office of the Clerk of this Honourable Court at Calgary, Alberta, this 27th day of September, 2010.

COURT SEAL

A. Sepetick

CLERK OF THE COURT

NOTICE TO:

The Defendants:

PAINTEARTH ENERGY SERVICES INC., PAINTEARTH ENERGY SERVICES LTD. and PES SUBSURFACE CANADA INC.

You have been sued. You are the Defendants. You have only fifteen (15) days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of Queen's Bench in Calgary, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

WARNING: If you do not do both things within fifteen (15) days, you may automatically lose the law suit. The Plaintiff may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff, or do either thing late.

Action No. 1001-14376

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

BETWEEN:

HSBC BANK CANADA

Plaintiff

- and -

PAINTEARTH ENERGY SERVICES INC., PAINTEARTH ENERGY SERVICES LTD. and PES SUBSURFACE CANADA INC.

Defendants

STATEMENT OF CLAIM

This Statement of Claim is issued by BORDEN LADNER GERVAIS LLP Solicitor for the Plaintiff who resides at Calgary, Alberta and whose address for service is in care of the said Solicitor at:

1900, 520 - 3rd Avenue S.W.
Calgary, Alberta T2P 0R3

JOHN L. IRCANDIA
Phone: (403) 232-9406

File No. 400500-000805 JLI