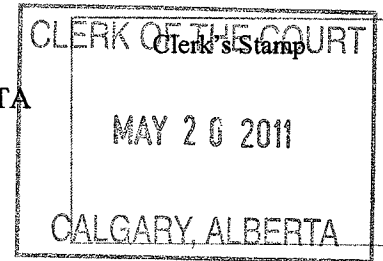


COURT FILE NUMBER 1001-14376
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE Calgary
PLAINTIFF(S) HSBC BANK CANADA
DEFENDANT(S) PAINT EARTH ENERGY SERVICES INC.,
PES SUBSURFACE CANADA INC. and
PAINT EARTH ENERGY SERVICES LTD.
DOCUMENT APPLICATION BY THE
RECEIVER, ERNST & YOUNG
INC.



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT
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File No. 400500-000805



NOTICE TO RESPONDENT(S)

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 27, 2011
Time 10:00 o'clock a.m.
Where Calgary Courts Centre
Before Whom The Honourable Justice J. Strekaf

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. ERNST & YOUNG INC. , in its capacity as the Court-Appointed Receiver of Paintearth Energy Services Inc., PES Subsurface Canada Inc. and Paintearth Energy Services Ltd. (collectively referred to as "Paintearth") requests from this Court an Order substantially in the form of **Schedule "A"** attached hereto, which includes, without limitation, the following relief:
 - (a) Abridging, if necessary, the time for and declaring service of this application and supporting materials good and sufficient;
 - (b) Approving the Receiver's Interim Statements of Receipts and Disbursements for the period from September 27, 2010 to May 12, 2011;
 - (c) Approving the interim distribution to HSBC Bank Canada ("HSBC") in the amount of \$3.8 million, net of a hold back in the amount of \$476,000, and approving the further distribution of any additional amounts that may be collected by the Receiver net of payment of those amounts required to complete the administration of the estate, up to the value of the HSBC Indebtedness, as such term is defined in the Affidavit of Neil Narfason, filed.

Grounds for making this application:

2. Ernst and Young Inc. was appointed Interim Receiver of the Debtors pursuant to an Interim Receivership Order granted by the Honourable Justice G.C. Hawco on September 27, 2010 (the "Interim Order").
3. The appointment of an interim receiver was critical due to concerns that, among other things, a considerable amount of inventory had been removed by suppliers of Paintearth Inc. and that Paintearth Inc. lacked any authorized management to run the company as a result of the resignation of all of its directors.
4. On October 27, 2010, the date on which the Interim Order was scheduled to expire, an application was made to expand the powers and authorities of the Interim Receiver to those of a Receiver, as a result of ongoing concerns regarding the declining financial positions of the Debtors, the continued dissipation of assets and the absence of any authorized management to conduct the businesses.
5. Ernst and Young Inc. (the "Receiver") was appointed Receiver of the Debtors pursuant to a Receivership Order granted by the Honourable Justice G.C. Hawco on October 27, 2010 (the "Receivership Order").

6. Pursuant to the Receivership Order, the Receiver was authorized and empowered to market any or all of the Debtors' property and to sell, convey, transfer, lease or assign the property out of the ordinary course of business, subject to the approval of the Court for transactions in excess of \$500,000.
7. On December 20, 2010, the Receiver obtained an Order from the Honourable Justice G.E.C. Hawco approving a purchase and sale agreement pursuant to which Oil Lift Technology Inc. agreed to purchase substantially all of the assets of Paintearth for a purchase price in the approximate amount of \$2.608 million, subject to certain post-closing adjustments.
8. The Receiver has closed the purchase and sale transaction with Oil Lift and has collected the purchase price of \$2.608 million, less post-closing adjustments of approximately \$283,000. In addition, the Receiver has collected various accounts receivable and has realized on various other assets contained in the Paintearth estate.
9. The Receiver has prepared a Statement of Receipts and Disbursements from September 27, 2010 to May 12, 2011, located at paragraph 13 of the Second Report of the Receiver, providing for total receipts, less disbursements, in the amount of \$4,278,761 (the "Net Receipts").
10. The Receiver has obtained an independent security review from its Canadian Counsel indicating that the security granted by Paintearth to HSBC constitutes valid and enforceable first charge security over all present and future acquired assets and undertaking of Paintearth.
11. Flint Energy Services Ltd. ("Flint") has advised the Receiver that it believes it has a priority claim to funds in the amount of \$260,962 as a result of a pre-receivership transaction between Flint and PES Subsurface Canada Inc. The Receiver is investigating this claim and proposes to hold back the amount of \$261,000 pending the outcome of the Receiver's investigation of the claim.
12. The Receiver proposes to distribute the amount of \$3.8 million to HSBC, being the Net Receipts less holdbacks for the following:
 - (a) \$261,000 with respect to the claim of Flint, currently under investigation by the Receiver;
 - (b) \$150,000 with respect to amounts potentially owing for operating costs of Paintearth in the receivership;
 - (c) \$35,000 with respect to professional fees to enable the completion of the collection efforts on outstanding accounts receivable; and

- (d) \$30,000 with respect to a claim by Canada Revenue Agency for unpaid source deductions resulting from an audit which the Receiver currently disputes.

Material or evidence to be relied on:

13. The pleadings and proceedings had and taken in this action;
14. The Narfason Affidavit; and
15. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

16. Rule 6.47, 11.21, 11.27, 11.30 and 13.5 of the *Rules of Court*, Alta. Reg. 124/2010

Applicable Acts and regulations:

17. The *Judicature Act*, R.S.A. 2000, c. J-2;
18. The *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3; and
19. Such further and other Acts or regulations as counsel may advise and this Honourable Court may permit.

How the application is proposed to be heard or considered:

20. In person, by way of affidavit evidence.

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.

SCHEDULE "A"

COURT FILE NUMBER **1001-14376**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE Calgary

PLAINTIFF(S) **HSBC BANK CANADA**

DEFENDANT(S) **PAINTEARTH ENERGY SERVICES INC.,
PES SUBSURFACE CANADA INC. and
PAINTEARTH ENERGY SERVICES LTD.**

DOCUMENT **ORDER**

Clerk's Stamp

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File No. 400500-000805

BLG
Borden Ladner Gervais

DATE ON WHICH ORDER WAS PRONOUNCED: May 27, 2011

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice J. Strekaf

UPON the application of Ernst and Young Inc. (the "Receiver"), in its capacity as court appointed receiver of Paintearth Energy Services Inc., PES Subsurface Canada Inc. and Paintearth Energy Services Ltd. (collectively, the Debtors"); AND UPON reading the Application and the Affidavit of Neil Narfason attaching the Second Report of the Receiver (the "Second Report"), sworn May 20, 2011 and filed; AND UPON having read the pleadings and proceedings had and taken in this action; AND UPON hearing the submissions of counsel for the Receiver and any other counsel in attendance; IT IS HEREBY ORDERED THAT:

1. The Receiver's statement of receipts and disbursements for the period from September 27, 2010 to May 12, 2011, as more particularly set out in the Second Report, is approved.

2. The Receiver is authorized to make an interim distribution to HSBC Bank Canada in the amount of \$3.8 million, and any further amounts that may be collected by the Receiver, net of payment of any hold back amounts or those amounts required to complete the administration of the estate as more particularly outlined in the Second Report, up to the total amounts owing by the Debtors to HSBC Bank Canada (the "Distribution").
3. The Receiver is further authorized to take any act and execute any document that may be, in the opinion of the Receiver or its counsel acting reasonably, necessary to effect the Distribution.
4. The Receiver shall hold back the amount of \$476,000 from the Distribution in order to satisfy payments associated with the administration of the Debtors' estate, as well as any potential payments found to be due and owing to Flint Energy Services Ltd. and Canada Revenue Agency, which potential payments remain under the investigation of the Receiver.
5. Service of notice of this application is deemed good and sufficient and service of this Order shall be good and sufficient if a) served upon counsel for parties in attendance at this hearing; and b) posted on the website maintained by the Receiver with respect to the Debtors.

The Honourable Justice J. Strekaf
Justice of the Court of Queen's Bench of Alberta