Form 27
[Rules 6.3 and 10.52(1)]

CLERK OF THE COURT
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JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER	**1101-16110**
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	Calgary
APPLICANTS	**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, AS AMDENDED** **AND IN THE MATTER OF OILSANDS QUEST INC., OILSANDS QUEST SASK INC., TOWNSHIP PETROLEUM CORPORATION, STRIPPER ENERGY SERVICES INC., 1291329 ALBERTA LTD., OILSANDS QUEST TECHNOLOGY INC., WESTERN PETROCHEMICALS CORP. and 1259882 ALBERTA LTD.**
DOCUMENT	**APPLICATION** **(Re: Colorado Derivative Action)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Josef G.A. Krüger, Q.C. Borden Ladner Gervais LLP 1900, 520 3rd Ave. S.W. Calgary, AB T2P 0R3 Telephone: (403) 232-9563 Facsimile: (403) 266-1395 Email: jkruger@blg.com File No. 413255-000037

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	July 22, 2013
Time	2:00 p.m.
Where	Calgary Court Centre, 601 – 5th Street, Calgary, Alberta
Before Whom	Madam Justice B.E.C. Romaine

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

Unless otherwise defined herein, capitalized terms used shall have the meanings ascribed to them in the Plan of Compromise and Arrangement of Oilsands Quest Inc. dated January 22, 2013 (the "Plan"), filed.

Remedy claimed or sought:

1. An order declaring that the claims sought to be advanced by Peggy Proctor, derivatively on behalf of the nominal defendant, Oilsands Quest Inc. ("OQI") in the District Court, Denver County, Colorado under Case No. 2011 CV 2769, Division 280 against the defendants T. Murray Wilson, Ronald Blakely, Paul Ching, Christopher H. Hopkins, Brian F. MacNeill, Ronald Phillips, John Read, Gordon Tallman, and Pamela Wallin (the "Colorado Action"), are not to the benefit of OQI, its creditors and the OQI Shareholders;

2. An order authorizing and directing Ernst & Young Inc., in its capacity as the Court- appointed Monitor of OQI (the "Monitor") to forthwith bring the necessary proceedings in the United States of America to terminate the Colorado Action;

3. An order, to the extent it is required, lifting the stay of proceedings imposed by the Court such that the proceedings in paragraph 2 above may be taken in the United States of America;

4. An order by the Court requesting the aid and recognition of any court or any judicial, regulatory or administrative body in the United States of America to act in aid of and to be complimentary to this Honourable Court in carrying out the terms of this order, and in particular the United States District Court, Southern District of New York and the District Court, Denver County, Colorado.

Grounds for making this application:

CCAA Proceedings to Date

5. OQI is a publicly traded corporation incorporated in Colorado, United States of America, and trading on the New York Stock Exchange under the trading symbol "BQI". Trading in OQI's shares has been suspended by the New York Stock Exchange.

6. OQI is the 100% parent of Township Petroleum Corporation, 1291329 Alberta Ltd., Oilsands Quest Technology Inc., Oilsands Quest Sask Inc., Western Petrochemicals Corp., and 1259882 Alberta Ltd. Oilsands Quest Sask Inc. is in turn the 100% parent of Stripper Energy Services Inc.

7. On November 29, 2011 OQI, Oilsands Quest Sask Inc., Oilsands Quest Technology Inc., 1291329 Alberta Ltd., Stripper Energy Services Inc. and Township Petroleum Corporation sought and obtained protection from their creditors under the CCAA pursuant to the Initial Order (the "CCAA Proceedings").

8. On December 20, 2011 Western Petrochemicals Corp. and 1259882 Alberta Ltd. were added to the CCAA Proceedings.

9. Pursuant to the Initial Order, Ernst & Young Inc. was appointed the Monitor.

10. OQI was a development stage company which held certain permits, licenses and leases in Alberta and Saskatchewan allowing it to explore and develop natural resource properties.

11. On January 11, 2012 the Court approved a Solicitation Process to solicit offers to acquire, restructure or capitalize OQI's business. Pursuant to the Solicitation Process and subsequent Orders by the Court, all of OQI's assets have been sold.

12. On November 29, 2012, Oilsands Quest Sask Inc., 1291329 Alberta Ltd. and Township Petroleum Corporation were placed in receivership by the Court, and Ernst & Young Inc. was appointed as the Receiver (the "Receiver").

13. The Receiver liquidated the assets of the aforesaid corporations in receivership, the proceeds of which was distributed pursuant to orders by this Court dated January 30, 2013 and February 25, 2013.

14. On February 25, 2013, this Court granted an order sanctioning the Plan.

15. Pursuant to the Plan:

    (a) Proven Claims of Affected Creditors would be paid in full immediately following the Plan Implementation Date;

    (b) Disputed Claims would be resolved by the Monitor or the Court;

(c) In the case of Disputed Claims which become Proven Claims after the Plan Implementation Date, payment will be made immediately following the date such Disputed Claims become Proven Claims;

(d) The only interest OQI Shareholders would have in the Plan, would be to receive a pro rata distribution of the balance of the OQI Fund upon final resolution and payment of all Disputed Claims.

16. The OQI Fund to be distributed pursuant to the Plan was comprised of the net proceeds of the sale of all OQI's assets, the net distributions made by the Receiver to OQI, and all the cash assets of Oilsands Quest Technology Inc., the estimated total amount of which at the time of filing the Plan was $12,700,000 (exclusive of further fees and disbursements).

17. The Plan was implemented on or about May 3, 2013.

18. Payments to Affected Creditors with Proven Claims totalling $4,429,463.77 have been made by the Monitor. The Monitor estimates that after the remaining Disputed Claims have been resolved, there would be an amount in the region of $9,400,000 available for distribution to the OQI Shareholders.

19. There are presently 19 Disputed Claims which have not yet been resolved by the Monitor. All but two of the Disputed Claims are indemnity claims by ex-directors and ex-officers of OQI. It is anticipated that the two claims which are not indemnity claims will be resolved either by way of settlement or by the Court within the next six weeks depending on Court availability. Four of the indemnity claims are for indemnification of legal fees incurred by two of the ex-directors, and such claims are disputed by OQI. It is expected that this claim will be resolved by the Court within the next six weeks depending on Court availability.

The New York Action

20. The remaining indemnity claims are contingent claims by ex-directors and ex-officers against potential claims by shareholders of OQI which opted out of a settlement of a class action commenced by Marshall W. Collins et al against OQI and others in the United States District Court, Southern District of New York ("the "New York Court") under Case No. 11 CV 1288 (JSR) (the "New York Action"). A fairness hearing regarding the settlement of the New York Action was held on June 14, 2013, and it is believed that an Order approving the settlement will issue shortly.

21. The Monitor intends bringing proceedings in this Court and in the New York Court for the purpose of bringing to finality any potential claims by the shareholders who have opted out of the class action settlement, and thereby also bringing to finality the disputed indemnity claims of the ex-directors and ex-officers which are linked to the potential claims by the shareholders who have opted out of the settlement. It is estimated that such proceedings will be finalized within two months.

22. Upon finalization of the above matters, the Monitor will be in a position to make distributions to the OQI Shareholders provided the Colorado Action has also been finalized.

The Colorado Action

23. During or about September 2011 the Colorado Action was commenced. According to the Verified Shareholder Derivative Amended Complaint and Jury Demand (the "Complaint"), the plaintiff Peggy Proctor (the "Plaintiff") submitted the Complaint for the purported benefit of OQI against certain directors and officers of OQI (the "Defendants") seeking to remedy alleged breaches of fiduciary duties and misconduct by the Defendants. The allegations advanced in the Complaint were derived from, and nearly identical to, the allegations set forth in the New York Action.

24. The Colorado Action purports to be a derivative action for the benefit of OQI. The Plaintiff seeks unquantified damages from the Defendants in favour of OQI and certain related relief.

25. Prior to commencing the Colorado Action the Plaintiff failed to make demand on OQI's Board of Directors to commence action against the Defendants.

26. During October 2011, the Defendants and OQI, as a nominal defendant, filed a Motion to Dismiss Plaintiff's Verified Shareholder Derivative Amended Complaint and Jury Demand (the "Motion"). The Defendants claimed dismissal of the Colorado Action on various grounds.

27. On November 29, 2011, this Court granted the Initial Order proving creditor protection to OQI under the CCAA, and as a result the Colorado Action was stayed on December 2, 2011 by an order of the Colorado Court, and it remains stayed.

The Chapter 15 Proceedings

28. On March 29, 2012, the New York Court granted an Order under Chapter 15 of the United States Bankruptcy Code recognizing the proceedings in Canada pursuant to the CCAA as foreign main proceedings and gave full force and effect to the Initial Order and two subsequent orders (the "Chapter 15 Proceedings").

29. On April 12, 2013 the New York Court granted an Order enforcing the Plan Sanction Order granted by this Court.

Problems Caused by the Colorado Action

30. Because of the insolvency of OQI, the CCAA proceedings commenced in this Court, and the Chapter 15 Proceedings, attempts were made by OQI, the Monitor and the Defendants to settle the Colorado Action. OQI's insurer which provided directors and officers insurance to OQI was also involved in those attempts to resolve the Colorado Action.

31. The Monitor informed itself of the nature of the Colorado Action, and formed the view that because of OQI's insolvent status and the ongoing insolvency proceedings in Canada and the United States of America, the Colorado Action holds no benefit for OQI. The reasons supporting this conclusion are as set out below:

32. *First*, the Colorado Action became particularly futile once it became clear that the attempts to restructure OQI were unsuccessful, that all its assets will be liquidated, and that OQI will not continue doing any business. Because of OQI's status, the typical mechanism utilized to resolve derivative actions, the implementation of a corporate governance change intended to prevent the alleged improper behavior from occurring in the future, cannot be utilized.

33. *Second*, the Monitor has concerns about the merits of the claims asserted by the Plaintiff in the Colorado Action. For example, the allegations advanced in the Complaint were derived from the New York Lawsuit, which has been resolved. Although different legal standards apply to the New York and Colorado Actions, they are based on the same alleged misconduct, and the QOI shareholders have been compensated for such alleged misconduct via the settlement of the New York Action. Accordingly, the Colorado Action should not merit adjudication.

34. *Third,* as set forth in the Motion, Defendants have substantial defenses to Plaintiff's attempt to proceed with a derivative lawsuit, which is recognized as an extraordinary remedy available to a shareholder only when there is no other avenue for redress. Before initiating litigation, Plaintiff failed to make an advance demand on OQI's Board of Directors to address the alleged misconduct. Under such circumstances, and to overcome the powerful presumption that directors are disinterested and independent and act faithfully in discharging their fiduciary duties, applicable law requires Plaintiff to plead specific, particularized allegations showing that a demand made upon OQI's Board of Directors would have been futile. As set forth in the Motion, the Complaint lacks particularized allegations raising reasonable doubt that either the Defendants were not disinterested and independent or the challenged actions were the product of a valid exercise of their business judgment. Further, because Plaintiff alleges that the misconduct involves the failure to act, the Complaint must contain specific allegations that the Defendants faced substantial personal liability and acted in bad faith in light of OQI's Articles of Incorporation, which exculpates the Defendants from personal liability for violations of fiduciary duty, except those involving bad faith. As set forth in the Motion, the Complaint lacks allegations demonstrating that Defendants acted in bad faith by knowingly failing to discharge or consciously disregarding their fiduciary obligations.

35. *Fourth,* the Colorado Action is unlikely to produce any benefits for OQI. For example, the pursuit of the Colorado Action would require substantial investments in attorney time and costs considering that, among other things, the underlying allegations span a wide range of activities (*e.g.*, acquisitions, mergers, disclosures and accounting restatements) dating back to 2004. The documents relating to such claims are voluminous, and numerous witnesses are expected to have discoverable information. Further, the Defendants vigorously deny Plaintiff's allegations. Proceeding with the Colorado Action would require the Monitor to devote resources to manage, monitor or control the Colorado Action. Although the Plaintiff's lawyers could benefit from a fee award potentially granted in a settlement of the Colorado Action, they have expressed a lack of interest in pursuing such a settlement.

36. *Fifth,* the Monitor is informed by Colorado counsel that any settlement of the Colorado Action would require approval by the Colorado Court. The approval process would include a review of the settlement terms, which for derivative actions in Colorado typically features a governance change enacted by the corporation intended to prevent the alleged wrongs from occurring in the future and a payment of attorneys' fees and costs to plaintiff's counsel. Here, the Plaintiff would have difficulty demonstrating any benefit to OQI arising from a corporate governance change

because OQI is insolvent, is no longer doing business and will not be seeking future investments from the public or the OQI Shareholders. Counsel for the Plaintiff has informed Colorado counsel that they are unwilling to participate in any process which would recommend to the Colorado Court settlement of the Colorado Action.

37. *Sixth,* unless the Colorado Action is discontinued or dismissed, it will cause significant delay and disruption to OQI and the Monitor. The Monitor is not able to commence making distributions to the OQI Shareholders until the Colorado Action has been finally resolved and the Monitor has certainty that no payment needs to be made to the Plaintiff and/or its lawyers. The continued existence of the Colorado Action is to the prejudice of the OQI Shareholders.

38. OQI has requested the Plaintiff to discontinue the Colorado Action, but the Plaintiff's counsel has indicated that the Plaintiff is not prepared to do so and intends to take no further steps. Plaintiff's counsel has however indicated that they will not oppose the dismissal of the Colorado Action provided that appropriate approvals from the bankruptcy courts in Canada and the United States of America are obtained, and each side bears its own legal fees and costs. OQI and the Monitor have agreed to the above arrangement.

39. The only way in which the Monitor can escape from the impasse created by the continued existence of the Colorado Action, is to bring proceedings in the New York Court and in the Colorado Court aimed at a final dismissal of the Colorado Action.

Material or evidence to be relied on:

40. The Monitor's Fifteenth Report dated July 15, 2013, filed in these proceedings, and the prior reports of the Monitor filed in these proceedings;

41. The pleadings in the within proceedings;

42. The Plan;

Applicable rules:

43. Subsections 1, 2, and 3 of Part 6 of the Alberta *Rules of Court*.

Applicable Acts and regulations:

44. The *Judicature Act*, R.S.A. 2000 c-J 2

45. *Companies Creditors' Arrangement Act*, R.S.C. 185, c. C-36 as amended;

Any irregularity complained of or objection relied on:

46. N/A

How the application is proposed to be heard or considered:

47. In person, before the Presiding Justice in Chambers (Commercial List) on the date and time above-referenced, with all or some of the 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.