

Clerk's stamp

COURT FILE NUMBER 1601-05495
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF NATIONAL BANK OF CANADA
DEFENDANT MOSAIC ENERGY LTD.

CLERK OF THE COURT
FILED
OCT - 6 2016
JUDICIAL CENTRE
OF CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF
MOSAIC ENERGY LTD.

APPLICANT ERNST & YOUNG INC. in its capacity as Court-
appointed Receiver of the current and future assets,
undertakings and properties of MOSAIC ENERGY
LTD.

DOCUMENT **APPLICATION (AMEND CLAIMS PROCEDURE)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT Norton Rose Fulbright Canada LLP
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Attention: Howard A. Gorman, Q.C. / Randal S. Van de Mosselaer
File no.: 01128610-0068

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 master/judge.

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

Date: October 18, 2016
Time: 2:00 p.m.
Where: Calgary, Alberta
Before Whom: The Honourable Madam Justice K. 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, substantially in the form attached hereto as **Schedule "A"** amending the Employee Claims Procedure which was approved by this Honourable Court on September 14, 2016:
 - (a) Allowing the Receiver to satisfy (in whole or in part) any Employee's Proven Claim by providing such Employee with Working Notice, or with a Claim in lieu of Working Notice, or by any combination thereof which equals the Employee's Proven Claim;
 - (b) Reducing an Employee's Proven Claim to zero in the event:
 - (i) such Employee voluntarily resigns his or her employment prior to the end of any Working Notice that may be provided to such Employee (provided that such resignation is not the result of a constructive dismissal), or
 - (ii) such Employee is terminated for Just Cause (as that term is defined at law), or
 - (iii) such Employee is offered substantially similar employment by any purchaser of Mosaic's business or assets.
 - (c) Deeming all current Employees to have been provided, as of September 20, 2016, with notice that their employment is to be terminated by not later than January 31, 2017, and such period shall be deemed to be "Working Notice";
 - (d) Providing that the Receiver, in its sole discretion, be entitled to terminate the employment of any Employee prior to January 31, 2017 by providing such Employee with a payment equal to the compensation that such Employee would have received between such termination date and January 31, 2017;
 - (e) Deeming all former Employees who were terminated as of June 30, 2016 to have been provided with notice of such termination on May 4, 2016, and that such period shall be deemed to be "Working Notice";
 - (f) Declaring void and of no force or effect any Employee Claims Packages which the Receiver previously provided to Employees, and directing the Receiver to issue revised Employee Claims Packages on or before October 14, 2016 setting out the amount and classification of such Employee's Claim as assessed by the Receiver;
 - (g) Extending the Claims Bar Date to November 18, 2016 only in respect of the filing of Employee Proofs of Claim with the Receiver by Employees.

Grounds for making this application:

2. EY was appointed as the receiver of the current and future assets, undertakings and properties of Mosaic by order of this honourable Court dated April 26, 2016 (the "**Receivership Order**").
3. On September 14, 2016, this Honourable Court approved Claims Procedure Order containing (among other things) an Employee Claims Procedure;
4. The Employee Claims Procedure established a process by which amounts of employee claims arising from termination were to be determined, but did not specifically allow for satisfaction of those employee claims by way of working notice, or pay in lieu of notice, or a combination thereof;
5. The Receiver is of the view that it is in the best interests of Mosaic and its stakeholders that the Employee Claims Procedure as established on September 14, 2016 be approved as set out herein.

Material or evidence to be relied on:

6. The Receivership Order;
7. The First Report of the Receiver, the Second Report of the Receiver, and the Third Report of the Receiver, all filed;
8. The September 14, 2016 Claims Procedure Order;
9. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

10. Rules 6.3(1), 6.9(1), and 6.47(e) and (f) of the Alberta *Rules of Court*, Alta Reg 124/2010 (the "**Rules**").

Applicable Acts and regulations:

11. The *Rules*, and such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

How the application is proposed to be heard or considered:

12. In Commercial Chambers, before the Honourable Justice Horner.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

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 time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

COURT FILE NUMBER	1601-05495	Clerk's stamp
COURT	Court of Queen's Bench of Alberta	
JUDICIAL CENTRE	Calgary	
PLAINTIFF	NATIONAL BANK OF CANADA	
DEFENDANT	MOSAIC ENERGY LTD.	

IN THE MATTER OF THE RECEIVERSHIP OF
MOSAIC ENERGY LTD.

APPLICANT ERNST & YOUNG INC. in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of MOSAIC ENERGY LTD.

DOCUMENT **ORDER (EMPLOYEE CLAIMS PROCEDURE AMENDMENT)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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Attention: Howard A. Gorman, Q.C. / Randal S. Van de Mosselaer
File no.: 01128610-0068

DATE ON WHICH ORDER WAS PRONOUNCED: October 18, 2016

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Madam Justice K. Horner

LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of Ernst & Young Inc., in its capacity as Court-appointed receiver (the "**Receiver**") of the current and future assets, undertakings and properties of Mosaic Energy Ltd. ("**Mosaic**"); **AND UPON** having read the Receivership Order granted by the Honourable Justice P.R. Jeffrey dated April 26, 2016, filed (the "**Receivership Order**"); **AND UPON** having read the Claims Procedure Order granted by the Honourable Justice A. D. Macleod dated September 14, 2016 (the "**Claims Procedure Order**"); **AND UPON** reviewing the Third Report of the Receiver (the "**Third Report**"), hearing submissions from counsel for the Receiver, and from any other parties present,

IT IS HEREBY ORDERED THAT:

1. Capitalized terms not otherwise defined shall have the same meaning given to them in the Claims Procedure Order.

2. The Employee Claims Procedure is hereby amended, revised and clarified as follows:

- a) Paragraph 4 of the Employee Claims Procedure is hereby amended by adding the following to the end of that paragraph:

"The Receiver shall be at liberty to calculate and satisfy (in whole or in part) the amount and classification of Employees' Proven Claims by prior notice of the termination of such Employee's employment ("**Working Notice**"), or by providing a Claim in lieu of Working Notice, or by any combination thereof, and the Receiver is at liberty to advise such Employee of the basis on which such Employee's Proven Claim is to be satisfied ."

- b) The following paragraphs shall be added following paragraph 18 of the Employee Claims Procedure:

19. Notwithstanding anything else in this Employee Claims Procedure, the Receiver shall be at liberty to satisfy (in whole or in part) any Employee's Proven Claim by providing such Employee with Working Notice, or with a Claim in lieu of Working Notice, or by any combination thereof which equals the Employee's Proven Claim.

20. Notwithstanding anything else in this Employee Claims Procedure, an Employee's Proven Claim shall be reduced to zero in the event:

- (a) such Employee voluntarily resigns his or her employment prior to the end of any Working Notice that may be provided to such Employee (provided that such resignation is not the result of a constructive dismissal), or
- (b) such Employee is terminated for Just Cause (as that term is defined at law), or
- (c) such Employee is offered substantially similar employment by any purchaser of Mosaic's business or assets.

3. All current Employees shall be deemed to have been provided, as of September 20, 2016, with notice that their employment is to be terminated by not later than January 31, 2017, and such period shall be deemed to be "Working Notice". However, the Receiver, in its sole discretion, shall be entitled to terminate the employment of any Employee prior to January 31, 2017 by providing such Employee with a payment equal to the compensation that such Employee would have received between such termination date and January 31, 2017.
4. All Employees who were terminated as of June 30, 2016 shall be deemed to have been provided with notice of such termination on May 4, 2016, and such period shall be deemed to be "Working Notice."
5. Any Employee Claims Packages which the Receiver provided to Employees prior to the date of this Order are hereby declared to be void and of no force or effect, and the Receiver is hereby directed to issue revised Employee Claims Packages ("**Revised Employee Claims Package**"), by regular prepaid mail, fax, courier, or email on or before October 14, 2016, which Revised Employee Claims Packages will set out the amount and classification of such Employee's Claim as assessed by the Receiver (the amount of such Employee's Claim being adjusted for the Reduced Work Week Adjustment, as that term is defined in the Third Report);
6. For purposes of Employee Claims and Employee Proof of Claims, and notwithstanding paragraph 5(d) of the Claims Procedure Order, the Claims Bar Date is hereby extended to November 18, 2016 only in respect of the filing of Employee Proofs of Claim with the Receiver by Employees.
7. In all other respects, the Employee Claims Procedure which is attached as Schedule "B" to the Claims Procedure Order is hereby ratified and affirmed, with such changes as may be necessary by virtue of the foregoing.

Justice of the Court of Queen's Bench of Alberta