

COURT FILE NUMBER 1801-09188
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT THIRD EYE CAPITAL CORPORATION
RESPONDENTS OPSMOBIL INC., RANCH ENERGY CORPORATION, 1734163 ALBERTA INC. 1859821 ALBERTA INC., AIR DALLAIRE LTD., OPSMOBIL GROUP INC., OPSMOBIL CONSTRUCTION INC., OPSMOBIL ENERGY SERVICES INC. and K.L. CAPITAL CORP.
DOCUMENT **AFFIDAVIT of KENNETH I. MIZERA**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

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File No. 75955-1

AFFIDAVIT OF KENNETH I. MIZERA

SWORN ON JUNE 3, 2019

I, KENNETH I. MIZERA of City of Calgary, in the Province of Alberta, Businessman, SWEAR AND SAY THAT:

1. I am an officer and director of Airborne Energy Solutions Inc. ("AES") and as such I have personal knowledge of the matters hereinafter deposed to except where otherwise stated to be based upon information and belief, and where so stated, I do verily believe the same to be true.

2. I make this Affidavit in partial response to paragraphs 21 – 25 of the Ninth Report of the Receiver filed in these proceedings on May 27, 2019 (the "Ninth Report") by Ernst & Young Inc. (the "Receiver"),

which relate to certain property located in Whitecourt, Alberta, which was owned by the debtors in these proceedings (the "**Whitecourt Facility**").

3. Paragraphs 21 – 25 of the Ninth Report are incomplete and are inaccurate in many respects. AES does not acquiesce to the statements made by the Receiver in paragraphs 21 – 25 of the Ninth Report. AES reserves all of its rights to question the Receiver in respect of the Ninth Report and respond in greater detail with additional evidence and argument to any potential application brought by the Receiver regarding the facts and issues described in paragraphs 21-25 of the Ninth Report. This Affidavit is not intended to be a full response to the facts and issues described in paragraphs 21-25 of the Ninth Report.

4. Paragraph 23 of the Ninth Report indicates that the Receiver disclaimed all five leases associated with the Whitecourt Facility. While this is true, it should be noted that AES requested that the Receiver disclaim only one lease of two separately titled parcels of land, as this was the only part of the Whitecourt facility that AES wanted to obtain. It was the Receiver's decision to disclaim the remainder of the leases.

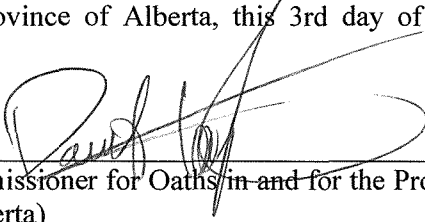
5. Paragraph 25 of the Ninth Report states "The Receiver is in the process of reasonably allocating the property taxes and costs incurred in respect of the Whitecourt Facility during the receivership period up until the date of the disclaimer, as between the receiver and AES. The Receiver has included these costs in its cash flow forecasts and is hopeful to resolve this issue with AES within the next few weeks." In support of this proposition, Paragraph 24 (b) of the Ninth Report references a Transitional Service Agreement entered into by AES and some of the debtors prior to this receivership. However, this Transitional Services Agreement is superseded by the Amended Purchase and Sale Agreement between AES and the Receiver, and section 2.2 of the Amended Purchase and Sale Agreement states "There shall be no adjustments to the Purchase Price or credits granted in favor of AES or the Receiver to alter the Purchase Price including, property taxes, items of expense or income related to any of the Assets paid, payable, accrued, incurred, received, or otherwise originating before closing."

6. The Receiver now appears to be taking a position directly contradictory to the Amended Purchase and Sale Agreement. AES opposes this and expects the Receiver to honor the agreement it has signed, and which was approved by this Court in these proceedings.

7. AES reserves all of its rights in respect of any application which may be brought by the Receiver, including any application as contemplated by paragraphs 21-25 of the Ninth Report.

SWORN BEFORE ME at the City of Calgary, in)
the Province of Alberta, this 3rd day of June,)
2019.)

(Commissioner for Oaths in and for the Province)
of Alberta)



David LeGeyt
Barrister & Solicitor


KENNETH I. MIZERA