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COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANTS	THIRD EYE CAPITAL CORPORATION	
RESPONDENTS	RANCH ENERGY CORPORATION, OPSMOBIL INC., 1734163 ALBERTA INC., 1859821 ALBERTA INC., OPSMOBIL GROUP INC., OPSMOBIL CONSTRUCTION INC., OPSMOBIL ENERGY SERVICES INC., AIR DALLAIRE LTD. AND K.L. CAPITAL CORP.	
DOCUMENT	**NINTH REPORT OF THE RECEIVER** **May 27, 2019**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>**RECEIVER**</u> Ernst & Young Inc. Calgary City Centre 2200, 215 2nd Street SW Calgary, AB T2P 1M4 Attention: Peter Chisholm Telephone: (403) 206-5061 Fax: (403) 206-5075 Email: peter.chisholm@ca.ey.com <u>**RECEIVER'S COUNSEL**</u> Borden Ladner Gervais LLP Josef G.A. Kruger, Q.C. / Robyn Gurofsky 1900, 520 3rd Ave SW Calgary, AB T2P 0R3 Phone: (403) 232-9563 / (403) 232-9774 Fax: (403) 266-1395 Email: jkruger@blg.com / rgurofsky@blg.com	

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INTRODUCTION

1. Third Eye Capital Corporation ("**TEC**") issued a notice of intention to enforce security on June 6, 2018, pursuant to section 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the "**BIA**") against Ranch Energy Corporation ("**Ranch**"), OpsMobil Inc. ("**OMI**"), 1734163 Alberta Inc. ("**1734 AB**"), 1859821 Alberta Inc. ("**1859 AB**"), OpsMobil Group Inc. ("**OMGI**"), OpsMobil Construction Inc. ("**OMCI**"), OpsMobil Energy Services Inc. ("**OMESI**"), Air Dallaire Ltd. ("**Air Dallaire**") and K.L. Capital Corp. ("**KLCC**") (collectively the "**Corporations**"). OMI, OMGI, OMCI, OMESI, Air Dallaire and KLCC are collectively referred to as "**OpsMobil**".

2. Ernst & Young Inc. was appointed as receiver (the "**Receiver**") of the Corporations' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Property**") pursuant to an order of the Court of Queen's Bench of Alberta (the "**Court**") dated July 19, 2018, (the "**Receivership Date**"), as amended on August 7, 2018 (the "**Receivership Order**").

3. The Receivership Order authorizes the Receiver, among other things, to carry on the business of the Corporations, to sell, convey, transfer, lease or assign the Property out of the normal course of business, subject to approval of the Court for any transactions exceeding $100,000, or the aggregate of multiple transactions exceeding $500,000, and to make such arrangements or agreements as deemed necessary by the Receiver.

PURPOSE

4. The purpose of this Ninth report of the Receiver (the "**Ninth Report**") is to provide the Court with the Receiver's comments on:

   a) the present status of the Receivership;

   b) the Receiver's borrowings (the "**Borrowings**") to date and corresponding allocation amongst the Corporations;

   c) the proposed distribution from the Receiver to her Majesty the Queen in Right of Canada, as represented by the Minister of National Revenue ("**CRA**");

   d) the proposed interim distribution from the Receiver to TEC; and

   e) the Receiver's recommendations in respect of the same.

TERMS OF REFERENCE

5. All references to dollars are in Canadian currency unless otherwise noted.

6. Capitalized terms not defined in this Ninth Report are as defined in the Receivership Order and the prior reports of the Receiver filed in these proceedings.

STATUS OF THE RECEIVERSHIP

Ranch

7. On October 2, 2018, Justice A.D. Macleod granted an order approving the sale and investment solicitation process (the "**SISP**") pursuant to which the oil and gas assets of Ranch (the "**PNG Assets**") were marketed in a two-phased process. The phase 1 bid deadline for non-binding letters of intent was October 25, 2018 and the phase 2 bid deadline for binding offers was November 15, 2018 (the "**Phase 2 Bid Deadline**").

8. Subsequent to the Phase 2 Bid Deadline, the Receiver has continued to be involved in extensive negotiations with the British Columbia Oil and Gas Commission and a prospective purchaser of certain of the PNG Assets with the goal of entering into binding purchase and sale agreements and, ultimately, closing transactions that will result in a recovery to the receivership estate.

Closing sales of OpsMobil's Property

9. On March 28, 2019, the Receiver executed an amended purchase and sale agreement (the "**Amended AES PSA**") with Airborne Energy Solutions Inc. ("**AES**") to sell to AES certain of OpsMobil's aerial surveillance and scanning, chemical spraying and local charter business (the "**Initial Aircraft Assets**"), pursuant to a Sale Approval and Vesting Order (the "**Sale Approval and Vesting Order**") granted by the Court on April 12, 2019.

10. On March 28, 2019, the Receiver executed a second purchase and agreement (the "**Second AES PSA**") with AES to sell substantially all of the remaining aviation property of OpsMobil (the "**Additional Aviation Property**"), with the exception of certain Excluded Assets (as defined in the Second AES PSA), pursuant to the Sale and Approval Vesting Order.

11. The transactions contemplated pursuant to the Amended AES PSA and Second AES PSA are referred to as the "**Aviation Transactions**".

12. The Corporations' records indicate that the vast majority of the assets subject to the Aviation Transactions were owned by OMGI, with the exception of two pieces of equipment which were owned by KLCC. Therefore, OMGI and KLCC are the only entities receiving recoveries from the sales of OpsMobil's assets.

13. The sale of the Initial Aircraft Assets and Additional Aviation Property closed on April 17, 2019, in accordance with the Amended AES PSA and Second AES PSA. The Receiver is now seeking approval from the Court to distribute the majority of sales proceeds recovered from these transactions to the priority secured creditors of OMGI and KLCC.

Catamaran Sale

14. The Receiver entered into an asset purchase agreement dated April 10, 2019 (the "**Catamaran APA**") with Brian's Workshop LLC ("**Brian's Workshop**") to sell a 48' Leopard 48 Pleasure Craft, including all of its equipment, fittings and appurtenances, owned by 1859 AB (the "**Catamaran**").

15. The Catamaran APA was approved by the Court on April 23, 2019 and the sale of the Catamaran closed on May 1, 2019. As described below, the Receiver is seeking to distribute the sale proceeds from the Catamaran to TEC, 1859 AB's priority secured creditor.

Element Matter

16. As discussed in the Seventh Report, there are two helicopters owned by OMGI with security registered on title by a creditor of OMGI, Element Financial Corporation ("**Element**"), as follows:

   a) one 1998 Eurocopter helicopter AS350BA-FX2 bearing registration mark C-FXHP, including one Lycoming engine model LTS101-700D2 ("**C-FXHP**"); and

   b) one 2000 Eurocopter helicopter EC120B bearing Canadian registration mark C-GEMU, including one Turbomeca engine model Arrius 2F ("**C-GEMU**")

   (collectively, the "**Element Helicopters**").

17. Element brought an application before the Court (the "**Element Matter**") regarding, among other things, the respective priority and rights of TEC and Element with respect to a powertrain, components and parts removed from the OpsMobil owned helicopter EC120B bearing Canadian registration mark C-GEMK ("**C-GEMK**") and installed in C-GEMU.

18. The Element Helicopters are excluded from the property being sold to AES pursuant to the Amended AES PSA and Second AES PSA and a consent order has been granted by the Court authorizing Element to take possession of C-FXHP notwithstanding that the Element Matter has not yet been finally determined.

19. The sale of the disputed powertrain to AES will depend on the outcome of the Court's decision in the Element Matter and this arrangement is reflected in the Second AES PSA. In that regard, the Second AES PSA contains a term whereby a portion of the total purchase price allocated towards the powertrain has been placed in escrow (the "**Element Escrowed Funds**"). The Receiver will hold the Element Escrowed Funds in accordance with the terms of the Second AES PSA until the Element Matter is fully and finally resolved (the "**Escrow Release Date**").

20. On the Escrow Release Date, if Element's claims are determined to attach to the C-GEMK powertrain, the Receiver will return the Element Escrowed Funds to AES. However, if Element's claims are found not to attach to the C-GEMK powertrain, the Receiver will complete the sale of the C-GEMK powertrain to AES. In such case, the Element Escrowed Funds will be transferred to the receivership estate and AES will pay an additional agreed upon amount to the Receiver.

Whitecourt post-receivership expenses

21. In accordance with the Amended AES PSA, AES had the option of acquiring OpsMobil's interest in the improvements, lands, leases, equipment and leased lands located at the premises municipally described as Hangar 1, Whitecourt Airport, Whitecourt, Alberta V7S 1P1 (the "**Whitecourt Facility**").

22. AES did not exercise this option, although it had been in occupation of a portion of the Whitecourt Facility in accordance with the Transition Services Agreement throughout the receivership proceedings.

23. On or about April 5, 2019, the Receiver issued to Woodlands County a disclaimer of all five leases associated with the Whitecourt Facility.

24. The Receiver understands the following regarding the Whitecourt Facility:

a) property taxes for tax years 2018 and 2019 are currently outstanding;

b) prior to the Receivership Date, AES had control and custody of a portion of the Whitecourt Facility through the Transitional Services Agreement and continued to utilize this space during the receivership; and

c) during the receivership, the Receiver did not operate out of the Whitecourt Facility, but utilized certain portions of the space for storage of certain of the Additional Aviation Property.

25. 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.

RECEIVER'S BORROWINGS

26. Paragraph 24 of the Receivership Order empowers the Receiver to borrow, by way of revolving credit or otherwise, funds with an outstanding balance up to $6,000,000 (or such greater amounts as the Court may authorize).

27. The Receivership Order further authorizes the Receiver to borrow these amounts at any time for the purpose of funding the exercise of the powers and duties conferred upon it by the Receivership Order, including the funding of interim expenditures. The Receivership Order further provides that the whole of the Property is charged by way of a fixed and specific charge as security for the payment of the monies borrowed by the Receiver, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, except as otherwise set out in the Receivership Order, and subordinate in priority to the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA. This charge is known as the Receiver's Borrowings Charge.

28. Pursuant to Orders of the Court dated October 2, 2019 and March 5, 2019 (collectively, the "**Orders Increasing Receiver's Borrowings**"), the borrowing limit and the Receiver's Borrowings Charge was increased from $6,000,000 to $9,000,000.

29. Table 1.0 identifies the allocation of the Deemed Trust Claims of the CRA and the Receiver's Borrowings of $7.3 million to the Corporations:

Corporations **Table 1.0**
Allocation of Receiver's Borrowings
CAD $000's, unaudited

	Notes	OMGI	OMESI	1859 AB	OMI	OMCI	KLCC	Ranch	Total
Sales Proceeds	*a*	5,780	-	675	-	-	440	TBD	6,896
Accounts receivable	*b*	427	194	-	-	-	-	11,894	12,515
Gross recoveries		**6,207**	**194**	**675**	**-**	**-**	**440**	**11,894**	**19,411**
Receiver's disbursements	*c*	(1,083)	(269)	(54)	-	-	(8)	(17,112)	**(18,526)**
Net recoveries		**5,124**	**(75)**	**621**	**-**	**-**	**433**	**TBD**	**6,103**
Less:									
Deemed Trust Claims	*d*	(361)	(1,818)	-	(355)	(4)	-	-	(2,179)
Receiver's Borrowings	*e*	(656)	(75)	(54)	-	-	(8)	(6,486)	(7,279)
Remaining proceeds		**4,107**	**-**	**567**	**-**	**-**	**425**	**TBD**	**(3,356)**

30. Notes to Table 1.0:

a) sales proceeds from the Aviation Transactions and Catamaran Transaction allocated amongst the Corporations based upon ownership of the property sold as identified per the Corporations' books and records;

b) accounts receivable collected by the Receiver during the receivership proceedings;

c) costs paid by the Receiver including operational costs, general and administrative costs and professional fees. The Receiver has allocated professional fees to the Corporations based upon an estimate of the level of activity performed by the Receiver and its legal counsel relative to the Corporations;

d) deemed trust claims of the CRA against the Corporations per an audit completed by the CRA during the receivership; and

e) the Receiver has borrowed aggregate Receiver's Borrowings of approximately $7.3 million from TEC to fund the receivership. The Receiver's Borrowings have been allocated amongst the Corporations based upon accounts receivable collected by the Receiver less the Receiver's disbursements. The sales proceeds are not being considered in the allocation of the Receiver's Borrowings as the Aviation Transactions and Catamaran Transaction closed recently and the Receiver did not have access to the sales proceeds to fund the receivership.

CRA DISTRIBUTION

31. Statutory deemed trusts exist in favour of the CRA for unremitted source deductions, as well as GST, as set out below:

a) $1,818,000 of unremitted source deductions deducted by OMESI from its employees' salaries and wages prior to the Receivership Date and $943,000 of unremitted GST collected by OMESI prior to the Receivership Date;

b) $361,000 of unremitted source deductions deducted by OMGI from its employees' salaries and wages prior to the Receivership Date;

c) $355,000 of unremitted source deductions deducted by OMI from its employees' salaries and wages prior to the Receivership Date;

d) $4,000 of unremitted source deductions deducted by OMCI from its employees' salaries and wages prior to the Receivership Date and $54,000 of unremitted GST collected by OMCI prior to the Receivership Date; and

e) $20,000 of unremitted GST collected by Air Dallaire prior to the Receivership Date;

(the "**Deemed Trust Claims**").

32. The CRA has performed an audit of the Deemed Trust. The Receiver has reviewed the Deemed Trust priority with its legal counsel and has concluded that it appears valid in the circumstances.

33. OMGI is the sole OpsMobil entity with:

a) a deemed trust liability outstanding to the CRA for unremitted source deduction; and

b) sales proceeds recovered from the sale of property during the receivership.

34. Therefore, the Receiver is proposing to settle in full the deemed trust portion of OMGI's source deduction liability (the "**OMGI Deemed Trust Claim**") by remitting to the CRA an amount up to approximately $361,000 (the "**CRA Distribution**"), being the amount of the OMGI Deemed Trust Claim.

35. The Receiver is proposing to withhold a portion of the CRA Distribution (the "**Element Source Deduction Reserve**"), pending resolution of a determination of the portion of the OMGI Deemed Trust Claim attributable to Element as a result of Element enforcing its security against the Element Helicopters, owned by OMGI. Element's portion of the OMGI Deemed Trust Claim will be determined based upon the value of the Element Helicopters as a percentage of the value of all of OMGI's property realized from the Aviation Transactions. The final determination of Element's liability for the OMGI Deemed Trust Claim cannot be determined until the Element Matter is fully and finally resolved.

INTERIM DISTRIUBTION

36. The Receiver has obtained an independent security review from its legal counsel (the "**Security Review**") indicating that, subject to the customary assumptions and qualifications, the security granted by the Corporations to TEC constitutes a valid and enforceable first charge security over all present and after acquired assets and undertaking of the Corporations. As at the Receivership Date, OpsMobil owed TEC approximately $23.1 million pursuant to the OpsMobil credit agreement. This amount does not include the approximately $16.7 million owed to TEC as at the Receivership Date by Ranch.

37. In addition, TEC has advanced $7.3 million to the Receiver representing Borrowings to fund the receivership allocated amongst OpsMobil and Ranch as identified in Table 1.0 above. Of these amounts, OMGI borrowed $656,082, KLCC borrowed $7,694 and 1859 AB borrowed $53,861.

38. The Receiver is proposing to make an interim distribution (the "**Interim Distribution**") to TEC in the amount of approximately $6.0 million, to be applied first to the Receiver's Borrowings outstanding to OMGI, KLCC and 1859 AB and secondly to satisfy a portion of the OpsMobil indebtedness to TEC.

39. Table 2.0 below identifies the cash balances held by the Receiver as at the date of this Ninth Report and the cash balance post-issuance of the CRA Distribution and Interim Distribution.

Corporations		**Table 2.0**
Proposed creditor distributions		
CAD $, unaudited		
Cash held by the Receiver	*A*	7,534
Proposed creditor distributions		
CRA Distribution		(361)
Interim Distribution		(6,000)
	B	(6,361)
Cash Post-Distributions	*(A + B)*	1,173

40. The Receiver believes that, with the exception of additional Receiver's Borrowings that may be required to fund the operations of Ranch, sufficient funds will remain available to complete the remaining administration of the OpsMobil Receivership.

41. Nabors Drilling Canada Limited ("**Nabors**") is also a secured creditor of OMGI pursuant to an Amended and Restated Promissory Note dated November 3, 2015 and a Security Agreement dated as of April 1, 2013 (the "**Nabors Security**"), registered in Alberta and pursuant to the Convention on International Interests in Mobile Equipment, also known as the Capetown Convention. The Receiver's legal counsel has reviewed the Nabors Security and has confirmed it is valid and enforceable.

42. However, the Nabors Security is subject to a Subordination Agreement dated November 3, 2015 among OMGI (through its predecessor, Lynn's Helicopter Leasing Ltd.), Nabors and TEC, the intention of which appears to subordinate the Nabors Security to that of TEC, particularly in circumstances of insolvency proceedings. Given the language of the Subordination Agreement, the Receiver is seeking the Court's approval to distribute the sale proceeds, after payment of the Receiver's Borrowings as outlined above, to TEC.

RECOMMENDATION

43. As a result, the Receiver respectfully recommends that the Court approve the:

a) CRA Distribution; and

b) Interim Distribution to TEC.

Dated at Calgary, this 27th day of May, 2019.

ERNST & YOUNG INC.
in its capacity as the
Receiver of the Corporations

Peter Chisholm, CPA, CA, CIRP, LIT
Vice President