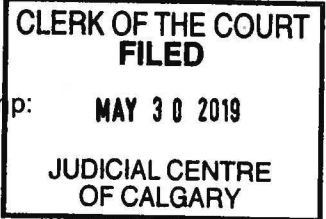


Form 27
[Rules 6.3 and 10.52(1)]

Clerk's stamp:



COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	<u>APPLICATION BY ERNST & YOUNG INC., COURT- APPOINTED RECEIVER AND MANAGER – APPROVING SALE AND VESTING TITLE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15 th Floor, 850 - 2 nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100

NOTICE TO RESPONDENTS: Service List

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	June 7, 2019
Time	2:00 p.m.
Where	Calgary Courts Centre, 601 5 St SW, Calgary, Alberta T2P 5P7
Before Whom	The Honourable Justice C.M. Jones

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 as Schedule "A" to this application:
 - (a) abridging the time for service of this application and deeming service good and sufficient;
 - (b) authorizing and approving the sale transaction (the "**Transaction**") between Ernst & Young Inc. in its capacity as court-appointed receiver and manager (the "**Receiver**") of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc., (collectively, "**Kodiak**") and the purchaser, Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), as described in the Receiver's Third Report (the "**Third Report**") and the Confidential Supplement to the Third Report (the "**Confidential Supplement**");
 - (c) approving the actions of the Receiver, including the sale process described in the Third Report and Confidential Supplement;
 - (d) authorizing and directing the Receiver to take such steps and execute all such deeds, documents and instruments as may be reasonably necessary to consummate the Transaction;
 - (e) upon the delivery of a Receiver's Certificate, vesting all of Kodiak's right, title, and interest in and to the Purchased Assets (as that term is defined in the Third Report) in the Purchaser, free from all claims and encumbrances;
 - (f) granting leave to the Receiver to apply or reapply to this or any court or administrative body in any Province of Canada or the United States of America for advice, assistance and directions as may be necessary to carry out the terms of the order sought; and
 - (g) granting such further and other relief, advice, and directions as counsel may advise and this Honourable Court deem just and appropriate.
2. An order, substantially in the form attached as Schedule "B" to this application, sealing the Confidential Supplement.

Grounds for making this application:

Receivership Proceedings

3. On January 10, 2019, pursuant to an application made by ATB Financial ("**ATB**") in respect of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., and 1623360 Alberta Ltd. (collectively, the "**Kodiak Canada**"), EY was appointed as Receiver of Kodiak Canada by virtue of an order of the Court of Queen's Bench of Alberta (the "**Initial Receivership Order**").
4. On March 13, 2019, pursuant to an application made by ATB, the Initial Receivership Order was amended to appoint EY as Receiver of Kodiak Services USA, Inc. in addition to Kodiak Canada (Kodiak Canada and Kodiak Services USA, Inc. are collectively the "**Debtors**", and the Initial Receivership Order, as amended, is the "**Receivership Order**").
5. The Receiver's appointment over Kodiak is recognized by the United States Bankruptcy Court, who has determined that Canada is the centre of main interest for the receivership proceedings.

Sale Approval and Vesting Order

6. Pursuant to the terms of the Receivership Order, and in particular paragraphs 3(k), 3(l), and 3(m), the Receiver is authorized to negotiate terms and conditions of sale with respect to the current and future assets, undertakings, and properties of the Debtors (the "**Property**"), sell the Property with approval of the Court, and apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser free and clear of any liens or encumbrances affecting such property.
7. Upon the Receiver's appointment over Kodiak Canada, the Receiver engaged in discussions with the Purchaser regarding the Purchaser's interest in a potential sale of certain assets of Kodiak Canada and Kodiak Services USA, Inc.
8. These discussions continued, and the Receiver's appointment was expanded to include Kodiak Services USA, Inc., which appointment has since been recognized by the United States Bankruptcy Court.
9. The Receiver's negotiations with the Purchaser culminated in the Agreement of Purchase and Sale dated May 5, 2019 (the "**Sale Agreement**"), a redacted copy of which is attached to the Third Report.
10. The Receiver believes that the approval of the Sale Agreement is just and appropriate for the reasons set out more particularly in the Third Report and Confidential Supplement, including:
 - (a) management of Kodiak Services USA, Inc. has advised of the efforts undertaken to effect a sale of the Purchased Assets prior to the appointment of the Receiver, and the Receiver believes these efforts demonstrate that the market has been sufficiently canvassed;
 - (b) further or additional marketing efforts are unlikely to produce a benefit for the estate;
 - (c) the Receiver is satisfied the value being obtained for the assets being sold is reasonable in the circumstances; and
 - (d) ATB and EDC, secured creditors of Kodiak, approve of the Transaction; and
 - (e) approval of the Transaction will enable the Receiver to take steps to terminate the current lease of the yard where the Purchased Assets are located, which will provide cost savings in the receivership.
11. The terms set out in the proposed form of order, attached as Schedule "A", are reasonable and necessary to effect the sale of the Purchased Assets as contemplated by the Receiver and the Purchaser.

Sealing Confidential Supplement

12. The Confidential Supplement contains commercially sensitive information, is confidential, and should be sealed until the Receiver is discharged to avoid the tainting of any potential future sales process, which may be required should any of the sales fail to be completed. The terms set out in the proposed form of order attached as Schedule "B" are necessary to accomplish this.

13. The proposed sealing order is limited in that the Confidential Supplement would only remain sealed until the discharge of the Receiver. The public disclosure of the information contained in the Confidential Supplement, prior to the Receiver's discharge, would cause serious and irreparable harm to the estate and its stakeholders. The sealing provision is a fair and reasonable means to address the harm of restricting public dissemination at this time.

Material or evidence to be relied on:

14. Receiver's Third Report, filed.
15. Confidential Supplement to the Receiver's Third Report, unfiled.
16. The pleadings and proceedings in the within action.
17. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

18. *Alberta Rules of Court*, Alta Reg 124/2010, including but not limited to rules 1.2-1.5, 6.3(1), 6.47(e) and (f), 6.9(1)(a), 11.27, and Part 6, Division 4, including Rule 6.28(b).
19. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

20. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.
21. *Bankruptcy and Insolvency General Rules*, CRC c 368.
22. *Judicature Act*, RSA 2000 c J-2.
23. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

24. None.

How the application is proposed to be heard or considered:

25. In person, before the Presiding Commercial List Justice.

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 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" to the Application

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	<u>ORDER - APPROVING SALE AND VESTING TITLE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15 th Floor, 850 - 2 nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100
DATE ON WHICH ORDER WAS PRONOUNCED:	June 7, 2019
LOCATION WHERE ORDER WAS PRONOUNCED:	Calgary, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER:	The Honourable Justice CM Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**"), dated May 5, 2019 a redacted copy of which is appended to this Order and to the Receiver's Third Report dated May 30, 2019 (the "**Report**"), and an unredacted copy of which is appended to the Confidential Supplement to the Third Report (the "**Confidential Supplement**"), and vesting in the Purchaser (or its nominee) the Debtors' right, title and interest in and to the property described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order pronounced January 10, 2019 as amended March 13, 2019 (the "**Receivership Order**"), the Report, and the Affidavit of Service of ● sworn June ●, 2019, to be filed; **AND UPON HEARING** the submissions of counsel for the Receiver and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTIONS

2. The Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).
3. The sale process and all actions taken by the Receiver to date, as outlined in the Report, are commercially reasonable and are hereby ratified and approved.
4. The Transaction is commercially reasonable and in the best interests of the Debtors and their stakeholders.

VESTING OF PROPERTY

5. Upon the delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement attached as **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from all rights of first refusal and pre-emptive rights of third parties, any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing, any encumbrances or charges created by the Receivership Order and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system. For greater certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
6. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtors.
7. The Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

8. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by or through or against the Debtors.
9. The Registrar of the Alberta Personal Property Registry, Registrar of Land Titles of Alberta (notwithstanding the requirements of subsection 191(1) of the *Land Titles Act*, RSA 2000 c L-4), and any other registrar or officials of public registries in Alberta are hereby directed to transfer each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party, and this Order shall be good and sufficient authority for doing so.
10. The aid and assistance of the officials of the public registries in any Province of Canada or State in the United States of America is requested to give effect to this Order by transferring each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its nominee), irrespective of whether the registration stands in the name of the Debtors or some other third party.
11. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).
12. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser, i) any personal information of customers of the Debtors and users of the Debtors' Property, including all persons or entities who have had or continue to have any interface with the Purchased Assets in the course of the Debtors' business; and 2) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.
13. Notwithstanding:
 - a) the pendency of these proceedings;
 - b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
 - c) any assignment in bankruptcy made in respect of the Debtors

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

15. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
16. Service of this Order on any party not attending this application is hereby dispensed with.
17. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by posting a copy of this order to the Receiver's website maintained for these proceedings. Service is deemed to be effected the next business day following the posting of such documents.

Justice of the Court of Queen's Bench of Alberta

Schedule "A"

Form of Receiver's Certificate

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.

DOCUMENT

RECEIVER'S CERTIFICATE

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

Dentons Canada LLP
Bankers Court
15th Floor, 850 - 2nd Street S.W.
Calgary, Alberta T2P 0R8
Attn: David Mann / John Regush
Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100
File No.: 131079-100

RECITALS

- A. Pursuant to an Order of the Honourable Justice Jones of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") pronounced January 10, 2019, as amended by an Order of the Honourable Justice Yamauchi on March 13, 2019, Ernst & Young Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**").
- B. Pursuant to an Order of the Court dated June 7, 2019, the Court approved the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of May 5, 2019 (the "**Sale Agreement**") between the Receiver and Lancaster Capital Advisory Corp. or its designate (the "**Purchaser**") and provided for the vesting in the Purchaser (or its nominee) of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

ERNST & YOUNG INC., in its capacity as receiver and manager of the undertaking, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc., and not in its personal or corporate capacity.

Per: _____

Name:

Title:

Schedule “B” to the Application

Clerk's stamp:

COURT FILE NUMBER	1901-00238
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.
DOCUMENT	<u>SEALING ORDER – CONFIDENTIAL SUPPLEMENT TO RECEIVER'S THIRD REPORT</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15 th Floor, 850 - 2 nd Street S.W. Calgary, Alberta T2P 0R8 Attn: David Mann / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 131079-100
Date on which this order was pronounced:	June 7, 2019
Location where order was pronounced:	Calgary, Alberta
Name of judge who made this order:	The Honourable Justice C.M. Jones

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, properties and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tools Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**"); AND UPON reading the Third Report of the Receiver (the "**Third Report**"), filed and the Confidential Supplement to the Third Report of the Receiver, unfiled (the "**Confidential Supplement**"); AND UPON having read the Affidavit of Izzy Kowalcze sworn [], filed AND UPON hearing submissions of counsel to the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Part 6 Division 4 of the *Alberta Rules of Court*, Alta Reg 124/2010 does not apply to this application.

2. The Confidential Supplement shall be filed in Court of Queen's Bench of Alberta Action Number 1901-00238 and shall immediately be sealed by the Clerk of the Court, kept confidential and not form part of the public record, and not be available for public inspection until the earlier of the discharge of the Receiver in these proceedings or until otherwise ordered by this Court, after application brought upon seven days' notice to all interested parties, whereupon the Clerk of the Court shall remove the Confidential Supplement from the sealed envelope referred to below and place the Confidential Supplement on the public record. The Supplement shall be sealed and filed in an envelope containing the following statement thereon:

THIS ENVELOPE CONTAINS THE CONFIDENTIAL SUPPLEMENT TO THE THIRD REPORT OF ERNST & YOUNG INC. AS THE COURT-APPOINTED RECEIVER AND MANAGER OF KODIAK SERVICES PARTNERSHIP, KODIAK WIRELINE SERVICES LTD., KODIAK ENERGY SOLUTIONS LTD., KODIAK TOOLS LTD., 1623360 ALBERTA LTD., AND KODIAK SERVICES USA, INC. WHICH SHALL BE SEALED UNTIL THE RECEIVER IS DISCHARGED IN THE WITHIN ACTION OR UNTIL FURTHER ORDER OF THIS COURT AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE EXCEPT AFTER THE RECEIVER IS DISCHARGED OR IN ACCORDANCE WITH SUCH ORDER.

Justice of the Court of Queen's Bench of Alberta