

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS

----- X
In re: : Chapter 15
KODIAK SERVICES USA, INC., *et al.*, : Case No. 19-70031 (TMD)
Debtors.¹ : Jointly Administered
----- X

MOTION TO CLOSE CHAPTER 15 CASES WITH FINAL REPORT

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

Ernst & Young Inc., in its capacity as the authorized foreign representative (the “Foreign Representative”) for the above-captioned debtors (collectively, the “Debtors” or “Kodiak”), by and through its United States counsel, Dentons US LLP, hereby files this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), closing these Chapter 15 cases. In support of the Motion, the Foreign Representative respectfully states as follows:

¹ The last four digits of the United States Tax Identification Number or Canadian Business Number of the Debtors, as applicable, follow in parentheses: Kodiak Services USA, Inc. (0169) (“Kodiak USA”), Kodiak Services Partnership (9809) (“Kodiak Partnership”), Kodiak Wireline Services Ltd. (2948) (“Kodiak Wireline”), Kodiak Energy Solutions Ltd. (2892) (“Kodiak Solutions”), Kodiak Tools Ltd. (3099) (“Kodiak Tools”), and 1623360 Alberta Ltd. (1045) (“162 Alberta”), collectively with Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, and Kodiak Tools, the “Canadian Debtors”).

INTRODUCTION

1. The Foreign Representative is the authorized foreign representative from a Canadian proceeding of the above-captioned chapter 15 Debtors. The Foreign Representative submits that the purpose of its appearance in this Court has been completed and, therefore, files this final report and seeks closure the above-referenced jointly administered chapter 15 bankruptcy cases.

JURISDICTION, VENUE, AND PREDICATES FOR RELIEF

2. This United States Bankruptcy Court for the Western District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and section 1501 of title 11 of the United States Code (the “Bankruptcy Code”). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (P).

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408, 1409 and 1410.

4. The statutory predicates for the relief requested herein are sections 105, 350(a), and 1517, of the Bankruptcy Code, as well as Rule 5009(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

SUPPORT FOR THIS MOTION

5. The Foreign Representative relies on the record in these cases, including judicial notice of the filings in these cases, and any evidence provided at any hearing on this Motion.

6. For further background, the Foreign Representative respectfully refers the Court to the (i) *Verified Petition and Motion For Provisional and Final Relief for Recognition of a Foreign Proceeding Pursuant to 11 U.S.C. §§105(a), 1517, 1519, 1520, and 1521* (the “Verified Petition”) [Docket No. 2], the (ii) *Declaration of Dan McCulloch In Support of Verified Petition for Recognition Under Chapter 15 and for Additional Relief Under 11 U.S.C. § 1521* [Docket No. 3], and the (iii) *Motion for Entry of an Order (A) Recognizing and Giving Full Force and Effect to the*

Order Approving Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances and Interests, and (B) Granting Related Relief [Docket No. 47] (the “Sale Recognition Motion”) for more details.

FINAL REPORT

7. The Debtors provided wireline services to customers in the oil and gas industry. Their services included oil well completion using perforating guns and numerous oil well testing services. Kodiak has historically operated throughout Northern Alberta, Saskatchewan, and British Columbia, Canada, and Midland, Texas.

8. The Debtors are the subject of an insolvency proceeding in Canada under Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “BIA”) and Section 13(2) of the Judicature Act, RSA 2000 c J-2, as amended (the “Judicature Act”) before the Court of Queen’s Bench of Alberta (the “Canadian Court”). On January 10, 2019, the Canadian Court entered an order in the Receivership Proceeding (the “Initial Receivership Order”), appointing the Receiver as receiver over the assets and undertakings of Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, Kodiak Tools, and 162 Alberta. On March 13, 2019, on the application of ATB, the Canadian Court amended the Initial Receivership Order in the Receivership Proceeding (Initial Receivership Order, as amended, being the “Receivership Order”), appointing the Receiver as receiver over the assets and undertakings of Kodiak USA as well.

9. At the onset of the receivership proceedings, the Foreign Representative, the Lenders and certain other stakeholders were advised by Mr. Joe Hickey, President of Kodiak USA, that Lancaster Capital Advisory SAS (“Lancaster”) indicated interest in a potential transaction to purchase all of Kodiak USA’s assets. On May 5, 2019, the parties entered into a transaction (the

“Transaction”), wherein Kodiak USA agreed to sell its assets (as defined in the Sale Agreement, the “Assets”) to Lancaster pursuant to the terms and conditions of that certain Agreement of Purchase and Sale (including all exhibits, schedules, and agreements ancillary thereto, the “Sale Agreement”).

10. On May 30, 2019, the Foreign Representative filed that certain *Application By Ernst & Young Inc., Court-Appointed Receiver and Manager - Approving Sale and Vesting Title* (the “Canadian Sale Application”) in the Canadian Court.

11. On June 7, 2019, the Canadian Court granted the Canadian Sale Application pursuant to that certain Order - Approving Sale and Vesting Title (the “Canadian Approval Order”), approving the Transaction with Lancaster.

12. On July 3, 2019, the Foreign Representative filed the Sale Recognition Motion seeking recognition of the Canadian Approval Order [Docket No. 47]. On August 1, 2019 this Court entered an order giving full force and effect to the Canadian Approval Order [Docket No. 58] (the “Sale Recognition Order”).

13. On August 19, 2019 Kodiak USA closed on the Transaction with Lancaster. Following closing, the Foreign Representative collected proceeds of the Transaction and worked with the Lenders to determine allocation of the proceeds.

14. The Foreign Representative also sold certain of the Debtors’ property located in Canada through sales efforts instituted by the Foreign Representative and approved by the Canadian Court in an Order granted May 1, 2019.

15. The Foreign Representative further sold certain real property and chattel located in Canada pursuant to an Order of the Canadian Court granted August 23, 2019. The sale of this property closed on September 27, 2019.

16. To date the Foreign Representative has also worked to pursue collection of certain accounts receivable, to the extent possible, attended to the sale or disposition of certain sundry assets of the Debtors, and continued to liaise with stakeholders of the estate on matters that arose from time to time.

17. The Foreign Representative identified those parties who might be entitled to share in a distribution of proceeds of the sale of the Debtors' property and engaged in discussions with those parties regarding the proper implementation of certain inter-creditor agreements, which would in part dictate the proper distribution of proceeds of the sale of the Debtors' assets.

18. There were disputes between certain of the Lenders regarding the proper interpretation and implementation of certain inter-creditor agreements. The Foreign Representative engaged in discussions with the Lenders regarding this dispute, and was ultimately advised that the Lenders had come to an agreement on the distribution of the proceeds of the sale of the Debtors' assets among themselves.

19. On April 8, 2021 the Foreign Representative filed with the Canadian Court its Application for Order Discharging the Foreign Representative (the "Application").

20. On May 12, 2021, a hearing was held before the Canadian Court on the Application.

21. On May 17, 2021, the Canadian Court entered the *Order For Final Distribution, Approval Of Receiver's Fees And Disbursements, Approval of Receiver's Activities and Discharge of Receiver* (the "Canadian Distribution and Discharge Order"). A copy of which is attached to the proposed order as Exhibit A. In the Canadian Distribution and Discharge Order, the Canadian Court approved the Foreign Representative's accounts for fees and disbursements, as set out in the Fourth Report. The Canadian Court also approved distributions to the Lenders.

22. The Canadian Distribution and Discharge Order further provides for the discharge of the Foreign Representative, provided that “notwithstanding its discharge herein (a) the Foreign Representative shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Foreign Representative shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favor of the Receiver in its capacity as Foreign Representative.”

23. Payment of any and all claims are described in the Canadian Distribution and Discharge Order and in the Receiver’s Fifth Report.

24. There has been no adversary proceedings or other litigation filed by or against the Debtors or the Foreign Representative since the Petition Date.

25. The Debtors’ assets are now sold and all other matters of administration are now resolved as to assets in the United States. With consummation of the Transactions, the Debtors’ assets in the United States have been fully monetized and administered, and the Foreign Representative now seeks to close these Chapter 15 cases.

REQUESTED RELIEF

26. By this Motion and pursuant to sections 105, 350(a), and 1517 of title 11 of the Bankruptcy Code as well as Rule 5009(c) of the Bankruptcy Rules, the Foreign Representative requests that the Court enter the Proposed Order recognizing the Canadian Distribution and Discharge Order and closing these Chapter 15 cases.

BASIS FOR REQUESTED RELIEF

A. Closing a Chapter 15 Case

27. Section 1517 of the Bankruptcy Code provides that a case under chapter 15 may be closed in the manner prescribed under section 350. 11 U.S.C. § 1517(d). Pursuant to section 350

of the Bankruptcy Code, a bankruptcy case may be closed “[a]fter an estate is fully administered.” 11 U.S.C. § 350(a).

28. Bankruptcy Code § 105(a) empowers courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The purpose of chapter 15 is to promote cooperation between courts of the United States and courts of foreign countries involved in cross-border insolvency cases. 11 U.S.C. § 1501(a)(1). Consistent with Bankruptcy Code § 1501, Bankruptcy Code § 1525(a) requires that courts “cooperate to the maximum extent possible with a foreign court or a foreign representative.” 11 U.S.C. § 1525(a).

29. With respect to a case under chapter 15 of the Bankruptcy Code, upon recognition of a foreign proceeding, courts “may provide additional assistance to a foreign representative under this title” considering “whether such additional assistance, consistent with the principles of comity, will reasonably assure . . . the just treatment of all holders of claims against or interests in the debtor’s property [and] the protection of claim holders in the United States against prejudice and inconvenience.” 11 U.S.C. § 1507.

30. Moreover, upon recognition of a foreign proceeding, “any appropriate relief” may be granted “where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors.” 11 U.S.C. § 1521(a).

31. Under Bankruptcy Rule 5009(c), the Foreign Representative shall “file a final report when the purpose of the representative’s appearance in the court is completed. The report shall describe the nature and results of the representative’s activities in the court.” Following the filing of such report, a presumption shall arise that the case has been fully administered if no objections are filed within 30 days in response to the foreign representative’s final report.

32. The Foreign Representative has fulfilled the purposes of its appearance before this Court. As set forth above, the Foreign Representative has administered the Debtors' assets and paid claims. As detailed above, the Debtors' assets, including its U.S. assets, have been monetized. Following discussions and an agreement amongst the Lenders, the net proceeds of the monetization of the Debtors' assets are in a position to be distributed as approved by the Canadian Court in the Canadian Distribution and Discharge Order. Accordingly, the Foreign Representative requests that these Chapter 15 cases be closed and that the Foreign Representative be discharged of its responsibilities as Foreign Representative, *provided however* that the Foreign Representative shall remain authorized to perform any and all incidental duties as may be required to complete the administration of these matters and shall continue to have all of the benefits of the provisions of all Orders made in these Chapter 15 cases, including all approvals, protections and stays of proceedings in favor of the Foreign Representative.

B. Request for Comity

33. The Foreign Representative also requests an Order from this Court recognizing and granting comity to the final distributions by the Foreign Representative, the Canadian Distribution Order, the Canadian Distribution and Discharge Order, and constituting a bar of any party in interest asserting claims against the Debtors' assets or the Foreign Representative.

34. A central tenet of Chapter 15 is the importance of comity in cross-border insolvency proceedings. *Firefighters' Retirement Sys. v. Citco Grp. Ltd.*, 796 F.3d 520, 525 (5th Cir. 2015); *Ad Hoc Group of Vitro Noteholders v. Vitro SAB De CV (In re Vitro SAB De CV)*, 701 F.3d 1031, 1053 (5th Cir. 2012).

35. Subject to any limitations that the Court may impose consistent with the policy of Chapter 15, a court in the United States shall grant comity or cooperation to the foreign representative. 11 U.S.C. § 1509(b)(3). Consistent with section 1501, the court shall cooperate to

the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee. 11 U.S.C. § 1525(a). The objectives of Chapter 15 include cooperation between courts of the United States and the courts and other competent authorities of foreign countries involved in crossborder insolvency cases. See 11 U.S.C. § 1501(a). Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee. 11 U.S.C. § 1525(a). Subject to the specific limitations stated elsewhere in Chapter 15, the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States. 11 U.S.C. § 1507(a). Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of Chapter 15 and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief. 11 U.S.C. § 1521(a).

36. The exceptions to comity are construed especially narrowly when the foreign jurisdiction is like Canada, a sister common law jurisdiction with procedures akin to those in the United States. *Clarkson Co. v. Shaheen*, 544 F.2d 624, 630 (2d Cir. 1976) (Clear and convincing evidence of fraud is required to successfully attack a foreign judgment; the court held that it would contravene the public policy of New York and the doctrine of comity not to recognize the Canadian judgment in these circumstances); *see also In re Petition of Davis*, 191 B.R. 577, 587 (Bankr. S.D.N.Y. 1996) (stating that “Courts in the United States uniformly grant comity to Canadian proceedings” and noting that Canada is a sister common law jurisdiction with the United States); *In re Metcalfe & Mansfield Alternative Invs.*, 421 B.R. 685, 698 (Bankr. S.D.N.Y. 2010) (“The U.S. and Canada share the same common law traditions and fundamental principles of law. Canadian courts afford creditors a full and fair opportunity to be heard in a manner consistent with

standards of U.S. due process. U.S. federal courts have repeatedly granted comity to Canadian proceedings.”).

C. Service of this Motion and Final Report

37. In compliance with Bankruptcy Rule 5009(c), this Motion shall serve as a Final Report describing the nature and the results of the Foreign Representative’s activities in this Court. The Foreign Representative, contemporaneously herewith, is providing service of this Motion and Final Report, consistent with the requirements of Bankruptcy Rule 5009, upon: (a) the Office of the United States Trustee; (b) the Debtors, (c) all persons or bodies authorized to administer foreign proceedings of the Debtors, (d) all parties who have requested, or are required to receive, notice pursuant to Bankruptcy Rule 2002 as of the date of the Motion; and (e) the Lenders. The Foreign Representative will certify the provision of proper service to the Court. The Foreign Representative submits that such notice is adequate for entry of the Order and satisfies any applicable notice provisions.

PRAYER

WHEREFORE, the Foreign Representative respectfully requests that the Court enter the proposed form of Order, substantially in the form attached hereto as **Exhibit A** granting the relief requested herein, and granting such other and further relief as the Court deems appropriate.

Dated: May 24, 2021

/s/ Lauren Macksoud
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*Counsel for Ernst & Young Inc., in its capacity as
receiver for the Debtors*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion and the Final Report has been served as stated in the Motion upon the persons entitled to notice by either U.S. first class mail or international mail, postage prepaid, or by electronic notification through the Court's CM/ECF system on May 24, 2021.

/s/ Lauren Macksoud
Lauren Macksoud

EXHIBIT A
(Proposed Order)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS**

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In re: : Chapter 15
KODIAK SERVICES USA, INC., *et al.*, : Case No. 19-70031 (TMD)
Debtors.² : Jointly Administered
----- X

**ORDER GRANTING MOTION TO CLOSE CHAPTER 15 CASES WITH FINAL
REPORT**

Upon consideration of the Motion to Close Chapter 15 Cases with Final Report (the “Motion”)³ filed by Ernst & Young Inc., in its capacity as the authorized foreign representative (the “Foreign Representative”) for the above-captioned debtors (collectively, the “Debtors” or

² The last four digits of the United States Tax Identification Number or Canadian Business Number of the Debtors, as applicable, follow in parentheses: Kodiak Services USA, Inc. (0169) (“Kodiak USA”), Kodiak Services Partnership (9809) (“Kodiak Partnership”), Kodiak Wireline Services Ltd. (2948) (“Kodiak Wireline”), Kodiak Energy Solutions Ltd. (2892) (“Kodiak Solutions”), Kodiak Tools Ltd. (3099) (“Kodiak Tools”), and 1623360 Alberta Ltd. (1045) (“162 Alberta”), collectively with Kodiak Partnership, Kodiak Wireline, Kodiak Solutions, and Kodiak Tools, the “Canadian Debtors”).

³ Capitalized terms not defined herein shall have the meaning ascribed in the Motion.

“Kodiak”), pursuant to sections 105, 350(a), and 1517 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 5009(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of this order (the “Order”) recognizing the *Order For Final Distribution, Approval Of Receiver's Fees And Disbursements, Approval of Receiver's Activities and Discharge of Receiver* (the “Canadian Distribution and Discharge Order”), a copy of which is attached hereto as **Exhibit A**, and closing the Chapter 15 cases; and it appearing that notice of the Motion was due and proper under the circumstances; and it appearing that such notice constitutes good and sufficient notice of the relief requested in the Motion and Order and that no other or further notice need be provided; and it further appearing that this Court has jurisdiction to consider the relief requested pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having reviewed the Motion, the exhibits thereto, and the Final Report, and the Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief herein granted;

THE COURT HEREBY FINDS THAT:

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157(a), 157(b)(1), 1334(a), 1334(b), and 11 U.S.C. § 1501. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408, 1409 and 1410.

B. The statutory predicates for the relief requested in the Motion and granted herein are, inter alia, Bankruptcy Code sections 105, 350(a), and 1517 and Bankruptcy Rule 5009(c).

C. The Notice of the Motion, the Motion, this Order, the relief granted herein or therein, and an opportunity to be heard in connection with any of the foregoing, was provided to all parties in interest and was good, sufficient, and appropriate under the circumstances, and no

other or further notice of the Motion, this Order or the relief granted herein, is required.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted in its entirety.
2. The Motion is approved as a Final Report pursuant to Federal Rule of Bankruptcy Procedure 5009(c).
3. The Canadian Distribution and Discharge Order is hereby granted comity and recognized and given full force and effect in the United States, and shall be immediately valid and fully enforceable in accordance with its terms.
4. Pursuant to 11 U.S.C. §§350(A) and 1517(d), the following jointly administered cases are hereby closed and directed to be closed:

Debtor	Case Number
Kodiak Services USA, Inc.	19-70031 (TMD)
Kodiak Services Partnership	19-70032 (TMD)
Kodiak Wireline Services Ltd.	19-70033 (TMD)
Kodiak Energy Solutions Ltd.	19-70034 (TMD)
Kodiak Tools Ltd.	19-70035 (TMD)
1623360 Alberta Ltd.	19-70036 (TMD)

5. A docket entry shall be made in each of the Chapter 15 cases reflecting the entry of this Order and closure of the cases.
6. Effective as of the date of this Order, Ernst & Young, Inc. is discharged of its responsibilities Foreign Representative, provided that the Ernst & Young, Inc. shall continue to have the benefit of the provisions of all Orders previously entered in these Chapter 15 cases,

including all approvals, protections and stays of proceedings.

7. This Order is entered without prejudice to the right of Ernst & Young, Inc. as receiver and Foreign Representative to seek an order reopening these Chapter 15 cases under 11 U.S.C. § 350(b).

8. Any Order previously entered by this Court in these Chapter 15 cases shall survive entry of this Order and remain binding and enforceable.

9. This Court shall retain jurisdiction with respect to its prior Orders in these Chapter 15 cases, the enforcement, amendment or implementation of this Order, or any request for any additional relief in or related to these Chapter 15 cases.

10. This Order approves of final distributions by the Foreign Representative of the assets of the Debtors and shall constitute a bar of any party in interest asserting claims against the Debtors' assets or the Foreign Representative.

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Submitted by:
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-and-

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Counsel for Ernst & Young Inc., in its capacity
as foreign representative for the Debtors

(Canadian Distribution and Discharge Order)



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 TOOL LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.

DOCUMENT **ORDER FOR FINAL DISTRIBUTION, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES AND DISCHARGE OF RECEIVER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT DENTONS CANADA LLP
1500, 850 – 2nd Street SW
Calgary, Alberta T2P 0R8
Attention: David Mann QC / John Regush
Phone: (403) 268-7097 / 7086
Fax: (403) 268-3100

I hereby certify this to be a true copy of the original Order

Dated this 17 day of May, 2021

DATE ON WHICH ORDER WAS PRONOUNCED: May 12, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Eidsvik

UPON THE APPLICATION by Ernst & Young Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property, and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tool Ltd., 1623360 Alberta Ltd. (the foregoing are collectively "**Kodiak Canada**"), and Kodiak Services USA, Inc. ("**Kodiak USA**", collectively with Kodiak Canada, the "**Debtors**") for an order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities, and discharge of the Receiver; AND UPON hearing read the Receiver's Fifth Report dated March 31, 2021 (the "**Receiver's Report**"); AND UPON hearing read the Affidavit of Izzy Kowalcze sworn May 6, 2021 and the Affidavit of Izzy Kowalcze sworn May 11, 2021; AND UPON hearing read the affidavit of Mary Horvath sworn May 11, 2021; AND UPON hearing counsel for the Receiver and such other parties as may participate in the within application; AND UPON being satisfied that it is appropriate to do so;

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, 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 ACTIVITIES AND ACCOUNTS

2. The Receiver's accounts for fees and disbursements, as set out in the Receiver's Report are hereby approved without the necessity of a formal passing of its accounts.
3. The accounts of the Receiver's legal counsel Dentons Canada LLP and conflict counsel Sharek Logan & van Leenen LLP, for their fees and disbursements, as set out in the Receiver's Report are hereby approved without the necessity of a formal assessment of their accounts.
4. The Receiver's activities as set out in the Receiver's Report and in all of its other reports, confidential reports, and confidential supplements filed herein, and the Statement of Receipts and Disbursements as attached to the Receiver's Report, are hereby ratified and approved.

DISTRIBUTIONS

5. The Receiver is authorized and directed to make the following distributions:
 - (a) the amount of \$828,379.25 USD to ATB Financial ("**ATB**");
 - (b) the amount of \$1,307,355.59 USD to Export Development Bank of Canada ("**EDC**");
 - (c) the amount of \$52,895.58 CAD to Service Canada;
 - (d) the amount of \$59,775.70 CAD to Canada Revenue Agency, in respect of its deemed trust claim in relation to Kodiak Services Partnership for GST;
 - (e) the amount of \$27,973.05 CAD to Canada Revenue Agency, in respect of its deemed trust claim for source deductions;
 - (f) the amount of \$21,000.00 CAD to Canada Revenue Agency, in respect of its deemed trust claim in relation to Kodiak Energy Solutions Ltd. for GST;
 - (g) the amount of \$3,670,673.92 CAD to ATB; and
 - (h) the amount of \$2,511,925.33 CAD to Business Development Bank of Canada ("**BDC**").
6. The Receiver is authorized and directed to hold back the sum of \$40,000 USD ("**US Holdback**") and \$100,000 CAD ("**Canadian Holdback**"), to be applied to unpaid and future fees of the Receiver and its counsel, without the necessity of further approval of such fees. The Receiver shall distribute:

- (a) any unused portion of the US Holdback, as well as any additional funds that may be received in respect of Kodiak Canada:
 - (i) 62% to EDC; and
 - (ii) 38% to ATB; and
- (b) any unused portion of the Canadian Holdback, and any additional funds that may be received in respect of Kodiak USA:
 - (i) 99.124% to ATB; and
 - (ii) 0.876% to BDC.

7. With respect to the resolution of the priority dispute between ATB and BDC regarding certain personal property of Kodiak Canada identified in Schedule K to the Receiver's Report (the "**Priority Settlement**"), any approvals and authorizations contained in this Order respecting distributions to ATB and BDC arising from same are restricted to the Receivership and shall not be taken as this Court's sanctioning of the Priority Settlement.

RELEASE AND STAY

8. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any in fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
9. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on notice to the Receiver, and upon such terms as this Court may direct.

DISCHARGE OF RECEIVER

10. Upon the Receiver filing with the Clerk of the Court a Receiver's Completion Certificate attaching final Statements of Receipts and Disbursements for the Debtors and confirming that:
- (a) the Receiver has filed a final GST return with the CRA;
 - (b) the Receiver has received recognition of the proposed distribution in the United States, to the extent necessary, and has received its discharge as receiver in the Debtors' receivership proceedings in the United States; and thereafter
 - (c) all matters set out in paragraphs 5 and 6 of this Order have been completed; and thereafter

(d) the Receiver has closed the Debtors' trust accounts;

then the Receiver shall be discharged as Receiver of the Debtors, provided however, that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.

MISCELLANEOUS

11. Within 30 days from the date of this Order, the Receiver is authorized and directed to make available for pick up by Gene Schafers and/or Trevor Boddez any physical books, records, or hard drives of the Debtors currently in the possession of the Receiver, its solicitors, or agents. No amounts shall be charged by the Receiver to Gene Schafers or Trevor Boddez for retrieving the physical books, records, or hard drives.
12. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
13. Service of this Order on any party not attending this application is hereby dispensed with.



Justice of the Court of Queen's Bench of Alberta

Schedule "A"

Form of Receiver's Completion Certificate

COURT FILE NUMBER	1901-00238	Clerk's Stamp
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 TOOL LTD., 1623360 ALBERTA LTD., KODIAK SERVICES USA, INC., KODIAK SERVICES MEXICO, SA. DE CV AND KODIAK SERVICES INT'L INC.	
DOCUMENT	RECEIVER'S COMPLETION CERTIFICATE	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DENTONS CANADA LLP 1500, 850 – 2 nd Street SW Calgary, Alberta T2P 0R8 Attention: David Mann QC / John Regush Phone: (403) 268-7097 / 7086 Fax: (403) 268-3100	

RECITALS

- A. Pursuant to an Order of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") pronounced by the Honourable Justice C. Jones on January 10, 2019, as amended by the Honourable Justice K.D. Yamauchi on March 13, 2019, Ernst & Young Inc. was appointed as the receiver and manager (the "**Receiver**") of the undertakings, property and assets of Kodiak Services Partnership, Kodiak Wireline Services Ltd., Kodiak Energy Solutions Ltd., Kodiak Tool Ltd., 1623360 Alberta Ltd., and Kodiak Services USA, Inc. (collectively, the "**Debtors**").
- B. Pursuant to an Order of the Court dated May 12, 2021 (the "**Discharge Order**"), the Court ordered that the Receiver would be discharged as Receiver of the Debtors upon the delivery by the Receiver to the Purchaser of a certificate attaching final statements of receipts and

disbursements for the Debtors and confirming that all matters set out in paragraphs 5 and 6 of the Discharge Order have been completed and the Receiver has been discharged as receiver in the Debtors' receivership proceedings in the United States.

- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Receiver has filed a final GST return with the CRA.
2. The Receiver has received recognition of the distribution proposed in the Discharge Order in the United States, to the extent necessary, and has received its discharge as receiver in the Debtors' receivership proceedings in the United States.
3. All matters set out in paragraphs 5 and 6 of the Discharge Order have been completed.
4. The Receiver has closed the Debtors' trust accounts.
5. The final statements of receipts and disbursements in respect of the Debtors are attached as Appendix "1" to this Certificate.
6. This Certificate was delivered by the Receiver at [Time] on [Date].

**ERNST & YOUNG INC. in its capacity
as Receiver of the undertakings,
property and assets of KODIAK
SERVICES PARTNERSHIP, KODIAK
WIRELINE SERVICES LTD., KODIAK
ENERGY SOLUTIONS LTD., KODIAK
TOOL LTD., 1623360 ALBERTA LTD.,
AND KODIAK SERVICES USA, INC.,
and not in its personal capacity.**

Per:_____

Name:

Title

