

Clerk's Stamp

COURT FILE NUMBER: 2401-03404
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF CANADIAN OVERSEAS PETROLEUM
LIMITED AND THOSE ENTITIES LISTED IN SCHEDULE
"A"

DOCUMENT: **AFFIDAVIT OF THOMAS RICHARDSON**

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AFFIDAVIT OF THOMAS RICHARDSON
(Affirmed March 14, 2024)

I, Thomas Richardson, of the City of London, United Kingdom, Chair of the Board of Directors of Canadian Overseas Petroleum Limited ("**COPL**") AFFIRM THAT:

1. I am the Chair of the Board of Directors (the "**Board**") of COPL, an Applicant in these proceedings. I was directly involved in the Applicants' decision to hire the CRO (defined below) and the Financial Advisor (defined below). As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources of information, I have so stated, and I believe them to be true and accurate. In preparing this affidavit, I have also consulted with other

members of the Board and the Applicants' legal advisors. The Applicants do not waive or intend to waive any applicable privilege by any statement herein.

2. I affirm this Affidavit in support of the Applicants' application for an Amended and Initial Order ("**ARIO**"), including, without limitation:

- (a) approving the agreement between the Applicants and Province Fiduciary Services ("**Province**"), pursuant to which, among other things, Province will act as the Chief Restructuring Officer ("**CRO**") of the Applicants during these CCAA proceedings through the services of Peter Kravitz, authorizing and directing the CRO to carry out the terms of the CRO Engagement Letter (as defined below), and approving the payment of fees contemplated under the CRO Engagement Letter;
- (b) ratifying and approving the agreement between the Applicants and Province, LLC ("**Province LLC**"), pursuant to which, among other things, Province LLC will act as financial advisor to the Applicants (the "**Financial Advisor**"), and authorizing and directing the Applicants to make the payments contemplated in the FA Engagement Letter (defined below); and
- (c) directing that the CRO Charge (defined below) secure all fees, including hourly, monthly and the Transaction Fee.

3. The purpose of this Affidavit is to inform the Court and all stakeholders about certain facts relating to the engagement of Province and Province LLC as the CRO and Financial Advisor, respectively, to the Applicants. This affidavit should be read in conjunction with the affidavit of Peter Kravitz, affirmed on March 7, 2024 (the "**Kravitz Affidavit #1**") and the affidavit of Peter

Kravitz, affirmed on March 13, 2024, which also contain information relevant to the relief sought through the ARIO.

4. Unless otherwise noted, all references to monetary amounts in this Affidavit are in U.S. dollars. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Kravitz Affidavit #1.

A. CRO Engagement Letter

5. Pursuant to the engagement letter executed on December 29, 2023, as amended by further letter dated January 17, 2024 (the “**CRO Engagement Letter**”) between Province and COPL, Province agreed to supply COPL with a CRO. Peter Kravitz was designated by Province to fill the role of CRO. It was a term of the Forbearance Agreement with the Lender (attached as Exhibit L to the Kravitz Affidavit #1) that the COPL Group appoint a chief restructuring officer and maintain the appointment throughout the forbearance period. The Board was wholly supportive of the hiring of Mr. Kravitz and, as described below, Mr. Kravitz has been critical to the Applicants' management team since his hiring.

6. The material terms of the CRO Engagement Letter include:

- (a) beginning on December 29, 2023, and on each monthly anniversary of such date, COPL shall pay Province in advance, without notice or invoice, a non-refundable cash fee of \$80,000;

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- (b) upon the consummation of any Transaction¹, COPL shall pay Province a one-time transaction fee (the “**Transaction Fee**”) as follows: (a) in the amount of \$400,000 if a Transaction is consummated by an acquirer who provided any new value to the Applicants or their estate in full or partial consideration of the acquisition; or (b) in the amount of \$250,000 if the Transaction is consummated by an acquirer who capitalizes said acquisition exclusively through a credit bid;
- (c) Province will charge all costs and expenses incurred in the normal course of performing the CRO Engagement Letter to COPL at Province’s actual cost; and
- (d) COPL agrees to indemnify Province, along with its direct and indirect parents and subsidiaries and each of their officers, managers, directors, employees and agents against, among other things, losses, claims and damages arising out of the CRO Engagement Letter.

7. Approving the engagement of the CRO is necessary to maintain stability for the Applicants during these CCAA proceedings. I believe that the Applicants will benefit from the CRO’s expertise in managing and overseeing the Applicants’ business during the course of the ongoing

¹ Transaction is defined in the CRO Engagement Letter as any one or more of the following, whether or not on an out-of-court basis or on an in-court basis (whether in any Canadian, United States, or foreign jurisdiction) pursuant to a plan of reorganization or a similar legal concept under any foreign legal insolvency proceeding of the Company (a “Plan”) confirmed, sanctioned, or otherwise approved in connection with any case or cases commenced by or against the Company, any of its subsidiaries, its parent company(ies), or any combination thereof, whether individually or on a consolidated basis and whether proposed by the Company or any other party: (a) any merger, acquisition (via credit bid or otherwise), consolidation, reorganization, recapitalization, financing, refinancing, business combination, directly or indirectly, or other transaction wherein the assets, equities or value in the Company (or a material portion thereof, whether by asset sale or otherwise) is acquired by, or combined with, any person, group of persons, partnership, corporation or other entity, whether in a single transaction, multiple transactions or a series of transactions; (b) any restructuring, reorganization, equitization, exchange offer, tender offer, amend and extend, refinancing, repayment, cancellation or similar transaction, whether or not pursuant to a Plan, related to the Company; or (c) any other transaction similar to any of the foregoing that materially involves either the Company or a material portion of the Company’s assets or equities. For the avoidance of doubt, a Transaction includes any transaction or series of transactions consummated in or out of court that results in any of clauses (a), (b), or (c) outlined above.

insolvency proceedings, and administering the SISF. I understand that the Monitor supports this relief.

B. FA Engagement Letter

8. Pursuant to the engagement letter executed December 29, 2023 (the “**FA Engagement Letter**”) between and among the COPL Group and Province LLC, the COPL Group engaged Province LLC to act as the Financial Advisor to the COPL Group and to provide certain consulting services as set forth in the FA Engagement Letter.

9. The material terms of the FA Engagement Letter include that:

- (a) the COPL Group shall pay Province LLC in advance a retainer (the “**Retainer**”) in the total amount of \$100,000, which amount shall increase to \$200,000 upon the COPL Group receiving any DIP financing;
- (b) the COPL Group will compensate Province LLC for its work on a time and material basis and Province LLC will charge fees on an hourly rate;
- (c) Province LLC will bill the COPL Group on a monthly or more frequent basis for professional fees and expenses and shall first deduct the billed amount from the Retainer, with any amount remaining due and payable by the COPL Group. The COPL Group is responsible for replenishing the full amount of the Retainer following such billing; and
- (d) in the event of an insolvency filing, Province LLC would have no obligation to provide services unless the COPL Group’s retention of Province LLC is approved under the US Bankruptcy Code or the CCAA.

10. Obtaining the approval of the FA Engagement Letter by the CCAA Court is necessary to ensure the ongoing services of Province LLC as the Financial Advisor. The Financial Advisor is currently assisting a very lean finance team that is currently without a CFO in, among other things, completing company financial analysis, overseeing CCAA reporting, interfacing with vendors and managing payables and receivables. Approving the engagement of Province LLC is therefore necessary to maintain stability during these CCAA proceedings. The Applicants do not have sufficient resources or expertise internally to manage the current insolvency proceedings and/or manage the cash position of the Company. The Applicants will continue to require Province LLC's expertise throughout the insolvency process, including the preparation for, and administration of, the SISF. I understand that the Monitor supports this relief.

C. CRO Charge

11. The Initial Order provides for a court-ordered charge in favour of the CRO on the Property (the "**CRO Charge**"). The CRO Charge is limited to \$500,000. The Applicants no longer seek to increase the CRO Charge in the ARIO; however, they propose that the CRO Charge now secure the Transaction Fee (as defined in the CRO Engagement Letter), which was previously excluded from the CRO Charge.

12. I believe that it is appropriate for the Court to extend the CRO Charge to secure the Transaction Fee. The Transaction Fee is only payable upon the completion of a Transaction and the larger Transaction Fee is only payable upon the completion of a Transaction that provides new value to the Applicants which, if realized, would benefit the Applicants and their stakeholders.

13. The quantum of the Transaction Fee was agreed to by the Applicants. I understand that the Monitor supports the inclusion of the Transaction Fee in the CRO Charge and will provide further

information in that regard in their First Report, which will be filed in advance of the Comeback Hearing.

14. Since December 29, 2023, I have worked closely with Mr. Kravitz and the Province team while the Applicants have navigated the lead-up to these CCAA proceedings. As CRO, Mr. Kravitz has provided essential support to the Applicants' sparse management team, which may otherwise have been unequipped to cope with the liquidity constraints and insolvency proceedings it faced. As financial advisor, Province LLC has supported the Applicants' lean finance department to address the financial circumstances of the Applicants. I believe that the services of Mr. Kravitz as CRO and Province LLC as Financial Advisor will continue to be critical to the CCAA proceedings and to the administration of the proposed SISF.

AFFIRMED REMOTELY BEFORE ME at the City of Kingston in the Province of Ontario with the deponent stated as being located at the City of London in the United Kingdom, on March 14, 2024, in accordance with *O. Reg. 431/20: Administering Oath or Declaration Remotely.*



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Commissioner for Taking Affidavits
(or as may be)

VIKTOR NIKOLOV
LSO# 85403P

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THOMAS RICHARDSON