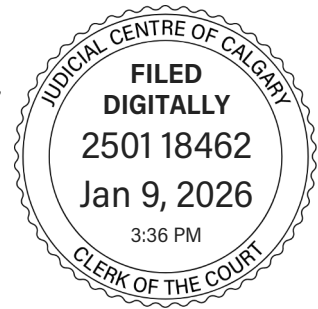


COURT FILE NO. 2501-18462  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, RSC  
1985, c C-36, as amended

AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
CANACOL ENERGY LTD., 2654044  
ALBERTA LTD., CANACOL ENERGY  
ULC, 2498003 ALBERTA ULC, CANTANA  
ENERGY GMBH, CNE OIL & GAS, S.R.L,  
CANACOL ENERGY COLOMBIA S.A.S.,  
SHONA HOLDING GMBH, CNE ENERGY  
S.A.S., and CNE OIL & GAS S.A.S.



APPLICANTS CANACOL ENERGY LTD., 2654044 ALBERTA LTD., CANACOL  
ENERGY ULC, 2498003 ALBERTA ULC, CANTANA ENERGY  
GMBH, CNE OIL & GAS, S.R.L, CANACOL ENERGY COLOMBIA  
S.A.S., SHONA HOLDING GMBH, CNE ENERGY S.A.S., and CNE  
OIL & GAS S.A.S.

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File No. G10088627

**APPLICATION BEFORE THE HONOURABLE JUSTICE BOURQUE  
JANUARY 16, 2026, AT 2:00 P.M. (M.T.) ON THE CALGARY COMMERCIAL LIST**

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## PART 1 - INTRODUCTION

1. This Brief is filed on behalf of Canacol Energy Ltd. (“**Canacol**”), 2654044 Alberta Ltd. (“**265 Alberta**”), Canacol Energy ULC (“**Canacol ULC**”), 2498003 Alberta ULC (“**249 Alberta**”), Cantana Energy GmbH (“**Cantana Switzerland**”), CNE Oil & Gas S.R.L (“**CNE Panama**”), Canacol Energy Colombia S.A.S. (“**Canacol Colombia**”), Shona Holding GMBH (“**Shona Switzerland**”), CNE Energy S.A.S. (“**CNE Energy Colombia**”), and CNE Oil & Gas S.A.S. , with the aforementioned named applicants, collectively the “**Applicants**” or the “**Canacol Group**”).
2. In their Application, the Applicants seek from this Honourable Court an Order that provides as follows:
  - (a) a declaration that the time for service of the Application be abridged and deemed good and sufficient, that the Application is properly returnable, and that further service of the Application be dispensed with;
  - (b) an extension of the stay of proceedings granted pursuant to second amended and restated initial order of the Honourable Justice Mah dated December 11, 2025 (“**SARIO**”) up to and including June 27, 2026;
  - (c) an Order among other things, granting, without limitation:
    - (i) approving the Applicants’ engagement of Moelis & Company LLC (“**Moelis**”) as sale advisor (the “**Sale Advisor**”) pursuant to the terms of the engagement letter between the Applicants and the Sale Advisor dated as of January 3, 2026 (the “**Engagement Letter**”), and authorizing the Applicants to pay amounts due pursuant to the Engagement Letter;
    - (ii) approving the proposed sale and investment solicitation process (the “**SISP**”), as more particularly described below; and
    - (iii) authorizing the Applicants, the Sale Advisor and the Monitor (as defined below) to implement the SISP; and

- (d) sealing Confidential Exhibit “1”, which contains an unredacted copy of the Engagement Letter such that the Engagement Letter does not form part of the public record until following the completion of a transaction pursuant to the SISP or further Order of this Court;
- (e) approval of the Third Report of the Monitor, to be filed (the “**Third Report**”), and the actions, conduct and activities of the Monitor set out therein.

## **PART 2 - FACTS AND BACKGROUND**

- 3. The facts in support of the Canacol Group’s Application is supported by the Affidavit of Jason Bednar #5, affirmed January 9, 2025,<sup>1</sup> and by the Third Report of the Monitor of KPMG Inc. (“**KPMG**”), in its capacity as the court appointed monitor (the “**Monitor**”) of the Canacol Group. All capitalized terms not otherwise defined in this Bench Brief shall have the meaning given to them in the Bednar Affidavit 5.
- 4. All references to dollar amounts contained herein are to United States Dollars unless otherwise stated.

### *The CCAA Proceedings; U.S. and Colombian Recognition Proceedings*

- 5. On November 18, 2025, the Applicants appeared before this Honourable Court and were granted an initial order (the “**Initial Order**”), among other things, granting protection to the Applicants under the CCAA and appointing KPMG Inc. as the Monitor in these CCAA proceedings.<sup>2</sup> On November 28, 2025, this Honourable Court granted an amended and restated initial order (the “**ARIO**”).<sup>3</sup>
- 6. On December 11, 2025, this Honourable Court granted a second amended and restated initial order (the “**SARIO**”), among other things, approving interim financing pursuant to the Canacol DIP Loan Commitment Letter dated December 2, 2025 (as may be amended or restated from time to time, the “**Canacol DIP Loan Commitment Letter**”) between the

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<sup>1</sup> The Affidavit of Jason Bednar #5 sworn on January 9, 2026 (the “**Bednar Affidavit 5**”).

<sup>2</sup> Bednar Affidavit 5, at para 5.

<sup>3</sup> Bednar Affidavit 5, at para 6.

Applicants, the guarantor parties thereto, and the lender signatories thereto (the “**DIP Lenders**”) who are holders of Canacol’s \$495,000,000 of 5.75% senior unsecured notes due in 2028 and participants in an ad hoc committee of the senior unsecured notes (the “**Ad Hoc Committee**”), and granting a super-priority charge securing all obligations owing under the Canacol DIP Loan Commitment Letter.<sup>4</sup> An initial advance of \$15,000,000 has been advanced under the Canacol DIP Loan Commitment Letter in reliance on the terms of the SARIO.<sup>5</sup>

7. Macquarie Bank Ltd. (“**Macquarie**”) has filed an application with the Alberta Court of Appeal seeking leave to appeal Justice Mah’s decision granting the SARIO. A hearing date has not yet been scheduled for the Macquarie leave application.<sup>6</sup>
8. On December 11, 2025, the United States Bankruptcy Court for the Southern District of New York (the “**US Court**”) granted an Order among other things: (i) recognizing and enforcing the ARIIO; (ii) recognizing these CCAA proceedings as a foreign main proceeding; (iii) recognizing the Monitor, as foreign representative; and (iv) granting other related relief under Chapter 15 of the US Bankruptcy Code. Furthermore, on December 18, 2025, on application by the Foreign Representative, the US Court granted an Order among other things, recognizing and enforcing the SARIO, including the approval of the DIP Commitment Letter and the granting of the DIP Lender’s Charge.<sup>7</sup>
9. On December 17, 2025, the Superintendency of Companies of Colombia granted an Order (the “**Colombian Recognition Order**”) among other things: (i) recognizing these CCAA proceedings as the principal foreign proceeding; (ii) recognizing KPMG Inc. as the Monitor and the Foreign Representative of the Canadian principal proceedings, and granting it the Monitor other powers; and (iii) granting certain automatic measures and effects including the automatic stay of any collection or enforcement proceedings, and (y) the suspension of the right to sale, transfer or encumber the Applicants assets, unless in the ordinary course

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<sup>4</sup> Bednar Affidavit 5, at para 7.

<sup>5</sup> Bednar Affidavit 5, at para 8.

<sup>6</sup> Bednar Affidavit 5, at para 9.

<sup>7</sup> Bednar Affidavit 5, at paras 13 and 14.

of business. Objections were filed by Macquarie and Halliburton regarding the Colombian Recognition Order which were dismissed on January 5, 2026.<sup>8</sup>

*Sales Advisor Engagement*

10. Following the granting of the SARIO, the Applicants interviewed eight (8) investment banks to act as potential sale advisor under the SISP.<sup>9</sup> The Applicants, in consultation with the Monitor and with the consent of the DIP Lenders, selected Moelis as the Sale Advisor for the SISP for the following reasons:
  - (a) Moelis demonstrated significant expertise and experience with oil and gas assets in emerging markets and a detailed understanding of the Canacol Group's business;
  - (b) Moelis presented a compelling pitch highlighting their skill, experience and insights on how to maximize value for stakeholders through the SISP; and
  - (c) Moelis's fee structure appropriately aligns incentives with the Canacol Group's objectives, for the benefit of all stakeholders.<sup>10</sup>
11. In accordance with the DIP Milestones, the Applicants and the Sale Advisor executed the Engagement Letter on January 3, 2026.<sup>11</sup>
12. The assistance of the Sale Advisor is necessary to ensure a successful SISP outcome. The Sale Advisor's involvement will enhance the likelihood that the SISP generates maximum value for the Applicants' stakeholders.<sup>12</sup>

*The Sale Investment and Solicitation Process*

13. Pursuant to the terms of the Engagement Letter, the Sale Advisor will assist the Applicants with, among other things, assisting the Applicants in conducting a business and financial analysis, identifying and evaluating potential bidders, and assisting the Applicants in

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<sup>8</sup> Bednar Affidavit 5, at paras 17 to 21.

<sup>9</sup> Bednar Affidavit 5, at para 29.

<sup>10</sup> Bednar Affidavit 5, at para 30.

<sup>11</sup> Bednar Affidavit 5, at para 31.

<sup>12</sup> Bednar Affidavit 5, at para 33.

preparing and implementing the SISP and related marketing and information materials, including a teaser letter, confidential information memorandum and establishing a virtual data room for parties to conduct due diligence in advance of submitting bids.<sup>13</sup>

14. The SISP was developed by the Applicants in consultation with the Applicants' professional advisors, the Sale Advisor, the Monitor and its counsel and is acceptable to the DIP Lenders. The SISP will be conducted by Canacol through the Sale Advisor and under the supervision and oversight of the Monitor. The SISP is intended to solicit interest in and opportunities for a sale of, or investment in, all or substantially all of the property, assets and undertakings (the "**Property**") and/or business operations (the "**Business**") of the Canacol Group (the "**Opportunity**").<sup>14</sup>
15. Under the terms of the proposed SISP, the Sale Advisor, in consultation with Canacol and the Monitor, shall solicit offers for the Opportunity. The SISP has been structured as a two-phase sales process: phase 1 for the submission of letters of intent, and phase 2 for the submission of binding bids. The SISP contains information sharing and consent and consultation rights for certain stakeholders, including for the Ad Hoc Committee (Canacol's largest creditor group) which provided the post-filing DIP financing to the Applicants that is necessary to preserve the value of the Applicants' assets and carry out the SISP.<sup>15</sup>
16. The SISP provides that a successful bid (as defined in the SISP, "**Successful Bid**") must, among other things, provide for a purchase price or other consideration that provides for (i) the payment in full in cash on closing of all amounts outstanding that are secured by each of the charges granted pursuant to the SARIO (other than the DIP Charge, which is addressed in next clause); (ii) the payment in full in cash on closing of the DIP Obligations then outstanding, unless otherwise agreed to by the DIP Lenders in accordance with the DIP Commitment Letter; (iii) the payment in full in cash on closing of all allowed claims of Macquarie, unless otherwise agreed to by Macquarie in its sole discretion; (iv) the payment in full in cash or the assumption of all obligations ranking in priority to unsecured

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<sup>13</sup> Bednar Affidavit 5, at para 32.

<sup>14</sup> Bednar Affidavit 5, at para 35.

<sup>15</sup> Bednar Affidavit 5, at para 37.

claims against the Applicants; (v) the payment in full in cash of all allowed pre-petition claims from social security institutes in Colombia, withholding taxes payable in Colombia and incurred through the closing date of the transaction, and the payment of certain Colombian creditors deemed to be necessary by Canacol, with the consent of the Monitor, for the operation of the Canacol Entities in Colombia; and (vi) unless the proposed purchase price is sufficient to repay in full in cash all obligations outstanding under the Senior Unsecured Notes and the proven claims of other unsecured creditors of Canacol, consideration to the holders of Senior Unsecured Notes in form and amount acceptable to the Ad Hoc Committee in its sole discretion.<sup>16</sup>

17. Additional facts relating to the SISP and terms and conditions with respect to the SISP can be found in Bednar Affidavit 5 starting at paragraph 27.

### **PART 3 - ISSUES**

18. The issues to be determined by this Honourable Court are as follows:
- (a) Should this Court deem the time for service of this Application and related materials good and sufficient?
  - (b) Should the Stay granted be extended from February 6, 2026 to June 27, 2026?
  - (c) Should this Honourable Court approve the proposed SISP?
  - (d) Should the Applicants' engagement of Moelis & Company LLC as sale advisor be approved?
  - (e) Should this Honourable Court seal the Confidential Exhibit "1"?
  - (f) Should the Third Report of KPMG in its capacity as Monitor, be approved, and the activities and conduct of the Monitor referenced therein be approved?

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<sup>16</sup> Bednar Affidavit 5, at para 38.

## PART 4 - LAW AND ARGUMENT

### A. Service Should be Deemed Good and Sufficient

19. Rule 6.3(3) of the *Alberta Rules of Court* (“*Rules of Court*”) requires that an applicant file and serve on all parties and every other person affected by the application 5 days or more before the application is scheduled to be heard or considered.<sup>17</sup> Rule 13.5(2)(a) of the *Rules of Court* provides the Court the authority to abridge the time for service of this application.<sup>18</sup>
20. The hearing before Justice Bourque was confirmed on December 8, 2025. On January 5, 2026, the Court provided an extension for the Applicants to file their materials following the Commercial Court practice directive filing deadline of January 5, 2026, such that the Applicants’ were permitted to file their court materials by or before January 9, 2026.<sup>19</sup>
21. On January 9, 2026, the Applicants served their Application (with form of Order) and the Bednar Affidavit 5 on the service list for the SISP Hearing.<sup>20</sup>
22. Based on the Court’s filing directions, it is appropriate and reasonable in the circumstances that the Court deem the time for service of this application good and sufficient.

### B. The Stay Should be Extended

23. The Applicants seek an extension of the stay of proceedings from February 6, 2026 to June 27, 2026 to maintain stability and continue operations during these CCAA proceedings.<sup>21</sup> The request for an extension of the stay of proceedings until June 27, 2026, ends shortly before June 30, 2026, which is the date that the Applicants must close a Successful Bid transaction pursuant to the SISP.<sup>22</sup>

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<sup>17</sup> [Alberta Rules of Court, Alta Reg 124/2010, Rule 6.3\(3\) \[TAB 1\]](#).

<sup>18</sup> [Alberta Rules of Court, Alta Reg 124/2010, Rule 13.5\(2\)\(a\) \[TAB 1\]](#).

<sup>19</sup> Bednar Affidavit 5, at para 10.

<sup>20</sup> Affidavit of Service of Arriane Tano.

<sup>21</sup> Bednar Affidavit 5, at para 23.

<sup>22</sup> Bednar Affidavit 5, at para 25.

24. Under s. 11.02 of the CCAA, a court may grant extensions of the stay of proceedings where the court is satisfied that: (i) circumstances exist that make the order appropriate; and (ii) the debtor has acted, and is continuing to act, in good faith and with due diligence.<sup>23</sup>
25. A key purpose of the CCAA is to maintain the *status quo* to allow a debtor company the breathing room to deal with its liquidity issues, consult with stakeholders, and develop a viable restructuring plan with a view to continuing operations for the benefit of all stakeholders. The interests to be considered include those of employees, directors, and even other parties doing business with the insolvent company.<sup>24</sup>
26. Courts have further noted that a stay of proceedings is appropriate:
- a) to allow the debtor to stabilize its operations and reorganize as a going concern to maximize value for stakeholders;<sup>25</sup>
  - b) to stabilize the activities and operations of the applicant while a sales process was underway and that stabilization via the stay was necessary to maximize the chances of recovery for stakeholders;<sup>26</sup>
  - c) where the remedial purposes of the CCAA are being met.<sup>27</sup>
27. Since the granting of the SARIO, the Applicants, with the assistance of the Monitor, have been working in good faith and with due diligence to:
- (a) maintain the Applicants' business and operations, and manage their cash in accordance with the SARIO;<sup>28</sup>
  - (b) communicate with the Canacol Group's creditors regarding these CCAA proceedings and the granting of the Initial Order, the ARIO and the SARIO, and

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<sup>23</sup> [Companies Creditors Arrangement Act, RSC 1985, c C-36, ss 11.02 \(2\), 11.02\(3\)](#) [CCAA] [TAB 2].

<sup>24</sup> [Century Services Inc. v Canada \(Attorney General\)](#), 2010 SCC 60 at para 60 [TAB 3].

<sup>25</sup> [Target Canada Co, Re](#), 2015 ONSC 303 at para 8 [TAB 4].

<sup>26</sup> [Re Hudson's Bay Company](#), 2025 ONSC 1897 at para 19 [TAB 5].

<sup>27</sup> [Delta 9 Cannabis Inc \(Re\)](#), 2025 ABKB 52 at para 42 [TAB 6].

<sup>28</sup> Bednar Affidavit 5, at para 12 (a).

work with the Monitor and legal counsel to respond to numerous creditor and stakeholder inquiries;<sup>29</sup>

- (c) work closely with the Monitor to manage the Applicants' cash flows and prepare the Updated Cash Flow Forecast;<sup>30</sup>
- (d) with the approval of the Monitor, make Pre-Filing Critical Vendor Payments in the aggregate amount of US\$5,512,000 in accordance with the terms of the SARIO;<sup>31</sup>
- (e) satisfy the conditions precedent to the initial advance of \$15,000,000 under the DIP Commitment Letter (the "**Initial Advance**") and receive the net proceeds of the Initial Advance;<sup>32</sup>
- (f) negotiate, in consultation with the Applicants' advisors and the DIP Lenders, the terms of the Engagement Letter;<sup>33</sup>
- (g) prepare and negotiate, in consultation with the Monitor, the Sale Advisor and their respective advisors, the terms of the SISP;<sup>34</sup>
- (h) work closely with U.S. and Colombian legal counsel and the Monitor in its capacity as Foreign Representative to (i) prepare for and attend the December 11, 2025 and December 18, 2025 hearings in respect of the US Recognition Proceedings, and (ii) prepare for, file and respond to filings relating to the December 17, 2025 Colombian Recognition Proceedings and respond to objections from Macquarie and Halliburton Latin America SRL Sucursal Colombia requesting the Superintendency of Companies of Colombia to overturn the Colombian recognition order (which requests were denied);<sup>35</sup>

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<sup>29</sup> Bednar Affidavit 5, at para 12 (b).

<sup>30</sup> Bednar Affidavit 5, at para 12 (c).

<sup>31</sup> Bednar Affidavit 5, at para 12 (d).

<sup>32</sup> Bednar Affidavit 5, at para 12 (e).

<sup>33</sup> Bednar Affidavit 5, at para 12 (f).

<sup>34</sup> Bednar Affidavit 5, at para 12 (g).

<sup>35</sup> Bednar Affidavit 5, at para 12 (h).

- (i) consider and commence preparation of court materials, with the assistance of legal counsel, in response to Macquarie’s application for leave to appeal of the SARIO.<sup>36</sup>
28. The Applicants require an extension of the stay of proceedings to implement the SISP and identify a Successful Bid thereunder to maximize value for the Applicants’ stakeholders. The June 27, 2026 date is shortly before June 30, 2026, which is the date that the Applicants must close a Successful Bid transaction pursuant to the SISP.<sup>37</sup>
29. The Applicants have acted, and continue to act, in good faith and with due diligence during these CCAA proceedings.<sup>38</sup> The extension of the stay of proceedings is necessary and appropriate in the circumstances to provide the Applicants with the continued breathing room required to maintain going concern operations under the supervision of the Monitor and to implement a robust and successful SISP.<sup>39</sup>
30. The Monitor supports the extension of the Stay until June 27, 2026.<sup>40</sup>
31. In the circumstances, it is appropriate that the Applicants be granted a further extension of the Stay to June 27, 2026.

**C. The SISP should be ratified and approved**

32. While the *CCAA* does not mandate the form of a sale solicitation process, Courts in decisions under the *CCAA* have considered whether or not to approve a sale process. In *Nortel Networks Corporation (Re)* (“*Nortel*”),<sup>41</sup> the factors adopted by the Court included:
- (a) whether a sale transaction was warranted at the time;
- (b) whether a sale would benefit the whole “economic community”;

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<sup>36</sup> Bednar Affidavit 5, at para 12 (i).

<sup>37</sup> Bednar Affidavit 5 at para 25.

<sup>38</sup> Bednar Affidavit 5 at para 26.

<sup>39</sup> Bednar Affidavit 5 at para 26.

<sup>40</sup> Bednar Affidavit 5 at para 26.

<sup>41</sup> [Nortel Networks Corporation \(Re\), 2009 CanLII 39492 \(ON SC\) \[Nortel\] \[Tab 7\]](#).

- (c) whether any creditors would have a *bona fide* reason to object to a sale of the business; and
- (d) whether there is a viable alternative.<sup>42</sup>
33. In *Walter Energy Canada Holdings, Inc. (Re)*, Justice Fitzpatrick wrote that in reviewing a proposed sale process, the court should consider (i) the fairness, transparency and integrity of the proposed process; (ii) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and (iii) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.<sup>43</sup> In making this determination, Justice Fitzpatrick considered whether the time lines were reasonable, whether there was a need to move quickly to preserve cash resources pending a sale or investment, and whether sufficient flexibility was built into the sale process to allow the person conducting it to amend the timelines if circumstances justified it. She also considered whether the sale process was consistent with similar sale processes approved in other Canadian insolvency proceedings.<sup>44</sup>
34. In determining whether to approve a sale under section 36 of the CCAA, a court will consider, among other things, (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances, and (b) whether the monitor approved the process leading to the proposed sale or disposition.<sup>45</sup> Similarly, the criteria applied by courts referring to the test in *Royal Bank of Canada v Soundair Corp* includes (i) whether the court officer has made sufficient effort to get the best price and has not acted improvidently, and (ii) the efficacy and integrity of the process by which offers are obtained.<sup>46</sup>
35. Canacol submits that the proposed SISF satisfies the criteria set out above:

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<sup>42</sup> *Nortel*, at [para 49](#) [Tab 7].

<sup>43</sup> *Walter Energy Canada Holdings, Inc. (Re)*, 2016 BCSC 107 (CanLII), at [para 20](#) [*Walter*] [Tab 8].

<sup>44</sup> *Walter*, at [paras 22 and 23](#) [Tab 8].

<sup>45</sup> *CCAA* at [s. 36\(3\)](#) [Tab 2].

<sup>46</sup> *Royal Bank of Canada v Soundair Corp*, 1991 CanLII 2727 (ON CA), at [para 16](#) [Tab 9].

- (a) The proposed SISP was developed by the Applicants in consultation with the Applicants' professional advisors, the Sale Advisor, the Monitor and its counsel, and is acceptable to the DIP Lenders. The SISP will be conducted by Canacol through the Sale Advisor and under the supervision and oversight of the Monitor;<sup>47</sup>
- (b) Creditors and other stakeholders of the Applicants will derive a greater benefit from the proposed SISP than through a liquidation process, including customers of electricity in Colombia;<sup>48</sup>
- (c) The SISP provides that the Successful Bid must, among other things, include cash component sufficient to pay out Macquarie in full in an amount of its allowed claims;<sup>49</sup>
- (d) The SISP is fair and reasonable in the circumstances, will provide for an efficient, effective and transparent process to solicit interest in the Opportunity and will optimize the prospects of a value maximizing transaction materializing in these CCAA proceedings, to the benefit of the Applicants' stakeholders;<sup>50</sup>
- (e) The Monitor and Sale Advisor have significant expertise and experience with insolvent oil and gas producers and marketing and selling their assets, which will greatly enhance the prospects of one or more successful sales and provide creditors and other stakeholders with confidence in the process;
- (f) The Monitor will be consulted and involved in the conduct of the SISP, and the Applicants anticipate it will recommend to this Honourable Court that it approve the proposed SISP; and
- (g) The proposed SISP is designed to facilitate a broad market solicitation of the Property and the Business under the supervision of the Monitor and with the assistance of the Sale Advisor in a fair, open and transparent manner.

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<sup>47</sup> Bednar Affidavit 5 at para 35.

<sup>48</sup> Bednar Affidavit 5 at para 36.

<sup>49</sup> Bednar Affidavit 5 at para 38.

<sup>50</sup> Bednar Affidavit 5 at para 40.

36. Having regard to the circumstances of these CCAA proceedings, the Applicants submits that the proposed SISP is reasonable and appropriate and should be granted.

**D. The Engagement Letter should be approved**

37. The Applicants are seeking approval of the retention of the Sale Advisor pursuant to the Engagement Letter.
38. CCAA Courts have recognized that financial advisors can play a key role in assisting insolvency companies and the Monitor by bringing experience and expertise to the restructuring process, including during a sales process<sup>51</sup>.
39. The Applicants, in consultation with the Monitor and with the consent of the DIP Lenders, determined that the Sale Advisor has the necessary expertise and knowledge to successfully implement the SISP. The Sale Advisor has significant expertise and experience with oil and gas assets in emerging markets and a detailed understanding of Canacol Group's business.<sup>52</sup>
40. The assistance of the Sale Advisor is necessary to ensure a successful SISP outcome.<sup>53</sup> The Sale Advisor's involvement will enhance the likelihood that the SISP generates maximum value for the Applicants' stakeholders.<sup>54</sup>
41. As a result of the foregoing, the Applicants submits that it is appropriate for this Court to approve the Sale Advisor's retention pursuant to the Engagement Letter.

**E. The Confidential Exhibit "1" should be seal**

42. The Applicants are seeking an order directing that the Confidential Exhibit "1" be placed under seal, with such Confidential Exhibit to remain under seal until following the completion of a transaction pursuant to the SISP or further Order of this Court.

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<sup>51</sup> *Walter*, at paras [26](#) and [31](#) [**Tab 8**];

<sup>52</sup> *Bednar Affidavit 5* at para 30 (a).

<sup>53</sup> *Bednar Affidavit 5* at para 33.

<sup>54</sup> *Bednar Affidavit 5* at para 33.

43. In the prior leading authority of *Sierra Club of Canada v. Canada (Minister of Finance)*, the Supreme Court of Canada held that a sealing order may be granted where (a) such an order is necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and (b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which includes the public interest in open and accessible court proceedings.<sup>55</sup>
44. The Supreme Court of Canada, in *Sherman Estate v. Donovan* refined the two-part test from *Sierra Club* into three parts to help clarify the prerequisites “without altering its essence”. As clarified, the applicant must establish that:
- (a) Court openness poses a serious risk to an important public interest;
  - (b) The order sought is necessary to prevent this serious risk to the identified interest because reasonable alternative measures will not prevent this risk; and
  - (c) As a matter of proportionality, the benefits of the order outweigh its negative effects<sup>56</sup>.
45. The Confidential Exhibit “1” contains an unredacted copy of the Engagement Letter, which contains commercially sensitive information regarding (1) the Sale Advisor’s fee structure, which, if disseminated could adversely impact Moelis’ commercial interest in future mandates; and (2) indications of value and potential sale prices for the Applicants’ assets, which could have adverse implications on SISP if such information was made public.<sup>57</sup>
46. The Ontario Superior Court of Justice, in *Canwest Publishing Inc. / Publications Canwest Inc., Re*, approved the engagement of a financial advisor and granted a sealing order of the unredacted engagement letter, noting that the unredacted Financial Advisor agreement contained commercially sensitive information the disclosure of which could be harmful to

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<sup>55</sup> [Sierra Club of Canada v. Canada \(Minister of Finance\), 2002 SCC 41](#) at [para 53](#) [*Sierra Club*] [**Tab 10**].

<sup>56</sup> [Sherman Estate v. Donovan, 2021 SCC 25](#), at [para 38](#). [*Sherman Estate*] [**Tab 11**].

<sup>57</sup> Bednar Affidavit 5 at para 41.

the solicitation process, and ultimately concluded that the salutary effects of sealing it outweigh any deleterious effects.<sup>58</sup>

47. The Applicants also notes that it is a term of the Engagement Letter that the Applicants seek a sealing order to seal it from the public record and that a redacted version of the Engagement Letter, which does not disclose commercially sensitive information, will be attached as Exhibit “3”<sup>59</sup>. Furthermore, the Applicants will share the fee structure with stakeholder under appropriate confidentiality arrangements.<sup>60</sup> The sealing of the Engagement Letter will be temporal and will be until the conclusion of a transaction arising from the SISP or further order of the court.<sup>61</sup>
48. The disclosure of the commercially sensitive information could be harmful to the solicitation process and, as a matter of proportionality, the salutary effect of sealing the Confidential Exhibit “1” outweighs its negative effects. The Applicants submits that the sealing of the Confidential Exhibit “1” is appropriate in the circumstances.

**F. The Third Report and the Activities described therein should be approved**

49. In connection with this application, KPMG Inc. in its capacity as the Monitor, will file the Third Report. The Third Report will describe the actions, activities and conduct of the Monitor in detail.
50. The Applicants are seeking the approval of the Third Report, and the actions, activities and conduct of the Monitor set out therein. The Monitor has acted honestly, in good faith, and in accordance with its Court-ordered and statutory duties prior to, and throughout the duration of these CCAA Proceedings to date.<sup>62</sup>

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<sup>58</sup> [Canwest Publishing Inc. / Publications Canwest Inc., Re 2010 ONSC 222](#) at para 65. [Tab 12]

<sup>59</sup> Bednar Affidavit 5 at paras 41 and 4(c)(i).

<sup>60</sup> Bednar Affidavit 5 at para 41.

<sup>61</sup> Bednar Affidavit 5 at para 41.

<sup>62</sup> Bednar Affidavit 5 at para 43.

**PART 5 - CONCLUSION AND RELIEF SOUGHT**

51. For the reasons above, the Applicants requests the Order approving the SISP and other ancillary relief being requested. The SISP is fair, necessary and reasonable in the circumstances and represents the best option to permit Canacol to realize maximum value to the benefit of its creditors and other stakeholders.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of January 2026.**

**GOWLING WLG (CANADA) LLP**

A handwritten signature in black ink, appearing to be 'S. B.', written over a horizontal line.

Per: \_\_\_\_\_  
Counsel for the Applicants

**TABLE OF AUTHORITIES**

<b>Tab</b>	<b>Authority</b>
1.	<a href="#"><u>Alberta Rules of Court, Alta Reg 124/2010.</u></a>
2.	<a href="#"><u>Companies' Creditors Arrangement Act, RSC 1985, c C-36.</u></a>
3.	<a href="#"><u>Century Services Inc. v Canada (Attorney General), 2010 SCC 60</u></a>
4.	<a href="#"><u>Target Canada Co, Re, 2015 ONSC 303</u></a>
5.	<a href="#"><u>Re Hudson's Bay Company, 2025 ONSC 1897</u></a>
6.	<a href="#"><u>Delta 9 Cannabis Inc (Re), 2025 ABKB 52</u></a>
7.	<a href="#"><u>Nortel Networks Corporation (Re), 2009 CanLII 39492 (ON SC)</u></a>
8.	<a href="#"><u>Walter Energy Canada Holdings, Inc. (Re), 2016 BCSC 107 (CanLII)</u></a>
9.	<a href="#"><u>Royal Bank of Canada v Soundair Corp, 1991 CanLII 2727 (ON CA)</u></a>
10.	<a href="#"><u>Sierra Club of Canada v. Canada (Minister of Finance), 2002 SCC 41</u></a>
11.	<a href="#"><u>Sherman Estate v. Donovan, 2021 SCC 25</u></a>
12.	<a href="#"><u>Canwest Publishing Inc. / Publications Canwest Inc., Re 2010 ONSC 222</u></a>