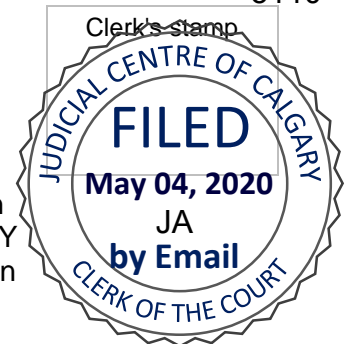


COURT FILE NUMBER 1801-10960
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF PRICEWATERHOUSECOOPERS INC., LIT, in
its capacity as the TRUSTEE IN BANKRUPTCY
OF SEQUOIA RESOURCES CORP., and not in
its personal capacity
DEFENDANT PERPETUAL ENERGY INC., PERPETUAL
OPERATING TRUST, PERPETUAL
OPERATING CORP., and SUSAN RIDDELL
ROSE
OTHER PARTY PRICEWATERHOUSECOOPERS INC.
DOCUMENT **APPLICATION OF SUSAN RIDDELL ROSE
RESPECTING COSTS**
ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT
Norton Rose Fulbright Canada LLP
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Lawyers for the Susan Riddell Rose
File no.: 1001040549



COM
June 22, 2020
J. D.B Nixon

NOTICE TO PLAINTIFF AND TO PRICEWATERHOUSECOOPERS INC.:

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 22-24, 2020
Time: 10:00 AM
Where: Calgary Courts Center
Before Whom: The Honourable Mr. Justice D.B. Nixon

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. Pursuant to: (i) the oral reasons of the Honourable Mr. Justice D.B. Nixon given on August 15, 2019; (ii) the written reasons released on January 13, 2020 (the **Reasons**); (iii) the Order of this Court granted on February 14, 2020 (the **Order**); and (iv) the supplemental oral reasons given on February 14, 2020 (the **Supplemental Reasons**), the Defendant Susan Riddell Rose (**Rose**) applies for orders:

- (a) granting her costs of this proceeding on full indemnity basis;
- (b) alternatively, granting her enhanced costs on such scale as this Court determines to be just;
- (c) in addition, granting her costs of this application on such scale as this Court determines to be just;
- (d) directing that PricewaterhouseCoopers Inc. personally, and not as Trustee in Bankruptcy, pay the costs;
- (e) in the alternative to (d), directing that the Plaintiff pay the costs forthwith and without delay; and
- (f) granting such additional relief as this Court determines to be just.

Grounds for making this application:

2. Rose was absolutely successful. She is entitled to an award of costs.

3. PricewaterhouseCoopers Inc. as the trustee in bankruptcy of Sequoia Resources Corp. (the **Trustee**) made serious allegations and claims against Rose without having done any meaningful investigation of the facts.

4. The claims of PricewaterhouseCoopers Inc. against Rose were largely not claims under the *Bankruptcy and Insolvency Act* (the **BIA**), but claims alleging common law and statutory breaches of her corporate and fiduciary duties.

5. The Trustee sued for oppression without standing or authority to do so.

6. The Trustee breached its duty *qua* trustee in failing to act impartially, and its duties *qua* civil litigant in recklessly suing Rose in the face of the Resignation and Mutual Release Agreement executed on October 1, 2016.
7. The Trustee made baseless allegations and submissions which unreasonably impugned the conduct and character of Rose.
8. The Trustee employed unnecessarily adversarial litigation strategies.
9. After the Court issued the very clear Reasons, the Trustee took the unreasonable position that it had succeeded against Rose and that it would seek costs against Rose.
10. The Trustee's Statement of Claim seeks full indemnity costs against Rose.
11. After the Court issued the very clear Reasons, the Trustee took the unreasonable position that the Court did not mean what it had written, necessitating another hearing with Briefs and resulting in the endorsement of Rose's position.
12. The Trustee has not acknowledged an obligation to pay any costs to Rose despite the foregoing.
13. An award of costs against the Sequoia estate will be worthless. In these circumstances, PricewaterhouseCoopers Inc. should be required to account for its ill-conceived and baseless civil claims against Rose.
14. If PricewaterhouseCoopers Inc. is personally liable for costs, as trustee of the bankrupt estate, it will be entitled to reimbursement from the assets of the bankrupt estate. Conversely, it would be unjust if Rose were unable to recover her costs because PricewaterhouseCoopers pursued litigation against her without ensuring that the Sequoia estate could pay a costs award if unsuccessful.

Material or evidence to be relied on:

15. The pleadings and proceedings herein, including the materials filed in the Action so far, including:
 - (a) The Statement of Claim filed August 2, 2018;
 - (b) The Statement of Defence filed August 27, 2018;

- (c) The Affidavit of Paul J. Darby sworn and filed August 2, 2018;
- (d) The Affidavit of Mark Schweitzer sworn and filed October 4, 2018;
- (e) The Affidavit of Susan Riddell Rose sworn and filed October 19, 2018;
- (f) The Transcript of questioning of Paul J. Darby held on October 22, 2018;
- (g) The Transcript of questioning of Mark Schweitzer held on October 26, 2018;
- (h) The Transcript of questioning of Susan Riddell Rose held on October 26, 2018;
- (i) The Reasons for Judgment of Justice D.B. Nixon cited as 2020 ABQB 6;
- (j) The Affidavit of Susan Riddell Rose sworn May 1, 2020, filed; and
- (k) The Affidavit of Mark Schweitzer sworn May 1, 2020, filed.

16. The pleadings and evidence filed in this matter.

17. Such other material or evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

18. Rule 10.31(1), of the Alberta Rules of Court, Alta Reg 124/2010, and such other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

19. The *Bankruptcy and Insolvency Act*, and such other Acts or regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

20. None.

How the application is proposed to be heard or considered:

21. In person, with counsel present, on the date first hereon noted.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

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 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.