

COURT FILE AND
BANKRUPTCY NUMBER

25-094956

COURT

COURT OF QUEEN'S BENCH OF ALBERTA
BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

CALGARY

BANKRUPTCY MATTER

**IN THE MATTER OF THE BANKRUPTCY OF GEOGLOBAL RESOURCES
(CANADA) INC.**

APPLICANT

EXPORT DEVELOPMENT CANADA

RESPONDENTS

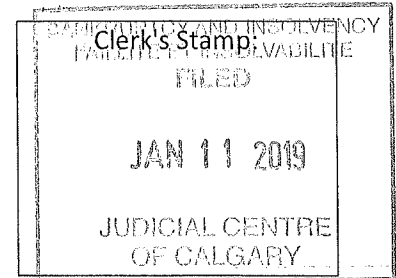
GEOGLOBAL RESOURCES (CANADA) INC.

DOCUMENT

APPLICATION FOR BANKRUPTCY ORDER

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

Field LLP
400 - 604 1 ST SW
Calgary AB T2P 1M7
Lawyer: Douglas Nishimura
Phone Number: (403) 260-8548
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File No. 50500-5



NOTICE TO RESPONDENT

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Registrar.

To do so, you must be in Court when the application is heard as shown below:

DATE	<u>February 12, 2019</u>
TIME	<u>2:00 p.m. – Bankruptcy List</u>
WHERE	<u>Court House, Calgary, Alberta</u>
BEFORE WHOM	<u>Presiding Registrar in Bankruptcy Chambers</u>

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. The Applicant, Export Development Canada ("EDC"), a creditor of the Respondent, Geoglobal Resources (Canada) Inc. ("**Geoglobal Canada**" or the "**Debtor**") as well as its affiliates, Geoglobal Resources Inc. ("**GRI**") and Geoglobal (Barbados) Inc. ("**Geoglobal Barbados**") (collectively referred to as the "**Geoglobal Entities**"), respectfully seeks an order in the form attached hereto as schedule "A", including without limiting, for the following relief:

- (a) Abridging the time for service of this application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient.
- (b) Adjudging the Debtor bankrupt;
- (c) Granting a Bankruptcy Order in respect of the property of the Debtor including shares in the other Geoglobal Entities;
- (d) Appointing MNP LLP (the "**Trustee**") as trustee in bankruptcy of the Debtor's bankruptcy estate;
- (e) Directing that the costs of the within Application for Bankruptcy Order be paid out of the bankruptcy estate; and
- (f) Such further and other relief as this Honourable Court considers just in the circumstances.

Grounds of the Application:

Statutory Requirements

- 2. Within the year immediately preceding the date of the initial bankruptcy event, the Debtor carried on business in Calgary, Alberta and elsewhere.
- 3. The Debtor is truly and justly indebted to EDC for an amount exceeding \$1,000.
- 4. The Debtor has committed acts of bankruptcy within the 6 months preceding the date of the filing of the within Application for Bankruptcy Order by:
 - (a) failing to meet their liabilities generally as they became due;
 - (b) making a fraudulent gift, delivery or transfer of the Debtor's property or any part of it;
 - (c) making a transfer of the Debtor's property or any part of it, or creating any charge on it, under the *Bankruptcy and Insolvency Act*;
 - (d) void as a fraudulent preference;
 - (e) assigning, removing, secreting or disposing of or attempting to assign, remove, secrete or dispose of property with intent to defraud, defeat or delay its creditors.

5. Special circumstances exist in that EDC is the only significant unsecured creditor of the Debtor and that the Debtor has assigned or attempted to assign significant assets in breach of its obligations to EDC and in order to defraud, defeat or delay EDC in enforcing its debt.

Detailed Grounds

6. The Geoglobal Entities are jointly and severally indebted to EDC as at the present date in an amount of \$2,249,000 (CDN), plus accrued and accruing interest, fees and other chargeable costs (the "**Indebtedness**") pursuant to an Indemnity Agreement dated March 21, 2011, entered into between EDC and Geoglobal Canada, as principal and GRI and Geoglobal Barbados as co-indemnitors of Geoglobal Canada.
7. Pursuant to the terms of the Indemnity Agreement, express or implied:
 - (a) EDC agreed to provide the HSBC Bank Canada ("**HSBC**") with guarantees so that HSBC would agree to advance funds to Geoglobal Canada, payable by EDC on demand from HSBC;
 - (b) The Geoglobal Entities agreed to jointly and severally and unconditionally indemnify EDC for any amount that EDC paid on their behalf pursuant to the guarantees with HSBC or otherwise paid by EDC on their behalf and the Geoglobal Entities further agreed to be liable to, and compensate EDC for and against, all costs, fees and expenses in connection with such payment, including the costs of enforcing the Agreement as against the Geoglobal Entities in connection with the same;
 - (c) the Geoglobal Entities agreed to pay interest to EDC on any amounts owing to EDC pursuant to the Agreement from the date of the demand by EDC to the date of payment at a rate per annum of prime calculated at the prevailing date of the demand and compounded semi-annually to the time of judgment;
 - (d) the Geoglobal Entities agreed that they would not, without EDC's prior written consent: sell or dispose of all or a substantial part of their assets to any person or entity not party to the Agreement, or cease to conduct all or a substantial part of its business as conducted on the date of the Agreement, or to amalgamate, merge or consolidate with any company or permit any change of control; and

- (e) the Geoglobal Entities agreed to notify EDC in writing of any events or condition which would reasonably be expected to result in a material adverse change to its business, or in a failure of the Geoglobal Entities to perform or observe any of its obligations under the Agreement, so soon as the Geoglobal Entities obtained knowledge of such an event or condition, or upon the occurrence of the change and the Geoglobal Entities agreed that EDC was entitled, on demand, to require that sufficient collateral be deposited or extra security granted to EDC upon the occurrence of a material change until all amounts owing to EDC under the Agreement were paid in full.
8. EDC was obliged to fulfil its guarantee obligation and paid the amount of the Indebtedness to HSBC. EDC demanded payment of the Indebtedness from the Debtor and has obtained a consent judgment against the Geoglobal Entities in the above amount.
9. No payment of the Indebtedness, or any portion thereof has been received from the Debtor whatsoever.
10. The Debtor, through its principals, made fraudulent misrepresentations to cause EDC to delay enforcement of the Indemnity Agreement.
11. The Geoglobal Entities, including the Debtor, have sold or have attempted to sell their assets to third parties in breach of the Indemnity Agreement and with intent to defraud, delay, or defeat their creditors, including EDC.
12. The Debtor has no other significant unsecured creditors.
13. The Geoglobal Entities have admitted that they are insolvent, having insufficient assets to pay their creditors.
14. In the result, a Bankruptcy Order should issue against the Debtor.

Material or evidence to be relied on:

15. The supporting Affidavit of Verification of Dan Barona sworn December 13, 2018, filed;
16. The pleadings filed in this proceeding; and
17. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Rules:

18. Rules 6.3(1), 6.9(1)(a) and 11.27 of the *Alberta Rules of Court*, AR 124/2010.

- 19. Rules 69-76 of the *Bankruptcy and Insolvency General Rules*, C.R.C. c.
- 20. Such further and other rules as counsel may advise.

Applicable Acts and Regulations:

- 21. *The Bankruptcy and Insolvency Act*;
- 22. The inherent jurisdiction of this Honourable Court; and
- 23. Such further and other Acts and regulations as counsel may advise.

Any irregularity complained of or objection relied on:

- 24. N/A

How the Application is proposed to be heard or considered:

- 25. In person, before the presiding Registrar in Chambers, on Affidavit evidence, with some or all of the parties present.

DATED at the City of Calgary, in the Province of Alberta, this 8th day of January, 2019.

EXPORT DEVELOPMENT CANADA

By its counsel FIELD LLP

Per: 
Douglas Nishimura

ISSUED at the City of Calgary, in the Province of Alberta this 11 day of January, 2019.

" J. H. "

Registrar of Bankruptcy

WARNING
If you do not come to Court either in person or by your lawyer, the Court may give the Applicant 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 rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

TAKE NOTICE
That an Application for a Bankruptcy Order has been made in respect of your property and will be heard before the Presiding Registrar in Chambers, at the Calgary Courts Centre located at 601, 5th Street SW Calgary, AB on Tuesday the 12th day of February, 2019 at the hour of 2:00 pm, or so soon thereafter as the within Application may be heard.

AND FURTHER TAKE NOTICE
That if notice of cause against this Application is not filed in Court and a copy thereof served on counsel for the applicant at least two days before the hearing and if you do not appear at the hearing the Court may make a Bankruptcy Order on such proof of the statements in the Application as the Court shall think sufficient.