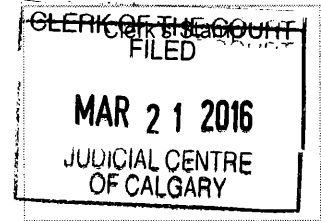


COURT FILE NUMBER 1601-03126
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF CALLIDUS CAPITAL CORPORATION
DEFENDANTS ALKEN BASIN DRILLING LTD.
DOCUMENT **STATEMENT OF CLAIM**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
LAWSON LUNDELL LLP, Barristers & Solicitors
3700, 205 - 5th Avenue S.W.
Calgary, Alberta T2P 2V7
Attention: William L. Roberts / Sarah J. Nelligan
Telephone: (403) 269-6900
Fax: (403) 269-9494

NOTICE TO DEFENDANT

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

The Parties

1. The Plaintiff Callidus Capital Corporation ("**Callidus**") is a body corporate and is duly authorized to carry on business in the Province of Alberta, having an address for service located at Suite 3700, 205 - 5th Avenue S.W., Calgary, Alberta, T2P 2V7.
2. The Defendant Alken Basin Drilling Ltd. ("**Alken**") is a body corporate and is duly authorized to carry on business in the Province of Alberta, having a registered office address at Box 47, Bentley, Alberta, T0C 0J0.
3. Alken is in the business of providing water and drilling services, including the drilling of industrial and domestic water wells in Southern Alberta, drilling services related to coring projects near Ft. McMurray and the resale and installation of water well related products, such as pumps.

4. Callidus is in the business of, amongst other things, lending to businesses that for various reasons are unable to secure or maintain traditional bank financing. It is in that capacity that Callidus is the primary secured lender to Alken.

The Credit Agreement

5. By an agreement made in writing and dated March 31, 2014 (the “**Credit Agreement**”) Callidus granted the following credit facilities to Alken having an aggregate credit limit of \$28,500,000, subject to the conditions contained therein:
 - a. A revolving demand loan in the amount of up to \$5,000,000 (“**Facility A**”);
 - b. A non-revolving demand loan in the amount of the lesser of \$19,000,000 and 90% of the forced liquidation value of Alken’s unencumbered machinery and equipment and related parts inventory (“**Facility B**”); and
 - c. A non-revolving demand loan in the amount of the lesser of \$4,000,000 and 75% of the commercial market value of the certain lands as defined in the Credit Agreement (“**Facility C**”).
6. Express terms of the Credit Agreement include:
 - a. All amounts due and owing pursuant to the Credit Agreement are payable on demand;
 - b. interest on outstanding amounts, including principal, interest, costs and expenses, accrues at the rate of 21% per annum calculated and compounded daily; and
 - c. all legal and professional fees and disbursements and all expenses with respect to the Credit Agreement, including the enforcement of Callidus’s and remedies pursuant to the Credit Agreement are to be borne by Alken.

The Security

7. Pursuant to a debenture agreement (the “**Debenture**”) made in writing and dated March 31, 2014, as security for amounts advanced by Callidus, Alken granted Callidus a first ranking security interest against all of Alken’s assets, undertaking and property, real and personal, tangible and intangible, whether now owned or hereafter acquired, including:
 - a. as and by way of a fixed and specific mortgage, transfer, grant, conveyance and charge, all of the estate, right, title and interest of Alken in certain real property;
 - b. as and by way of a fixed and specific assignment, mortgage and charge, all of Alken’s right, title and interest in and to all leasehold property and the leases in respect thereof and the leasehold estates thereby created and any renewals thereof, and all and singular the tenements, hereditaments, easements, rights, privileges and appurtenances of such leasehold estates at any time and from time to time belonging or in any way appertaining thereto;

- c. as and by way of a fixed and specific mortgage, transfer, grant, conveyance, charge and assignment, all Alken's right, title and interest in and to the Rents;
- d. as and by way of a fixed and specific security interest and charge all of its present and after-acquired personal property of whatsoever nature and kind and wheresoever situate, and all proceeds thereof and therefrom, including all present and future inventory, accounts, all goods, other than inventory, including without limitation, all machinery, tools, fixtures, furniture, furnishings, vessels, plant, serial numbered goods, and other tangible personal property not constituting Inventory and all parts, components, attachments, accessories, accessions, replacements, substitutions, additions, and improvements to any of the foregoing, all chattel paper, all documents of title, including all warehouse receipts and bills of lading, whether negotiable or not, all investment property, intangibles including all intellectual property, contracts, permits and any other contractual rights, licences, goodwill and other industrial property, money, all books, papers, books of account, invoices, documents, electronically stored data, the medium of storage and programs with respect to access thereto, all replacements of, substitutions for and increases, additions and accessions to any of the property, all proceeds of the property, including all personal property in any form or fixtures or crops derived directly or indirectly from any dealing with such property, or any right to an insurance payment or any other payment as indemnity or compensation for the loss of or damage to such property or any payment made in total or partial discharge or redemption of any Intangible, investment property or chattel paper; and
- e. as and by way of a floating charge all of its assets, effects, property and undertaking, real and personal, whether presently owned or held or hereafter acquired or held or to which it is now or hereafter becomes otherwise entitled, and of whatsoever nature and kind and wheresoever situate, all to the extent that any such asset, effect, property or undertaking is not effectively and validly charged by the fixed and specific mortgages, pledges, charges and security interests created by the Debenture

(collectively, the "**Charged Property**").

8. Express terms of the Debenture include:

- a. The security granted shall become enforceable and the floating charge created pursuant to the Debenture shall become crystalized and constitute a fixed charge on all of the Charged Property upon the occurrence of an event of default or the occurrence of any other event which by operation of law would result in the floating charge hereof becoming a fixed charge;
- b. Callidus's remedies to enforce the security include, but are not limited to:
 - i. the institution in any court of competent jurisdiction of proceedings for the foreclosure or sale of the Charged Property of any portion thereof;

- ii. the appointment by instrument in writing of a Receiver or agent of the Charged Property and the removal or replacement of such Receiver or agent from time to time; and
 - iii. the commencement of proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Charged Property;
- c. Any Receiver appointed by Callidus shall be vested with the rights and remedies which could be exercised by Callidus in respect of Alken or the Charged Property and such other powers and discretions as are granted in the instrument of appointment and any instrument or instruments supplemental thereto. Callidus shall have the sole and unfettered discretion with respect to the appointment of the Receiver and similar discretion with respect to the appointment of any other Receiver in his place and as to the remuneration of any such Receiver or replacement Receiver;
- d. Any Receiver appointed by Callidus shall act as agent for Callidus for the purposes of taking possession of the Charged Property, but otherwise and for all other purposes (except as provided below and with respect to its discharge) shall constitute the agent for Alken. The Receiver may sell, lease or otherwise dispose of the Charged Property as agent for Alken or as agent for Callidus (but in all cases shall take direction from Callidus) as Callidus may determine in its sole and unfettered discretion. Alken shall ratify and confirm all actions of the Receiver acting as agent for Alken and release and indemnify the Receiver in respect of all such actions;
- e. Callidus shall not incur liability to the Receiver, Alken or any other person in appointing or refraining from appointing any Receiver and shall not be responsible for or incur any liability in respect of any act, omission, misconduct or negligence of any Receiver;
- f. Alken irrevocably submits to the non-exclusive jurisdiction of any Alberta court of competent jurisdiction sitting in Calgary, Alberta, Canada in any action or proceeding arising out of or relating to this Debenture;
- g. All monies from time to time received by Callidus or a Receiver may be applied as follows:
- i. first, in payment of the fees and disbursements charged by the Receiver (if any) in connection with the enforcement of this Debenture;
 - ii. second, in payment of all expenses made or incurred by Callidus, including all legal fees and expenses determined on a solicitor and his or her own client basis, or the Receiver in connection with the management, operation, construction, repair, alteration or extension of the Charged Property, including amounts paid to any person holding security in respect of the Charged Property in priority to the Debenture, and all taxes, insurance premiums and

every other expenditure made or incurred in respect of the Charged Property or any part thereof; and

- iii. third, in payment to Callidus of monies payable pursuant to the Debenture and to Callidus in respect of Alken's obligations to Callidus.

The Default

9. By an engagement letter dated December 1, 2014, Range Corporate Advisors Inc. ("**Range Advisors**") was engaged by Alken as a corporate advisor to Alken. Range Advisors is a corporate advisory firm that specializes in the turnaround, restructuring, refinance, and sale of troubled businesses. Scott Sinclair ("**Sinclair**") was the Range Advisors' Managing Director assigned to assist Alken.
10. Range Advisors' engagement was to assist Alken in connection with, amongst other things, considering, analyzing and pursuing various alternatives to:
 - a. manage and improve Alken's short term liquidity;
 - b. turnaround its financial and operating performance; and
 - c. payout its indebtedness to Callidus.
11. As engaged to do so, Range Advisors attempted to initiate the turnaround plan devised by Sinclair for Alken which involved cutting expenses, selling excess and redundant capital assets to reduce debt, eliminating related party transactions and improving other internal control related issues, and ultimately refinancing or selling the right sized business for the benefit of all stakeholders.
12. As at March 16, 2015, Alken was indebted to the Plaintiff pursuant to the Credit Agreement for the amount of \$23,292,514.02, plus interest at the rate of 21% per annum calculated and compounded daily, costs, and fees thereafter.
13. By letter dated March 18, 2015, the Plaintiff made demand upon Alken for payment of these amounts but Alken has refused or neglected to pay.
14. On April 21, 2015, Sinclair was appointed to act as President of Alken following the resignation of the company's prior President and majority shareholder, Kevin Baumann ("**Baumann**"). The appointment was executed by Baumann in his capacity as Director of Alken.
15. On June 2, 2015, Sinclair was appointed Director of Alken following the resignation of Baumann from the Board of Directors.

16. As at December 31, 2015, Alken remained indebted to Callidus in the total sum of \$27,089,600.99, as follows:

Facility A	\$7,830,731.06
Facility B	\$14,103,331.10
Facility C	\$4,890,538.83
Facility C fee	\$265,000.00
TOTAL	\$27,089,600.99

17. By letter dated February 1, 2016, the Plaintiff made further demand upon Alken for payment of the above amounts but Alken has refused or neglected to pay.

Remedy Sought:

18. Judgment against Alken in the amount of \$27,089,600.99 as at December 31, 2015 plus interest from and after January 1, 2016 to the date of payment or judgment at the rate of 21% per annum, calculated daily and compounded monthly, or, in the alternative, interest pursuant to the *Judgment Interest Act*, RSA 2000, c J-1 and amendments thereto.
19. A declaration that the Credit Agreement and Debenture are in default.
20. A declaration that under the Debenture, Callidus is entitled to a fixed and specific charge upon the Charged Property.
21. An inquiry as to what other charges, and their respective priorities, affect the Charged Property charged by the Debenture and in whom and of what part thereof the same are vested.
22. An accounting as to what is respectively due to such other chargeholders.
23. An inquiry as to what other debts and liabilities there are, and the amounts thereof, of Alken, by virtue of any statute, ordinance or municipal regulation payable out of the Charged Property comprised in or subject to the charge created by the Debenture in priority to the monies secured thereby.
24. An Order appointing MNP Ltd. as Receiver and/or Receiver-Manager of the property, rights, assets, businesses and undertakings of Alken, charged by the Debenture with all proper powers and authorities including the power to sell or otherwise dispose of the same.
25. Costs pursuant to contractually agreed upon rates as set out in the Credit Agreement and Debenture, being costs on a solicitor and own client basis.
26. Such further and other relief as this Honourable Court may deem fit.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your Statement of Defence or a Demand for Notice on the Plaintiff's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the Plaintiff against you.