

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 1:13-cv-01036-LY
	§	
ROBERT A. HELMS, ET AL.,	§	
<i>Defendants,</i>	§	
	§	
and	§	
	§	
WILLIAM L. BARLOW AND GLOBAL CAPITAL	§	
VENTURES, LLC,	§	
<i>Relief Defendants, solely for the</i>	§	
<i>purposes of equitable relief.</i>	§	

**RECEIVER’S SECOND STATUS REPORT REGARDING
THE SALE OF RECEIVERSHIP ASSET, THE “OZONA INTERESTS”**

Thomas L. Taylor III (“Receiver”), Court-appointed receiver in the above-styled enforcement action for the Defendants and all entities they own or control, files this Second Status Report with respect to the pending sale of the “Ozona Interests,” which the Receiver has asked this Court to confirm through his previously filed Motion to Confirm Sale of Certain Oil and Gas Interests of Receivership Estate (Doc. 110) (“Motion to Confirm”).¹

A. Background

The Receiver previously filed a Status Report with respect to the sale of the Ozona Interests on December 19, 2014 (Doc. 159) (the “First Ozona Status Report”). As stated in the First Ozona Status Report, the Ozona Interests were sold by online auction through EnergyNet.com, Inc. (“EnergyNet”) pursuant to this Court’s May 27, 2014 Order (1) Granting

¹ The term “Ozona Interests” has the same meaning ascribed to it in the Motion to Confirm.

Receiver Authority to Sell Oil and Gas Interests; (2) Approving Engagement of Sales and Marketing Firm; and (3) Approving Sales Procedures (Doc. 77) (the “Sales Order”). At the close of the EnergyNet auction, JAL Interests, LLC (the “Buyer”) was declared the winning bidder upon its bid in the amount of \$1,210,000. This winning bid was 21% higher than the minimum bid reserve price of \$1,000,000 set by the Receiver upon the advice of EnergyNet personnel and third-party oil and gas engineering analyst Scott Marshall.²

Following the auction of the Ozona Interests, the Receiver filed his Motion to Confirm. Intervenor Clovis Capital Ventures, LLC (“Clovis”) objected to the confirmation of the sale of the Ozona Interests (Doc. 127-2), asserting that it possesses a valid security interest therein. The Receiver disputes the validity of the purported security interest at issue.³

The Court held a hearing on October 22, 2014 with respect to the Motion to Confirm, the Motion to Reject and other motions. *See* Doc. 145. Recognizing the unpredictable nature of the oil and gas markets and the benefits of a “bird in hand,” the Court suggested that the parties and stake holders agree to the confirmation of the sale of the Ozona Interests as presented in the Motion to Confirm, with the net sale proceeds to be held in trust pending the ultimate determination of the validity of the security interest at issue. *See Exhibit A* hereto, p. 30:13-18. As stated in the First Ozona Status Report, the Receiver transmitted to counsel for Clovis a draft stipulation under which the Receiver and Clovis would stipulate to the sale of the Ozona

² The minimum bid reserve price was calculated based upon 120 months (ten years) of the Ozona Interests’ average cash flow for the preceding 12-month time period. During that time period, crude oil regularly traded above \$100 per barrel. In the subsequent months, crude oil prices have dropped precipitously to under \$60 per barrel.

³ *See* Receiver’s Motion for Entry of an Order (1) Rejecting Secured Claim of Clovis Capital Ventures, LLC; and (2) Authorizing the Sale of Certain Royalty Interests Free and Clear of all Liens, Claims and Encumbrances (Doc. 95) (the “Motion to Reject”); Clovis’ Response in Opposition to Motion to Reject (Doc. 113); Receiver’s Reply in Support of Motion to Reject (Doc. 119); *see also* Receiver’s Reply in Support of Motion to Confirm (Doc. 131).

Interests to the Buyer for \$1,210,000, with the net sale proceeds to be deposited into the Court's registry pending final determination of the validity of Clovis' purported security interest in the Ozona Interests. Clovis and its principals refused to enter into such a stipulation.

B. Communications with Buyer Regarding Re-negotiation of Purchase Price

As the Receiver also previously reported to the Court, the Buyer communicated to the Receiver on December 18, 2014 that it proposed to re-negotiate the purchase price of the Ozona Interests due to the precipitous drop in crude oil prices during the time which has elapsed since the close of the auction on September 11, 2014. The Buyer proposed at that time to reset the purchase price to \$860,000. The Receiver and EnergyNet personnel continued to communicate and negotiate with the Buyer through December and through January 14th in an effort to preserve the transaction's viability until further Order of this Court.

On January 6, 2015, Buyer communicated to the Receiver its position that the "Buyer's Agreement" it executed with EnergyNet permitted Buyer to withdraw its winning bid for the Ozona Interests based upon the passage of time -- specifically that Buyer was permitted to withdraw its winning bid because more than 60 days had passed since the close of the EnergyNet auction and the Court had not confirmed the sale. On January 14, 2015, the Buyer communicated to the Receiver that in light of financial projections employing the latest NYMEX pricing for crude oil and current turbulent market conditions, that it was no longer willing to consummate the sale of the Ozona Interests at all; it purported to withdraw both its \$1,210,000 winning bid and its previously proposed price reduction amount of \$860,000.

In this regard, counsel for the Receiver has communicated to Buyer the Receiver's position that the Buyer's Agreement does not permit Buyer to withdraw its winning bid, which

became final and binding upon the close of the auction and being named the winning bidder by EnergyNet.

Dated: January 15, 2015

Respectfully submitted,

Thomas L. Taylor III, Receiver

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COUNSEL FOR RECEIVER

CERTIFICATE OF SERVICE

On January 15, 2015, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District Court, Western District of Texas, using the CM/ECF electronic filing system. All counsel of record and *pro se* parties have been served electronically via CM/ECF notice, or by other means as listed below consistent with the Federal Rules of Civil Procedure.

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Exhibit A

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SECURITIES AND EXCHANGE) Docket No. A 13-CA-1036 SS
COMMISSION)
)
vs.) Austin, Texas
)
ROBERT A. HELMS, ET AL) October 22, 2014

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE MARK P. LANE

APPEARANCES:

For the Receiver: Mr. Andrew M. Goforth
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Proceedings reported by electrical digital sound recording,
transcript produced by computer.

1 documents. And, again, your Honor, no problem running around and
2 doing that on an expedited basis.

3 THE COURT: You say expedited. What timeframe are you
4 talking about?

5 MR. TERPENING: I would propose three to four months.
6 And I think, you know, if I were the Court, I would structure my
7 analysis of whether to allow three to four months to do that and
8 to a question first of whether you're going to allow that to hold
9 up the sale. And it sounds like the Court's already reached some
10 preliminary thoughts about that.

11 THE COURT: Well, I mean --

12 MR. TERPENING: And then --

13 THE COURT: Yeah. I mean, you haven't persuaded me
14 that the sale process, that there's anything wrong with it at
15 all. It just strikes me there's a way to perhaps authorize the
16 sale, place the funds in trust where they already are, sounds
17 like, until we figure out what to do with regard to Clovis and
18 their perceived interest in that.

19 MR. TERPENING: Here's what worries me about the sale,
20 okay? And, again, I don't think this goes to the underlying
21 merits of the May order. What worries me about the sale is,
22 number one, the Receiver got up and, on one hand, he said if that
23 sale goes forward, no problem, we have \$8 million worth of assets
24 in the pipeline that can be used to make Clovis oil later if
25 Clovis prevails. But then, the Receiver also indicated that the