

No. S075049
Vancouver Registry

In the Supreme Court of British Columbia

Between:

RONALD MARTIN

Plaintiff

and:

SOUTHWESTERN RESOURCES CORP. and JOHN PATERSON

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

THE HONOURABLE) MONDAY, THE 17TH DAY
)
MADAM JUSTICE BROWN) OF NOVEMBER, 2008

ORDER

UPON THE APPLICATION of the plaintiff, Ronald Martin, coming on for hearing at Vancouver, British Columbia on the 17th day of November, 2008, and on hearing J.J. Camp, Q.C., and Reidar M. Mogerman, counsel for the plaintiff and Kieran A.G. Bridge and Tristram J. Mallett counsel for the defendant John Paterson, Jordan Kinghorn, counsel for Margaret Joan Paterson and Rod Talaifar, counsel for the defendant Southwestern Resources Corp. ("SWR") and on reading the following:

- (a) the notice of motion dated November 14, 2008;
- (b) the Settlement Agreement between the parties dated as of September 5, 2008, attached to this Order as "Schedule 1" (the "Settlement Agreement");

- (c) the Reasons for Judgment of Mr. Justice Brockenshire pronounced November 3, 2008 in *Stastny v. Southwestern Resources Corp.*, Ontario Action 07-CV-009525; and
- (d) the affidavits of:
 - (i) Ronald Martin, sworn November 13, 2008;
 - (ii) David Jones, sworn November 14, 2008;
 - (iii) Stephanie Jones, sworn November 14, 2008; and
 - (iv) John G. Paterson, sworn in the Ontario Action on October 23, 2008 and under seal;

AND without any admission of liability on the part of any of the Defendants, all Defendants having denied liability.

AND ON BEING ADVISED that:

- (a) the Plaintiff in this Action (“BC Action”) consents to this Order;
- (b) the Defendants in the BC Action consent to this Order;
- (c) Deloitte & Touche LLP consents to being appointed Administrator;
- (d) Reva E. Devins consents to being appointed Referee; and
- (e) Howie & Partners have received no written objections to the proposed approval and implementation of the Settlement Agreement.

1. THIS COURT ORDERS THAT for the purposes of this Order, the definitions in the Settlement Agreement apply to and are incorporated into this Order provided however that the following four definitions are amended to read as:

- (a) "Claims Bar Deadline" means June 1, 2009 at 5:00 p.m. eastern time;
- (b) "Opt-Out Deadline" means February 5, 2009 at 5:00 p.m. eastern time;
- (c) "Releasees" means Joan, Joan's children and her sisters, Paterson and SWR, Affiliated Defendants, Global Gold and Insurers and their respective past and present directors, officers, employees, trustees, servants, consultants, underwriters, advisors, representatives, successors, assigns and the heirs, executors, administrators, successors and assigns of Paterson and Joan; and
- (d) "Settlement Amount" means \$15,527,500, inclusive of the Administration Expenses.

2. THIS COURT ORDERS that:

- (a) the BC Action be and is hereby certified as a class proceeding;
- (b) the BC Class is defined as:

all persons resident in British Columbia who acquired securities of SWR during the Class Period, provided that if the person acquired SWR securities in the period from December 3, 2002 to June 19, 2007, the person held some or all of those securities at the close of trading on the Toronto Stock Exchange ("TSX") on June 19, 2007, and if the person acquired SWR securities in the period from June 20, 2007 to July 18, 2007, the person held some or all of those securities at the close of trading on the TSX on July 18, 2007 and specifically excluding Ontario Class Members, Quebec Class Members, and Excluded Persons as those terms are described in the Settlement Agreement.

- (c) Ronald Martin is hereby appointed as the representative plaintiff of the BC Class; and
- (d) the common issue is defined as follows:

Did the Defendants, or either of them, misrepresent the results of SWR's Boka exploration activities from December 3, 2002 through July 18, 2007.

3. THIS COURT ORDERS that the proposed settlement of the BC Action, in conjunction with the Ontario Action and the Quebec Action, for \$15,527,500 is fair and reasonable and in the best interests of the BC Class Members and is hereby approved.
4. THIS COURT ORDERS that the Settlement Agreement without schedules "A" and "B", attached as Schedule 1 to this Order, and the Plan which is attached as "Schedule C" to the Settlement Agreement, are incorporated by reference into this Order and are hereby approved and shall be implemented in accordance with their terms.
5. THIS COURT DECLARES that the Settlement Amount of \$15,527,500 has been paid in accordance with the terms of the Settlement Agreement.
6. THIS COURT ORDERS that Deloitte & Touche LLP be and is hereby appointed, until further order of this Court:
 - (a) as the Administrator on the terms and conditions and with the powers, duties and responsibilities set out in the Settlement Agreement and Plan;
and
 - (b) to maintain the Escrow Account and to hold, invest and disburse the Escrow Settlement Amount in accordance with the terms of the Settlement Agreement and Plan;and shall be paid from the Escrow Account an all inclusive fee of \$500,000, payable \$250,000 on the Effective Date and \$50,000 per month thereafter.

7. THIS COURT ORDERS that Reva E. Devins be and is hereby appointed as Referee, until further order of this Court, on the terms and conditions and with the powers, duties and responsibilities set out in the Settlement Agreement and Plan and shall be paid from the Escrow Account a maximum fee of \$25,000.

8. THIS COURT ORDERS that the BC Class Members shall be given notice of the certification of the BC Action as a class proceeding, the approval of the Settlement Agreement and the Plan, the Opt-Out Deadline and the Claims Bar Deadline substantially in the form of the notice attached as "Schedule 2" to this Order and substantially in the following manner:
 - (a) by Class Counsel causing the notice to be published on at least $\frac{1}{4}$ of a page, once, in the Newspapers;
 - (b) by the Administrator posting the notice on the website www.southwesternclassaction.com;
 - (c) by Class Counsel releasing the notice on the electronic distribution service Marketwire in such form as is acceptable to that service;
 - (d) by Class Counsel, with the assistance of SWR, directing Broadridge to send the notice to all brokerage firms in Canada requesting that the brokerage firms send to Broadridge the names and addresses of all persons identified by the brokerage firms as having a beneficial interest in the Shares as of June 19, 2007 and as of July 18, 2007 and, then, by Broadridge sending the notice to the persons so identified;
 - (e) by Class Counsel mailing or emailing the notice to those persons whom Computershare Limited identified as being registered holders of Shares as of June 19 and as of July 18, 2007; and

- (f) by Class Counsel mailing or emailing the notice to those persons who Class Counsel are able to identify as having contacted them.
9. THIS COURT ORDERS AND DECLARES that the notice to the BC Class Members provided for in this Order satisfies the requirements of section 19 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 and is the best notice practicable under the circumstances.
10. THIS COURT ORDERS that after publication and distribution of the notice to the BC Class Members as directed in paragraph 8 of this Order, Camp Fiorante Matthews shall file with this Court an affidavit confirming the publication and distribution of the notice in accordance with this Order.
11. THIS COURT ORDERS that the Opt-Out Form, generally in accordance with the form attached as "Schedule 3" to this Order, is hereby approved.
12. THIS COURT ORDERS that:
- (a) each BC Class Member who wishes to opt-out must submit, by mail, email or courier, a properly completed Opt-Out Form and all required supporting documents to the Administrator by the Opt-Out Deadline which is February 5, 2009 at 5:00 p.m. eastern time;
 - (b) if an BC Class Member fails to submit a properly completed Opt-Out Form and/or all required supporting documents to the Administrator by

the Opt-Out Deadline, the BC Class Member shall be deemed not to have opted out of the BC Action; and

(c) the Opt-Out Deadline shall not be extended unless ordered by this Court.

13. THIS COURT ORDERS AND DECLARES that this Order, including the Plan and the Settlement Agreement, are binding upon each BC Class Member who does not opt out of the BC Action in accordance with the terms of this Order, including those persons who are minors or are mentally incapable, and the requirements of Rule 6 of the *Rules of Court* are dispensed with. For greater certainty, each BC Class Member who does not opt out in accordance with the terms of this Order and the Plan is bound by the Order, whether or not such person submits a claim to the Administrator in accordance with the terms of this Order, whether or not such person is determined to be eligible to receive a distribution, and whether the claim is accepted by the Administrator in whole or in part.
14. THIS COURT ORDERS that, on or before February 19, 2009, the Administrator shall report to the Court, the Defendants and Class Counsel the names of those BC Class Members, if any, who have opted out of the BC Action, the number of Eligible Shares held by each BC Class Member who opted out, and a summary of the information delivered by each BC Class Member who opted out.
15. THIS COURT ORDERS that the Opt-Out Threshold specified in the Collateral Agreement held in confidence by Class Counsel be and is hereby approved.

16. THIS COURT ORDERS that, if the Opt-Out Threshold is exceeded, either Defendant may elect to terminate the Settlement Agreement and Plan and set aside this Order, provided that he or it gives written notice of the election to terminate to the Plaintiff within ten (10) days after they receive the report required by paragraph 14 of this Order.

17. THIS COURT ORDERS AND DECLARES that each Releasor who is a BC Class Member has released and shall be conclusively deemed to have fully, finally and forever released the Releasees from any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, Administration Expenses, penalties, Class Counsel Fees and lawyers' fees, known or unknown, suspected or unsuspected, in law, under statute or in equity, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees, relating in any way to the purchase, sale, pricing, marketing or distributing of Shares, or relating to any conduct alleged (or which could have been alleged) in the BC Action, including, without limitation, any such claims which have been asserted, would have been asserted or could have been asserted, whether in Canada or elsewhere, as a result of the purchase of Shares.

18. THIS COURT ORDERS that the Releasors, who are BC Class Members, and Class Counsel shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

19. THIS COURT ORDERS that the Claim Form, generally in accordance with the form attached as "Schedule 4" to this Order, is hereby approved provided however that, in addition, the Administrator may implement a procedure permitting brokers to make claims on behalf of their clients if the brokers are authorized to do so.

20. THIS COURT ORDERS that to participate in this Settlement, a BC Class Member must file a Claim Form with the Administrator on or before June 1, 2009 at 5:00 pm eastern time unless this Court orders otherwise, or unless this Court extends the Claims Bar Deadline by further order.

21. THIS COURT ORDERS that the representative plaintiff, Class Counsel, the Referee or the Administrator may apply to the Court for directions in respect of the implementation and/or the administration of the Plan or relating to any other matter.

22. THIS COURT ORDERS that any one of the Plaintiff or the Defendants may apply to the Court for directions in respect of the termination of the settlement or any matter relating thereto.

23. THIS COURT ORDERS that no person may bring any action or take any proceedings against the Administrator, the Referee, or their employees, agents, partners, associates, representatives, successors or assigns for any matter in any way relating to the administration of the Plan or the implementation of this Order except with leave of this Court.

24. THIS COURT ORDERS that, in accordance with section 38 of the *Class Proceedings Act*, RSBC 1996 CHAPTER 50:

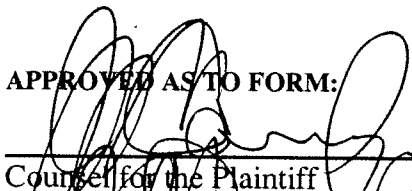
- (a) the fees of BC Class Counsel are approved at \$300,000.00 plus GST of \$15,000.00 and PST of \$21,000.00; and
- (b) BC Class Counsel's disbursements and taxes are hereby approved on condition that they shall not exceed \$3,000.00.

BY THE COURT

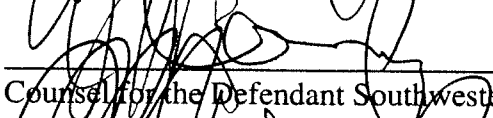


DISTRICT REGISTRAR

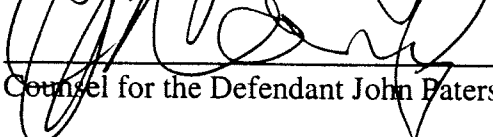
APPROVED AS TO FORM:



Counsel for the Plaintiff



Counsel for the Defendant Southwestern Resources Corp.



Counsel for the Defendant John Paterson

- By permission

- By permission