

**IN THE BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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In re:	)	
	)	Chapter 11
	)	
COBALT INTERNATIONAL ENERGY, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 17-36709 (MI)
	)	
Reorganized Debtors.	)	(Jointly Administered)
	)	
	)	

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**MOTION OF NADER TAVAKOLI, ACTING SOLELY AS PLAN ADMINISTRATOR,  
FOR ENTRY OF AN ORDER AUTHORIZING PLAN ADMINISTRATOR TO  
TRANSFER FUNDS IN FURTHERANCE OF THE PLAN**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.**

Nader Tavakoli, solely in his capacity as Lead Member and Chairman of the Plan Administrator Committee of Cobalt International Energy, Inc., *et al.* (the “Plan Administrator”), files this *Motion of Nader Tavakoli, Acting Solely as Plan Administrator, for Entry of an Order*

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<sup>1</sup> The Reorganized Debtors in the Chapter 11 Cases, along with the last four digits of each Reorganized Debtor’s federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316).



*Authorizing Plan Administrator to Transfer Funds in Furtherance of the Plan* (the “Motion”), and in support thereof, respectfully moves as follows:

### **PRELIMINARY STATEMENT**

1. By this Motion, the Plan Administrator requests authorization to transfer \$120 million held in the Segregated Account to the Plan Administrator Account.<sup>2</sup>

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2), and this Court has exclusive jurisdiction over the Confirmation Order (defined below). *See* Confirmation Order ¶ 121. Venue is also proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This Court retains post-confirmation jurisdiction to interpret, implement, and enforce its own orders, including the Confirmation Order and the Sonangol Settlement Order (defined below). *See* Confirmation Order ¶ 121; Plan § XI(17); Sonangol Settlement Order ¶ 13.

### **BACKGROUND**

4. On December 14, 2017, Cobalt International Energy Inc. (“Cobalt Inc.”) and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101 *et seq.* in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

5. During these chapter 11 cases, but prior to confirmation of the Plan, Cobalt Inc. resolved its three-year dispute with Sociedade Nacional de Combustíveis de Angola—Empresa Pública and Sonangol Pesquisa e Produção, S.A. (collectively, “Sonangol”) (the “Sonangol

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<sup>2</sup> Unless otherwise indicated, all capitalized terms in this Motion shall have the same meaning as ascribed to them in the *Order (I) Confirming the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates and (II) Approving the Sale Transaction* [Docket No. 784] (the “Confirmation Order”), including the *Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates* [Docket No. 784-1] (the “Plan”) attached to the Confirmation Order as Exhibit A.

Settlement”). The settlement approved by the Court provided for Sonangol to make a settlement payment of \$500 million in two installments (together with interest that has accrued on the settlement proceeds, the “Sonangol Settlement Proceeds”), each of which has occurred. *See* Order approving the Sonangol Settlement [Docket No. 300] (the “Sonangol Settlement Order”).

6. Pursuant to the Sonangol Settlement Order, the Sonangol Settlement Proceeds were deposited into a segregated depository account (the “Segregated Account”). *See* Sonangol Settlement Order ¶ 9 (“No distributions or transfers shall be made from the segregated depository account absent further order of [the] Court.”).<sup>3</sup>

7. The Plan Administrator filed two prior motions to transfer and disburse funds from the Segregated Account, which were granted by this Court on September 25, 2018 [Docket No. 1077] and November 1, 2018 [Docket No. 1157], respectively.

8. Approximately \$123,759,375.07 remains in the Segregated Account and may only be disbursed upon further order of this Court. *See* Sonangol Settlement Order ¶ 9, and Docket Nos. 1077 and 1157.

9. The Sonangol Settlement Proceeds constitute Net Cash<sup>4</sup> under the Plan. “Net Cash” means:

The Debtors’ Cash or Cash equivalents on hand (including any Cash, securities, other Sale Transaction Proceeds, any Cash proceeds of the collateral of the First Lien Noteholders and Second Lien Noteholders, or any ***Cash proceeds from the Sonangol Settlement ultimately received by the Debtors***) less any Cash or Cash equivalents to be paid or reserved pursuant to and in accordance with the Plan on account of the Wind Down Budget or otherwise, but excluding Cash recoveries (if any) on account of unencumbered assets (if any) not subject to adequate protection claims (if any) under the Cash Collateral Order.

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<sup>3</sup> Under the settlement, Sonangol assumed all liabilities and obligations, whether known or unknown, relating to Cobalt International Energy L.P.’s (“Cobalt L.P.”) Angolan assets, regardless of when such liabilities or obligations arose. *See* Settlement Implementation Agreement [Docket No. 988-1] ¶ 5.

<sup>4</sup> The Plan Administrator maintains an account to administer funds, including Net Cash (the “Plan Administrator Account”).

See Plan § I.A.85 (emphasis added).

10. Under the Plan, Net Cash is used first to satisfy the First Lien Notes Claims, Allowed Administrative Claims, and Allowed Fee Claims, and to fund the Subsidiary GUC Settlement Reserve. See Plan §§ I.A.85, I.A.126, I.A.135, I.A.136, III.B.3. The First Lien Notes Claims, Allowed Administrative Claims, and Allowed Fee Claims have been fully satisfied or otherwise reserved for, and the Subsidiary GUC Settlement Reserve has been fully funded.

11. The next stakeholders authorized to receive Net Cash under the Plan are the Second Lien Notes Secured Claims (Class 4) as to Net Cash subject to their liens. See Plan §§ I.A.85, I.A.126, III.B.4.

12. The Sonangol Settlement Proceeds are attributable to Cobalt L.P.'s relationship with the Non-Debtor Subsidiaries.<sup>5</sup>

13. The Second Lien Noteholders have a second-lien pledge of 65% of Cobalt L.P.'s ownership interests in Cobalt International Energy Overseas Ltd. and a 100% second-lien pledge on intercompany claims. See Disclosure Statement at p. 30, §§ VI.D.1, VI.D.2. As a result, the Sonangol Settlement Proceeds received by Cobalt L.P. are subject to the Second Lien Noteholders' liens and thus constitute Net Cash available for distribution to U.S. Bank, Indenture Trustee for the holders of Second Lien Notes Secured Claims.

14. After the First Lien Notes Claims, Allowed Administrative Claims, and Allowed Fee Claims have been fully satisfied (or otherwise reserved for), and the Subsidiary GUC Settlement Reserve has been fully funded, any Net Cash that is *unencumbered* is made available for distribution to Class 5 creditors, as set forth in the Plan. See Plan §§ I.A.85, I.A.134, III.B.5.

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<sup>5</sup> See Declaration of David D. Powell, Chief Financial Officer of Cobalt International Energy, Inc., in Support of Chapter 11 Petitions and First Day Motions [Docket No. 16] ¶ 24; see also Disclosure Statement for the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates [Docket No. 562] (the "Disclosure Statement") at p. 30 n. 14.

15. Specifically, the unencumbered Net Cash is considered part of the “Subsidiary General Unsecured Claims Recovery,” from which holders of the Second Lien Notes Deficiency Claims and holders of any Intercompany Claims against Cobalt L.P. share Pro Rata.

16. Whitton Petroleum Services Limited has dismissed any and all of its claims against the Debtors and is no longer a creditor entitled to or seeking a distribution in these chapter 11 proceedings. *See* Order [Docket No. 1157] ¶¶ 2-4. Thus, the Second Lien Noteholders are the sole and only remaining Class 5 creditors and are entitled to receive Net Cash that is unencumbered.

### **ARGUMENT AND AUTHORITIES**

17. The Plan Administrator seeks authority to transfer \$120 million of the remaining Sonangol Settlement Proceeds from the Segregated Account to the Plan Administrator Account.

18. The \$120 million transfer from the Segregated Account to the Plan Administrator Account will not prejudice other stakeholders, because approximately \$3,759,375.07 of the remaining Sonangol Settlement Proceeds (plus any accruing interest) are well in excess of what is required for the claim asserted by Halliburton Atlantic Limited and Halliburton Overseas Limited-Sucursal de Angola (collectively, the “Halliburton Entities”) against certain Non-Debtor Subsidiaries and/or any potential non-debtor claims against the Non-Debtor Subsidiaries.<sup>6</sup>

19. Nothing herein seeks to affect any other party’s rights with respect to the validity of any claims asserted against the Non-Debtor Subsidiaries and/or the remaining Sonangol

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<sup>6</sup> The Halliburton Entities contend that as of the Petition Date, they are owed the principal sum of a \$1,116.091.93, plus interest, by certain Non-Debtor Subsidiaries for outstanding invoices under various service agreements entered between them. On September 11, 2018, the Halliburton Entities initiated arbitration proceedings against certain of the Non-Debtor Subsidiaries. The Plan Administrator categorically denies that the Halliburton Entities are owed anything. In fact, on a net basis, the Halliburton Entities owe over \$1.6 million to the Non-Debtor Subsidiaries. Presently, the Plan Administrator is aware of no other asserted, or potential, claim to the remaining Sonangol Settlement Proceeds outside of this claim by the Halliburton Entities.

Settlement Proceeds (of approximately \$3,759,375.07) after the \$120 million is transferred out of the Segregated Account.

20. Accordingly, the Court should authorize the Plan Administrator to transfer \$120 million of the Sonangol Settlement Proceeds being held in the Segregated Account to the Plan Administrator Account.

**NOTICE**

21. The Plan Administrator will provide notice of this Motion to: (a) the Office of the United States Trustee for the Southern District of Texas; (b) the Halliburton Entities; (c) the Second Lien Indenture Trustee; and (d) any party that has requested post-Effective Date notice pursuant to Bankruptcy Rule 2002. The Plan Administrator submits that, in light of the nature of the relief requested, no other or further notice need be given.

**WHEREFORE**, for the reasons stated herein, the Plan Administrator respectfully requests that the Bankruptcy Court enter an Order in substantially the same form attached hereto as Exhibit A granting the Motion and such other and further relief as the Court deems just and equitable.

Respectfully submitted this 21st day of November, 2018.

**GREENBERG TRAURIG, LLP**

/s/ Shari L. Heyen

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***Counsel for Nader Tavakoli, solely in his capacity as Lead Member and Chairman of the Plan Administrator Committee of Cobalt International Energy, Inc., et al.***

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion has been served upon the parties eligible to receive notice through the Court's ECF facilities by electronic mail on November 21, 2018.

/s/ David R. Eastlake

David R. Eastlake

**EXHIBIT A**

**Proposed Order**



**IN THE BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
	)	
COBALT INTERNATIONAL ENERGY, INC., <i>et al.</i> <sup>1</sup>	)	Case No. 17-36709 (MI)
	)	
Reorganized Debtors.	)	(Jointly Administered)
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**ORDER GRANTING MOTION OF NADER TAVAKOLI, ACTING SOLELY AS PLAN  
ADMINISTRATOR, FOR ENTRY OF AN ORDER AUTHORIZING PLAN  
ADMINISTRATOR TO TRANSFER FUNDS IN FURTHERANCE OF THE PLAN**

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[Relates to Docket No. \_\_\_\_]

Upon the *Motion of Nader Tavakoli, Acting Solely as Plan Administrator, for Entry of an Order Authorizing Plan Administrator to Transfer Funds in Furtherance of the Plan* (the “Motion”);<sup>2</sup> and upon consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157; and this Court having jurisdiction pursuant to 28 U.S.C. § 1334; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other or further notice need be provided; and the Court having determined that there exists just cause for the relief granted herein; and upon the record of the hearing before the Court, and

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<sup>1</sup> The Reorganized Debtors in the Chapter 11 Cases, along with the last four digits of each Reorganized Debtor’s federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316).

<sup>2</sup> Unless otherwise indicated, all capitalized terms in this Order shall have the same meaning as ascribed to them in the Motion.

any responses to the Motion having been withdrawn, resolved, or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED that:

1. The Motion is GRANTED.
2. The Plan Administrator is authorized to transfer \$120,000,000.00 of the Sonangol Settlement Proceeds in the Segregated Account to the Plan Administrator Account.
3. The balance remaining in the Segregated Account plus accrued interest shall remain in the Segregated Account and may only be transferred or distributed by the Plan Administrator pursuant to further Order of this Court.
4. This Order shall not alter, amend, modify, or otherwise affect the rights and obligations of any other party in interest under the Plan.
5. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: \_\_\_\_\_, 2018.  
Houston, Texas

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THE HONORABLE MARVIN ISGUR  
UNITED STATES BANKRUPTCY JUDGE