



The debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned jointly administered chapter 11 case, and as plaintiffs in the above-captioned adversary proceeding, hereby allege for their Complaint, upon knowledge of their own acts and upon information and belief as to all other matters, as follows.

### NATURE OF THE ACTION

1. This is an adversary proceeding filed contemporaneously with the Debtors’ voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors in this matter seek declaratory or, in the alternative, injunctive relief to stay or enjoin the continued prosecution of a class action lawsuit brought in the United States District Court for the Southern District of Texas against the Debtor Cobalt International Energy, Inc. (“Cobalt”) and 56 Non-Debtor Defendants, including current and former directors and officers of Cobalt, for alleged violations of the federal securities laws (the “Securities Litigation”).<sup>2</sup>

2. By virtue of the chapter 11 filing, the Securities Litigation is subject to the automatic stay under 11 U.S.C. § 362. Extending the automatic stay to the Non-Debtor Defendants is critical, as the continued prosecution of the Securities Litigation would harm the Debtors’ estate and interfere with the Debtors’ ability to navigate successfully and efficiently the proposed sale process and these bankruptcy proceedings.

3. *First*, allowing the Securities Litigation to proceed would expose Debtor Cobalt to liabilities under its indemnification obligations. Cobalt is obligated to indemnify almost all of the 56 Non-Debtor Defendants in the Securities Litigation, including for their attorneys’ fees and defense costs. These obligations not only render judgments against the indemnified Non-Debtor

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<sup>2</sup> Joseph Bryant, James Farnsworth, John Wilkerson, the so-called Controlling Entity Defendants, the so-called Director Defendants, and the so-called Underwriter Defendants are collectively referred to in this Complaint as the “Non-Debtor Defendants.” See also *infra* notes 3–5.

Defendants a judgment against Debtor Cobalt, but also mean that the continuation of the Securities Litigation and related incurrence of attorneys' fees by the indemnified Non-Debtor Defendants will deplete the assets available for potential creditor distributions. The potential claims under the indemnities are significant. For instance, for November 2017 alone, the Debtors incurred over \$2.5 million. Although these indemnity demands comprise prepetition claims, they potentially dilute ultimate creditor recoveries every day.

4. **Second**, if the Securities Litigation continues against the Non-Debtor Defendants, it will distract the Debtors' current directors and officers from their responsibilities to manage the proposed sale process, by virtue of the Securities Litigation Plaintiffs' discovery of them and through their ongoing participation in the defense of the claims against them individually. In addition to considering the strategic and tactical impact of each step in the proceedings, certain of the Debtors' directors and officers have been or may be deposed or called upon to testify before the District Court. In fact, the Securities Litigation Plaintiffs are seeking the depositions of Debtor Cobalt's General Counsel, and its Senior Vice President **leading** the proposed sale process. All of these actions threaten to distract the Debtors' directors and management at a time when their focus on the Debtors' sale and restructuring process is paramount.

5. **Third**, allowing the Securities Litigation to advance against the Non-Debtor Defendants without Debtor Cobalt's participation risks prejudicing Cobalt's opportunity and ability to defend itself against the claims that have been asserted against it in the Securities Litigation. Should the Securities Litigation proceed without Cobalt (while Cobalt is appropriately protected by the automatic stay), and should Cobalt thus miss the chance to participate in and contest items of discovery and fact development, Cobalt may be prejudiced irreparably, which prejudice will inure to the detriment of the Debtors' estate and all of their stakeholders.

6. The Debtors thus file this Complaint and respectfully move the Court to extend the automatic stay to cover the Non-Debtor Defendants in the Securities Litigation until the completion of the Debtors' sale and restructuring process. In the alternative, the Debtors move this Court to enter an injunction barring the Securities Litigation Plaintiffs from pursuing the Securities Litigation for the same period.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the parties and the subject matter of this proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

8. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. § 157(b).

9. Venue of this adversary proceeding is proper pursuant to 28 U.S.C. § 1409.

#### **NATURE OF THE RELIEF REQUESTED**

10. The Debtors seek a declaration that the prosecution of the Securities Litigation against the Non-Debtor Defendants is stayed until completion of the Debtors' sale and restructuring process pursuant to sections 362(a)(1) and (a)(3) of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code") and rule 7001(9) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). In the alternative, the Debtors seek to enjoin prosecution of the Securities Litigation until completion of the Debtors' sale and restructuring process pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 7001(7).

#### **THE PARTIES**

11. Debtor Cobalt is a Delaware corporation with its primary place of business in Texas. It is the direct or indirect owner of the other Debtors. *See supra* note 1.

12. Defendants GAMCO Global Gold, Natural Resources & Income Trust and GAMCO Natural Resources, Gold & Income Trust are closed-end management investment companies headquartered in Rye, New York.

13. Defendant St. Lucie County Fire District Firefighters' Pension Trust Fund is a pension fund headquartered in St. Lucie, Florida.

14. Defendant Fire and Police Retiree Health Care Fund, San Antonio is the plan sponsor for the health plan of retired firefighters and police officers for the city of San Antonio, Texas.

15. Defendant Sjunde AP-Fonden is part of the Swedish national pension system and is located in Stockholm, Sweden.

16. Defendant Universal Investment Gesellschaft m.b.H. is an investment company based in Frankfurt, Germany.

17. Collectively, the Defendants GAMCO Global Gold, Natural Resources & Income Trust, GAMCO Natural Resources, Gold & Income Trust, St. Lucie County Fire District Firefighters' Pension Trust Fund, Fire and Police Retiree Health Care Fund, San Antonio, Sjunde AP-Fonden, and Universal Investment Gesellschaft m.b.H. are referred to herein as the "Securities Litigation Plaintiffs."

### **FACTUAL BACKGROUND**

18. Cobalt is an independent offshore oil and gas exploration and production company with operations in the United States Gulf of Mexico and off the coasts of the Republic of Angola and the Gabonese Republic in West Africa. Cobalt's assets in Angola, and its representations about those assets in public statements, are the subject of the Securities Litigation.

**A. The Securities Litigation**

19. The Securities Litigation pends in the United States District Court for the Southern District of Texas (Case No. 4:14-cv-03428). On March 15, 2017, the Securities Litigation Plaintiffs filed their Second Consolidated Amended Class Action Complaint (the “Second CAC”). The Second CAC asserts violations of federal securities laws based on, *inter alia*, alleged misrepresentations and omissions in Cobalt’s Securities and Exchange Commission filings and other public disclosures, primarily regarding compliance with the United States Foreign Corrupt Practices Act with respect to Cobalt’s Angola operations, and the performance of certain prospective wells off the coast of Angola.

20. In particular, the Second CAC asserts, on behalf of purchasers of Cobalt securities between March 1, 2011 and November 3, 2014, claims for:

(a) Violations of Section 10(b) of the Exchange Act and Rule 10b-5 against Cobalt, Joseph Bryant (former CEO and Chairman of the Board of Cobalt), James Farnsworth (former former Chief Exploration Officer), and John Wilkirson (former Chief Financial Officer and Executive Vice President of Cobalt);

(b) Violations of Section 20(a) of the Exchange Act against Bryant, Farnsworth, and Wilkirson;

(c) Violations of Section 20A of the Exchange Act against certain entities that allegedly exercised control over Cobalt during the alleged class period (so-called “Controlling Entity Defendants”);<sup>3</sup>

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<sup>3</sup> The so-called Controlling Entity Defendants named are: Goldman Sachs Group, Inc.; Riverstone Holdings LLC; The Carlyle Group; First Reserve Corporation; and KERN Partners Ltd. Effective January 1, 2016, KERN Partners Ltd. changed its name to ACM Ltd.

(d) Violations of Section 11 of the Securities Act against Cobalt, 12 current and former directors of Cobalt's board (so-called "Director Defendants"),<sup>4</sup> and certain investment banks that were underwriters of offerings of Cobalt securities (so-called "Underwriter Defendants");<sup>5</sup>

(e) Violations of Section 15 of the Securities Act against Bryant, Farnsworth, Wilkerson, Goldman Sachs, the Director Defendants, and the Controlling Entity Defendants; and

(f) Violations of Section 12(a)(2) of the Securities Act against the Underwriter Defendants.

21. The Second CAC seeks damages, including compensatory damages against all defendants, jointly and severally, for all damages sustained as a result of the wrongdoing alleged.

22. Discovery in this case is ongoing and presently in the midst of heavy deposition discovery. Expert discovery and summary judgment briefing are expected to follow within the next six months.

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<sup>4</sup> The current and former directors named are: Peter R. Coneway, Henry Cornell, Jack E. Golden, N. John Lancaster, Jon A. Marshall, Kenneth W. Moore, J. Hardy Murchison, Kenneth A. Pontarelli, Myles W. Scoggins, D. Jeff van Steenberg, William P. Utt, and Martin H. Young. Although Plaintiffs do not name Michael G. France and Scott L. Lebovitz in the "Parties" section of the Second CAC, they are referenced in later paragraphs and are identified as defendants on the docket for the Securities Litigation. To the extent France and Lebovitz are defendants in the Securities Litigation, they also are "Director Defendants."

<sup>5</sup> The so-called Underwriter Defendants named are: Goldman, Sachs & Co.; Morgan Stanley & Co. LLC; Credit Suisse Securities (USA) LLC; Citigroup Global Markets Inc.; J.P. Morgan Securities LLC; Tudor, Pickering, Holt & Co Securities, Inc.; Deutsche Bank Securities Inc.; RBC Capital Markets, LLC; UBS Securities LLC; Howard Weil Incorporated; Stifel, Nicolaus & Company, Incorporated; Capital One Southcoast, Inc.; and Lazard Capital Markets LLC.

**B. The Debtors' Indemnification Obligations**

23. The Debtors have indemnification obligations to each of the Non-Debtor Defendants.<sup>6</sup> The potential claims under the indemnities are significant. For instance, for November 2017 alone, the Debtors incurred over \$2.5 million.

24. **Duty to Indemnify Current Officers and Directors.** Pursuant to its Amended and Restated Certificate of Incorporation, Debtor Cobalt is obligated to indemnify “[e]ach person . . . who was or is a party or is threatened to be made a party to, or is otherwise involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, *by reasons of the fact that such person is or was a director or principal officer* [of Cobalt].” Moreover, this right to indemnification “shall also include the right to be paid by [Cobalt] the expenses (*including attorneys’ fees*) incurred in connection with any such proceeding in advance of its final disposition.” Consequently, Cobalt must indemnify Bryant (former CEO and Chairman), Farnsworth (former Chief Exploration Officer), Wilkirson (former CFO and Executive Vice President), and the Director Defendants in their defense against and for damages awarded against them in the Securities Litigation. Debtor Cobalt also has indemnification obligations to Bryant, Wilkirson, and Farnsworth pursuant to its December 2009 Registration Rights Agreement.

25. **Duty to Indemnify Controlling Entity Defendants.** Debtor Cobalt is also obligated to indemnify the so-called Controlling Entity Defendants (Goldman Sachs Group, Inc.; Riverstone Holdings LLC; The Carlyle Group; First Reserve Corporation; and KERN Partners Ltd.) and their affiliated entities in the Securities Litigation pursuant to its December 15, 2009

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<sup>6</sup> Debtor Cobalt may not be obligated to indemnify Non-Debtor Defendants for the alleged violations of Section 20A of the Exchange Act.



Registration Rights Agreement. Specifically, section 2.9(a) of that agreement states that Cobalt shall indemnify certain “Holders”:

In the event of any registration and/or offering of any securities of the Company under the Securities Act pursuant to this Article 2, [Cobalt] will, and hereby agrees to, and hereby does, indemnify and hold harmless, to the fullest extent permitted by law, each Holder, its directors, officers, fiduciaries, employees, stockholders, members or general and limited partners . . . , and each Person, if any, who controls such Holder . . . within the meaning of the Securities Act or Exchange Act, from and against any and all losses, claims, damages or liabilities, joint or several, actions or proceedings (whether commenced or threatened) and expenses (including reasonable fees of counsel and any amounts paid in any settlement effected with [Cobalt’s] consent, which consent shall not be unreasonably withheld or delayed) to which each such indemnified party may become subject under the Securities Act or otherwise in respect thereof (collectively “Claims”), insofar as such Claims arise out of or are based upon

(i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement under which such securities were registered under the Securities Act or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading,

(ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary or final prospectus or any amendment or supplement thereto . . . or the omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, or

(iii) any untrue statement or alleged untrue statement of material fact in the information conveyed by [Cobalt] to any purchaser at the time of the sale to such purchaser, or the omission or alleged omission to state therein a material fact required to be stated therein, . . . and [Cobalt] will reimburse such indemnified party for any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Claim as such expenses are incurred[.]

26. The agreement, in turn, defines “Holders” as including “the GSCP Entities, the First Reserve Entities, the C/R Entities, the KERN Entities, Management or any transferee of

Registrable Securities to whom any Person who is a party to this Agreement shall Assign any rights hereunder.” The agreement states in its preamble that the GSCP Entities, First Reserve Entities, C/R Entities, and KERN Entities are listed in Schedule A to the agreement. Schedule A to the agreement defines the indemnified parties to include, *inter alia*, GS Capital Partners VI Parallel, L.P.; Riverstone Energy Coinvestment III, L.P.; Carlyle Energy Coinvestment III, L.P.; C/R Energy III Cobalt Partnership, L.P.; Carlyle/Riverstone Global Energy and Power Fund III, L.P.; C/R Energy Coinvestment II, L.P.; C/R Cobalt Investment Partnership, L.P.; First Reserve Fund XI, L.P.; FR XI Onshore AIV L.P.; KERN Cobalt Co-Invest Partners AP LP—each of which is a defendant in the Securities Litigation.

27. **Duty to Indemnify Controlling Entity Defendants.** Pursuant to section 2.9(a), Cobalt must indemnify the so-called Controlling Entity Defendants Goldman Sachs Group, Inc.; Riverstone Holdings LLC; The Carlyle Group; First Reserve Corporation; and KERN Partners Ltd. under the agreement, as well.

28. **Duty to Indemnify Underwriter Defendants.** Pursuant to Debtor Cobalt’s February 23, 2012 Common Stock Underwriting Agreement, Cobalt must indemnify so-called Underwriter Defendants Goldman, Sachs & Co.; Credit Suisse Securities (USA) LLC; Citigroup Global Markets Inc.; J.P. Morgan Securities LLC; Tudor, Pickering, Holt & Co. Securities, Inc.; Deutsche Bank Securities Inc.; RBC Capital Markets, LLC; UBS Securities LLC; Howard Weil Incorporated; Stifel, Nicolaus & Company, Incorporated; and Capital One Southcoast, Inc. In particular, that agreement requires Debtor Cobalt to indemnify these Non-Debtor Defendants:

against any and all losses, claims, damages or liabilities, joint or several, to which [they] may become subject, under the Act, the Exchange Act, other Federal or state statutory law or regulation or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained

in any part of the Registration Statement at any time, any Statutory Prospectus as of any time, the Final Prospectus or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse [them] for any legal or other expenses reasonably incurred by [them] in connection with investigating or defending against any loss, claim, damage, liability, action, litigation, investigation or proceeding whatsoever . . . in connection with the enforcement of this provision with respect to any of the above as such expenses are incurred[.]

29. Debtor Cobalt must also indemnify so-called Underwriter Defendant Morgan Stanley & Co. LLC for the same pursuant to its December 11, 2012 2.625% Convertible Senior Notes due 2019 Underwriting Agreement and its January 15, 2013 Common Stock Underwriting Agreement. Pursuant to these agreements, Cobalt also owes further indemnity obligations to so-called Underwriter Defendants Goldman, Sachs & Co. and Citigroup Global Markets Inc., respectively.<sup>7</sup>

30. Finally, Debtor Cobalt must indemnify so-called Underwriter Defendant Lazard Capital Markets LLC for the same pursuant to its May 8, 2014 3.125% Convertible Senior Notes due 2024 Underwriting Agreement. Pursuant to this agreement, Cobalt also must indemnify so-called Underwriter Defendants Goldman, Sachs & Co.; RBC Capital Markets, LLC; Credit Suisse Securities (USA) LLC; and Citigroup Global Markets, Inc.

31. If the Securities Litigation continues and is not stayed or enjoined, the Debtors' estate will be harmed and efforts to successfully and efficiently move through these bankruptcy proceedings, and, in particular, through the time-sensitive sale process, will be materially impacted.

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<sup>7</sup> Cobalt also must indemnify so-called Underwriter Defendant Citigroup Global Markets Inc. pursuant to its May 7, 2013 Common Stock Underwriting Agreement.

32. **First**, the Securities Litigation has triggered the Debtors' various indemnification obligations. Cobalt is obligated to indemnify substantially all of the jointly liable 56 Non-Debtor Defendants for losses, including defense costs and damages related to the Securities Litigation. The indemnified Non-Debtor Defendants will have claims against the Debtors' estate for those losses, rendering judgments against those Non-Debtor Defendants a judgment against the Debtors, and allowing the ongoing litigation costs of the Non-Debtor Defendants to dilute or deplete the estate's resources available for other creditors.<sup>8</sup> Additionally, to satisfy these indemnification obligations, the Debtors will need to pursue insurance coverage under multiple applicable insurance policies. Since the applicable insurance carriers have denied their coverage obligations under these policies, the Debtors also will need to pursue litigation and expenses necessary to enforce coverage, exposing the Debtors to potentially costly insurance litigation, further potentially depleting the estate's resources. Only through the extension of the automatic stay would the Debtors be protected from the exposure, costs, and distractions associated with this prepetition litigation.

33. **Second**, if the Securities Litigation continues against the Non-Debtor Defendants, the Debtors will continue to face burdensome discovery. Further, individual directors and officers, whose full attention to these chapter 11 proceedings, particularly the proposed sale process, is critical, will be distracted by ongoing discovery and by other proceedings in the Securities Litigation, including preparation for summary judgment and then for trial. Indeed, the case is currently in the midst of heavy deposition discovery, with upcoming director depositions and those

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<sup>8</sup> Nothing contained herein is intended or shall be construed as: (a) an admission that any prepetition claim against Debtors is valid; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claims; or (d) a waiver of the Debtors' or other party in interest's rights under the Bankruptcy Code or any other applicable law.

of other Cobalt personnel (even seeking the deposition of the General Counsel and the Senior Vice President *leading* the proposed sale process), whose attention Cobalt needs focused entirely on the multitude of issues facing the Debtors in this restructuring and proposed sale process.

34. A stay of the Securities Litigation would allow Cobalt's directors and officers to focus on their primary responsibility to the Debtors' stakeholders and shepherd the Debtors through these chapter 11 proceedings and the proposed sale process.

35. *Third*, allowing the Securities Litigation to proceed against the Non-Debtor Defendants while claims against the Debtor Cobalt are stayed risks prejudicing Cobalt. Testimony in depositions in which Cobalt does not participate may create an incomplete record of evidence with respect to Cobalt's defenses. Even more problematic, any substantive ruling as to the Non-Debtor Defendants will, as a practical matter, be the law of the case, operative as to all parties, including Cobalt. Simply put, it is unlikely the District Court would depart from a ruling against Non-Debtor Defendants if Cobalt later attempts to present its position on the same or a similar issue. Thus, the continuation of the Securities Litigation could adversely impact Cobalt's ability later to defend itself against claims in that litigation.<sup>9</sup>

### **FIRST CLAIM FOR RELIEF**

#### **(Section 362 Declaratory Judgment)**

36. The Debtors repeat and re-allege Paragraphs 1–35 of this Complaint as if fully set forth herein.

37. The Debtors seek an order staying the Securities Litigation until completion of the Debtors' sale and restructuring process, pursuant to 11 U.S.C. §§ 362(a)(1) and 362(a)(3).

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<sup>9</sup> And should Cobalt participate in the Securities Litigation to avoid such outcomes, this would defeat the Congressional intent of the automatic stay.

38. The extension of the stay is warranted and necessary because continuation of the Securities Litigation against the Non-Debtor Defendants exposes the Debtors to additional indemnification claims by Non-Debtor Defendants, potentially diluting the property of the Debtors' estate available for creditor recoveries and creating an identity of interest between the Debtors and the indemnified Non-Debtor Defendants. These indemnification obligations also will force Debtors to pursue litigation to enforce insurance coverage, further depleting the resources of the estate.

39. The extension of the stay is further warranted and necessary because continuation of the Securities Litigation against the Non-Debtor Defendants means the Debtors, and individuals key to these chapter 11 proceedings, will continue to face burdensome discovery and litigation obligations that distract those individuals from their primary responsibility of shepherding the Debtors through these bankruptcy proceedings.

40. The extension of the stay is likewise warranted and necessary because the continuation of the Securities Litigation against the Non-Debtor Defendants may harm Debtor Cobalt's ability and opportunity to defend itself in the Securities Litigation, including through substantive rulings that may issue without Cobalt's input or through deposition testimony that may be taken on issues relevant to Cobalt's defense, without its participation.

41. In short, allowing the Securities Litigation to continue will drain estate resources and distract from the Debtors' efforts to successfully and expeditiously move through these bankruptcy proceedings, and, thwarting the statutory purpose of these chapter 11 proceedings, fail to provide the Debtors with a breathing spell from litigation pressures in their efforts to achieve a resolution that advances the interests of all constituents. Accordingly, the Debtors respectfully

submit that this Court should extend the automatic stay to cover all defendants in the Securities Litigation.

42. Based on the foregoing, the Debtors seek a declaratory judgment extending the automatic stay against the Non-Debtor Defendants pursuant to 11 U.S.C. §§ 362(a)(1) and 362(a)(3).

## **SECOND CLAIM FOR RELIEF**

### **(Section 105 Injunctive Relief)**

43. Debtors repeat and re-allege paragraphs 1–35 of this Complaint as if fully set forth herein.

44. Alternatively, in the event the Court declines to extend the automatic stay, the Debtors seek an injunction pursuant to 11 U.S.C. § 105 barring the continued prosecution of the Securities Litigation until completion of the Debtors' sale and restructuring process.

45. Section 105(a) of the Bankruptcy Code authorizes the Court to issue “any order, process or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Relief under section 105 is particularly appropriate where it would help a debtor confirm a plan of reorganization and/or preserve property of the debtor's estate.

46. Here, as discussed above, the continuation of the Securities Litigation will diminish and interfere with the property of the Debtors' estate and threaten their ability to successfully and efficiently proceed with these bankruptcy proceedings and the proposed sale process. Thus, this Court should apply 11 U.S.C. § 105(a) to enjoin the continuation of the Securities Litigation against the Non-Debtor Defendants.

47. If the Securities Litigation is not enjoined, there is a substantial likelihood of irreparable injuries to the Debtors, which include indemnification obligations to Non-Debtor

Defendants (for which, if incurred, the Debtors will have no recourse to reverse); the depletion of estate resources to enforce applicable insurance coverage to fulfill the Debtors' indemnification obligations; the distraction of key personnel from their obligations in these chapter 11 proceedings; and an adverse impact on Cobalt's ability and opportunity to defend itself against the Securities Litigation.

48. The likelihood of irreparable harm to the Debtors from the continuation of the Securities Litigation far outweighs any risk of harm to the Securities Litigation Plaintiffs should the Court enjoin the Securities Litigation until the completion of the Debtors' sale and restructuring process. The Securities Litigation Plaintiffs will suffer no material harm, as they would be free to pursue their claims against the Non-Debtor Defendants at that time.

49. The injunctive relief sought will serve the public interest by promoting the Debtors' speedy and successful conclusion of these bankruptcy proceedings—a benefit to all constituencies—and will advance the objective of the automatic stay.

50. If the relief sought is granted, there is a substantial likelihood that the Debtors will prevail on the merits of their request for declaratory relief and for an injunction until completion of the Debtors' sale and restructuring process. This Court has the authority to grant such relief on this basis.

51. Based on the foregoing, the Debtors seek an injunction under 11 U.S.C. § 105 to enjoin the Securities Litigation until completion of the Debtors' sale and restructuring process.

WHEREFORE, the Debtors respectfully demand judgment against the Defendants and request relief as follows:



(a) entry of a declaratory judgment that the Securities Litigation is stayed pursuant to section 362 of the Bankruptcy Code and Bankruptcy Rule 7001(9) until completion of the Debtors' sale and restructuring process; and/or

(b) in the alternative, entry of an injunction pursuant to section 105 of the Bankruptcy Code (and Bankruptcy Rule 7001(7)) enjoining and prohibiting continuation of the Securities Litigation against the Non-Debtor Defendants until completion of the Debtors' sale and restructuring process; and/or

(c) all such other relief as the Court may find just and proper.

Houston, Texas

Dated: December 14, 2017

*/s/ Zack A. Clement*

Zack A. Clement (Texas Bar No. 04361550)

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-and-

James H.M. Sprayregen, P.C. (*pro hac vice* admission pending)

Marc Kieselstein, P.C. (*pro hac vice* admission pending)

Chad J. Husnick, P.C. (*pro hac vice* admission pending)

Brad Weiland (*pro hac vice* admission pending)

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**CERTIFICATE OF SERVICE**

I certify that on December 14, 2017, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

*/s/ Zack A. Clement*

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Zack A. Clement

**VERIFICATION**

I, Jeffrey A. Starzec, hereby verify, pursuant to 28 U.S.C. § 1746, that I am Executive Vice President and General Counsel of the Debtor Cobalt International Energy, Inc., that in that capacity I am familiar with the business operations of the Debtors and the books and records of the Debtors, that I have read the allegations set forth above in the Complaint, and that to the best of my information and belief, such representations are true and accurate. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

  
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Jeffrey A. Starzec