

**IN THE UNITED STATES 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> , ¹	§ Case No. 17-36709 (MI)
	§
Debtors.	§ (Jointly Administered)
	§
	§
COBALT INTERNATIONAL ENERGY, INC., <i>et al.</i> ,	§ Adv. Proc. No. 17-03457 (MI)
	§
Plaintiffs,	§
	§
v.	§
	§
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.,	§
	§
Defendants.	§
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**PARTIES' STIPULATIONS REGARDING INDEMNIFICATION
AND INSURANCE COVERAGE**

¹ The Debtors and the last four digits of each 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).



Pursuant to the Court's instructions at the December 14, 2017 first-day hearing (*see* 12/14/17 Hr'g Tr. at 90:6-18), the parties in this adversary proceeding have met and conferred and stipulate as follows:

1. 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. Besides Cobalt International Energy, Inc. ("Cobalt"), the Securities Litigation Plaintiffs named the following defendants, who, with Cobalt, comprise all defendants in the Securities Litigation:

- (a) Joseph H. Bryant;
- (b) James W. Farnsworth;
- (c) John P. Wilkerson;
- (d) Peter R. Coneway;
- (e) Henry Cornell;
- (f) Jack E. Golden;
- (g) N. John Lancaster;
- (h) Jon A. Marshall;
- (i) Kenneth W. Moore;
- (j) J. Hardy Murchison;
- (k) Kenneth A. Pontarelli;
- (l) Myles W. Scoggins;
- (m) D. Jeff Van Steenberg;
- (n) Martin H. Young, Jr.;
- (o) William P. Utt;

- (p) Goldman Sachs Group, Inc.;
- (q) Riverstone Holdings LLC;
- (r) The Carlyle Group;
- (s) First Reserve Corporation (now FRC Founders Corporation);
- (t) KERN Partners Ltd. (now ACM Ltd.);
- (u) Goldman Sachs & Co.;
- (v) Morgan Stanley & Co. LLC;
- (w) Credit Suisse Securities (USA) LLC;
- (x) Citigroup Global Markets Inc.;
- (y) J.P. Morgan Securities LLC;
- (z) Tudor, Pickering, Holt & Co. Securities, Inc.;
- (aa) Deutsche Bank Securities, Inc.;
- (bb) RBC Capital Markets, LLC;
- (cc) UBS Securities LLC;
- (dd) Howard Weil Incorporated;
- (ee) Stifel, Nicolaus & Company, Incorporated;
- (ff) Capital One Southcoast, Inc.; and
- (gg) Lazard Capital Markets LLC.

2. Cobalt's Amended and Restated Certificate of Incorporation, executed December 28, 2009, states in Article 7, § 2 that it will indemnify to the fullest extent permitted by Delaware law "[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].” It further states that 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.” Cobalt’s Second Amended and Restated Certificate of Incorporation, executed May 2, 2017, states the same in Article 7, § 2.

3. Certain defendants have entered into Director Indemnification Agreements with Cobalt. Defendants Joseph H. Bryant; Peter R. Coneway; Henry Cornell; Kenneth W. Moore; J. Hardy Murchison; Kenneth A. Pontarelli; D. Jeff Van Steenberg; and Martin H. Young, Jr. each entered into a Director Indemnification Agreement with Cobalt on November 11, 2009. Defendant Jack E. Golden entered into a Director Indemnification Agreement with Cobalt on February 2, 2010. Defendant Myles W. Scoggins entered into a Director Indemnification Agreement with Cobalt on March 1, 2010. Defendant Jon A. Marshall entered into a Director Indemnification Agreement with Cobalt on May 28, 2010. Defendant William P. Utt entered into a Director Indemnification Agreement with Cobalt on March 11, 2013.

4. Article 3 to each of these Director Indemnification Agreements specifies the terms of indemnification between Cobalt and the respective defendant.

5. Cobalt’s December 15, 2009 Registration Rights Agreement states in Section 2.9(a):

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 the directors, officers, fiduciaries, employees, stockholders, members or general and limited partners thereof), any underwriter (as defined in the Securities Act) for such Holder and each Person, if any, who controls such Holder or underwriter 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[.]

6. Cobalt's February 23, 2012 Common Stock Underwriting Agreement states in

Section 8(a):

The Company will indemnify and hold harmless each Underwriter, its partners, members, directors, officers, employees, agents, affiliates and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act (each an "**Indemnified Party**"), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party 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 each Indemnified Party for any legal or other expenses reasonably incurred by such Indemnified Party 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[.]

7. Cobalt's December 11, 2012 2.625% Convertible Senior Notes due 2019 Underwriting Agreement contains the same language in its Section 8(a) as that in Cobalt's February 23, 2012 Common Stock Underwriting Agreement (as set forth in the above Paragraph 6).

8. Cobalt's January 15, 2013 Common Stock Underwriting Agreement contains the same language in its Section 8(a) as that in Cobalt's February 23, 2012 Common Stock Underwriting Agreement (as set forth in the above Paragraph 6).

9. Cobalt's May 7, 2013 Common Stock Underwriting Agreement contains the same language in its Section 8(a) as that in Cobalt's February 23, 2012 Common Stock Underwriting Agreement (as set forth in the above Paragraph 6).

10. Cobalt's May 8, 2014 3.125% Convertible Senior Notes due 2024 Underwriting Agreement contains the same language in its Section 8(a) as that in Cobalt's February 23, 2012 Common Stock Underwriting Agreement (as set forth in the above Paragraph 6).

11. Each of the defendants identified in Paragraphs 1(a)-(gg) has requested and continues to request indemnification by Cobalt for attorneys' fees, costs, settlements, and judgments incurred as a result of the Securities Litigation.

12. Cobalt has disputed that it must indemnify defendants Goldman Sachs Group, Inc.; Riverstone Holdings LLC; The Carlyle Group; First Reserve Corporation (now FRC Founders Corporation); and KERN Partners Ltd. (now ACM Ltd.) for any claim pursuant to Section 20A of the Securities Exchange Act of 1934. Defendants Goldman Sachs Group, Inc.; Riverstone Holdings LLC; The Carlyle Group; First Reserve Corporation (now FRC Founders Corporation); and KERN Partners Ltd. (now ACM Ltd.) disagree and continue to reserve all rights with respect to indemnification for this claim.

13. Cobalt had two primary insurers between December 15, 2010 and December 15, 2014: XL Specialty Insurance Company (“XL”) (2010-2012) and Illinois National Insurance Co. (“AIG”) (2012-2014). Cobalt supplemented this coverage by obtaining excess insurance from, among others, Axis Insurance Company (“Axis”). Cobalt’s 2010-2011 policies with XL and the affiliated excess insurers cover the claims in the Securities Litigation related to the alleged relationship between Angolan officials, Nazaki Oil and Gas, and Cobalt (the “Nazaki Claims”). Cobalt’s 2012-2014 policies with AIG and the affiliated excess insurers, by contrast, cover the separate claims in the Securities Litigation related to the alleged statements by Cobalt about the Lontra and Loengo wells (the “Well Disclosure Claims”). Together, these policies provide insurance coverage for all of the claims in the Securities Litigation made against Cobalt and its current and former directors and officers.

14. The primary and excess carriers in the XL tower of insurance have denied coverage for the Nazaki Claims, and the primary and excess carriers in the AIG tower of insurance have denied coverage for the Well Disclosure Claims. Therefore, Cobalt’s insurers have denied coverage with respect to all claims in the Securities Litigation.

15. Cobalt, as well as several of its current and former directors and officers, sued XL, AXIS, and AIG to enforce coverage. The lawsuit did not name all of Cobalt's excess insurance carriers as defendants. Cobalt and the current and former director and officer plaintiffs have settled with XL and AXIS. Cobalt is still considering its options with respect to the coverage denials by other excess carriers and reserves all rights.

16. Exhibits 1-47 from Debtors' Exhibit List, filed with the Court on January 2, 2018, are to be admitted into evidence at the outset of the January 4, 2018 hearing.

17. Exhibits SP-2 to SP-14 from the Securities Plaintiffs' Exhibit List, filed with the Court on January 2, 2018, are to be admitted into evidence at the outset of the January 4, 2018 hearing.

Houston, Texas
Dated: January 3, 2018

/s/ Zack A. Clement

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Certificate of Service

I certify that on January 3, 2018, 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

Zack A. Clement