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The Dealmakers

By Marzena Czarnicka

When a big oilpatch merger, acquisition, asset sale or financing goes down, you can bet that one of these legal eagles helped seal the deal

Robert Engbloom, Q.C.: **The Seasoned Silverback**

He doesn't like being called the granddaddy of the oilpatch – he's not that old – but even in his most self-effacing moments Bob Engbloom can't deny he is one of the most seasoned and sought-after corporate lawyers practicing in Calgary today. With 30 years of lawyering under his belt – first with Calgary institution MacKimmie Matthews (dissolved in 1999), then with Calgary-grown and world-renowned energy law firm Macleod Dixon LLP – Engbloom is “great for getting deals across the deal line,” in the words of a competitor quoted in Chambers Global's The World's Leading Lawyers for Business.



Recent deals include representing Petrofund Energy Trust in its merger with Penn West Energy Trust into North America's largest oil and gas income trust (a title that now carries some unexpected baggage). Engbloom has done several acquisitions for Viking Energy Royalty Trust, including its \$1.3-billion merger with Calpine Natural Gas Trust, and its subsequent merger with/into the \$4-billion Harvest Energy Trust

Engbloom also had a hand in the scrap for Canada Southern Petroleum Ltd., representing hostile bidder Petro-Canada. But these days, it's the oilsands that have captured his heart, as he works behind the scenes on several projects and represents, among others, UTS Energy Corp. in a variety of oilsands-related ventures.

Sharing the Spotlight

Ask the people on the other side of the table who represented Petro-Canada in the scuffle for Canada Southern, and you won't get a straight answer. Bob Engbloom was away when Petro-Canada launched its bid, so partner Kevin Johnson, another highly regarded Macleod Dixon lawyer, ran the file. Mid-stream, Johnson left for a sabbatical and Engbloom took over. Sharing clients and files is becoming the norm at the highest levels of the profession, a huge change from even a decade ago, when lawyers tended to hoard files.

Grant Zawalsky: The Income Trust King

OK, so the title had more clout before October 31. Still, Grant Zawalsky has done more trust conversions and mergers than any other lawyer in the 'patch. A partner with Calgary's entrepreneurial energy law firm Burnet Duckworth & Palmer LLP, which has dominated the income trust sector since its inception, Zawalsky converted, among others, Bonavista Petroleum in 2003, Progress Energy and Cequel Energy in 2004, and Penn West Petroleum in 2005.

Then, after predicting a wave of trust mergers, he engineered the majority of them. Zawalsky's biggies were the \$4-billion Harvest Energy Trust (born of Harvest and Viking) and the \$11-billion Penn West/Petrofund merger. In 2006, he was instrumental in Advantage Energy Income Fund's \$2.3-billion merger with Ketch Resources Trust, Mullen Group Income Fund's \$2.3-billion acquisition of Producer Oilfield Services Inc. and Focus Energy Trust's \$1.2-billion acquisition of properties from Profico Energy Management Ltd.

Now he's deeply invested in helping income trust clients sort out the federal regulation quagmire; he's predicting some de-conversions, but more notably, further consolidation in the shaken sector. "The consolidation of the trust sector will continue as we adjust to the new rules," he says. "It's going to be a very busy M&A year."

But Zawalsky will also be sharpening some other skills. He points to EnCana's \$1.2-billion US sale to Carlyle/Riverstone Global Energy and Power Funds, a major U.S. private equity player, as a "foreshadowing of things to come," namely American private equity players acquiring and flipping oilpatch assets. Perhaps replacing the exit until recently offered by the income trusts? Perhaps. As Zawalsky notes, the 'patch is cyclical, but resilient. And so are its dealmakers.

The Resident Tax God

Pat Finnerty: The Connoisseur

Almost as infamous a character in the oilpatch as his impressive menagerie of entrepreneurial and establishment clients, Pat Finnerty has a reputation for bluntness, political incorrectness and unabashed partisanship on behalf of his clients. (He's also an enthusiastic patron of Alberta arts.) He's credited with turning the Calgary office of Blake Cassels & Graydon LLP – one of the first Toronto-based business law firms to hang up its shingle out West – into a naturalized Cowtown institution.

The two deals that define 2006 for him are Agrium Inc.'s hostile takeover of U.S.-based Royster Clark and Canada Southern's battle against Petro-Canada. Finnerty acted for Agrium and Canada Southern, respectively.

The ferocious battle for Canada Southern needs little exposition. "A small deal but a successful one for the 'good guys,'" Finnerty describes it. "The board of directors of Canada Southern stood up to bullying by Petro-Canada, ran an auction that had some aspects of a circus, ended up with a bidding war between two of Canada's largest energy companies and finally sold the company at 176% premium to the pre-bid market price." Nice.

Perry Spitznagel: The Conductor

Perry Spitznagel has represented the oil patch – or international interests interested in gobbling it up – in more than \$25 billion worth of deals, most of them during a frenetic period between 2001 and 2004. "When people talk about how busy things are now, I kind of shake my head," he says. "I've been pretty busy throughout my practice, but I have never been as busy as I was then." That's when he sold Gulf Canada Resources to Conoco Inc. (\$9.8 billion), Anderson Exploration to Devon Energy (\$7.3 billion), bought Poco Petroleums for Burlington Resources (\$3.7 billion), all the while churning out initial public offerings and representing lenders, underwriters and investors in a dizzying array of transactions.

By comparison, the post-2003 income trust craze proved somewhat anti-climactic although, like everyone else, Spitznagel and his colleagues at Bennett Jones had their fingers in the trust pie, most recently monkeying around with trust structures for Pengrowth (Brad Markel and Neil Stevenson), merging Pengrowth with Esprit (Brad Markel and Don Greenfield) and converting Enerflex Systems Inc. (Neil Stevenson) and Total Energy Services (John Kousinoris and John Truswell). And they were about to do Telus Corporation, too (Doug Foster and John Kousinoris).

But it's never been just about the trusts at Bennett Jones, and perhaps the most notable deals from 2006 include selling BlackRock Ventures Inc. to Shell Canada (\$2.4 billion, Renee Ratke, Neil Stevenson and Brent Kraus) and engineering Carlyle/Riverstone's EnCana asset acquisition (\$1.2 billion, Pat Maguire, Don Greenfield and Will Osler). A favourite smaller deal includes their piece of the Agrium play, representing the Agrium board of directors (David Spencer, another of the most highly regarded dealmakers in the city).

For his own part, Spitznagel has been driving the legal bus for Bennett Jones' flagship client the Atco Group, and, since the brain trust at Bennett Jones made him head of the firm's corporate/commercial department, providing "spot advice" on deals, putting together Bennett Jones' deal teams and ensuring "that the new generation moving up has room to shine."

There have been challenges; the firm has lost some of its vaunted talent to competitors. But it remains clients' benchmark for defining "depth and breadth."

The quotable Spitznagel: "I've had many tense moments on deals but the most ludicrous and embarrassing was when [Calgary Flames mascot] Harvey the Hound crashed a particularly important meeting with foreign clients during a speech by the lawyers on the importance of confidentiality and running a tight ship to avoid any leaks regarding our planned deal. Of course, the clients had no idea who Harvey was and why a big dog with a big tongue was part of the deal-time. Harvey had broken free from a Flames promotion going on in the building and had bolted into the office he would obviously be welcome.

He wasn't. Poor dog.

Robert Desbarats: The Oilman's Lawyer

"I think of myself as an energy lawyer," says Robert Desbarats, a partner with the business law department in the Calgary office of Osler Hoskin & Harcourt LLP. But being a top-notch energy lawyer in Cowtown is synonymous with doing deals; that's what the patch is about, especially when times are a-booming.

Desbarats' particular forte is private M&As and joint ventures, but he doesn't disdain publicly listed corporations. Canadian Natural Resources Ltd. is a long-time client, and Desbarats handled its \$4.1-billion US acquisition of the total Canadian assets of Anadarko Petroleum Properties as Anadarko exited Canada (representing Anadarko: Glenn Cameron from Stikeman Elliott, a well-regarded Calgary corporate lawyer). He also helped Chevron Canada Resources Limited shed most of its western Canadian assets (for more than \$1 billion), ConocoPhillips Canada sell four subsidiaries to Pengrowth Energy Trust for \$1 billion, the United Company sell its Canadian subsidiary Star Resources Limited (about \$700 million) and Canadian Oil Sands buy Talisman Energy's interest in Syncrude for \$475 million.

The smaller fry on his plate last year included representing NAL Resources Limited as it bought Addison Energy Inc. (\$300+ million) and Esprit Energy Trust's purchase of Trifecta Resources Inc. (\$102 million).

Over his 30 years at the bar, he has handled just about everything the 'patch can throw at a lawyer, and developed a reputation as a creative dealmaker who marches to the beat of his own drum. But, like his former Bennett Jones colleague Spitznagel, he is anxious not to be painted as a lone wolf.

"Today's deals definitely get done faster and faster all the time, and because deals are faster and you need more expertise, you need more bodies," he says. "There are more facets to be dealt with. Also, working as a deal team is also simply a way of maintaining your sanity, because if you did it all yourself you would lose it."

Christopher Nixon: Playing Russian Roulette

“Scrambling.”

That’s Christopher Nixon’s usual reply to “How are you?” as the “one-man deal machine” (as competitors call him) from the Calgary office of Stikeman Elliott LLP races between meetings, phone calls, deals, and client crises.

Right now, he’s neck-deep in Royal Dutch Shell’s proposed acquisition of the rest of Shell Canada, a deal valued at roughly \$7 billion (he’s lead Canadian counsel for the international parent). He’s also juggling a slew of smaller deals: the \$600-million merger between Atlas Energy and Pearl Exploration, Enterra Energy Trust’s \$155-million offering and the \$30-million offering by Oil Sands Underground Mining Corp. (for the agents).

Other recent representations: Savanna Energy Services in its \$1.5-billion merger with Western Lakota, Morpheus in its acquisition by Tournament and Charmealo, Sure Northern Energy (read Royal Dutch Shell) in its acquisition of some \$500 million of oilsands leases, High Arctic Energy Services Inc. in its \$100-million hostile bid for Wenzel Downhole Tools, and an assortment of underwriter mandates related to smaller ‘patch acquisitions and asset swaps.

And he’s played Russian roulette for Russia’s Lukoil in its \$2-billion US acquisition of Nelson Resources, including the associated drama and litigation.

James Pasieka: The Dark Horse

He doesn’t make the Lexpert or Chambers Global rankings, in which lawyers rank lawyers. But that doesn’t matter to James Pasieka’s clients. In 2005, the Heenan Blaikie partner handled about \$8.5 billion worth of mergers and acquisitions (2006? He hasn’t tallied it up yet, but, although a good year, it won’t be that much, what with the “nightmare on Hallowe’en” and all that).

A big chunk of that \$8.5 billion was the StarPoint/Acclaim merger, and indeed, the entire StarPoint story. Pasieka and colleagues at Heenan helped Paul Colborne, Starpoint’s president and CEO, create the trust in December 2004. Then they went on an acquisition and merger spree that culminated in the creation of Canetic. Pasieka worked opposite the Burnet Duckworth & Palmer team in cracking the code for how to do trust mergers; along the way, he converted Thunder Energy Inc. into a trust, merged it with a couple of other companies, sold Bulldog Energy Inc. to Crescent Point Energy Trust (\$120 million), and helped Mission Oil & Gas Inc. take over Bison Resources Inc. (\$120 million).

In 2006, Pasieka represented TriStar Oil & Gas Ltd – Paul Colborne’s new baby – in its acquisitions of Saw Tooth International Resources and Raven Energy, Peerless Energy Inc. in its acquisition of Valiant Energy, Caliber Energy Services in its sale to Blackwatch Services Trust and Relentless Energy in its sale to Temple Energy. In an IPO-light market, he did an offering for Peerless and another for Pegasus Oil and Gas Inc. No EnCana or Petro-Canada mandates. But an impressive showing, noted by competitors.

“He’s a businessman’s, an entrepreneur’s lawyer,” says a competitor. “He is one of the most competent dealmakers in town, and on the entrepreneurial side, he probably does more deals – maybe the smaller deals, but in quantity, more – than many of the ranked dealmakers.” For Pasieka, that’s “a great compliment.” A better one is that Paul Colborne, who used to work for Pasieka when the lawyer worked in house for Husky and WasCana Energy, keeps on using him as a legal adviser.