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Transaction ID 15733452
Case No. 3128

IN THE COURT OF CHANCERY FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

ROBOTTI & COMPANY, LLC Plaintiff, v. GULFPORT ENERGY CORPORATION, MIKE LIDDELL, ROBERT E. BROOKS, DAVID L. HOUSTON, MICKEY LIDDELL and DAN NOLES Defendants.	)	Civil Action No. 3128-VCN

VERIFIED CLASS ACTION COMPLAINT

Plaintiff by and through its attorneys for its Complaint alleges as follows:

PARTIES

1. Robotti & Company, LLC ("Robotti") is and at all times relevant hereto has been a shareholder of defendant Gulfport Energy Corporation ("Gulfport" or "Company").

2. Defendant Gulfport is a Delaware corporation with its principal place of business at 14313 North May, Suite 100, Oklahoma City, OK 73134. Gulfport is an independent oil and gas exploration and production company with properties located along the Louisiana gulf coast.

3. Defendant Mike Liddell has served as a Director of the Company since July 11, 1997 as Chief Executive Officer since 1998 and as Chairman of the Board since July 28, 1998 and President since July 15, 2000.

4. Defendant Robert E. Brooks has served as a Director of Gulfport since July 11, 1997.

5. Defendant David L. Houston has served as a Director of the Company since July 1998.

6. Defendant Mickey Liddell served as a Director of the Company from January 1999 to April, 2007.

7. Defendant Dan Noles served as a Director of the Company from January 2000 to April, 2007.

8. The Individual defendants were the Board of Directors at the time of the wrongs alleged herein. At the time of the wrongs alleged herein, the Company did not have a majority of Directors identified as "independent".

CLASS ALLEGATIONS

9. Plaintiff brings this action pursuant to Chancery Rule 23 on behalf of all persons who held shares as of August 20, 2004 the date the closing of the transaction challenged herein except for the directors, their immediate family members and entities owned or controlled by such persons.

10. This action is properly maintainable as a class action because:

a. The Class is so numerous that joinder of all members is impractical. There were approximately two million common shares of Gulfport common stock that were not owned, directly or indirectly, by defendants. Such shares were not traded on a national exchange and Class members are believed to be situated throughout the United States.

b. There are questions of law and fact common to the Class. including, *inter alia*: whether defendants owed and breached their fiduciary duties to the Class as alleged herein.

c. Plaintiff's claims are typical of the claims of other members of the Class and plaintiff has the same interests as other members of the Class.

d. Plaintiff is committed to the prosecution of this action and has retained competent counsel experienced in litigation of this nature. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

e. The questions of law or fact common class members predominate over any question affecting only individual members and a class action is superior to other available methods for fair and efficient adjudication of the controversy because individual members of the Class have little or no interest in controlling or prosecuting separate actions, there is no other litigation of which plaintiff is aware concerning this controversy already commenced, it is desirable to concentrate the litigation in this particular forum and there are no unusual difficulties likely to be encountered in the maintenance of this action as a class action.

11. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class and could establish incompatible standards of conduct for the defendants. Adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of certain interests of other members of the Class not parties to the adjudications and might substantially impede or impair their ability to protect their own interests.

SUBSTANTIVE ALLEGATIONS

12. By prospectus dated July 22, 2004 (the "Prospectus") filed with the Security and Exchange Commission and first available to shareholders on July 27, 2004, the Company first announced a rights offering (the "Offering"). The terms of the Prospectus are incorporated herein by reference, not for the truth of all the matters asserted herein, but for the purpose of identifying the disclosures of the Company related to the transactions.

13. The Offering offered a single transferable subscription right at a price of $1.20 per share for every 1.0146 shares owned. Gulfport's shares were trading at $3.10 on the "bulletin board", a thinly traded and illiquid market. At the time of the offering, Robotti held approximately 90,000 shares. To the extent that the offering was undersubscribed, other shareholders could subscribe to any remaining shares if they fully exercised the initial subscription privilege.

14. On November 17, 2005, Robotti made a demand upon Gulfport to inspect certain of its books and records pursuant to 8 *Del.C.* § 220. The primary motivation was to investigate the circumstances surrounding the offering.

15. Gulfport disclosed in its offering Prospectus that the purpose of the offering was to fund "a portion of our currently proposed seismic and drilling programs." At that time, Gulfport reported that it had only $580,000 in cash available for investment. Gulfport was then engaged in a significant expansion of its drilling portfolio. Gulfport's 10-Q for the quarter ending September 30, 2004, had disclosed that CD Holdings had applied toward its exercise of subscription rights a $500,000 balance Gulfport owed under a prior credit facility, that $11.1 million of net proceeds from the offering had been used to fund ongoing operations in the WCCB and East Hackberry oil fields, and that $2.2 million of the proceeds would be applied to an outstanding balance with the Bank of Oklahoma.

16. At the time of the Offering, Gulfport had 2.4 million warrants and 627,000 options outstanding. The options were management-owned and an affiliate of Gulfport's controlling shareholder owned the majority of the warrants. The strike price for the warrants was $4.00 and the strike price on the options was $2.00. Due to the low offering price for the subscription right, anti-dilution provisions protecting the holders of the warrants and options

were triggered by the Offering that gave them additional share rights to maintain their position after the Offering, without their having to pay anything incremental for the additional shares in the offering. Thus, the shares distributed under the anti-dilution provisions raised no capital for Gulfport, but decreased the relative value of shares for other shareholders and delivered an economic benefit to the insiders who determined and approved this transaction. Robotti exercised its full subscription rights and purchased on the market additional subscription rights.

17. Because of the anti-dilution provisions, the Offering price caused Gulfport to increase the fully diluted share count, approximately 16 million shares to raise only $12 million in capital, effectively equating to a share price of approximately $.70 per share. That share price is an average measure of the actual cost of raising the capital to the Company. The effective benefit of obtaining extremely inexpensive shares worked to the benefit of management and Gulfport's controlling stockholder. Existing shareholders entitled to approximately 10 million shares at $1.20/share and insiders (principally board members and management) as sole holder of the warrants and options receive 6 million shares at no cost.

18. The disclosures in the Prospectus of the reasons for selecting the $1.20 per share exercise price are only vague reasons which did not actually inform why a price which would trigger the insider friendly anti-dilution provisions was necessary and could easily have justified any price below the prevailing market price of the stock $3.10 per share, or the book value of $3.34 per share or adjusted book of $14 per share (adjusted book= GAAP book adjusted for PV-10 of Oil & Gas Resources). The Prospectus reveals that the subscription price "was determined by the Board of Directors in its sole discretion" as the justification for the subscription price of $1.20 the Prospectus stated only that "consideration was given to *such factors as* the current market price of our commons stock, the availability of financing alternatives and the level,

volatility of commodity prices and the ability to secure an agreement from CD Holdings to backstop this rights offering." (emphasis added).

19. Defendants in selecting the price for the rights offering either were aware of or should have been aware of the consequences of selecting the $1.20 price as it related to the anti-dilution provisions of the warrants and stock options.

20. The overall effect of the rights offering was that Gulfport's pre-offering shares were diluted generally because of the trigger of the anti-dilution provisions. Taken as a whole, the factors relating to the rights offering, without some legitimate reasons for having selected the price constitute a breach of fiduciary duty. These include: the structural advantage to the controlling stockholder and management of the anti-dilution provisions, the low price of the offering, just low enough to trigger the anti-dilution provisions of all these dilutive securities (rather than just higher than the strike prices), the absence of any factors identified in the prospectus showing why the price could not have been at a discount yet above the anti-dilution stock prices, the fact that CD Holdings was given a backstop agreement which one should conclude turned out to be unnecessary and, given the exceedingly low price of the offering and controlling stockholder's intent to exercise its rights and over subscription rights, foreseeably would not be necessary, as well as the questionable need for the funds established that the rights offering was proposed and completed in breach of fiduciary duties. These decisions, viewed collectively, as the defendants were obliged to do, demonstrate a violation of fiduciary duty owed to minority stockholders.

21. At the time of the offering, the Company's a controlling stockholder, Charles Davidson who through various entities including CD Holding, LLC and Wexford Management, LLC was reported to have beneficial ownership of approximately 2/3 of the Company stock.

Michael Liddell, at the time of the offering, was reported as beneficial owner of approximately 11% of the Company stock. Collectively Davidson and management owned about 80% of the stock.

22. Plaintiff made a series of demands for inspection of documents pursuant to 8 Del.C. § 220. Plaintiff made demands on August 16, 2004, May 25, 2005 and November 17, 2005. On July 18, 2006 the Court held a trial on defendants' refusal to produce documents in response to plaintiff's November 17, 2005 demand. By opinion of July 3. 2007, the Court directed the Company to produce certain documents. As of the filing of this Complaint, the Company has yet to produce such documents. Plaintiff reserves the right to supplement and amend this Complaint to incorporate the documents which the Court directed the Company produce to it.

23. Plaintiff's §220 demand was prompted by a rights offering pursuant to a prospectus dated July 22, 2004. At the time of the offering, the book value of the Company was over $3.00 per share. In addition, although only trading on the bulletin board, an inefficient market, the Company's stock price was approximately $3.10 per share.

24. As a result its major assets are its oil and gas reserves, the company's oil & gas reserves were valued at approximately $194 million as of the end of the prior fiscal year, December 2003. That was almost 4 times their book value of $52 million. Therefore the Company's adjusted book value, was $14 per share, more then ten times the rights price. Thus, the rights offering was priced well below both the trading value of the stock and the Company's apparent value per share.

25. The effect of the anti-dilution provisions for the warrants and options was that although the exercise of the warrants and options raised the same amount of money which would

have been raised had the anti-dilutions provisions not been triggered, the number of shares issued against the warrants and the options greatly increased. In the case of the warrants it increased by 3 fold and the number of shares issued against the options doubled. Indeed, by the time the anti-dilution provisions were fully effective, the Company in essence issued a fully diluted 16.2 million shares to raise 12 million in capital, essentially the price of about $.70 per share. This is because the exercise of the options and warrants raised no more money than that exercise would have raised had there been no anti-dilution consequences.

26. Pricing a rights offering at such a deep discount to book and trading prices is unusual. The rights offering was at a 60% discount to market and that is unusual. Had the rights been priced at a more usual discount, the anti-dilutive effects of the options would not have existed and the anti-dilutive effect of the warrants would have been greatly minimized. Management and the controlling stockholder were the principal beneficiaries of the decision to price the rights offering well below the book value and market trading value of the Company.

27. Every Director was either an option or warrant holder. Therefore everyone who approved this transaction was conflicted. No Director was independent and no independent third party banker or lawyer reviewed this transaction to determine it was in the best interest of shareholders.

28. By the time the rights offering closed, the Company's drilling program, which the proceeds of the rights offering were purportedly needed to finance, were well on their way if not virtually completed. The results of that program were so successful that rather than drill 12 wells, the Company decided to drill just eight. Thus, not only was less money needed but, based on the success of those wells the Company had available to it alternative means of financing the program as, given the increase in its assets it had increased borrowing capacity. The insiders

were also in possession of these very successful drilling results which all other shareholders did not possess at the time of the rights exercise.

29. At the same time as the rights offering, the Company also engaged in a number of interested party transactions two of which were related to the offering and the others of which were entirely undisclosed. The Company's financials complete disclosure of related party transactions is as follows: "In the ordinary course of business the Company conducts business activities with a substantial number or its shareholders."

30. The Company entered into a $3 million line of credit with CD Holdings, an affiliate of the controlling stockholder. In addition, there was a backstop agreement with CD Holdings. While backstop agreements are not uncommon, there is a real question as to why a backstop agreement was needed in connection with this transaction. Not only was the stock trading at $3.10 per share but, the discounted cash flow figures provided by the Company would indicate a value of approximately $10 per share. The backstop agreement provided additional compensation to the Company's controlling stockholder for what turned out to be, and predictably was, no actual effort. Because the backstop agreement was not used, the controlling stockholder profited $240,000.

31. Given the status of the Company's drilling program, there was a real question as to whether the funds raised by the rights offering were needed at all as opposed to other more conventional forms of financing which would not have provided disproportionate benefits to the controlling stockholder. In addition, at the time the rights offering closed, the Company had engaged an investment advisor for the purpose of soliciting offers for certain of the assets of the Company. Based on the publicly available information it would appear that this effort would have established the value of the Company's stock far in excess of the $1.20 per share. The

Company's investment banker was Petrie Parkman although the Company has not disclosed anything related to the values indicated by the effort.

COUNT I

Breach of Fiduciary Duty Against All Defendants

32. Plaintiff incorporates paragraphs 1 through 31 hereof as is fully set forth herein.

33. The cumulative effect of all the actions taken by the defendants was to breach their duties. In particular the setting of the rights offering at $1.20 in light of the other circumstances facing the Company, including the existing warrants and stock options, the Company's financing alternatives and the value of the Company was unreasonably and inappropriately low, either deliberately trigger and benefit management and the Company's controlling stockholders or triggering them without having giving consideration of the consequences of such action, and without providing any benefit to the Company by selecting an exercise price so unreasonably low.

34. The foregoing damaged plaintiff and the members of the Class in devaluing their shares at the expense of the controlling stockholder and management for an amount to be determined at trial.

WHEREFORE, plaintiff respectfully prays this Court for an Order as follows:

a. certifying this action as a class action pursuant to Chancery Rule 23;

b. finding the defendants have breached their fiduciary duties as alleged herein;

c. awarding the plaintiff and the Class damages as they have sustained in an amount to be proven at trial;

d. awarding plaintiff reasonable litigation expense including attorney's fees, expert fees and costs;

e. such other further relief as the Court find just and appropriate.

Dated: July 27, 2007

TAYLOR & McNEW LLP

By: /s/

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