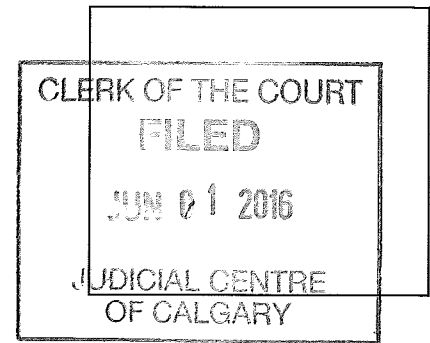


Clerk's stamp



FORM 10
[RULE 3.25]

COURT FILE NUMBER 1601-07269

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS TRISTAN PARTNERS LP AND TRISTAN OFFSHORE FUND LTD

DEFENDANTS STRAD ENERGY SERVICES LTD, HENRY VAN DER SLOOT, JOHN HAGG, ANDREW PERNAL, ROBERT GRANDFIELD, BARRY GIOVANETTO, JACK NODWELL AND JAMES MCCALLUM

DOCUMENT **Brought under the *Class Proceedings Act***
STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **JENSEN SHAWA SOLOMON DUGUID HAWKES LLP**
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NOTICE TO DEFENDANTS You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

STATEMENT OF FACTS RELIED ON:

DEFINED TERMS AND CURRENCY

1. In this document, in addition to the terms that are defined elsewhere, the following terms have the following meanings:
 - (a) **"ABCA"** means the *Business Corporations Act*, RSA 2000, c B-9, as amended;
 - (b) **"ASA"** means the *Securities Act*, RSA 2000, c S-4, as amended;
 - (c) **"CPA"** means the *Class Proceedings Act*, SA 2003, c C-16.5, as amended;
 - (d) **"Class" and "Class Members"** mean all persons and entities, wherever they may reside or be domiciled, who held **Strad Shares** at anytime between January 30, 2014 and September 30, 2015, other than the **Excluded Persons**;
 - (e) **"Defendants"** means, collectively, **Strad** and the **Individual Defendants**;
 - (f) **"Excluded Persons"** means the **Defendants**, and their legal representatives, heirs, predecessors, successors, assigns and any individual who is an immediate member of the family of the **Individual Defendants**;
 - (g) **"Giovanetto"** means the defendant, Barry Giovanetto;
 - (h) **"Grandfield"** means the defendant, Robert Grandfield;
 - (i) **"Hagg"** means the defendant, John Hagg;
 - (j) **"Individual Defendants"** means, collectively, Henry van der Sloot, John Hagg, Andrew Pernal, Robert Grandfield, Barry Giovanetto, Jack Nodwell and James McCallum.
 - (k) **"McCallum"** means the defendant, James McCallum;
 - (l) **"Nodwell"** means the defendant, Jack Nodwell;
 - (m) **"Pernal"** means the defendant, Andrew Pernal;
 - (n) **"Plaintiffs"** means the plaintiffs, Tristan Partners LP and Tristan Offshore Fund Ltd
 - (o) **"Poison Pill"** means the shareholders rights plan instituted by Strad on September 23, 2015 in response to the **Take-Over Bid**;
 - (p) **"Strad"** means the defendant, Strad Energy Services Ltd;
 - (q) **"Strad Share"** means a common share of **Strad**;

- (r) “TSE” means the Toronto Stock Exchange.
 - (s) “Take-Over Bid” means the take-over bid announced by **Total** via press release on September 21, 2015;
 - (t) “Total” means Total Energy Services Inc.; and
 - (u) “van der Sloot” means the defendant, Henry van der Sloot.
2. Unless otherwise stated, all dollar amounts are in Canadian dollars.

THE PARTIES

The Plaintiffs

- 3. Tristan Partners LP (“**Tristan**”) is a Delaware Limited Partnership. It does business in the United States of America (“**USA**”). Tristan's principal business is investment in publicly traded equities and credits. These securities are typically traded on exchanges in the USA or Canada. Tristan acquired its shares of Strad through open market purchases.
- 4. Tristan Offshore Fund Ltd (“**Tristan Offshore**”) is a Cayman Islands corporation whose principal business is investment in publicly traded equities and credits. These securities typically trade on exchanges in the USA or Canada. Tristan Offshore generally does not conduct business in the USA or Canada, although it does purchase and sell equities and credits which trade on exchanges in the USA and Canada. Tristan Offshore acquired its shares of Strad through open market purchases.
- 5. Tristan and Tristan Offshore are collectively referred to as the Plaintiffs. The Plaintiffs are both members of the Class.

The Defendants

- 6. Strad is an Alberta corporation registered under the *ABCA* with its head office in Calgary, Alberta. It is a reporting issuer in Alberta under the *ASA*, as well as all other provinces except Quebec. The Alberta Securities Commission is its principal regulator. Strad is an oil and natural gas exploration services and supply company. Strad Shares are, and were at all material times, listed for trading on the TSE under the ticker symbol “SDY”.
- 7. Van der Sloot is a founder and director of Strad and has been a director since August, 2003. Van der Sloot resides in Alberta.
- 8. Hagg is the current chair of Strad’s corporate governance committee and has been a director of Strad since June, 2006. Hagg resides in Alberta.
- 9. Pernal is the current Chief Executive Officer of Strad and has held this position since June, 2012. Pernal has been a director of Strad since May, 2009 and was previously

Chief Financial Officer of Strad from May, 2006 to February, 2010. Pernal resides in Alberta.

10. Grandfield was Strad's Chief Operating Officer from 2003 to 2012 and is currently Strad's chairman. Grandfield has been a director of Strad since September, 2003. Grandfield resides in Alberta.
11. Giovanetto has been a director of Strad since June, 2006 and is the current chair of Strad's audit committee. Giovanetto resides in Alberta.
12. Nodwell has been a director of Strad since June, 2006. Nodwell resides in Alberta.
13. McCallum has been a director of Strad since August, 2013. McCallum resides in Manitoba.
14. This claim has a real and substantial connection to Alberta. Strad is headquartered in Calgary, Alberta and the majority, if not all, of the communications and actions described in this Claim occurred in Alberta. This matter relates to breaches of the ABCA and torts committed in Alberta. McCallum is a necessary and proper party to this Action.

Facts

15. On or about August, 2013, Total approached the Defendants regarding a potential take-over of Strad by Total.
16. Total is a publicly traded diversified energy services provider, trading under the TSE symbol "TOT".
17. In or about early February, 2014, Total submitted a combination proposal to the board of directors of Strad, namely, the Individual Defendants (the "**February 2014 Proposal**"). The Individual Defendants were at all material times, and currently are, the directors and/or officers of Strad.
18. Strad's shares were trading between \$3.70 and \$3.89 per share in February, 2014.
19. Both Strad and Total engaged financial advisors in regard to the February 2014 Proposal. Some members of Strad's board of directors initially indicated to Total that the concept of combining with Total made strategic sense.
20. Total inquired what ask price Strad would require for a buy-out. Strad indicated a \$4.50 per share all-cash deal. Total subsequently raised the funds required to meet Strad's asking price. Total communicated to Strad that they had secured sufficient capital to purchase Strad and met the asking price (the "**2014 Bid**"). Total understood that it had struck a deal with Strad at that price.

21. A combination of Total and Strad could have achieved material operating synergies, greater cost efficiencies as well as significant reductions in facility lease and real estate overhead costs.
22. Strad rejected the 2014 Bid without explanation.
23. Strad failed to, or otherwise neglected to, properly consider the 2014 Bid and never informed its shareholders of the 2014 Bid.
24. The Individual Defendants, collectively or individually, failed to, or otherwise neglected to, properly consider the 2014 Bid and never informed Strad's shareholders of the 2014 Bid.
25. The Individual Defendants acted from an improper purpose in failing to consider the 2014 Bid or reporting it to Strad's shareholders, namely, to maintain their own positions in Strad for their own personal financial benefit, thereby improperly entrenching themselves as Strad's board of directors.
26. Total subsequently began acquiring shares in Strad on the open market throughout 2014 and into 2015.
27. In July, 2015, Total again approached Strad regarding a potential buy-out (the "**July 2015 Overture**").
28. On August 21, 2015 Strad, through its board of directors, indicated, again without explanation, that they were not prepared to engage with Total regarding a bid proposal.
29. Strad failed to, or otherwise neglected to, properly consider the July 2015 Overture or to inform its shareholders of the July 2015 Overture.
30. The Individual Defendants, collectively or individually, failed to, or otherwise neglected to, properly consider the July 2015 Overture or to inform Strad's shareholders of the July 2015 Overture.
31. Further, or in the alternative, the Individual Defendants acted from an improper purpose when failing to consider the July 2015 Overture and failing to report it to their shareholders, namely, maintaining their own positions in Strad, for their own personal financial benefit, thereby improperly entrenching themselves as Strad's board of directors.
32. Strad's share price decreased between the 2014 Bid and the July 2015 Overture. Its shares were trading between \$2.42 and \$2.43 in late September, 2015.
33. On September 21, 2015, Total announced its Take-Over Bid for Strad via news release, which detailed the 2014 Bid and the July 2015 Overture. Total offered \$2.90 cash or \$1.35 cash plus 0.10 of a common share of Total per Strad share in the Take-Over Bid.

This represented an 18% premium on the weighted average trading price of Strad's shares at the time.

34. The September 21, 2015 Total news release was the first time Strad's shareholders, including the Plaintiffs, were made aware of the 2014 Bid and the July 2015 Overture.
35. On September 23, 2015, Strad responded to the Take-Over Bid with the Poison Pill, which stipulated a 120 day period to consider the Take-Over Bid and other potential competing offers. The Poison Pill also provided rights to existing shareholders of Strad to acquire new shares at a price below the current market rate of Strad shares at the time.
36. On September 24, 2015, Total withdrew the Take-Over Bid via news release, citing implementation of the Poison Pill as the reason.
37. Total later publicly speculated that the various attempts to acquire Strad, including the 2014 Bid and the 2015 July Overture, failed for reasons other than money, as Total had met the bid price put forward by Strad.
38. The Plaintiffs seek a remedy on their own behalf and on behalf of the Class Members for the loss and damage suffered by them as a result of the acts and omissions of the Defendants alleged in this claim.

Oppression

39. As against all Defendants, the Plaintiffs and the Class Members seek relief pursuant to the oppression remedy provisions of Part 19 of the *ABCA*.
40. The Plaintiffs and the Class Members are complainants within the meaning of sections 239 and 242 of the *ABCA*.
41. The Class Members had reasonable expectations about the manner in which the business and affairs of Strad would be conducted. Those reasonable expectations arose in part from the statutory requirements governing the formation and internal governance of Strad.
42. At all material times, the reasonable expectations of the Plaintiffs and the Class Members included the following:
 - (a) that every director and officer of Strad will act honestly and in good faith with a view to the best interests of Strad, and will exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, as required by section 122 of the *ABCA*;
 - (b) that the directors of Strad will not act out of self-interest, improperly keep control of Strad or act as an entrenched board, to the detriment of Strad and its shareholders;

- (c) that the directors and officers of Strad will not put their own interests ahead of Strad's interests or, in these circumstances, its shareholder's interests;
 - (d) that the shareholders will be given an opportunity to consider to whom and for what price they will sell their shares in the event of a bid from another company; and
 - (e) that the directors of Strad will avoid, and where unavoidable, will properly manage, conflicts between their personal interests and Strad's interests.
43. The Defendants acted in a manner contrary to those reasonable expectations by committing the acts and omissions particularized herein, including (without limitation):
- (a) failing to properly consider whether pursuing the 2014 Bid was in the best interests of Strad;
 - (b) failing to properly consider whether pursuing the July 2015 Overture was in the best interests of Strad;
 - (c) failing to inform shareholders of the 2014 Bid;
 - (d) failing to inform shareholders of the July 2015 Overture;
 - (e) the Individual Defendants failed to properly consider the 2014 Bid and/or failed to report the 2014 Bid to Strad's shareholders, and so acted in a circumstance where they were in a conflict of interest and failed to properly deal with that conflict;
 - (f) the Individual Defendants failed to properly consider the July 2015 Overture and/or failed to report the July 2015 Overture to Strad's shareholders, and so acted in a circumstance where they were in a conflict of interest and failed to properly deal with that conflict;
 - (g) failing to establish an independent special committee of directors, with independent advisors, to assess the 2014 Bid;
 - (h) failing to establish an independent special committee of directors, with independent advisors, to assess the July 2015 Overture;
 - (i) the Individual Defendants failed to properly consider or advise Strad's shareholders of the 2014 Bid because of their direct personal financial interests and thereby acted from an improper motive in rejecting the 2014 Bid;
 - (j) the Individual Defendants failed to properly consider or advise Strad's shareholders of the July 2015 Overture because of their direct personal financial interests and thereby acted from an improper motive in rejecting the July 2015 Overture;

- (k) collectively, the Defendants failed to properly deal with, or otherwise consider, the 2014 Bid and July 2015 Overture;
- (l) the Defendants instituted the Poison Pill without proper consideration of the Take-Over Bid because of their direct personal financial interests and thereby acted from an improper motive in instituting the Poison Pill and thereby continued to improperly entrench themselves as Strad's board of directors.

These acts, both individually and collectively, had the effect of oppressing, unfairly disregarding or unfairly prejudicing the interests of the Plaintiffs and the Class Members.

- 44. Given the Defendants' knowledge of the impact that their conduct could be expected to have on the Plaintiffs and the Class Members, their disregard for the reasonable expectations of the Plaintiffs and the Class Members was oppressive, unfairly prejudicial to, or unfairly disregarded the interests of the Plaintiffs and the Class Members.
- 45. Given the nature of the interests that the Defendants have disregarded, as set out above, the Plaintiffs and the Class Members are entitled to a remedy pursuant to section 242 of the *ABCA*.

Negligence

- 46. As against all Defendants, the Plaintiffs and the Class Members assert a claim for negligence.
- 47. The Defendants failed to, or otherwise neglected to, properly consider the 2014 Bid.
- 48. Further, or in the alternative, the Defendants failed to, or otherwise neglected to, properly consider the July 2015 Overture.
- 49. Further, or in the alternative, the Defendants failed to, or otherwise neglected to properly consider the Take-Over Bid and instituted the Poison Pill for the continuing improper purpose of entrenching themselves as Strad's board of directors.
- 50. Strad and, by virtue of their position of authority and responsibility within Strad, the Individual Defendants, owed a duty of care to the Plaintiffs and Class Members to ensure that any potential control bid for Strad was properly considered, analyzed, and reported to the shareholders of Strad, if required. In particular, this duty of care applied to the 2014 Bid and the July 2015 Overture.
- 51. The reasonable standard of care expected in the circumstances required the Defendants to discharge their statutory duties under the *ABCA*, to adequately consider Total's offers, namely the 2014 Bid and July 2015 Overture, and to properly analyze and determine whether to report the offers to their shareholders, keeping the interests and reasonable expectations of the shareholders in mind in so doing.

52. The Defendants, by their actions, fell below the standard of care required of them in the circumstances, and violated their duties to the Class Members, by failing to properly consider the 2014 Bid or the July 2015 Overture or bringing the 2014 Bid or July 2015 Overture to the attention of Strad's shareholders.
53. Further, or in the alternative, the Individual Defendants acted out of self-interest or an improper motive, or both; namely, to retain control of Strad and further their own personal financial interests, rather than acting in Strad's best interests and by extension the interests of the Plaintiffs and Class Members. This conduct is independently actionable as the Individual Defendants were acting predominately in their own self-interest without proper regard to Strad's best interests to improperly further their control of Strad.
54. If the Defendants had exercised the duty of care required of them in the circumstances then the Plaintiffs and the Class Members would have had the opportunity to tender their shares in the 2014 Bid or subsequently. In the alternative, Total's bid would have been properly negotiated and a similar share sale opportunity would have materialized for the shareholders of Strad. In the further alternative, Strad would have engaged with Total during the Take-Over Bid rather than immediately instituting the Poison Pill to improperly further the Individual Defendants' own personal financial interests.
55. As a result of the negligence of the Defendants, the 2014 Bid or the July 2015 Overture, or both, were improperly withheld from the Plaintiffs and the Class Members. A further result of the Defendants' negligence is that the Take-Over Bid was never properly considered and put to the shareholders of Strad for consideration, as the Defendants acted from an improper motive, namely, personal financial gain and improperly furthered their entrenchment in Strad when instituting the Poison Pill.
56. The Defendants' course of conduct in dealing with the 2014 Bid, July 2015 Overture and the Take-Over Bid caused harm to the Class Members. The Class Members were improperly denied the ability to tender their shares to Total at a favourable price.

Relevant Legislation

57. The Plaintiffs plead and rely on the *CPA* and the *ABCA*, all as amended.

Place of Trial

58. The Plaintiffs propose that this action be tried in the City of Calgary, in the Province of Alberta, as a proceeding under the *CPA*. The Plaintiffs do not anticipate that a trial of this matter would take greater than twenty-five (25) days.

REMEDY SOUGHT:

59. The Plaintiffs claim:

- (a) an Order pursuant to the *CPA* certifying this action as a class proceeding and appointing the Plaintiffs as the representatives for the Class;
- (b) general damages for the loss suffered by the Class Members in the amount of \$18,500,000;
- (c) pursuant to section 242(2) of the *ABCA*, an order compensating the Plaintiffs and the Class Members for the damage caused by the Defendants as described herein. Further, in the alternative, a transfer of a portion of the Individual Defendants shareholdings of Strad to the Class;
- (d) punitive damages on behalf of all Class Members in the amount of \$5 million;
- (e) a declaration that Strad is vicariously liable for the acts and/or omissions of the Individual Defendants and of its other officers, directors and employees;
- (f) an order pursuant to section 30 of the *CPA* directing an aggregate monetary award;
- (g) an order pursuant to section 32 of the *CPA* allowing for the use of standard claim forms or other documentary evidence or such other procedure as is warranted under the circumstances;
- (h) an order that the damages be paid by the Defendants into a common fund and distributed to the Class Members in an appropriate manner as directed by the Court;
- (i) an order directing a reference or giving such other directions as may be necessary to determine the issues, if any, not determined at the trial of the common issues;
- (j) pre-judgment and post-judgment interest;
- (k) costs of this action plus, pursuant to section 33(6) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes; and
- (l) such further and other relief as this Honourable Court may deem just.

NOTICE TO THE DEFENDANTS

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiffs' address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiffs against you.