

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20724**

<p><b>In the Matter of</b></p> <p><b>PETROLIA ENERGY CORPORATION,</b></p> <p><b>Respondent.</b></p>
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**DIVISION OF ENFORCEMENT'S**  
**MOTION FOR SUMMARY DISPOSITION AS TO**  
**PETROLIA ENERGY CORPORATION AND BRIEF IN SUPPORT**

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## **MOTION FOR SUMMARY DISPOSITION**

The Division of Enforcement (“Division”), by counsel, pursuant to Commission Rules of Practice 154 and 250, moves for an order of summary disposition revoking the registration of each class of securities of Petrolia Energy Corporation (“BBLs”) registered pursuant to Section 12 of the Securities and Exchange Act of 1934 (“Exchange Act”). There is no genuine issue concerning any material fact, making an evidentiary hearing unnecessary.

Pursuant to Exchange Act Section 12(j) and the Commission’s precedent on the *Gateway* factors, the Division is entitled to an order revoking the registration of each class of BBLs securities. Consideration of the first two *Gateway* factors shows that BBLs’s violations are serious and recurrent, giving rise to a presumption that only revocation can adequately protect investors. BBLs has failed to make a compelling showing on the remaining *Gateway* factors as is necessary to rebut that presumption. In fact, evidence on the remaining *Gateway* factors provides additional confirmation that revocation is required.

### **BRIEF IN SUPPORT**

#### **I. FACTS**

##### **A. Issuer Background.**

BBLs (CIK No. 799235) is a Texas corporation located in Houston, Texas, with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). BBLs is delinquent in its periodic filings with the Commission, having not filed a periodic report since the report covering the period ended September 30, 2020. As of January 10, 2022, unsolicited quotations for the common stock of BBLs were quoted on OTC Link operated by OTC Markets Group, Inc.

##### **B. BBLs’s Delinquencies.**

From December 31, 2017 to September 30, 2020, BBLs made its required filings, but

they were consistently late. Indeed, BBLs's filings over the past four years were made fifteen to six hundred and fifty-two days late or were not filed at all. Harris Decl. at Ex. 10.

On July 8, 2021, the Division of Corporation Finance ("Corporation Finance") sent a delinquency letter to BBLs pointing out that several of its periodic filings were overdue. At that time, BBLs had failed to file three Form 10-Qs due in 2020, a Form 10-K due in 2020, and the first Form 10-Q due in 2021. Harris Decl. at Ex.'s 9 and 10. The delinquency letter warned BBLs that it could be subject to institution of a Section 12(j) proceeding without prior notice if it did not file its required reports within fifteen days. *Id.* at Ex. 4. BBLs contacted Corporation Finance and committed to filing the Forms 10-Q due in 2020 on or before July 25, 2021 and the outstanding Form 10-K by December 31, 2021.<sup>1</sup> Answer at p. 3; Harris Decl. at Ex. 4. While BBLs did file the missing 2020 Forms 10-Q, it did not file any of them by July 25, 2021 as promised. The last of the missing reports was not filed until December 13, 2021, roughly five months after its own self-imposed deadline. BBLs never followed through on its promise to file the missing Form 10-K and continued to miss yet more filing deadlines. Harris Decl. at Ex.'s 9 and 10.

Seven months after Corporation Finance issued its delinquency notice, two of the reports that were then overdue remained overdue and BBLs had missed two additional filing deadlines, prompting the Division to file this proceeding. Harris Decl. at Ex.'s 9 and 10. On February 8, 2022, BBLs filed its Answer admitting that one Form 10-K and three Forms 10-Q were overdue. Answer at 4. BBLs attributed its delinquency to the resignations of its CEO and Controller, its lack of financial resources, and unexpected delays associated with compiling certain reserve

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<sup>1</sup> BBLs's July 15, 2021 email said "we should have our 2020 Form 10-Q filed within the next ten days." Harris Decl. at Ex. 4. The Division interprets the statement as a commitment to file all three of the delinquent Forms 10-Q that were due in 2020 by July 25, 2021. BBLs filed all of the reports after that date. The first of the three missing reports was filed on August 3, 2021, the second on September 24, 2021, and the third on December 13, 2021. Harris Decl. at Ex.'s 9 and 10.

reports and other financial information. *Id.* In its Answer, BBLs promised to file its Form 10-K on or before February 28, 2022. *Id.* at 5. Not only did BBLs fail to meet its own deadline to file the overdue 10-K, it then missed the deadline to file the Form 10-K due on March 31, 2022. BBLs currently has five reports outstanding, with the oldest three-hundred and sixty-six days overdue. Harris Decl. at Ex.'s 9 and 10.

The most recent information investors have about BBLs is for the period ended September 30, 2020, almost two years ago, and that information was provided to investors more than a year late. BBLs has not filed any Forms 12b-25 to explain to investors why its filings are delinquent or when it anticipates making its filings. Harris Decl. at Ex.'s 9 and 10.

## **II. APPLICABLE STANDARDS**

### **A. Rule of Practice 250.**

Rule of Practice 250(b) provides that a hearing officer may grant a motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. *See Michael Puorro*, Initial Decision Rel. No. 253, 2004 SEC LEXIS 1348, at \*3 (June 28, 2004). As one Administrative Law Judge explained:

By analogy to Rule 56 of the Federal Rules of Civil Procedure, a factual dispute between the parties will not defeat a motion for summary disposition unless it is both genuine and material. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Once the moving party has carried its burden, "its opponent must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations or denials of its pleadings. At the summary disposition stage, the hearing officer's function is not to weigh the evidence and determine the truth of the matter, but rather to determine whether there is a genuine issue for resolution at a hearing. *See Anderson*, 477 U.S. at 249.

*Edward Becker*, Initial Decision Rel. No. 252, 2004 SEC LEXIS 1135, at \*5 (June 3, 2004).

## **B. The *Gateway* Factors.**

Section 12(j) empowers the Commission, where “necessary and appropriate for the protection of investors” to either suspend (for a period not exceeding twelve months) or permanently revoke a security’s registration “if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.” The Commission’s determination of which sanction is appropriate “turns on the effect on the investing public, including both current and prospective investors, of the issuer’s violations, on the one hand, and the Section 12(j) sanctions on the other hand.” *Gateway International Holdings, Inc.*, Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288, at \*19-20 (May 31, 2006).

In making its determination, the Commission will consider, among other things: (1) the seriousness of the issuer’s violations; (2) the isolated or recurrent nature of the violations; (3) the degree of culpability involved; (4) the extent of the issuer’s efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer’s assurances, if any, against future violations. *Id.*; see also *Steadman v. SEC*, 603 F.2d 1126, 1140 (5<sup>th</sup> Cir. 1979) (setting forth the public interest factors that informed the Commission’s *Gateway* decision).

Where the issuer’s violations are serious and recurrent, the Commission applies “a strong presumption in favor of revocation” that can only be rebutted by “a strongly compelling showing with respect to the other factors.” *Absolute Potential, Inc. (f/k/a Absolute Waste Services, Inc.)*, Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193, at \*24 (April 4, 2014) (quoting *Impax Laboratories, Inc.*, Securities Exchange Act of 1934 Rel. No. 57864, 2008 SEC LEXIS 1197, at \*27 (May 23, 2008)). See also *Calais Resources, Inc.*, Exchange Act Release No. 67312, 2012 LEXIS 2023, at \*18 (June 29, 2012) (quoting *Nature’s Sunshine Prods., Inc.*, Exchange Act Release No. 59268, 2009 WL 137145, at \*7 (Jan. 21, 2009)); accord *Cobalis Corp.*, Exchange



Act Release No. 64813, 2011 WL 2644158, at \*5 (July 6, 2011); *Am. Stellar Energy, Inc. (n/k/a Tara Gold)*, Exchange Act Release No. 64897, 2011 WL 2783483, at \*4 (July 18, 2011).

### III. ARGUMENT

BBS admits that it failed to file the reports required by Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder. Therefore, whether a violation occurred is not disputed and no evidentiary hearing is necessary on that issue. The only remaining issue is the appropriate remedy for BBS's violations. Because the facts relevant to the *Gateway* factors are not disputed, no evidentiary hearing is necessary for a remedy determination either. Under Commission precedent, the appropriate remedy is revocation.

#### A. BBS's Violations Of Section 13(A) Are Serious And Recurrent, Giving Rise To A Presumption That Revocation Is Required To Protect Investors.

BBS has failed to file five periodic reports, leaving investors without information for the period beginning December 31, 2020 through March 31, 2022, a 15-month period. At no point during its long period of delinquency did BBS file a Form 12b-25,<sup>2</sup> which is required when an issuer does not file a timely report. Harris Decl. Ex.'s 9 and 10.

This conduct is serious and egregious because it violates a central provision of the Exchange Act. Exchange Act Section 13(a) is a cornerstone of the Exchange Act, establishing a system of periodically reporting invaluable information about issuers of securities. The

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<sup>2</sup> Although this was not alleged in the OIP, the Court may consider it in determining an appropriate sanction. The Commission has applied the same principle in other contexts. *Robert Bruce Lohmann*, 80 SEC Docket 1790, 2003 SEC LEXIS 1521, at \*17 n.20 (June 26, 2003) (ALJ may properly consider lies told to staff during investigation in assessing sanctions, though they were not charged in the OIP); *Stephen Stout*, 73 SEC Docket 1441, 2000 SEC LEXIS 2119, at \*57 & n.64. (October 4, 2000) (respondent's subsequent conduct in creation of arbitration scheme, which was not charged in OIP, found to be relevant in determining whether bar was appropriate); *Joseph P. Barbato*, Securities Exchange Act of 1934 Rel. No. 41034, 1999 SEC LEXIS 276, at \*49-50 (February 10, 1999) (respondent's conduct in contacting former customers identified as Division witnesses found to be indicative of respondent's potential for committing future violations). See also *SEC v. Falstaff Brewing Corp.*, 629 F.2d 62, 78 (D.C. Cir. 1980) (ALJ may consider the failure of certain executives to file reports under 16(a) and decide that it indicates a likelihood of future misconduct.)

Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are “the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities.” Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

*Gateway*, 2006 SEC LEXIS 1288, at \*26 (quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1<sup>st</sup> Cir. 1977)).

A company’s failure to file periodic filings constitutes a serious and egregious violation of Section 13(a). *Impax Laboratories, Inc.*, 2008 SEC LEXIS 1197, at \*24. Given the central importance of the reporting requirements, delinquencies of similar duration to those at issue here have resulted in revocation. *See, e.g., WSF Corp.*, Initial Decision Rel. No. 204, 2002 WL 917293, at \*14 (May 8, 2002) (one Form 10-K and three Forms 10-Q); *Freedom Golf Corp.*, Initial Decision Release No. 227, 2003 SEC LEXIS 1178, at \*5 (May 15, 2003) (one Form 10-K and one Form 10-Q); *iBIZ Technology Corp.*, Initial Decision Rel. No. 312 at 1, 2006 WL 1675913 (June 16, 2006) (one Form 10-K and two Forms 10-Q).

BBL’s failure to file fifteen months of reports also constitutes recurrent and continuous violations under the second *Gateway* factor. *See, e.g., iBIZ Technology Corp.*, 2006 WL 1675913, at \*4 (failure to file one Form 10-K and two Forms 10-Q was serious and recurrent) as is its failure to file Form 12b-25s. *See Investco, Inc.*, Initial Decision Rel. No. 240, 2003 SEC LEXIS 2792, at \*6 (November 24, 2003) (delinquent issuer’s actions were found to be egregious and recurrent when there was no evidence that it filed required Forms 12b-25); *see also Calais Resources, Inc.*, 2012 SEC LEXIS 2023 at \*16-17 (noting failures to file Forms 12b-25 as

supporting revocation order).

**B. BBLs Has Not Rebutted The Presumption Of Revocation With A Compelling Showing On The Remaining *Gateway* Factors. Indeed, Those Factors Confirm That Revocation Is Required To Protect Investors.**

BBLs has wholly failed to make a compelling showing rebutting the presumption of revocation. Indeed, all of the remaining *Gateway* factors weigh in favor of revocation.

**1. BBLs Has A High Degree Of Culpability.**

Evidence that a violation was “inadvertent or accidental” establishes a low level of culpability. *China-Biotics, Inc.*, Exchange Act Release 70800, 2013 SEC LEXIS 3451, at \*37 (Nov. 4, 2013). Evidence that an issuer knew of its reporting obligations but failed to comply with them, or persisted in noncompliance after receiving multiple warnings, establishes “a high degree of culpability.” *Id.* (issuer had a “high degree of culpability” where it “did not file a single periodic report for more than a year and a half” and continued in its delinquencies “despite multiple warnings and the institution of [revocation] proceedings”). *See also Gateway*, 2006 SEC LEXIS 1288, at \*21 (issuer “evidenced a high degree of culpability,” because it “knew of its reporting obligations, yet failed to file” twenty periodic reports and only filed two Forms 12b-25); *Citizens Capital*, Exchange Act Release 67313, 2012 WL 2499350, at \*5 (June 29, 2012) (respondent’s long history of ignoring reporting obligations evidenced a high degree of culpability).

The evidence is undisputed that BBLs’s filing failures were not inadvertent or accidental and BBLs has not made any showing, compelling or otherwise, to the contrary. BBLs knew it needed to file Forms 12b-25 if it did not timely file a periodic report, as evidenced by the fact that BBLs has filed several of them in the past. Yet, BBLs chose not to file Forms 12b-25 for the outstanding reports (or any late reports filed after April 1, 2019). Harris Decl. Ex.’s 9 and 10. BBLs similarly understood that it was required to file Forms 10-Q, having filed nine of

them since April 17, 2018. The Delinquency letter warned BBLS about the need to file the outstanding periodic reports and, in its Answer, BBLS acknowledged the specific reports that are outstanding. Answer at pg. 4. Despite its own knowledge of the reporting requirements and the warning from Corporation Finance, BBLS's delinquencies continue.

## **2. BBLS Has Not Remedied Its Past Violations Or Adopted Concrete Measures To Ensure Future Compliance.**

To date, BBLS has not remedied the violations that led to the filing of the OIP. That evidence is certainly not a compelling factor against revocation.

To make a compelling showing on future compliance, BBLS must demonstrate that it implemented concrete and effective measures to ameliorate the cause of its filing failures. *Phlo Corp.*, Exchange Act Release No. 55562, 2007 WL 966943, at \*16 (Mar. 30, 2007). BBLS claims that its filing failures were caused by the departures of its CEO and Controller, lack of finances, and unexplained delays in access to information required to prepare its reports. Answer at 4. There is no evidence that BBLS has adopted concrete measures that would prevent it from missing required filings should key employees leave the company in future. Nor is there evidence that BBLS has funding commitments that will ensure sufficient funds to file future required reports. Moreover, BBLS has failed to explain why it cannot obtain or access the information needed to prepare its reports, let alone concrete measures that would prevent this from being an issue in the future.

## **3. BBLS's Assurances Against Future Violations Are Not Credible.**

The likelihood that BBLS will commit future violations can be inferred from its past violations, including the very violation that led to the enforcement action. *See KPMG Peat Marwick LLP*, Securities Exchange Act of 1934 Rel. No. 44050, 2001 SEC LEXIS 422, at \*21-22 (March 8, 2001) (risk of future violation "need not be very great to warrant issuing a cease-

and-desist order and that in the ordinary case and absent evidence to the contrary, a finding of past violation raises a sufficient risk of future violation”).

Moreover, an issuer's failure to meet self-imposed deadlines for curing past deficiencies undermines the credibility of its assurances of future compliance. *Tara Gold*, 2011 WL 2783483 at \*5 (assurances of future compliance were not credible where issuer "failed to adhere to the schedules that the company itself set"); *Calais Resources, Inc.*, 2012 LEXIS 2023, at \*6 (same).

In its correspondence with Corporation Finance, BBLs committed to filing its outstanding 2020 Forms 10-Q on or before July 25, 2021 and its outstanding Form 10-K by December 31, 2021. Answer at 3. Although BBLs did eventually make its 2020 Form 10-Q filings, the last of the missing reports was filed five months after the commitment date. In its Answer, BBLs set a second deadline for filing the missing Form 10-K – on or before February 28, 2022. BBLs did not meet that deadline either, meaning that BBLs has missed two self-imposed deadlines for the 2020 Form 10-K. Not only has BBLs failed to become current, it has shown that its promises to become current are not credible.

In addition, BBLs claims that its failure to file timely reports is due, at least in part, to lack of financial resources. Answer at 7. BBLs’s recent disclosures indicate continued financial uncertainty. In the most recent Form 10-Q (which is almost two years out-of-date), BBLs’s auditors note that “[t]he Company has suffered recurring losses from operations. These conditions raise substantial doubt about the Company’s ability to continue as a going concern.” Harris Decl. at Ex. 7. Even more significantly, BBLs has recently filed suit against its former CEO for fraud because a key cash-generating asset deemed an “important” factor for “the future of the Company,” is in the name of the former CEO’s father, rather than BBLs:

“[T]he Company has been operating at a financial loss due to limited oil production, current liabilities and debt repayment obligations. However, since the Company’s purchase of a 50% working interest in the Utikuma Lake field in Alberta, Canada, we have added an

estimated 250 barrels of oil equivalent per day (boepd) of net production. The current monthly cash generated, and the future monetization of the Utikuma Lake asset are important factors in the future of the Company. The current co-owner and operator of the field is Blue Sky Resources (BSR), a company controlled by Zel Khan's (the Company's former CEO) father. We have retained Canadian counsel and are pursuing our options to ensure that we are paid our share of monthly production."

Harris Decl. at Ex. 5, p. 7. In addition, the lawsuit alleges that BBL's former CEO and a former Senior Vice President and Director manipulated or falsified accounting records, which is likely to impact BBL's ability to filing timely and accurate reports for the foreseeable future.

Harris Decl. at Ex. 6.

BBL's history of delinquencies and continued uncertainty as to whether it will ever obtain the funds to prepare required reports prove that any assurances it may offer against future violations are not credible. As with the other *Gateway* factors, BBL has not made a compelling showing that revocation is unnecessary; the evidence confirms that revocation is required.

**C. BBL's Claim That Revocation Will Harm Investors Is Contrary To The Facts And Commission Precedent.**

BBL's Answer asserts that suspension or revocation would not be in the best interests of shareholders of Petrolia, who "would no longer be able to easily liquidate their holdings."

Answer at 7. But the public interest is concerned with more than just current shareholders; it is also concerned with prospective shareholders. "Revocation is a prospective remedy and is imposed based on [the Commission's] concern about protecting future investors in the company." *Citizens Capital Corp.* 2012 WL 2499350, at \*8. *See also Accredited Bus.*

*Consolidators*, Exchange Act Rel. No. 75840, 2015 WL 5172970, at \*2 (September 4, 2015)

(filing failures deprive "both existing and prospective holders of its registered stock of the ability to make informed investment decisions based on current and reliable information."); *WSF Corp.*, 2002 WL 917293, at \*5 (Administrative Law Judge noted that he did "not share WSF's rather narrow focus on the ability of its current shareholders to liquidate their stock by selling to others.

The Commission must consider the interest of the investing public at large, including those members of the public who might be on the buy side if WSF's current shareholders are selling"). BBL's filing failures have left prospective investors without current and accurate financial information about the company which they need to make sound decisions.

Investor protection also takes into account "the broader systemic harm" that follows from registrants who fail to comply with reporting requirements. *Absolute Potential, Inc*, 2014 SEC LEXIS 1193, at \*7. By imposing a sanction significant enough to deter other issuers from engaging in similar conduct, the Commission protects current and prospective investors of all public filers. And "[d]eterrence is effective only if a lengthy delinquency, in the absence of strongly compelling circumstances regarding the other *Gateway* factors, results in revocation." *Advanced Life Sciences Holdings, Inc.*, Exchange Act Rel. No. 81253, 2017 WL 3214455 at \*6 (July 28, 2017). Allowing BBL to escape revocation would signal to other issuers that filing failures do not result in a significant sanction. That message would undercut Section 13(a)'s reporting requirements to the detriment of all investors. The protective purpose served by deterrence requires revocation here.

#### **IV. CONCLUSION**

BBL has repeatedly failed to honor its commitments to the Commission and to its investors and has yet to show that it can meet its obligations as an Exchange Act Section 12 registrant. The protection of investors through an actively-enforced reporting program mandates revocation. For the reasons set forth above, the Division requests that this Motion for Summary

Disposition be granted and that the Commission revoke the registrations of each class of BBLs  
Exchange Act Section 12 registered securities.

Dated: April 11, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Motion for Summary Disposition as to Petrolia Energy, Brief in Support, and Declarations of Sandhya C. Harris in Support thereof and accompanying Exhibits, to be served on the following on this 11th day of April, 2022, in the manner indicated below:

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