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Jun 29 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Maite D. Murphy, Circuit Court Judge

Ct. App. Case No. 2019-001719

Innovative Waste Management Inc., Respondent,

v.

Crest Energy Partners, GP, LLC, Dunhill Products GP, LLC, Henry Wuertz, Innovative Waste Management, Inc., Crest Energy Partners LP, Dunhill Products LP, Edward H. Girardeau, C. Russ Lloyd, Defendants, Of Whom,

Crest Energy Partners GP, LLC, Crest Energy Partners LP, Dunhill Products GP, LLC, Dunhill Products, LP, and Henry Wuertz are the Appellants.

**MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

DEFENDANTS / APPELLANTS Crest Energy Partners GP, LLC, Crest Energy Partners LP, Dunhill Products GP, LLC, Dunhill Products, LP, and Henry Wuertz, through undersigned counsel, hereby respectfully request a 30-day extension of time to file their Petition for Writ of Certiorari, pursuant to Rule 263(b), SCACR.

This case emanates from a series of 2009 and 2010 petroleum transactions between Respondent Innovative Waste Management (“IWM”) and Appellant Crest Energy Partners, L.P., formerly known as Dunhill Products, L.P. (“Crest”). IWM’s first lawsuit was dismissed by the United States District Court for the District of South Carolina for lack of subject matter jurisdiction on May 10, 2012. On May 11, 2012, IWM filed this lawsuit in the Dorchester County Court of

Common Pleas, based on the same facts previously alleged in federal court. The Dorchester County case was dismissed on April 20, 2015. IWM pursued a successful appeal, which resulted in the Court of Appeals' opinion Innovative Waste Mgmt. Inc. v. Crest Energy Partners GP, LLC, 423 S.C. 611, 815 S.E.2d 780 (Ct. App. 2018), affirmed as modified by this Court's opinion, Innovative Waste Mgmt. Inc. v. Crest Energy Partners GP, LLC 425 S.C. 568, 571, 824 S.E.2d 214 (2019).

As noted in the statement of Sean K. Butler, CPA, which appears as page 756 of the Third Amended Record on Appeal, and is attached hereto as Exhibit A, Crest Energy Partners GP, LLC and Crest Energy Partners LP, who were formerly known as Dunhill Products GP, LLC, Dunhill Products, LP, ceased business operations in 2015 while this case was on appeal from the April 20, 2015 dismissal.

The case was remitted to the trial court on February 27, 2019. The resurgence of a discovery dispute, which was exacerbated by the insolvency of the entity defendants, ultimately resulted in an October 1, 2019 trial court order striking all Appellants' Answers and Counterclaims. Notice of Appeal was filed October 9, 2019, the case was argued on December 2, 2022, and the Court of Appeals issued an unpublished Order affirming the lower court on March 29, 2023. Rehearing was denied on June 5, 2023. Pursuant to Rule 242(c), SCACR, Appellants' Petition for Writ of Certiorari to the Court of Appeals is currently due on July 5, 2023.

The undersigned seeks this 30-day extension for all Appellants to accommodate the unusual and difficult posture of this case. Appellant Wuertz, former president of Appellant Crest Energy Partners, L.P. has been forced by the breadth of the ruling below to pursue this appeal on behalf of himself and two entities that have not conducted business for seven years, after twelve years of litigating the issues presented in the case. It may go without saying that the undersigned

believes that there is no basis for Wuertz to have been personally named in this suit in the first place. Nonetheless, Wuertz remains a defendant below, and must determine how to proceed and then how to procure and/or allocate resources to the appeal.

While the undersigned believes that Appellants will file a Petition for Writ of Certiorari, it will be difficult for the stakeholders to finalize that decision prior to or over the Fourth of July holiday weekend. Moreover, undersigned counsel will have difficulty allocating sufficient time to complete and file the petition during the time remaining. While Rule 263(b), SCACR, does not contain an explicit standard for the Court to grant an extension of time, Appellants submit that the grounds stated herein constitute good cause to grant a 30-day extension of time. Further, Appellants submit that, given the tortured history of this case and the fact that no immediate response will be required, Respondent will not be prejudiced if Appellants are granted an additional 30 days to file their petition.

For these reasons, Appellants respectfully request that this Honorable Court GRANT this motion for extension of time, pursuant to Rule 263(b), SCACR.

RESPECTFULLY SUBMITTED:

s/ David B. Marvel
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ATTORNEY FOR THE APPELLANTS

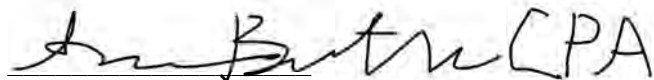
June 29, 2023
Chattanooga, Tennessee
(via SCJB OneDrive)

August 28, 2019

To Whom It May Concern:

I am a Certified Public Accountant licensed by the State of Texas. In the usual course of business, I have prepared tax returns for Crest Energy Partners, L.P. and am therefore familiar with that entity's corporate structure and financial condition. At the request of attorney David B. Marvel, I offer the following, to the best of my current knowledge and based on information gathered and reported in accordance with generally accepted accounting principles.

1. In August 2010 the entity previously referred to as "Dunhill Products, L.P." formally changed its name to "Crest Energy Partners, L.P.". Crest Energy Partners, L.P. continued use of its FEIN 113648675 and otherwise continued the same partnership identity. Therefore, there is no existing separate company "Dunhill Products, L.P.".
2. In August 2010 the entity previously referred to as "Dunhill Products GP, LLC" formally changed its name to "Crest Energy Partners GP, LLC". Crest Energy Partners GP, LLC continued use of its FEIN 11-3648671 and otherwise continued the same entity status. Therefore, there is no existing separate company "Dunhill Products GP, LLC".
3. In 2016, the charters of both Crest Energy Partners, L.P. and Crest Energy Partners GP, LLC were cancelled by the State of Delaware and were placed in forfeiture by the Texas Secretary of State.
4. Crest Energy Partners, L.P. and, by extension, Crest Energy Partners GP, LLC, have not conducted their usual income producing business since 2015, at the latest. Any income reflected on the Crest Energy Partners, L.P. tax returns for 2016 and 2017 is a result of accounting practices which, among other things, require a taxpayer to declare cancelled debt as income. Crest Energy Partners, L.P. has not filed returns for 2018.
5. Otherwise, Crest Energy Partners, L.P. and Crest Energy Partners GP, LLC have no income or assets and are not conducting any transactional business.



Sean K Butler, CPA

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Crest Energy Partners GP, LLC, Crest Energy Partners LP, Dunhill Products, LP, and Henry Wuertz, are the Appellants.

PROOF OF SERVICE

I hereby certify that the Appellants' Motion for Extension of Time to file Petition for Certiorari was served upon Counsel for the Respondent, Wm. Michael Gruenloh, 63 Moultrie Street, Second Floor, Charleston SC 29403, by FedEx, next day delivery, this 29th day of June in accordance with the South Carolina Appellate Court Rules.

RESPECTFULLY SUBMITTED:

s/ David B. Marvel

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ATTORNEY FOR THE APPELLANTS

June 29, 2023
Chattanooga, Tennessee



DAVID B. MARVEL

Attorney at Law • Proctor in Admiralty
Certified Civil and Federal Court Mediator
Admitted to Practice in South Carolina and Georgia

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Via SCJB OneDrive

Patricia A. Howard
Clerk, South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

Re: Innovative Waste Mgmt. v. Crest Energy Partners, *et al.*
Court of Appeals Case No. 2019-001719

Dear Ms. Howard,

I hope that this letter finds you well. I am filing herewith Appellant's Motion for Extension of Time to file Petition for Writ of Certiorari. Please transmit this Motion for determination in your usual prompt and efficient manner. I am forwarding payment for the \$50 filing fee with a copy of this letter by U.S. Mail.

Thank you for your assistance with this matter. Please let me know if I can be of further assistance. With best regards, I remain

Sincerely,

David B. Marvel

Enclosure

cc: Wm. Michael Gruenloh
Clerk, SC Court of Appeals