

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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<b>In Re:</b>	)	<b>Chapter 11</b>
	)	
<b>RAAM GLOBAL ENERGY COMPANY, et al.,<sup>1</sup></b>	)	<b>Case No. 15-35615 (MI)</b>
	)	
<b>Debtors</b>	)	<b>(Jointly Administered)</b>
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**UNOPPOSED MOTION FOR ENTRY OF ORDER ALLOWING ADVANCEMENT  
OF DEFENSE COSTS UNDER INSURANCE POLICY**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 14 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

Movants, Howard A. Settle, Robert E. Fox, Thomas M. Lewry and Jonathan B. Rudney (collectively, the “Insured Parties”), by and through their undersigned counsel, respectfully move this Court for the entry of an Order substantially in the form attached (the “Proposed Order”). To avoid any doubt about the effect of the propriety of payment of Policy proceeds, the requested Order will authorize National Union Fire Insurance Company of Pittsburgh, Pa (the “Insurer”) to advance Defense Costs (as that term is defined in the Policy) under its Directors and Officers Liability Insurance, Insurance Policy No. 01-105-06-17 (the “Policy) to the Insured Parties.

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<sup>1</sup> The Debtors in these Chapter 11 cases are RAAM Global Energy Company, Century Exploration New Orleans, LLC, Century Exploration Houston, LLC, and Century Exploration Resources, LLC

In support of this Motion, the Insured Parties respectfully state as follows:

**JURISDICTION**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. Venue in this district is proper under 28 U.S.C. § 1408.
2. The basis for the relief requested by this Motion is Section 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”).

**BACKGROUND**

3. The Insured Parties were all officers or directors of RAAM Global Energy Company (“RAAM Global”) or one of its wholly owned subsidiaries.
4. By letter to the Insured Parties, the Liquidating Trustee of RAAM Global demanded payment from, and threatened to file suit against, the Insured Parties.
5. The Insured Parties believe that the Policy<sup>2</sup> provides direct coverage of their Defense Costs associated with the claims asserted by the Liquidating Trustee.
6. The Insured Parties have incurred Defense Costs to date, including investigation into the Liquidating Trustee’s allegations.
7. In accordance with the Policy, the Insured Parties have made a demand on the Insurer to advance the Defense Costs they have incurred and are continuing to incur Defense Costs in connection with their defense of the claims asserted by the Liquidating Trustee.

**RELIEF REQUESTED**

8. By this Motion, the Insured Parties seek an Order, substantially in the form of the attached Proposed Order authorizing, to the extent required, the Insurer to advance Defense Costs to the Insured Parties under the Policy.

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<sup>2</sup> The representations and descriptions made here regarding the Policy are qualified in their entirety by the actual terms and conditions of the Policy and no such representation or description is intended or will operate to change or affect any of the terms and conditions of the Policy.

**BASIS FOR RELIEF**

9. Although insurance policies of the Debtor are considered property of the estate and covered by the automatic stay provisions of the Bankruptcy Code, see, e.g., In re Edgeworth, 993 F.2d 51, 55 (5<sup>th</sup> Cir. 1993) (“[C]ourts are generally in agreement that an insurance policy will be considered property of the estate.”), the Fifth Circuit has distinguished between ownership of the policy and ownership of the proceeds of that policy. See, e.g., In re Louisiana World Exposition, Inc., 832 F.2d 1391 (5<sup>th</sup> Cir. 1987) (holding that liability proceeds of a D&O insurance policy belong only to the directors and officers).

10. With respect to the specific type of insurance policy at issue here, the Fifth Circuit has expressly held that “the proceeds of Directors and Officers (D&O) liability insurance policies were not part of a corporation’s bankruptcy estate even though the policies were purchased and owned by the corporation.” In re Vitek, Inc., 51 F.3d 530, 533-34 (5<sup>th</sup> Cir. 1995).

11. Accordingly, the Insured Parties respectfully request that this Court: (i) grant this Motion and the relief requested herein; (ii) enter the Proposed Order attached hereto; and (iii) grant such other and further relief as it deems appropriate.

Respectfully submitted,

Houston, Texas  
Dated: August 2, 2016

/s/ Matthew D. Cavanaugh  
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**CERTIFICATE OF CONFERENCE**

On July 31 and August 1, 2016, I conferred with Tad Davidson, counsel for Donald J. Brickley, in his capacity as Liquidating Trustee of the RAAM Global Energy Company Liquidating Trust, regarding the substance of this Motion (and the relief requested), and was informed that this motion is not opposed.

**CERTIFICATE OF SERVICE**

I hereby certify that all parties entitled to service of this Motion under Local Rule 9013(f) have been served with a copy of this document via ECF on August 2, 2016.

/s/ Matthew D. Cavanaugh