

Federal Judge Rules in Favor of Gray Reed’s Energy Client

June 15, 2018

On June 12, 2018, an Arkansas federal judge ruled in favor of Gray Reed client MidCon Gathering LLC in a lawsuit brought by a man who alleged he developed a credit facility for the company and sought a minimum of \$1.6 million.

The plaintiff, Stephen Carleson, claimed he entered into an agreement in 2014 with MidCon to expand the credit available to the company, a midstream gathering company that uses credit to buy oil products it later sells. Carleson’s company Producers Credit Protection Group Inc. (PCPG) was formed in part to help facilitate MidCon’s business growth by developing what Carleson said was a “credit facility” that would sell MidCon credit insurance as part of a “credit enhancement” program. The plaintiff believed he was entitled to at least \$1.62 million for his work that allegedly benefited MidCon.

U.S. District Judge Brian S. Miller said that the “credit facility” Carleson and PCPG helped develop was a “credit insurance policy” issued by a third party for MidCon’s benefit, which requires a license to sell insurance in Arkansas.

“The fact that Carleson agreed to pay the premium (which he did not pay) for the credit insurance policy he designed for MidCon demonstrated that the credit insurance policy at issue was part of the credit facility for which he now seeks payment,” the order said.

And because Carleson started PCPG “specifically for the ‘purpose of selling credit insurance policies,’” not having an insurance license in Arkansas proved to be problematic for his breach-of-contract and unjust enrichment claims.

“A contract made by one engaged in a particular occupation without a license cannot be enforced when a statute prohibits the person from engaging in that occupation without a license,” Judge Miller wrote. “The same rule applies to an implied contract, which is the type of contract at issue under a theory of unjust enrichment... It is apparent that Carleson never explains what a ‘credit facility’ is or how it is distinguishable from a credit insurance policy because doing so would betray the fact that he was rendering insurance advice and selling and negotiating insurance without a license to do so, which prevents him from being compensated.”

MidCon is represented by Gray Reed Partner [Preston T. Kamin](#) and McMath & Woods Partner John Coulter in Arkansas.

The case is Stephen Carleson et al. v. MidCon Gathering LLC, case number 4:16-cv-00841, in the U.S. District Court for the Eastern District of Arkansas, Western Division.

About Gray Reed & McGraw

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