

BP Energy Co. v LOLA Energy PetroCo LLC
2026 NY Slip Op 30607(U)
February 18, 2026
Supreme Court, New York County
Docket Number: Index No. 653357/2025
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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BP ENERGY COMPANY,

Plaintiff,

- v -

LOLA ENERGY PETROCO LLC, LOLA ENERGY III LLC,
LOLA ENERGY HOLDINGS III LLC, LOLA ENERGY
MANAGEMENT III LLC, EVANS CITY HOLDINGS, LLC,
MUDDY CREEK ENERGY INVESTMENTS, LLC

Defendants.

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INDEX NO. 653357/2025

MOTION DATE 10/24/2025

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 127, 128, 129, 130, 149, 150, 151, 152, 153

were read on this motion for PRELIMINARY INJUNCTION.

Plaintiff BP Energy Company (“BP”) moves for a preliminary injunction restraining Defendant LOLA Energy PetroCo LLC (“LOLA”) from making distributions of allegedly encumbered proceeds to LOLA’s members, shareholders, or owners pending resolution of this action.

Based on the record presented, and for the reasons set forth below, the motion is granted.

DISCUSSION

This action arises from a commercial dispute concerning payments allegedly due under energy trading agreements between the parties. For the purposes of this motion, BP contends that, after failing to satisfy its contractual obligations, LOLA distributed \$4.52 million of encumbered proceeds to its members to cover their income tax liabilities, in violation of

contractual restrictions on such distributions upon default. BP seeks to enjoin further distributions during the pendency of the case.

“To be entitled to a preliminary injunction, the moving party must demonstrate (1) a likelihood of success on the merits, (2) irreparable injury if provisional relief is not granted and (3) that the equities are in [its] favor” (*Kazantzis v. Cascade Funding RMI Acquisitions Grantor Tr.*, 217 AD3d 410, 411 [1st Dept 2023]).

I. Likelihood of success

“To establish a likelihood of success on the merits, a prima facie showing of a reasonable probability of success is sufficient; actual proof of the petitioner's claims should be left to a full hearing on the merits” (*Barbes Rest. Inc. v ASRR Suzer 218, LLC*, 140 AD3d 430, 431 [1st Dept 2016] [internal quotation marks and alterations omitted]). In addition, “[a] likelihood of success on the merits may be sufficiently established even where the facts are in dispute and the evidence need not be conclusive” (*id.*).

In this action, BP asserts claims sounding in breach of contract and voidable transfer. Either claim may support preliminary relief if adequately demonstrated (*Town of Carmel v Melchner*, 105 AD3d 82, 91 [2d Dept 2013] [movant was “required to establish the likelihood of ultimate success on the merits on at least one of the two causes of action in the complaint]”).

“The elements of a breach of contract claim are (1) the existence of a contract, (2) the plaintiff's performance, (3) the defendant's breach, and (4) resulting damages” (*Alloy Advisory, LLC v 503 W. 33rd St. Assoc., Inc.*, 195 AD3d 436 [1st Dept 2021]). Here, BP adequately identifies the agreements requiring payment and restricting transfers upon default, alleges

nonpayment, and invokes contractual remedies. On the record presented thus far, BP has established a likelihood of success on its breach of contract claim.¹

II. Irreparable harm

To establish irreparable harm, the movant must demonstrate that it cannot be compensated by money damages (*Credit Index, L.L.C. v Riskwise Intern. L.L.C.*, 282 AD2d 246, 247 [1st Dept 2001]). Here, LOLA's argument that BP cannot show irreparable harm because it can recover money damages is unavailing because "a secured creditor has a legally recognized interest in preventing dissipation of encumbered property prior to obtaining judgment" (*Montreux Partners II, LP v Com'ns Import-Export S.A.*, 2025 N.Y. Slip Op. 30951[U], 7 [N.Y. Sup Ct, New York County 2025]).

Irreparable harm may also exist in cases where a defendant transfers secured assets in violation of binding agreements because doing so deprives the lender of the value of the collateral (*Goldman Sachs Bank USA v Schreiber*, 2022 WL 60650, at *2 [Sup Ct, NY Cnty Jan. 6, 2022], citing *Suttongate Holdings Limited v Laconm Management N.V.*, 159 AD3d 514, 515 [1st Dept 2018]). Here, BP has shown more than a generalized risk of nonpayment. BP alleges an actual distribution of \$4.52 million in encumbered assets and downstream transfers without consent and in violation of restrictions in the parties' agreements prohibiting such distributions after an event of default (NYSCEF 4, Part 5[ee][u]). Based on these allegations, and given the contractual restraints BP seeks to enforce, BP has demonstrated a risk that its collateral will

¹ In view of that finding, the Court need not determine at this point BP's likelihood of success on its independent claims for voidable transfer. As discussed below, however, the fact that LOLA made substantial transfers to members in the wake of a contractual breach does weigh in favor of the injunctive relief sought, even if such transfers are ultimately found not to be independently voidable under New York law.

continue to erode absent injunctive relief. BP therefore sufficiently establishes a risk of irreparable harm.

III. Balance of equities

The balance of equities favors injunctive relief because the relief BP seeks is narrow and would require only compliance with the restrictions to which LOLA had agreed, rather than restricting ordinary business operations (*Asprea v Whitehall Interiors NYC, LLC*, 206 AD3d 402, 403 [1st Dept 2022] [approving injunction that is narrow in scope and enjoins conduct that would likely violate the parties' agreements]). While LOLA argues that restricting its ability to make tax distributions would cause "upheaval" and "precipitate unnecessary litigation" from its investors, such hardship does not outweigh the risk to BP's collateral.

* * * *

In sum, BP has demonstrated a likelihood of success on the merits, irreparable harm absent an injunction, and that the balance of equities favors targeted preliminary injunctive relief pending resolution of this action.

Accordingly, it is

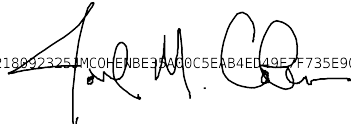
ORDERED that BP's motion for a preliminary injunction is granted; and it is further

ORDERED that, pending further order of the Court or final resolution of this action, including through any appeals, LOLA shall not make or declare any dividends, redeem stock or membership interests, or make any other distributions to its members, shareholders, or owners, including paying distributions to members, shareholders, or owners for the purpose of paying its direct or indirect members', shareholders', or owners' income tax liabilities; and it is further

ORDERED that, pursuant to CPLR 6312(b), BP shall post an undertaking in the amount of \$500,000.00 within thirty (30) days of the entry of this Order.

This constitutes the Decision and Order of the Court.

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2/18/2026
DATE

JOEL M. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: