

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:)	Chapter 15
)	
POSEIDON CONCEPTS CORP.,)	Case No. 13-_____
Debtor in Foreign Proceeding.)	
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In re:)	Chapter 15
)	
POSEIDON CONCEPTS LTD.)	Case No. 13-_____
Debtor in Foreign Proceeding.)	
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In re:)	Chapter 15
)	
POSEIDON CONCEPTS LIMITED)	Case No. 13-_____
PARTNERSHIP)	
Debtor in Foreign Proceeding)	
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In re:)	Chapter 15
)	
POSEIDON CONCEPTS INC,)	Case No. 13-_____
Debtor in Foreign Proceeding)	

DECLARATION OF LEIGH CASSIDY IN SUPPORT OF:

**(I) PETITION FOR RECOGNITION AS A FOREIGN MAIN PROCEEDING;
AND (II) APPLICATION FOR ORDER TO SHOW CAUSE WITH TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTIVE RELIEF**

I, Leigh Cassidy, state as follows in support of the *Petition For Recognition as a Foreign Main Proceeding* (the "Petition") and the *Application For Order to Show Cause With Temporary Restraining Order and Preliminary Injunctive Relief* (the "Application"):

1. I am a consultant through my corporation, Whitewater Inc., to Poseidon Concepts Corp. ("PC Canada"). As such I have personal knowledge of the facts and matters which I declare in this Declaration.

2. My initial involvement with the PC Canada arose with the retainer of Whitewater as a consultant of February 14, 2013.

3. PricewaterhouseCoopers Inc. ("PWC") is the court-appointed monitor (the "Monitor") under the Canadian Companies' Creditors Arrangement Act ("CCAA") based upon the Order dated April 9, 2013, entered by the Court of Queen's Bench of Alberta (the "Canadian Proceeding"), in the Judicial District of Calgary, Canada.



I. The Structure and General Operations of the PC Debtors

4. The entities seeking protection in the Canadian Proceeding and under chapter 15 of the Bankruptcy Code are PC Canada, Poseidon Concepts Ltd., Poseidon Concepts Limited Partnership and Poseidon Concepts Inc. (collectively referred to as the “*PC Debtors*”).

5. Poseidon Concepts Corp. (“PC Canada”) is a corporation formed under the laws of Alberta, Canada with its principal place of business located in Calgary, Alberta, Canada. Its shares are publically traded on the Toronto Stock Exchange under the symbol PSN-T. Poseidon Concepts Ltd. is a corporation formed under the laws of Alberta Canada and a wholly-owned subsidiary of PC Canada. Poseidon Concepts Inc. (“PC Inc.”) is a Delaware corporation that is wholly-owned by PC Canada. Poseidon Concepts Limited Partnership is a partnership organized under the laws of Alberta, Canada. The registered office of each of the PC Debtors is in Alberta, Canada.

6. The corporate operations of the PC Debtors are directed and controlled through their parent company, PC Canada. Most key corporate decision making, as well as the bank accounts and accounting and cash management systems of the PC Debtors, are directed and controlled at the parent level by PC Canada. In addition, all of the PC Debtors’ officers are employed by PC Canada. Not only are the PC Debtors’ operations, management and asset ownership based in Canada, so is their funding. The lead secured creditor is The Toronto-Dominion Bank, which is located in Toronto, Canada. The participating bank lenders are HSBC Bank Canada, National Bank of Canada and The Bank of Nova Scotia.

II. Business Operations of PC

7. Headquartered in Calgary, Alberta with operations throughout Western Canada and the United States, the PC Debtors are providers of large-volume modular tanks to the oil and gas industry in North America. PC Canada is the parent company that owns, operates and funds the subsidiaries. Of its two remaining members of the Board of Directors, one resides in Canada and the other in the United States. Leigh Cassidy, President of Whitewater Inc. (a consultant to the PC Debtors), which performs financial consulting services for PC Canada. Collectively, the PC Debtors employ approximately 20 people: 8 in Canada and 12 in the U.S.

8. PC Canada is the pioneer of large-volume modular fluid tanks, with a fleet of 416 PC Canada-owned rental units. These tanks range in size from 4,500 barrels (“bbls”) to 41,000 bbls, and are provided on a rental basis to support customers’ on-site fluid management needs (the “Tanks”). Highly portable and quick to assemble, the Tanks average two to four truckloads and less than a day to set up. PC Canada leases 324 of the Tanks to PC Inc. for use by customers in the U.S., scattered among seven states (Colorado, Texas, Pennsylvania, North Dakota, Montana, Utah, and Oklahoma). The remaining 92 Tanks are in Canada.

9. In addition to the Tanks, PC Canada also owns 27 Volcano™ E-Z Heat heaters (the “Heaters”). The Heaters circulate heating fluid through piping and radiators placed inside the Tanks, which enables the fracturing fluids to achieve and maintain the desired temperature and intended viscosity. Like the Tanks, PC Canada leases 20 of the Heaters to PC Inc., which

then rents them to U.S. customers. The remaining 7 Heaters are leased by PC Canada to customers in Canada.

10. Almost all of the creditors are located in Canada and the United States. Of the 151 creditors, 75 are located in the U.S., 67 in Canada, 4 in Australia, 3 in Ireland, and 1 in Luxembourg.

III. Events Leading to the Commencement of the Canadian Proceeding

11. On November 14, 2012, Poseidon announced earnings significantly lower than the market expected. This caused the shares to plummet 62% in one day. A class action lawsuit was filed in late November. On December 27, 2012, a Special Committee of the Board of Directors was established by PC Canada to, among other things, review and address various issues arising from the restatement of certain accounts receivable and the company's evolving business plan. In order to assist the Special Committee in its review, it engaged the services of Norton Rose Canada LLP as its legal counsel, who in turn retained Ernst & Young Inc. Based on the recommendation of the Special Committee and the interim report of its advisors, PC Canada determined, on a preliminary basis, that:

- a. Approximately \$95 million to \$106 million (subject to detailed quantification) of the PC Canada's \$148.1 million in revenue for the 9 months ended September 30, 2012 should not have been recorded as revenue in the financial statements; and
- b. As a result of recording the foregoing revenues, approximately \$94 million to \$102 million (subject to detailed quantification) of the company's \$125.5 million in accounts receivable as of September 30, 2012 should not have been recorded in the financial statements as accounts receivable.

12. Based on the foregoing, the decision was made to seek protection under the insolvency laws of Canada and the United States in order to stabilize operations of the PC Debtors and seek a strategic investor or buyer.

IV. The Canadian Proceeding

13. The CCAA is a Canadian federal Act¹ that affords financially troubled corporations the opportunity to restructure their financial affairs through a formal process commonly known as a "Plan of Arrangement." The process is commenced by applying to the Canadian court for protection under the CCAA. The Canadian court will then issue an initial order, giving the debtor thirty (30) days of protection from its creditors to allow for the preparation of the Plan of Arrangement.

¹ The Court in *In re Fracmaster, Ltd.*, 237 B.R. 627, n. 3 (Bankr. E.D. Tex. 1999) noted that "[t]he CCAA is a Canadian federal statute which provides a statutory system, roughly equivalent to the Chapter 11 process in the United States, whereby corporations which are insolvent may seek court protection from creditor actions as they attempt to restructure their financial affairs, usually by way of a plan of arrangement or compromise with creditors."

14. The initial order will also appoint a monitor for the debtor. The monitor is an independent third party appointed by the court to monitor the company's ongoing operations and assist with the filing and voting on the Plan of Arrangement. The monitor's duties also include reporting to the Court on any major events that may impact the viability of the company and notifying creditors of any meetings relating to the CCAA proceedings.

15. On April 9, 2013, the PC Debtors instituted the Canadian Proceedings by filing applications for the commencement of reorganization proceedings pursuant to the CCAA in the Court of Queen's Bench of Alberta, Judicial Centre of Calgary (the "Canadian Court"). On April 9, 2013, the Canadian Court granted an initial order (the "CCAA Order") for relief in the Canadian Proceedings, a certified copy of which is attached hereto as Exhibit 1.

16. Pursuant to the CCAA Order, a stay is in place in Canada which prohibits (with certain limited exceptions) any proceeding or enforcement process against the PC Debtors or their assets. (Exhibit 1, ¶ 13). Further, all rights and remedies of any entity, whether judicial or extra-judicial, are stayed and suspended against the PC Debtors and their assets. (*Id.* at ¶ 14).

17. Also, on April 9, 2013, the Canadian Court appointed PWC as the Monitor of the Canadian Proceedings under the CCAA Order. (Exhibit 1, ¶ 23). The Monitor's role in the Canadian Proceedings is to supervise the property and business affairs of the PC Debtors, and the PC Debtors are obligated to cooperate with the Monitor in this respect. (*Id.* at ¶¶ 23, 24).

18. The CCAA Order also requests "the aid and recognition of any court . . . to give effect to this Order and to assist [the PC Debtors], the Monitor and their respective agents in carrying out the terms of this Order." (Exhibit 1, ¶ 55). The CCAA Order also allows for "[e]ach of [the PC Debtors] and the Monitor be at liberty and is hereby authorized and empowered to apply to any court . . . , wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order." (Exhibit 1, ¶ 56).

V. PC's Intended Actions for Reorganization

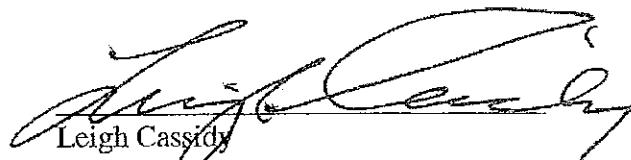
19. The PC Debtors believe the ability to carry on their operations will add value in restructuring and/or selling the business as a going concern. Although this process is still in the developmental stage, the PC Debtors expect over the coming weeks to pursue the recapitalization or sale of their assets.

VI. The Injury, Loss and Harm That Could Occur If the Application Is Not Granted.

20. The injunctive relief requested in the Application is critical to the success of the PC Debtors' restructuring efforts. The PC Debtors have numerous creditors and millions of dollars of assets in the United States. The PC Debtors fear that creditors may take actions against them and their substantial U.S. assets if the creditors are not enjoined from doing so.

21. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April __, 2013



Leigh Cassidy
President
Whitewater Inc.