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Court **COURT OF QUEEN'S BENCH OF ALBERTA**

Judicial Centre **CALGARY**

Applicants **IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF POSEIDON CONCEPTS CORP.,
POSEIDON CONCEPTS LTD., POSEIDON CONCEPTS LIMITED
PARTNERSHIP AND POSEIDON CONCEPTS INC.**

Document **NINTH REPORT TO THE COURT SUBMITTED BY
PRICEWATERHOUSECOOPERS INC. IN ITS
CAPACITY AS MONITOR
DATED June 21, 2013**

Address for Service and Contact
Information of Party Filing this
Document:

Bennett Jones LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary, AB T2P 4K7
Phone: 403-298-3317
Fax: 403-265-7219
lenzk@bennettjones.com
Attention: Kenneth T. Lenz



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1. INTRODUCTION

- 1.1 On April 9, 2013, on the application of Poseidon Concepts Corp. ("PCC"), Poseidon Concepts Ltd. ("PCL"), Poseidon Concepts Limited Partnership ("PCLP") and Poseidon Concepts Inc. ("PCI") (collectively referred to as "Poseidon" or the "Company"), the Court of Queen's Bench of Alberta (the "Court") made an order (the "Initial Order") granting Poseidon protection from its creditors pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA"). Under the Initial Order, PricewaterhouseCoopers Inc. ("PwC") was appointed monitor of the Company (the "Monitor").
- 1.2 Pursuant to the Initial Order, among other things, all creditors are stayed from commencing or continuing any proceedings against Poseidon until May 9, 2013.
- 1.3 Subsequently, on May 8, 2013 the Company applied for and was granted an extension of the stay of proceedings to June 28, 2013.
- 1.4 The Monitor has filed seven reports to date and issued one unfiled confidential report (the Sixth Report). Copies of the filed reports are available from the Monitor's website, www.pwc.com/can-poseidon. All prescribed materials filed by Poseidon and the Monitor relating to this CCAA proceeding are available to creditors and other interested parties in electronic format on the Monitor's website. The Monitor makes regular updates to the website to ensure creditors and interested parties are kept current and to add prescribed materials as required.
- 1.5 This is the Monitor's Ninth Report to the Court. The purpose of this report is to inform the Court of the following:
 - 1.5.1 The status of the data preservation activities;
 - 1.5.2 The status of the Company's operations;
 - 1.5.3 The Company's actual cash flow for the period April 9 to June 16, 2013;
 - 1.5.4 The Monitor's view on the cash flow forecast for the period from June 24 to September 14, 2013; and,

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- 1.5.5 The Monitor's view on the Company's application for an extension of the Stay of Proceedings to September 12, 2013.
- 1.6 Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars. Capitalized terms not otherwise defined herein are as defined in the Company's application materials, including the Cassidy Affidavit and the Monitor's reports filed to date.

2. DATA PRESERVATION

- 2.1 As described in the Monitor's Fifth Report, the Court granted an order for the gathering, preserving and securing of Company information and data (the "Amended Data Preservation Order").
- 2.2 Deloitte & Touche Forensic & Investigative Services Inc. ("DTFIS") was engaged by the Company on May 23, 2013 and DTFIS commenced with their mandate.
- 2.3 DTFIS has attended to all three Poseidon offices (Calgary, Denver and Dickenson) and copied all of Poseidon's electronic books and records and a significant majority of employee controlled devices (i.e. laptops, blackberrys etc.). DTFIS is nearing completion of preserving all of the paper records located at the Company's head office in Calgary.

3. POST-FILING OPERATIONS

New Business

- 3.1 In the post filing period to June 20, 2013, the Company has set up approximately 23 tanks and torn down approximately 42 tanks in the US. In Canada, no tanks have been set up and approximately 10 tanks have been torn down.
- 3.2 As a result of the pending sale of the Company's assets to Rockwater Energy Solutions Inc. ("Rockwater") (the "Rockwater Transaction"), no new third party customer set ups have taken place since May 22, 2013; however, Poseidon has rented approximately 11 tanks to Rockwater pursuant to paragraph 7.3 of the Asset Purchase Agreement and paragraph 1 Side Letter Agreement dated June 4, 2013. Rockwater has subsequently rented these tanks to its customers. Each of these 11 tank rentals to Rockwater has been reviewed and approved by the Monitor.

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Employees

- 3.3 The current staffing levels remain at 13 employees in the US and 7 employees in Canada.
- 3.4 TWM continues to augment the staffing complement of Poseidon and is currently focused on assisting with the closing of the sale to Rockwater.

Suppliers

- 3.5 The Company continues to make post-filing payments to suppliers, as well as all statutory remittances to the various levels of government.

4. CASH FLOW FOR THE PERIOD APRIL 9 TO JUNE 16, 2013

- 4.1 The Company's actual cash flow for the period of April 9 to June 16, 2013 compared to the combined 10 week cash flow forecast, as presented in the Initial and Comeback Application, are attached as Appendix A to this report.
- 4.2 The Monitor's comments on the Company's actual cash flows for the period of April 9 to June 16, 2013 are as follows:
 - 4.2.1 Accounts receivable collections were \$12.0 million higher than forecast, principally due to customer payment slow-downs not occurring to the extent expected. The Monitor expects that this favourable variance is now primarily a permanent difference;
 - 4.2.2 Operating disbursements were \$2.0 million lower than forecast, due to lower than expected tank related expenses, reduced general and administrative disbursements, and better than expected credit terms from suppliers. The Monitor expects this favourable variance is now primarily a permanent difference;
 - 4.2.3 Actual disbursements for CCAA restructuring costs were \$1.8 million, which was \$0.8 million lower than forecast. The Monitor expects that this favourable variance is primarily due to timing differences and is anticipated to reverse in the coming weeks; and,

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4.2.4 The Century Interim Financing Facility was made available on April 17, 2013 and the Company elected to immediately draw the full amount of the initial availability under the facility of \$3 million. As noted above, to date, approximately \$0.1M has been repaid from the proceeds of the sale of surplus assets. The Company repaid the entire outstanding balance of the Interim Financing on June 20, 2013.

4.3 As a result of the foregoing, the Company had a net cash inflow of \$14.4 million for the 10 week post-filing period to June 16, 2013, \$15.6 million higher than forecast.

5. REVISED CASH FLOW FORECAST

5.1 The Company previously filed an 8 week Revised Cash Flow Forecast in support of its request for an extension of the stay of proceedings at the hearing on May 8, 2013. This Revised Cash Flow Forecast covered the period May 6 to June 28, 2013.

5.2 In support of its CCAA extension application for the hearing on June 25, 2013, the Company has prepared a further revised cash flow forecast (the "June 24 RCFF"), attached as Appendix B, for the 12 week period from June 24, 2013 to September 14, 2013. The June 24 RCFF can be summarized as follows:

	<u>\$ 000's</u>
Estimated accounts receivable collections	3,479
Estimated asset sale proceeds	<u>43,760</u>
Total Receipts	47,240
Estimated operating disbursements	(316)
Estimated general and administrative disbursements	(1,565)
Estimated proceeds of asset sales held by Monitor	(9,448)
Estimated restructuring costs and employee retention plan	(4,697)
Estimated interim distribution to Lending Syndicate	<u>(31,400)</u>
Total Disbursements	47,427
Net Cash Flow for Period	(187)
Opening Net Cash Balance	<u>11,122</u>
Closing Net Cash Balance	<u>10,935</u>

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5.3 Based on the foregoing, the Monitor considers that the Company's liquidity appears sufficient for the forecast period; however, the Monitor notes the following:

- 5.3.1 The categorization of \$3.479 million of collections as "accounts receivable collections and other" in the Company's June 24 RCFF may be misleading to readers. The Monitor notes that these accounts receivable are assets sold to Rockwater as part of the Rockwater Transaction and are included in the estimate of the adjusted purchase price discussed in the Monitor's 8th Report;
- 5.3.2 The June 24 RCFF does not provide for the payment of any potential lien claims should they arise during the forecast period and consequently, disbursements are likely understated. The Monitor notes that significant excess liquidity exists to pay such claims if necessary; and
- 5.3.3 The Company's estimate of KERP payments and transaction fees are included in the June 24 RCFF, categorized as "Restructuring Costs", but are preliminary estimates and have not been reviewed or approved by the Monitor.

5.4 The Monitor's conclusions from its review of the June 24 RCFF pursuant to section 23(1) (b) of the CCAA are as follows:

- 5.4.1 The June 24 RCFF attached as Appendix B to this report has been prepared by the Company for the purpose described in the Notes, using the Probable and Hypothetical Assumptions set out in Notes 1 to 5 to the June 24 RCFF.
- 5.4.2 The Monitor's review of the June 24 RCFF consisted of inquiries, analytical procedures and discussion related to information supplied to the Monitor by certain of the management and employees of the Company. Since Hypothetical Assumptions need not be supported, the procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the June 24 RCFF. The Monitor has also reviewed the support provided by management of the Company for the Probable Assumptions, and the preparation and presentation of the June 24 RCFF.
- 5.4.3 Based on the Monitor's review, nothing has come to our attention that causes us to believe that, in all material respects:

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- 5.4.3.1 The Hypothetical Assumptions are not consistent with the purpose of the June 24 RCFF;
- 5.4.3.2 As at the date of this report, the Probable Assumptions developed by management are not suitably supported and consistent with the plans of the Companies or do not provide a reasonable basis for the June 24 RCFF, given the Hypothetical Assumptions; or
- 5.4.3.3 The June 24 RCFF does not reflect the Probable and Hypothetical Assumptions.

5.5 Since the June 24 RCFF is based on Assumptions regarding future events, actual results will vary from the information presented even if the Hypothetical Assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the June 24 RCFF will be achieved. The Monitor also expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon by it in preparing this report.

5.6 The June 24 RCFF has been prepared solely for the purpose described in the Notes to the June 24 RCFF, and readers are cautioned that it may not be appropriate for other purposes.

6. EXTENSION OF THE STAY

- 6.1 The sale to Rockwater is anticipated to close on or around June 24, 2013; however, significant work will be required to deal with the various issues during the 30 day post closing adjustment period contemplated in the Asset Purchase Agreement, including but not limited to, attending to post-closing purchase price adjustments, attend to the calculation and payout of the New KERP and dealing with any wellsight and possessory lien claims, should they arise.
- 6.2 The Company's application materials indicate that the Company is seeking an order extending the stay of proceedings to September 12, 2013. The Monitor considers the stay extension period to be reasonable. As the Company appears to be acting in good faith and with due diligence, the Monitor supports the Company's request for an extension of the stay of proceedings.

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This report is respectfully submitted this 21st day of June, 2013.

**PricewaterhouseCoopers Inc.
Court Appointed Monitor of
Poseidon Concepts Corp. et al**



Clinton L. T. Roberts, CIRP
Senior Vice President



Sean E. Fleming, CIRP
Vice President

APPENDIX A

Forecast to Actual Variance Report for the 10 week period ended June 16, 2013

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**Poseidon Concepts Corp.
Forecast to Actual Variance Report
For the 10 week period ended June 16, 2013**

Receipts and Disbursements cumulative from April 9 to June 16, 2013				
	Forecast	Actual	Variance (\$)	(%)
RECEIPTS				
Accounts Receivable Collections	3,422	15,432	12,009	351%
Draw on Interim Financing Facility	2,040	2,873	833	41%
TOTAL RECEIPTS	5,462	18,305	12,842	235%
OPERATING DISBURSEMENTS				
Disbursements - Operating Expenses				
Canadian Operating Disbursements	420	54	(366)	-87%
US Operating Disbursements	1,977	1,022	(955)	-48%
General & Administrative Disbursements	1,763	1,058	(704)	-40%
TOTAL OPERATING DISBURSEMENTS	4,160	2,134	(2,026)	-49%
NET CHANGE IN CASH BEFORE RESTRUCTURING COSTS	1,302	16,170	14,868	1141%
Restructuring Costs including Employee Retention Plan	2,582	1,816	(765)	-30%
NET CHANGE IN CASH	(1,279)	14,354	15,633	

APPENDIX B

June 24 Revised Cash Flow Forecast



('000's) CDN WEEK BEGINNING		Notes	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Total
			24-Jun-13	1-Jul-13	8-Jul-13	15-Jul-13	22-Jul-13	29-Jul-13	5-Aug-13	12-Aug-13	19-Aug-13	26-Aug-13	2-Sep-13	9-Sep-13	
WEEKLY NET CHANGE IN CASH															
Receipts:															
Accounts Receivable Collection and Other	2		3,479	-	-	-	-	-	-	-	-	-	-	-	3,479
Asset Sale Proceeds			43,760	-	-	-	-	-	-	-	-	-	-	-	43,760
Draw on Interim Financing Facility	3		-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL RECEIPTS			47,240	-	-	-	-	-	-	-	-	-	-	-	47,240
Operating Disbursements:															
Canadian Operating Disbursements	4		-	-	100	-	-	-	-	-	-	-	-	-	100
US Operating Disbursements	4		-	72	72	72	-	-	-	-	-	-	-	-	216
General and Administrative			1,013	215	90	5	208	5	5	5	5	5	5	5	1,565
Proceeds of Asset Sales and Accounts Receivable Held by Monitor			9,448	-	-	-	-	-	-	-	-	-	-	-	9,448
Interim Distribution to Lending Syndicate			-	31,400	-	-	-	-	-	-	-	-	-	-	31,400
TOTAL DISBURSEMENTS			10,460	31,687	262	77	208	5	42,729						
NET CHANGE IN CASH FROM OPERATIONS			36,779	(31,687)	(262)	(77)	(208)	(5)	4,510						
Restructuring Costs	5		3,240	38	17	17	822	158	(60)	5	-	405	-	55	4,697
NET CHANGE IN CASH			33,539	(31,725)	(279)	(94)	(1,030)	(163)	55	(10)	(5)	(410)	(5)	(60)	(187)
CUMULATIVE NET CHANGE IN CASH															
Net change in cash			33,539	(31,725)	(279)	(94)	(1,030)	(163)	55	(10)	(5)	(410)	(5)	(60)	(187)
Opening Cash Position			11,122	44,661	12,936	12,657	12,563	11,533	11,370	11,425	11,415	11,410	11,000	10,995	11,122
Foreign Exchange Adjustment			-	-	-	-	-	-	-	-	-	-	-	-	-
Total Ending Cash			44,661	12,936	12,657	12,563	11,533	11,370	11,425	11,415	11,410	11,000	10,995	10,935	10,935

NOTES

Poseidon Concepts has prepared this Cash Flow Projection based on the probable and hypothetical assumptions noted below. Consequently actual cash flow will likely vary from this projection with such variance being material.

1. Receipts and disbursement are based on historical results and forecast operating activities.
2. Receipts include the collection of outstanding accounts receivable as at June 24, 2013.
3. The Company has repaid the total \$3.0 million drawn on its interim financing facility.
4. Operating disbursements are a projection of the payment of operating costs incurred prior to June 24, 2013.
5. Restructuring cost include the professional fees of consultants, the Company's legal counsel, the Monitor and the Monitors legal counsel, certain costs of data capture and preservation, interim financing costs, and costs of the Company's financial advisors for the Solicitation Process.