



COURT FILE NUMBER 1301-04364

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.

COURT FILE NUMBER **APPLICATION TO: (1) EXTEND STAY; (2)**  
**APPROVE NEGOTIATED ADJUSTMENTS; (3)**  
**APPROVE INTERIM DISTRIBUTION; (4)**  
**APPROVE CLAIMS PROCESS; and (5) ENHANCE**  
**MONITOR POWERS**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION  
OF THE PARTY  
FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500, 855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7  
Attention: Ken Lenz

Telephone No.: 403-298-3317  
Fax No.: 403-265-7219  
Client File No.: 11866.66

**NOTICE TO RESPONDENT:**

This application is made against you. You are a respondent.  
You have the right to state your side of this matter before the master/judge.  
To do so, you must be in Court when the application is heard as shown below:

Date: **September 12, 2013**

Time: 9:30 a.m.

Where: Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB

Before Whom: Mr. Justice Yamauchi

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. If necessary, an Order abridging the time for service of this Application and supporting materials and declaring service to be good and sufficient.
2. An Order further extending the stay of proceedings in this matter to January 31, 2014.
3. An Order approving the Adjustment Agreement between Poseidon and Rock Water Energy Solutions Inc. ("Rock Water").
4. An Order approving an interim distribution to the Lending Syndicate in the sum of \$15,496,000 and declaring that the Monitor has made appropriate provision for Priority Claims both in Canada and the United States.
5. An Order approving a Possessory Lien Claims Process for Canadian creditors, on terms substantially similar to those set out in the draft Order appended as Schedule "A" to this Application.
6. An Order granting enhanced powers to the Monitor, on terms substantially similar to those set out in the draft Order appended as Schedule "B" to this Application.
7. Such further and other relief, advice and directions as counsel may request and this Honourable Court may deem just and appropriate in the circumstances.

**Grounds for making this application:**

8. The parties are in agreement that extension of the stay is beneficial to all stakeholders to continue to pursue a resolution of class action claims and other claims against Poseidon and its directors, and others, within the context of these proceedings, possibly as part of a Plan of Arrangement. Poseidon continues to act in good faith.
9. The adjustments agreed upon between Poseidon and Rock Water are an appropriate resolution of a dispute, to which all stakeholders are in agreement.

10. The interim distribution is appropriate given this Honourable Court's July 3, 2013 declaration that the Lending Syndicate has first priority security, subject to limited exceptions, and the fact that adequate provision has been made for possible lien claims in Canada, filed lien claims in the United States, and all other charges and expenses related to these proceedings.
11. The possessory lien claims process proposed is fair and reasonable and allows Canadian claimants adequate notice and the ability to file their claim with the Monitor and ultimately adjudicated before this Honourable Court.
12. The directors have threatened to resign and may resign therefore it is necessary that the Monitor have enhanced powers, which enhancements have been agreed upon by Poseidon and the Lending Syndicate. In any event, the estate is largely liquidated, the Lending Syndicate faces a large deficiency on its security and these measures will result in the administration being more economical and efficient.
13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or evidence to be relied on:**

14. The pleadings and proceedings filed in the within action, including the Initial Order.
15. The Thirteenth Report of the Monitor, filed concurrently with this Application.
16. The inherent jurisdiction of this Honourable Court.
17. Such further and other material as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

18. None.

**Applicable Acts and regulations:**

19. The *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

**Any irregularity complained of or objection relied on:**

20. None.

**How the application is proposed to be heard or considered:**

21. Oral submissions by counsel in an application in Justice Chambers as scheduled.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**SCHEDULE "A"**

CLERK'S STAMP

COURT FILE NUMBER

1301 – 04364

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

**POSSESSORY LIEN CLAIMS PROCESS  
ORDER**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500, 855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Ken Lenz  
Telephone No.: (403) 298-3317  
Facsimile No.: (403) 265-7219  
Client File No.: 11866.66

**DATE ON WHICH ORDER WAS  
PRONOUNCED:**

**Thursday, September 12, 2013**

**LOCATION WHERE ORDER WAS  
PRONOUNCED:**

**Calgary**

**NAME OF JUSTICE  
WHO MADE THIS ORDER:**

**Mr. Justice K. Yamauchi**

UPON the application of the Monitor, PricewaterhouseCoopers Inc. ("PWC"); AND UPON noting the consent of counsel for the Applicants, Poseidon Concepts Corp., Poseidon Concepts Ltd., Poseidon Concepts Limited Partnership and Poseidon Concepts Inc. ("Poseidon") and the consent of The Toronto-Dominion Bank, as agent for a syndicate comprised of The Toronto-Dominion Bank, National Bank of Canada, The Bank of Nova Scotia and HSBC Bank Canada (the "Lending Syndicate"), hearing counsel for the Applicants, the Monitor and the Lending Syndicate; AND UPON having read the Thirteenth Monitor's Report, and the pleadings and proceedings filed in this action;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Time for service of the application for this order is hereby abridged and service is deemed good and sufficient.
2. The following possessory lien claims process is hereby ordered and approved:
  - a) on two days prior to September 20, 2013, an advertisement shall be published in the *Calgary Herald* and the *Edmonton Journal*, seeking possessory lien claims;
  - b) on or before September 17, 2013, a claims package and Proof of Claim, substantially in the form appended to the Thirteenth Monitor's Report as Appendix "D", along with a copy of this Order (the "Claims Process Order"), will be sent by regular mail to each known Canadian creditor of the Applicant who, in the opinion of the Monitor, may have a possessory lien claim.
  - c) any person who claims to have a possessory lien claim shall prepare a Proof of Claim in the form appended to the Thirteenth Monitor's Report as part of Appendix "D", and serve it on the Monitor at PricewaterhouseCoopers Inc., 3100 Petro Canada Centre 111 - 5 Ave SW Calgary, AB T2P 5L3, Attention: Clinton Roberts, on or before 5:00 p.m. Calgary time, October 17, 2013 (the "Claims Bar Date").
  - d) any lien claim purporting to rank in priority to the security of the Lending Syndicate and not proven in accordance with this procedure by the Claims Bar

Date or otherwise allowed by the claims process shall be forever barred, released and extinguished.

- e) the Monitor and the Lending Syndicate shall have until November 6, 2013 to review and the Monitor shall either allow or disallow all or any portion of a Claim, and to communicate any disallowance to a Claim to the Claimant, and such communication will be referred to as a "Notice of Disallowance". The Notice of Disallowance shall be final and binding and conclusive unless the provisions of paragraph 2(f) of this Order are fulfilled.
  - f) any Claimant will have ten (10) business days from day of receipt of a Notice of Disallowance to file and serve on the Monitor's counsel Bennett Jones LLP, 4500 Bankers Hall East, 855 - 2nd Street S.W., Calgary, AB, T2P 4K7, (Email: lenzk@bennettjones.com), Attention: Ken Lenz a Notice of Dispute of the revision or disallowance.
  - g) if necessary, the Monitor, Claimant in the case of a priority dispute with the Lending Syndicate, the Lending Syndicate shall file and serve an application on or before December 5, 2013 to determine any unresolved disputed claims. Any such application may be adjourned by consent to a convenient time.
3. The Monitor, Poseidon or the Lending Syndicate may appear for further clarification or amendment of this Possessory Lien Claims Process Order.

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J.C.C.Q.B.A.

**SCHEDULE "B"**

CLERK'S STAMP

COURT FILE NUMBER 1301 – 04364

COURT COURT OF QUEEN'S BENCH OF ALBERTA

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

DOCUMENT **ORDER (Expansion of Monitor's Powers)**

ADDRESS FOR SERVICE  
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4500, 855 – 2<sup>nd</sup> Street SW  
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PRONOUNCED:** **Thursday, September 12, 2013**

**LOCATION WHERE ORDER WAS  
PRONOUNCED:** **Calgary**

**NAME OF JUSTICE  
WHO MADE THIS ORDER:** **The Honourable Mr. Justice Yamauchi**

UPON the application of the PricewaterhouseCoopers Inc., the Court-appointed Monitor (the "Monitor") of Poseidon Concepts Corp., Poseidon Concepts Ltd., Poseidon Concepts



Limited Partnership and Poseidon Concepts Inc. (collectively, "**Poseidon**"); AND UPON the consent of The Toronto-Dominion Bank, as agent for a syndicate comprised of The Toronto-Dominion Bank, National Bank of Canada, The Bank of Nova Scotia and HSBC Bank Canada (collectively, the "**Lending Syndicate**"); AND UPON having read the Thirteenth Report of the Monitor dated September 6, 2013; AND UPON noting that the Poseidon Board of Directors have resigned, and the third party contract management services provided by Total Water Management Inc. have concluded;

AND UPON hearing from counsel for the Monitor, counsel to the Lending Syndicate, counsel to Poseidon and any other affected parties that may be present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**DEFINED TERMS**

1. Capitalized terms not defined herein shall have the meanings ascribed to them in the Initial Order of this Court in these proceedings dated April 9, 2013 (the "**Initial Order**").

**SERVICE**

2. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

**EXPANSION OF MONITOR'S POWERS**

3. The expansion of the Monitor's powers in respect of Poseidon as set forth below is hereby authorized and approved, on the terms and conditions set out herein. Nothing in this Order shall derogate from the powers of the Monitor as provided for in the Initial Order.
4. In addition to the powers and duties of the Monitor set out in the Initial Order, without altering in any way the limitations and obligations of Poseidon as a result of these proceedings, the Monitor be and is hereby authorized and empowered to:
  - (a) preserve, protect and maintain control of the Property, or any parts thereof;
  - (b) operate and carry on the business of Poseidon including, without limitation;

- (i) completing any transaction for the sale of Property; and
  - (ii) negotiating, developing and implementing a Plan or Plans on behalf of Poseidon;
- (c) take all steps and actions the Monitor considers necessary or desirable in these proceedings including, without limitation:
  - (i) entering into any agreements;
  - (ii) incurring obligations in the ordinary course of business;
  - (iii) retaining or terminating employees; and
  - (iv) ceasing to carry on all or any part of the Business;
- (d) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (e) oversee and direct the preparation of cash flow statements and to assist in the dissemination of financial and other information in these proceedings;
- (f) receive, collect and take possession of all monies and accounts now owed or hereafter owing to any one of Poseidon, including proceeds payable pursuant to a sale of Property;
- (g) execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Monitor's name or in the name and on behalf any one of Poseidon;
- (h) initiate, prosecute and continue the prosecution of any and all proceedings on behalf of Poseidon respecting trade creditors, commercial receivables, warranty claims and recovery of Poseidon property, and to settle or compromise any such proceedings or claims. For greater certainty, such authority shall include the

ability to represent Poseidon in any negotiations with such trade creditors of Poseidon. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceedings;

- (i) instruct counsel respecting the defence of the class proceedings commenced against Poseidon, to the extent such instructions do not require the disclosure of privileged information or documentation to the Monitor;
  - (j) exercise any rights which Poseidon may have;
  - (k) provide instruction and direction to the advisors of Poseidon;
  - (l) make any distribution or payments required under any Order in these proceedings including the Financial Advisor and to fund the KERP created herein; and
  - (m) to perform such other duties or take any steps reasonably incidental to the exercise of such powers and obligations conferred upon the Monitor by this Order or any further order of this Court.
5. No provision in this Order is intended to appoint the Monitor as an officer, director or employee of any of Poseidon. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of Poseidon and that any distribution made to creditors of Poseidon will be deemed to have been made by Poseidon.
6. Poseidon and its current and former shareholders, officers, directors, agents and representatives shall fully co-operate with the Monitor in the exercise of its powers and discharge of its duties and obligations under this Order or any other Order of the Court.
7. The Monitor shall continue to have the benefit of all of the protections and priorities as set out in the Initial Order and any such protections and priorities shall apply to the Monitor in fulfilling its duties under this Order or in carrying out the provisions of this Order.

## **FOREIGN ASSISTANCE**

8. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Lending Syndicate, Poseidon, the Monitor and their respective agents in carrying out the terms of this Order.

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**J.C.Q.B.A.**