

Court File No. 08-CL-7355

**TAHERA DIAMOND CORPORATION
AND BENACHEE RESOURCES INC.**

FORMER MONITOR'S TENTH REPORT TO THE COURT

January 15, 2009

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF

TAHERA DIAMOND CORPORATION
BENACHEE RESOURCES INC.

**TENTH REPORT TO THE COURT SUBMITTED BY
PRICEWATERHOUSECOOPERS INC.
("FORMER MONITOR")**

INTRODUCTION

1. On January 16, 2008, Tahera Diamond Corporation ("Tahera") and its wholly owned subsidiary, Benachee Resources Inc. ("Benachee") (collectively, referred to herein as the "Applicants" or the "Company"), made an application under the *Companies' Creditors Arrangement Act* (the "CCAA") and an initial order (the "Initial Order") was granted by the Honourable Mr. Justice Spence of the Ontario Superior Court of Justice (Commercial List) (the "Court") granting, *inter alia*, a stay of proceedings against the Company until February 14, 2008 (the "Stay Period") and appointing PricewaterhouseCoopers Inc. ("PwC") as monitor (the "Monitor"). The proceedings commenced by the Company under the CCAA will be referred to herein as the "CCAA Proceedings".

2. The Stay Period has been extended on a number of occasions since the date of the Initial Order. Most recently, pursuant to the extension provided for in the Order of the Honourable Mister Justice Morawetz made December 12, 2008 (the "December 12 Order"), the Stay Period expires on January 23, 2009.

3. Pursuant to the December 12 Order PwC (hereinafter referred to as the “Former Monitor”) was substituted as monitor of the Applicants by A. Farber & Partners Inc. (“Farber”) and PwC was discharged as monitor of the Applicants, and, without limitation, was discharged of all of its existing and future powers duties, responsibilities and obligations pursuant to the CCAA and all Orders made in these CCAA Proceedings. Further, pursuant to the December 12 Order, any and all claims against the Former Monitor were stayed.

4. The Former Monitor filed its eighth report (the “Eighth Report”) with the Court on November 26, 2008, which, among other things, informed the Court of the termination of the Plan Sponsorship Agreement by the Plan Sponsor (both as defined in the Former Monitor’s seventh report) and the Company’s consequent inability to complete a plan of arrangement under the CCAA Proceedings (the “Plan”) and the Company’s diminishing cash reserve. These developments resulted in the Company and the Former Monitor engaging in discussions with Department of Indian and Northern Affairs Canada (“INAC”) regarding the possibility of INAC’s Intervention (as defined in the Eighth Report) at the Company’s Jericho mine site (the “Jericho Mine”). A copy of the Eighth Report, without appendices, is attached hereto as Appendix "A".

5. The Former Monitor filed its ninth report (the “Ninth Report”) with the Court on December 10, 2008, which, among other things, informed the Court of the Company’s Cash Reserve (as defined in the Ninth Report) and the status of INAC’s Intervention at the Jericho Mine. A copy of the Ninth Report, without appendices, is attached hereto as Appendix "B".

6. The purpose of this, the Former Monitor’s tenth report (the “Tenth Report”), is to inform the Court of the Former Monitor’s activities from the date of the Ninth Report, including, without limitation, the transfer to Farber of (a) all records relating to Applicant’s claims procedure; and (b) all funds held by the Former Monitor on behalf of the Applicants, and to seek an order from the Court:

- i) approving the Eighth Report, Ninth Report and this the Former Monitor's Tenth Report (collectively, the "Reports"), and approving the Former Monitor's activities described therein;
 - ii) approving (a) the Former Monitor's accounts for the period from September 8, 2008 to January 11, 2009, (b) the accounts of the Former Monitor's independent counsel, Bennett Jones LLP ("Bennett Jones"), for the period from July 19, 2008 to January 11, 2009, and (c) plus an accrual for the estimated fees and disbursements of each of the Former Monitor and Bennett Jones in connection with completion of their duties in these CCAA Proceedings;
 - iii) declaring that all claims against PwC in its capacity as Former Monitor of the Applicants be forever extinguished and barred, and that the Former Monitor be released of and from any and all such claims;
7. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms used herein not otherwise defined are as defined in the Initial Order.

THE SUPPLIER DEPOSITS

8. As at the date of the Ninth Report, the cash held on deposit by the Former Monitor to secure various post-filing performance obligations with certain of the Company's suppliers amounted to \$176,388.96 (the "Deposits").
9. On December 11, 2008, after receiving confirmation from the Applicants and two of its suppliers, Kingland Ford and Finning (Canada), for which Deposits were held, that all post-filing obligations owed by the Company to such suppliers had been paid, the Former Monitor released \$38,247.86 to the Company.

- 10. As a result, on December 18, 2009, a balance of \$138,141.10, along with interest earned thereon, was released to Farber to be held by them in accordance with (i) the terms of the supplier agreements, if any, and the terms of the December 12 Order, until the various suppliers for whom the deposits are held confirm that all post-filing obligations of the Company have been paid in full.

REQUEST FOR FEE APPROVAL

- 11. The Former Monitor and Bennett Jones, have maintained detailed records of their professional time and costs.
- 12. Pursuant to order of the Court dated October 1, 2008 (the “Interim Fee Approval Order”), the fees and disbursements of the Former Monitor and for the period from January 12, 2008 to September 7, 2008 and the fees and disbursements of Bennett Jones for the period from January 12, 2008 to July 18, 2008 were approved by the Court in the amounts of \$498,705.89 and \$284,294.81, respectively (both excluding goods and service tax (“GST”)).
- 13. The Former Monitor is seeking the approval of (i) its fees and disbursements for period from September 8, 2008 to January 11, 2009 and (ii) the fees and disbursements of Bennett Jones for the period from July 19, 2008 to January 11, 2009 (such periods, together, the “Period”), plus an accrual for the estimated fees and disbursements for the Former Monitor in the amount of \$5,000 and Bennett Jones in the amount of \$5,000 in connection with completion of their duties in these CCAA Proceedings.

14. Pursuant to paragraphs 31 and 32 of the Initial Order, any expenditure or liability made or incurred by the Former Monitor, including the fees and disbursements of the Former Monitor and the fees and disbursements of Bennett Jones, were authorized to be paid on a periodic basis subject to any final assessment or taxation as may be ordered by the Court. In addition, an Administration Charge, as defined in the Initial Order, in the amount of \$1,000,000 was granted as security for the professional fees and disbursements of the Former Monitor, counsel to the Former Monitor and the Applicant's counsel in respect of these proceedings.

15. Pursuant to the CCAA Order, the Company has paid the Former Monitor and Bennett Jones their reasonable fees and disbursements, in each case at their standard rates and charges, up to (i) December 12, 2008 in the case of the Former Monitor, and (ii) December 4, 2008 in the case of Bennett Jones.

16. The total fees of the Former Monitor during the period from September 8, 2008 to January 11, 2009 amount to \$187,418.50; together with expenses and disbursements in the amount of \$10,294.34 (in both cases excluding GST) (collectively, the "Former Monitor Fees"). The time spent by the Former Monitor's personnel in the Period is more particularly described in the Affidavit of Gregory Prince of the Former Monitor (the "PwC Affidavit"), dated January 14, 2009, sworn in support of the Order referenced in paragraph 6 hereof attached hereto, as Appendix "C".

17. The total fees for services provided by Bennett Jones during the period from July 19, 2008 to January 11, 2009, amount to \$171,087.00, together with expenses and disbursements in the amount of \$381.38 (both excluding GST) (collectively, the "Legal Fees"). The time spent by Bennett Jones personnel in that period is more particularly described in the Affidavit of S. Richard Orzy, a partner of Bennett Jones (the "Bennett Jones Affidavit"), dated January 16, 2009, sworn in support of the Order referenced in paragraph 6 hereof, attached hereto as Appendix "D".

18. The Former Monitor respectfully submits that the Former Monitor Fees and the Legal Fees are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Initial Order. Accordingly, the Former Monitor now seeks the approval of the Former Monitor Fees and the Legal Fees.

AFFIDAVIT OF PAUL C. CHAMPAGNE SWORN DECEMBER 18, 2008

19. After receipt and review of the Affidavit of Paul C. Champagne ("Champagne") sworn December 10, 2008 (the "Champagne Affidavit"), the Former Monitor raised concerns with counsel to Caz Petroleum Inc. ("Caz") about certain of the contents thereof. While the Former Monitor took no position on that part of the motion advanced by Caz that sought the substitution of the Former Monitor by Farber as new monitor of the Company, the Former Monitor and its counsel did have and continue to have concerns that statements made in the Champagne Affidavit were inappropriate and unfounded. At the outset of her submissions on December 12, 2008, counsel for Caz made submissions in an effort to clarify certain portions of the Champagne Affidavit which were and are of concern to the Former Monitor and its counsel.
20. It was the intention of counsel to Caz that the substance of her submissions would form part of the endorsement issued by Mr. Justice Morawetz to accompany the December 12 Order, subject to His Honour's approval. Counsel to Caz and Bennett Jones had agreed on a joint submission for suggested language to form part of the endorsement, again subject to His Honour's approval. A copy of the language agreed to by counsel is attached hereto as Appendix "E". Mr. Justice Morawetz declined to include the language requested by counsel to Caz in his endorsement.
21. In his Affidavit sworn December 18, 2008, Champagne clarified certain portions of the Champagne Affidavit, in particular paragraph 29 and 32 thereof. A copy of Champagne's December 18, 2008 Affidavit is attached hereto as Appendix "F".

- 22. The Former Monitor had and continues to have concerns about the Champagne Affidavit generally, and without limitation, paragraphs 29 and 32 thereof, as well as the unsupported allegations that the amounts charged by the Former Monitor and its counsel for services rendered thus far have been excessive.
- 23. In light of (i) the substitution of the Former Monitor by Farber, (ii) the filing of Champagne's December 18, 2008 Affidavit, and (iii) the fact that the Former Monitor's concerns are not relevant to the ongoing CCAA Proceedings of the Company, the Former Monitor has no further comments on the original Champagne Affidavit at this time.

CONCLUSION

- 24. To the best of the Former Monitor's knowledge, all of its duties, pursuant to the Initial Order and all subsequent Orders, have been completed.
- 25. The Former Monitor respectfully submits to the Court this, its Tenth Report.

Dated this 15th day of January, 2009

PricewaterhouseCoopers Inc.
in its capacity as the Former Monitor of
Tahera Diamond Corporation
and Benachee Resources Inc.



Tracey Weaver
Vice President