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APPLICANT

PRICEWATERHOUSECOOPERS INC., IN ITS  
CAPACITY AS COURT-APPOINTED  
RECEIVER AND MANAGER OF BRIDGING  
FINANCE INC., BRIDGING INCOME FUND LP  
AND CERTAIN RELATED ENTITIES AND  
INVESTMENT FUNDS

RESPONDENTS

**CUDA ENERGY INC., CUDA OIL AND GAS  
INC., CUDA ENERGY LLC AND JUNEX INC.**

DOCUMENT

**THIRD REPORT OF FTI CONSULTING  
CANADA INC., IN ITS CAPACITY AS  
COURT APPOINTED RECEIVER AND  
MANAGER OF CUDA ENERGY INC., CUDA  
OIL AND GAS INC., CUDA ENERGY LLC  
AND JUNEX INC.**

**January 30, 2023**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**RECEIVER**

FTI Consulting Canada Inc.  
Suite 1610, 520 Fifth Avenue S.W.  
Calgary, AB T2P 3R7  
Deryck Helkaa / Dustin Olver  
Telephone: (403) 454-6031 / (403) 454-6032  
Fax: (403) 232-6116  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)  
[dustin.olver@fticonsulting.com](mailto:dustin.olver@fticonsulting.com)

**COUNSEL**

Bennett Jones LLP  
4500 Bankers Hall East  
855 – 2<sup>nd</sup> Avenue S.W.  
Calgary, AB T2P 4K7  
Chris Simard / Katherine Fisher  
Telephone: (403) 298-4485 / (780) 917-4268  
Fax: (403) 265-7219  
E-mail: [simardc@bennettjones.com](mailto:simardc@bennettjones.com)  
[fisherka@bennettjones.com](mailto:fisherka@bennettjones.com)

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## INTRODUCTION

1. On November 18, 2021 (the “**Date of Appointment**”), FTI Consulting Canada Inc. was appointed as receiver and manager (the “**Receiver**”) of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (the “**Property**”) of Cuda Energy Inc., Cuda Oil and Gas Inc., Cuda Energy LLC and Junex Inc. (collectively, the “**Cuda Group**”) pursuant to an Order of the Honourable Justice K.M. Horner (the “**Receivership Order**”) of the Court of King's Bench of Alberta (the “**Canadian Court**”). The Receivership Order was granted pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) and section 13(2) of the *Judicature Act*, R.S.A. 2000, c. J-2.
2. The Receivership Order authorizes the Receiver, among other things, to manage, operate and carry on the business of the Cuda Group, to market any or all the Property including advertising and soliciting offers to purchase the Property, and to make such arrangements or agreements as deemed necessary by the Receiver.
3. On December 8, 2021, the Receiver, in its capacity as authorized foreign representative, filed a Petition for Recognition as Foreign Main Proceeding Pursuant to Sections 1515 and 1517 of the United States Bankruptcy Code and Related Relief (the “**Chapter 15 Petitions**”) for the Cuda Group with the United States Bankruptcy Court for the District of Wyoming (“**US Court**”) seeking an order recognizing the proceeding commenced by the Canadian Court (“**Canadian Proceedings**”) as a foreign main proceeding pursuant to Sections 1515 and 1517 of the United States *Bankruptcy Code*. On December 21, 2021, the US Court entered its Order Granting Recognition as a Foreign Main Proceeding and Related Relief wherein the Chapter 15 Petitions were granted.

4. On April 29, 2022, the Canadian Court granted an Order (the "**Canadian Approval and Interim Distribution Order**"), among other things:
  - (a) approving and authorizing the sale transaction (the "**Blue Sky Transaction**") contemplated by an agreement for purchase and sale dated April 19, 2022 (the "**Blue Sky Sale Agreement**") between the Receiver and Blue Sky Resources Ltd. ("**Blue Sky**") with respect to certain Canadian assets of Cuda Energy Inc. (the "**Canadian Assets**");
  - (b) approving and authorizing the sale transaction (the "**COPL Transaction**") contemplated by an agreement for purchase and sale dated April 11, 2022 (the "**COPL Sale Agreement**") between the Receiver and COPL America Inc. ("**COPL**") with respect to certain U.S. assets of Cuda Energy LLC (the "**US Assets**");
  - (c) approving the actions, conduct and activities of the Receiver as described in the First Report of the Receiver, dated December 22, 2021 (the "**First Report**") and in the Second Report of the Receiver, dated April 20, 2022 (the "**Second Report**"); and
  - (d) authorizing the Receiver to make interim distributions of net estate proceeds to Tallinn Capital Energy Limited Partnership (by its General Partner Tallinn Capital Energy Corp.) ("**Tallinn**") and to Bridging Finance Inc. ("**BFI**") (by its Court-appointed Receiver and Manager PricewaterhouseCoopers Inc. ("**PwC**") (the "**Interim Distributions**").
5. On June 3, 2022, the US Court granted an Order recognizing the Canadian Approval and Interim Distribution Order.
6. The Receiver's reports and other publicly available information in respect of these proceedings (the "**Receivership Proceedings**") are posted on the Receiver's website at <http://cfcanada.fticonsulting.com/cuda> (the "**Receiver's Website**").

7. All capitalized terms that are used but not defined herein are intended to bear their meanings as defined in the Receivership Order.
8. The purpose of this report (the “**Third Report**”) is to inform the Canadian Court and US Court of the following:
  - (a) the activities of the Receiver since the date of the Second Report;
  - (b) the Receiver’s statement of receipts and disbursements from the Date of Appointment to January 30, 2023;
  - (c) a summary of the Receiver’s fees and expenses (the “**Receiver’s Fees**”) and the Receiver’s Canadian Counsel’s and the Receiver’s US Counsel’s (as defined below) fees and disbursements (the “**Receiver’s Counsel’s Fees**”);
  - (d) a summary of the secured claims against the Cuda Group; and
  - (e) an update on the status of the remaining tasks to complete the administration of the Receivership Proceedings.
9. The Receiver is requesting the following relief from this Honourable Court:
  - (a) approval of the Receiver’s activities since the date of the Second Report, including its receipts and disbursements, as reported in this Third Report;
  - (b) approval of the Receiver’s Fees and the Receiver’s Counsel’s Fees;
  - (c) approval to make an additional distribution to PwC, in its capacity as receiver of BFI, in an amount set out herein at paragraph 37;
  - (d) authorization for the Receiver to assign Cuda Energy Inc. into bankruptcy;

- (e) authorization for the Receiver to destroy the Company's corporate books and records if unclaimed by any of the current or former directors of the Company within 30 days of the Receiver providing such notice;
- (f) discharging the Receiver upon the filing of a Receiver's Completion Certificate with this Court.

## TERMS OF REFERENCE

- 10. In preparing this Third Report, the Receiver has relied upon unaudited financial information prepared by the Cuda Group's management, other information available to the Receiver and, where appropriate, the Cuda Group's books and records and discussions with various parties (collectively, the "**Information**").
- 11. Except as described in this Third Report:
  - (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information; and
  - (b) the Receiver has not examined or reviewed financial forecasts and projections referred to in this Second Report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*.
- 12. Future oriented financial information reported or relied on in preparing this Third Report is based on assumptions regarding future events. Actual results may vary from forecasts and such variations may be material.

13. The Receiver has prepared this Third Report in connection with the Receiver's application seeking the relief set out herein, scheduled for February 10, 2023. This Third Report should not be relied on for any other purposes.
14. The information and advice described in this Third Report that has been provided to the Receiver by its Canadian legal counsel, Bennett Jones LLP ("**Canadian Counsel**") and/or its US legal counsel, Markus Williams Young & Hunsicker LLC ("**MWY&H**") and Welborn Sullivan Meck & Tooley, P.C. ("**WSM&T**" and collectively with MWY&G, "**US Counsel**"), and was provided to assist the Receiver in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
15. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

#### **ACTIVITIES OF THE RECEIVER'S**

16. Since the date of the Second Report the Receiver has:
  - (a) communicated with various stakeholder groups and/or their advisors, including suppliers, trade creditors, employees and regulatory agencies;
  - (b) continued care and maintenance of the Canadian Assets and US Assets with no material adverse issues until the completion of the Transactions;
  - (c) provided regular updates to PwC in its capacity as receiver and manager of BFI, and Tallinn (Tallinn and BFI collectively, the "**Secured Lenders**") on the status of the Cuda Group's operations and sales processes; and
  - (d) closed the COPL Transaction on July 26, 2022, and made Interim Distributions to Tallinn on July 27, 2022, and to PwC on July 29, 2022;

- (e) closed the Blue Sky Transaction on October 28, 2022, and completed the accounting necessary to facilitate the final statement of adjustments in accordance with the terms of the Blue Sky Sale Agreement.

## STATEMENT OF RECEIPTS AND DISBURSEMENTS

17. The figure below presents the Receiver’s statement of receipts and disbursements (“SR&D”) from the Date of Appointment to January 30, 2023 (USD amounts converted to CAD).

<b>Statement of Receipts and Disbursements</b>	
<b>for the period of November 18, 2021 to January 30, 2023</b>	
<b>CAD \$</b>	<b>Cumulative</b>
<b>Receipts</b>	
Net transaction proceeds	\$ 25,139,855
Accounts receivable collections	1,218,705
Transfer from pre-receivership account	222,272
GST collected	33,441
GST/QST refund	11,598
Other receipts	19,336
Net foreign exchange	8,811
<b>Total - Receipts</b>	<b>26,654,017</b>
<b>Disbursements</b>	
Distribution to Tallinn	15,522,476
Distribution to PwC/BFI	8,258,477
Sales Commission	677,152
Receiver's fees and costs	549,607
Legal fees and disbursements	430,690
Royalties	221,116
Payroll and benefits	190,807
Operating expense	150,725
Purchase price adjustments	89,088
Work fee	66,850
GST/HST paid	45,955
Insurance	31,869
Rent and utilities	30,120
Consultants	26,301
Property tax	12,375
GST remitted	4,319
Bank fees and other	1,633
<b>Total - Disbursements</b>	<b>26,309,558</b>
<b>Net Cash on Hand</b>	<b>\$ 344,459</b>



18. Below is a description of the major items included in the SR&D above:
- (a) Net transaction proceeds collected from the completion of the COPL Transaction and Blue Sky Transaction (including required adjustments);
  - (a) Accounts receivable collections relates to oil and natural gas revenue received in connection with the operation of the Canadian Assets;
  - (b) Transfer from pre-receivership accounts includes amounts transferred from the Cuda Group's bank accounts to the Receiver's trust accounts;
  - (c) Payroll and benefits disbursed by the Receiver relating to payroll and remittances and employee benefits;
  - (d) Operating Expenses includes amounts disbursed in connection with the operation of the Canadian Assets;
  - (e) Legal fees and disbursements paid to the Receiver's Canadian Counsel and Receiver's US Counsel to date;
  - (f) Work fee paid to Detring & Associates (the sale agent for the US Assets) in connection with the sales process for the US Assets; and
  - (g) Insurance costs including operator's insurance and general liability.
19. As at January 30, 2023, the Receiver held approximately \$344,459 in cash.

## **PROFESSIONAL FEES**

20. Invoices for professional services rendered and costs for the Receiver from the Date of Appointment to December 31, 2022, total \$549,606.87, exclusive of GST.
21. Invoices for professional services rendered and disbursements for the Receiver's Canadian Counsel from the Date of Appointment to December 31, 2022, total \$198,431.98, exclusive of GST.
22. Invoices for professional services rendered and disbursements for the Receiver's US Counsel from the Date of Appointment to December 31, 2022, total \$173,716.48 exclusive of GST.
23. Invoices for the Receiver's Fees and the Receiver's Counsel's Fees can be made available upon request of this Honourable Court.
24. The Receiver is recommending a hold back for the Receiver's Fees and the Receiver's Counsel's Fees of approximately \$40,000 for additional time attending to the final administrative matters of the Receivership Proceedings, including the costs of this Application and the discharge of the US proceedings and to address any remaining costs and expenses prior to the completion of the Receivership Proceedings.
25. The Receiver is of the opinion that the Receiver's Fees and the Receiver's Counsel's Fees are reasonable and appropriate in the circumstances, and in particular, given the length of the Receivership Proceedings, the cross border aspects of the Cuda Group's operations, the work required to maintain and operate the Canadian Assets for approximately 11 months prior to the completion of the Blue Sky Transaction, and the time required to complete a fulsome sales process which resulted in two separate sales transaction.

## DETAILS OF SECURED AND POTENTIAL PRIORITY CLAIMS

### Secured Claims

26. As more fully described in the Affidavit of Robb Cacovic sworn November 16, 2021, in these Receivership Proceedings, the Cuda Group had accumulated significant liabilities at the time the Receivership Order was granted, including:
- (a) approximately \$13.7 million, plus interest and costs continuing to accrue, of outstanding indebtedness under various first lien credit agreements with Tallinn, as amended from time to time (the “**Tallinn Debt**”);
  - (b) approximately \$56.6 million, plus interest and costs continuing to accrue, of outstanding indebtedness under various second lien credit agreements with BFI, as amended from time to time (the “**BFI Debt**” and collectively with the Tallin Debt, the “**Secured Debt**”). On April 30, 2021, PwC was appointed as receiver and manager of all of the assets, undertakings and properties of BFI and therefore PwC is the authorized representative of BFI, has stewardship over the BFI Debt and is the Receiver’s point of contact in respect of the BFI Debt throughout these Receivership Proceedings; and
  - (c) Southwestern Production Corporation (or its predecessor) (“**SPC**”), as operator of the US Assets, recorded the operating agreement documents and subsequent lien statement that secured certain joint interest billings (the “**JIB Obligation**”). WSM&T reviewed the documents recorded by SPC (and the preceding US Asset operators) and determined that SPC possessed valid, enforceable, secured lien obligations. Pursuant to the terms of the COPL Sale Agreement, the JIB Obligation is an Assumed Liability to be assumed by COPL as part of the total purchase price for the US Assets. COPL and SPC are affiliates.

27. As a result of the Interim Distributions, Tallinn, the first-ranking secured creditor, was repaid in full.
28. As part of the COPL Sale Agreement, the Cuda Group, SPC, BFI (through PwC, in its capacity as receiver of BFI) and Tallinn entered into a Settlement and Release Agreement whereby of all the claims of SPC against the Cuda Group, BFI, and Tallinn and the counter claims of the Cuda Group against SPC, including the JIB Obligation were released and dismissal.
29. The BFI Debt has been partially repaid through the Interim Distributions previously approved by this Honourable and paid by the Receiver. To date the Receiver has made distributions totaling \$8.3 million to PwC in respect of the BFI Debt. The Receiver is proposing a final distribution to PwC as described below which will result in a shortfall of approximately \$48 million against the BFI Debt.

### **Deemed Trust Claim**

30. On September 22, 2022, the CRA delivered a notice asserting a trust claim under subsection 222(3) of the *Excise Tax Act* in the amount of \$49,086.92 in respect of unremitted GST/HST for pre-receivership periods (the “**Deemed Trust Claim**”)
31. On January 26, 2023, PwC requested that the Receiver make an assignment for and on behalf of Cuda Energy Inc. of its Property for the general benefit of creditors under section 49 of the BIA (the “**Bankruptcy Assignment**”). If the Bankruptcy Assignment occurs, it would render the Deemed Trust Claim unsecured. The Receiver seeks this Honourable Court's authority to assign Cuda Energy Inc. into bankruptcy, which it would do immediately after the date of the Application.

32. If the authority to bankrupt Cuda Energy Inc. is not granted, the Receiver would maintain a holdback in the amount of the Deemed Trust Claim pending resolution of the Deemed Trust Claim. If the bankruptcy assignment is completed, the Receiver is of the view that BFI will priority over the Deemed Trust Claim and therefore seeks authority to distribute the full amount of the holdback for the Deemed Trust Amount to BFI.
33. Other than those parties referenced above, no other party has contacted the Receiver nor the Receiver’s Canadian Counsel asserting a claim in priority to the Secured Lenders and the Receiver is not aware of any party asserting priority to the Secured Lenders, or any party that would be entitled to do so.

**PROPOSED DISTRIBUTION**

34. The Receiver currently holds \$344,459 and all assets have been sold and therefore the Receiver does not expect any further recoveries. The Receiver is proposing to holdback certain funds necessary to complete the administration of the estate and distribute the balance to PwC in respect of the BFI Debt.
35. The figure below presents a summary of the holdback (the “**Holdback**”) and proposed distribution.

<b>Estimated Holdback</b>	
<b>CAD \$</b>	
<b>Holdback</b>	
Professional fees (estimated to completion)	39,185
Operating costs	25,500
Deemed Trust Claim	49,865
Contingency	29,909
<b>Total - Holdback</b>	<b>144,459</b>

36. The Holdback was calculated based on:
- (a) accrued unpaid professional fees and estimated professional fees to complete the administration of the Receivership Proceedings;

- (b) accrued and ongoing administrative and operating costs incurred in connection with the ongoing receivership operations; and
  - (c) the Deemed Trust Claim; however, when the Bankruptcy Assignment is complete this claim will become unsecured and the balance of funds (less costs to administer the bankruptcy estate) would be distributed to PwC in respect of the BFI debt.
37. The Receiver is seeking approval from this Honourable Court to distribute the balance of funds held to PwC in respect of the BFI Debt in the amount of \$200,000 as set out below, maintain the Holdback and distribute any residual funds from the Holdback to BFI upon completion of all remaining administrative matters.

<b>Estimated Final Distribution</b>	
<b>CAD \$</b>	
Cash on Hand	344,459
Holdback	(144,459)
<b>Total - Final Distribution</b>	<b>200,000</b>

38. In the Receiver's view the proposed distribution is appropriate:
- (a) as set out in the Second Report, the Receiver's Canadian Counsel and US Counsel has opined on the security documents of Tallinn and BFI and concluded, subject to customary assumptions and qualifications that Tallinn and BFI had valid security interests in the assets of the Cuda Group;
  - (b) the holdback includes amounts to pay remaining professional fees, the Deemed Trust Claim and estimates of amounts to be incurred to complete the administration of the Receivership; and

- (c) the distribution to BFI/PwC in partial satisfaction of the BFI Debt will be significantly less than the total remaining BFI Debt and therefore there will be no further distribution available to subordinate or unsecured creditors in these Receivership Proceedings.
39. If the order sought is granted, the Receiver will seek recognition of the order by the US Court and thereafter, make the final distribution to BFI. At that point, the Receiver will have completed the vast majority of tasks associated with the administration of the estate.
40. There are no other secured creditors with secured claims against the Cuda Group that rank ahead of, or potentially rank ahead of, the secured claim of BFI (other than, potentially, the Deemed Trust Claim).

#### **CORPORATE BOOKS AND RECORDS**

41. The Company's corporate books and records are currently located at an offsite storage facility. The Receiver is seeking the approval of this Honourable Court to destroy the remaining corporate books and records, except those required by statute, unless they are claimed by any of the current or former directors of the Company within 30 days of the Receiver providing written notification of the same. The Receiver has no further need to retain these books and records.
42. The Receiver will use the addresses listed on an Alberta Corporate Registry search as the addresses at which to notify the current or former directors.

## **TERMINATION OF THE RECEIVERSHIP PROCEEDINGS**

43. As described in this Third Report, the administration of these Receivership Proceedings is substantially complete, with exception of certain matters which are administrative in nature. To avoid the additional costs associated with subsequent Court appearances, and with the support of BFI, the Receiver is seeking an Order terminating the Receivership Proceedings and discharging the Receiver of its duties and obligations under the Receivership Order upon filing a certificate (the “**Receiver’s Completion Certificate**”) with this Honourable Court certifying that all remaining administrative matters have been concluded.

## **RECEIVER’S RECOMMENDATIONS**

44. The Receiver respectfully requests that this Honourable Court grant the following relief:
- (a) approval of the activities of the Receiver, including its statement of receipts and disbursements as reported in this Third Report;
  - (b) approval of the Receiver’s Fees and the Receiver’s Counsel’s Fees;
  - (c) authorization for the Receiver to make the proposed distribution of up to \$200,000 to BFI, maintain the Holdback and distribute any residual funds from the Holdback to BFI upon completion of all remaining administrative matters;
  - (d) authorization for the Receiver to destroy the Company’s corporate books and records if not claimed by any of the current or former directors of the Company within thirty (30) days of the Receiver providing written notification of the same; and



- (e) the discharge of the Receiver and termination the Receivership Proceedings upon the completion of the Receiver's remaining administrative tasks relating to the receivership and filing of the Receiver's Completion Certificate.

All of which is respectfully submitted this 30th day of January 2023.

FTI Consulting Canada Inc. in its capacity as  
Receiver of the assets, property and undertaking  
of the Cuda Group.



Name: Deryck Helkaa, CPA, CA, CIRP, LIT  
Title: Senior Managing Director,  
FTI Consulting Canada Inc.



Name: Dustin Olver, CPA, CA, CIRP, LIT  
Title: Senior Managing Director,  
FTI Consulting Canada Inc.