

COURT FILE NUMBER 1601-06765
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF ENDURANCE ENERGY LTD.

DOCUMENT **ELEVENTH REPORT OF FTI CONSULTING CANADA
INC., IN ITS CAPACITY AS MONITOR OF ENDURANCE
ENERGY LTD.**

January 27, 2017

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
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INTRODUCTION

1. On May 30, 2016, Endurance Energy Ltd. (“**Endurance**” or the “**Applicant**”) sought and obtained protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an order granted by this Honourable Court (the “**Initial Order**”). The proceedings commenced by the Applicant under the CCAA are referred to herein as the “**CCAA Proceedings**”.
2. The Initial Order, *inter alia*, appointed FTI Consulting Canada Inc. as Monitor (the “**Monitor**”).
3. On November 21, 2016, this Honourable Court granted the following orders:
 - (a) an order which, *inter alia*, approved the procedures outlined for the submission of claims against the directors and officers of the Applicant (the “**Directors and Officers Claims Procedure Order**”); and
 - (b) an order which, *inter alia*, approved a \$100 million interim distribution to the Lenders and extended the Stay Period to and including January 31, 2017 (the “**Interim Distribution and Stay Extension Order**”).
4. On December 5, 2016, this Honourable Court granted an order (the “**Interim Distribution and Transition Order**”) which, *inter alia*, approved a further \$25 million interim distribution to the Lenders in partial satisfaction of the amounts owing to the Lenders and the expansion of the Monitor’s powers in respect of the Applicant upon the filing of the Monitor’s Certificate (the “**Monitor’s Transition Certificate**”).

5. Subsequent to the date of the above orders, the CCAA Proceedings have been substantially completed including the Court approved sale of substantially all of the Applicant's assets on or around October 26, 2016, the distribution of the majority of the net sale proceeds to the Lenders in the amount of \$125 million (net of certain holdback amounts) and the substantial wind-up of the Applicant's active business operations including finalizing certain accounting matters and preparing the final statement of adjustments in accordance with the sale transaction.

PURPOSE

6. The purpose of this eleventh report of the Monitor (the "**Eleventh Report**") is to provide this Honourable Court with the Monitor's summary and comments with respect to:
 - (a) the activities of the Monitor since the Tenth Report of the Monitor dated November 30, 2016;
 - (b) the Monitor's request for relief to make a further interim distribution to the Lenders in the amount of the \$5 million (the "**Interim Distribution**") from current cash on hand and a further distribution, once received, of the amounts anticipated to be refunded in the near term to the Monitor by the Alberta Energy Regulator ("**AER**") (approximately \$2.1 million) and the Saskatchewan Ministry of the Economy ("**SME**") (approximately \$200,000) (the "**Security Deposits**");
 - (c) the Monitor's request for the termination of the Directors' Charge (as defined in the Initial Order); and
 - (d) the Monitor's request to extend the Stay Period to and including June 30, 2017.

TERMS OF REFERENCE

7. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicant, the Applicant's books and records, certain financial information prepared by the Applicant and discussions with various parties, including senior management ("**Management**") of the Applicant (collectively the "**Information**"). Except as described in this report, the Monitor 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.
8. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook. Future oriented financial information reported or relied on in preparing this report is based on Management's assumptions regarding future events and actual results may vary from forecast and such variations may be material.
9. Further background and information regarding the Applicant's and these CCAA Proceedings can be found on the Monitor's website (the "**Monitor's Website**") at <http://cfcanada.fticonsulting.com/endurance>.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not otherwise defined herein have the meaning defined in the Initial Order and the Directors and Officers Claims Procedure Order.

ACTIVITIES OF THE MONITOR

11. Since the Tenth Report of the Monitor dated November 30, 2016, the Monitor has:
- (a) continued to review the Applicant's cash disbursements on a weekly basis;
 - (b) completed the distribution in the amount of \$25 million to the Lenders on behalf of the Applicant and in accordance with the Interim Distribution and Stay Extension Order. As of the date of the Eleventh Report of the Monitor, \$125 million has been distributed to the Lenders in partial satisfaction of the amounts owed to the Lenders;
 - (c) substantially completed the procedures outlined in the Directors and Officers Claims Procedure Order;
 - (d) attended various meetings and discussions with the Applicant, the purchaser and related advisors with respect to the closing of the sale transaction and the transition of the administrative and operational tasks associated with the Applicant's business, from the Applicant to the purchaser;
 - (e) assisted the Applicant with numerous issues including transferring IT resources and other records to the purchaser; and
 - (f) assisted the Applicant in completing various administrative matters in connection with the CCAA Proceedings including:
 - assisting the Applicant in preparing the final statement of adjustments in connection with the sale of the Applicant's assets, a copy of which was provided to the purchaser for review on January 24, 2017;

- facilitated the substantial wind-down of the Company's operations (all employees have now been terminated);
- vacated the Applicant's leased office space effective January 31, 2017, with all remaining administrative matters anticipated to be completed by the end of February 2017;
- held discussions with the Applicant and the AER and the SME with respect to the refund of the approximately \$2.3 million in Security Deposits previously posted by the Applicant; and
- attended to various administrative matters including facilitating detailed records of corporate records and sending them to storage.

Expansion of the Monitor's Powers

12. As more fully described in the Monitor's Tenth Report dated November 30, 2016 and the Interim Distribution and Transition Order, the Applicant sought and obtained relief expanding the Monitor's powers in respect of the Applicant, upon the filing of the Monitor's Transition Certificate.
13. The Monitor filed the Monitor's Transition Certificate with this Honourable Court on January 17, 2017.
14. Since the filing of the Monitor's Transition Certificate, the Monitor has exercised, or will exercise, such expanded powers to collect funds on behalf of the Applicant, make distributions on behalf of the Applicant, sign documents on behalf of Applicant and instruct advisors to assist in completing the remaining matters and assign the Applicant into bankruptcy (if the Monitor deems it appropriate).

15. The Applicant has terminated all employees and the Monitor retained the services of two former employees on a contract basis whose services are now substantially completed.
16. The wind-down of the Applicant's business is substantially complete upon the closing of the sale of substantially all the Applicant's assets and the distribution of \$125 million of the net proceeds to the Lenders. The remaining tasks to be completed by the Monitor will be to finalize the statement of adjustments with the purchaser, and pay any remaining invoices for work performed during the CCAA Proceedings.

Directors and Officers Claims Procedure

17. On November 22, 2016, the Monitor posted the Notice to Claimants¹, the Claims Package and the Directors and Officers Claims Procedure Order to the Monitor's Website in accordance with the Directors and Officers Claims Procedure Order.
18. On November 25, 2016, the Monitor published the Notice to Claimants in the Globe and Mail (National Edition) in accordance with the Directors and Officers Claims Procedure Order.
19. The Monitor received ten Claims in connection with the Claims Procedure with a total value of \$343,564. The Monitor reviewed the Claims in accordance with the Claims Procedure to determine whether to accept, revise or disallow the amount of each Claim.

¹ Any terms not otherwise defined herein have the meaning attributed to them in the Directors and Officers Claims Procedures Order

20. After consultation with the Applicant, each of the Claims was revised to zero as the Claims did not constitute a valid Claim against the former directors or officers of the Applicant. A review of the claims indicated the Claimants had filed normal course unsecured claims relating to pre-filing unpaid trade accounts owed by the Applicant.
21. On January 12, 2017, the Monitor sent a Notice of Disallowance to each of Claimants by prepaid mail and via email. Each of the Claimants wishing to dispute a Notice of Disallowance was required to file a Notice of Dispute with the Monitor with reasons for its dispute by 5:00 p.m. (Mountain Time) on January 27, 2017.
22. As of the date of this Eleventh Report, the Monitor has not received any Notices of Dispute from the Claimants, however notes that the deadline is not until the end of day of the date of the Tenth Report of the Monitor.

THE CHARGES

23. The Initial Order and KERP and KEIP Order provided for various Court ordered charges and the Monitor has provided a summary of the current status of the Charges in the table below:

Charges	Charge amount	Status
Administrative Charge	n/a	discharged
Interim Lender's Charge	n/a	discharged
KERP Charge and KEIP Charge	n/a	discharged
Directors' Charge	\$1.0 million	Proposed to be discharged

24. The Monitor is seeking an order which terminates the Directors' Charge of \$1,000,000.

25. The Monitor is proposing to withhold up to \$343,564, comprising the total of the ten Claims received in connection with the Directors and Officers Claims Procedures Order (the “**D&O Claims Holdback**”). The Monitor is of the view that none of those Claims is valid against the beneficiaries of the Directors’ Charge and accordingly has issued Notices of Disallowance to each of the Claimants, the expiry of Claimants’ rights to dispute the Notices of Revision or Disallowance does not occur until the end of day on January 27, 2017.
26. The Monitor is seeking the authority to distribute some or all of the D&O Claims Holdback to the Lenders, to the extent that any Claimant does not issue a Notice of Dispute. At the hearing scheduled for 2:00 p.m. on Monday, January 30, 2017, the Monitor will update the Court on the status of any Notices of Dispute received by the deadline.
27. Accordingly, given the proposed mechanism to hold back the D&O Claims Holdback if necessary, the Monitor is of the view that the request to terminate the Directors’ Charge is appropriate and will not prejudice any party.

PROPOSED SECOND INTERIM DISTRIBUTION

28. Upon the filing of the Monitor's Transition Certificate, the Applicant retained sufficient funds in its bank account to cover any outstanding cheques that were issued and outstanding and transferred the remaining funds to the Monitor on January 13, 2017.
29. The table below summarizes the receipts and disbursements from the Monitor's trust account since the Tenth Report of the Monitor dated November 30, 2016.

Monitor's Trust Account (CAD)	
Schedule of Receipts and Disbursements	
As at January 26, 2017	
Receipts	
Opening Cash	\$ 18,860,078
Transfer from Applicant	13,665,000
Interest	47,802
	32,572,880
Disbursements	
Second Interim Distribution	25,000,000
Operating Expenses	52,706
Professional Fees	4,575
Consultants	920
Bank Charges	26
	25,058,227
Net Cash on Hand	\$ 7,514,652

30. The table below summarizes the cash on hand from the Monitor's trust account, the updated proposed holdback and the proposed Interim Distribution.

Proposed Second Interim Distribution (CAD)		Note
Cash on Hand		
Monitor's Trust Account	\$ 7,514,652	a
Total - Cash on Hand	7,514,652	
Holdbacks		
Operating and General and Administrative Expense	1,708,588	b
Final Statement of Adjustments	375,000	c
D&O Claims Holdback	343,564	d
Professional Fees	87,500	e
Total - Holdbacks	2,514,652	
Proposed Interim Distribution	\$ 5,000,000	f
Security Deposits (not yet received)		
Alberta Energy Regulator Deposit	2,140,000	g
Saskatchewan Ministry of Economy Deposit	205,500	g

31. The table above summarizes the cash on hand and the various holdbacks such that sufficient funds are held back:
- (a) the Monitor currently holds approximately \$7.5 million;
 - (b) an estimate of \$1.7 million for the remaining expenses and general and administrative matters in connection with the wind-down of the Applicant's business. As discussed above, the majority of the administrative and operational wind down has been completed, however, certain outstanding invoices and costs remain to be paid;
 - (c) the settlement of the final statement of adjustments which was prepared and provided to the purchaser on January 24, 2017 for review;
 - (d) the retention of funds until the expiry of the dispute period for the Officers and Directors Claims Procedures;

- (e) professional fees outstanding and estimated to complete the CCAA Proceedings and the administration of the estate;
 - (f) proposed Interim Distribution to the Lenders of \$5 million; and
 - (g) the Security Deposits currently on account with the AER and SME.
32. As at January 26, 2017, the Monitor is holding \$7.5 million in trust for the Applicant and the proposed Interim Distribution to the Lenders is \$5 million.
33. The \$5 million proposed Interim Distribution has only been able to be finalized in the recent days given that the final statement of adjustments was provided to the purchaser on January 23, 2017 and the payment of outstanding operating costs which was primarily completed throughout January, 2017.
34. The \$5 million proposed Interim Distribution is higher than anticipated primarily as a result of the following;
- (a) the final statement of adjustment was lower than anticipated;
 - (b) operating expenses for the wind-down period were lower than forecast and certain contingency items were not incurred;
 - (c) professional fees were lower than forecast; and
 - (d) employee and other general and administrative expenses were lower than forecast as wind down of the Applicant's business was substantially completed earlier than anticipated.

35. The Monitor is proposing the Interim Distribution of \$5 million based on the following:
- (a) as outlined in the Ninth Report of the Monitor dated November 15, 2016, counsel to the Monitor provided an opinion on the security granted by the Applicant to the Lenders under the laws of Alberta and British Columbia, concluding that the security is valid and enforceable;
 - (b) a sufficient reserve has been retained to complete the wind down of the Applicant's affairs, including the Claims arising from the Directors and Officers Claims Procedure;
 - (c) no party has contacted the Applicant nor the Monitor asserting a claim in priority to the Lenders, and the Monitor is not aware of any party asserting priority to the Lenders' security; and
 - (d) the amount owing to the Lenders is significantly in excess of the distributions made to date (including the proposed \$5 million Interim Distribution).
36. The Monitor anticipates that a final distribution to the Lenders may be made from any remaining funds after the administration of the CCAA Proceedings is complete.

EXTENSION OF THE STAY PERIOD


37. The Stay Period is until and including January 31, 2017. The Monitor is seeking an extension to the Stay Period until and including June 30, 2017 in order to provide sufficient time to substantially complete the remaining administrative matters of the estate.

38. The Monitor, exercising its enhanced powers, is acting with due diligence and in good faith to wind up the affairs of the Applicant.
39. As outlined above, the Monitor advises that the majority of the administrative tasks have now been completed and anticipates that the remaining matters with respect to the CCAA Proceedings will be completed by the end February 2017.

RECOMMENDATIONS

40. The Monitor respectfully recommends that this Honourable Court approve:
- (a) the proposed Interim Distribution of \$5 million to the Lenders, including that portion of the D&O Claims Holdback with respect to which no Dispute Notice has been filed by 5:00 p.m. Mountain Time on January 27, 2017;
 - (b) the ability to distribute any of the funds anticipated to be received from the AER or SME relating to the Security Deposits;
 - (c) the termination of the Directors' Charge; and
 - (d) the extension of the Stay Period to and including June 30, 2017.

All of which is respectfully submitted this 27th day of January, 2017.


Deryck Helkaa
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FTI Consulting Canada Inc.