

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 27TH
)
JUSTICE KIMMEL) DAY OF MARCH, 2024
)

**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 ORIGINAL TRADERS ENERGY
LTD. AND 2496750 ONTARIO INC. (each, an "Applicant"
and collectively, the "Applicants")**

**ORDER
(Distribution Order)**

THIS MOTION, made by KPMG Inc., in its capacity as the monitor (in such capacity, the "**Monitor**") of the Applicants, OTE Logistics LP and Original Traders Energy LP (collectively with the Applicants, the "**OTE Group**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**", and these proceedings, the "**CCAA Proceedings**") for an order, among other things, approving a distribution from the proceeds of the Vehicle Transaction (as defined in the Eighth Report) to certain equipment leasing and financing companies, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the Eighth Report of the Monitor dated March 18, 2024 (the "**Eighth Report**"), and on hearing the submissions of counsel for the Monitor and those other parties listed on the counsel slip, no one else appearing although duly served as it appears from the affidavit of service of Thomas Gray, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record of the Monitor is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used within this Order and not expressly defined herein shall have the meanings set forth in the Eighth Report.

DISTRIBUTION OF VEHICLE TRANSACTION PROCEEDS

3. **THIS COURT ORDERS** that the Monitor, on behalf of the OTE Group, is hereby authorized, at such time or times as it determines appropriate, to make the Distributions from the proceeds of the Vehicle Transaction to CWB, Essex, Meridian and Volvo, or to affiliates designated by CWB, Essex, Meridian or Volvo (as applicable), as described at paragraphs 31 and 32 of the Eighth Report.

4. **THIS COURT ORDERS** that the Distributions shall be in full and final satisfaction of any and all claims and security of CWB, Essex, Meridian and Volvo against the OTE Group, including any and all claims and security in respect of the Vehicles.

5. **THIS COURT ORDERS** that the Distributions shall be free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by Order in these CCAA proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada.

6. **THIS COURT ORDERS** that the Distributions shall not constitute a “distribution” by any director, officer, employee or agent of the OTE Group or the Monitor, including their respective legal counsel, and such persons shall not constitute a “legal representative”,

“representative” or a “responsible representative” of the OTE Group or the Monitor or “other person” for purposes of Section 159, 227.1 and 227(5) of the *Income Tax Act* (Canada), Section 117 of the *Taxation Act*, 2007 (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada), Section 22 of the *Retail Sales Tax Act* (Ontario), Section 107 of the *Corporations Tax Act* (Ontario), or any federal, provincial, state or territorial tax legislation (collectively, the “**Statutes**”), and such persons, including the Monitor, in causing or assisting the OTE Group to make any Distribution in accordance with this Order is not “distributing”, nor shall it be considered to have “distributed”, such funds for the purposes of the Statutes, and such persons shall not incur any liability under the Statutes for causing or assisting the OTE Group in making any Distributions in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and such persons shall not have any liability for any of the OTE Group’s tax liabilities regardless of how or when such liabilities may have arisen, and are hereby forever released, remised and discharged from any claims against such person under or pursuant to the Statutes or otherwise at law arising as a result of the Distributions contemplated in this Order, and any claims of such nature are hereby forever barred.

7. **THIS COURT ORDERS** that the Monitor is hereby authorized, directed and empowered to take any further steps that it deems necessary or desirable to complete the Distributions described in this Order.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) the pendency of any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), in respect of the OTE Group or its property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the OTE Group; and
- (d) the provision of any federal, provincial or other statute;

any Distributions made pursuant to this Order are final and irreversible and shall be binding upon any trustee in bankruptcy or receiver that may be appointed in respect of the OTE Group or its property, and shall not be void or voidable by creditors of the OTE Group, nor shall any such distributions constitute or be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers-at-undervalue or other reviewable transactions under the BIA or any other applicable federal, provincial or other law, nor shall they constitute conduct which is oppressive, unfairly prejudicial to or which unfairly disregards the interests of any person, and shall, upon the receipt thereof, be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to the OTE Group or its property.

GENERAL

9. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or any other jurisdiction, to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Monitor and its respective agents in carrying out the terms of this Order.

11. **THIS COURT ORDERS** that this Order is effective as of 12:01am EST on the date of this Order without the need for entry or filing.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD. AND
2496750 ONTARIO INC.

Court File No. CV-23-00693758-00CL

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

Proceedings commenced in Toronto

**ORDER
(Distribution Order)**

BENNETT JONES LLP

3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan (#32076A)

Email: swanr@bennettjones.com

Raj Sahni (#42942U)

Email: sahnir@bennettjones.com

Shaan P. Tolani (#80323C)

Email: tolanis@bennettjones.com

Thomas Gray (#82473H)

Email: grayt@bennettjones.com

Tel: 416.863.1200

Fax: 416.863.1716

Lawyers for the Monitor

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF ORIGINAL TRADERS ENERGY LTD. AND 2496750
ONTARIO INC.

Court File No. CV-23-00693758-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced in Toronto

MOTION RECORD
(Returnable March 27, 2024)

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan (#32076A)
Email: swanr@bennettjones.com

Raj Sahni (#42942U)
Email: sahnir@bennettjones.com

Shaan P. Tolani (#80323C)
Email: tolanis@bennettjones.com

Thomas Gray (#82473H)
Email: grayt@bennettjones.com

Tel: 416.863.1200

Fax: 416.863.1716

Lawyers for the Monitor