Action No. 0901-01613

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA**
**JUDICIAL DISTRICT OF CALGARY**

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

**AND IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A 2000, C. B 9, AS AMENDED;**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF OILEXCO INCORPORATED AND OILEXCO TECHNICAL SERVICES INC.**

# FOURTH REPORT OF THE MONITOR

**ERNST & YOUNG INC.**

**MAY 15, 2009**

# FOURTH REPORT OF THE MONITOR

## TABLE OF CONTENTS

**INTRODUCTION**

1. On February 5, 2009, Oilexco Incorporated ("Oilexco") and Oilexco Technical Services Inc. ("OTSI") (each an "Applicant" or collectively, "the Applicants") filed for and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended, (the "CCAA") pursuant to an order of this Honourable Court dated February 5, 2009 (the "Initial Order").

2. Pursuant to the Initial Order, Ernst & Young Inc. was appointed Monitor of the Applicants during these *CCAA* proceedings (the "Monitor").

3. On February 26, 2009, the Monitor issued its second report (the "Second Report") for the purpose of reporting to this Honourable Court with the Applicants' motion for approval of the Applicants' request for an extension to the Stay Period.

4. Pursuant to an Order of this Honourable Court dated February 26, 2009 (the "Extension of Stay Period"), the Stay Period (as such term is defined in the Initial Order) was extended to April 30, 2009.

5. On April 27, 2009, the Monitor issued its third report (the "Third Report") for the purpose of reporting to this Honourable Court with the Applicants' motion for approval of an extension to the Stay Period and approval of the sale of their fractional interest in two aircraft (the "Flexjet Interest") and in support of the Royal Bank of Scotland's' motion for an Approval and Vesting Order with respect to the sale of the shares of Oilexco North Sea Limited ("ONSL") under Administration in the United Kingdom;

6. Pursuant to an Order of this Honourable Court dated April 28, 2009 (Extension of Stay and Approval of Sale), the Stay Period (as such term is defined in the Initial Order) was extended to May 29, 2009, and Oilexco was authorized to elect the repurchase option with respect to the Flexjet Interest.

7. Pursuant to an Order of this Honourable Court dated April 28, 2009, an Approval and Vesting Order was granted with respect to the sale of the shares of ONSL to Premier Oil Group Limited ("Premier").

**PURPOSE**

8. The purpose of this fourth report of the Monitor (the "Fourth Report") is to report to this Honourable Court with respect to the following:

   (a) The status of the ONSL sale;

   (b) A summary of the current financial position of the Applicants; and

   (c) The Monitor's views with respect to the claims procedure (the "Claims Process") as outlined in the affidavit of Mr. Arthur Millholland dated May 15, 2009 (the "Millholland Claim Procedure Affidavit).

**TERMS OF REFERENCE**

9. In preparing this Fourth Report, the Monitor has relied upon unaudited financial information, company records and discussions with management of the Applicants. The Monitor has not performed an audit, review or other verification of such information.

10. Capitalized terms not defined in this Fourth Report are as defined in the Initial Order. All references to dollars are in Canadian currency unless otherwise noted.

**BACKGROUND**

11. Background to the Applicants is contained in the materials filed relating to the Initial Order and includes the affidavit of Mr. Arthur Millholland sworn February 4, 2009 ("Millholland Affidavit #1) and February 10, 2009 (Millholland Affidavit #2) and the First, Second and Third Reports of the Monitor. These documents, together with other information regarding the CCAA proceeding, including the

Initial Order and subsequent Orders and supporting affidavits have been posted by the Monitor on its website at:

http://www.ey.com/ca/oilexco

**STATUS OF ONSL SALE**

12. The UK Administrators of ONSL have advised they anticipate the sale of the shares of ONSL to Premier will close May 21, 2009.

13. The Administrators made a proposal to ONSL and its creditors for a Company Voluntary Arrangement under Part I of the Insolvency Act 1986 (UK) (the "CVA") in full and final settlement of the CVA claims against ONSL.

14. On April 15, 2009, the Administrators advised that 99.82% of voting CVA creditors approved the Administrators' CVA proposals without modification. Creditors voted 74 in favour and 1 against such that the CVA proposals were duly approved.

15. The sale of the shares of ONSL will generate insufficient funds to satisfy total creditor claims of US$1.7 billion. This claim amount is based on the amounts submitted for the purposes of voting rights in the CVA and does not in any way consider the validity of the creditors' claims. A portion of the claims of Secured Creditors, which total US$883.3, million may not be fully recovered.

16. The CVA does not compromise, release or otherwise affect any person's right to bring claims against the Applicants pursuant to any Oilexco guarantees or other guarantee or indemnity arrangement entered into by Oilexco in favour of any person in respect of the liabilities of ONSL.

17. The Administrators' CVA document dated March 26, 2009 contains a list of "Parent Guarantees" (Annex 5). The Administrators have advised the Monitor the list of guarantee creditors was in the main compiled from information received from creditors and that they have not verified its accuracy or completeness.

18. The Administrators have advised the Monitor the distributions to guarantee creditors may not be known for some while. The Administrators have agreed with the three largest ONSL creditors, two of whom have indicated they have guarantees, that they can have six months to determine actual mitigation against their respective claims. There then follows a period of two months in which the Administrator would seek to agree the mitigated claims with them and if that is not possible the mitigated claims will be determined by an expert. Therefore, it may well be in early 2010 before some guarantee creditors will have agreed mitigated claims and hence receive an agreed dividend.

**FINANCIAL POSITION**

19. The remaining assets of the Applicants include:

    (a) CAD$12,056,605 in cash as at May 11, 2009;

    (b) The Flexjet Interest, with an estimated net realizable value of US$8.25 million;

    (c) The apartment in London, England is currently listed for sale. The asking price is £2,200,000 (CAD$4 million).

    (d) Certain other office furniture and equipment expected to be of nominal value.

20. As of the date of the Initial Order, the Applicants had known primary liabilities of approximately CAD$800,000.

21. The Applicants had also provided guarantees of certain debts of ONSL, estimated in the Monitor's Third Report at in excess of CAD$1.6 billion. This amount included the guarantee of the Applicants in favor of the Royal Bank of Scotland, as well as guarantees given in favour of certain trade creditors of ONSL.

22. The following table summarizes the Monitor's estimate of the largest creditors of the Applicants, including amounts due under the above noted guarantees (net of

any payments made by the Administrators). These calculations are based on the amounts submitted for the purposes of voting rights in the CVA and do not in any way prejudice the quantum of any of the unsecured creditors' claims, nor consider the validity of the creditors' claims under their respective guarantees.

| | Total Claim (CAD$) | CVA Payment (CAD$) | Net Claim (CAD$) | % of Total |
|---|---|---|---|---|
| **Oilexco Inc. Creditors** | | | | |
| 29 creditors, largest $269,000 | 798,298 | | 798,298 | 0.1% |
| **ONSL Guarantee Creditors** | | | | |
| Agr Peak Well | 639,294 | (22,311) | 616,983 | 0.1% |
| The Royal Bank of Scotland | 1,121,693,621 | (509,268,000) | 612,425,621 | 45.8% |
| Diamond Offshore | 405,461,983 | (1,476,630) | 403,985,352 | 30.2% |
| Schlumberger Offshore | 13,737,026 | (405,858) | 13,331,168 | 1.0% |
| Sevan Marine | 305,948,920 | (238,317) | 305,710,603 | 22.9% |
| CNR International UK | 546,795 | (12,699) | 534,097 | 0.0% |
| | 1,626,673,245 | (431,443,816) | 1,195,229,429 | 99.9% |
| **Total** | 1,627,471,543 | (431,443,816) | 1,196,027,727 | 100.0% |

## CLAIMS PROCESS

23. The Applicants are requesting that this Honourable Court approve the Claims Process as outlined in the Millholland Claim Procedure Affidavit and the draft form of order attached to the Notice of Motion filed on May 15, 2009 (the "Claims Process Order"). The Applicants have advised the Monitor they are continuing to develop their restructuring plan and the next logical step is to commence a claims process to allow the Applicants to identify and classify their creditors for purposes of voting on and participating in a plan of arrangement.

24. The proposed Claims Process as set out in the proposed Claims Process Order will establish the amount of certain claims against the Applicants as at the date of

the Initial Order (the "Pre-Filing Claims") and claims arising against the Applicants since the date of the Initial Order arising out of the disclaimer or repudiation of any contract, lease, employment agreement or other agreements (the "Subsequent Claims"). Pre-Filing Claims and Subsequent Claims are collectively referred to as "Claims".

25. The Applicants propose that any creditor asserting a Pre-Filing Claim (except for employees who will be dealt with as set forth below) be required to file a proof of claim (the "Proof of Claim") with the Monitor prior to 5:00 p.m. (Mountain Time) on July 31, 2009 (the "Claims Bar Date"). It is the intention of the Applicants that a bar date for Subsequent Claims arising after the date of the Claims Process Order will be the later of 30 days after the date of the notice of repudiation or disclaimer or the Claims Bar Date (the "Subsequent Claims Bar Date").

26. The Applicants propose that the Claims Bar Date with respect to the post-filing claims of employees be the later of 30 days from the date of termination of the employment contract and July 31, 2009.

27. The Monitor has reviewed the details of the draft Claims Process Order, and believes that it is reasonable and appropriate including:

(a) The establishment of the Claims Bar Date and Subsequent Claims Bar Date;

(b) The contents of the Proof of Claim Document Package (as defined in the Claims Process Order) and the timing of the mailing of the package; and

(c) The timing and placement of the publishing of the newspaper notice of the Claims Process.

***Monitor's comments with the proposed Claims Process***

28. The Monitor has reviewed and agrees with the Claims Process as outlined in the Claims Process Order. In the Monitor's view, the identification of creditors, the mailing of the Proof of Claim Document Package and the proposed newspaper

advertisements described above will provide potential creditors with sufficient and timely notification to allow them to submit their Proofs of Claim prior to the Claims Bar Date or the Subsequent Claims Bar Date. The Monitor believes that the period of time for a creditor to file a Notice of Dispute (as defined in the Claims Process Order) is reasonable in the circumstances.

29. The Claims Process also allows for the appointment of a Claims Officer to assist the Applicants, if necessary, in the resolution of Contested Claims.

30. The Monitor believes it is appropriate to commence a claims process at this time.

## RECOMMENDATIONS

31. The Monitor recommends the approval of the Claims Process as set out in the draft Claims Process Order.

All of which is respectfully submitted this 15th day of May, 2009.

**ERNST & YOUNG INC.**
**In its capacity as Court Appointed**
**Monitor of the Applicants**

Greg Pollard, CA, CIRP
Senior Vice-President

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**FOURTH REPORT OF THE MONITOR ERNST & YOUNG INC. May 15, 2009**


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