

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) MONDAY, THE 9TH
)
JUSTICE KIMMEL) DAY OF SEPTEMBER, 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
(Lease Termination Approval 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 the Tyendinaga Agreement and the Whitefish Agreement (each as defined in the Tenth Report of the Monitor dated September 4, 2024 (the "**Tenth Report**")) was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the Tenth 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, 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 Tenth Report.

APPROVAL OF TYENDINAGA LEASE TERMINATION AGREEMENT

3. **THIS COURT ORDERS** that the Tyendinaga Lease Termination Agreement is hereby approved, *nunc pro tunc*.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to take such steps as may be necessary or desirable to give effect to the Tyendinaga Lease Termination Agreement.

5. **THIS COURT ORDERS AND DECLARES** that immediately following the granting of this Order and the Monitor's receipt of the Tyendinaga Payment, all of the OTE Group's right, title and interest in and to the Blending Equipment referenced in the Tyendinaga Lease Termination Agreement (the "**Tyendinaga Blending Equipment**") shall vest absolutely in the Tyendinaga Landlord, 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 (collectively, the "**Tyendinaga Blending Equipment Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated January 30, 2023 (as amended and restated) or any other Order made 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 (all of which are collectively referred to as the "**Tyendinaga Blending Equipment Encumbrances**"), and, for greater certainty, this Court orders that all of the Tyendinaga Blending Equipment Encumbrances affecting or relating to the

Tyendinaga Blending Equipment are hereby expunged and discharged as against the Tyendinaga Landlord.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Tyendinaga Blending Equipment Claims, the net proceeds from the sale of the Tyendinaga Blending Equipment shall stand in the place and stead of the Tyendinaga Blending Equipment, and that from and after the Monitor's receipt of the Tyendinaga Payment from the Tyendinaga Landlord, all Tyendinaga Blending Equipment Claims and Tyendinaga Blending Equipment Encumbrances shall attach to the net proceeds from the sale of the Tyendinaga Blending Equipment with the same priority as they had with respect to the Tyendinaga Blending Equipment immediately prior to the sale, as if the Tyendinaga Blending Equipment had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, provided that such net proceeds shall not be distributed pending further order of this Court.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the OTE Group and any bankruptcy 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 or provincial statute;

the vesting of the Tyendinaga Blending Equipment in the Tyendinaga Landlord pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the OTE Group and shall not be void or voidable by creditors of the OTE Group, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

APPROVAL OF WHITEFISH LEASE TERMINATION AGREEMENT

8. **THIS COURT ORDERS** that the Whitefish Lease Termination Agreement is hereby approved, *nunc pro tunc*.

9. **THIS COURT ORDERS** that the Monitor is authorized and directed to take such steps as may be necessary or desirable to give effect to the Whitefish Lease Termination Agreement and that, notwithstanding the Whitefish Lease Termination Agreement, the Monitor is authorized to transfer the OTE Group's right, title and interest in and to the Whitefish Blending Equipment (as defined below) to Giyak Mishkawzid Shkagmikwe, LP (the "**Whitefish Transferee**") after the Monitor's receipt of the Whitefish Payment.

10. **THIS COURT ORDERS AND DECLARES** that immediately following the granting of this Order and the Monitor's receipt of the Whitefish Payment, all of the OTE Group's right, title and interest in and to the Blending Equipment referenced in the Whitefish Lease Termination Agreement (the "**Whitefish Blending Equipment**") shall vest absolutely in the Whitefish Transferee, 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 (collectively, the "**Whitefish Blending Equipment Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated January 30, 2023 (as amended and restated) or any other Order made 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 (all of which are collectively referred to as the "**Whitefish Blending Equipment Encumbrances**"), and, for greater certainty, this Court orders that all of the Whitefish Blending Equipment Encumbrances affecting or relating to the Whitefish Blending Equipment are hereby expunged and discharged as against the Whitefish Transferee.

11. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Whitefish Blending Equipment Claims, the net proceeds from the sale of the Whitefish Blending Equipment shall stand in the place and stead of the Whitefish Blending Equipment, and that from

and after the Monitor's receipt of the Whitefish Payment from the Whitefish Transferee, all Whitefish Blending Equipment Claims and Whitefish Blending Equipment Encumbrances shall attach to the net proceeds from the sale of the Whitefish Blending Equipment with the same priority as they had with respect to the Whitefish Blending Equipment immediately prior to the sale, as if the Whitefish Blending Equipment had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, provided that such net proceeds shall not be distributed pending further order of this Court.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the OTE Group and any bankruptcy 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 or provincial statute;

the vesting of the Whitefish Blending Equipment in the Whitefish Transferee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the OTE Group and shall not be void or voidable by creditors of the OTE Group, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

SEALING

13. **THIS COURT ORDERS** that Confidential Appendix 1 and Confidential Appendix 2 are hereby sealed and shall not form part of the public record pending further Order of this Court.

14. **THIS COURT ORDERS** that upon the closing of the sale of the Tyendinaga Blending Equipment, the Monitor shall publish a revised Tenth Report containing Confidential Appendix 1 on its website, and shall file that revised version of its Report with the Court.

15. **THIS COURT ORDERS** that upon the closing of the sale of the Whitefish Blending Equipment, the Monitor shall publish a revised Tenth Report containing Confidential Appendix 2 on its website, and shall file that revised version of its Report with the Court.

GENERAL

16. **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.

17. **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
(Lease Termination Approval Order)**

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