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JUDICIAL CENTRE CALGARY
APPLICANT KADEN ENERGY LTD.
DOCUMENT FOURTH REPORT OF THE PROPOSAL
TRUSTEE,
BDO CANADA LIMITED
SEPTEMBER 23, 2024

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**FOURTH REPORT OF THE PROPOSAL TRUSTEE
BDO CANADA LIMITED
SEPTEMBER 23, 2024**

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INTRODUCTION

1. On March 6, 2024, Kaden Energy Ltd. (“**Kaden**” or the “**Company**”), an oil and gas producer based in Alberta, filed a Notice of Intention to Make a Proposal pursuant to the *Bankruptcy & Insolvency Act* (the “**Act**”). BDO Canada Limited consented to act as the proposal trustee (the “**Proposal Trustee**”) in the Kaden NOI/Proposal proceedings (the “**Proposal Proceedings**”).
2. During the course of the Proposal Proceedings, there were three extensions of the time in which Kaden was required to file a proposal that were granted by the Court of King’s Bench of Alberta (the “**Court**”). In relation to these extension applications, various materials were submitted to the Court, including but not limited to, three reports of the Proposal Trustee in respect of the various relief that was sought by the Company.
3. On April 2, 2024, the Court granted, among other things, an order (the “**April 2 Order**”) establishing an Administration Charge (defined herein) over the property of the Company to protect the fees and disbursements of the restructuring professionals engaged to assist the Company in the Proposal Proceedings. The April 2 Order also approved a claims process which allowed the Proposal Trustee to adjudicate creditor claims (the “**Court Approved Claims Process**”) in advance of the Company filing its proposal and the meeting of creditors to vote on the proposal.
4. On August 16, 2024, the Company lodged its proposal (the “**Proposal**”) with the Proposal Trustee, a copy of which was filed by the Proposal Trustee with the Office of the Superintendent of Bankruptcy (the “**OSB**”) (along with the other statutory documents required to be submitted) on this same day.
5. On August 21, 2024, the OSB confirmed in its Certificate of Filing a Proposal that the meeting of creditors (the “**Creditors’ Meeting**”) was scheduled for September 6, 2024, at 11:00 a.m. MDT with attendance required via telephone.

6. On August 26, 2024, the Proposal Trustee issued a package to the creditors of Kaden (the “**Creditors’ Package**”) which included (a) a notice of the date, time and place of the Creditors’ Meeting, (b) the Trustee’s Report to Creditors on Proposal, dated August 26, 2024 (the “**Report to Creditors on Proposal**”), (c) a copy of the Proposal, (d) a statement of affairs of the Company (including a statement of the Company’s assets and a list of creditors affected by the Proposal, as prepared by the Company), (e) a voting letter, (f) an election letter as applicable specific to the Proposal, (g) a proxy form, and (h) a Notice of Hearing of Application for Court Approval of Proposal (scheduled for September 10, 2024).
7. The Creditors’ Package, along with the Report to Creditors on Proposal, was submitted to the OSB on August 27, 2024, and a copy of the Report to Creditors on Proposal was filed with the Court on August 27, 2024.
8. On September 6, 2024, the Proposal Trustee chaired the Creditors’ Meeting where the Proposal was accepted by the requisite majority of creditors. A copy of the minutes of the Creditors’ Meeting detailing the results of the vote are attached as Exhibit “D” to the Prescribed Report on Proposal (defined below).
9. On September 18, 2024, the Proposal Trustee issued a revised Notice of Hearing of Application for Court Approval of Proposal to the creditors of Kaden and the OSB, advising that the Court application to seek approval of the Proposal was rescheduled to October 3, 2024 (which was necessary to adequately prepare for the Court approval application and submit the Prescribed Report on Proposal in accordance with the statutory notice requirements as set out in the Act).
10. On September 18, 2024, the Proposal Trustee issued its prescribed Report of Trustee on Proposal (the “**Prescribed Report on Proposal**”), which was submitted to the OSB on this same day and is being filed with the Court concurrent with the filing of this fourth report of the Proposal Trustee (the “**Fourth Report**”), in accordance with sections 58 and 59 of the Act.
11. The purpose of this Fourth Report is to provide the Court with additional information respecting the Proposal Trustee’s motion seeking approval of, among other things:
 - a. the activities of the Proposal Trustee since the Third Report dated June 26, 2024;

- b. the Proposal;
 - c. the Releases to the Released Parties (both defined herein) pursuant to the Proposal;
 - d. a Sealing Order in respect of the Confidential Appendices (defined herein);
 - e. the continuation of the Administration Charge granted pursuant to the April 2 Order;
 - f. the dispensing of the statutory requirement of the Proposal Trustee to send a proof of claim form to the creditors of Kaden with the Creditors' Package in advance of the Creditors' Meeting; and
 - g. the professional fees of the Proposal Trustee and its legal counsel as summarized herein.
12. All references to currency are in Canadian dollars unless otherwise noted. Any terms not defined herein, are as defined in the Report to Creditors on Proposal and/or the Prescribed Report on Proposal. This Fourth Report should be read in conjunction with the Report to Creditors on Proposal and the Prescribed Report on Proposal.

TERMS OF REFERENCE

13. In preparing this Fourth Report, the Report to Creditors on Proposal, and the Prescribed Report on Proposal, the Proposal Trustee has relied upon unaudited financial information, records of the Company, discussions with the Company's management ("**Management**") and other valuation estimates provided by third parties (collectively the "**Information**"). The Proposal Trustee has not performed an audit, review, or other verification of the Information.
14. Some of the Information referred to in these reports on the Proposal consist of estimates. Readers are cautioned that actual results will vary, and such variances could be significant.

ACTIVITIES OF THE PROPOSAL TRUSTEE

15. Since the Third Report, the Proposal Trustee has undertaken the following activities:
- a. continued to post public documents in relation to the Proposal Proceedings to the established website at: <https://www.bdo.ca/kaden>;
 - b. monitored the Company's financial affairs and cash flows, including but not limited to, conducting a weekly review of the Company's actual results compared with the applicable cash flow forecasts;
 - c. reviewed and/or provided input on key documentation in relation to the development of the Proposal, including but not limited to, the Apex Lending Agreement (defined below);
 - d. reviewed and considered an alternative valuation estimate of the Company's oil and gas assets obtained by the Company;
 - e. assisted in the preparation of the Proposal and the filing of same with the OSB, along with other statutory filings;
 - f. provided notices to all known creditors as described herein, collected and reviewed claims forms (including voting, proxy and/or election forms) submitted by unsecured creditors in advance of the Creditors' Meeting, and chaired the Creditors' Meeting;
 - g. prepared the Report to Creditors on Proposal, the Prescribed Report on Proposal, and this Fourth Report;
 - h. administered and concluded the Court Approved Claims Process;
 - i. facilitated discussions with the Company, the Company's legal counsel, and the Proposal Trustee's legal counsel regarding various file matters, including the finalization of the Proposal, conduct of the Creditors' Meeting, and bringing of the within motion; and
 - j. completed other administrative matters in relation to these proceedings.

THE PROPOSAL AND THE PROPOSAL TRUSTEE'S COMMENTS THEREON

16. The Report to Creditors on Proposal provides, among other things:
- a. a detailed summary of the terms of the Proposal;
 - b. an estimated liquidation analysis in respect of an alternative bankruptcy scenario as of a specific date;
 - c. information on alternative financing obtained by the Company to assist in meeting the terms of the Proposal; and
 - d. the Proposal Trustee's comments on the Proposal.
17. This Fourth Report should be read in conjunction with the Report to Creditors on Proposal, as well as the Prescribed Report on Proposal; however, the Proposal Trustee provides its comments on the Proposal in the discussion below.
18. The Proposal, if approved by the Court, will provide the following distribution payments to the Affected Creditors (defined in the Proposal):
- a. **Deemed Convenience Class**: Affected Creditors with proven claims of \$10,000 or less will receive payment in full of their claims upon the Implementation Date (defined in the Proposal). As part of a "Convenience Class" pursuant to the Proposal, these creditors were deemed to have voted in favour of the Proposal;
 - b. Affected Creditors with proven claims in excess of \$10,000 were provided with four payment options (with an election form outlining which payment option was being chosen, and which form was required to be submitted prior to or at the Creditors' Meeting, barring which the creditor was deemed by the Proposal to be included in the "12 Month Payment Election"):
 - i. **Elected Convenience Class**: to participate in the "Convenience Class", in which case the creditor was deemed to vote in favour of the Proposal and will receive \$10,000 in full and final satisfaction of their claim, payable on or about the Implementation Date;
 - ii. **Immediate Payment Election**: to receive a distribution payment equal to \$0.25 for every \$1.00 of proven claim on or about the

Implementation Date;

- iii. **12 Month Payment Election**: to receive a distribution payment equal to \$0.60 for every \$1.00 of proven claim, with \$0.10 for every \$1.00 being paid on or about the Implementation Date and the remaining amount to be distributed equally over the following 12 month period; and
 - iv. **24 Month Payment Election**: to receive a distribution payment equal to \$0.80 for every \$1.00 of proven claim to be distributed equally over 24 months.
19. In order to make the Proposal and be in a position to fund the proposed distributions to creditors detailed therein (and summarized above), the Company, in conjunction with its parent company, Beta Energy Corp, negotiated and entered into a Convertible Security Funding Agreement with Apex Opportunities Funds Ltd. ("**Apex**") dated August 23, 2024 (the "**Apex Lending Agreement**").
20. A copy of the Apex Lending Agreement is attached to the Report to Creditors on Proposal as Appendix "A", and the Proposal Trustee's commentary on the Apex Lending Agreement is included in paragraphs 12 and 13 of that report. To summarize, the Apex Lending Agreement provides the Company with up to \$12 million in available funds that may be used to settle the Company's outstanding financial obligations (including those pursuant to the Proposal), and Apex will be granted a first security interest as against Kaden's assets, subject only to permitted priority liens (consisting of equipment leases). The Apex Lending Agreement will provide sufficient liquidity to fund the distribution payments to creditors as contemplated in the Proposal, however, in the event of a default by the Company in the Proposal, any amounts not yet paid to the Affected Creditors would rank subordinate to Apex's security over the assets.
21. As set out in the Report to Creditors on Proposal and the Prescribed Report on Proposal, the Proposal Trustee is of the view that the Proposal is reasonable in the circumstances given the following:
- a. the Proposal includes the statutory provisions required pursuant to the Act;
 - b. Management of the Company has acted in good faith in the restructuring of the Company and in the development of the Proposal;

- c. Affected Creditors were treated equitably in that they were able to elect their payment option and creditors in each election category will be treated on a similar basis;
- d. the 24 Month Payment Election, if selected by creditors, falls within the range of the bankruptcy liquidation estimate detailed in the Report to Creditors on Proposal. However, the Proposal Trustee notes that there is uncertainty with the estimated liquidation values obtained and considered by the Proposal Trustee. Accordingly, there is uncertainty whether a sale in a bankruptcy would result in lesser or greater realizations for creditors depending on the recovery option elected by the creditors and the results of any liquidation conducted by a bankruptcy trustee;
- e. the Proposal allows the Company to restructure its balance sheet and enhances its ability to address its reclamation and environmental liabilities as they arise;
- f. the Proposal provides sufficient certainty to creditors in respect of the amount and timing of distribution payments related to the indebtedness owed by the Company; and
- g. the Proposal allows the Company to continue operating in the ordinary course, developing its oil and gas assets, which will benefit the Company's employees and approximately 30 contractors and the surrounding community, including certain of the Affected Creditors who are suppliers.

Given the reasons detailed above, the Proposal Trustee is supportive of the Proposal filed by the Company.

22. As detailed in the minutes of the Creditors' Meeting, a copy of which is attached as Exhibit "D" to the Prescribed Report on Proposal, a large majority of creditors voted (or were deemed to have voted) in favor of the Company's Proposal, noting that approximately 98% voted (or were deemed to have voted) in favour in terms of both number of creditors and dollar value of claims voting. The majority of the Company's creditors participated in voting (or being deemed to have voted) on the Company's Proposal, with only 11 number of creditors abstaining from voting. Accordingly, the Affected Creditors appear very supportive of the Proposal based on the level of participation and voting results.

RELEASES UNDER THE PROPOSAL

23. The Proposal, if approved by the Court, provides that on the Implementation Date, each Affected Creditor will be deemed to have released the Company, the Proposal Trustee, and the Company's directors (and their respective affiliates, employees, agents, directors, officers, direct and indirect shareholders, advisors, consultants and solicitors) (the "**Released Parties**") from any and all Claims (as defined in the Proposal) and other actions as specified in the Proposal, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, relating to or arising out of or in connection with the matters in the Proposal (the "**Releases**").
24. Furthermore, the Proposal provides that each and every director of the Company shall be released and discharged from any and all Director Claims (as defined in the Proposal), upon the Implementation Date (the "**Directors' Release**"). However, the Directors' Release shall have no force or effect if the Company goes bankrupt before the terms of the Proposal are fully implemented.
25. Each of the Released Parties have contributed to these proceedings in a material respect, including through negotiating the necessary financing agreement to fund the Proposal and developing the Proposal, among other things. The Released Parties will be critical to the implementation of the Proposal, including with respect to the Proposal Trustee and its legal counsel, with continuing to administer the payments set out pursuant to the Proposal.
26. The Proposal Trustee is of the view that the Releases provided to the Released Parties are reasonable in the circumstance and further that the Director's Release is connected to the successful completion of the Proposal and is unlikely to materially prejudice any of the Company's creditors if granted. Accordingly, the Proposal Trustee recommends that the Court approve the Releases to the Released Parties and the Directors' Release.

CONFIDENTIAL VALUATIONS AND PROPOSED SEALING ORDER

27. The Report to Creditors on Proposal includes an estimated liquidation analysis in a bankruptcy scenario based on various assumptions and information made available to the Proposal Trustee, which is detailed in paragraphs 17 to 25 of that report. As indicated therein, the estimated liquidation value range of the Company's oil and gas assets presented was based on an average of the two low and the two high valuation estimates made available to the Proposal Trustee:
- a. an estimated liquidation value as obtained by the Proposal Trustee from Sayer Energy Advisors ("**Sayer**") dated July 9, 2024 (the "**Sayer Valuation**"). Based on the assumptions contained in the Sayer Valuation, Sayer estimated a liquidation value in the approximate range of \$7.5 million to \$13.2 million; and
 - b. an alternative estimated liquidation value as obtained by the Company from FTI Consulting Inc. ("**FTI**"), dated August 6, 2024 (the "**FTI Valuation**"). Based on the assumptions contained in the FTI Valuation, FTI estimated a liquidation value of Kaden's oil and gas assets in the approximate range of \$5.7 million to \$8.3 million.
28. As outlined in the Report to Creditors on Proposal, the significant range in estimated valuations as provided in the Sayer Valuation and FTI Valuation, combined with the additional factors and/or potential risks discussed in the Report to Creditors on Proposal, make it challenging to assess the exact liquidation value of the Company's oil and gas assets in an alternative bankruptcy scenario. Ultimately, the market for the Company's oil and gas assets has not been formally tested and accordingly, the Proposal Trustee is uncertain whether a sale in bankruptcy would result in lesser or greater realizations for creditors than the Proposal (depending on the recovery option elected by the creditors and the results of any liquidation conducted by a bankruptcy trustee).
29. The Sayer Valuation and the FTI Valuation are attached to this Fourth Report as **Confidential Appendix "1"** and **Confidential Appendix "2"** (collectively the "**Confidential Appendices**").

30. The Proposal Trustee is seeking a Sealing Order for the Confidential Appendices, as the Sayer Valuation and the FTI Valuation contain confidential information regarding the Company that could adversely affect its commercial interests if disseminated on the public record. In addition, both Sayer and FTI have requested that their respective reports not be disseminated widely and have requested the proposed Sealing Order.

DISPENSING OF THE PROOF OF CLAIM FORM

31. The Proposal Trustee conducted the Court Approved Claims Process, encompassing a “negative” claims process, as summarized in its previously filed reports in these proceedings. Affected Creditors’ claims were therefore adjudicated by the Proposal Trustee in accordance with the April 2 Order and the Court Approved Claims Process and determined to be Proven Claims (or not) within the meaning of the Act pursuant to the Court Approved Claims Process.
32. Given the Court Approved Claims Process, the Proposal Trustee did not include a further proof of claim form with the Creditors’ Package distributed to creditors pursuant to section 51(1)(e)(i) of the Act, nor did it require that Affected Creditors submit a proof of claim to the Proposal Trustee in order to prove their claim for the purposes of voting on the Proposal.
33. Accordingly, the Proposal Trustee is seeking a further Order of the Court dispensing with the requirement for the Proposal Trustee to send a proof of claim form to creditors as part of the Creditors’ Package, *nunc pro tunc*.

APPROVAL OF PROFESSIONAL FEES

34. In relation to the Proposal Proceedings, the Proposal Trustee and its legal counsel have incurred professional fees and costs amounting to approximately \$220,000 (plus GST) and \$86,000 (plus GST), respectively, up to September 20, 2024 (collectively, the “**Professional Fees**”). With the exception of the invoices of the Proposal Trustee and its legal counsel dated for August and September (which are yet to be rendered as at the date of this Fourth Report), all professional fee invoices have been paid by the Company.

35. The Professional Fees relate to the various activities involved in the restructuring of the Company, with the material activities summarized in the previously filed reports of the Proposal Trustee and this Fourth Report. The Proposal Trustee is of the view that the Professional Fees are reasonable in the circumstances and accordingly, is seeking the Court's approval of the Professional Fees.
36. The Proposal, if approved by the Court, also provides for the payment of all reasonable professional fees and costs of the Proposal Trustee in respect to the implementation of the Proposal. Accordingly, in the event that the Proposal is approved by the Court, the Proposal Trustee intends to continue submitting its invoices, along with any applicable invoices of its legal counsel, to the Company for payment. The Proposal Trustee is also holding a \$50,000 retainer from the Company as security for its fees and costs.

CONTINUATION OF THE ADMINISTRATION CHARGE

37. Pursuant to the April 2 Order, the Court granted a priority charge over the assets of Kaden up to a maximum of \$250,000 (the "**Administration Charge**") pursuant to section 64.2 of the Act in respect of the fees and disbursements of the Company's legal counsel, the Proposal Trustee and the Proposal Trustee's legal counsel, ranking ahead of all other creditors.
38. In the event that the Proposal is approved by the Court, the Proposal Trustee will play a critical role in the administration of the Proposal over the next two years as it will be responsible for making distributions to the creditors on a monthly basis, including to the 24 creditors who selected the 12 Month Payment Election and 34 creditors who selected the 24 Month Payment Election under the Proposal. Absent the continuation of the Administration Charge, Apex's security would rank ahead of the unpaid Proposal Trustee's fees and costs, including that of its legal counsel, should the Company default on the Proposal, and would attach to any retainer held by the Proposal Trustee.
39. Accordingly, the Proposal Trustee is seeking the Court's approval for the continuation of the Administration Charge as it relates to the ongoing professional fees of the Proposal Trustee and its legal counsel until the Proposal Trustee has been discharged by the Court, or as further ordered by the Court.

RECOMMENDATIONS

40. For the reasons set out in this Fourth Report, the Report to Creditors on Proposal, and the Prescribed Report on Proposal, the Proposal Trustee respectfully recommends that this Honourable Court approve:
- a. the activities of the Proposal Trustee as summarized in its previously filed reports and this Fourth Report, inclusive of the Professional Fees;
 - b. the Proposal;
 - c. the Releases to the Released Parties and the Directors' Release;
 - d. a Sealing Order in respect of the Confidential Appendices;
 - e. the continuation of the Administration Charge until the Proposal Trustee is discharged, or as otherwise ordered by the Court; and
 - f. the dispensing of the requirement for the Proposal Trustee to send a prescribed proof of claim form with the Creditors' Package pursuant to the Act, *nunc pro tunc*,

All of which is respectfully submitted this 23rd day of September 2024.

BDO Canada Limited,

In its capacity as the Proposal Trustee of Kaden Energy Ltd.
and not in its personal capacity

Per:



Breanne Scott, CPA, CA, CIRP, LIT
Vice President