

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

In re:

ORIGINAL TRADERS ENERGY LTD.,

Debtor.

Case No. 23-13519

Chapter 15

STATUS REPORT BY MONITOR

I. INTRODUCTION

1. The purpose of this report is to provide a status update to the US Bankruptcy Court concerning the administration of the Chapter 15 Proceedings of the OTE Group (as defined below). KPMG Inc., in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) in the OTE Group's proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”, and those proceedings, the “**CCAA Proceedings**”) has filed various reports with the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) throughout the CCAA Proceedings. Those reports, and all materials filed in the CCAA Proceedings, are available on the Monitor's website at <http://home.kpmg/ca/OTEGroup>.

II. BACKGROUND

2. On January 30, 2023, Original Traders Energy Ltd. and 2496750 Ontario Inc. (together, the “**Applicants**”) were granted relief, including a stay of proceedings, under the CCAA by Order (the “**Initial Order**”) of the Canadian Court. Pursuant to the Initial Order, KPMG Inc. was appointed as the Monitor of the OTE Group.
3. OTE Logistics LP (“**OTE Logistics**”) and Original Traders Energy LP (“**OTE LP**” and together with OTE Logistics, the “**Limited Partnerships**”) are not Applicants in the CCAA Proceedings. However, the Initial Order extended the same protections granted to the Applicants to the Limited Partnerships, on the grounds that the Limited Partnerships are related to and carry-on operations that are integral to the business of the Applicants. The term “**OTE Group**” throughout this report refers to the Applicants and Limited Partnerships

collectively. The initial relief granted in favour of the OTE Group was extended by the Canadian Court pursuant to an amended and restated initial Order dated February 9, 2023 (the “**Amended and Restated Initial Order**”). The Canadian Court has granted various other Orders with respect to matters pertaining to the CCAA Proceedings; however, only those Orders that are pertinent to the Chapter 15 Proceedings are discussed in this Report. All of the Canadian Court's Orders are available on the Monitor's website at <http://home.kpmg/ca/OTEGroup>.

4. On March 15, 2023, the Canadian Court granted a Mareva injunction as part of an Order (the “**Injunctive Order**”) which restrained Glenn Page (“**Page**”), Mandy Cox (“**Cox**”) and 2658658 Ontario Inc. (“**265**”, and collectively, the “**Mareva Respondents**”) from selling, removing, dissipating, alienating, transferring, assigning, encumbering or similarly dealing with a seventy foot yacht from the Italian shipbuilder Azimut Benetti, named “Cuz We Can” (the “**Italian Yacht**”). On March 21, 2023 and March 28, 2023, the Canadian Court issued certain endorsements related to the Injunctive Order.
5. Proceedings under Chapter 15 (the “**Chapter 15 Proceedings**”) of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “**US Bankruptcy Code**”) were also commenced by U.S. counsel to the Monitor. On May 15, 2023, the United States Bankruptcy Court Southern District of Florida (Fort Lauderdale Division) granted a motion for provisional relief under s. 1519 and 1520 of the US Bankruptcy Code. In connection therewith, the U.S. Court entered an Order for provisional relief to protect assets of the OTE Group and to impose an automatic stay of proceedings in the United States in accordance with the ongoing Canadian proceedings.
6. On May 31, 2023, the United States Bankruptcy Court Southern District of Florida (West Palm Beach Division) granted an Order recognizing the Canadian proceedings as a “foreign main proceeding” within the meaning of 11 U.S.C. § 1502 of the U.S. Bankruptcy Code, and granted certain other relief, including recognizing the Initial Order, the Amended and Restated Initial Order, and the Injunctive Order.
7. Most recently, on October 12, 2023, the Canadian Court made the following Orders:

- (a) an Order among other things, approving a sale process for the business and certain property of the OTE Group (the “**Bid Process**”) and providing the Monitor with enhanced operational and administrative powers in connection with the business and property of the OTE Group; and
- (b) an Order (the “**Third Stay Extension Order**”) among other things, extending the Stay Period (as defined in the Third Stay Extension Order) to April 26, 2024 and amending the Claims Procedure Order granted by the Canadian Court dated April 27, 2023 pursuant to which amendment, the OTE Group, with the assistance of the Monitor, will seek to identify, quantify and resolve certain claims by former employees.

III. ITALIAN YACHT UPDATE

- 8. As discussed above, on March 15, 2023, following an application by the OTE Group, the Canadian Court granted the Injunctive Order against the Mareva Respondents, restraining the Mareva Respondents from selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with the Italian Yacht.
- 9. After the Injunctive Order was granted by the Canadian Court, the Monitor and its counsel engaged in follow up correspondence with counsel to the Mareva Respondents to obtain specific details as to the location of the Italian Yacht and other information that in the Monitor’s view was necessary in connection with its duties to safeguard the Italian Yacht and investigate the matter further for the benefit of the OTE Group’s creditors (the “**Italian Yacht Information**”).
- 10. On March 28, 2023, the Canadian Court further directed, by way of the Endorsement of Justice Osborne (the “**March 28 Endorsement**”), that the Mareva Respondents provide the Monitor with the Italian Yacht Information. Once provided, the Canadian Court directed that the Italian Yacht would be moved to Loggerhead Marina, 1400 Marina Drive, Hollywood, Florida (the “**Hollywood Marina**”). After the March 28 Endorsement, the Monitor confirmed that all required Italian Yacht Information had been received from the Mareva Respondents, and the Monitor independently confirmed with representatives of the Hollywood Marina that the Italian Yacht was parked there. The Monitor has been advised that the Italian Yacht remains located at the Hollywood Marina.

11. In order to monetize the Italian Yacht in a timely manner to maximize the value that can be achieved through its sale and prevent its dissipation of value, the Monitor requested that the Canadian Court provide direction that the Monitor commence an orderly sale process for the Italian Yacht. In connection therewith, the Canadian Court issued an Order on July 17, 2023 (the “**July 17 Order**”) among other things, authorized the Monitor to commence a sale process for the Italian Yacht (the “**Yacht Sales Process**”).
12. Pursuant to the July 17 Order, the Monitor commenced the Yacht Sale Process by searching for one or more boat dealers or brokers (the “**Boat Brokers**”) in Florida to market the Italian Yacht for sale.
13. On August 21, 2023, the Monitor provided the Mareva Respondents with a summary of four proposed Boat Brokers with a recommendation for one of the four Boat Brokers (the “**Recommended Boat Broker**”) headquartered in Florida, USA, for reasons of, among others, relatively lower storage and operating costs quoted. The Monitor has not yet formally engaged the Recommended Boat Broker because upon commencement of the search for same, the Monitor was made aware of certain legal issues, particularly with respect to unpaid duties, surrounding the Italian Yacht that would prohibit the sale of same in Florida, USA.
14. The Monitor’s investigation regarding the legal issues surrounding the planned sale of the Italian Yacht remains ongoing at the time of this report.
15. The Monitor’s recommendation of the Recommended Boat Broker was also dependent on the arrangement of insurance for the Italian Yacht. On or around September 28, 2023, the Monitor successfully placed alternate insurance coverage for the Italian Yacht. In the Monitor’s view, the insurance previously in place was not satisfactory in providing adequate coverage that protects the OTE Group against potential loss or damage to the Italian Yacht.

IV. US FEDERAL DISTRICT COURT PROCEEDINGS

16. On or about January 19, 2023, OTE USA LLC filed a complaint against OTE LP in the United States District Court Eastern District of Michigan under Case no. 2:23-cv-10152-GCS-DRG (the “**US Claim**”) regarding the payment of fuel under, inter alia, the Fuel Supply Agreement, as defined in the CCAA Application Record dated January 27, 2023. The US Claim was

stayed pursuant to the Order for provisional relief issued by the US Bankruptcy Court on May 15, 2023. The US Claim remains stayed and OTE USA LLC has filed a proof of claim in the CCAA Proceedings in respect thereof.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Status Report of Monitor was served on November 2, 2023 upon all parties authorized to receive ECF service herein and by email to all parties on the email service list for the foreign main proceeding.

/s/ Peter H. Levitt

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