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COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

DOCUMENT

**SECOND REPORT OF THE PROPOSAL
TRUSTEE IN THE MATTER OF THE NOTICE
OF INTENTION TO MAKE A PROPOSAL OF
SWIMCO AQUATIC SUPPLIES LTD. AND
SWIMCO PARTNERSHIP**

DATED AUGUST 17, 2020

**ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT**

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Introduction and Notice to Reader

Introduction

1. On June 11, 2020, Swimco Aquatic Supplies Ltd. ("**SAS**") and Swimco Partnership ("**SP**") (together, "**Swimco Group**" or the "**Company**") each filed a Notice of Intention to Make a Proposal (the "**NOI**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act, RSC 1985, c B-3* (the "**BIA**"). Deloitte Restructuring Inc. ("**Deloitte**") consented to act as proposal trustee under the NOIs (the "**Proposal Trustee**").
2. Attached as appendices to the First Report are copies of the Certificate of Filing a Notice of Intention to Make a Proposal issued by the Official Receiver and the creditor's package, which was mailed on June 15, 2020. Information on these proceedings can be accessed on Deloitte's website at www.insolvencies.deloitte.ca/en-ca/swimco.
3. On June 18, 2020, the statement of projected consolidated cash flow for the eight week period ended August 1, 2020 (the "**First Cash Flow**") was filed for the Swimco Group.
4. The Swimco Group is required to file a proposal within the Initial Stay Period or within any further extension of that period granted by the Court of Queen's Bench of Alberta (the "**Court**"). The Swimco Group was initially granted a 30 day stay of proceedings pursuant to section 69(1) of the BIA upon filing the NOI until July 11, 2020 (the "**Initial Stay Period**").
5. On June 30, 2020, the first report of the Proposal Trustee (the "**First Report**") was filed in support of the Swimco Group's application to extend the Initial Stay Period. Included in the First Report is the Company's updated statement of projected consolidated cash flow for the 10 week period ended August 29, 2020 (the "**Second Cash Flow**").
6. On July 9, 2020 the Swimco Group was granted a 45 day extension to the stay of proceedings pursuant to section 50.4(9) of the BIA, extending the Initial Stay Period from July 11, 2020 to and including August 24, 2020 (the "**First Extension Period**") and the consolidation of the NOI proceedings of SAS and SP for procedural purposes only (the "**First Extension Order**"). The First Extension Order is attached hereto as **Appendix "A"**.

Purpose of the Second Report

7. This is the Proposal Trustee's second report (the "**Second Report**") and the purpose of the Second Report is to provide this Honourable Court with the Proposal Trustee's views on the following matters:
 - a) The activities of the Company since the First Report;
 - b) The activities of the Proposal Trustee since the First Report;
 - c) A 45 day extension of the stay of proceedings from August 24, 2020 to and including October 9, 2020 (the "**Second Extension Period**"), as permitted under section 50.4(9) of the BIA;
 - d) Swimco Group's updated weekly cash flow forecast on a consolidated basis for the period August 15, 2020 to October 17, 2020 (the "**Third Cash Flow Forecast**"); and
 - e) Swimco Group's reported actual receipts and disbursements for the period June 13, 2020 to August 8, 2020.

Restrictions and Scope Limitations

8. In preparing the Second Report, the Proposal Trustee has relied on unaudited financial information, the books and records of the Company and discussions with the Company's employees, interested parties, and stakeholders.
9. The financial information of the Company has not been audited, reviewed or otherwise verified by the Proposal Trustee as to its accuracy or completeness, nor has it necessarily been prepared in accordance with generally accepted accounting principles and the reader is cautioned that this Second Report may not disclose all significant matters about the Company. Additionally, none of the Proposal Trustee's procedures were intended to disclose defalcations or other irregularities. If the Proposal Trustee were to perform additional procedures or to undertake an audit examination of the financial statements in accordance with generally accepted auditing standards, additional matters may have to come to the Proposal Trustee's attention. Accordingly, the Proposal Trustee does not express an opinion nor does it provide any other form of assurance on the financial or other information presented herein. The Proposal Trustee may refine or alter its observations as further information is obtained or brought to its attention after the date of the Second Report.
10. The Proposal Trustee assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of the Second Report. Any use, which any party makes of the Second Report, or any reliance or decision to be made based on the Second Report, is the sole responsibility of such party.
11. Some of the information referred to in this Second Report consists of forecasts and projections, which were prepared based on management's estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the projected results. The reader is cautioned that the actual results will likely vary from forecasts or projections, even if the assumptions materialize, and the variations could be significant.
12. The Proposal Trustee prepared the Second Report in its capacity as a court appointed officer in support of the motion described herein. The reader is cautioned that the Second Report may not be appropriate for any other purpose and consequently should not be used for any other purpose.
13. Capitalized terms not otherwise defined herein are defined in the Company's application materials or the First Report.
14. All amounts included herein are in Canadian dollars unless otherwise stated.

Activities of the Company since the First Report

Consultants

15. Swimco Group continues to engage Richter LLP ("**Richter**") as its financial advisor to assist with the compilation of their cash flows and with the financial management of the Company on an as needed basis.
16. Swimco Group continues to engage Jones Lang LaSalle IP, Inc. ("**JLL**") to assist with landlord negotiations.
17. The Proposal Trustee continues to monitor the fees charged by Richter and JLL and note that they are reasonable and customary for companies in similar positions as the Swimco Group. Royal Bank of Canada ("**RBC**"), a secured creditor of the Swimco Group, is supportive of both engagements.

Disclaim Leases and Contracts

18. The Company, with the assistance of its advisors and in consultation with the Proposal Trustee, has concluded that stakeholder value will be maximized through a restructuring focused on potentially profitable locations (taking into account reduced foot traffic given COVID-19), while vacating unprofitable locations.
19. On June 11, 2020, Swimco Group disclaimed leases for four locations in Ontario (the "**Disclaimed Stores**"). The Proposal Trustee consented to the lease disclaimers for the Disclaimed Stores as in the Proposal Trustee's view those disclaimers are necessary for the Company to be able to facilitate viable proposals to creditors. The Company has absorbed the inventory from the Disclaimed Stores at the Company's warehouse and will redistribute the inventory to the remaining stores on an as needed basis.
20. The Company's management team, in conjunction with its advisors, have been diligently negotiating with various landlords to reach amended lease arrangements. The Proposal Trustee has been advised that negotiations are still ongoing, but are progressing towards amended lease arrangements being finalized by the end of August 2020.
21. The Company's ability to restructure its lease obligations for the remaining stores are a critical element in any viable proposal by the Company to its creditors.
22. The Company has also disclaimed certain purchase orders with its vendors and an executive contract from a member of the Company's management team. The Proposal Trustee supports these disclaimers as this will help reduce costs for the Company and they are also necessary for the Company's to be able to facilitate a viable proposal to its creditors.

Activities of the Proposal Trustee since the NOI filing

23. The Proposal Trustee conducted the following activities since the NOI filing:

- a) Sent out the statutory notices within five days of the Company's NOI filing to creditors in accordance with section 50.4(6) of the BIA;
- b) Established a website (www.insolvencies.deloitte.ca/en-ca/swimco) where all materials filed with the Court and all orders made by the Court are available to the public domain;
- c) Implemented procedures to monitor the Company's cash flows and ongoing reporting of variances on a weekly basis;
- d) Communicated with creditors, employees and counsel for matters in relation to the NOI proceeding;
- e) Assisted the Company in preparation of the disclaimer of certain leases and other contracts; and
- f) Prepared and finalized the First Report and the Second Report.

Cash Flow

24. On August 12, 2020, the Proposal Trustee received the Third Cash Flow Forecast. The Third Cash Flow Forecast is attached hereto as **Appendix "B"**, and is summarized below:

Swimco Group	
Week Ending August 15 to October 17	
<i>(\$000's)</i>	<i>Forecast</i>
Receipts	
<i>Store</i>	<i>2,405</i>
<i>E-Commerce</i>	<i>321</i>
<i>Wage Subsidy</i>	<i>622</i>
Total Receipts	3,348
Disbursements	
<i>Merchandise</i>	<i>(642)</i>
<i>Payroll</i>	<i>(1,232)</i>
<i>Rent</i>	<i>(609)</i>
<i>Other Expenses</i>	<i>(1,035)</i>
<i>Professional Fees</i>	<i>(211)</i>
Total Disbursements	(3,729)
Projected Cash Flow	(380)

25. The Proposal Trustee has reviewed the Third Cash Flow Forecast and noted that the assumptions used for the Second Cash Flow are similar to the Third Cash Flow Forecast. Key differences between the Second Cash Flow and the Third Cash Flow Forecast are as follows:

- a) The Third Cash Flow Forecast extends the forecast period up to the week ending October 17, 2020 to cover the proposed extension period;
- b) Rent payments are based on the latest negotiations with various landlords;
- c) Purchase of merchandise; and
- d) Timing differences related to certain disbursements and wage subsidies.

26. The Company forecasts receipts of \$2.4 million from in store sales and \$321,000 from online stores. The Company also forecasts \$622,000 in wage subsidies from the Canadian Emergency Wage Subsidy Program ("**CEWS**").

27. The Company forecasts total disbursements of \$3.7 million, which consists of the following:

- a) Merchandise of \$642,000 to purchase inventory;
- b) Payroll and source deductions of \$1.2 million. The Swimco Group currently employs approximately 139 employees, which includes both head office and in-store staff;
- c) Rent of \$609,000, which includes rent for 20 stores for months of August, September and October;
- d) Other expenses of \$1.0 million, which includes overhead costs, utilities, shipping, interest expense; and
- e) Professional fees of \$211,000.

28. Overall, the Third Cash Flow Forecast estimates negative net cash flow of \$380,000 which will be funded by the Company's current cash balances as further described herein.
29. The Proposal Trustee reviewed the Third Cash Flow Forecast to the standard required by section 50.4(2) of the BIA. Section 50.4(2) requires the Proposal Trustee to review the debtor's cash flow statement as to its reasonableness and to file a report with the Office of Superintendent of Bankruptcy on the Proposal Trustee's findings. The Canadian Association of Insolvency and Restructuring Professional's Standards of Professional Practice include a standard for proposal trustees fulfilling their statutory responsibilities under the BIA in respect of a Proposal Trustee's report on the cash flow forecast.
30. The Proposal Trustee's review consists of inquiries, analytical procedures and discussions with management and employees of the Swimco Group. Since hypothetical assumptions need not be supported, the Proposal Trustee's procedure with respect to them were limited to evaluating whether they were consistent with the purpose of the Third Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Third Cash Flow Forecast.
31. Based on the review, nothing has come to the Proposal Trustee's attention that causes it to believe that, in all material respects:
 - a) The hypothetical assumptions are not consistent with the purpose of the Third Cash Flow Forecast;
 - b) As of the date of the Second Report, the probable assumptions developed by management are not suitably supported and consistent with plans of the Company or do not provide a reasonable basis for the Third Cash Flow Forecast; or
 - c) Third Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Variance Analysis

32. Below illustrates the variance between forecasted results from the Second Cash Flow and actual results for the weeks ending June 13, 2020 to August 8, 2020 (the “**Variance Period**”):

Swimco Group			
Weeks Ending June 13 to August 8			
<i>(000's)</i>	<i>Actual</i>	<i>Forecast</i>	<i>Variance</i>
Receipts			
<i>Store</i>	3,757	2,515	1,242
<i>E-Commerce</i>	644	454	190
<i>GST Refund</i>	22	-	22
<i>DBH</i>	1,000	-	1,000
<i>Wage subsidy</i>	272	239	33
Total Receipts	5,695	3,208	2,486
Disbursements			
<i>Payroll</i>	(784)	(1,240)	456
<i>Rent</i>	(782)	(836)	54
<i>Other expenses</i>	(617)	(1,006)	389
<i>Professional fees</i>	(152)	(258)	106
Total Disbursements	(2,336)	(3,341)	1,005
Net Cash Flow	3,359	(132)	3,491

33. The net cash flow during the Variance Period was approximately \$3.5 million higher than projected.

34. As of August 8, 2020, the Company’s surplus cash balance was approximately \$1.8 million. Approximately \$1.7 million was used towards paying down the revolving line of credit with RBC.

35. Key differences to the Variance Period are generally due to the following:

- a) Higher than expected store sales of approximately \$1.2 million;
- b) The Company experienced higher e-commerce sales of \$190,000 as the COVID-19 pandemic limited the method of sale to customers;
- c) A transfer from D. Bacon Holdings Ltd. (“**DBH**”) of \$1.0 million to reduce the revolving line of credit outstanding with RBC;
- d) A lower than projected payroll by \$456,000 due to larger reductions in staff along with higher than expected receipts from the CEWS by \$48,000 due to the program’s extension; and
- e) Other expenses were lower than projected by \$389,000, partially attributable to timing differences.

Recommendation and Conclusion

36. Based on the Proposal Trustee's review of the Company's operations and restructuring efforts as of the date of the Second Report, the Proposal Trustee is of the view that pursuant to section 50.4(9) of the BIA:
- a) The Swimco Group appears to be acting in good faith and with due diligence;
 - b) The Swimco Group is co-operating with the Proposal Trustee and appears to be making efforts to present a viable proposal to their secured and unsecured creditors;
 - c) The Proposal Trustee is supportive for the Swimco Group's application for a Second Extension Period; and
 - d) The Proposal Trustee is of the view that the Swimco Group's creditors will not be materially prejudiced by the Second Extension Period.
37. The Second Report has been prepared in support of the following relief, which is being sought by the Company:
- a) The Second Extension Period.

* * *

All of which is respectfully submitted at Calgary, Alberta this 17th day of August 2020.

DELOITTE RESTRUCTURING INC.,

solely in its capacity as Trustee under the proposal of Swimco Aquatic Supplies Ltd. And Swimco Partnership, and not in its personal or corporate capacity

Per:



Ryan Adlington, CPA, CA, CIRP, LIT
Senior Vice-President

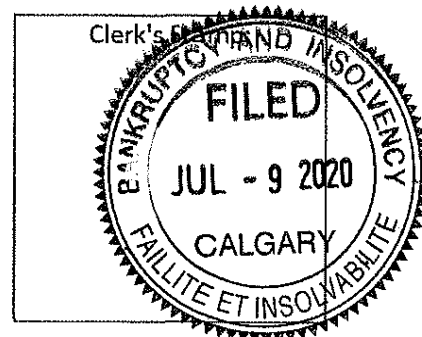
Appendix A

To: 403-592-3048

From: Field LLP

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COURT FILE NUMBERS	BK NO: 25-2651361 BK NO: 25-2651362
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PROCEEDINGS	IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SWIMCO AQUATIC SUPPLIES LTD. AND SWIMCO PARTNERSHIP
DOCUMENT	ORDER
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Field LLP 400, 444 – 7 Avenue SW Calgary AB T2P 0X8 Lawyer: Trevor Batty Phone Number: (403) 260-8537 Fax Number: (403) 264-7084 Email Address: tbatty@fieldlaw.com File No. 70179-1



DATE ON WHICH ORDER WAS PRONOUNCED: July 9, 2020

NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice Barbara E.C. Romaine

LOCATION OF HEARING: Calgary, Alberta

ORDER

UPON THE APPLICATION OF Swimco Aquatic Supplies Ltd. ("SAS") and Swimco Partnership ("SP", together with SAS, the "Swimco Group"), AND UPON HAVING read the Application filed by SAS and SP and the Affidavit of Lori Bacon, sworn on June 29, 2020 (the "Bacon Affidavit"), AND UPON READING the First Report of Deloitte Restructuring Inc. (the "NOI Trustee"), dated June 30, 2020; AND UPON HEARING counsel for SAS and SP and the NOI Trustee and all other interested parties present; IT IS HEREBY ORDERED THAT:

1. The time for service of the Application and all materials in support is hereby abridged to the date of actual service and service is hereby deemed good and sufficient.
2. The 30-day period of time within which SAS and SP is required to file a proposal to their creditors with the Official Receiver, under Section 50.4 of the *Bankruptcy and Insolvency Act*,

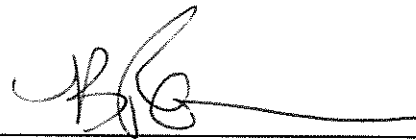
R.S.C. 1985 c. B-3 (the "**BIA**"), shall be and is hereby extended by forty-five (45) days, from July 11, 2020, to and including August 24, 2020.

3. All Swimco Group's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") shall be and is hereby subject to a first charge (the "**Administration Charge**") up to a maximum total aggregate amount of One Hundred Fifty Thousand (\$150,000.00) Dollars in favour of:
 - (a) Deloitte Restructuring Inc., the NOI Trustee under the Notices of Intention filed by the Swimco Group on June 11, 2020, (the "**NOIs**"), in order to secure payment to the NOI Trustee of all of the NOI Trustee's reasonable professional fees and disbursements for professional services rendered by the NOI Trustee in the performance of its duties both before and after the date of Swimco Group filing its NOIs;
 - (b) the law firm of Cassels Brock and Blackwell LLP ("**Cassels Brock**"), legal counsel to the NOI Trustee, in order to secure payment of all of Cassel Brock's reasonable professional fees and disbursements for professional services rendered by Cassels Brock to the NOI Trustee for the purpose of the NOI proceedings both before and after the date of Swimco Group filing its NOIs; and
 - (c) the law firm of Field LLP ("**Field**"), legal counsel to Swimco Group, in order to secure Swimco Group's payment of all of Field's reasonable professional fees and disbursements for professional services rendered by Field for the purpose of the NOI proceedings both before and after the date of Swimco Group filing its NOIs.
4. The Administration Charge (as constituted and defined herein) shall constitute a charge on the Property and shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.
5. Except as otherwise expressly provided for herein, or as may be approved by this Court, Swimco Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge, unless Swimco Group also obtains the prior written consent of the beneficiaries of the Administration Charge, or further order of this Court.

6. The filing, registration or perfection of the Administration Charge shall not be required, and the Administration Charge shall be enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.
7. The Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the NOI Trustee and Field thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or
 - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Administration Charge nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by Swimco Group of any Agreement to which it is a party;
 - (ii) neither the NOI Trustee, Cassels Brock or Field shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and

(iii) the payments made by Swimco Group pursuant to this order and the granting of the Administration Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

8. The within NOI proceedings of SAS and SP are hereby administratively consolidated for procedural purposes only. For clarity, the estates of SAS and SP are to remain substantively separate and shall not be merged by virtue of this Order. The Clerk of the Court is hereby directed to open a single, consolidated file for both proceedings.
9. Service of this Order shall be deemed to have been achieved by posting a copy of this Order on the website of the NOI Trustee and by delivering a copy of this Order to those parties listed on the Service List prepared by counsel for SAS and SP.



J.C.Q.B.A.

Appendix B

Swimco Group
Weekly Cash Flow Projections

Period Ending: (000's)	Aug 15 7 days	Aug 22 7 days	Aug 29 7 days	Sep 05 7 days	Sep 12 7 days	Sep 19 7 days	Sep 26 7 days	Oct 03 7 days	Oct 10 7 days	Oct 17 7 days	Total 70 days
Receipts											
Store	\$ 282	\$ 282	\$ 282	\$ 267	\$ 222	\$ 222	\$ 222	\$ 220	\$ 202	\$ 202	\$ 2,405
E-Commerce	39	39	39	35	24	24	24	25	36	36	321
Wage Subsidy	219	-	-	-	208	-	-	195	-	-	622
	541	322	322	301	454	246	246	440	238	238	3,348
Disbursements											
Merchandise	-	-	-	(14)	(20)	(20)	(20)	(110)	(229)	(229)	(642)
Payroll	(42)	(199)	-	(199)	-	(254)	-	(208)	-	(329)	(1,232)
Rent	-	(162)	-	(124)	(118)	-	-	(121)	(84)	-	(609)
Other Expenses	(110)	(135)	(191)	(130)	(73)	(54)	(54)	(130)	(79)	(79)	(1,035)
Professional Fees	(25)	(25)	(25)	(21)	(21)	(21)	(21)	(17)	(17)	(17)	(211)
	(176)	(521)	(216)	(489)	(233)	(349)	(95)	(586)	(409)	(654)	(3,729)
Projected Cash Flow	\$ 365	\$ (199)	\$ 105	\$ (187)	\$ 222	\$ (103)	\$ 151	\$ (146)	\$ (171)	\$ (416)	\$ (380)
Opening Cash / (Revolver)	\$ 1,754	\$ 2,119	\$ 1,920	\$ 2,025	\$ 1,837	\$ 2,059	\$ 1,956	\$ 2,107	\$ 1,961	\$ 1,790	\$ 1,754
Ending Cash / (Revolver)	\$ 2,119	\$ 1,920	\$ 2,025	\$ 1,837	\$ 2,059	\$ 1,956	\$ 2,107	\$ 1,961	\$ 1,790	\$ 1,374	\$ 1,374

Swimco

August 24, 2020 Extension Assumptions

- **Projected Cash Receipts**
 - Projected receipts from stores and the e-commerce platform including applicable sales taxes. Stores and e-commerce receipts are projected based on historical sales and collection patterns and were adjusted to reflect management's best estimate of go-forward sales trending.
 - Projected wage subsidy receipts are based on the current Canada Emergency Wage Subsidy program (CEWS) and reflect projected recoveries based on the program's criteria.

- **Projected Cash Disbursements**
 - Payroll is based on current headcount levels adjusted to reflect management's restructuring and reopening plan;
 - As the Company entered into lease negotiations with its landlords, rent is either based on the latest verbal agreement or the latest proposal where verbal agreements have not yet been reached. Amounts include sales taxes;
 - Merchandise disbursements reflect management's projected purchases;
 - Other expenses are primarily comprised of warehouse and head office costs, interest payments and a provision for unforeseen expenses. These expenses are based on historical data adjusted to reflect the current level of activity, current agreements and current interest rates. Amounts include sales taxes where applicable;
 - Professional fees reflect management's best estimate of the professional involvement required to implement the Company's restructuring plan. Amounts include sales taxes;
 - The current government remittances for source deductions and sales taxes are included in the disbursement assumptions;
 - The cash disbursements do not provide for the payment of arrears to unsecured creditors.



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