

Court File No. 08-CL-7355

**TAHERA DIAMOND CORPORATION
AND BENACHEE RESOURCES INC.**

**SEVENTH REPORT TO THE COURT OF A. FARBER &
PARTNERS INC. AS MONITOR**

September 22, 2009

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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
TAHERA DIAMOND CORPORATION
BENACHEE RESOURCES INC.

**NEW MONITOR'S SIXTH REPORT TO THE COURT SUBMITTED BY
A. FARBER & PARTNERS INC.
IN ITS CAPACITY AS MONITOR**

INTRODUCTION

1. On January 16, 2008, Tahera Diamond Corporation ("**Tahera**") and its wholly owned subsidiary, Benachee Resources Inc. ("**Old Benachee**") (collectively referred to herein as the "**Applicants**" or the "**Companies**" and where the context requires including Newco (defined below)), made an application under the *Companies' Creditors Arrangement Act* (the "**CCAA**") and an initial order (the "**Initial Order**") was granted by the Honourable Mr. Justice Spence of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") providing for, *inter alia*, a stay of proceedings against the Companies until February 14, 2008 (the "**Stay Period**") and appointing PricewaterhouseCoopers Inc. ("**PWC**") as monitor. By Order dated December 12, 2008 (the "**December 12 Order**") the Court, *inter alia*, appointed A. Farber & Partners Inc. as Monitor ("**Farber**" or the "**Monitor**") in place of PWC. The proceedings commenced by the Companies under the CCAA will be referred to herein as the "**CCAA Proceedings**".
2. The Stay Period has been extended on a number of occasions since the date of the Initial Order and presently expires September 30, 2009.

3. On March 6, 2009 the Court granted an Order (the “**March 6 Order**”) amongst other matters approving a Final Letter of Intent (“**Final LOI**”) with AG Growth Income Fund (the “**AG Fund**”) (originally ordered sealed but now able to be disclosed) with respect to a transaction to realize on certain non-strategic tax loss assets as well as an interim DIP financing loan (“**AG DIP Loan**”), in an amount sufficient to allow time for due diligence to be completed under the Final LOI, a definitive agreement be entered into, and to close a transaction.
4. On April 19, 2009 the Applicants and their advisors confirmed that they had entered into a definitive agreement with AG Fund, hereinafter referred to as the “**CBCA Arrangement Agreement**”. The transaction contemplated in the CBCA Arrangement Agreement will also be referred to herein as the “**AG Transaction**”.
5. On April 28, 2009, the Court granted an Order approving the CBCA Arrangement Agreement between Tahera, Benachee and the AG Growth Income Fund and the transaction contemplated therein (the “**April 28, 2009 Order**”). Pursuant to the CBCA Arrangement Agreement, the AG Transaction was to close no later than June 30, 2009.
6. As part of the AG Transaction approved in the April 28, 2009 Order, a subsidiary of Tahera, 7166893 Canada Ltd. (“**Newco**”) was incorporated under the Canadian Business Corporations Act (“**CBCA**”). The CBCA Arrangement Agreement contemplates as a step in the AG Transaction, and the April 28, 2009 Order gives effect to, a transfer and vesting of the assets of Old Benachee to Newco and an assumption by Newco of the liabilities of Old Benachee (save for certain intercompany indebtedness). The April 29, 2009 Order effectively added Newco as a debtor in the CCAA Proceedings, and subject to the appointment of the Monitor and with all of the protections of the stay of proceedings in the Initial Order.
7. On May 8, 2009 an Order was made extending the Stay Period to June 30, 2008 to permit, *inter alia*, the AG Transaction to be completed. On that same date, in separate proceedings brought under the CBCA by certain AG Fund related

entities, an Interim Order was obtained under the CBCA addressing the manner in which security holders of AG Growth would meet and vote on the CBCA Plan of Arrangement contemplated in the AG Transaction.

8. On June 3, 2009 the Court granted a Final Order approving the Plan of Arrangement under the CBCA relating to the AG Transaction. The AG Transaction was completed on that same date.
9. In summary, the AG Transaction helped meet the Companies' stated first goal to realize on the Companies' non strategic tax assets to in turn provide funding and time to move forward with the stated second and ultimate goal in these CCAA Proceedings of a potential re-start or sale of the Jericho Mine. As part of that objective, pursuant to a Court Order dated April 28, 2009, the Court approved a Letter Agreement, pursuant to which Tahera engaged Cormark Securities Inc. as its financial advisor in connection with a potential transaction involving an equity or debt financing and/or direct or indirect sale or disposition of the Jericho Mine.
10. By Order dated June 17, 2009, the Court replaced the former Chief Restructuring Officer, 2192640 Ontario Inc. with a new Chief Restructuring Officer, 2208932 Ontario Inc., (the "**CRO**") of which Mr. Thomas Pladsen is the controlling shareholder, officer and director.
11. Since last reporting to the Court on June 15, 2009, the Companies, in concert with various advisors, have undertaken an extensive review for the purpose of creating new mining and business plans and engineering reports to support the eventual re-starting of the Jericho Mine, through a refinancing, partnership or sale transaction. These efforts have been supported by the debtor-in-possession ("**DIP**") loan financing from the largest secured creditor Caz Petroleum Inc ("**Caz**"), previously approved by the Court.

PURPOSE OF REPORT

12. The purpose of this, the Seventh Report to the Court of A. Farber & Partners Inc. (the "**Seventh Report**"), is to inform the Court of the following:

- the status of the Jericho Mine and in particular the Companies' efforts, in concert with various advisors, to pursue a potential transaction to sell or reopen the Jericho Mine;
- the Companies' receipts and disbursements for the period June 14, 2009 to August 31, 2009;
- the Companies' cash flow forecast for the period from August 30, 2009 to December 12, 2009 and the adequacy of funding to allow the Companies to continue its efforts to re-start or sell the Jericho Mine; and
- the Companies' request for an extension of the Stay Period from September 30, 2009 to December 10, 2009.

TERMS OF REFERENCE

13. In preparing this Seventh Report, the Monitor has relied upon unaudited, internally prepared financial information, the Applicants' records and discussions with management of the Applicants. The Monitor has not performed an audit, review or other verification of such other information. An examination of the financial forecast as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied upon in this report is based on the Companies' assumptions regarding future events and actual results achieved will vary from this information and the variations may be material. Unless otherwise stated, dollars referenced in these materials are in Canadian funds.

JERICHO MINE STATUS

14. The Companies' progress towards re-starting the Jericho Mine is set out in detail in the Affidavit of Thomas Pladsen dated September 18, 2009 (the "**Pladsen Affidavit**"), filed in support of the Companies' motion.
15. In summary, the Companies have engaged Procon Mining and Tunneling (which would undertake the ultimate mining project if the determination is made to re-

start operations), SRK Consulting (a mining engineering consulting firm) and AMEC Engineering (a mill designer and operator), for the purpose of creating new mining and business plans and engineering plans in respect of an eventual restart of the Jericho Mine.

16. Our review with the CRO and Champco Capital Corp., advisor to the Applicants and the CRO, confirms significant progress has been made through the summer months, with new mining and business plans and engineering reports expected to be completed in October 2009.
17. Completed mining and business plans are required to support the Companies' efforts to seek a refinancing, partnership or sale alternatives to support a reopening of the Jericho Mine. Through DIP Loans, the secured creditor Caz has been supportive of these efforts, with \$1.180 million in outstanding DIP Loans advanced as at September 18, 2009.
18. As reported in the Pladsen Affidavit, Indian and Northern Affairs Canada ("INAC") advised that as of September 17, 2009 the Crown will have completed the winterization and temporary closure of the Jericho Mine site (the "Site"). The Companies believe this step will minimize the costs associated with the Jericho Mine while sale or reopening alternatives are explored. INAC also advised that the Crown intends to recoup all costs associated with the temporary closure of the Site in due course from security held pursuant to the *Nunavut Water Act* and Crown leases for the Site. The security is in the form of letters of credit provided by the Applicants and supported by cash proceeds held in trust at the TD Bank which total \$11 million.

CLAIMS FOR SUCCESS FEES

19. Following approval by the Court of the AG Transaction, and as previously reported in the Monitor's Sixth Report, two entities, Blair Franklin Capital Partners ("**Blair Franklin**") and a former Chief Restructuring Officer of the Applicants, Mr. Peter Gillin, came forward to assert that they are entitled to a success fee in respect of the assignment of debt and security by Laurelton

Diamonds Inc. and Tiffany & Co. to Caz (reported upon in Eighth Report of PWC as former Monitor and referred to in previous reports of Farber as Monitor) and/or in respect of the completion of the AG Transaction.

20. A letter from counsel for Blair Franklin to the Applicants and the Monitor dated May 29, 2009 set out the basis of Blair Franklin's assertion that it is entitled to be paid a success fee (the "**Blair Franklin Demand**").
21. A letter from counsel for Peter Gillin (the former CEO and former CRO of the Companies) to the Monitor dated June 3, 2009 sets out the basis of Mr. Gillin's assertion that he is entitled to be paid a success fee (the "**Peter Gillin Demand**").
22. Both the Blair Franklin Demand and the Peter Gillin Demand were attached to the Monitor's Sixth Report. The Monitor reported in that Report that the Companies were in the process of reviewing the claims asserted.
23. Counsel for Peter Gillin attended on the motion and requested an Order that funds in the amount of its client's claim be set aside. Counsel for Mr. Gillin was directed by the Court to file materials and return on a properly scheduled motion if Mr. Gillin wishes to pursue this requested relief.
24. Since the Court hearing on June 17, 2009, neither the Companies nor the Monitor have received any communication or court materials from legal counsel for Blair Franklin or Peter Gillin.
25. The Monitor is advised by the CRO that the Companies and their legal counsel, as well as legal counsel for Caz, have reviewed the claims of Blair Franklin and Peter Gillin, and are of the view that the claims are without merit.

ACTUAL CASH FLOW JUNE 14 TO AUGUST 31, 2009

26. The Companies' actual cash flows for the period from June 14 to August 31, 2009 compared to the June 12, 2009 Forecast attached as Appendix 5 to the Monitor's Sixth Report (the "**June 12 Forecast**"), are summarized as follows (all amounts in Canadian dollars, unless otherwise noted):

TAHERA DIAMOND
 Comparison of Cash Flows - Actual to Forecast
 June 14, 2009 to August 31, 2009

Description	Projected Cash Flow	Actual Cash Flow	Difference
CASH INFLOWS	1,350,000	600,000	(750,000)
DIP LOANS	1,350,000	600,000	(750,000)
TOTAL CASH OUTFLOW	1,373,236	737,309	635,927
TOTAL JERICO OPERATION	687,854	429,769	258,085
Overhead	687,854	429,769	258,085
Travel	30,000	-	30,000
Technical Assessment	417,500	429,769	(12,269)
Regulatory - Property taxes and fees	240,354	-	240,354
CORPORATE COSTS	148,574	56,760	91,814
Labour	52,917	21,524	31,393
Office & General	46,999	12,216	34,783
Audit, Legal, Consulting	-	-	-
Regulatory	11,858	2,980	8,878
Travel (Corporate)	-	-	-
Other Expenses	36,800	20,040	16,760
INTEREST (INCOME) / EXPENSE	(21,000)	(2,878)	(18,122)
PROFESSIONAL FEES	557,808	253,658	304,150
NET CASH FLOW	(23,236)	(137,309)	(114,073)
OPENING CASH	209,062	209,062	-
Outstanding cheques	(177,711)	(177,711)	-
Accruals included in expenditures	-	178,167	178,167
ENDING CASH	8,114	72,208	64,094

Note: Cash balances do not include \$11,000,000 cash held in support of letters of credit or \$2,109,985 held for settlement of lien claims.

27. Effective August 31, 2009 the cash held by the Companies was \$72,208 compared to the June 12 Forecast of \$8,114.

28. The major variances relate to the following:

- Only \$600,000 was advanced under the Caz DIP Loan compared to a forecast \$1.350 million on the June 12 Forecast. The June 12 Forecast contemplated that a transaction to support a re-opening of the Jericho Mine would have been close to completion in August and September 2009 with the ensuing fees and certain corporate costs having been largely paid by that time, which is not the case. The June 12 Forecast also assumed DIP funding of this magnitude would have been supplemented by some additional financing to bridge to a transaction in or around the end of August 2009. As reported above in paragraphs 16 and 17, new mining and business plans along with engineering reports are still being prepared and these are scheduled to be completed in October 2009, which are in turn required to support a transaction to effect a reopening of the Jericho Mine.
- In addition the Jericho Mine overhead costs paid are \$258,000 less than forecast due largely due to the fact that property taxes and fees have not been paid (\$239,354). The Monitor is advised the Jericho Mine suspended mining operations on February 6, 2008 with some ore processing continuing until early April 2008 and was completely shut down in December 2008 under the INAC care and maintenance program. Accordingly, the Companies propose to defer payment of property taxes and claim fees until the re-opening of the Jericho Mine, or a sale of the assets is completed, at which time the Companies indicate the property taxes and fees would be paid in accordance with the appropriate legal priority. In this regard, the Companies rely upon the provisions of paragraph 8(c) of the Initial Order, and specifically the fact that production at Jericho Mine ceased early 2008, which states that the Companies shall pay:

“any amount payable to the Crown in right of Canada or of any Province or territory thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors *and which are attributable to or in*

respect of the carrying on of the Business by the Applicant.”
[emphasis added]

The Companies also report that fuel tax credits are owed by the Government of Nunavut for the post CCAA filing period, and represents a potential set-off against the property taxes owing.

29. Caz DIP Loans advanced as of August 31, 2009 total \$1.1 million, comprising \$600,000 advanced since June 14, 2009 plus the original AG DIP Loan assigned to Caz of \$500,000. A further \$80,000 was advanced in the week of September 18, 2009 to provide a total Caz DIP Loan of \$1.180 million.

CAZ DIP LOANS – CONTINUATION OF FUNDING FOR THE CCAA PROCEEDINGS

30. The Pladsen Affidavit references the fact that the Commitment Letter dated March 4, 2009 under which Caz is providing the DIP Loans contemplates maximum advances of \$1 million in two tranches: an Initial Tranche of \$500,000 payable upon the closing of the AG Transaction, pursuant to terms of a DIP Loan from AG assigned to Caz; and a second tranche totalling \$500,000 advanced at \$100,000 per month for five months upon the closing of the AG Transaction and expiring October 2009.
31. As reported above, \$1.1 million in Caz DIP Loans had been advanced as of August 31, 2009 which was an over-advanced position of \$100,000. By letter dated September 10, 2009, ThorntonGroutFinnigan LLP, Caz’s legal counsel, put the Applicant on notice of the over-advanced position. It is further noted in the Pladsen Affidavit that terms have been agreed regarding additional funding, which include a schedule to be prepared regarding delivery of completed business plans and a revised budget, through the proposed Stay extension period. The updated forecast profiled below assumes total Caz DIP Loan advances of \$1.5 million. As reported in the Pladsen Affidavit, Caz is supportive of these additional funding levels through the proposed stay extension period, assuming the requested information is provided in accordance with an agreed upon timetable, and consents to the requested extension of the Stay Period.

CASH FLOW OUTLOOK

32. The Companies have prepared a revised cash flow forecast for the period August 30 to December 12, 2009 (the “**December 2009 Forecast**”) which is attached hereto as Appendix 1. The December 2009 Forecast shows an opening cash position of \$72,208 with a projected balance of \$8,944 at December 12, 2009. During this time a further \$400,000 is expected to be advanced under the Caz DIP Loan. This would provide total advances under the Caz Dip Loan of \$1.5 million. Our review with Champco/Caz confirms it remains supportive of the process to reopen the Jericho Mine through a refinancing, partnership or sales transaction.
33. Based on a review of the December 2009 Forecast there appears to be sufficient cash reserves to continue the CCAA Proceedings through to December 10, 2009 and allow efforts to continue to pursue a potential transaction involving debt or equity financing or sale or other disposition, and in turn provide prospects for the filing and completion of a CCAA Plan with creditors.

REQUEST FOR EXTENSION OF STAY OF PROCEEDINGS

34. Based on the positive progress made to date, including the Companies’ and their advisors’ efforts to progress and complete mining and business plans and engineering reports to support a potential transaction to allow reopening of the Jericho Mine and the prospect of a plan of arrangement, the Monitor believes the Companies and their advisors are acting in good faith and with due diligence and that an extension of the Stay Period to December 10, 2009 is appropriate.
35. Further, the Monitor is satisfied that access to the Caz DIP Loan provides sufficient cash flow resources to continue the CCAA Proceedings through to December 10, 2009.

CONCLUSION AND RECOMMENDATIONS

36. Having regard to the above, the Monitor recommends this Honourable Court approve the extension of the Stay Period to December 10, 2009.

The Monitor respectfully submits to the Court this, its Seventh Report.

Dated this 22nd day of September 2009.

A. Farber & Partners Inc.
in its capacity as Monitor of
Tahera Diamond Corporation
and Benachee Resources Inc.

A. Farber & Partners Inc.

Appendix 1

TAHERA CASH FLOW PROJECTION - August 30 to December 12, 2009

Appendix 1

Account Description	30-Aug-09	6-Sep-09	13-Sep-09	20-Sep-09	27-Sep-09	4-Oct-09	11-Oct-09	18-Oct-09	25-Oct-09	1-Nov-09	8-Nov-09	15-Nov-09	22-Nov-09	29-Nov-09	6-Dec-09
	5-Sep-09	12-Sep-09	19-Sep-09	26-Sep-09	3-Oct-09	10-Oct-09	17-Oct-09	24-Oct-09	31-Oct-09	7-Nov-09	14-Nov-09	21-Nov-09	28-Nov-09	5-Dec-09	12-Dec-09
CASH INFLOWS	80,000	80,000	220,000	220,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
DIP LOANS															
TOTAL CASH INFLOW	1,650	709	45,034	140,372	165,000	19,000	19,000	19,000	19,000	19,000	19,000	19,000	19,000	19,000	19,000
TOTAL JERICHO OPERATION															
Travel			85,000	85,000	92,500	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Other															
Environmental															
Safety / First aid															
Technical Assessment															
Salaries			85,000	85,000	92,500	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
SRK			60,000	60,000	42,500										
AMEC			25,000	25,000	15,000										
Coremark															
Technical studies															
Regulatory															
Other Overhead															
CORPORATE COSTS															
Labour			20,879	20,879	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500
Salaries (CRO)			20,879	20,879	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500
Office & General			709	709	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
IT/Accounting															
Rent / Storage															
Other			709	709	7,500	2,000	1,500	2,000	3,000	2,000	1,500	2,000	3,000	2,000	1,500
Audit, Legal, Consulting															
Regulatory															
Travel (Corporate)															
Other Expenses															
Vancouver Rent															
Other															
INTEREST (INCOME) / EXPENSE															
PROFESSIONAL FEES															
Monitor Costs			37,795	37,795	34,483	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000
Legal Costs (TGF)															
Legal Costs (MD)															
KERP PAYMENTS															
NET CASH FLOW	(1,650)	79,291	(45,034)	79,628	(165,000)	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	(47,500)
OPENING CASH	72,208	72,208	70,559	149,850	104,816	184,444	19,444	19,444	19,444	25,444	25,444	25,444	25,444	25,444	56,444
ENDING CASH	72,208	70,559	149,850	104,816	184,444	19,444	19,444	19,444	25,444	25,444	25,444	25,444	25,444	56,444	8,944