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*The Honorable Frank E. Cuthbertson*  
Hearing Date: August 19, 2011  
Hearing Time: 9:00 a.m.  
*Without Oral Argument*

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

In Re:  
MCUBE PETROLEUM, INC., a Washington corporation;  
BASILAM PETROLEUM, LLC, a Washington limited liability company;  
DISKI PETROLEUM, LLC, a Washington limited liability company;  
HALMAHERA - REMBANG, LLC, a Washington limited liability company;  
LARAMIE PETROLEUM, INC., a Washington corporation; and  
ORNA INTERNATIONAL, LTD, a British Virgin Islands company.

Case No. 09-2-08315-6

**NOTICE TO CREDITORS AND INTERESTED PARTIES OF HEARING ON RECEIVER'S MOTION TO APPROVE SETTLEMENTS**

TO: THE CLERK OF THE COURT  
AND TO: THE HONORABLE FRANK E. CUTHBERTSON  
AND TO: ALL PARTIES-IN-INTEREST

Hearing Date: Friday, August 19, 2011  
Hearing Time: 9:00 a.m.  
Response Due: Tuesday, August 16, 2011  
Location: Pierce County Superior Court  
Judge Cuthbertson, Department 21  
930 Tacoma Avenue South, Tacoma, WA 98402

1 PLEASE TAKE NOTICE that William L. Beecher, in his capacity as Receiver for the  
2 entities identified in the above-captioned Receivership proceeding (the "Receiver"), will be  
3 filing a Motion with the Court seeking entry of an Order approving the following.

4 **A. PetroM LLC.**

5 The first settlement is with the Defendants in the adjunct proceeding: Beecher v. PetroM  
6 LLC, et al., Pierce County Superior Court Case No. 11-2-06998-8. PetroM LLC acted as a  
7 lender to MCube Petroleum, Inc. ("MCube") making a \$1.1 million loan on June 6, 2006.  
8 Payments to PetroM LLC commenced in August 2006 and included accrued interest in the  
9 amount of \$408,000. Amounts received by PetroM LLC were in turn distributed to the members  
10 of the PetroM LLC. The Receiver has agreed to settle all claims against PetroM LLC and the  
11 members of limited liability company (collectively "PetroM Settling Defendants") in return for a  
12 payment of \$408,000 to be made within 10 days of entry of an order approving the settlement.

13 All payments made in conjunction with a "Ponzi" scheme are presumptively fraudulent  
14 conveyances. With respect to a "good faith" recipient of payments from a Ponzi scheme, the  
15 Receiver is entitled to recover only "profits." In this case, the "profits" which would be  
16 recoverable are \$408,000.

17 Where the recipient of payments from a Ponzi scheme fails to show good faith, the  
18 principal amount can also be recovered. In sum, whether good faith exists turns on whether the  
19 recipient of payments is aware of facts, at the time of payment, which would reasonably support  
20 the conclusion that the source of the payments is improper. In this case, "good faith" is asserted  
21 by the PetroM Settling Defendants to be an issue both at the level of the payment to PetroM  
22 LLC, and the subsequent distributions to the PetroM LLC members. The PetroM LLC members  
23 have asserted that, as the recipients of transfers from PetroM LLC and not directly from a  
24 receivership entity, good faith is a defense even as to "profits."

25 There is some information which suggests that the PetroM LLC lacked good faith at the  
26 time it received at least some of the payments. However, the information is by no means  
27 definitive. To the extent that good faith is a defense assertable by the PetroM LLC members, the  
28 defense could be problematic. Issues relating to good faith are highly fact dependent, and

1 resolution of these issues would most likely require a trial. Trial would not occur for at least 12  
2 to 18 months.

3 This settlement takes into consideration the cost and risk of continuing litigation as well  
4 as the potentially lengthy delay that could arise in closing the Estate. Moreover, the evidence is  
5 clear that the original loan was made in good faith. Since the settlement payment represents a  
6 100% return of "profit," the Receiver has concluded that the settlement is fair and equitable both  
7 with respect to the Settling Parties and creditors of the Receivership Estate as well as in the best  
8 interests of creditors.

9 **B. Todd N. Marshall and Shauna Lake Marshall.**

10 The second settlement is with the Defendants Todd N. Marshall and Shauna Lake  
11 Marshall in the adjunct proceeding: *Beecher v. Aboulhosn, et al.*, Pierce County Superior Court  
12 Case No. 10-2-07692-7. Mr. Marshall was an investor in a number of MCube-related entities.  
13 While the amount is in dispute, the Receiver contends that the Marshalls received total "profits"  
14 of \$111,000. Under the Settlement Agreement with the Marshalls, the Receiver will release the  
15 Marshalls in return for a release by the Marshalls of a claim for losses in a  
16 Halmahera - Rembang LLC investment.

17 The controlling factor in this case was the capacity of the Marshalls to satisfy a Judgment  
18 in the event the matter was to proceed to trial. In this regard, the Receiver was provided with  
19 and reviewed financial information regarding the Marshalls substantiating that the Marshalls  
20 would lack the capacity to satisfy any Judgment ultimately obtained regardless of the amount a  
21 and Shauna Lake Marshall agreed to be paid in settlement was appropriate in light of all the  
22 settlement factors. The Receiver considers the settlement amount to be fair and reasonable  
23 under this circumstance.

24 **C. Professional Fees.**

25 The total payment to the Estate from these settlements is \$408,000. In addition to the  
26 approval of these settlements, the Receiver is seeking approval for the payment of professional  
27 compensation arising from these settlements as follows: (1) \$122,400 to Brain Law Firm; and  
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1 (2) \$12,240 to the Receiver. Net proceeds to the Receivership Estate from these settlements will  
2 be \$273,360.

3 In addition, the release of claims against the Estate, because it has the same ultimate  
4 effect as a payment to the Estate, creates an obligation to pay additional fees. Because the  
5 amount of fees is dependent on the dividend to creditors and not the amount of debt released the  
6 amount of fees is not determinable at this time. Notice will be given as to any application for  
7 the payment of fees on this basis.

8 The professional fees are based on fee agreements already approved by the Court. Total  
9 professional compensation, including the contingent component of the compensation to the  
10 Receiver, is based on a total contingent fee of 33%. This is a standard rate for this market area.

11 **D. Objections.**

12 Any party desiring further information regarding the proposed settlements may request  
13 same from the Clerk of the Court or from the undersigned counsel.

14 IF YOU OPPOSE the Motion, you must file your written response with the Clerk of the  
15 Court, serve two copies on the Judge's chambers and deliver copies to the undersigned  
16 NOT LATER THAN THE RESPONSE DATE, which is **August 16, 2011**.

17 IF NO RESPONSE IS TIMELY FILED AND SERVED, the Court may, in its discretion,  
18 GRANT THE MOTION PRIOR TO THE HEARING, WITHOUT FURTHER NOTICE, and  
19 strike the hearing.

20 DATED this 14th day of July, 2011.

21 BRAIN LAW FIRM PLLC

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24 By: 

Paul E. Brain, WSBA #13438

25 Counsel William L. Beecher, Receiver  
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