

ODYSSEY MARINE EXPLORATION INC

Form 10-Q

November 13, 2018

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**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-Q**

**Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the quarterly period ended September 30, 2018**

**or**

**Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File Number 001-31895**

**ODYSSEY MARINE EXPLORATION, INC.**

**(Exact name of registrant as specified in its charter)**

**Nevada**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**84-1018684**  
**(I.R.S. Employer**  
**Identification No.)**

**5215 W. Laurel Street, Tampa, Florida 33607**  
**(Address of principal executive offices) (Zip code)**

**(813) 876-1776**  
**(Registrant's telephone number, including area code)**

**(Former name, former address and former fiscal year, if changed since last report)**

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES NO

Indicate by check mark whether the registrant has submitted electronically, every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act (Check one).

Large accelerated filer:

Accelerated filer:

Non-accelerated filer:

Smaller reporting company:

Emerging growth company:

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the exchange act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act): Yes No

The number of outstanding shares of the registrant's Common Stock, \$.0001 par value, as of October 31, 2018 was 8,466,909.



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**Table of Contents****PART I: FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS****ODYSSEY MARINE EXPLORATION, INC. AND SUBSIDIARIES****CONSOLIDATED BALANCE SHEETS**

	<b>Unaudited September 30, 2018</b>	<b>December 31, 2017</b>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 130,364	\$ 1,108,193
Restricted cash	10,135	10,010
Accounts receivable and other	667,182	232,380
Other current assets	286,220	495,527
<b>Total current assets</b>	<b>1,093,901</b>	<b>1,846,110</b>
<b>PROPERTY AND EQUIPMENT</b>		
Equipment and office fixtures	11,033,536	16,738,898
Accumulated depreciation	(10,838,076)	(16,145,082)
<b>Total property and equipment</b>	<b>195,460</b>	<b>593,816</b>
<b>NON-CURRENT ASSETS</b>		
Investment in unconsolidated entity	529,882	
Other non-current assets	532,500	532,500
<b>Total non-current assets</b>	<b>1,062,382</b>	<b>532,500</b>
<b>Total assets</b>	<b>\$ 2,351,743</b>	<b>\$ 2,972,426</b>
<b>LIABILITIES AND STOCKHOLDERS EQUITY/(DEFICIT)</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 3,000,858	\$ 2,396,835
Accrued expenses and other	8,757,988	6,551,335
Loans payable	25,894,770	24,363,442
<b>Total current liabilities</b>	<b>37,653,616</b>	<b>33,311,612</b>
<b>LONG-TERM LIABILITIES</b>		
Loans payable	3,500,000	3,000,000
Revenue participation rights	4,643,750	4,643,750

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Total long-term liabilities	8,143,750	7,643,750
<b>Total liabilities</b>	<b>45,797,366</b>	<b>40,955,362</b>
Commitments and contingencies (NOTE G)		
<b>STOCKHOLDERS EQUITY/(DEFICIT)</b>		
Preferred stock - \$.0001 par value; 24,984,166 shares authorized; none outstanding		
Common stock \$.0001 par value; 75,000,000 shares authorized; 8,466,909 and 8,466,909 issued and outstanding for each period end presented	847	847
Additional paid-in capital	213,215,055	212,103,344
Accumulated (deficit)	(238,405,502)	(234,709,910)
Total stockholders equity/(deficit) before non-controlling interest	(25,189,600)	(22,605,719)
Non-controlling interest	(18,256,023)	(15,377,217)
Total stockholders equity/(deficit)	(43,445,623)	(37,982,936)
<b>Total liabilities and stockholders equity/(deficit)</b>	<b>\$ 2,351,743</b>	<b>\$ 2,972,426</b>

The accompanying notes are an integral part of these consolidated financial statements.

**Table of Contents****ODYSSEY MARINE EXPLORATION, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF OPERATIONS - Unaudited**

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>	<b>September 30,</b>	<b>September 30,</b>	<b>September 30,</b>
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
<b>REVENUE</b>				
Recovered cargo sales and other	\$ 260,763	\$ 11,854	\$ 569,083	\$ 11,854
Marine services	625,564		1,902,476	1,236,623
Total revenue	886,327	11,854	2,471,559	1,248,477
<b>OPERATING EXPENSES</b>				
Marketing, general and administrative	1,359,898	1,863,328	4,297,301	5,242,884
Operations and research	1,070,916	618,461	2,544,559	2,821,776
Total operating expenses	2,430,814	2,481,789	6,841,860	8,064,660
<b>INCOME (LOSS) FROM OPERATIONS</b>	<b>(1,544,487)</b>	<b>(2,469,935)</b>	<b>(4,370,301)</b>	<b>(6,816,183)</b>
<b>OTHER INCOME (EXPENSE)</b>				
Interest expense	(816,732)	(638,940)	(2,258,149)	(2,018,570)
Other	38,185	3,107	54,052	64,104
Total other income (expense)	(778,547)	(635,833)	(2,204,097)	(1,954,466)
<b>(LOSS) BEFORE INCOME TAXES</b>	<b>(2,323,034)</b>	<b>(3,105,768)</b>	<b>(6,574,398)</b>	<b>(8,770,649)</b>
Income tax benefit (provision)				
<b>NET (LOSS) BEFORE NON-CONTROLLING INTEREST</b>	<b>(2,323,034)</b>	<b>(3,105,768)</b>	<b>(6,574,398)</b>	<b>(8,770,649)</b>
Non-controlling interest	1,013,759	854,671	2,878,806	2,403,404
<b>NET (LOSS)</b>	<b>\$ (1,309,275)</b>	<b>\$ (2,251,097)</b>	<b>\$ (3,695,592)</b>	<b>\$ (6,367,245)</b>
<b>NET (LOSS) PER SHARE</b>				
Basic and diluted (See NOTE B)	\$ (0.15)	\$ (0.27)	\$ (0.44)	\$ (0.78)
<b>Weighted average number of common shares outstanding</b>				
Basic	8,466,909	8,388,821	8,466,909	8,145,689
Diluted	8,466,909	8,388,821	8,466,909	8,145,689

The accompanying notes are an integral part of these consolidated financial statements.





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	<b>Nine Months Ended</b>	
	<b>September 30, 2018</b>	<b>September 30, 2017</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net loss before non-controlling interest	\$ (6,574,398)	\$ (8,770,649)
Adjustments to reconcile net loss to net cash (used) by operating activities:		
Depreciation and amortization	375,986	604,785
Accrued interest converted into common stock		302,274
Gain on sale of equipment	(897,664)	(289,328)
Lender financed fees		50,000
Note payable interest accretion	56,962	296,142
Non-cash marine services revenue	(529,882)	
Share-based compensation	311,712	625,489
(Increase) decrease in:		
Accounts receivable	(455,917)	210,061
Other assets	209,307	367,358
Increase (decrease) in:		
Accounts payable	724,504	715,512
Accrued expenses and other	2,407,523	1,344,641
<b>NET CASH (USED) BY OPERATING ACTIVITIES</b>	<b>(4,371,867)</b>	<b>(4,543,715)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Proceeds from sale of property and equipment	1,003,662	80,000
Purchase of property and equipment	(9,624)	
<b>NET CASH PROVIDED BY INVESTING ACTIVITIES</b>	<b>994,038</b>	<b>80,000</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Restricted cash held as collateral	(125)	
Proceeds from issuance of convertible notes payable	1,675,000	4,500,000
Settlement receipts from contractual obligation	15,000,000	
Payment of contractual obligation	(14,000,000)	
Repayment of debt obligations	(274,875)	(356,722)
<b>NET CASH PROVIDED BY FINANCING ACTIVITIES</b>	<b>2,400,000</b>	<b>4,143,278</b>
<b>NET (DECREASE) IN CASH</b>	<b>(977,829)</b>	<b>(320,437)</b>
<b>CASH AT BEGINNING OF PERIOD</b>	<b>1,108,193</b>	<b>1,662,643</b>
<b>CASH AT END OF PERIOD</b>	<b>\$ 130,364</b>	<b>\$ 1,342,206</b>

## SUPPLEMENTARY INFORMATION:

Interest paid	\$ 867,442	\$ 423,763
Income taxes paid	\$	\$
Financed equipment purchase	\$ 74,004	\$

**Non-Cash Disclosure:**

During the second quarter of 2017, we sold a marine vessel to a related party, Monaco Financial, LLC, for \$650,000. The consideration for this vessel was applied against our loan balance to Monaco in the amount of \$650,000, see NOTE H. During this same period, Epsilon Acquisitions LLC converted their loan principal balance of \$3,050,000 plus accrued interest of \$302,274 into 670,455 of our common shares, see NOTE H.

During the three months ended March 31, 2018, we converted \$1.0 million of amounts advanced related to the contractual obligation settlement to a loan with Monaco Financial, LLC. During April 2018 the parties agreed to treat \$99,366 of back rent owed by us to Monaco as part of this loan, see NOTE H

The accompanying notes are an integral part of these consolidated financial statements.

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**ODYSSEY MARINE EXPLORATION, INC. AND SUBSIDIARIES**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**NOTE A - BASIS OF PRESENTATION**

The accompanying unaudited consolidated financial statements of Odyssey Marine Exploration, Inc. and subsidiaries (the Company, Odyssey, us, we or our ) have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission and the instructions to Form 10-Q and, therefore, do not include all information and footnotes normally included in financial statements prepared in accordance with generally accepted accounting principles. These interim consolidated financial statements should be read in conjunction with the consolidated financial statements and notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2017.

In the opinion of management, these financial statements reflect all adjustments, including normal recurring adjustments, necessary for a fair presentation of the financial position as of September 30, 2018 and the results of operations and cash flows for the interim periods presented. Operating results for the nine-month period ended September 30, 2018 are not necessarily indicative of the results that may be expected for the full year.

**Recent accounting pronouncements**

In May 2014, the Financial Accounting Standards Board, or the FASB, issued Accounting Standards Update 2014-09, Revenue from Contracts with Customers, or ASU 2014-09, which establishes a comprehensive revenue recognition standard under GAAP for almost all industries. The standard applies for annual periods beginning after December 15, 2017, including interim periods therein. Based on management's review of this standard along with the substance of our transactions, management believes this standard has not had and will not have a material impact on our financial statements.

In February 2016, the FASB issued Accounting Standards Update 2016-02, Leases, which establishes a comprehensive lease standard under GAAP for virtually all industries. The standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase of the leased asset by the lessee. This classification will determine whether the lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease. A lessee is also required to record a right of use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less will be accounted for similar to existing guidance for operating leases. The standard requires lessors to account for leases using an approach that is substantially equivalent to existing guidance for sales type leases, direct financing leases and operating leases. The standard will apply for annual periods beginning after December 15, 2018, including interim periods therein, and requires modified retrospective application. Early adoption is permitted. Based on management's current understanding of this standard along with the underlying substance of our operations, management believes it will not have a material impact on our financial statements.

In May 2017, the FASB issued ASU 2017-09, *Compensation-Stock Compensation (Topic 718), Scope of Modification Accounting*. The amendments in this Update provide guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in Topic 718. The amendments in this update are now effective for all entities for annual periods, and interim periods within those annual periods, beginning after December 15, 2017. Based on management's understanding of this new standard along with the underlying substance of our operations, this standard has not had and will not have a material impact on our financial statements.

In July 2017, the FASB issued Accounting Standards Update No. 2017-11, *Earnings Per Share (Topic 260)*, *Distinguishing Liabilities from Equity (Topic 480)*, *Derivatives and Hedging (Topic 815)*. The amendments in Part I of this Update change the classification analysis of certain equity-linked financial instruments (or embedded features) with down round features. When determining whether certain financial instruments should be classified as liabilities or equity instruments, a down round feature no longer precludes equity classification when assessing whether the instrument is indexed to an entity's own stock. The amendments also clarify existing disclosure requirements for equity-classified instruments. As a result, a freestanding equity-linked financial instrument (or embedded conversion option) no longer would be accounted for as a derivative liability at fair value as a result of the existence of a down round feature. For freestanding equity classified financial instruments, the amendments require entities that present earnings per share (EPS) in accordance with Topic 260 to recognize the effect of the down round feature when it is triggered. That effect is treated as a dividend and as a reduction of income available to common shareholders in basic EPS. Convertible in