

**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 OF ARRANGEMENT
OF UNIVERSAL SETTLEMENTS INTERNATIONAL INC.**

Applicant

**AMENDED NOTICE OF MOTION
(before Justice Wilton-Siegel returnable January 23, 2009)**

THE APPLICANT will bring a motion before Justice Wilton-Siegel of the Commercial List on Friday, January 23, 2009 at 10:00 a.m., or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

___ in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;

___ in writing as an opposed motion under subrule 37.12.1(4)

X orally.

THE MOTION IS FOR AN ORDER:

- (a) Approving a claims procedure to identify and quantify the claims against USI or its directors and officers (the “Claims Procedure”);
- (b) Authorizing the release of (US)\$210,735 to USI from the Premium Reserve Account (as defined in paragraph 25 of the Initial Order) for the purpose of funding USI’s ongoing operations (including premium payment obligations);
- (c) Authorizing the payment of \$24,318.24 to Lorne Morphy, Q.C., in respect of USI’s share of fees incurred by Mr. Morphy in his capacity as arbitrator in the arbitration proceedings between USI and Antonio Duscio and Martina Capital Corporation (the “Duscio Litigation”); and
- (d) Such further and other relief as counsel may request and this Honourable Court deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

- (a) On December 2, 2008, USI commenced proceedings and was granted an Initial Order pursuant to the *Companies’ Creditors Arrangement Act* (“CCAA”) by the Ontario Superior Court of Justice;
- (b) The Initial Order provided for, among other things,

- (i) A stay of proceedings against USI until and including December 31, 2008 (the “Stay”);
 - (ii) Permission to transfer to USI certain funds held in escrow by Ogilvy Renault LLP for the purpose of funding its ongoing operations (including premium payment obligations) under the supervision of the Monitor and establishing an account for the payment of premiums (the “Premium Reserve Account”); and
 - (iii) The appointment of Ernst & Young Inc. as monitor (the “Monitor”) to oversee the management of USI on a day-to-day basis;
- (c) USI obtained further Orders from this Court on December 18 and 23, 2008 and January 9, 2009 which have extended the Stay until February 28, 2009 and granted other relief as sought by USI.

Further release of funds from the Premium Reserve Account

- (d) As the result of an ongoing reconciliation process of the Premium Reserve Account, it has been determined that the amount of (US)\$210,735 held in the Premium Reserve Account belongs to USI;
- (e) USI requires the release of these funds to it, in order to finance its ongoing operations (including premium payment obligations) under the supervision of the Monitor;

Payment of Arbitrator's Fees

- (f) Paragraph 11 of this Court's Initial Order dealt with the issue of legal fees incurred in connection with two ongoing litigation matters. Paragraph 11 read as follows:

THIS COURT ORDERS that the Applicant shall be entitled to continue its outstanding litigation and arbitration proceedings, and pay all reasonable expenses incurred as a result thereof and as are in accordance with the Projected Cash Flow Statement attached as Exhibit "D" to the Halas Affidavit, as follows:

- (a) Universal Settlements Inc. v. James Torchia, Marc Celello and National Viaticals Inc.; and*
- (b) Universal Settlements Inc. v. Antonio Duscio.*

- (g) Paragraph 4 of this Court's Order of December 18, 2008 (a copy of which is attached as Exhibit "B" hereto) provided:

THIS COURT ORDERS that the Applicant shall not pay the legal fees referred to in paragraph 11 of the Initial Order until further Order of this Court, with the exception of the fees related to any work necessary to prepare for the Motion this Court will entertain with respect to whether the litigation should be pursued by the Applicant, or any work required to preserve the status of the litigation.

[underlining added]

- (h) Fees in the amount of \$48,636.48 are presently due and payable in connection with the arbitration proceedings between USI and Tony Duscio and Martina Inc. (the "Duscio Defendants");

- (i) These fees are payable to Lorne Morphy, Q.C., for services rendered in his capacity as arbitrator in the dispute;
- (j) USI's share of these fees, calculated in accordance with the arbitration agreement, is in the amount of \$24,318.24;
- (k) USI wishes to preserve the litigation, as it believes that it will succeed on the merits and that it will be able to recover some, if not all, of the judgment debt, interest and costs. Such a recovery would be in the interest of USI and its creditors. USI therefore seeks leave of this Court to pay its share of Mr. Morphy's fees;
- (l) The provisions of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36; and
- (m) Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of Christopher Halas sworn January 16, 2009 and the exhibits hereto;
- (b) The Fourth Report of the Monitor to be filed; and

- (c) Such further and other materials as counsel may advise and this Honourable Court permit.

January 19, 2009

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

Court File No.: 08-CL-7878

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIVERSAL
SETTLEMENTS INTERNATIONAL INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

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