Court File No. CV-13-10274-00CL

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

RESPONDING MOTION RECORD OF THE APPLICANTS

(Motion returnable February 26, 2014)

February 18, 2014

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Tab 1

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Applicants

AFFIDAVIT OF RYAN LAUSMAN
(sworn February 18, 2014)

I, **RYAN LAUSMAN**, of the City of North York, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Vice President of Systems Operations of Data & Audio-Visual Enterprises Wireless Inc. (**Wireless**) and have held this position since November 26, 2008.

2. As Vice President of Systems Operations, I am responsible for implementing and overseeing all aspects of Wireless' billing systems, support systems and customer management systems. As such, I have direct knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have spoken with certain of the directors, officers, advisors and/or employees of Wireless, as necessary, and where I have relied upon information from such discussions, I believe such information to be true.

Wireless' Business Operations

3. Wireless carries on business as a Canadian wireless telecommunications carrier, providing cellular service to Canadians in five urban markets across the country. In addition to voice, text, data and long distance cellular services, Wireless also offers hardware (handsets and accessories) to its nearly 170,000 subscribers.

4. As part of its business plan, Wireless has sought and entered into agreements with third party suppliers and service providers, effectively outsourcing certain key elements of its business, including network building and maintenance, real-time billing, and customer service.

Background

5. On September 30, 2013, Justice Newbould granted an Order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, (**CCAA**) providing a stay of proceedings against Wireless and its affiliates (the **Initial Order**). A copy of the Initial Order is attached as **Exhibit "A"**.

6. The stay has been extended from time to time, most recently to February 26, 2014. A copy of the most recent stay extension Order is attached as **Exhibit "B"**.

7. Despite the stay of proceedings, Amdocs Software Systems Limited (**ASSL**) and Amdocs Canadian Managed Services Inc. (collectively, **Amdocs**), which provide outsourced services to Wireless, claim to be entitled to payments of amounts totalling over $1.7 million:

(a) $694,445 toward an Implementation Fee (as defined below) for services provided in the pre-filing period;

(b) a $814,600 Reconciliation Fee related to Additional Services (each as defined below), which was a financial obligation agreed to by Wireless in the pre-filing period that is not attributable to any services provided in the post-filing period; and

(c) $235,274.99 under Work Order No. 2011.002.0, which was also agreed to by Wireless in the pre-filing period and only a small portion of which relates to services provided in the post-filing period.

Business Relationship with Amdocs

8. Pursuant to a managed services agreement effective as of October 15, 2009 between Wireless and Amdocs (as amended, the **MSA**), Amdocs agreed to provide certain services that necessitated the construction of a software system customized to Wireless' specifications (the **Amdocs System**). A copy of the MSA is attached to the Affidavit of Mark Sumner sworn February 7, 2014 (the **Sumner Affidavit**) as Exhibit "A" found at Tab 2 to Amdocs' Motion Record.

9. The initial six-year term of the MSA was to expire on April 30, 2016 (as defined in the MSA, the "Initial Term"), and was extended by an amendment effective as of March 31, 2012 (**Amendment No. 1**). Pursuant to Amendment No. 1, the MSA is now set to expire on December 31, 2018. A copy of Amendment No. 1 is attached to the Sumner Affidavit as Exhibit "B".

10. The business purpose of the MSA was two-fold:

(a) to set out the terms by which Amdocs would design, develop and implement the Amdocs System (as defined in the MSA, the "Implementation Services"); and

(b) to set out the terms for the provision of ongoing services in relation to Wireless' subscriber activities, including billing, payment processing, data centre operation, network control and application support (as defined in the MSA, the "Outsourcing Services").

11. This business purpose is specifically set out in the recitals to the MSA:

> WHEREAS [Wireless] desires to procure from Amdocs, and Amdocs desires to provide to [Wireless] (i) services for the implementation of ASSL's proprietary software products (the "Amdocs Systems" as defined below), as well as (ii) design, coding, modification of source code, and integration services for the development of the agreed upon customization of the Amdocs Systems solely to meet [Wireless'] specific requirements, and support services for the deployment and commencement of production of the Amdocs Systems for [Wireless'] Subscribers (all such services collectively the "Implementation Services", as defined below), and (iii) ongoing services for the operation, support and maintenance of the Amdocs Systems, as well as other services as shall be agreed upon (all such services collectively the "Outsourcing Services", as defined below") ...

12. To reflect these arrangements, the MSA provided for two sets of payments by Wireless to Amdocs. It was agreed that:

(a) a one-time "Implementation Fee" of $11,855,000 would be paid for the Implementation Services. Given its size and Wireless' limited resources, this single "Implementation Fee" was to be paid over time; and

(b) varying "Monthly Fees", totalling $54,119,920, were to be paid throughout the term of the MSA in exchange for the provision of the Outsourcing Services and the right to use the Amdocs System in connection with those services.

<u>Implementation Fee</u>

13. I have read the Sumner Affidavit in which Mr. Sumner suggests the Implementation Fee relates to ongoing services provided by Amdocs or use of Amdocs' property. For the reasons set out below, I do not believe that to be correct.

14. Pursuant to the amended Schedule 5, section 1.1, Wireless agreed to pay a total of $11,855,000, which is defined in the MSA as the "Implementation Fee", for what is described as the "Implementation Services".

15. As set out in Schedule 7, the Implementation Services involved the development and construction of the Amdocs System, and more specifically:

(a) the planning, scoping and design of the system to be used to serve Wireless and its customers;

(b) the development, testing and implementation of the Amdocs System;

(c) the development of an ongoing support system; and

(d) training for Wireless personnel.

16. Schedule 7, read in tandem with Schedule 11, makes clear that the "timetable" by which all of the Implementation Services were to be completed was April 30, 2010, prior to the commercial launch of Wireless' business.

17. While the Implementation Services were completed prior to Wireless' launch, the corresponding Implementation Fee was to be paid over time pursuant to a payment plan set out in section 12 of the amended Schedule 5 (the **Payment Schedule**).

18. I understood the Implementation Fee to be a flat fee for the start-up services provided, but payable over a period of several years. I believe the terms of the MSA make this clear. For example:

(a) the total amount of the Implementation Fee was not increased when Amendment No. 1 extended the term of the MSA for 32 additional months. This is consistent with my understanding that the Implementation Fee reflected services provided in connection with the construction of the Amdocs System and was not a fee for the ongoing use of licensed property;

(b) upon early termination of the MSA, any unpaid remainder of the Implementation Fee would become due and payable on the termination date even though the Amdocs System would no longer be used. Again, this is consistent with my understanding that the Implementation Fee was for services already rendered; and

(c) in the amended Schedule 5, the parties specifically describe the Implementation Fee as a "deferred" obligation, reflecting the fact that it had been earned with the provision of the Implementation Services, being the construction of the Amdocs System:

> 8.4 In addition to the applicable termination fees specified in Section 12 of this Schedule, any unpaid remainder of the deferred Implementation Fee of $6,535,000.00, which is represented in such Schedule as the monthly payment of $217,833.00 for the period of July 2012 to December 2014 inclusive, shall become due and payable upon the Termination Date. [Emphasis added]

19. The suggestion that the Implementation Fee is for ongoing services is also in my view inconsistent with the Payment Schedule set out in the MSA. In fact, in most months that the Amdocs System was running, no Implementation Fee payment was owed.

20. In his affidavit, Mr. Sumner makes reference to the amended Schedule 5, section 1.1 and section 12.1.3 of the MSA, which describe the "initial term license" of $10,000,000 as being part of the Implementation Fee. The relevant portion of the amended Schedule 5, section 1.1 reads:

> 1.1 As provided in Sections 12.1.2 and 12.1.3. of the Agreement, Amdocs shall charge [Wireless], and [Wireless] shall pay Amdocs, for the Implementation Services for the license and implementation of the customized Amdocs System at [Wireless], as specified in Schedule 7, the sum of CAD $11,855,00 ("Implementation Fee") <u>of which the initial term license fee of the modified software is CAD $10,000,000</u>. This software will be used in the outsourcing services provided by Amdocs to [Wireless]. Amdocs shall invoice [Wireless] for the Implementation Fee in varying installments on the first day of each month according to the schedule specified in Section 12 of this Schedule. [Emphasis added]

21. Section 12.1.3 of the MSA reads as follows:

> 12.1.3 In consideration for the granting of the License as set out in Section 8, <u>[Wireless] shall pay Amdocs the initial term license fee (included in the implementation fees) as set out in Schedule 5</u>, and, if applicable, the mutually-agreed license fee for each Renewal Term entered into by the Parties. [Emphasis added]

22. While these provisions describe a portion of the Implementation Fee as a "license fee", I always understood the entire Implementation Fee to be a one-time fee payable to compensate Amdocs for the development and set up of the Amdocs System that was fully earned upon completion of that process.

23. I understood the "license fee" described in these provisions to be distinct from the payments for use of the Amdocs System, which are included within the Monthly Fees.

<u>Monthly Fees</u>

24. After the Implementation Services were completed, responsibility for the ongoing operation of the Amdocs System was turned over to Amdocs' managed services group.

25. The managed services group is responsible for providing the "Outsourcing Services", which are defined in section 2.3.1 of the MSA and set out in detail in Schedule 8.

> 2.3.1 Amdocs will perform hosting, maintenance and other services with respect to the Managed Systems, as further defined in Schedule 8 (the "Outsourcing Services"), commencing on the applicable timelines as specified in Schedule 7.
>
> 2.3.2 The Outsourcing Services will include the following:
>
> (a) Service Management
> (b) Data Center Operations
> (c) Billing Operations
> (d) Application Support & Maintenance
> (e) Monitoring, support, plan for capacity and troubleshoot all connectivity related to the Amdocs services.

26. Wireless is permitted to use the Amdocs System in conjunction with the Outsourcing Services under a license granted by section 8.1 of the MSA (as defined by the MSA, the "License").

> 8.1 Subject to the terms and conditions of this Agreement and payment of fees and amounts for the Outsourcing Services which are or may become due pursuant to this Agreement or Orders hereunder, Amdocs hereby grants to [Wireless] a non-transferable right and license during the Initial Term, to use the Amdocs System and Product Documentation in conjunction with the Outsourcing Services solely for [Wireless'] telecommunication business purposes in the Territory and in order to receive Amdocs' services. This software, as modified for [Wireless'] specific requirements, is intended for [Wireless'] sole use. [Emphasis added]

27. Thus, Amdocs grants Wireless a license in consideration for "fees and amounts for the Outsourcing Services".

28. Section 2.1 of the amended Schedule 5 explains that Wireless must pay "Monthly Fees" for the "Outsourcing Services".

> 2.1 Amdocs shall charge [Wireless], and [Wireless] shall pay to Amdocs, fixed monthly fees ("Monthly Fees"), Time Based Bonuses and Subscriber Based Bonuses for Amdocs' Outsourcing Services with respect to up to 1,000,000 System Subscribers on the Amdocs System, in accordance with the table specified in

Section 12 of this schedule. [Emphasis added]

29. In other words, the Monthly Fees (and any bonus that may apply in a given month) are paid by Wireless for the Outsourcing Services and the License. Wireless has kept current with its Monthly Fees obligations.

The Reconciliation Payment

30. The MSA permits Wireless and Amdocs to contract for services in addition to the Implementation Services and the Outsourcing Services (which are defined in the MSA as "Additional Services") through the issuance of work orders. While work orders are processed through the framework of the MSA, each work order forms a distinct and separate agreement between the parties.

31. Because work orders are independent of the MSA, the terms of payment for Additional Services are not established by the MSA but rather determined by the parties and set out in each work order.

32. Pursuant to Amendment No. 1, effective March 31, 2012, Wireless agreed to issue work orders for Additional Services between January 1, 2013 and December 31, 2017 having an aggregate value of no less than $4.05 million and an annual value of no less than $850,000 (the **Additional Services Commitment**).

33. Amdocs now seeks to obtain payment in the amount of $814,600, representing the difference between the 2013 Additional Services Commitment and the value of Additional Services actually sought and provided in that year (the **Reconciliation Payment**).

2013 Additional Services

34. Contrary to the amount set out in paragraph 50 of the Sumner Affidavit, Wireless received Additional Services in 2013 valued at $35,300 in connection with the Additional Services Commitment. All of these services were provided by March 30, 2013, and Wireless has paid for these services in full. Copies of the work orders for these Additional Services are attached as **Exhibits "C"**, **"D"** and **"E"**.

35. Given its financial circumstances, Wireless did not request, and did not receive, any further Additional Services in 2013. In fact, I specifically informed Ami Citrin, a representative of Amdocs, that Wireless would not be requesting any new Additional Services.

36. As a follow-up to our conversation, I received an email from Mr. Citrin in which he informed me that a dedicated team which would otherwise provide services in connection with the Additional Services Commitment was idle and would be released if no work new orders were issued by March 15, 2013. A copy of Mr. Citrin's email is attached as **Exhibit "F"**.

37. As Wireless has not contracted for any Additional Services to which the Additional Service Commitment relates since March 2013, it is my understanding that this team has been released.

38. Contrary to any suggestion in paragraph 56 of the Sumner Affidavit, Wireless did not receive any Additional Services in connection with the Additional Services Commitment after March 30, 2013, and specifically did not receive any such services following the date of the Initial Order.

Additional Services under Work Order No. 2011.002.0

39. Pursuant to Work Order No. 2011.002.0, issued by Wireless on January 1, 2010, Amdocs provided Wireless with a consultant to manage its vendor accounts. Work Order No. 2011.002.0 and the amendments thereto are attached to the Sumner Affidavit as Exhibit "G".

40. This work order, like all other work orders, represents a separate agreement from the MSA.

41. Until 2014, the consultant's services were provided by Amdocs at no charge to Wireless pursuant to section 10.5.1 of the MSA, which allowed Wireless to receive 2000 hours of development work at no additional cost (the **Development Hours**).

> 10.5.1 Beginning on May 1, 2010 and on an annual basis thereafter, <u>Amdocs will provide to [Wireless] an annual development bucket of two thousand (2,000) development work hours for use by [Wireless] at no cost to [Wireless]</u>, to request additional enhancements to the Amdocs System. The development work hours in each annual development bucket may be applied by [Wireless], in its discretion, to fund any ongoing development activities or Change Requests. The annual development work hours will expire twelve (12) months following the date they are first made available to [Wireless] and shall not carry over one year to the next. [Emphasis added]

42. However, in the third amendment to Work Order No. 2011.002.0 effective January 1, 2013, the parties agreed that the Development Hours would not be applied to services provided by the consultant after January 1, 2014.

43. On January 14, 2014, I contacted Mickey Harary of Amdocs and informed him that Wireless could no longer pay for the consultant, and accordingly would not be renewing those services for 2014. A copy of my email to Mr. Harary is attached to the Sumner Affidavit as Exhibit "I".

44. To my knowledge, the consultant stopped providing services to Wireless on January 14, 2014 and has not provided any services to Wireless since that date.

SWORN BEFORE ME at the City of Vaughan, Province of Ontario, on February 18, 2014. Commissioner for Taking Affidavits	RYAN LAUSMAN

Adrienne Jean Walle, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

Tab A

This is Exhibit "**A**" to the Affidavit of Ryan Lausman,
sworn before me this 18th day of February, 2014

Adrienne J. Walls

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

Court File No. CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	MONDAY, THE 30TH
	)	
JUSTICE NEWBOULD	)	DAY OF SEPTEMBER, 2013

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

INITIAL ORDER

THIS APPLICATION, made by Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc. (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of William E. Aziz sworn September 29, 2013 and the Exhibits thereto (the "Aziz Affidavit"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, Ernst & Young Inc. (as the proposed Monitor), the Ad Hoc Committee of Noteholders (as defined in the Aziz Affidavit), the DIP Lenders (as defined in the Aziz Affidavit), The Catalyst Capital Group Inc., and Equity Financial Trust Company, no one else appearing although duly served as appears from the affidavit of service of Evan Cobb sworn September 30, 2013 and on reading the consent of Ernst & Young Inc. to act as the Monitor,

, QCP CW S.A.R.L.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel, including counsel to any board of directors of the Applicants, and such other persons (collectively "Assistants") currently retained or employed by any of them, with liberty to retain, subject to the prior approval of the Chief Restructuring Officer, such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the cash management systems currently in place with, among others, National Bank, TIO Networks Corp., and Chase Paymentech Solutions ("Paymentech") as described in the Aziz Affidavit or, with the consent of the DIP Lenders, replace those systems with other substantially similar central cash management systems (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation

whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that, subject to the terms and conditions of the DIP Loan Agreement, including the applicable terms therein that refer to the cash flow forecast approved by the DIP Lenders pursuant to the DIP Loan Agreement (the "Cash Flow Forecast"), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, commissions, employee benefits, vacation pay (excluding any severance or termination payments without the consent of the Chief Restructuring Officer (as defined below) and the DIP Lenders) and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) any amounts owing to Dealers (as such term is defined in the Aziz Affidavit) and incurred in the ordinary course of business and consistent with existing Dealer compensation policies and arrangements, subject to the prior approval of the Chief Restructuring Officer; and

(c) the reasonable fees and disbursements of any Assistants retained or employed by an Applicant in respect of these proceedings, at their standard rates and charges, subject to the prior approval of the Chief Restructuring Officer.

7. THIS COURT ORDERS that the Applicants shall be authorized but not required to continue to perform and provide services for which customers of any of the Applicants prepaid prior to the date of this Order in the ordinary course.

8. THIS COURT ORDERS that, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash Flow Forecast, and except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services, subject to the prior approval of the Chief Restructuring Officer; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province 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

Applicants, subject to the prior approval of the Chief Restructuring Officer.

10. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, monthly in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their respective Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $500,000 in any one transaction or $2,000,000 in the aggregate, subject to the prior approval of the Chief Restructuring Officer.

(b) terminate the employment of such of their employees as they deem appropriate, subject to the prior approval of the Chief Restructuring Officer;

(c) disclaim, in whole or in part, with prior consent of the Monitor and the DIP Lenders or further Order of the Court, such of their arrangements or agreements, whether oral or written, as the Applicants deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers to be on such terms as may be agreed upon between the Applicants and such counter-parties, or failing such agreement, with the consequences thereof to be dealt with in the Plan; and

(d) pursue all avenues of refinancing and offers for material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or sale,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

13. THIS COURT ORDERS that an Applicant shall provide each of the relevant landlords with notice of that Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to that Applicant's claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against an Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. THIS COURT ORDERS that until and including October 30, 2013, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of any of the Applicants, the Monitor, the DIP Lenders, the holders of the Bridge Notes (in such capacities, the "Bridge Lenders") or Equity Financial Trust Company (in its capacity as Trustee and Collateral Agent under the Bridge Notes, the DIP Facility and the First Lien Notes (as such term is defined in the Aziz Affidavit)) (in such capacity, the "Trustee") or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. This Paragraph 15 shall apply to Proceedings commenced or continued against or in respect of the Trustee, DIP Lenders or the Bridge Lenders solely to the extent that such Proceedings relate to the DIP Lenders' or the Bridge Lenders' lending arrangements with the Applicants.

NO EXERCISE OF RIGHTS OR REMEDIES

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Applicants, except with

the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, including without limitation National Bank and Paymentech, TIO Networks Corp., payroll services, insurance, transportation services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by any of the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with normal payment practices of that Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such

obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. THIS COURT ORDERS that each Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of that Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of $550,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 53 and 55 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) an Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

APPOINTMENT OF MONITOR

24. THIS COURT ORDERS that Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and

obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) assist the Applicants, to the extent required by the Applicants, in its dissemination, to the DIP Lenders and its counsel at the times required under the DIP Loan Agreement (as such term is defined in the Aziz Affidavit) of financial and other information as agreed to between the Applicants and the DIP Lenders which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lenders;

(d) advise the Applicants in its preparation of the Applicants' cash flow statements and reporting required by the DIP Lenders, which information shall be reviewed with the Monitor and delivered to the DIP Lenders and their counsel on a periodic basis at the times required in the DIP Loan Agreement, or as otherwise agreed to by the DIP Lenders;

(e) advise the Applicants in their development of the Plan and any amendments to the Plan;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) assist the Applicants, to the extent required by the Applicants, with their restructuring activities and/or any sale of the Property and the Business or any part thereof;

(i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(j) perform such other duties as are required by this Order or by this Court from time to time.

26. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

27. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. THIS COURT ORDERS that the Monitor shall provide any creditor of an Applicant and the DIP Lenders with information provided by that Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by any of the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

29. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or

obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. THIS COURT ORDERS that, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash Flow Forecast, and the prior approval of the Chief Restructuring Officer (i) the Monitor, counsel to the Monitor, counsel to the Applicants, counsel to the DIP Lenders and the Ad Hoc Committee of Noteholders, and the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings; and (ii) the Financial Advisors and the Chief Restructuring Officer (each as defined in the Aziz Affidavit) shall be paid their reasonable fees and disbursements, in each case in accordance with the terms of the Engagement Letters (as defined in the Aziz Affidavit). The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders on a weekly basis, or on such basis as otherwise agreed by the Applicants and the applicable payee. The Applicants are hereby authorized and directed to pay amounts owing to the Chief Restructuring Officer in accordance with the terms of its Engagement Letter monthly in advance.

31. THIS COURT ORDERS that if requested by the Applicants, the DIP Lenders, or this Court, the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, the Applicants' counsel, counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders, the Financial Advisors, the Chief Restructuring Officer and counsel to any board of directors of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of $10,000,000, as security for their professional fees and disbursements incurred (i) at the standard rates and charges of the Monitor and such counsel both before and after the making of this Order in respect of these proceedings; or (ii) as prescribed in the Engagement Letters in the case of the Financial Advisors and the Chief Restructuring Officer. The Administration Charge shall have

the priority set out in paragraphs 53 and 55 hereof.

APPROVAL OF FINANCIAL ADVISORS' ENGAGEMENT

33. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of the Financial Advisors on the terms and conditions set out in the FA Engagement Letters (as such term is defined in the Aziz Affidavit).

34. THIS COURT ORDERS that the FA Engagement Letters be and are hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

35. THIS COURT ORDERS that any obligations of the Applicants under the FA Engagement Letters, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

36. THIS COURT ORDERS that any claims of the Financial Advisors under the FA Engagement Letters shall be treated as unaffected in any Plan.

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

37. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of BlueTree Advisors II Inc. as Chief Restructuring Officer (in such capacity, the "Chief Restructuring Officer") on the terms and conditions set out in the CRO Engagement Letter (as such term is defined in the Aziz Affidavit).

38. THIS COURT ORDERS that the CRO Engagement Letter be and is hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

39. THIS COURT ORDERS that any obligations of the Applicants under the CRO Engagement Letter, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

40. THIS COURT ORDERS that any claims of the Chief Restructuring Officer under the CRO Engagement Letter shall be treated as unaffected in any Plan.

DIP FINANCING

41. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to

obtain and borrow under a credit facility (the "DIP Facility") from the DIP Lenders in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Facility shall not exceed the amounts prescribed in the DIP Loan Agreement.

42. THIS COURT ORDERS that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Loan Agreement.

43. THIS COURT ORDERS that the DIP Facility and the DIP Loan Agreement be and are hereby approved.

44. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Loan Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

45. THIS COURT ORDERS that the DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the "**DIP Lenders' Charge**") on the Property as security for any and all obligations of the Applicants under the DIP Loan Agreement and the Definitive Documents (including on account of principle, interest, fees, expenses and other liabilities) (the aggregate of all such obligations being the "**DIP Indebtedness**"), which DIP Lenders' Charge shall be in the aggregate amount of the DIP Indebtedness outstanding at any given time. The DIP Lenders' Charge shall not secure an obligation that exists before this Order is made. The DIP Lenders' Charge shall have the priority set out in paragraphs 53 and 55 hereof.

46. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

(a) the DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP Lenders' Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the DIP Loan Agreement, the Definitive Documents or the DIP Lenders' Charge (A) the DIP Lenders may cease making advances to the Applicants, (B) the DIP Lenders may (i) set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the DIP Loan Agreement, the Definitive Documents, or the DIP Lenders' Charge and make demand, accelerate payment and give other notices, and (ii) following an Order of the Court, granted on 5 days' notice to the Applicants and the Monitor, exercise any and all of their respective rights and remedies against the Applicants or the Property under or pursuant to the DIP Loan Agreement, the Definitive Documents, the DIP Lenders' Charge, or the *Personal Property Security Act* of Ontario or any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants;

(c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property; and

(d) notwithstanding any other provision hereof, the DIP Lenders shall not take any steps to enforce their security granted in connection with DIP Loan Agreement or the Definitive Documents without prior approval of the Court.

47. THIS COURT ORDERS AND DECLARES that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by any of the Applicants under the CCAA, or any proposal (the "Proposal") filed by any of the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

48. THIS COURT ORDERS that the obligations under ~~the Bridge Notes,~~ the DIP Loan Agreement and the Definitive Documents shall be treated as unaffected by any Plan or any Proposal and the Applicants shall not file a Plan in these proceedings or any Proposal that does not provide for the indefeasible payment in full in cash of the obligations outstanding in respect of ~~the Bridge Notes,~~ the DIP Loan Agreement and the Definitive Documents as a pre-condition

to the implementation of any such Plan.

49. THIS COURT ORDERS that, subject to the terms of this Order, including without limitation paragraph 11, the Applicants are hereby authorized and empowered to take all steps and actions in respect of, and comply with all of their obligations pursuant to, the Bridge Notes and such other agreements, security documents, guarantees and other definitive documents as executed in connection with the Bridge Notes.

KEY EMPLOYEE RETENTION PLAN

50. THIS COURT ORDERS that the payments to be made pursuant to the Key Employee Retention Plan (as such terms are defined in the Aziz Affidavit) as described in the supplemental employment agreements of the Key Employees (as such term is defined in the Aziz Affidavit), which are attached as confidential exhibits to the Aziz Affidavit, are hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms of such supplemental employment agreements.

51. THIS COURT ORDERS that the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the "**KERP Charge**") on the Property, which charge shall not exceed an aggregate amount of $600,000, to secure the amounts payable to the Key Employees pursuant to paragraph 50 of this Order.

52. THIS COURT ORDERS that the KERP Charge shall have the priority set forth in paragraphs 53 and 55.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

53. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the DIP Lenders' Charge, and the KERP Charge as among them and relative to the liens securing the obligations under the First Lien Notes and the Bridge Notes, shall be as follows:

(a) First, liens securing obligations under the First Lien Notes and the First Lien Notes Indenture (as defined in the Aziz Affidavit) (collectively, the "First Lien Notes Liens");

(b) Second, the Administration Charge and the KERP Charge on a *pari passu* basis;

(c) Third, the Directors' Charge;

(d) Fourth, the DIP Lenders' Charge and the liens securing the obligations under the Bridge Notes, on a *pari passu* basis.

54. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the KERP Charge or the DIP Lenders' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

55. THIS COURT ORDERS that each of the Directors' Charge, the Administration Charge, the KERP Charge and the DIP Lenders' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges 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 with the exception of the First Lien Notes Liens and the Encumbrances ranking in priority to the First Lien Notes Liens.

56. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Lenders' Charge, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lenders and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

57. THIS COURT ORDERS that the Directors' Charge, the Administration Charge, the KERP Charge, the Definitive Documents and the DIP Lenders' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by an Applicant of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from an Applicant entering into the DIP Loan Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, the DIP Loan Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

58. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in an Applicant's interest in such real property leases.

59. THIS COURT ORDERS that the deposit accounts held by Paymentech and containing cash collateral pledged to Paymentech in an amount not to exceed $1,200,000 shall be excluded from the DIP Lenders' Charge, the Administration Charge, the KERP Charge and the Directors' Charge and shall be held as security for any Chargebacks (as such term is defined in the Select Merchant Application and Agreement dated as of April 16, 2010 between Wireless and Paymentech) arising after the date of this Order.

SERVICE AND NOTICE

60. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner

prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against an Applicant of more than $1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder. The list included in subparagraph (C) above shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual.

61. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. THIS COURT ORDERS that the Applicants, the Monitor, the DIP Lenders, the Ad Hoc Committee of Noteholders and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.ey.com/ca/mobilicity.

SEALING OF CONFIDENTIAL EXHIBITS

63. THIS COURT ORDERS that Confidential Exhibits "K", "L" and "W" through "DD" be and are hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

64. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

65. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting

as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of an Applicant, the Business or the Property.

66. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

67. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

68. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the DIP Lenders shall be entitled to rely on this Order as issued for all advances made under the DIP Loan Agreement and Definitive Documents up to and including the date this Order may be varied or amended.

69. THIS COURT ORDERS that, notwithstanding the immediately preceding paragraph, no order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the DIP Loan Agreement and the Definitive Documents, including, without limitation, Paragraphs 42 to 49, and 53 to 58, inclusive, unless notice of a motion is served on the Monitor, the Applicants and the DIP Lenders, returnable no later than October ~~9~~, 2013.

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70. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

SEP 3 0 2013

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Court File No:

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

INITIAL ORDER

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Email: Evan.Cobb@nortonrosefulbright.com

Lawyers for the Applicants

DOCSTOR: 2824745\1

35

Tab B

This is Exhibit "**B**" to the Affidavit of Ryan Lausman, sworn before me this 18th day of February, 2014

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

Court File No. CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	THURSDAY, THE 19th
	)	
JUSTICE NEWBOULD	)	DAY OF DECEMBER, 2013

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

ORDER
(Stay Extension Order)

THIS MOTION, made by the Applicants for an order, *inter alia*:

(a) that the time for service of the Notice of Motion, Motion Record and the Third Report of the Monitor, Ernst & Young Inc., (the "**Monitor**") dated December 13, 2013 (the "**Third Report**") is abridged and validated so that this Motion is properly returnable today and dispensing with further service thereof; and

(b) approving an extension of the Stay Period, as defined in paragraph 15 of the Initial Order issued by this Court on September 30, 2013, as amended by the Order of this Court issued October 24, 2013, to and including February 18, 2014,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of William B. Aziz sworn December 12, 2013, the exhibits thereto and the Third Report, and on hearing submissions of counsel for the Applicants, the Monitor, and such other counsel present, no one else appearing although duly served as appears from the affidavit of service of Alexander Schmitt sworn on December 12, 2013,

Service

1. THIS COURT ORDERS that the time for service of the Notice of Motion, Motion Record and Third Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

Stay Extension

2. THIS COURT ORDERS that the Stay Period, as defined in paragraph 15 of the Initial Order issued by this Court on September 30, 2013, as amended by the Order of this Court issued October 24, 2013, be and is hereby extended up to and including February ~~18~~ 26, 2014.

DEC 1 8 2013

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 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Court File No: CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

O R D E R

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Lawyers for the Applicants

DOCSTOR: 2886239\2A

Tab C

This is Exhibit "**C**" to the Affidavit of Ryan Lausman,
sworn before me this 18th day of February, 2014

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

ORDER N0. 2012.028.0

This Order No. 2012.028.0 for Additional Services dated Jan 01 , 2013 (the "Order") shall be governed by the terms and conditions of the Managed Services Agreement dated October 15, 2009 by and between Data & Audio-Visual Enterprises Wireless Inc. ("Mobilicity"), Amdocs Canadian Managed Services, Inc., and Amdocs Software Systems Limited (the "Agreement"). Any terms and conditions in this Order that modify or change the terms and conditions of such Agreement shall apply to this Order only. Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

1. Description of the Additional Services:

At Mobilicity's request, Amdocs will perform one-time design, development and testing services required to implement changes in support of the requirements of Mobilicity CR 317 PwC Year End Audit described as follows;

The following functionalities will be introduced as part of this CR:

- For IT Audit performed by PwC, Amdocs is will provide the below items to Mobilicity.

ITGC Domain	Documentation Request
Access Security	List of current users accounts for the Amdoc application including user II date, created by, valid to/from date, last logon date.
Access Security	Evidence of the latest User Access Review executed by management for cı Amdoc.
Access Security	Screenshot of the password requirements (min. length, etc.) for AMDOC
Access Security	Screen shot of password parameters for Amdoc Database.
Access Security	Names of Amdoc Database administrators
Change Management	Documented Change Management Process and Procedure for making dir Amdoc
Change Management	List of All AMDOC change requests for the current fiscal year.
Change Management	List of People who are authorized to approve a change request for Amdoc
Change Management	Evidence of separate development, test and production environments foı
Computer Operations	Description of the back up procedures for Amdoc
Computer Operations	Procedure for making changes to batch jobs. List of all batch job changes Amdoc.
Computer Operations	Screenshots of backup schedule configuration for AMDOC.

2. Term of Order:

Per prior verbal and email agreement, the development work pursuant to this Order commenced on Jan 01, 2013. The requested services will be deployed on Jan 30, 2013. Post deployment, the changes will be maintained by the defect resolution process as specified in the Agreement This Order supersedes and replaces any previous verbal, email, or other written agreements relating to the subject matter of this Order.

3. Designated Amdocs Personnel to Perform the Additional Services:

The Additional Services specified in this Order will be performed by key members of the Amdocs CBU and GSS organizations.

4. Location:

The Additional Services will be performed remotely at Amdocs facilities in Toronto, Champaign and India

5. Price:

For the services provided under this Order, Amdocs will charge the agreed fixed price of Three thousand and three hundred Canadian dollars ($3,300 CAD) (the "Fixed Price")

6. Payment:

The Fixed Price will be invoiced in full on or about Feb 01, 2013. All payments by Mobilicity will be in accordance with the Agreement.

7. Project Manager/Point of Contact:

The Amdocs project manager and point of contact is Orna Rabinovitz

8. Additional Terms:

None

IN WITNESS WHEREOF, the Parties have caused this Order to be executed effective as of the date specified above, by duly authorized representatives:

AMDOCS SOFTWARE SYSTEMS LIMITED

By: ______________________
(Signature)

Name: ______________________
(Typed or Printed)

Title: ______________________
(Typed or Printed)

Date: ______________________

AMDOCS CANADIAN MANAGED SERVICES INC.

By: ______________________
(Signature)

Name: Michael Couture
(Typed or Printed)

Title: Sr. VP & CBE
(Typed or Printed)

Date: ______________________

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

By: ______________________
(Signature)

Name: Ryan Lausman
(Typed or Printed)

Title: VP Systems
(Typed or Printed)

Date: ______________________

By: ______________________
(Signature)

Name: Stewart Lyons
(Typed or Printed)

Title: Chief Operating Officer
(Typed or Printed)

Date: ______________________

Tab D

This is Exhibit "**D**" to the Affidavit of Ryan Lausman,
sworn before me this 18^{th} day of February, 2014

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

ORDER N0. 2013.001.0

This Order No. 2013.001.0 for Additional Services dated Mar 18, 2013 (the "Order") shall be governed by the terms and conditions of the Managed Services Agreement dated October 15, 2009 by and between Data & Audio-Visual Enterprises Wireless Inc. ("Mobilicity"), Amdocs Canadian Managed Services, Inc., and Amdocs Software Systems Limited (the "Agreement"). Any terms and conditions in this Order that modify or change the terms and conditions of such Agreement shall apply to this Order only. Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

1. **Description of the Additional Services:**

At Mobilicity's request, Amdocs will perform one-time design, development and testing services required to implement changes in support of the requirements of Mobilicity CR 274 Support Micro SIM load described as follows;

The following functionalities will be introduced as part of this CR :

1. Ability to support a new SKU for Micro SIM
2. Enhance SIM load job to allow loading Micro SIM in inventory tables.
3. Ability to view Micro SIM in ASAP.

2. **Term of Order:**

Per prior verbal and email agreement, the development work pursuant to this Order commenced on Mar 05, 2013. The requested services will be deployed on Mar 30, 2013. Post deployment, the changes will be maintained by the defect resolution process as specified in the Agreement This Order supersedes and replaces any previous verbal, email, or other written agreements relating to the subject matter of this Order.

3. **Designated Amdocs Personnel to Perform the Additional Services:**

The Additional Services specified in this Order will be performed by key members of the Amdocs CBU and GSS organizations.

4. **Location:**

The Additional Services will be performed remotely at Amdocs facilities in Toronto, Champaign and Israel

5. **Price:**

For the services provided under this Order, Amdocs will charge the agreed fixed price of seventeen thousand Canadian dollars ($17, 000.00 CAD) (the "Fixed Price") .

6. Payment:

The Fixed Price will be invoiced by Amdocs on April 01, 2013, All payments by Mobilicity will be in accordance with the Agreement.

7. Project Manager/Point of Contact:

The Amdocs project manager and point of contact is Debanjan Sen

8. Additional Terms:

None

IN WITNESS WHEREOF, the Parties have caused this Order to be executed effective as of the date specified above, by duly authorized representatives:

AMDOCS SOFTWARE SYSTEMS LIMITED		**AMDOCS CANADIAN MANAGED SERVICES INC.**	
By:	____________________ (Signature)	By:	____________________ (Signature)
Name:	____________________ (Typed or Printed)	Name:	Michael Couture (Typed or Printed)
Title:	____________________ (Typed or Printed)	Title:	Sr. VP & CBE (Typed or Printed)
Date:	____________________	Date:	____________________

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

By:	____________________ (Signature)	By:	____________________ (Signature)
Name:	Ryan Lausman (Typed or Printed)	Name:	Stewart Lyons (Typed or Printed)
Title:	VP Systems (Typed or Printed)	Title:	Chief Operating Officer (Typed or Printed)
Date:	____________________	Date:	____________________

Tab E

This is Exhibit "**E**" to the Affidavit of Ryan Lausman, sworn before me this 18th day of February, 2014

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

ORDER N0. 2013.002.0

This Order No. 2013.002.0 for Additional Services dated March 18, 2013 (the "Order") shall be governed by the terms and conditions of the Managed Services Agreement dated October 15, 2009 by and between Data & Audio-Visual Enterprises Wireless Inc. ("Mobilicity"), Amdocs Canadian Managed Services, Inc., and Amdocs Software Systems Limited (the "Agreement"). Any terms and conditions in this Order that modify or change the terms and conditions of such Agreement shall apply to this Order only. Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

1. **Description of the Additional Services:**

At Mobilicity's request, Amdocs will perform one-time design, development and testing services required to implement changes in support of the requirements of Mobilicity CR 275 Filter MTRoam messages for SMS described as follows;

The following functionalities will be introduced as part of this CR :

1. Ability to identify MTRoam confirmation messages in SCP
2. Ability to filter MTRoam confirmation messages in SCP , thus stopping it to be forwarded to OLC .

2. **Term of Order:**

Per prior verbal and email agreement, the development work pursuant to this Order commenced on Mar 05, 2013. The requested services will be deployed on Mar 27, 2013. Post deployment, the changes will be maintained by the defect resolution process as specified in the Agreement This Order supersedes and replaces any previous verbal, email, or other written agreements relating to the subject matter of this Order.

3. **Designated Amdocs Personnel to Perform the Additional Services:**

The Additional Services specified in this Order will be performed by key members of the Amdocs CBU and GSS organizations.

4. **Location:**

The Additional Services will be performed remotely at Amdocs facilities in Toronto, Champaign and Israel

5. **Price:**

For the services provided under this Order, Amdocs will charge the agreed fixed price of fifteen thousand Canadian dollars ($15, 000.00 CAD) (the "Fixed Price") .

6. **Payment:**

The Fixed Price will be invoiced by Amdocs on April 01, 2013, All payments by Mobilicity will be in accordance with the Agreement.

7. **Project Manager/Point of Contact:**

The Amdocs project manager and point of contact is Debanjan Sen

8. **Additional Terms:**

None

IN WITNESS WHEREOF, the Parties have caused this Order to be executed effective as of the date specified above, by duly authorized representatives:

AMDOCS SOFTWARE SYSTEMS LIMITED		**AMDOCS CANADIAN MANAGED SERVICES INC.**	
By:	____________________ (Signature)	By:	____________________ (Signature)
Name:	____________________ (Typed or Printed)	Name:	Michael Couture (Typed or Printed)
Title:	____________________ (Typed or Printed)	Title:	Sr. VP & CBE (Typed or Printed)
Date:	____________________	Date:	____________________

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

By:	____________________ (Signature)	By:	____________________ (Signature)
Name:	Ryan Lausman (Typed or Printed)	Name:	Stewart Lyons (Typed or Printed)
Title:	VP Systems (Typed or Printed)	Title:	President and COO (Typed or Printed)
Date:	____________________	Date:	____________________

Tab F

This is Exhibit "**F**" to the Affidavit of Ryan Lausman,
sworn before me this 18th day of February, 2014

Adrienne J. Walls

Commissioner for Taking Affidavits

Adrienne Jean Walls, a Commissioner, etc.,
Province of Ontario,
while a Student-at-law.
Expires May 3, 2015.

Campbell, Andrea

REDACTED

From: Ami Citrin <Ami.Citrin@Amdocs.com<mailto:Ami.Citrin@Amdocs.com>>
Date: Wednesday, 6 March, 2013 11:27 AM
To: Ryan Lausman <ryan.lausman@mobilicity.ca<mailto:ryan.lausman@mobilicity.ca>>
Cc: Mickey Harary <mickey.harary@amdocs.com<mailto:mickey.harary@amdocs.com>>
Subject: Mobilicity CRs

Hi Ryan,

Currently we have an idle development team in Champaign which supposed to develop Mobilicity's CRs against the agreed 850K for this year.
Following our conversation, we will wait till March 15th and if we don't get any work orders we will release

the team.
This means that if there will be a need for development in the future we will need a heads up in order to reassign resources (which can takes few weeks).
Needless to say, there is no impact on the operational stream.

Thanks,

Ami Citrin
CIM - Amdocs@Mobilicity
Mobile: 647-926-4751
AMDOCS |EMBRACE CHALLENGEEXPERIENCE SUCCESS

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

Court File No: CV-13-10274-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AFFIDAVIT OF RYAN LAUSMAN
(SWORN FEBRUARY 18, 2014)

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Evan Cobb LSUC#: 55787N
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Email: Evan.Cobb@nortonrosefulbright.com

Fax: (416) 216-3930

Lawyers for the Applicants

55

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

Court File No: CV-13-10274-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

RESPONDING MOTION RECORD
OF THE APPLICANTS
(Motion returnable February 26, 2014)

NORTON ROSE FULBRIGHT CANADA LLP
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Fax: (416) 216-3930

Lawyers for the Applicants