

ONTARIO

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE REGIONAL) TUESDAY, THE 25TH DAY
)
SENIOR JUSTICE MORAWETZ) OF OCTOBER, 2016



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 COMARK INC.

Applicant

CCAA TERMINATION ORDER

THIS MOTION, made by 4240405 Canada Inc., formerly Comark Inc. (the "**Applicant**" or "**Comark**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order, *inter alia*, terminating these proceedings (the "**CCAA Proceedings**") and discharging Alvarez & Marsal Canada Inc. ("**A&M**") as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Tenth Report of the Monitor dated October 13, 2016 (the "**Tenth Report**") and on hearing the submissions of counsel for the Applicant and the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein;

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that, unless otherwise defined herein, capitalized terms used in this Order shall have the meaning given to them in the Tenth Report.

MONITOR'S REPORT, ACTIVITIES AND FEES

3. **THIS COURT ORDERS** that the Tenth Report and the activities of the Monitor described therein, be and are hereby approve.

4. **THIS COURT ORDERS** that (a) the fees and disbursements of the Monitor, as set out in the Affidavit of Alan J. Hutchens sworn October 11, 2016 (the "**Hutchens Affidavit**"), and (b) the fees and disbursements of Goodmans LLP ("**Goodmans**"), counsel to the Monitor, as set out in the Affidavit of Brian F. Empey sworn October 11, 2016 (the "**Empey Affidavit**"), respectively, incurred in connection with this proceeding, are hereby authorized and approved.

5. **THIS COURT ORDERS AND DECLARES** that the fees and disbursements of the Monitor and Goodmans, respectively that are not set out in the Hutchens Affidavit or the Empey Affidavit but have been or will be incurred in the performance of the duties of the Monitor are hereby authorized and approved up to a maximum of \$27,000.00 in the aggregate (plus applicable HST), and in that regard the Monitor shall provide to the Applicant an account or accounts for the fees and disbursements of the Monitor and Goodmans so incurred (the "**Actual**

Fees and Expenses”) and, for the avoidance of doubt, only the Actual Fees and Expenses shall be paid to the Monitor and Goodmans.

TERMINATION OF CCAA PROCEEDINGS

6. **THIS COURT ORDERS** that upon the filing of a certificate by the Monitor substantially in the form attached hereto as Schedule “A” (the “**Monitor’s Certificate**”) certifying that, to the knowledge of the Monitor, all matters to be attended to in connection with the CCAA Proceedings have been completed, the CCAA Proceedings shall be terminated without any other act or formality (the “**CCAA Termination Time**”), save and except as required under the provisions of this Order.

7. **THIS COURT ORDERS** that the Administration Charge (as defined in the Initial Order of this Court granted March 26, 2015 in the CCAA Proceedings) shall be and is hereby terminated, released and discharged at the CCAA Termination Time.

DISCHARGE OF THE MONITOR

8. **THIS COURT ORDERS** that effective at the CCAA Termination Time, A&M shall be and is hereby discharged from its duties as the Monitor and shall have no further duties or responsibilities as Monitor from and after the CCAA Termination time.

9. **THIS COURT ORDERS** that, notwithstanding its discharge and the termination of the CCAA Proceedings, A&M shall continue to have the benefit of the provisions of all Orders made in these CCAA Proceedings, including all approvals, protections and stays of proceedings in favour of A&M in its capacity as Monitor.

10. **THIS COURT ORDERS** that effective at the CCAA Termination Time, A&M is hereby forever discharged and released from any and all liability that A&M now or may hereafter have by reason of, or in any way arising out of, the acts and omissions of A&M while acting in its capacity as Monitor or relating to matters that were raised, or could have been raised, in the within proceedings, save and except for any gross negligence or wilful misconduct on its part.

11. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court and on prior written notice to the Monitor

GENERAL PROVISIONS

12. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature or any province and any court or any judicial, regulatory or administrative body of the United States and of any other nation or state, to act in aid of and be complementary to this Court in carrying out the terms of this Order.



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

OCT 25 2016

PER / PAR:



Schedule A – Form of Monitor’s Certificate

Court File No. CV15-10920-00CL

**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 COMARK INC.**

Applicant

MONITOR’S CERTIFICATE

RECITALS

A. Alvarez & Marsal Canada Inc. was appointed as the Monitor of the Applicant in the within CCAA Proceedings pursuant to an Order of the Ontario Superior Court of Justice (the “**Court**”) dated March 26, 2015 (as amended, the “**Initial Order**”).

B. Pursuant to the Order of this Court dated October ●, 2016 (the “**CCAA Termination Order**”), the Monitor shall be discharged and the CCAA Proceedings shall be terminated upon the filing of this Monitor’s Certificate with the Court.

C. Unless otherwise indicated herein, capitalized terms used in this Monitor’s Certificate shall have the meanings given to them in CCAA Termination Order.

THE MONITOR CERTIFIES the following:

1. To the knowledge of the Monitor, all matters to be attended to in connection with the CCAA Proceedings have been completed.

ACCORDINGLY, the CCAA Termination Time as defined in the CCAA Termination Order has occurred.

DATED at Toronto, Ontario this _____ day of _____, 2016.

**Alvarez & Marsal Canada Inc., in its capacity
as Monitor of the Applicant, and not in its
personal capacity**

Per: _____

Name:

Title:

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

MONITOR'S CERTIFICATE

GOODMANS LLP

Barristers & Solicitors

Bay Adelaide Centre

333 Bay Street, Suite 3400

Toronto, Canada M5H 2S7

Robert J. Chadwick LSUC# 35165K
rchadwick@goodmans.ca

Brian F. Empey LSUC# 30640G
bempey@goodmans.ca

Ryan Baulke LSUC# 66189O
rbaulke@goodmans.ca

Tel: 416.979.2211

Fax: 416.979.1234

Lawyers for the Monitor

**IN THE MATTER OF 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 COMARK INC.**

APPLICANT

Court File No. CV15-10920-00CL

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

**PROCEEDING COMMENCED AT
TORONTO**

CCAA TERMINATION ORDER

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Karin Sachar (LSUC #: 59944E)
Tel: 416.862.5949
Fax: 416.862.6666

Lawyers for the Applicant