

NO. S1610905
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985, c. C-44, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
8640025 CANADA INC. AND TELEPHONE DATA CENTRES INC.

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE
MR JUSTICE AFFLECK

)
)
)

WEDNESDAY, THE 21ST DAY OF
DECEMBER, 2016

ON THE APPLICATION of The Bank of Nova Scotia ("**BNS**"), Bell Canada, Northwestel Inc., Bell Mobility Inc., Bell Aliant Regional Communications Inc. (collectively the "**BCE Group**") and Cascade Divide Enterprises, Inc. ("**Cascade**") and Bond Mezzanine Fund III Limited Partnership ("**Bond**" and collectively the "**Secured Creditors**") coming on for hearing at Vancouver, British Columbia on the 21st day of December, 2016; AND ON HEARING H.C. Ritchie Clarke, Q.C., counsel for the Petitioners, H. Lance Williams, counsel for BNS, Magnus Verbrugge, counsel for the BCE Group, Daniel Hepburn, counsel for Cascade, and Ronald Argue, counsel for Bond, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed;

THIS COURT ORDERS THAT:

1. The time for service of the Notice of Application herein is abridged such that the Notice of Application is properly returnable today and service upon any interested party other than those parties on the service list maintained by the Monitor in this proceeding is dispensed with.

Extension of Stay

2. Except as modified herein, all relief granted in the Amended and Restated Initial Order pronounced November 30, 2016 (the "**ARIO**"), including the stay of proceedings, is hereby continued and extended to January 20, 2016.

Monitor

3. Boale Wood & Company ("**Boale Wood**") is discharged as the court-appointed monitor of the Petitioners in these proceedings (the "**Monitor**"), and together with their counsel are directed to forthwith pass their accounts in accordance with the ARIO.
4. Ernst & Young Inc. ("**EY**") is appointed as Monitor effective immediately, and the ARIO is amended *mutatis mutandis* to replace Boale Wood with EY as the Monitor.

Solicitation Process

5. The Monitor is authorised and directed as part of the Petitioners restructuring to carry out a process for the solicitation of all offers to invest in the Petitioners or to purchase all or part of the Petitioners' assets, whether as a going concern or otherwise (the "**Solicitation Process**") on the terms set out in this order and in accordance with the sales and investment solicitation plan (the "**Solicitation Plan**") to be prepared by the Monitor in consultation with the Petitioners and the Secured Creditors. The Monitor shall provide all parties to the service list with a copy of the Solicitation Plan by no later than January 16, 2016, and shall also file a copy of the Solicitation Plan with the Court in these proceedings. In determining the Solicitation Process and Solicitation Plan, the Monitor will review and evaluate the assets of the Petitioners, and the costs and values associated with the Business (as defined in the ARIO), to determine what it believes to be the most effective Solicitation Process, and whether certain aspects of the Business (as defined in the ARIO) should be discontinued or downsized. The Monitor will report its determinations to the Petitioners and the Secured Creditors.
6. The Monitor is authorized and directed to take such steps as are necessary to conduct the Solicitation Process and implement and execute the Solicitation Plan.
7. During the Solicitation Process, the Monitor, with the assistance of the Petitioners, will maintain a data-room (the "**Data Room**") which will include, to the extent available for the Petitioners' records, a detailed listing of the Petitioners assets and such other materials as the Monitor deems necessary to allow potential investors and purchasers to conduct such due diligence as those parties may require. Prior to being granted access to the Data Room, any interested party will be required to sign a form of confidentiality agreement in a form satisfactory to the Monitor. The Monitor, acting reasonably and with the input of the Petitioners, may refuse to grant any party access to the Data Room if the Monitor determines it is not in the best interests of the Solicitation Process or the stakeholders to do so. The Monitor shall maintain a record of any party denied access to the Data Room.
8. During the Solicitation Process, the Monitor will review and consider all offers made for investment in the Petitioners and for the purchase of all or any part of the Petitioners' assets. At the conclusion of the Solicitation Process, the Monitor shall advise and report to the Court:

- (a) details of the offers received; and
- (b) an analysis of which, if any, offer or transaction it believes offers the best recovery to the Petitioners' creditors and stakeholders.

The Monitor will also provide copies of all offers to the Secured Creditors upon each of them executing a confidentiality agreement in a form satisfactory to the Monitor.

9. Without limiting the powers and directions set out in the ARIO, the Petitioners are directed to fully cooperate with the Monitor in the Solicitation Process and to provide the Monitor with all information requested by it in conjunction with the Solicitation Process, including making available all personnel required by the Monitor.

Amendment to Charges

10. The Administration Charge (as defined in the ARIO) is increased from \$50,000 to \$100,000, and paragraphs 35 and 42 of the ARIO are amended accordingly. The Administration Charge shall be formed of two separate charges, the existing charge of \$50,000 (the "**Existing Admin Charge**") and a new charge of \$50,000 (the "**New Admin Charge**") which shall rank *pari passu* with each other. The Existing Admin Charge shall be security for the fees and disbursements of counsel to the Petitioners, Boale Wood and Boale Wood's counsel, on the terms set out in the ARIO. The New Admin Charge shall be security for the fees and disbursements incurred at the standard rates and charges of EY in its role as Monitor and its counsel, both before and after the making of this Order, which are related to the Petitioners' restructuring.
11. The amount that the Petitioners are authorised to borrow from the DIP Lender (as defined in the ARIO) is increased to \$1,603,000 on the terms set out in the commitment letter between the Petitioners and the DIP Lender dated December 21, 2016. The maximum amount of the DIP Lender's Charge (as defined in the ARIO) is increased to \$1,603,000.
12. All draws and advances from the DIP Lender to the Petitioners must be reviewed and approved by the Monitor prior to being advanced.
13. All disbursements by the Petitioners must be reviewed and approved by the Monitor prior to disbursement.

Payments to Telus and the BCE Group

14. The Monitor is authorized and directed to request and confirm a weekly draw in the sum of \$207,700 from the DIP Lender 3 days prior to it being due for pre-payment to Telus, Inc. ("**Telus**") and the BCE Group (collectively, the "**Network Providers**") for the provision of ongoing services after the NOI Date (as defined in the ARIO), and upon receipt to remit the same directly to the Network Providers as follows:

- (a) Telus: \$112,500; and
- (b) BCE Group: \$95,200 in aggregate, being:
 - (i) Bell Canada: \$79,000;
 - (ii) Northwestel Inc.: \$8,900;
 - (iii) Bell Mobility Inc.: \$4,900;
 - (iv) Bell Aliant Regional Communications Inc.: \$2,400,

(the "**Weekly Pre-Payments**"). The Network Providers will provide regular reconciliations of the actual amounts owing by the Petitioners for the services provided to them, and in any event not less than monthly (the "**Reconciliations**"). If the Weekly Pre-Payments for the period in the Reconciliations are greater than the amount incurred by the Petitioners for services in that period (a "**Surplus**"), the Surplus will be applied as a credit to the subsequent Weekly Pre-Payments or returned to the Monitor at the Monitor's request. If the Weekly Pre-Payments for the period in the Reconciliations are less than the amount incurred by the Petitioners for services in that period (a "**Shortfall**"), the Monitor will request the amount of the Shortfall from the DIP Lender with its next request and remit the Shortfall to the respective Network Provider with the next Weekly Pre-Payments.

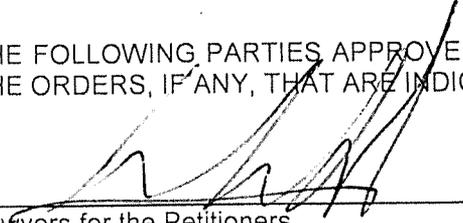
- 15. In no case may the Weekly Pre-Payments be applied to or set-off against debts accrued or owing by the Petitioners to the Network Providers prior to the NOI Date.
- 16. If any of the Weekly Pre-Payments are not remitted to the Network Providers or the Monitor is unable to confirm the draw in accordance with paragraph 14 above, whether as a result of a default under the Commitment Letter or Definitive Documents or otherwise, then the Network Providers, or any of them, shall be entitled to deliver notice to the Petitioners, the Monitor and Secured Creditors of such non-payment (the "**Default Notice**"). If the Weekly Pre-Payment is not delivered within 72 hours of delivery of a Default Notice by one or more of the Network Providers, then notwithstanding any term of the ARIO such Network Providers are no longer required to provide any further data, network or other communication services to the Petitioners.

Endorsement

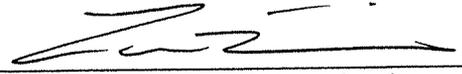
- 17. Endorsement of this Order by counsel appearing, other than counsel for the Petitioners and the

Secured Lenders, is dispensed with.

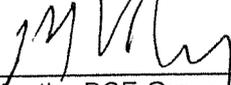
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Lawyers for the Petitioners
Lunny Atmore LLP
(H.C. Ritchie Clark, O.C.)



Lawyers for The Bank of Nova Scotia
DLA Piper (Canada) LLP
(H. Lance Williams/Mary I.A. Buttery)



Lawyers for the BCE Group
Borden Ladner Gervais LLP
(Magnus Verbrugge)

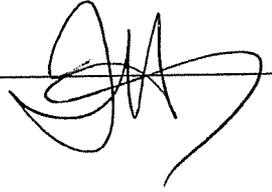


Lawyers for Cascade Divide Enterprises, Inc.
Kornfeld LLP
(Daniel Hepburn)



Lawyers for Bond Mezzanine Fund III
Limited Partnership
Munro & Crawford
(Ronald J. Argue)

BY THE COURT 

REGISTRAR  

SCHEDULE "A"

COUNSEL LIST	
NAME	PARTY REPRESENTED
Julien Dawson	Petitioners
Jeremy West	Boale Wood & Company
John Sandrelli & Jordan Schultz	Telus Communications Company
Peter Reardon	SBA Canada ULC