

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) FRIDAY THE 29th
)
JUSTICE MARROCCO) DAY OF APRIL, 2011



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 1484558 ONTARIO INC.,
TREKLOGIC INC., 4386396 CANADA INC., 4386370
CANADA INC. and PROTEC EMPLOYMENT
SERVICES LIMITED

APPLICANTS

ORDER
(Termination of CCAA Proceeding)

THIS MOTION, made by Deloitte & Touche Inc. in its capacity as the Court-Appointed monitor (the "**Monitor**") of 1484558 Ontario Inc. (formerly Brainhunter Inc.), 4386396 Canada Inc. (formerly Brainhunter Canada Inc.), 4386370 Canada Inc. (formerly Brainhunter (Ottawa) Inc.), Protec Employment Services Ltd. and Treklogic Inc. (together, the "**Applicants**") for the relief set out in the Notice of Motion dated April 21, 2011 was heard this day at 330 University Avenue, Toronto, Ontario.

UPON READING the Eleventh Report of the Monitor dated April 21, 2011 ("**Eleventh Report**") and the Monitor's Supplemental Report to the Eleventh report dated April 27, 2011 (together with the Eleventh Report, the "**Report**"), and upon hearing the submissions from the Monitor's counsel, no one else appearing although service was properly made upon the Service List:

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the materials therein be and is hereby abridged, if necessary, and that all parties requiring notice of this Motion have been duly served with notice thereof, and that the service including the form, manner and time thereof be and is hereby validated, and that further service thereof be and is hereby dispensed with.
2. **THIS COURT ORDERS** that the Report and the activities of the Monitor as more particularly described in the Report are hereby ratified and approved.
3. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings ascribed thereto in the Report.
4. **THIS COURT ORDERS** that the Monitor's Statement of Receipts and Disbursements for each of the CCAA Fund and the Escrow Fund for the period from December 16, 2010 to April 13, 2011, attached as Exhibits "N" and "O" respectively to the Eleventh Report, are hereby approved.
5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor's legal counsel, as set out in the Report and the Moffat Affidavit attached as an exhibit thereto, are hereby authorized and approved.
6. **THIS COURT ORDERS** that the Monitor be and it is hereby authorized to apply the remaining funds held by the Monitor on account of the CCAA Fund in payment of the fees and disbursements of its legal counsel and agents in the amounts set out in the Report.

Payment of Excess Escrow Funds

7. **THIS COURT ORDERS** that the Monitor is authorized and directed to pay to Zylog Systems (Canada) Ltd. (“Zylog”) or as Zylog may direct the Excess Escrow Funds in the amount of \$146,628.00, being the balance of the Escrow Fund after deduction of the amount of the Holdback in the amount of \$10,000.00.

8. **THIS COURT ORDERS** that the Monitor is authorized to retain the Holdback to satisfy any claims which may form part of the Priority Claim Amount.

9. **THIS COURT ORDERS AND DECLARES** that payments by the Monitor from the Escrow Fund including, without limitation, payment to Zylog of the Excess Escrow Funds, as well as any part of the Holdback which the Monitor may pay to Zylog in accordance with this Order, shall not constitute a “distribution” for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada) or any other similar provincial or territorial tax legislation (collectively, the “**Tax Statutes**”), and the Monitor in making any such payments is not “distributing”, nor shall it be considered to “distribute” nor to have “distributed”, such funds for the purpose of the Tax Statutes and the Monitor shall not incur any liability under the Tax Statutes in respect of its making any payments from the Escrow Fund and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of payments made by the Monitor from the Escrow Fund and any claims of this nature are hereby forever barred.

Payment of Costs Fund

10. **THIS COURT ORDERS** that the Monitor is authorized and directed to pay the Costs Fund in accordance with the Endorsement of the Honourable Mr. Justice Wilton-Siegel dated April 20, 2011 as follows:

- (i) \$5,124.00 to Zylog Canada;
- (ii) \$3,777.50 to Fraser Milner Casgrain LLP in trust for the ad hoc committee of Noteholders; and
- (iii) \$1,098.50 to Breakwall.

Discharge of the Monitor

11. **THIS COURT ORDERS** that, subject to the execution and filing with the Court of the Discharge Certificate in the form attached as Schedule “A” hereto, the appointment of Deloitte & Touche Inc. as Monitor in this CCAA proceeding commenced pursuant to the Initial Order of the Honourable Mr. Justice Newbould dated December 2, 2009, as amended (the “**First Amended and Restated Initial Order**”), be and is hereby terminated and Deloitte & Touche Inc. is discharged in its capacity as Monitor from any further obligations pursuant to the Escrow Agreement or the Orders made in this CCAA proceeding including, without limitation, the Order of the Honourable Madam Justice Karakatsanis dated February 26, 2010 (the “**Expansion of Powers Order**”), provided that the Monitor shall have the authority from and after the date of this Order to take all steps reasonably necessary in the Monitor’s opinion, to continue to complete the administration of the estates of the Applicants in accordance with the Expansion of Powers Order including, without limitation,

- (a) to obtain Clearance Certificates and close the remaining Remittance Accounts of any of the Applicants;
- (b) to resolve the Notices of Assessment;
- (c) to pay from the Holdback any claim which forms part of the Priority Claim Amount; and
- (d) to pay to Zylog or as Zylog may direct any remaining part of the Holdback in the Monitor's possession upon the earlier of, (i) the date the Monitor completes to its satisfaction the administration of the Applicants' estates in accordance with the Expansion of Powers Order, including resolving the Notices of Assessment, closing the Remittance Accounts and receipt by the Monitor of any and all Clearance Certificates; and (ii) the date the Monitor determines in its sole opinion that it will be unable within a reasonable period of time to complete the administration of the estates of the Applicants in accordance with the Expansion of Powers Order, including resolving the Notices of Assessment, closing the Remittance Accounts and obtaining the Clearance Certificates.

12. **THIS COURT ORDERS** that the Monitor shall be authorized and directed to execute and file the Discharge Certificate with the Court upon the earlier of, (i) the date the Monitor completes to its satisfaction the administration of the estates of the Applicants in accordance with the Expansion of Powers Order and the terms of this Order, including resolving the Notices of Assessment, closing the Remittance Accounts and obtaining the Clearance Certificates; and (ii) the date the Monitor determines in its sole opinion that it will be unable within a reasonable period of time to complete the administration of the estates of the Applicants in accordance with

the Expansion of Powers Order and the terms of this Order, including resolving the Notices of Assessment, closing the Remittance Accounts and obtaining the Clearance Certificates.

13. **THIS COURT ORDERS** that the Monitor shall have no obligation or liability to pay any claim which may form part of the Priority Claim Amount in excess of the amount of the Holdback in the Monitor's possession from time to time.

14. **THIS COURT ORDERS** that the Escrow Agreement shall terminate upon the earlier of: (i) the date the Monitor pays to Zylog or as Zylog may direct any remaining part of the Holdback in the Monitor's possession in accordance with the terms of this Order; and (ii) the date the Monitor has paid out the full amount of the Holdback on account of Priority Claim Amounts in accordance with the terms of the Escrow Agreement. From and after termination of the Escrow Agreement, the Monitor shall have no obligation to pay from the Holdback any Priority Claim Amount or any other amounts subject to the Directors' Indemnity.

15. **THIS COURT ORDERS** that from and after filing of the Discharge Certificate with the Court, the Monitor may cease taking any further steps to complete the administration of the estates of the Applicants in accordance with the Expansion of Powers Order or otherwise.

16. **THIS COURT ORDERS AND DECLARES** that, subject to compliance with the terms hereof, Deloitte & Touche Inc. is hereby released and discharged from any and all liability that Deloitte & Touche Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Deloitte & Touche Inc. while acting in its capacity as Monitor herein, save and except for any gross negligence or wilful misconduct on the Monitor's part. Without limiting the generality of the foregoing, Deloitte & Touche Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have

been raised, in the within CCAA proceeding, save and except for any gross negligence or wilful misconduct on the Monitor's part.

17. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights and protections in favour of the Monitor at law or pursuant to the First Amended and Restated Initial Order or any other Orders made in this proceeding, all of which are expressly continued and confirmed.

18. **THIS COURT ORDERS** that (i) in carrying out the terms of this Order, the Monitor shall have all of the protections given to it by the CCAA and the First Amended and Restated Initial Order and any other Orders made in this proceeding, including the stay of proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part; and (iii) the Monitor shall be entitled to rely upon the books and records of the Applicants and shall not be liable for any claims or damages resulting from any errors or omissions in such books and records.

Termination of the CCAA Proceeding

19. **THIS COURT ORDERS** that, except as expressly set out in this Order, the CCAA proceeding in respect of the Applicants and the provisions of the First Amended and Restated Initial Order be and are hereby terminated, provided that the Stay Period shall continue with respect to the Monitor until the Monitor has filed the Discharge Certificate with the Court.

20. **THIS COURT ORDERS** that, upon the Monitor filing the Discharge Certificate with the Court, all charges upon the Property of the Applicants created by the First Amended and

Restated Initial Order and any other Order of the Court in this proceeding including, without limitation, the Administration Charge, shall be released and discharged.

21. **THIS COURT ORDERS** that the costs of the Monitor in preparation of this motion and of these proceedings, up to and including the hearing of this motion and the entry of this Order (including applicable goods and services tax), be paid to the Monitor from the CCAA Fund.

22. **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 Monitor and its 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

APR 29 2011

PREP/PA:

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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 1484458 ONTARIO INC., TREKLOGIC INC., 4386396
CANADA INC., 4386370 CANADA INC., and PROTEC EMPLOYMENT SERVICES LIMITED

Applicants

Court File No.: 09-8482-00CL

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

Proceedings commenced at **Toronto**

ORDER

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