

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

)

TUESDAY, THE 11TH

JUSTICE

NEUBOLD

)

)

DAY OF APRIL, 2017



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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 1462598
ONTARIO INC., carrying on business as TRICON FILMS AND TELEVISION, AND
THE OTHER COMPANIES LISTED IN SCHEDULE "A"

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by Tricon Television82 Inc. (the "CC Entity") and the other Applicants in this proceeding, for an order, *inter alia*, approving the transactions (the "Transactions") contemplated by an agreement of purchase and sale (including the schedules thereto, the "Sale Agreement") between certain of the Applicants (the "Vendors") and Sonar Canada Inc. (the "Purchaser") dated April 4, 2017 and attached as Exhibit "E" to the Fifth Report to Court of KSV Kofman Inc. as court-appointed monitor (the "Monitor") dated April 5, 2017 (the "Report"), and vesting in the Purchaser the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Applicants, and the Report and on hearing the submissions of counsel for the Applicants, the Monitor and SunTrust Bank ("SunTrust"), no one appearing for any other person on the service list, although properly served as appears from the affidavit of Amy Casella sworn April 6, 2017, filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion, the Motion Record and the Report is hereby abridged and that this Motion is properly returnable today and that service, including form, manner and time that such service was actually effected on all parties, is hereby validated, and where such service was not effected such service is hereby dispensed with.
2. THIS COURT ORDERS AND DECLARES that capitalized terms used and not defined in this Order shall have the meaning given to them in the Purchase Agreement.
3. THIS COURT ORDERS AND DECLARES that the Transactions are commercially reasonable and in the best interests of the Applicants and their stakeholders, the Transactions are hereby approved, and the execution of the Sale Agreement and the License Agreement by the Vendors is hereby authorized, approved and, in the case of the Sale Agreement, ratified, with such minor amendments as the Applicants may deem necessary. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents (including the Services Agreement) as may be necessary or desirable for the completion of the Transactions, including for the conveyance of the Purchased Assets to the Purchaser and the grant of the Licensed Rights (as defined below) to the Purchaser.
4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule B hereto (the "Monitor's Certificate"), all of the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Wilton-Siegel dated December 12, 2016, as amended by Order of the Honourable Justice Wilton-Siegel dated December 20, 2016, and including the Amended and Restated Initial Order of the Honourable Justice Wilton-Siegel dated December 12, 2016, and by the Order of the Honourable Justice Hailey dated February 28, 2017 (the "Initial Order"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario)

(“PPSA”) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances listed on Schedule C), (iii) any shareholders agreements and shareholder declarations that may apply to the CC Entity (the “Shareholders Agreements”); and (iv) any equity securities, rights, claims, options, warrants, restricted stock units or other securities convertible into or exchangeable into equity securities in the capital of the CC Entity (the “Options”); and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets, and all Shareholder Agreements and Options are hereby terminated and of no force or effect with respect to the Purchased Shares or the CC Entity.

5. THIS COURT ORDERS that, without limiting the provision or effect of paragraph 4 hereof, upon delivery of the Monitor’s Certificate to the Purchaser, the following claims and encumbrances shall be fully and finally released, discharged, and expunged as against the CC Entity and its assets, undertaking and properties:

- (a) all Claims and Encumbrances against the CC Entity or its assets, undertakings or property, on the one hand, and any one or more of the other Applicants or their assets, undertakings or properties, on the other hand, whether on a joint and/or several basis (which, for certainty, does not include Claims and Encumbrances that are solely against the CC Entity or its assets, undertakings and properties);
- (b) all encumbrances and charges created by the Initial Order; and
- (c) all Liens, Claims and Encumbrances relating to any indebtedness or obligations of the Applicants to SunTrust;

provided that nothing in this paragraph 5 shall affect any Liens, Claims, Encumbrances or charges against any of the Applicants other than the CC Entity or their assets, or against the net proceeds of the Transactions.

6. THIS COURT ORDERS that, upon delivery of the Monitor’s Certificate to the Purchaser, the Monitor (or its legal counsel or agents) is hereby empowered, authorized and directed to forthwith complete all necessary filings and other steps required to discharge all registrations against the Purchased Assets and the CC Entity and, to the extent permitted in the

preceding paragraph or pursuant to the Sale Agreement, the assets, undertakings or property of the CC Entity, pursuant to the PPSA or any other personal property security registry system or any intellectual property registry system, and shall forthwith after completion of same deliver to the Purchaser evidence that all such discharges have been completed.

7. THIS COURT ORDERS that, upon delivery of the Monitor's Certificate to the Purchaser, SunTrust is hereby directed to release or cause to be released, as applicable, the share certificates representing the Purchased Shares to the Purchaser.

8. THIS COURT ORDERS that, upon and following delivery of the Monitor's Certificate to the Purchaser, the Purchaser shall be entitled to hold and exercise the rights granted to it in the License Agreement (the "Licensed Rights"), and to receive and hold all proceeds therefrom, free and clear of all Claims and Encumbrances.

9. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds received from the sale of the Purchased Assets and the grant of the Licensed Rights to the Purchaser pursuant to the License Agreement shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets and the grant of the Licensed Rights to the Purchaser with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and the Licensed Rights had not been granted, and remained in the possession or control of the person having that possession or control immediately prior to the sale.

10. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

11. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicants' records pertaining to the Applicants' past and current employees and contractors, including personal information of those employees and contractors listed on Schedule "I" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of

such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants.

12. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicants, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants, or any of them;

the granting of the Licensed Rights to the Purchaser pursuant to the License Agreement and the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants, or any of them, and shall not be void or voidable by creditors of the Applicants, or any of them, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

13. THIS COURT ORDERS that, except as otherwise provided for in this Order, all obligations or agreements to which the CC Entity is a party, or of which the CC Entity has the benefit, immediately prior to the Time of Closing (as defined in the Sale Agreement) will be and remain in force and effect as at the Time of Closing and no Person who is a party to any such obligation or agreements shall, following the Time of Closing, accelerate, terminate, rescind, refuse to renew, refuse to perform or otherwise disclaim or repudiate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy (including any right of set-off, option, dilution or other remedy) or make any demand under or in respect of such obligation or agreement, by reason of:

- (a) any defaults or events of default arising as a result of the financial condition or insolvency of any of the Applicants on or prior to the Time of Closing;
- (b) any defaults or events of default or cross-defaults under or in respect of the revolving credit, security, guaranty and pledged agreement dated as of August 22, 2013, among certain of the Applicants and SunTrust, as amended, restated

supplemented or modified, or obligations thereunder, or in respect of any other indebtedness of the Applicants to SunTrust;

- (c) the fact the Applicants have sought or obtained relief under the *Companies' Creditors Arrangement Act* ("CCAA");
- (d) the fact that the Sale Agreement has been entered into, that the sale transaction contemplated in the Purchase Agreement (the "Sale Transaction") has closed, or that the other Transactions have been implemented;
- (e) the fact that the Distribution Agreement (as defined in the Sale Agreement) has been entered into or that the transactions contemplated therein have been implemented;
- (f) the effect on the Applicants of (i) the closing of the Sale Transaction or (ii) the implementation of the other Transactions or the transactions contemplated in the Distribution Agreement;
- (g) the effect on the CC Entity of the closing of the Sale Transaction or the implementation of the other Transactions, including any change in share ownership or control of the CC Entity.

14. THIS COURT ORDERS that effective upon delivery of the Monitor's Certificate to the Purchaser, this proceeding under the CCAA shall be and is hereby terminated solely in respect of the CC Entity, provided however that the stay of proceedings contained in paragraphs 14 through 17 of the Amended and Restated Initial Order shall remain in effect in respect of the CC Entity and its assets for thirty (30) days following delivery of the Monitor's Certificate.

15. 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 or the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

16. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and are 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.

17. THIS COURT ORDERS AND DIRECTS that the unredacted copy of the Purchase Agreement, filed, be kept confidential and sealed in the court file pending further order of this Court.



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

APR 11 2017

PER / PAR: 

Schedule "A"

1. 1462598 Ontario Inc.
2. Operator Post Inc.
3. Tricon Education Inc.
4. Tricon Films Inc.
5. Tricon Interactive Inc.
6. Tricon Television Inc.
7. Tricon Television10 Inc.
8. Tricon Television44 Inc.
9. Tricon Television49 Inc.
10. Tricon Television54 Inc.
11. Tricon Television55 Inc.
12. Tricon Television58 Inc.
13. Tricon Television59 Inc.
14. Tricon Television62 Inc.
15. Tricon Television63 Inc.
16. Tricon Television64 Inc.
17. Tricon Television65 Inc.
18. Tricon Television66 Inc.
19. Tricon Television67 Inc.
20. Tricon Television68 Inc.
21. Tricon Television69 Inc.
22. Tricon Television70 Inc.
23. Tricon Television71 Inc.
24. Tricon Television72 Inc.
25. Tricon Television73 Inc.
26. Tricon Television74 Inc.
27. Tricon Television75 Inc.
28. Tricon Television76 Inc.
29. Tricon Television77 Inc.
30. Tricon Television78 Inc.
31. Tricon Television79 Inc.
32. Tricon Television80 Inc.
33. Tricon Television81 Inc.
34. Tricon Television82 Inc.
35. Tricon Television83 Inc.
36. Tricon Television84 Inc.
37. Tricon Television85 Inc.
38. Tricon Television86 Inc.
39. Tricon Television87 Inc.
40. Tricon Media Holdings, Inc.
41. Tricon Media Productions, Inc.
42. Tricon Media, Inc.
43. Tricon US Productions1 Inc.
44. Tricon US Productions14 Inc.
45. Tricon US Productions15 Inc.
46. Tricon Films (UK) Limited

Schedule B – Form of Monitor’s Certificate

Court File No. CV16-11634-00CL

**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**

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 1462598
ONTARIO INC., carrying on business as TRICON FILMS AND TELEVISION, AND
THE OTHER COMPANIES LISTED IN SCHEDULE “A”**

Applicants

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "Court") dated December 12, 2016, KSV Kofman Inc. was appointed as the monitor (the "Monitor") of the Applicants.

B. Pursuant to an Order of the Court dated April 11, 2017, the Court approved the agreement of purchase and sale made as of April 4, 2017 (the "Sale Agreement") between certain of the Applicants (the “Vendors”) and Sonar Canada Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 5.01, 5.02 and 5.03 of the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and (iii) the sale transaction contemplated in the Purchase Agreement (the “Sale Transaction”) has closed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 5.01, 5.02 and 5.03 of the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and
3. The Sale Transaction has closed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**KSV KOFMAN INC., solely in its capacity as
Monitor of 1462598 ONTARIO INC.,
carrying on business as TRICON FILMS
AND TELEVISION, AND THE OTHER
COMPANIES LISTED IN SCHEDULE "A",
and not in its personal capacity**

Per: _____

Name:

Title:

Schedule C – Permitted Encumbrances
(unaffected by the Vesting Order)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 1462598 ONTARIO INC., CARRYING ON
BUSINESS AS TRICON FILMS AND TELEVISION, AND THE COMPANIES LISTED IN SCHEDULE "A"

Applicants

Court File No. CV16-11634-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: 416-218-1129
Fax: 416-218-1849
E-mail: harvey@chaitons.com

George Benchetrit (LSUC #34163H)
Tel: (416) 218-1141
Fax: (416) 218-1841
E-mail: george@chaitons.com

Lawyers for the Applicants