

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
UNIQUE BROADBAND SYSTEMS, INC.

AMENDED NOTICE OF MOTION

UNIQUE BROADBAND SYSTEMS, INC. ("UBS"), will make an urgent motion to the Court on **14** February 2012 at **10:00** a.m., and thereafter as scheduled, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: the motion will be heard orally.

THE MOTION IS FOR:

1. An interim order staying or enjoining the partial take-over bid (the "**Dolgonos Partial Bid**") launched by 2064818 Ontario Inc. ("**206 Ontario**"), a company controlled by Mr. Alex Dolgonos and related to a creditor with one of the two largest disputed claims against UBS, DOL Technologies Inc. ("**DOL**"), seeking to acquire 10 million shares of UBS at \$0.08 per share pending the hearing of this Motion and UBS'S obligation to respond on to the Dolgonos Partial Bid.
2. A determination as to whether the Dolgonos Partial Bid is stayed by the Initial Order dated 5 July 2011 (the "**Initial Order**").

3. If the Dolgonos Partial Bid is not stayed by the Initial Order, an Order pursuant to s. 11 of the *Companies' Creditors Arrangement Act* (the "CCAA") temporarily staying the Dolgonos Partial Bid until such time as the claims asserted by DOL and Jolian Investments Inc. have been finally determined in accordance with the Order in these proceedings dated 4 August 2011 (the "Claims Order").
4. An Order temporarily staying the holding of a meeting of UBS's shareholders to replace the UBS board.
5. Such further and other relief as counsel may advise and this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

1. UBS is insolvent.
2. Proceedings under the CCAA were commenced in respect of UBS and it wholly owned subsidiary UBS Wireless Services Inc. pursuant to the Initial Order.
3. The claims being asserted against UBS are in an amount greater than the value of UBS's assets. There is a process in place in the CCAA to determine the claims against UBS, including DOL's disputed claim.
4. The Initial Order includes a comprehensive stay of proceeding that, *inter alia*, stays and suspends the exercise of rights and remedies by any person that in respect of or that affects UBS or its business.
5. 206 Ontario is a significant shareholder of UBS and DOL has a significant disputed claim against UBS.
6. UBS's major asset is a 39% equity interest in LOOK Communications Inc. ("**LOOK**"). LOOK has commenced proceedings (the "**LOOK Proceedings**") against, *inter alia*, DOL and Mr. Dolgonos seeking damages based on allegations of, *inter alia*, breach of fiduciary duty and negligence and the return of certain payments.

7. UBS, as a shareholder of LOOK, has a significant influence on who is elected to the LOOK board.
8. In the Dolgonos Partial Bid, 206 Ontario seeks to acquire sufficient additional shares of UBS to permit 206 Ontario to control a meeting of shareholders to replace the current board of UBS and take UBS off its existing course.
9. The Dolgonos Partial Bid is the latest in a series of attempts by Mr. Dolgonos to replace the UBS board to re-visit the decisions made by the UBS board and take UBS off its current course. The most recent of those attempts was a motion by 206 Ontario under s. 11.5 of the CCAA seeking to remove and resolve the majority of the UBS board. That motion was dismissed.
10. The Dolgonos Partial Bid will disrupt the *status quo*, distract the UBS board from its efforts to restructure UBS and will force UBS to incur significant costs.
11. The Dolgonos Partial Bid is in respect of, and disruptive to and affects the business of UBS -- the express purpose of the Dolgonos Partial Bid is to affect UBS's business.
12. If the Dolgonos Partial Bid goes forward and is successful, a shareholders meeting to replace the UBS board will disrupt the *status quo*, result in further costs being incurred by UBS and will cause further distraction from the restructuring of UBS.
13. The Dolgonos Partial Bid was launched in an attempt to benefit the personal interest of Mr. Dolgonos as a creditor of UBS by, *inter alia*, attempting to replace the UBS board in the hopes that a new board appointed by him will attempt to allow DOL's disputed claim, and attempt to replace the LOOK board to interfere with the LOOK Proceedings.
14. There is no prejudice to 206 Ontario in staying the Dolgonos Partial Bid or the holding of a shareholder meeting to replace the UBS board until the claims against UBS are determined.
15. There is no prejudice to 206 Ontario in having the Dolgonos Partial Bid stayed pending the hearing of this Motion.

16. If the Dolgonos Partial Bid is not stayed pending the hearing of this Motion, UBS will suffer prejudice – UBS is required to prepare and deliver a circular by 16 February 2012 and UBS will have to incur significant costs to prepare that circular. The costs to prepare a circular responding to a partial take-over bid were not included in UBS's cash flow projections.
17. The grounds are set out in the Affidavit of Robert Ulicki sworn 7 February 2012.
18. Section 11 of the CCAA.
19. Section 101 of the *Courts of Justice Act*, R.S.O. c. C.43.
20. Such further and other relief as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Robert Ulicki sworn 7 February 2012;
2. Such materials as counsel may advise and this Honourable court may permit.

Dated: 13 February 2012

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