

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**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
UNIQUE BROADBAND SYSTEMS, INC.**

**RESPONDING MOTION RECORD OF THE RESPONDENTS
JOLIAN INVESTMENTS LIMITED AND GERALD MCGOEY**

April 2, 2012

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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**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
UNIQUE BROADBAND SYSTEMS, INC.**

**AFFIDAVIT OF JONAHBELLE COZ MONDELO
(Sworn April 2, 2012)**

I, **Jonahbelle Coz Mondelo**, of the Town of Markham, in the Province of Ontario
MAKE OATH AND SAY THAT:

1. I am a legal assistant at the law firm of Groia & Company Professional Corporation, who are co-lawyers for Jolian Investments Limited ("**Jolian**") and Mr. Gerald McGoey. I have reviewed the materials herein, and I swear this affidavit to provide responding materials in response to the motion by Unique Broadband Systems Inc. ("**UBS**") returnable April 2, 2012 before the Honourable Justice Wilton-Siegel to extend the CCAA stay.
2. Attached hereto as Exhibit "**A**" to my affidavit is a true copy of the June 18, 2011 UBS Board Minutes.
3. Attached hereto as Exhibit "**B**" to my affidavit is a true copy of the Affidavit of Robert Ulicki sworn July 4, 2011 (without exhibits).

4. A true copy of a letter from Mr. Patrick Shea, lawyer for UBS, to Mr. Matthew Gottlieb, lawyer for the Monitor, dated December 9, 2011 outlining UBS's reasons for denying the CCAA claims by Jolian, among others, is attached as Exhibit "C" to this affidavit.
5. A true copy of a letter from Mr. Smyth, lawyer for Jolian and Mr. McGoey, to Mr. Joe Thorne, lawyer for UBS, dated January 20, 2012 asking about UBS's intentions with respect to its appeal to the Court of Appeal returnable April 26, 2012 is attached as Exhibit "D" to this affidavit.
6. A true copy of a letter from Mr. Raj Sahni, lawyer for Jolian and Mr. McGoey, to Mr. Shea and Mr. Gottlieb, dated January 23, 2012 requesting extension for the deadline for filing Jolian's CCAA Notice of Dispute is attached as Exhibit "E".
7. A true copy of a letter from Mr. Thorne to Mr. Smyth dated February 1, 2012 advising that UBS did not intend to pursue the Appeal at this time, and requesting Mr. Smyth to advise if he consented to an adjournment of the Appeal is attached as Exhibit "F" to this affidavit.
8. A true copy of a letter from Mr. Shea to Mr. Sahni dated February 2, 2012 with respect to the CCAA claims determination process is attached as Exhibit "G" to this affidavit.
9. A true copy of a letter from Mr. Shea to Mr. Peter Roy, lawyer for Mr. Alex Dolgonos, DOL Technologies Inc., and 2064818 Ontario, dated February 2, 2012 regarding Mr. Dolgonos' partial take-over bid and the CCAA claims determination process is attached as Exhibit "H" to this affidavit.
10. A true copy of a letter from Mr. Smyth to Mr. Thorne dated February 3, 2012 advising that Jolian and Mr. McGoey did not consent to an adjournment of the Appeal is attached as Exhibit "I" to this affidavit..
11. A true copy of a letter from Mr. Sean Grayson, lawyer for Mr. Dolgonos and DOL Technologies Inc., to Mr. Thorne dated February 7, 2012 advising that Mr. Dolgonos and DOL

Technologies Inc. did not consent to an adjournment of the Appeal is attached as Exhibit “J” to this affidavit.

12. A true copy of a letter from Mr. Sahni to Mr. Shea dated February 7, 2012 with respect to the CCAA claims determination process is attached as Exhibit “K” to this affidavit.

13. A true copy of a letter from Mr. Roy to Mr. Shea dated February 7, 2012 with respect to the CCAA claims determination process is attached as Exhibit “L” to this affidavit

14. A true copy of a letter from Mr. Shea to Mr. Sahni dated February 9, 2012 with respect to the CCAA claims determination process is attached as Exhibit “M” to this affidavit.

15. A true copy of an exchange of emails between the lawyers for the parties and the Monitor between February 7 and February 9, 2012 with respect to the CCAA claims determination process is attached as Exhibits “N” and “O” to this affidavit.

16. A true copy of a letter from Mr. Shea to Mr. Smyth dated February 10, 2012 with respect to the CCAA claims determination process is attached as Exhibit “P” to this affidavit.

17. A true copy of a letter from Mr. Smyth to Mr. Shea dated February 12, 2012 with respect to the Appeal and the CCAA claims determination process is attached as Exhibit “Q”.

18. A true copy of a series of emails exchanged between the lawyers for the parties between February 12 and February 22, 2012 with respect to the CCAA claims determination process is attached as Exhibit “R” to this affidavit.

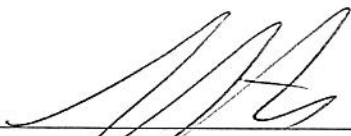
19. A true copy of an exchange of emails between the lawyers for the parties from March 5, 2012 to March 6, 2012 about meeting on the claims process is attached as Exhibit “S” to this affidavit. I am advised by Mr. Gavin Smyth, a lawyer for Jolian and Mr. McGoey, and I do believe, that the email of March 6, 2012 from the Monitor’s lawyer contained in Exhibit “S” represents the first time the Monitor had requested from Jolian, Mr. McGoey, or any of their

lawyers to be provided a proposed claims determination process in writing. I am also advised by Mr. Smyth and I do believe that (1) the only meeting between lawyers for the monitor and Jolian/McGoey occurred on the afternoon of March 7, 2012, (2) the first time Jolian or McGoey saw a written proposal from the Monitor for a CCAA claims process was when it was served with the Monitor's Motion Record regarding the CCAA claims process by email at 4:44 p.m. on March 27, 2012, and (3) the Monitor has not asked Jolian or McGoey to comment on the Monitor's written proposal for the CCAA claims process.

20. A true copy of the Claims Register as at February 10, 2012, which we received from Mr. Gottlieb, lawyers for the Monitor, on March 7, 2012 is attached as Exhibit "T" to this affidavit.

21. A true copy of the UBS Press Release dated March 28, 2012 is attached as Exhibit "U" to this affidavit.

SWORN before me at the City of Toronto)
in the Province of Ontario)
On the 21 day of April, 2012.)



Commissioner for taking affidavits)

G. Smyth



JONABELLE COZ MONDELO

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 UNIQUE BROADBAND SYSTEMS, INC.

	<p>ONTARIO SUPERIOR COURT OF JUSTICE (Commercial List) (Proceeding commenced at Toronto)</p>
	<p>AFFIDAVIT OF JONAHBELLE COZ MONDELO (Sworn April 2, 2012)</p>
	<p>GROIA & COMPANY Professional Corporation ■ Lawyers Wildeboer Dellelce Place 365 Bay Street, 11th Floor Toronto, ON M5H 2V1 Fax: 416-203-9231</p> <p>Joseph Groia, LSUC No. 20612J Tel.: 416-203-4472</p> <p>Gavin Smyth, LSUC No. 42134G Tel: 416-203-4475</p> <p>Co-lawyers for the Respondents Jolian Investments Limited and Gerald McGoey</p>

UNIQUE BROADBAND SYSTEMS, Inc.

Meeting held on June 18, 2011 at 10:00 a.m.

MINUTES of a meeting of the Board of Directors of the Corporation held by conference telephone call Saturday June 18, 2011.

PRESENT: ROBERT ULICKI (Chairman)
GRANT McCUTCHEON
HENRY EATON

This is Exhibit "A" referred to in the
affidavit of JONAH BELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

being all of the members of the board.

ALSO PRESENT BY INVITATION:

FRASER ELLIOTT, CFO
PATRICK SHEA, Gowlings

Proper notice of the meeting having been given, a quorum being present, Robert Ulicki called the meeting to order.

- A. Appointment of Secretary - Moved by Robert Ulicki and seconded by Henry Eaton that Grant McCutcheon act as the secretary of the meeting - *Unanimously Passed*
- B. Approval of Agenda - Moved by Henry Eaton and seconded by Grant McCutcheon that the proposed agenda for the meeting be approved - *Unanimously Passed*
- C. Approval of Minutes
Approval of the minutes of April 18, 2011 was deferred.
- D. Financial Situation of UBS

Further to earlier meetings held at Gowlings to discuss UBS's solvency, pro forma cash flow budgets distributed prior to the meeting were reviewed. These confirmed a large and uncertain negative cash flow related largely to defending claims against UBS with the prospect of also having to now fully pay the plaintiffs legal costs of pursuing those claims.

The meeting discussed the difficult challenges of managing the company in the circumstances with little possibility of raising capital, developing revenues, or realizing value on its tax losses or listing until all the contingent claims are resolved. Concern was expressed that if the situation deteriorates to where some Look shares need to be sold to meet ongoing expenses, the price received for the shares could be expected to be at or below the already large discount to fair value they are trading at. Further concern was expressed that for so long as UBS had to defend against the contingent claims and pay the plaintiffs costs of pursuing their claims any cash received from Look on a distribution could be expected to be fully utilized to meet ongoing negative cash flow, not build value or be available for distribution.

It was agreed that to best manage the ongoing cash burn and to allow the company the opportunity to realize on all its assets, including its tax losses and listing, consideration should be given to a CCAA filing to avoid serious and permanent erosion of shareholder and all other stakeholders' value.

E. CCAA Proceedings

The Board discussed in detail with Patrick Shea CCAA proceedings, including how a filing should allow UBS to best manage the interests of all stakeholders. Mr. Shea advised the meeting that the process for entering CCAA would require retaining counsel, Gowlings, and a Court Monitor and recommended Richter for this, advising that Richter had cleared their conflicts. The Board expressed the concern that under CCAA a Court Monitor might focus to settle all claims without full and proper consideration for shareholders; however, Mr. Shea advised that a Court Monitor would not simply recommend an expedited settlement without properly evaluating the legitimacy of the contingent claims. He expressed his further belief that a CCAA filing was merited having regard to the financial circumstances of the company and would allow the best opportunity for a determination of UBS's contingent liabilities and claims on their merits in the most cost-effective and timely fashion. In that regard, he noted the growing risk to shareholders and all other stakeholders that UBS might be unable to fund litigation through to a trial resulting in almost certain judgement against the company without the merits of the company's defences to the claims (and counterclaims) being fully and vigorously advanced, the financial consequences of which would be highly adverse to all stakeholders. He noted that all UBS stakeholders are likely to be adversely impacted financially more by the costs of pursuing litigation through to the conclusion of a trial versus the costs of a claims process under CCAA, his expectation being that in a CCAA process all claims could be resolved by June of 2012 for much less than the costs of a trial and with no compromise to the merits of UBS's defences and counterclaims. The company could then proceed to develop a plan to restructure for the benefit of shareholders and all other stakeholders.

It was agreed such an outcome would best serve UBS's ability to plan and operate in a manner to maximize value for all stakeholders.

Mr. Shea left the meeting

The meeting discussed retaining Gowlings and their request for a \$100,000 retainer to manage a CCAA filing and claims process. Mr. Ulicki advised the meeting that he would discuss the outstanding Gowlings accounts with Kelley McKinnon and seek a reduction of them in addition to the 10% discount already agreed.

WHEREAS the directors of the Company, having given due consideration to the matter, are of the view that the Company is insolvent and that it is in the best interests of the Company's stakeholders that reorganization proceeding be commenced by the Company under the Companies' Creditors Arrangement Act (the "CCAA") by the Company bringing an application to the Ontario Superior Court of Justice (the "Court") seeking an Initial Order under the CCAA.

IT IS RESOLVED THAT:

1. The commencement by the Company of reorganization proceedings under the CCAA (the "Reorganization") by the Company bringing an application to the Court seeking an Initial Order under the CCAA be and is hereby authorized, ratified and approved.
2. The engagement of RSM Richter Inc. as monitor for the purposes of the Reorganization be and is hereby authorized, ratified and approved.
3. The engagement of Gowling Lafleur Henderson LLP as counsel to the Company for the purposes of the Reorganization be and is hereby authorized, ratified and approved.
4. Any one officer or any one director of the Company be and is hereby authorized and empowered, acting for, in the name of and on behalf of the Company, to:
 - a. execute or to cause to be executed (under the seal of the Company or otherwise), swear or affirm, and deliver or to cause to be delivered, all affidavits, agreements or documents as may be considered necessary or desirable in connection with the Reorganization and the other matters provided for in this resolution all in such form and containing such terms and conditions as the person executing the affidavit, agreement or document may approve; and
 - b. do or to cause to be done all such acts and things as may be necessary or desirable in connection with the matters provided for in this resolution or in order to give effect to the intent of this Resolution.

THE FOREGOING RESOLUTION is hereby approved by all of the directors of the Company entitled to vote thereon as evidenced by their respective signatures.

F. Other Business

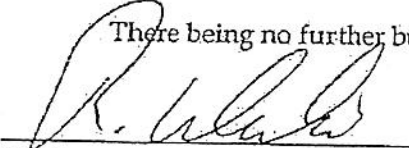
There was no other business


G. Date of Next Meeting

Regular meeting – TBD.

TERMINATION OF MEETING

There being no further business to come before it, the meeting then terminated.


Chairman
Robert Ulicki
TOR_LAW\7792017\1


Secretary
Grant McCutcheon

This is Exhibit "B" referred to in the
affidavit of JONATHAN COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

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Court File No.: CV-11-9283-00CL

A COMMISSIONER FOR TAKE-AFFIDANTS

**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
UNIQUE BROADBAND SYSTEMS, INC.

**AFFIDAVIT OF ROBERT ULICKI
(Sworn 4 July 2011)**

I, ROBERT ULICKI of the City of Toronto in the Province of Ontario **MAKE
OATH AND SAY:**

1. I am a director of Unique Broadband Systems, Inc. ("UBS") and its wholly-owned subsidiary UBS Wireless Services Inc. ("UBS Wireless"). I have been a director of both of these companies since 2010 when, as described further below, I was appointed at a special meeting of UBS's shareholders to replace the existing directors of the company. I am also the portfolio manager and owner of Clareste Wealth Management Inc. ("CWM"). CWM manages Clareste LP, which owns approximately 1% of the issued and outstanding shares of UBS – 1.233 million shares¹.
2. I have personal knowledge of the matters herein deposed, save and except where I refer to matters based on information and belief, in which cases I identify the source(s) of that information and believe it to be true. I have also reviewed relevant records, press releases and public filings as necessary, and rely on the information contained in those records, press releases, etc. and believe that information to be true.

¹ The other members of UBS's Board of Directors, together, own or control a further approximately 200,000 UBS shares.

3. This affidavit is being sworn in support of a motion being brought by UBS seeking an Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36 (the "CCAA"). UBS will be seeking an Initial Order under the CCAA that is substantially in the form of the draft Order attached as Schedule "C" to the Factum dated 4 July 2011.
 4. UBS and UBS Wireless are both insolvent and are seeking to commence proceedings under the CCAA to, *inter alia*:
 - (a) facilitate the determination and compromise or arrangement of creditor claims against UBS to permit the company to propose a plan to realize value from the company's assets, including its shareholdings in LOOK Communications Inc. ("LOOK"), and its accumulated tax losses and public listing;
 - (b) avert an imminent liquidity crisis being caused by litigation-related expenses that will prevent UBS from: (i) continuing to carry on business for the benefit of its stakeholders; (ii) defending certain proceedings brought against the company; and (iii) prosecuting claims commenced by UBS; and
 - (c) provide a process to determine certain claims being asserted against UBS asserted by certain former directors and officers on their merits.
 5. But for the commencement of proceeding under the CCAA, UBS will not be able to continue and will likely be forced into a liquidating proceeding. This will not be in the best interests of UBS's stakeholders.
- I. UBS and UBS Wireless
6. UBS is a company incorporated pursuant to the *Business Corporation Act*, R.S.O. 1990, c. B.16 ("OBCA") and its registered head office is located in Milton,

Ontario. UBS's shares are listed on the TSX Venture Exchange under the symbol "UBS". A Company Profile from SEDAR and a Corporate Profile Report for UBS are attached and marked as **Exhibit "A"**.

7. UBS owns all of the issued and outstanding shares of UBS Wireless. UBS Wireless is a company incorporated pursuant to the OBCA and its registered office is in Milton, Ontario. A Corporate Profile Report for UBS Wireless is attached and marked as **Exhibit "B"**.
8. UBS was, until October of 2003, a designer, developer and manufacturer of high-speed mobile and fixed wireless solutions.
9. In October of 2003, UBS sold all of its engineering and manufacturing business and transformed itself into a holding company when, through UBS Wireless, it acquired a controlling interest in LOOK. UBS acquired its interest in LOOK through share transactions pursuant to which UBS purchased shares of LOOK and the acquisition by UBS Wireless of 7% secured convertible debentures issued by LOOK (the "**LOOK Debentures**") that gave UBS, through UBS Wireless, a 51.8% interest in LOOK.
10. UBS Wireless did not convert its outstanding LOOK Debentures by the final date for conversion following the announcement by LOOK that it intended to redeem all outstanding debentures. Accordingly, in May of 2010, the LOOK Debentures held by UBS Wireless were redeemed by LOOK. As a result of this conversion, from 25 May 2010, UBS Wireless has had a non-controlling 37.6% voting interest and a 39.2% economic interest in LOOK.
11. UBS Wireless is a single purpose entity that holds shares in LOOK.
12. In addition to me, the Board of Directors of UBS and UBS Wireless consists of Mr. Henry Eaton and Mr. Grant McCutcheon.

13. The offices of UBS and UBS Wireless are located at 8250 Lawson Road in Milton, Ontario ("8250 Lawson"). Until recently, LOOK owned 8250 Lawson. The property has, however, been sold. UBS and UBS Wireless will be vacating the 8250 Lawson in the near future.
14. UBS has two (2) full-time employees and retains two (2) people on a contract basis. UBS does not have any pension plans for its employees.
15. UBS is current with respect to all required employee source deductions and other remittances.
16. UBS Wireless has no employees and does not carry on any business that would require that it collect and remit taxes.

II. Change of UBS Management and Directors

17. On 5 July 2010, at a special meeting of shareholders requisitioned by a group of shareholders of UBS, including Clareste LP, Mr. Grant McCutcheon and Mr. Henry Eaton and I were elected to the Board of Directors of UBS to replace the existing directors of the company. True copies of the Management Information Circular and the Information Circular from the concerned shareholders in respect of the 5 July 2010 meeting are attached as **Exhibit "C"**.
18. The concerned shareholders sought to replace the UBS Board of Directors based on concerns with respect to the actions and conduct of the Board of Directors. The concerned shareholders sought to have a slate of directors appointed that would, *inter alia*, review non-arm's length transactions, recover improper compensation paid by UBS and maximize the value of UBS's remaining assets and property.

19. The replacement of the previous directors on 5 July 2010 has resulted in claims being commenced against UBS, Mr. McCutcheon, Mr. Eaton and I. This litigation, which is the reason underlying UBS's current financial difficulties, is described further below.
20. The current Board of Directors was re-elected at a meeting of UBS's shareholder held on 25 February 2011.

III. LOOK

21. LOOK is a company incorporated pursuant to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 and its shares trade on the TSX Venture Exchange. Mr. McCutcheon and Mr. Eaton are directors of LOOK².
22. Until 2009, LOOK was a provider of information, communications and entertainment services, including high-speed and dial-up internet access, digital television distribution and customer services through its wireless spectrum.
23. On 5 May 2009, LOOK announced the sale of its key wireless spectrum asset for \$80 million to Inukshuk, a partnership of Bell Canada ("Bell") and Rogers Communications. As a condition of the sale transaction, LOOK paid Bell \$16 million of the \$80 million to settle outstanding litigation. LOOK also incurred professional fees of approximately \$8 million. Accordingly, the net proceeds to LOOK from the sale of its key asset were \$56 million. Of this amount, LOOK paid approximately \$17.4 million – approximately 31% – to LOOK's senior management and directors as "restructuring awards". These "restructuring awards" are in addition to the "restructuring awards" awarded by UBS and described further below.

²

I was a director of LOOK, but resigned on 29 October 2010.

24. Since May of 2009 LOOK has been seeking to: (a) preserve its capital; (b) maximize value on its remaining assets; and (c) assess available options for maximizing returns to shareholders. LOOK has also undertaken an investigation into the facts and circumstances surrounding the restructuring awards paid from the net amounts realized on the transaction with Inukshuk. LOOK anticipates that proceedings will be commenced to recover these restructuring awards in or about the first week of July 2011.
25. Since 2009, LOOK has continued to pursue opportunities to realize the value of its remaining material non-cash assets. On 17 March 2011, LOOK announced that it had entered into an agreement to sell 8250 Lawson for aggregate consideration of \$3.050 million. That transaction has closed. LOOK is continuing to explore how it can realize value from LOOK's accumulated tax losses and the company's public listing.
26. UBS plays a key role in the management of LOOK. Pursuant to an Agreement between UBS and LOOK dated 19 May 2004 and amended pursuant to an Amending Agreement dated 3 December 2010 (the "MSA"), UBS provides certain services to LOOK. Those services include providing a person to perform the duties typically performed by, and assume the responsibilities typically assumed by, a chief executive officer (the "CEO Services") – essentially LOOK's management is provided to the company by UBS. A true copy of the MSA is attached as **Exhibit "D"**.
27. In 2007 UBS received a payment of \$2.4 million from LOOK as an advance. UBS applied its monthly fees under the MSA against this advance and LOOK "replenished" the prepayment until 2010. LOOK stopped replenishing the prepayment in December of 2010 because the MSA was amended and the \$2.4 million prepayment is sufficient to satisfy the amounts that will be owing by LOOK to UBS for the remaining term of the MSA. As a result, UBS has not received any cash payments from LOOK since January of 2011. UBS will "draw

down" on the \$2.4 million advance it received from LOOK and record this as income for accounting purposes.

28. The MSA currently expires on 19 May 2012.
29. During the course of the CCAA proceedings, UBS intends to continue to perform its obligations under the MSA. The services provided by UBS to LOOK are important to LOOK's going-forward strategy and, given UBS Wireless's interest in LOOK, maximizing the value of LOOK's remaining assets is also vitally important to UBS and its stakeholders.

IV. UBS Wireless's Creditors

30. UBS Wireless has no secured creditors. UBS Wireless owes UBS approximately \$13 million. An analysis of this inter-company account is attached as **Exhibit "E"**.

V. UBS's Creditors

A. Secured Creditors -- \$0

31. UBS has a corporate credit card with a \$50,000 limit. This credit card is secured with a \$50,000 cash deposit. The amount owing on the credit card fluctuates, but UBS typically pays the outstanding balance owing each month.
32. Aside from the issuer of the corporate credit card, UBS does not have any creditors with security over the company's assets and property, although a Personal Property Security Registry search conducted in respect of UBS indicates that a number of registrations have been made against UBS. Attached as **Exhibit "F"** is a *PPSA Search report in respect of UBS*.

33. The Toronto-Dominion Bank ("TD") registered a security interest against UBS on 12 January 2006. TD registered a second security interest against UBS on 20 May 2008. I am not aware of UBS owing any money or obligations to TD.
34. Business Development Bank of Canada ("BDC") also registered a security interest against UBS on 12 January 2006. I am not aware of UBS owing any money or other obligations to BDC.
35. On 28 May 2007, Lease-Win Limited ("Lease-Win") registered a security interest against UBS asserting a security interest in a 2004 GMC Savana 3500 van. That registration was renewed on 17 June 2011. UBS does not have possession of any vehicles and I am not aware of the company making any lease or other payments to Lease-Win or any other person in respect of a vehicle.

B. Unsecured Claims

36. The unsecured claims being asserted against UBS exceed \$5.0 million. UBS's consolidated financial statements for the periods ending 28 February 2011 reflect liabilities of approximately \$6.5 million.
37. There are also other claims against UBS that are not reflected in the consolidated financial statements. There are disputes with respect to the validity of some of these claims as detailed further below.

i. Former Landlord Claim – \$150,000

38. In 2005, UBS agreed to settle an action initiated by its former landlord with respect to certain repairs to premises under a lease entered into between the parties in 1999. Under the terms of the settlement, in exchange for a full and final release, UBS agreed to pay the plaintiff damages of \$600,000 in two installments with \$450,000 payable immediately and \$150,000 payable on 15 January 2012. A third party, against whom UBS had filed a third party claim for indemnification

of certain damages, is also a party to the settlement arrangements and paid \$85,000 to UBS.

ii. **UBS Restructuring Awards – \$3.9 million³**

39. Effective 31 May 2009, UBS awarded “restructuring awards” (the “**UBS Restructuring Awards**”) totaling \$5.71 million to all of the directors and the senior management of the company. The UBS Restructuring Awards are independent of the “restructuring awards” paid by LOOK and described above.
40. The UBS Restructuring Awards are reflected on UBS’s financial statements as obligations owing by the company. They are, however, payable by UBS only when the company has sufficient liquidity and UBS has never had cash available to pay the UBS Restructuring Awards.
41. UBS has reached agreements with certain officers and directors to “reverse” certain of the UBS Restructuring Awards “awarded” in their favour. In August of 2010, a former director waived his claim to any UBS Restructuring Award. In January of 2011, UBS reached a settlement with the former CFO of UBS pursuant to which he agreed to the substantial reversal of his UBS Restructuring Award. And in February of 2011 UBS reached a settlement with a former director of UBS that included the reversal of the UBS Restructuring Award granted to him.
42. As set forth further below, UBS is taking proceedings to reverse the remaining UBS Restructuring Awards.
43. Approximately \$3.9 million of UBS Restructuring Awards remain on UBS’s balance sheet.

³ The UBS Restructuring Awards are more fully described in the companies’ consolidated financial statements. See, for example, page 15 of the consolidated financial statements for the periods ending 28 February 2011.

iii. **Litigation – \$16.1 million⁴**

44. UBS is currently involved in litigation commenced by former directors and senior management of UBS, and companies related to those persons (the “**Litigation**”). The total amount claimed against UBS in the Litigation is \$16.1 million. UBS is defending the Litigation and believes it has a good defence on the merits.
45. As mentioned above, at a special meeting of shareholders requisitioned by a group of UBS shareholders on 5 July 2010, Mr. McCutcheon, Mr. Eaton and I were elected to the Board of Directors of UBS to replace the slate of three directors put forward by UBS.
46. Following the 5 July 2010 meeting, counsel to Jolian Investments Limited (“**Jolian**”), a company controlled by Mr. Gerald McGoe, the former CEO and one of the former directors of UBS that was not elected at the meeting, wrote UBS on or about 5 July 2010 enclosing notice from Mr. McGoe and Jolian that, in their view, a “company default” and “termination without cause” of an agreement with Jolian had occurred thereby requiring payment of \$8.6 million from UBS and payment of the UBS Restructuring Award.
47. Pursuant to a Statement of Claim dated 12 July 2010, Jolian commenced an action (the “**Jolian Action**”) against UBS seeking \$8.6 million and payment of the UBS Restructuring Award. UBS has defended the Jolian Action.
48. After the conclusion of the special meeting of shareholders held on 5 July 2010, DOL Technologies Inc. (“**DOL**”), a company controlled by Mr. Alex Dolgonos, gave written notice to UBS that it was terminating an agreement with UBS for “good reason” as a result of an alleged change in control of UBS. The letter demanded payment of \$7.6 million from UBS and payment of the UBS

⁴ The Litigation is more fully described in the audited consolidated financial statements for the period ending 31 August 2010.

Restructuring Award. Mr. Dolgonos is the former head of technology for UBS and indirectly holds 19.9% of the issued and outstanding common shares of UBS.

49. Pursuant to a Statement of Claim issued 12 July 2010, DOL commenced an action (the "**DOL Action**" and, together with the Jolian Action, the "**Litigation**") against UBS seeking to recover approximately \$7.6 million from UBS and payment of the UBS Restructuring Award. UBS has defended the DOL Action.
50. As detailed further below, Mr. Dolgonos has indicated his intention to make a partial take-over bid for the shares of UBS and a company controlled by him has commenced the Oppression Action against UBS and the directors of UBS.
51. As part of the Litigation, UBS has initiated claims to reverse the UBS Restructuring Awards payable to former directors and senior management of UBS.
52. Now produced and shown to me are two bound volumes each entitled "Pleadings Brief" containing the pleadings from the Litigation. Pleadings in the Litigation have closed, but the parties have not yet delivered affidavits of documents.
53. The cost of the Litigation is, as set forth below, causing a serious strain on UBS's cash flow. The costs of the Litigation are such that UBS believes that it will not be able to fund the Litigation through to a determination on the merits. If UBS is not able to continue to fund the defence of the Litigation (and the prosecution of the counterclaims), the matter will not be determined on its merits and this will result in prejudice to UBS's other stakeholders. The amount being claimed against UBS in the Litigation is more than the total value of UBS's assets and will "swamp" the claims of UBS's other creditors.

iv. **Oppression Action – > \$900,000**

54. Pursuant to a Statement of Claim issued on 22 December 2010, 2064818 Ontario Inc. ("**2064 Ontario**"), a company controlled by Mr. Dolgonos, commenced an action against UBS, Mr. McCutcheon, Mr. Eaton and me (the "**Oppression Action**"). The Oppression Action seeks, *inter alia*, at least \$900,000 in damages against UBS and UBS's current directors.
55. A Statement of Defence in the Oppression Action was delivered on or about 8 February 2011.
56. Now produced and shown to me is a bound volume entitled "Oppression Remedy Pleadings" containing the pleadings in the Oppression Action.

v. **Indemnification Claims – Unknown**

57. On 27 April 2011, a motion was heard with respect to the obligation of UBS to pay the legal and other costs being incurred by the plaintiffs in the Litigation (the "**Plaintiffs**"). The Plaintiffs asserted rights to be indemnified by UBS arising under certain agreements with UBS and UBS's corporate by-laws.
58. Pursuant to a decision dated 30 May 2011, Mr. Justice Marrocco ordered that UBS had an obligation to pay the past and future legal costs of the Plaintiffs as well as the legal expenses in the Litigation on an ongoing basis. Based on information provided by counsel UBS estimates that, as of 27 April 2011, the legal expenses payable are not less than \$750,000, and are likely considerably more.
59. A true copy of Mr. Justice Marrocco's decision from 30 May 2011 as well as a true copy of His Honour's Order dated 27 April 2011 are attached as **Exhibit "G"**.

60. On 30 June 2011, UBS served a Notice of Appeal seeking to appeal the 27 April 2011 Order. A true copy of this Notice of Appeal is attached as **Exhibit "H"**.
61. UBS has, subject to certain conditions and limitations, certain contractual and bylaw-related obligations to indemnify other current and former directors, including Mr. Peter Minaki. Mr. Minaki has requested indemnification in respect of approximately \$92,000 in professional fees and expenses. The current directors may have a claim against UBS for the costs incurred in defending claims that have been commenced against them, as described further below.
62. Based on the company's current cash situation, UBS is not able to pay these indemnification obligations without causing UBS Wireless to sell shares of LOOK and pay the proceeds up to UBS.

vi. Other Claims – Unknown

63. In the event that UBS is forced to file for bankruptcy, certain claims will arise in favour of UBS's employees. For example, the employment agreement between Mr. McCutcheon and UBS provides that Mr. McCutcheon is entitled to receive a lump sum payment of \$150,000 in the event that he is terminated other than for cause.
64. Mr. Fraser Elliot, the chief financial officer of UBS, has an employment contract pursuant to which he is entitled to six (6) months' pay in the event that his employment is terminated without cause. UBS engages the services of two (2) consultants whose agreement with UBS provides that they are entitled to receive, respectively, six (6) months' and three (3) months' pay in that event that their agreements are terminated without cause.

VI. UBS Wireless's Assets

65. UBS Wireless's only significant assets are shares of LOOK⁵. The LOOK shares were reflected at \$11.757 on UBS's consolidated financial statements for the periods ending 28 February 2011. The realizable value of the UBS Wireless's interest in LOOK depends on various factors including the price at which LOOK shares are trading and the value of LOOK's assets and property⁶.
66. Until May of 2010, UBS Wireless also owned LOOK Debentures.
67. On 22 April 2010 LOOK announced that it would redeem all of the outstanding LOOK Debentures for cash on 25 May 2010. UBS Wireless did not elect to convert its LOOK Debentures and the LOOK Debentures held by UBS Wireless, were redeemed by LOOK. The redemption of the LOOK Debentures has meant that UBS Wireless has had no source of revenue to pay its obligations since May of 2010.

VII. UBS's Assets

68. UBS's assets consist of:
- (a) cash on hand of approximately C\$265,758 and US\$15,942 (as at 30 June 2011);
 - (b) a short-term investment (cash equivalent) of \$800,000;
 - (c) inter-company receivable owing by UBS Wireless;

⁵ UBS Wireless has a small amount of accumulated tax losses, small shareholdings worth approximately \$11,000 and about \$11,000 in cash.

⁶ LOOK shares are thinly traded. As set forth above, UBS manages LOOK and is working to maximize the value of LOOK's remaining assets.

- (d) all of the issued and outstanding shares of UBS Wireless;
 - (e) accumulated tax losses; and
 - (f) the company's public listing.
69. UBS Wireless owes UBS approximately \$13 million. A summary of the intercompany account between UBS and UBS Wireless is attached as Exhibit E. As set forth above, UBS Wireless's only assets are shares of LOOK.
70. There is no market value for the shares of UBS Wireless, but UBS Wireless owns shares of LOOK.
71. UBS has approximately \$11.4 million in non-capital income tax losses and approximately \$22.55 million in capital tax losses⁷.
72. UBS is, with its legal advisors, at the initial stages of exploring options to realize value from the accumulated tax losses and the company's public listing. To realize value from the accumulated tax losses and the public listing, however, UBS will have to complete a transaction that will involve the shares of UBS. I am advised by Mr. Patrick Shea of Gowling Lafleur Henderson LLP ("Gowlings") that a party acquiring an interest in UBS for the purpose of realizing value from the company's tax losses and/or the public listing will likely require that UBS make a plan to its creditors or otherwise provide assurances with respect to the claims against UBS. A bankruptcy, receivership or winding-up in respect of UBS will make it more difficult for UBS to realize value from the tax losses and the company's public listing.

⁷

These "tax assets" are described more fully in the companies' consolidated financial statements.

VIII. UBS Wireless Cannot Satisfy Inter-Company Debt

73. UBS Wireless is insolvent. The realizable value of its only major assets – the LOOK shares – is not sufficient to pay the inter-company obligation owing to UBS.
74. UBS Wireless is required to pay a \$20,000 monthly management fee to UBS, but UBS Wireless has, since LOOK redeemed UBS Wireless's LOOK Debentures in May of 2010, had no source of revenue and has stopped paying management fees to UBS.

IX. UBS's Liquidity

75. UBS's only notional revenue is derived from the MSA, but, as set forth above, UBS receives no cash from LOOK as a result of the fact that LOOK pre-paid UBS for the services now being provided pursuant to the MSA.
76. UBS's consolidated financial statements include the following caution:

UBS has incurred operating losses and negative cash flows from operations in recent years and, as at February 28, 2011, had a working capital deficiency of \$3.1 million. There is significant doubt about UBS' use of the going concern assumption because UBS has a working capital deficiency of \$3,986 as at August 31, 2010. Furthermore, there is uncertainty regarding the timing and the quantum of cash distributions by Look to its shareholders, including UBS, and the outcomes of certain recent litigation (note 18). UBS will need to raise cash and/or monetize assets, and/or receive cash distributions from Look and/or reduce its outstanding commitments in order to meet the needs of its existing operations and commitments giving rise to doubt about UBS' use of the going concern assumption....

77. UBS has developed a cash flow projection for the period to May of 2012. A true copy of that cash flow projection is attached as **Exhibit "I"**⁸.
78. Based on the attached cash flow projection, it is apparent that the litigation-related costs incurred and to be incurred by UBS are causing (and will continue to cause) a significant drain on UBS's cash resources – UBS does not, for example, have the cash resources to pay the indemnification-related obligations as per Mr. Justice Marrocco's Order of 27 April 2011 or its own professionals.
79. If a proceeding under the CCAA in respect of UBS and UBS Wireless is not commenced now: (a) UBS will rapidly run out of cash resources and the companies will be forced into an insolvency proceeding in a few months and, in the absence of cash, this is likely to be a liquidation; or (b) UBS Wireless will have to begin to sell large volumes of LOOK shares to fund the defence of the Litigation and the Oppression Action and the prosecution of UBS's counterclaims⁹.
80. UBS also believes that a CCAA claims process will facilitate the determination of the claims asserted against UBS in the Litigation and the Oppression Action in a more cost-effective and expedient manner for the benefit of UBS's stakeholders.
81. The cost of the CCAA proceedings will not be insignificant, but commencing the proceedings at this stage, while UBS still has cash resources to fund the process without having to immediately sell large volumes of LOOK shares, is in the best interests of UBS stakeholders. The fact that UBS still has cash on hand will reduce the need to sell LOOK shares to finance the process and the determination of the Litigation and the Oppression Action on their merits in a claims process adopted pursuant to the CCAA.

⁸ UBS and UBS Wireless have also prepared a cash flow for the purposes of the CCAA proceedings. That cash flow is being filed separately along with the report required by the CCAA.

⁹ UBS Wireless may still be required to sell LOOK shares to fund the CCAA process, but any such sale(s) will take place under the supervision of the Monitor and the Court – there will be transparency. A urgent sale of large volumes of LOOK shares will likely result in a adverse impact on price and, as a result, the value of UBS Wireless's holdings.

82. I note that:

- (a) if the Litigation and/or the Oppression Action results in a judgment against UBS in the amount being claimed, either because UBS's defence on the merits is not successful or UBS is forced to abandon its defence of the proceedings for financial reasons, UBS will be forced into an insolvency proceeding – the amounts being claimed against UBS, without regard to the other claims against UBS, are more than the realizable value of UBS's assets; and
- (b) if UBS's defence of the Litigation and the Oppression Action is successful, a proceeding under the CCAA will still likely be required in order for UBS to realize any value from the company's tax losses and/or public listing.

X. Plan of Compromise or Arrangement

- 83. The structure of the plan ultimately filed by UBS and UBS Wireless will depend, to a large degree, on the proven claims against the company.
- 84. If, for example, the Litigation is determined in UBS's favour, the plan filed by UBS and UBS Wireless will likely provide for an arrangement of the claims against the company – payment of the claim in full through a transaction or transactions involving the sale of UBS Wireless's interest in LOOK and/or the proceeds from a transaction to realize the value of the accumulated tax losses or the company's public listing.
- 85. Any CCAA plan of compromise or arrangement proposed by UBS will likely have to involve an arrangement or reorganization under the OBCA.

XI. Claims Against Directors

86. In the Oppression Action, 2064 Ontario alleges, *inter alia*, that: (a) Mr. McCutcheon, Mr. Eaton and I have exercised our powers as directors of UBS in a manner that is oppressive, unfairly prejudicial and unfairly disregards the interests of UBS shareholders; and (b) we have failed to act honestly and in good faith with a view to the best interests of UBS. As a remedy, 2064 Ontario seeks, *inter alia*, to have the current directors of UBS removed from office.
87. UBS is requesting that claims against the directors, including those made in the Oppression Action, be stayed while UBS develops a plan of compromise or arrangement under the CCAA. This will enable Mr. McCutcheon, Mr. Eaton and I to focus on the restructuring of UBS.

XII. Partial Take-Over Bid

88. On 3 June 2011, UBS received a letter from Wildeboer Dellelce LLP indicating that Mr. Dolgonos, or a corporation or corporations controlled by him, intended to make a partial take-over bid for the shares of UBS¹⁰. A true copy of this letter is attached as **Exhibit "J"**.
89. If this partial take-over bid is made, it may result in a change of control of UBS. This could result in Mr. Dolgonos, or a company or companies controlled by him, determining whether UBS continues to defend the Litigation and the Oppression Action.

¹⁰ Mr. McCutcheon's employment agreement with UBS provides that he is entitled to a lump sum payment of \$200,000 in the event of a change of control.

XIII. Monitor

90. RSM Richter Inc. (the "**Monitor**") has agreed to act as the monitor of UBS in these proceedings.

XIV. Administration Charge

91. UBS is seeking a first-ranking charge on the assets and property of UBS and UBS Wireless to secure the fees and expenses for its own counsel, the Monitor and the Monitor's counsel (the "**Administration Charge**"). The Administration Charge will rank ahead of any and all existing security interest, charges, trusts, etc. over UBS's and UBS Wireless's assets and property. As set forth above: (a) the companies do not have any secured creditors whose interests will be impacted by the Administration Charge; (b) there are no outstanding source deductions or tax remittances owing by the companies; and (c) neither of the companies UBS has any pensions plans for its employees.
92. The Administration Charge will provide UBS with some liquidity to fund these proceedings and will reduce the need to immediately sell LOOK shares. The Administration Charge allows the professionals to provide services on a secured basis without requiring immediate cash payments, which will assist UBS to address its litigation and restructuring efforts.
93. UBS has paid a \$50,000 retainer to Richter, a \$50,000 retainer to Richter's counsel and a \$100,000 retainer to UBS's counsel Gowlings.

XV. Claims Procedure

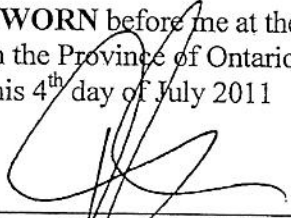
94. Assuming the Initial Order is made, UBS will be returning to Court to implement a claim procedure to identify and/or resolve claims against UBS. I believe that a claims process under the CCAA will allow the parties to more expediently and efficiently resolve the Litigation and the Oppression Action on their merits so as to permit UBS to file a plan of compromise or arrangement that will be in the best interest of all stakeholders.
95. UBS anticipates that this claims procedure, which will be developed in consultation with the Monitor, will facilitate the determination of the claims against UBS on their merits in more expeditious and less costly fashion. This will be for the benefit of all of UBS's stakeholders.

XVI. Financial Statements

96. Now produced and shown to me is a bound volume entitled "UBS Financial Statements" containing the following consolidated financial statements for UBS and UBS Wireless:
- (a) Interim Unaudited Financial Statements for the three and six months ended 28 February 2011 and 2010 and related Management Discussion and Analysis;
 - (b) Consolidated Financial Statements for the three months ended 30 November 2010 and 2009 and related Management Discussion and Analysis; and
 - (c) Consolidated Financial Statements for the years ending 31 August 2010 and 2009 and related Management Discussion and Analysis.

97. The financial statements in the UBS Financial Statements volume are the financial statements prepared by UBS for during the 12 month period prior to this Application.

SWORN before me at the City of Toronto
in the Province of Ontario,
this 4th day of July 2011



Commissioner for Taking Affidavits or Notary
P SAEA

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ROBERT ULICKI



montréal • ottawa • toronto • hamilton • waterloo region • calgary • vancouver • beijing • moscow • london

9 December 2011

DELIVERED BY E-MAIL

Lax O'Sullivan Scott Lisus
145 King Street West, Suite 1920
Toronto, ON M5H 1J8

This is Exhibit "C" referred to in the
affidavit of JONAH BELL COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

E. Patrick Shea
Direct 416-369-7399
patrick.shea@gowlings.com
File No. T979173

Attention: Matthew Gottlieb

Dear Mr. Gottlieb:

Re: Claims filed against Unique Broadband Systems Inc. ("UBS")

Proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") in respect of UBS and an affiant were commenced pursuant to an Initial Order dated 5 July 2011. The Initial Order appointed RSM Richter Inc. (the "Monitor") as the monitor of UBS and UBS Wireless.

On 4 August 2011, the Court made an Order (the "Claims Order"), *inter alia*, establishing a process to determine claims against UBS and UBS Wireless.

Thirteen (13) proofs of claim¹ were filed with the Monitor by the Bar Date, as defined in the Claims Order, asserting claims against UBS. We understand that one (1) proof of claim asserting a claim against UBS was filed subsequent to the Bar Date and the that Monitor will request an Order permitting that creditor to file a proof of claim subsequent to the Bar Date.

UBS is required to review the claims submitted pursuant to the Claims Order and determine whether it disputes any such claims and advise the Monitor of its position. Where UBS advises the Monitor that it disputes a claim or the quantum asserted as owing by a creditor, the Monitor is required to deliver a Notice of Revision or Disallowance to that creditor.

The purpose of this letter is to advise the Monitor of UBS's determination with respect to the thirteen (13) claims filed against UBS by the Bar Date.

For the purpose of considering the claim made against UBS, only Robert Ulicki reviewed and considered the proofs of claim filed with the Monitor. The board of directors of UBS consists of Mr. Ulicki, Henry Eaton and Grant McCutcheon. However, 2064818 Ontario Inc. ("206 Ontario"), a shareholder of UBS, has brought a motion pursuant to s. 11.5 of the CCAA to remove Mr. Eaton and Mr. McCutcheon from the board and has taken the position that Mr. Eaton and Mr. McCutcheon

¹ In some cases the proofs of claim comprise multiple claims, which are discussed separately below.

should not review any of the claims filed against UBS. For that reason it was determined that, Mr. Ulicki alone would review the claims filed against UBS². This position was reflected in Mr. Ulicki's Affidavit sworn 15 November 2011.

I. Admitted Claims

There are a number of claims that UBS believes should be admitted as filed.

A. Stellarbridge Management Inc. – \$150,000

Stellarbridge Management Inc. ("Stellarbridge") has filed a proof of claim asserting a claim of \$150,000 in respect of a settlement evidenced by Minutes of Settlement dated 26 May 2011. Stellarbridge asserted a claim against UBS in connection with damage to premises leased by UBS from Stellarbridge. UBS and Stellarbridge settled that claim on the basis that UBS would pay Stellarbridge \$600,000 in two installments. The first payment was made by UBS and Stellarbridge's claim relates to the obligation of UBS to pay the second installment of \$150,000 before 15 January 2012.

B. Gorrissen Federspiel – 177,146.58DF

Gorrissen Federspiel ("GF") filed a claim against UBS in the amount of 177,146.58DF in respect of an account for legal services. GF is a law firm in Denmark. GF was retained by UBS in connection with a legal proceeding in Denmark. The services performed by GF were authorized by UBS and UBS does not dispute the account rendered by GF for those services.

C. Heenan Blaikie LLP – \$6,194.48

Heenan Blaikie LLP ("Heenan") filed a claim against UBS for \$6,194.48. Heenan's claim is based on unpaid invoices rendered to UBS. Heenan had a retainer and \$6,194.48 remains outstanding. The services performed by Heenan were authorized by UBS and UBS does not dispute the account rendered by Heenan for those services.

D. Goldman Sloan Nash & Haber LLP – \$22,397.59

Goldman Sloan Nash & Haber LLP ("GSNH") filed a claim against UBS for \$22,397.59. GSNH's claim is based on unpaid invoices for services supplied to UBS. UBS retained GSNH in connection with the litigation with Stellarbridge. The services performed by GSNH were authorized by UBS and UBS does not dispute the account rendered by GSNH for those services.

² UBS does not believe that Mr. Eaton or Mr. McCutcheon have a conflict in reviewing claims other than their own claims and the claim filed by LOOK Communications Inc. The decision that Mr. McCutcheon and Mr. Eaton would not review the other claims was to avoid any issues being raised by 206 Ontario with respect to the operation of the claims process. 206 Ontario is related to one of the parties that has filed a claim and that claim is disputed by UBS.

II. Disputed Claims

There are a number of claims that UBS disputes.

A. DOL Technologies Inc. – \$8,042,716 plus

DOL Technologies Inc. (“DOL”) filed a proof of claim against UBS for an aggregate amount of more than \$8,042,716. DOL’s claim against UBS is comprised of four (4) separate claims:

- (a) \$6,195,450 plus taxes in respect of a payment (the “**DOL Termination Payment**”) that DOL asserts is owing under a certain Technology Development and Strategic Marketing Agreement dated 12 July 2008 (the “**Technology Agreement**”);
- (b) a \$ 1,256,667 unpaid bonus awarded to DOL by UBS (the “**DOL Bonus**”) plus taxes;
- (c) \$345,586 plus taxes in respect of the cancellation of a certain share appreciation rights plan (the “**SAR Plan**”) asserted to be owing to DOL (the “**DOL SAR Termination Payment**”); and
- (d) \$245,003 in legal costs for which DOL claims indemnification under the Technology Agreement plus interest.

i. DOL Termination Payment

The Technology Agreement provides for UBS to retain DOL as an independent service provider to perform the duties typically performed by and assume the responsibilities typically assumed by a “chief technology officer”. The Technology Agreement was terminated by DOL after the board of UBS was replaced in July, 2010. DOL then commenced an action (the “**DOL Action**”) against UBS seeking, *inter alia*, to recover the DOL Termination Payment. UBS defended the DOL Action and counter-claimed against DOL.

Following the board of UBS being replaced, DOL terminated the Technology Agreement. UBS understands that DOL is asserting that the removal of the board of directors of UBS entitled DOL to terminate the Technology Agreement and receive the DOL Termination Payment.

The termination provision of the Technology Agreement provides that if DOL terminates the Technology Agreement for “Good Reason” following a “Change-in-Control” or UBS terminates the Technology Agreement other than for cause, DOL is entitled to a lump sum payment equal to 300% of the base annual compensation provided for in the DOL Termination Payment. For the sake of clarify, the DOL Termination Payment is not payable if DOL terminates the Technology Agreement on any basis other than for “Good Reason” after a “Change-in-Control”.

On 5 July 2010, a special meeting of shareholders of UBS requisitioned by a group of shareholders of UBS, including Clareste LP (the “**Shareholder Group**”) was held. The purpose of that meeting

was to remove the directors of UBS pursuant to s. 122 (1) of the Ontario *Business Corporations Act* (the "OBCA").

It is UBS's position that the DOL Termination Payment was not triggered when DOL terminated the Technology Agreement. The DOL Termination Payment is payable only if: (a) there was a "Change-in-Control" of UBS; and (b) DOL terminated the Technology Agreement for "Good Reason" following that "Change-in-Control".

It is UBS's position that there was no "Change-in-Control" or "Good Reason".

The Technology Agreement defines "Change-in-Control" to mean that "control (control includes a person or group of Persons acting in concert holding more than 20% of the voting shares of the Company) of the Company has transferred to another Person or Persons acting in concert". UBS is not aware of any transfer of 20% of the shares of UBS having occurred between July of 2008 and the date of termination of the Technology Agreement.

The Technology Agreement defines "Good Reason" to mean that DOL's "business relationship with UBS has been substantially altered by the UBS board". Subsequent to being elected, the new UBS board did not alter the business relationship with DOL. DOL terminated the Technology Agreement before the new UBS board had an opportunity to fully consider the Technology Agreement and DOL's continuing role with UBS.

UBS asserts that the Technology Agreement is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the Technology Agreement is void and not enforceable.

UBS also disputes the calculation of the Termination Agreement. DOL has, for example, included the DOL SAR Termination Payment in the DOL Termination Payment. This is not correct.

ii. DOL Bonus

UBS is of the view that it has "after acquired" cause to terminate DOL and, on that basis, to refuse to pay the bonus that was awarded to DOL. UBS has, for example: (a) determined that personal expenses for Mr. Dolgonos were inflated and improper amounts were claimed as business expenses; and (b) that Mr. Dolgonos does not appear to have performed for UBS to justify a bonus to DOL and it is not clear on what basis a the DOL Bonus was declared.

UBS has asserted that the award of the DOL Bonus is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS notes that, *inter alia*, no independent advice was sought with respect to the quantum of the bonus awarded. UBS asserts that the appropriate remedy is a declaration that the DOL Bonus is void and not enforceable.

Mr. Dolgonos did not comply with s. 132 of the OBCA with respect to the Technology Agreement. UBS acknowledges that Mr. Dolgonos disputes that he was an officer of UBS notwithstanding that

he was appointed by the Technology Agreement to perform the functions performed by a "chief technology officer".

iii. DOL SAR Termination Payment

The payments made on the cancellation of the SAR Plan reflected a (notional) UBS share price of \$0.40. At the time, UBS's shares were trading at \$0.16. There is no apparent justification for the board to pay the amount that it did to terminate the SAR units. Under the SAR Plan, when the conditions for an award of SAR units were met, UBS was required to pay the participant an amount equal to the "value" of the SAR units at that date, less all required statutory deductions. The "value" of SAR units was defined in the SAR Plan as the average closing board lot sale price of the common shares of UBS on the TSX Venture Exchange on the last preceding day on which the common shares were traded.

UBS has asserted that the award of the DOL SAR Termination Payment is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the DOL SAR Termination Payment is void and not enforceable or that the payment should be reduced to reflect the actual market price of UBS's shares on the date the SAR was terminated – \$0.16 as opposed to \$0.40.

iv. Indemnification

The claims for indemnification are contingent and is discussed below

B. Jolian Investments Limited – \$10,122,648 plus

Jolian Investments Limited ("Jolian") filed a proof of claim against UBS for in excess of \$10,122,648. That claim can be broken into four (4) sub-claims:

- (a) \$7,632,300 plus taxes in respect of a payment (the "**Jolian Termination Payment**") that Jolian asserts is owing under a certain Management Services Agreement dated 3 May 2006 between Jolian and UBS (the "**Jolian MSA**");
- (b) a \$1,256,677 unpaid bonus awarded to Jolian by UBS (the "**Jolian Bonus**") plus taxes;
- (c) \$628,338 plus taxes in amounts owing in respect of the cancelation of the SAR Plan (the "**Jolian SAR Termination Payment**");
- (d) \$595,333 in legal costs for which Jolian claims indemnification under the Jolian MSA plus interest.

i. Jolian Termination Payment

Pursuant to the Jolian MSA, UBS engaged Jolian as an independent service provider to provide certain services to UBS. Those services included providing Mr. McGoey to perform the duties typically performed by and assume the responsibilities typically assumed by a chief executive officer.

The Jolian MSA purports to acknowledge that, to perform the services required to be performed by Jolian, Mr. McGoey must be elected as a member of the UBS board, appointed as Chief Executive Officer of UBS and nominated as Executive Chairman of UBS. The Jolian MSA requires that UBS include Mr. McGoey on the management slate for election to the board, and request that the board of UBS appoint Mr. McGoey as Chief Executive Officer.

The Jolian MSA provides that in certain limited circumstances, UBS is to pay to Jolian an amount equal to 300% of the annual payment required to be made to Jolian under the Jolian MSA in the event the Jolian MSA is terminated (the "**Jolian Termination Payment**"). The Jolian Action seeks payment of the Jolian Termination Payment and, as set forth further below, UBS does not believe that the obligation to pay the Jolian Termination Payment has been triggered and, if it has, the requirement in the Jolian MSA in that regard is oppressive and disregards the interests of UBS's shareholders.

Mr. McGoey was removed as a director of UBS at the special meeting of shareholders held 5 July 2010, pursuant to s. 122(1) of the OBCA. After Mr. McGoey was removed as a director pursuant to s. 122 of the OBCA (and before the new board of UBS appointed pursuant to s. 122(3) had an opportunity to meet as a board), Jolian terminated the Jolian MSA and commenced an action claiming, inter alia, payment of the Jolian Termination Payment.

Subsequent to board of UBS being replaced, Jolian terminated the Jolian MSA immediately on the grounds that there was "Company Default" and "Termination without Cause". Jolian did not provided UBS with a default notice and did not provided notice of termination to UBS.

Jolian asserts that it has the right to the Jolian Termination Payment pursuant to Section 5.3(1) of the Jolian MSA.

Section 5.3 (1) of the Jolian MSA provides:

Entitlement – Jolian may terminate this Agreement for a Change-in-Control (which is not a Jolian Voluntary Change in Control) or a Company Default or UBS may terminate this Agreement at any time without Jolian Default or upon the Disability or Death of the CEO Designee. If this Agreement is terminated pursuant to this Section 5.3(1), Jolian shall be entitled to a lump sum payment equal to three hundred percent (300%) of the aggregate of:

(a) the Base Fee;

- (b) a performance incentive equal to the greater of:
 - (i) the performance incentive in the immediately preceding fiscal year;
 - (ii) the performance incentive in the immediately preceding calendar year;
 - (iii) the average of the performance incentive paid in the two immediately preceding fiscal years;
 - (iv) or the average of the performance incentive paid in the two immediately preceding calendar years; or
 - (v) U.S. \$180,000; and
- (c) the annualized Expenses of Jolian as per Appendix A, items, 1, 2, 3 and 4.

The failure of the shareholders of the Company to re-elect the CEO Designee to the Board or the failure of the Board to appoint the CEO Designee as the Chief Executive Officer of UBS or the failure of the Board to nominate the CEO Designee for the position of Executive Chairman of UBS shall constitute a "Termination without Cause" for the purposes of this Agreement.

The foregoing aggregate amount is a genuine pre-estimate of damages to Jolian and is not a penalty. (emphasis added)

Section 5.2 of the Jolian MSA provides that if Jolian terminates the Jolian MSA for any reason other than in response to a "Company Default"³ or a "Change-in-Control" the Jolian Termination Payment is not required to be paid by UBS. It is significant that section 5.3 of the Jolian MSA does not required payment of the Jolian Termination Payment based on "termination without cause".

The Jolian MSA defines "Company Default" to mean:

...the failure of UBS to respect any of its obligations hereunder including without limitation the failure of the CEO Designee to be elected to the Board of Directors of UBS (provided that Jolian has voted its Company Shares in favour of the CEO Designee), the failure of the Board of Directors of UBS to appoint the CEO Designee as Chief Executive Officer, the failure of the Board of Directors of UBS to nominate the CEO Designee for the position of Executive Chairman of UBS or any substantial diminution of the responsibilities of the CEO Designee, after having received written notice of such failure and having been given reasonable time to correct same, which failure has not been waived by Jolian. (emphasis added)

³ The definition of "Change-in-Control" in the Jolian MSA requires that there must have been a transfer of twenty (20) per cent of the shares of UBS. Jolian is not asserting there was a "Change-in-Control" as the basis for the termination of the Jolian MSA – as a factual matter there was no "Change-in-Control" of UBS.

There was no "Company Default" as defined by the Jolian MSA:

1. Mr. McGoeys was elected as a director at UBS's 2010 annual meeting, but was subsequently removed from the UBS board by the UBS shareholders pursuant to s. 122 of the OBCA. Nothing in the Jolian MSA prohibits UBS's shareholders from exercising their statutory right to remove Mr. McGoeys or provides for the payment of the Jolian Termination Payment in circumstances where Mr. McGoeys is removed from the board pursuant to s. 122 of the OBCA⁴.
2. Under the terms of the Jolian MSA, a "Company Default" does not arise unless Jolian provides written notice of the asserted default and provides UBS with a reasonable opportunity to correct the asserted default. Jolian did not provide UBS with notice that it was asserting that a default had occurred or provide UBS with a reasonable opportunity to correct any asserted default. There were vacancies on the UBS board and UBS could have cured any default resulting from the failure of Mr. McGoeys to be re-elected after being removed by the shareholders under s. 122 or sought a determination by the Court as to whether it was required to appoint Mr. McGoeys to the UBS board under the Jolian MSA to avoid the obligation to pay the Jolian Termination Payment⁵.

UBS notes that if the Jolian MSA is to be interpreted in the manner suggested by Jolian, the Jolian MSA would be prejudicial to, and disregard the interests of, the shareholders of UBS. If the Jolian Termination Payment is required to be paid where Mr. McGoeys is removed from the board by shareholders pursuant to s. 122(1) of the OBCA, the practical effect would be to prevent the shareholders of UBS – who are not party to the Jolian MSA and who did not ratify or approve the Jolian MSA – from exercising their statutory right to remove Mr. McGoeys from the UBS board unless they are prepared to pay Mr. McGoeys a sum of money that is so large, in the circumstances, that it is punitive.

The shareholders of UBS are not party to the Jolian MSA and did not ratify or approve the entering into of the Jolian MSA by UBS. UBS did not, to the best of my knowledge, retain an outside consultant to review the Jolian MSA to determine whether it was reasonable. At the time the Jolian MSA was negotiated, Mr. McGoeys was a director of UBS and was acting as the Chief Executive Officer of UBS.

UBS has asserted that the Jolian MSA is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the Jolian MSA is void and not enforceable.

⁴ The failure to re-elect Mr. McGoeys under s. 122 of the OBCA might be interpreted as "termination without cause" under the Jolian MSA – UBS believes this refers to failure to re-elect at annual meetings and not failure to be re-elected after removal under s. 122 – but "termination without cause" does not entitle Jolian to the Jolian Termination Payment.

⁵ Jolian's actions denied UBS the ability to: (a) determine whether there was a default or potential default; and (b) cure any such default, and unless UBS has a right to cure and fails to do so, there can be no "Company Default".

Jolian also breached its obligation under the Jolian MSA to provide UBS with four (4) months prior notice of the termination of the Jolian MSA.

UBS disputes Jolian's calculation of the Jolian Termination Payment. Jolian appears, for example, to have included the Jolian SAR Termination Payment in calculating the quantum of the Jolian Termination Payment. This is not correct.

ii. Jolian Bonus

UBS disputes Jolian's right to the Jolian Bonus on, essentially, the same grounds that it disputes DOL's right to receive a bonus.

UBS asserted that the award of the Jolian Bonus is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS notes that, *inter alia*, no independent advice was sought with respect to the quantum of the bonus awarded. UBS asserts that the appropriate remedy is a declaration that the Jolian Bonus is void and not enforceable.

iii. Jolian SAR Termination Payment

UBS disputes Jolian's right to the Jolian SAR Termination Payment on the same basis as it disputes DOL's right to the Jolian SAR Termination Payment.

In addition, Mr. McGoey is the principal of Jolian – he has a material interest in Jolian – and sat on the UBS board at the time the SAR Plan was terminated. UBS understands that Mr. McGoey did not comply with his obligations under s. 132 of the OBCA in connection with the termination of the SAR Plan. UBS takes the position that the termination of the SAR Plan was a material transaction and that Mr. McGoey should have: (a) disclosed in writing to UBS or request to have entered in the minutes of meetings of directors the nature and extent of his interest; (b) not attended any part of a meeting of directors during which the termination of the SAR was discussed; and (c) not voted on the resolution to approve the termination of the SAR. UBS does not believe that the termination of the SAR Plan was a transaction relating primarily to Mr. McGoey's remuneration as a director of UBS⁶.

UBS has asserted that the award of the termination of the SAR Plan is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the Jolian SAR Termination Payment is void and not enforceable or that the payment should be reduced to reflect the actual market price of UBS's shares on the date the SAR Plan was terminated.

iv. Indemnification

Jolian's claim for indemnification is contingent and is discussed below.

⁶ The termination of the SAR Plan was not a *quid pro quo* for services rendered as a director of UBS.

C. Douglas Reeson – \$585,000

Douglas Reeson, a former director of UBS, has filed a claim against UBS for \$585,000. Mr. Reeson's claim consists of two (2) claims:

- (a) \$465,000 in respect of the termination of Mr. Reeson's SARs (the “**Reeson SAR Termination Payment**”); and
- (b) \$120,000 in costs based on UBS's obligation to indemnify Mr. Reeson pursuant to an agreement dated 25 January 2007.

i. Reeson SAR Termination Payment

The same analysis is applicable to the Julian SAR Termination Payment is applicable to the Reeson SAR Termination Payment.

ii. Indemnification

Mr. Reeson's claim for indemnification is contingent and is discussed below.

III. Other Claims

There are number of claims that: (a) Mr. McCutcheon did not consider; and/or (b) are contingent and have not been valued by UBS on the basis that it is premature, and not necessary, to do so at this point in time.

A. Robert Ulicki – TBD

Robert Ulicki filed a claim against UBS for an undetermined amount. Mr. Ulicki's claim is based on the assertion that UBS is obliged to indemnify Mr. Ulicki and is identical to the claims filed by Mr. Eaton and Mr. McCutcheon.

UBS is not able to take a position with respect to Mr. Ulicki's claim. Mr. Ulicki is a director of UBS and, as set forth above, in light of the motion by 206 Ontario to remove Grant McCutcheon and Henry Eaton, Mr. Ulicki is the only director of UBS who has considered the claims made against UBS. Mr. Ulicki has a conflict *vis-à-vis* his own claim against UBS and did not consider his own claim.

We note that it is not necessary to determine Mr. Ulicki's claim at this time.

B. Henry Eaton – TBD

Henry Eaton filed a claim against UBS for an undetermined amount. Mr. Eaton's claim is based on the assertion that UBS is obliged to indemnify Mr. Eaton and is identical to the claims filed by Mr. Ulicki and Grant McCutcheon.

UBS has chosen to not take a position on the validity of Mr. Eaton's claim. As set forth above, Mr. Ulicki is the only director that considered the claims filed against UBS and, in light of the fact that his own claim is identical to the claim filed by Mr. Eaton, Mr. Ulicki did not believe it was appropriate to consider Mr. Eaton's claim.

UBS notes that it is not necessary to determine the validity of Mr. Eaton's claim at this time. counsel.

C. Grant McCutcheon – TBD

Grant McCutcheon filed a claim against UBS for an undetermined amount. Mr. McCutcheon's claim is based on the assertion that UBS is obliged to indemnify Mr. McCutcheon and is identical to the claims filed by Mr. Eaton and Mr. Ulicki.

UBS has chosen to not take a position on the validity of Mr. McCutcheon's claim. Mr. McCutcheon's claim is identical to the claim filed by Mr. Ulicki. As set forth above, Mr. Ulicki is the only director that considered the claims filed against UBS and, in light of the fact that his own claim is identical to the claim filed by Mr. McCutcheon, Mr. Ulicki did not believe it was appropriate to consider Mr. McCutcheon's claim.

UBS notes that it is not necessary to determine the validity of Mr. McCutcheon's claim at this time.

D. Alex Dolgonos – TBD

Mr. Dolgonos filed a proof of claim against UBS claiming an amount to be determined. Mr. Dolgonos's claim is based on the assertion that he is entitled to be indemnified by UBS pursuant to an indemnification agreement dated 25 January 2007. Mr. Dolgonos also relies on the Judgment of Mr. Justice Marrocco dated April 27, 2011.

Mr. Dolgonos' claim for indemnification is contingent and no amounts have been identified as owing.

UBS has appealed Mr. Justice Marrocco's Judgment and the obligation of UBS to indemnify Mr. Dolgonos is not absolute – UBS asserts that there are grounds for UBS to not indemnify Mr. Dolgonos. If UBS's appeal is not successful and it is determined that Mr. Dolgonos is entitled to be indemnified his claim will be valid, subject to the determination that the amounts he is claiming are reasonable.

UBS notes that it is not necessary to determine the validity of Mr. Dolgonos's claim at this time.

E. Gerald McGoey – TBD

Mr. McGoey filed a proof of claim against UBS claiming an amount to be determined. Mr. McGoey's claim is based on the assertion that he is entitled to be indemnified by UBS pursuant to an indemnification agreement dated 25 January 2007 and the Jolian MSA. Mr. McGoey also relies on the Judgment of Mr. Justice Marrocco dated April 27, 2011.

Mr. McGoey's claim for indemnification is contingent and no amounts have been identified as owing.

UBS has appealed Mr. Justice Marrocco's Judgment and the obligation of UBS to indemnify Mr. McGoey is not absolute – UBS asserts that there are grounds for UBS to not indemnify Mr. McGoey. If UBS's appeal is not successful and it is determined that Mr. McGoey is entitled to be indemnified his claim will be valid, subject to the determination that the amounts he is claiming are reasonable.

UBS notes that it is not necessary to determine the validity of Mr. McGoey's claim at this time.

G. Peter Minaki – \$92,861.24

Peter Minaki filed a proof of claim against UBS claiming \$92,861.24. Mr. Minaki's claim is based on an Indemnification Agreement dated 25 January 2007. Mr. Minaki's is claiming indemnification in respect of costs incurred in defending a third-party action brought against Mr. Minaki's by, *inter alia*, Mr. Dolgonos.

Mr. Minaki's claim for indemnification is contingent. UBS's obligation to indemnify Mr. Minaki is dependent on the factual finding made in connection with the proceedings in respect of which Mr. Minaki seeks indemnification.

H. Douglas Reeson (Indemnification) – See above

Mr. Reeson seeks indemnification in respect of legal fees incurred in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct. This is the same action referenced in the claims filed by Jolian and DOL.

I. DOL (Indemnification) – See above

DOL seeks indemnification in respect of legal fees incurred: (a) in pursuing proceedings against UBS to recover the DOL Termination Payment, the DOL Bonus and the DOL SAR Termination Payment; and (b) in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct.

J. Jolian (Indemnification) – See above

Jolian seeks indemnification in respect of legal fees incurred: (a) in pursuing proceedings against UBS to recover the Jolian Termination Payment, the Jolian Bonus and the Jolian SAR Termination Payment; and (b) in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct.

K. LOOK Communications Inc. – TBD

LOOK Communications (“LOOK”) has filed a proof of claim against UBS in respect of a contingent claim that LOOK might have against UBS should UBS be unable to continue to perform services that it is obliged to provide to LOOK..

Pursuant to an Agreement between UBS and LOOK dated 19 May 2004 (the “MSA”) and amended pursuant to an Amending Agreement dated 3 December 2010 (the “MSA Amending Agreement” and together with the MSA, the “LOOK MSA”), UBS provides certain services to LOOK. Those services include providing a person to perform the duties typically performed by, and assume the responsibilities typically assumed by, a chief executive officer. The LOOK MSA expires on May 19, 2012. LOOK is obliged to pay UBS \$146,000 per month through to May 1, 2012. LOOK has, however, pre-paid UBS for the services to be provided through to the expiry of the LOOK MSA.

LOOK’s claim against UBS is based on the assertion that should UBS cease to perform its obligations under the LOOK MSA LOOK would be entitled to a claim against UBS equal to \$146,000 per month from the time UBS ceased to perform its obligations through to May 19, 2012.

It is UBS’s position that LOOK’s claim is contingent and that it is premature to determine the validity and quantum of LOOK’s claim.

LOOK’s claim is premised on UBS not performing its obligations under the LOOK MSA. UBS has continued to provide the services required by the LOOK MSA since the CCAA proceedings were commenced and intends to continue to provide those services to LOOK through to May of 2012.

L. 206 Ontario – TBD

206 Ontario does not appear to be asserting a liquidated claim against UBS. 206 Ontario filed a claim for an amount to be determined.

206 Ontario’s claim is based on an action commenced by 206 Ontario against UBS, Mrs. McCutcheon, Mr. Eaton and Mr. Ulicki (the “**Oppression Action**”) and the factual assertions made by 206 Ontario as against UBS in the CCAA claims process are identical to the factual assertions made by 206 Ontario in the Oppression Action.

The Oppression Action has not been heard and none of the issues raised in the Oppression Action have been determined.

UBS is bringing a motion to have the stay of proceedings imposed by the Initial Order extended to include the claim against Mr. McCutcheon, Mr. Eaton and Mr. Ulicki in the Oppression Action. If successful, this will facilitate the determination of the Oppression Action as part of the CCAA proceedings. That motion is scheduled to be heard on 20 December 2011.

IV. Determination of Disputed Claims

UBS believes that certain of the disputed claims can be determined on motions seeking either advice and directions or a determination of isolated issues. For example, DOL's claim for the DOL Termination Payment is, in UBS's view, dependent on their being a "Change-in-Control" of UBS within the meaning of the Technology Agreement. That is, in UBS's view, an isolated – and easily determined – factual matter that should be subject to being determined by the Court on a motion. Similarly, Jolian's claim for the Jolian Termination Payment is dependent on their being a "Company Default" within the meaning of the Jolian MSA. While perhaps more complicated than the determination as to whether there was a Change-in-Control of UBS, UBS believes that this matter can also be determined on a motion.

We would be pleased to meet with you to discuss any of the foregoing.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP



E. Patrick Shea
EPS:fs

cc: Client

TOR_LAW\ 7800488\3



Gavin Smyth
Direct Tel: 416-203-4475
Email: gsmlyth@groiaco.com

January 20, 2012

Via Electronic Mail

Joe Thorne
Gowling LaFleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

This is Exhibit "D" referred to in the
affidavit of JONAH BELLÉ COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012.

Dear Mr. Thorne:

Re: Jolian Investments Ltd. v. Unique Broadband Systems, Inc.
Court of Appeal File No.: C53926

The above-noted appeal is scheduled for April 26, 2012. The last correspondence I have with respect to this appeal is your letter to the Court of Appeal of November 30, 2011.

I am beginning to prepare our clients' responding materials.

Before I get too far into this, please let me know if you will be seeking leave to proceed with this appeal from either the CCAA Judge or the Court of Appeal; and, if so, if you will be filing additional appeal materials.

Yours truly,

Gavin Smyth

cc: Blake Cassels & Graydon LLP – Joel Richler
Roy Elliott O'Connor LLP – Peter Roy and Sean Grayson
McLean & Kerr LLP – Sharon M. Addison
Fasken Martineau DuMoulin LLP – David Hausman



Bennett Jones LLP
 3400 One First Canadian Place, PO Box 130
 Toronto, Ontario, Canada M5X 1A4
 Tel: 416.863.1200 Fax: 416.863.1716

Raj S. Sahni
 Partner
 Direct Line: 416.777.4804
 e-mail: sahnir@bennettjones.com
 Our File No.: 67878.2

January 23, 2012

Via Email

Gowlings
 1 First Canadian Place
 100 King Street West, Suite 1600
 Toronto, Ontario
 M5X 1G5 Canada

Attention: E. Patrick Shea

and

Lax O'Sullivan Scott Lisus LLP
 145 King Street West
 Suite 1920
 Toronto ON Canada M5H 1J8

Attention: Matthew Gottlieb

Dear Sirs:

Re: Unique Broadband Systems Inc. ("UBS") - Notice of Revision or Disallowance ("Disallowance Notice") re: Jolian Investments Limited ("Jolian")

We write regarding the Disallowance Notice dated January 4, 2012 (which Jolian did not receive until January 5, 2012) issued by the Monitor on behalf of UBS. The issuance of the Disallowance Notice prior to the delivery of Mr. Justice Wilton-Siegel's decision on the Motion heard on December 20, 2011 relating to the removal of conflicted directors came as a surprise to Jolian, given that one of the reasons advanced for the removal of the conflicted directors was to allow for the review of creditors' claims by an independent board of UBS.

In the circumstances, Jolian will need to review the decision of Mr. Justice Wilton-Siegel in respect of the aforementioned motion when delivered in order to properly respond to the Disallowance Notice.

This is Exhibit ^{"C E"} referred to in the
 affidavit of JONAH BELL COZ MONDELO
 sworn before me, this 2nd
 day of APRIL 2012

 A COMMISSIONER FOR TAKEOVER AFFIDAVITS

January 23, 2012

Page Two

In addition, we note that the Notice of Disallowance denies the indemnification portion of Jolian's claim on the basis that the indemnification issue is presently the subject of UBS's appeal of the decision of Justice Marrocco to the Ontario Court of Appeal (the "**Indemnity Appeal**"). We don't understand how UBS can rely upon the Indemnity Appeal as the basis of disallowing Jolian's indemnification claim given Justice Simmons' Endorsement dated October 12, 2011, in which, prior to addressing the Indemnity Appeal itself, she required clarification of the issue of whether the CCAA stay affects the Indemnity Appeal. Despite the Court of Appeal's endorsement, we understand UBS has not taken any steps to address this issue, which is a prerequisite to advancement of the Indemnity Appeal in light of Justice Simmons comments in paragraph 2 of the Endorsement. We understand the lawyers for Jolian and Mr. McGoey on the Indemnity Appeal have written UBS' lawyers recently to ask if UBS is moving forward with a motion to either the CCAA Judge or the Court of Appeal to address this issue of the CCAA stay; but that UBS has not indicated its intentions or taken any steps to address this issue. Since the issue of whether or not the Indemnity Appeal can and should proceed in light of the CCAA Proceedings is central to UBS' disallowance of the indemnification claim (and therefore central to Jolian's ability to properly respond to the Disallowance Notice), Jolian should not be required to respond until UBS has cleared-up this issue in accordance with the Court of Appeal's endorsement.

Accordingly, Jolian requests that the deadline for filing its Notice of Dispute in respect of the Disallowance Notice be extended to the date that is the later of 20 business days from the date that: (i) Mr. Justice Wilton-Siegel's Order in respect of the December 20, 2011 motion is rendered; and (ii) the Court determines whether the Indemnity Appeal can proceed notwithstanding the initiation of CCAA proceedings by UBS.

In the circumstances, and given that there is no prejudice from such extension in accordance with the principles enunciated in cases such as *Re Blue Range Resource Corp.* ((2000), 15 C.B.R. (4th) 192), we trust that UBS and the Monitor will consent to the extension of the date by which Jolian is required to deliver its Notice of Dispute; however, we would appreciate your response by no later than 5pm on January 24, 2012 to confirm this.

Yours truly,



Raj S. Sahni

RJS/mv

WSLegal\067878\00002\7487808v1



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February 1, 2012

VIA ELECTRONIC MAIL

Gavin Smyth
Groia & Company
Wildeboer Dellelce Place
365 Bay Street, 11th Floor
Toronto, ON M5H 2V1

This is Exhibit "F" referred to in the
affidavit of JONAH BELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL, 2012

Joe Thorne
Associate
Direct 416-369-7223
joe.thorne@gowlings.com


A COMMISSIONER FOR TAKING AFFIDAVITS

Gavin:

Re: Julian Investments Limited v. Unique Broadband Systems, Inc.
Court of Appeal File No. C53926

I have your letter of January 20, 2012.

Claims have been filed by your client in the claims process in the CCAA proceedings seeking indemnification and those claims are being dealt with as part of the claims process. UBS does not intend to pursue its appeals, currently scheduled for April 26, 2012, at this time.

As a result, there is no need to argue the appeal on April 26, 2012. Please advise if you consent to an adjournment of that date.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP



Joe Thorne
Associate
JT:fg

cc: Joel Richler - Blake, Cassels & Graydon LLP
Peter L. Roy - Roy Elliott O'Connor LLP
Sean M. Grayson - Roy Elliott O'Connor LLP
Sharon M. Addison - McLean & Kerr LLP
David A. Hausman - Fasken Martineau DuMoulin LLP
Raj Sahni - Bennet Jones

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2 February, 2012

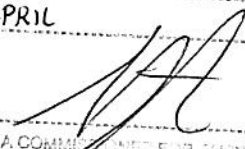
Via Facsimile

Bennett Jones
Suite 3400
One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Attention: Raj S. Sahni

Dear Mr. Sahni:

Re: Unique Broadband Systems Inc. ("UBS")
Court File No. CV-11-9283-00CL

This is Exhibit "G" referred to in the
affidavit of JONAH BELL COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

A COMMISSIONER FOR TAKING AFFIDAVITS

E. Patrick Shea
Direct (416) 369-7399
patrick.shea@gowlings.com

We understand that, in accordance with the terms of the Order dated 4 August 2011 (the "Claims Order"), a Notice of Revision or Disallowance was delivered to Jolian Investments Limited ("Jolian") and that Jolian has delivered a Notice of Dispute. In accordance with the Claims Order, the Monitor has fifteen business days from the delivery of a Notice of Dispute to: (a) bring a motion to have the determination of Jolian's claim determined by a Judge or a claims officer if we are able to reach agreement with respect to by whom the disputed claim should be determined; or, if we are unable to reach an agreement as to by whom the disputed claim should be determined; (b) a motion seeking advice and directions with respect to by whom the disputed claim should be determined.

We are hopeful that we can expedite the timelines in the Claims Order. We would like to request that Jolian agree that the determination of its (disputed) claim against UBS will be determined by a Judge. We further suggest that the parties sit down with the Monitor to reach an agreement with respect to the process for determining Jolian's claim.

It appears that the validity of Jolian's claim for the termination payment depends on your client satisfying the court, based on the facts outlined in your client's Notice of Dispute, that:

1. The termination payment is payable on "termination without cause" -- as well as "Company Default" and "Change-in-Control" -- and the exercise by the UBS shareholders of their rights to remove a director after electing (and subsequently re-electing) that director under s.122 of the *Business Corporations Act* (Ontario) constitute "failure to re-elect" thereby triggering "termination without cause"; or

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2. Jolian, based on the facts outlined in your client's Notice of Dispute, provided proper notice of default to UBS and provided UBS with an opportunity to cure the default such that there was a "Company Default".

There appears to be no reason why these issues cannot be determined on a "summary judgment" basis with an agreed statement of facts -- the facts relevant to these issues should not be in dispute. We understand that there is time available before His Honour on 1 and 2 March 2012 and we suggest that a motion to have these issues determined be scheduled for one of those days.

Can we please have your thoughts on the foregoing? We would be pleased to meet with you anytime this week to discuss the process for determining Jolian's claim against UBS to prepare for a meeting with the Monitor the following week.

Sincerely,



GOWLING LAFLEUR HENDERSON LLP

E. Patrick Shea
EPS:fs

cc: client
Monitor

TOR_LAW\7834838\1



montréal • ottawa • toronto • hamilton • waterloo region • calgary • vancouver • moscow • london

2 February, 2012

Via Facsimile

Roy Elliott O'Connor LLP
Barristers
200 Front Street West, 23rd Floor
P.O. Box #45
Toronto, ON M5V 3K2

Attention: Peter L. Roy and Sean Grayson

Dear Sirs:

Re: **Unique Broadband Systems Inc. ("UBS")**
Court File no. CV-11-9283-00CL

E. Patrick Shea
Direct (416) 368-7399
patrick.shea@gowlings.com

This is Exhibit "H" referred to in the
affidavit of JONAH BELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012.

A. COMMISSEUR EN FIDELITE AFFIDAVIT

We understand that your client 2064818 Ontario ("206 Ontario"), a company controlled by your client Alex Dolgonos, has indicated its intention to make a partial take-over bid for up to 10 million UBS shares at \$0.08 per share. UBS does not, in principal, object to a takeover bid or, to the price at which 206 Ontario is proposing to acquire UBS shares, but has concerns with the fact that it is proposing only a partial take-over. UBS is concerned that the stated purpose of the partial take-over is to effect a change of the UBS board and that this will result in the process to determine the (disputed) claim being asserted against UBS by DOL Technologies Inc. ("DOL"), another company controlled by Mr. Dolgonos, or the entire process under the *Companies' Creditors Arrangement Act* (the "CCAA"), being terminated or conducted in a manner that does not reflect the issues that UBS believes exist with respect to that validity and quantum of DOL's claim. It is, in the view of UBS, imperative that the validity of the claim being asserted against UBS be determined and that the best way to have the matter determined is in the CCAA proceedings.

Can you please confirm that your client's partial takeover bid is not intended to ultimately result in a change of the UBS board with a view to either: (a) interrupting the claims process; or (b) terminating the CCAA proceedings or, put another way, that your client will ensure that any change in control of UBS will not result in any adverse impact on the process to determine DOL's claim against UBS on its merits. If the acquisition of UBS shares by 206 Ontario is intended to result in a change in the UBS board to interrupt or otherwise impact the claims process or the CCAA proceedings, we will be forced to bring a motion to the court seeking advice and directions with respect to the matter and to ensure that DOL's claim is determined on its merits notwithstanding any change of the control of UBS.

We understand that, in accordance with the terms of the Order dated 4 August 2011 (the "Claims Order"), a Notice of Revision or Disallowance was delivered and that DOL has delivered a Notice of Dispute. In accordance with the Claims Order, the Monitor has fifteen business days

gowlings

from the delivery of a Notice of Dispute to: (a) bring a motion to have the determination of DOL's claim determined by a Judge or a claims officer if we are able to reach agreement with respect to by whom the disputed claim should be determined; or, if we are unable to reach an agreement as to by whom the disputed claim should be determined; (b) a motion seeking advice and directions with respect to by whom the claim should be determined.

We are hopeful that we can expedite the timelines in the Claims Order. We would like to request that DOL agree that the determination of its (disputed) claim against UBS will be determined by a Judge. We further suggest that the parties sit down with the Monitor to reach an agreement with respect to the process for determining DOL's claim.

It appears that the validity of DOL's claim for the termination payment depends on your client satisfying the court that, based on the facts outline in your Notice of Dispute, there was a "change-in-control" and "good reason". Unless your client establishes that both of these criteria are satisfied, the disallowance of the claim for termination payment must be upheld. There appears to be no reason why these matters cannot be determined on a "summary judgment" basis with an agreed statement of facts. We understand that there is time available before His Honour on 1 and 2 March 2012 and we suggest that a motion to have these issues determined be scheduled for one of those days.

Can we please have your thoughts on the foregoing? We would be please to meet with you anytime this week to discuss an expedited process for determining DOL's claim against UBS in contemplation of a meeting with the Monitor the following week. We have approached the Commercial List Office to determine His Honour's availability in March of 2012.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP

E. Patrick Shea
EPS:fs

cc: client
Monitor

TOR_LAW\ 78348292

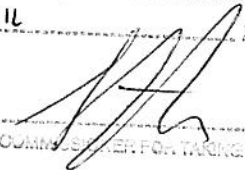
Gavin Smyth
Direct Tel: 416-203-4475
Email: gsmyth@groiaco.com

February 3, 2012

Via Electronic Mail

Joe Thorne
Gowling LaFleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

This is Exhibit "I" referred to in the
affidavit of JONAH BELL COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012


A COMMISSIONER FOR TAKING AFFIDAVITS

Dear Mr. Thorne:

Re: Jolian Investments Ltd. v. Unique Broadband Systems, Inc.
Court of Appeal File No.: C53926

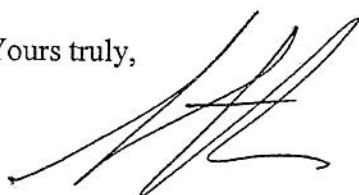
Thank you for your letter of February 2, 2012.

My clients do not consent to adjourning the appeal.

Unless I hear from you promptly, I will proceed to prepare my clients' appeal materials and serve them on you shortly.

Should your client continue to desire to seek to adjourn the appeal, then we would ask that you immediately arrange for an appearance before the Honourable Justice Simmons as suggested by her.

Yours truly,



Gavin Smyth
GS/jcm

cc: *Blake Cassels & Graydon LLP – Joel Richler*
Roy Elliott O'Connor LLP – Peter Roy and Sean Grayson
McLean & Kerr LLP – Sharon M. Addison
Fasken Martineau DuMoulin LLP – David Hausman
Bennett Jones LLP – Raj Sahni

REO_{Law}

Roy•Elliott•O'Connor LLP
Barristers


Sean M. Grayson
416-350-2487
smg@reolaw.ca

February 7, 2012

Our File No. 10-0019

VIA EMAIL (joe.thorne@gowlings.com)

Mr. Joe Thorne
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON
M5X 1G5

This is Exhibit "J" referred to in the
affidavit of JONAH BELL Coz MADELO
sworn before me, this 2nd
day of APRIL 2012

A COMMISSIONER FOR TAKING AFFIDAVITS

Dear Mr. Thorne:

Re: Jolian Investments Ltd. v. Unique Broadband Systems Inc.
Court of Appeal File No.: C53926

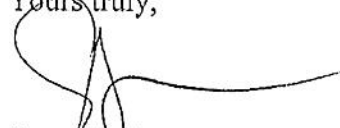
We are in receipt of your letter to Mr. Smyth of Groia and Company dated February 1, 2012, upon which we were copied. Our clients wholly agree with Mr. Smyth's response dated February 3, 2012.

Our clients do not consent to adjourning the appeal.

We will proceed to prepare our clients material and have them served.

If you client is intent on seeking to adjourn the appeal we suggest that you arrange for an appearance before the Honourable Justice Simmons as soon as possible.

Yours truly,


Sean M. Grayson
SMG/lc

cc: Joel Richler - Blake Cassels & Graydon LLP
Gavin Smyth - Groia & Company
David Hausman - Fasken Martineau DuMoulin LLP
Sharon Addison - McLean & Kerr LLP
Raj Sahni - Bennett Jones LLP



Bennett Jones LLP
 3400 One First Canadian Place, PO Box 130
 Toronto, Ontario, Canada M5X 1A4
 Tel: 416.863.1200 Fax: 416.863.1716

Raj S. Sahni
 Partner
 Direct Line: 416.777.4804
 e-mail: sahnir@bennettjones.com
 Our File No.: 67878.3

Via Email

February 7, 2012

Gowling Lafleur Henderson LLP
 1 First Canadian Place
 Suite 1600
 100 King Street West
 Toronto ON M5X 1G5

Attention: Mr. Patrick Shea

Dear Mr. Shea:

Re: Unique Broadband Systems ("UBS") and Jolian Investments Limited ("Jolian")

We are writing in response to your letter of February 2, 2012, which surprised and confused us as it is inconsistent with and contradicts our telephone discussion with you, counsel for the Monitor and counsel for DOL Technologies/Alex Dolgonos on February 1, 2012. As we noted in that call, this case involves a complex series of interrelated claims, counter-claims and issues between UBS and Jolian and Mr. McGoey. It is simply not appropriate, fair nor feasible to have those claims determined on some piece-meal basis by summary judgment as you have suggested in your letter.

Moreover, as we noted in our telephone call that there are various issues that need to be addressed by UBS prior to determination of Jolian's claims, including, without limitation, UBS addressing the proof of claim filed by Mr. McGoey and the issues raised by Justice Simmons at the Court of Appeal relating to UBS' appeal of Justice Morrocco's indemnification decision in respect of Jolian and Mr. McGoey. During the call, you informed us that UBS was abandoning that appeal but subsequent correspondence delivered to Gavin Smyth by Joe Thorne of your office purports to simply seek to adjourn the date for hearing of the appeal and does not therefore address the issues noted on our call.

Jolian disagrees with the proposed course of action set out in your letter and we are prepared to meet with you and the Monitor to further discuss this matter. We propose that meeting take place at 2:00 p.m. on Thursday, February 9, 2012 at our offices. I have copied counsel for the Monitor, counsel

This is Exhibit "K" referred to in the
 affidavit of JONAH BELLE COZ MONDELO
 sworn before me, this 2nd
 day of APRIL 2012

A COMMISSIONER FOR TAKING AFFIDAVITS

February 7, 2012
Page Two

for DOL and Groia & Company as Jolian's litigation counsel and would ask that everyone please let me know of your availability for a meeting on Thursday afternoon.

Thank you.

Yours truly,



Raj S. Sahni

RJS/mv

cc: Groia & Company (J. Groia and G. Smyth)
Ray Elliott O'Connor LLP (P. Roy and S. Grayson)
Lax O'Sullivan Scott Lisus LLP (M. Gottlieb)

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REO*Law*Roy•Elliott•O'Connor LLP
Barristers

This is Exhibit "L" referred to in the
affidavit of JONAH BELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012


A COMMISSIONER FOR TAKING AFFIDAVITS

Peter L. Roy
Certified by the Law Society as a
Specialist in Civil Litigation
Direct Line 416-350-2488
plr@reolaw.ca

February 7, 2012

Our File No. 10-0019

VIA FACSIMILE (416) 862-7661

Mr. Patrick Shea
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario
M5X 1G5

Dear Mr. Shea:

**Re: Unique Broadband Systems Inc. ("UBS") and DOL Technologies Inc. ("DOL") and
Alex Dolgonos**

We are writing in response to your letter of February 2, 2012. We have also been copied with Mr. Sahni's letter of February 7, 2012.

The claims made by and against DOL and Alex Dolgonos are at least as complex as those involving Mr. Sahni's clients. These claims do not lend themselves to a summary judgment application.

During our conversation on February 1, 2012, you advised that your firm would be delivering confirmation that UBS was abandoning the appeal on the indemnity issue. Instead we were copied on correspondence from your firm to Groia & Company requesting an adjournment of that appeal. Before this matter proceeds further, we need to know your client's position on Mr. Dolgonos' indemnity claim.

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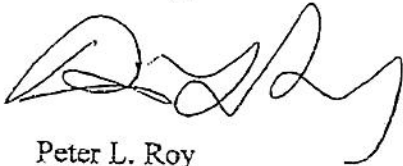
REO Law

Roy • Elliott • O'Connor LLP
Barristers

page 2

We are available to attend an afternoon meeting on Monday February 13, 2012 to discuss this matter further.

Yours truly,

A handwritten signature in black ink, appearing to be 'P. Roy', written in a cursive style.

Peter L. Roy
PLR/lc

cc: Matthew Gottlieb – Lax O'Sullivan Scott Lisus LLP
Raj Sahni – Bennett Jones LLP
Joseph Groia/Gavin Smyth – Groia & Company



montréal • ottawa • toronto • hamilton • waterloo region • calgary • vancouver • moscow • london

9 February, 2012

Via Facsimile

Bennett Jones
Suite 3400
One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Attention: Raj S. Sahni

Dear Mr. Sahni:

Re: Unique Broadband Systems Inc. ("UBS")
Court File No. CV-11-9283-00CL

E. Patrick Shea
Direct (416) 369-7399
patrick.shea@gowlings.com

This is Exhibit "M" referred to in the
affidavit of JONAH BELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

A COMMISSIONER FOR TAKING AFFIDAVITS

Thank you for your letter dated 7 February 2012.

I am somewhat confused by your reference to our letter of 2 February 2012 being inconsistent with and contradicting our telephone conversation with the Monitor with respect to the determination of your client's claims.

As I recall, the telephone call was requested by you and, as per your e-mail of 1 February 2012:

"I don't think we need a long call but I want to get an understanding of what is being proposed in terms of process and timing to deal with Jolian's claim, given the concerns raised in my letter of January 23 re: to UBS not having dealt with the issues relating to the indemnity appeal and also given that we haven't received any notice of revision or disallowance relating to Mr. McGoey's indemnification claim."

I specifically asked for an agenda of the matters to be discussed on the call (see my e-mails to you of 1800 on 31 January 2012 and 0800 on 1 February 2012) and you declined to provide one. As you know, I am not involved in the appeal of Marrocco J.'s Order with respect to interim indemnification of fees relating to the pre-filing litigation between our respective clients. You asked about the progress of the appeal on the call and I was clear that although I was not directly involved in the appeal, I understood that Mr. Groia's office had sent a letter to our office with respect to the matter and agreed to ensure that you were provided with a copy of our reply. I believe that, as per your request, a copy of our firm's letter to Mr. Groia's office was sent to you.

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Subsequent to receiving your letter, I obtained a copy of the Endorsement of Simmons J.A. from 12 October 2011, a copy of which is attached for your information. I note from the attached Endorsement that the onus was on your clients (or Mr. Roy's clients) as respondents to take steps either in the CCAA proceedings or before the Court of Appeal to deal with the impact of the CCAA on the appeal if the claims filed in the CCAA were jeopardized because of uncertainty arising because of the appeal. As I understand, no steps were taken by your client (or Mr. Roy's clients). Can you please advise as to whether your client intends to take any steps in the CCAA or at the Court of Appeal and, if so, how you believe the CCAA claims are jeopardized because of the appeal? Your immediate response would be appreciated.

Our client believes strongly that the immediate concern should be putting in place a process to determine your client's monetary claims against UBS. We do not understand your position that the claim for a termination payment cannot be determined in a manner akin to a summary judgment motion. Rule 20 of the *Rules of Civil Procedure* clearly contemplates that a motion for summary judgment may be brought in respect of part of a claim. We believe that there are few, if any, material factual issues underlying the claim for the termination payment and that those issues can be addressed in a summary manner. The onus is on your client to establish that it is entitled to the termination payment and we would welcome you to set out the factual basis on which your client claims entitlement to the termination payment, to the extent that that basis is not already set out in your Notice of Dispute, so that we can determine what, if any, facts may be in dispute.

You appear to be taking the position that your client's indemnification claims must be disallowed (or allowed) at this point and determined along with the corporate claims for amounts that Jolian Investments Inc. ("**Jolian**") claims are owing by UBS.

As we understand, Mr. McGoeys filed a personal claim for indemnification in respect of fees and expenses to be incurred in connection with responding to the counter-claim brought by UBS against him in an amount "to be determined". The proof of claim filed by Mr. McGoeys specifically references the fact that it is intended to "preserve rights".

Marrocco J. ordered that Jolian and Mr. McGoeys were entitled to receive interim payments in respect of costs incurred in connection with a litigation that is now stayed, subject to a final determination in the appropriate forum as to whether Jolian or Mr. McGoeys are entitled to be indemnified based, *inter alia*, on the merits of Jolian's action against UBS and UBS's counterclaim. In the event it is determined that Jolian or Mr. McGoeys are not entitled to be indemnified, any amounts actually paid by UBS would be repayable by Jolian or Mr. McGoeys.

Jolian filed a proof of claim against UBS seeking payment of the entire quantum of the interim payments ordered by Marrocco J. It is UBS's position that Jolian's right to receive the payments ordered by Marrocco J. is stayed, and Jolian's entitlement to be indemnified for costs incurred in connection with the action against UBS (and in pursuing its claim in the CCAA) will be determined in connection with the determination of the claim by Jolian in the CCAA proceeding. As noted above, Marrocco J. was not making a determination as to Jolian's ultimate right to be indemnified, but rather to Jolian's right to receive interim payments subject to Jolian having to return those payments to UBS in the event that it was ultimately determined that Jolian was not

gowlings

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entitled to be indemnified. The issue in the claims process is, in UBS's view, whether Jolian has an ultimate entitlement to be indemnified for the costs it has incurred, as opposed to whether UBS is obliged to make the interim payment ordered by Marrocco J.

Mr. McGoey did not file a claim for any specific amount and UBS understood Mr. McGoey's claim to a "place holder" intended to preserve rights rather than to establish a specific claim. Any personal right to indemnification that Mr. McGoey might have would relate to his defence of the counter-claim made by UBS. The counter-claim against Mr. McGoey personally has, however, not proceeded – the entire action is stayed – and it is not clear that it will ever proceed. Moreover, it is not clear that any claim that Mr. McGoey would have for indemnification in respect of the fees incurred to defend the counter-claim, assuming it ever proceeds, would be claims provable in the CCAA proceedings. In this regard, we note that Mr. McGoey's proof of claim specifically preserves the right to claim against UBS for fees incurred after the commencement of the CCAA proceedings.

If Mr. McGoey has a claim for a specific amount that he believes would be provable in the CCAA, please advise, in writing, as to the amounts that Mr. McGoey is claiming¹ and the basis for the claim. Once we have this information, UBS would be pleased to reconsider whether it should take a position as to whether it disputes Mr. McGoey's claim.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP



E. Patrick Shea
EPS:fs

cc: client
Monitor

TOR_LAW\7842559\2

¹ The entire amount of the interim payment ordered by Marrocco J. was claimed by Jolian Investments Inc.

DATE: 20111012
DOCKET: M40594

COURT OF APPEAL FOR ONTARIO

Simmons J.A. (Chambers)

BETWEEN

DOL Technologies Inc.

Plaintiff (Respondent)

and

Unique Broadband Systems, Inc.

Defendant (Appellant)

AND BETWEEN

Unique Broadband Systems, Inc

Plaintiff by Counterclaim

and

DOL Technologies Inc., Alex Dolgonos, Gerald McGoey, Louis Mitrovich and Douglas
Reeson

Defendants by Counterclaim (Respondent)

and

Peter Minaki

Third Party

Peter L. Roy, DOL Technologies Inc.

Kelley McKinnon and Joe Thorne, for Unique Broadband Systems, Inc. defendant
(plaintiff by counterclaim)

Joseph Groia for Julian/McGoey

Page: 2

Heard: October 12, 2011

ENDORSEMENT

[1] Appeal is adjourned to a date to be fixed by the Appeal Scheduling Unit in late March or early April 2012. I will case manage the appeal. Parties to report in writing on the status of the matter on or before November 30, 2011. Costs reserved to the next attendance.

Reasons

[2] Whether the appeal is stayed under para. 12 of the original CCAA order (as extended), it would seem to be a waste of resources of the parties and the court to deal with the appeal at this point. The concern of the respondents is that their claims within the CCAA may be jeopardized because of uncertainty arising from the pending appeal of the Marrocco J. order.

[3] However, it is not yet clear whether that will be the case. If that becomes clear, or if the CCAA proceeding is delayed, the respondents may apply, in the CCAA proceeding, for leave to have the appeal and the motion for security for costs proceeded with. Alternatively, they may apply to me to have the issue clarified as to whether the para. 12 stay applies to the appeal and/or the motion for security costs. Subject to the issue of leave, they may apply to me to have the security for costs issue determined.

“Simmons J.A.”

Court File No.: C53925/C53926
Docket: M40594

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE JUSTICE SIMMONS

) Wednesday, October 12, 2011
)

BETWEEN:

DOL TECHNOLOGIES INC.

Plaintiff
(Respondent)

- and -

UNIQUE BROADBAND SYSTEMS, INC.

Defendant
(Appellant)

AND BETWEEN:

UNIQUE BROADBAND SYSTEMS, INC.

Plaintiff by Counterclaim
(Appellant)

- and -

**DOL TECHNOLOGIES INC., ALEX DOLGONOS, GERALD MCGOEY,
LOUIS MITROVICH AND DOUGLAS REESON**

Defendants By Counterclaim
(Respondent)

- and -

PETER MINAKI

Third Party

ORDER

- 2 -

THIS MOTION, made by the appellant, Unique Broadband Systems, Inc. ("UBS") for an order adjourning the appeal *sine die* or staying the appeal, if necessary, pending completion of the UBS CCAA proceedings was heard on October 12, 2011 at 130 Queen Street West, Toronto, Ontario.

ON READING the notice of motion dated October 6, 2011, the affidavit of Joe Thorne, sworn October 7, 2011, with attached exhibits, and on hearing the submissions of counsel for UBS and for the respondents DOL Technologies Inc., Alex Dolgonos, Jolian Investments Limited and Gerald McGoey,

1. **THIS COURT ORDERS** that the appeal from the Order of the Honourable Justice Marrocco, dated April 27, 2011, Court File Numbers CV-11-9147-00CL and CV-11-9149-00CL (the "Appeal") is adjourned to a date to be agreed to by the parties and fixed by the Appeal Scheduling Unit in March or April 2012.
2. **THIS COURT FURTHER ORDERS** that the Appeal be case managed by the Honourable Justice Simmons.
3. **THIS COURT FURTHER ORDERS** that the parties shall report in writing to the Honourable Justice Simmons on the status of this matter on or before November 30, 2011.

- 3 -

4. **THIS COURT FURTHER ORDERS** that the costs of this motion are to be reserved to the next attendance.

Stacy Singh

Registrar Court of Appeal

ENTERED AT/INSCRIT À TORONTO

ON/BOOK NO:

LE/DANS LE REGISTRE NO:

OCT 27 2011

PER/PAR: SOS

DOL TECHNOLOGIES INC. - Plaintiff (Respondent) -		Court File No.: C53925/C53926	
UNIQUE BROADBAND SYSTEMS, INC. - Plaintiff by Counterclaim -		Docket: M40594	
PETER MINAKI - Third Party -		UNIQUE BROADBAND SYSTEMS, INC. - Defendant (Appellant) -	
v.		v. DOL TECHNOLOGIES INC. ALEX DOLGONOS, GERALD MCGOEY, LOUIS MITROVICH AND DOUGLAS REESON Defendants by Counterclaim/(Respondent)-	
COURT OF APPEAL FOR ONTARIO (PROCEEDING COMMENCED AT TORONTO)			
ORDER			
GOWLING LAFLEUR HENDERSON LLP Barristers and solicitors 1 First Canadian Place 100 King Street West, Suite 1600 TORONTO, Ontario M5X 1G5			
Kelley McKinnon (LSUC No. 33193C) Joe Thorne (LSUC No. 58773W) Telephone: (416) 862-7525 Facsimile: (416) 862-7661			
LAWYERS FOR THE DEFENDANT (APPELLANT), PLAINTIFF BY COUNTERCLAIM			

Gavin Smyth

From: Matt Gottlieb [mgottlieb@counsel-toronto.com]
Sent: Thursday, February 09, 2012 12:10 PM
To: 'jgroia@groiacom.com'; 'Patrick.Shea@gowlings.com'; 'sahnir@bennettjones.com'
Cc: 'PLR@reolaw.ca'; 'smg@reolaw.ca'; 'gsmyth@groiacom.com'
Subject: Re: UBS and Julian

Not without the company.

From: Joseph Groia [mailto:jgroia@groiacom.com]
Sent: Thursday, February 09, 2012 12:08 PM
To: 'Shea, Patrick' <Patrick.Shea@gowlings.com>; 'Raj Sahni' <Sahnir@bennettjones.com>; Matt Gottlieb
Cc: 'plr@reolaw.ca' <plr@reolaw.ca>; 'smg@reolaw.ca' <smg@reolaw.ca>; 'gsmyth@groiacom.com' <gsmyth@groiacom.com>
Subject: RE: UBS and Julian

Then we would like to proceed in any event and you can consult with the monitor at another time.

Matt are we on ?


Thanks

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
Sent: February 9, 2012 10:45 AM
To: Raj Sahni; Matt Gottlieb
Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiacom.com; gsmyth@groiacom.com
Subject: RE: UBS and Julian

This is Exhibit ^{"N"} referred to in the
 affidavit of JONAH BELLIE COZ MONDELLO
 sworn before me, this 2nd
 day of APRIL 2012

Monday does not work.

E. Patrick Shea
 Partner
 416-369-7399
 gowlings.com


 A COMMISSIONER FOR TAKING AFFIDAVITS

From: Raj Sahni [mailto:Sahnir@bennettjones.com]
Sent: February 9, 2012 10:44 AM
To: Matt Gottlieb; Shea, Patrick
Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiacom.com; gsmyth@groiacom.com
Subject: RE: UBS and Julian

Does Monday at 2pm work for everyone? If so, we can meet at our office (34th floor of First Canadian Place) then.
 Thanks

Raj Sahni

**Bennett
 Jones**

T +1 416 777 4804 / F +1 416 863 1716 / C +1 416 618 4804 / E sahnir@bennettjones.com
 Suite 3400, 1 First Canadian Place / P.O. Box 130 / Toronto, Ontario M5X 1A4

From: Matt Gottlieb [mailto:mgottlieb@counsel-toronto.com]
 Sent: 07 February 2012 2:48 PM
 To: 'Shea, Patrick'; Raj Sahni
 Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
 Subject: RE: UBS and Julian

Sorry, but I am gone until Monday. Can we arrange to meet then?

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
 Sent: February-07-12 2:45 PM
 To: SahniR@bennettjones.com
 Cc: Matt Gottlieb; plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
 Subject: Re: UBS and Julian

Thank you for your letter. I'm out of the office Thursday afternoon, but can meet Friday afternoon.

From: Raj Sahni [mailto:SahniR@bennettjones.com]
 Sent: Tuesday, February 07, 2012 02:36 PM
 To: Shea, Patrick
 Cc: Matthew Gottlieb <mgottlieb@counsel-toronto.com>; plr@reolaw.ca <plr@reolaw.ca>; smg@reolaw.ca <smg@reolaw.ca>; jgroia@groiaco.com <jgroia@groiaco.com>; gsmyth@groiaco.com <gsmyth@groiaco.com>
 Subject: UBS and Julian

Please see attached letter.

Martine Vieira
 Assistant to Raj Sahni & Karma Dolkar

Bennett Jones LLP T 416 777 4898 / F 416 863 1716 / E mvieira@bennettjones.com
 Suite 3400, 1 First Canadian Place / P.O. Box 130 / Toronto, Ontario M5X 1A4

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From: "Shea, Patrick" <Patrick.Shea@gowlings.com>
To: <gsmyth@groiaco.com>
Cc: <PLR@reolaw.ca>, <smg@reolaw.ca>, <jgroia@groiaco.com>, <mgottlieb@counsel-toronto.com>, <sahnir@bennettjones.com>
Date: 02/09/2012 04:24 PM
Subject: Re: UBS and Jolian

Thank you.

I believe that I have made a reasonable request - for your position on what process you'd like to put in place, if you wish to deal with this matter this week. I have also indicated that we'd be pleased to meet with you in person to discuss a process once our motion is heard. We've already proposed a process to determine the termination payment claims.

From: Gavin Smyth [mailto:gsmyth@groiaco.com]
Sent: Thursday, February 09, 2012 02:52 PM
To: Shea, Patrick
Cc: 'PLR@reolaw.ca' <PLR@reolaw.ca>; 'smg@reolaw.ca' <smg@reolaw.ca>; 'jgroia@groiaco.com' <jgroia@groiaco.com>; 'mgottlieb@counsel-toronto.com' <mgottlieb@counsel-toronto.com>; 'sahnir@bennettjones.com' <sahnir@bennettjones.com>
Subject: RE: UBS and Jolian

You are not addressing my email and the letters of others that have gone before it. I am not going to engage in an endless email chain.

One last try: Will you help to move the claims process forward by agreeing to meet with us and the Monitor next week so we can try to work out a proposal on how to determine the disputed claims?

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
Sent: Thursday, February 09, 2012 2:42 PM
To: gsmyth@groiaco.com
Cc: PLR@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; mgottlieb@counsel-toronto.com; sahnir@bennettjones.com
Subject: Re: UBS and Jolian

I think step one is determining who will hear the dispute. I take it from your e-mail that you agree it will be a Judge. Now the Monitor can apply to have a Judge assigned.

I'm glad to hear you want to push the claims process forward. Do you have any suggestions as to a process for resolving the claims? We would be pleased to consider any process you might propose. We remain convinced that the claims for termination payments should be resolved in a process akin to summary judgment.

From: Gavin Smyth [mailto:gsmyth@groiaco.com]
Sent: Thursday, February 09, 2012 02:27 PM
To: Shea, Patrick
Cc: 'PLR@reolaw.ca' <PLR@reolaw.ca>; 'smg@reolaw.ca' <smg@reolaw.ca>; 'Joseph Groia' <jgroia@groiaco.com>; 'Matt Gottlieb' <mgottlieb@counsel-toronto.com>; 'sahnir@bennettjones.com' <sahnir@bennettjones.com>
Subject: RE: UBS and Jolian

We can read the order but we all also know that the first question the Judge will have on the Monitor's motion is to ask how the parties propose the Judge is to determine the disputed claims. It is incumbent on the parties and the Monitor to sit down together and see if we can work this out.

We are aware of your client's motion; however, so far we are not aware of any order or reason why the CCAA claims dispute process should be stalled.

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
Sent: Thursday, February 09, 2012 12:32 PM
To: Joseph Groia; Matt Gottlieb; sahnir@bennettjones.com
Cc: PLR@reolaw.ca; smg@reolaw.ca; gsmyth@groiaco.com
Subject: RE: UBS and Jolian

Thank you;

You will appreciate that the timeline we are faced with in dealing with Mr. Dolgonos's partial take-over bid make any meeting next week difficult.

Can you please provide an agenda of the issues that you believe need to be addressed at a meeting and your proposal with respect to each issue? With this in hand, we may be able to resolve some of the issues or at least narrow any disputes.

Based on the Claims Order, the only issue that we are required to consult on in the 15 days after the Notices of Dispute are delivered is whether a Judge or a Claims Officer decides the disputed claims. We have suggested a Judge determine the disputed claims, but have not had a substantive response to this suggestion. Assuming you are content with a Judge, the Monitor **can proceed to make a motion seeking to have the disputed claims assigned to a Judge** and we can arrange a case conference with the Judge to discuss the process. Otherwise, if we cannot agree, the Monitor can bring a motion seeking *advice and directions* on the matter. Can you please let us know via return e-mail if a Judge is acceptable?

E. Patrick Shea
Partner
416-369-7399
gowlings.com

From: Joseph Groia [mailto:jgroia@groiaco.com]
Sent: February 9, 2012 12:18 PM
To: 'Matt Gottlieb'; Shea, Patrick; 'sahnir@bennettjones.com'
Cc: 'PLR@reolaw.ca'; 'smg@reolaw.ca'; 'gsmyth@groiaco.com'
Subject: RE: UBS and Jolian

And we are also available on Sunday to meet .

From: Matt Gottlieb [mailto:mgottlieb@counsel-toronto.com]
Sent: February 9, 2012 12:10 PM
To: 'jgroia@groiaco.com'; 'Patrick.Shea@gowlings.com'; 'sahnir@bennettjones.com'
Cc: 'PLR@reolaw.ca'; 'smg@reolaw.ca'; 'gsmyth@groiaco.com'
Subject: Re: UBS and Jolian

Not without the company.

From: Joseph Groia [mailto:jgroia@groiaco.com]
Sent: Thursday, February 09, 2012 12:08 PM
To: 'Shea, Patrick' <Patrick.Shea@gowlings.com>; 'Raj Sahni' <SahniR@bennettjones.com>; Matt Gottlieb
Cc: 'plr@reolaw.ca' <plr@reolaw.ca>; 'smg@reolaw.ca' <smg@reolaw.ca>; 'gsmyth@groiaco.com' <gsmyth@groiaco.com>
Subject: RE: UBS and Jolian

Then we would like to proceed in any event and you can consult with the monitor at another time.

Matt are we on ?

Thanks

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
Sent: February 9, 2012 10:45 AM
To: Raj Sahni; Matt Gottlieb
Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
Subject: RE: UBS and Jolian

Monday does not work.

E. Patrick Shea
Partner
416-369-7399
gowlings.com

From: Raj Sahni [mailto:SahniR@bennettjones.com]
Sent: February 9, 2012 10:44 AM
To: Matt Gottlieb; Shea, Patrick
Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
Subject: RE: UBS and Jolian

Does Monday at 2pm work for everyone? If so, we can meet at our office (34th floor of First Canadian Place) then.

Thanks

Raj Sahni

 T +1 416 777 4804 / F +1 416 863 1716 / C +1 416 618 4804 / E sahnir@bennettjones.com
Suite 3400, 1 First Canadian Place / P.O. Box 130 / Toronto, Ontario M5X 1A4

From: Matt Gottlieb [mailto:mgottlieb@counsel-toronto.com]
Sent: 07 February 2012 2:48 PM
To: 'Shea, Patrick'; Raj Sahni
Cc: plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
Subject: RE: UBS and Julian

Sorry, but I am gone until Monday. Can we arrange to meet then?

From: Shea, Patrick [mailto:Patrick.Shea@gowlings.com]
Sent: February-07-12 2:45 PM
To: SahniR@bennettjones.com
Cc: Matt Gottlieb; plr@reolaw.ca; smg@reolaw.ca; jgroia@groiaco.com; gsmyth@groiaco.com
Subject: Re: UBS and Julian

Thank you for your letter. I'm out of the office Thursday afternoon, but can meet Friday afternoon.

From: Raj Sahni [mailto:SahniR@bennettjones.com]
Sent: Tuesday, February 07, 2012 02:36 PM
To: Shea, Patrick
Cc: Matthew Gottlieb <mgottlieb@counsel-toronto.com>; plr@reolaw.ca <plr@reolaw.ca>; smg@reolaw.ca <smg@reolaw.ca>; jgroia@groiaco.com <jgroia@groiaco.com>; gsmyth@groiaco.com <gsmyth@groiaco.com>
Subject: UBS and Julian

Please see attached letter.

Martine Vieira
Assistant to Raj Sahni & Karma Dolkar

Bennett Jones T 416 777 4898 / F 416 863 1716 / E vieiram@bennettjones.com
Suite 3400, 1 First Canadian Place / P.O. Box 130 / Toronto, Ontario M5X 1A4

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Attachments:



montréal • ottawa • toronto • hamilton • waterloo region • calgary • vancouver • moscow • london

10 February, 2012

Via Email (gsmyth@groiaco.com)

Groia & Company
Professional Corporation Lawyers
365 Bay Street, Suite 1100
Toronto, ON M5H 2V1

Attention: Gavin Smyth

Dear Mr. Smyth:

Re: Unique Broadband Systems Inc. ("UBS")
Court File no. CV-11-9283-00CL

E. Patrick Shea
Direct (416) 369-7399
patrick.shea@gowlings.com

This is Exhibit "P" referred to in the
affidavit of JONAH B. ELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012


A COMMISSIONER FOR TAKING AFFIDAVITS

In your e-mails of 9 February 2012 you asserted that UBS was failing to meet with your client to discuss the reorganization and move the matter forward. This appears to be a mis-understanding on your part, likely due to the fact that you have not been involved in the reorganization proceedings.

On 12 January 2012, UBS requested, in writing, a meeting with your client to discuss the reorganization. Counsel advised that, at that time, he had no instructions to agree to (or refuse) and meeting and indicated that he would get back to us with respect to whether your client would meet with UBS, but agreed to seek instructions. We heard nothing until 21 January 2012 when Bennett Jones LLP requested a call for that afternoon. When we attempted to raise the claims process on that call, we were advised that your client believed that it was premature to discuss the claims process. The next we heard from your client was on 7 February 2012, after Mr. Dolgonos launched his partial take-over bid and Bennett Jones LLP requested a meeting for 9 February 2012.

Our client is anxious to move forward with the process to determine your client's disputed claims. However, given the schedule for the hearing of our client's motion with respect to Mr. Dolgonos' partial take-over bid, a face-to-face meeting next week is simply not possible. Assuming, however, that your client wishes to move the matter forward, we would invite you to propose a process for the determination of the claims that would be acceptable to your client.

As set out in our correspondence to Bennett Jones LLP, we believe that the issue with respect to whether the termination payment is payable can be determined on what would amount to a motion by UBS for summary judgment. The factual basis upon which your client asserts the payment is owing is clear -- those facts are set out in your client's Notice of Dispute. The issues to be determined, as we see them are outlined in our letter of 2 February 2012, to which there has

been no substantive response. We would, of course, be pleased to consider any argument you might wish to make as to why a trial is required to consider the validity of the claim or what factual matters *vis-a-vis* the termination payment may be in dispute to see if we can reach a resolution. It is, of course, your client's burden to establish that the termination payment has been triggered.

There will, we appreciate, be factual issues that need to be determined with respect to your client's claims for payment in respect of the termination of the share appreciation rights plan and the unpaid bonus. If it is helpful, we can provide you with an outline of the factual assertions that our client will make *vis-a-vis* these claims and the evidence upon which our client will reply in opposing the claims. We would suggest that the appropriate process might be to narrow the disputed issues, if at all possible, and then have those issues resolved by way of a hybrid trial which would involve evidence being presented in written form with live cross-examinations.

We believe the issue as to whether UBS is required to indemnify your client will flow from the determination of the claims made by your client against UBS. The Judge hearing the claims should determine whether UBS is, based on His or Her findings with respect to the claims, required to indemnify your client in respect of the cost of pursuing the claims against UBS.

We look forward to your thoughts.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP

E. Patrick Shea
EPS:fs

cc: client
Monitor

TOR_LAW\7844996\1




Gavin Smyth
Direct Line: 416-203-4475
Email: gsmyth@groiaco.com

February 12, 2012

Via Electronic Mail (patrick.shea@gowlings.com)

E. Patrick Shea
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

This is Exhibit ^{"Q"} referred to in the
affidavit of JONAH BELL COZ MONDELO
sworn before me, this 2nd
day of APRIL, 2012.

A COMMISSIONER FOR TAKING AFFIDAVITS

Dear Mr. Shea:

Re: **Unique Broadband Systems Inc. ("UBS")**
Court File No. CV-11-9283-00CL

I write to address our email exchange on February 9, 2012, your letter to Mr. Sahni of February 9, 2012, and your letter to me of February 10, 2012.

Indemnity Appeal

On the issue of UBS's appeal of the decision of the Honourable Justice Marrocco to the Court of Appeal for Ontario (the "**Indemnity Appeal**"), I note in your February 9, 2012 letter that you state you are not involved in the Indemnity Appeal. As a result, I have copied this letter to Mr. Thorne of your office.

With respect to the Indemnity Appeal, UBS stated in its December 9, 2011 letter setting out UBS's determination on the CCAA claims that, since the Indemnity Appeal was outstanding, the claim by Jolian Investments Limited ("**Jolian**") with respect to indemnity costs could not be allowed. The Monitor also specifically relied upon the pending Indemnity Appeal to disallow the Jolian's claim of in the Monitor's Notice of Revision and Disallowance dated January 4, 2012 (see page 6 where the Monitor states that "If UBS' appeal is not successful and it is determined that Jolian is entitled to be indemnified then its claim will be valid..."). Mr. Sahni raised the Indemnity Appeal in his letter to you of January 23, 2012 and set out the related issues. Jolian again raised the Indemnity Appeal in its Notice of Dispute. On February 1, 2012, you said in your telephone call with Mr. Sahni, Mr. Roy and Mr. Gottlieb that UBS would be abandoning the Indemnity Appeal. The next day, on February 2, 2012, Mr. Thorne wrote and requested our clients' consent to an adjournment of the Indemnity Appeal. On February 3, 2012, I wrote Mr.

Groia & Company Professional Corporation ■ Lawyers
Wilbeboer Dellelce Place
365 Bay Street, 11th Floor
Toronto, Ontario M5H 2V1
Tel: 416-203-2115 Fax: 416-203-9231
www.groiaco.com

Thorne and advised him our clients would not be providing their consent to an adjournment; and, I requested that if UBS wished to adjourn the Indemnity Appeal, then it should immediately make this request to the case management judge, the Honourable Justice Simmons. On February 9, 2012, you wrote and suggested that it was for our clients to seek the direction of the Court as to whether the Indemnity Appeal was affected by the CCAA stay.

Since we have not received any further indication from Mr. Thorne that UBS will seek an adjournment of the Indemnity Appeal, and since your February 9, 2012 letter implies the Indemnity Appeal is proceeding, I will proceed to prepare our clients' responding material for the Indemnity Appeal. Should UBS wish to seek an adjournment of the Indemnity Appeal or if UBS should take the position the Indemnity Appeal is stayed by the CCAA Initial Order, then it is appropriate for UBS to advise the Court of Appeal immediately and to seek its direction. Should UBS not do this and later seek an adjournment or assert the Indemnity Appeal is stayed, our clients' will rely on this letter and seek its costs thrown away on a full indemnity basis.

CCAA Claim Process

Turning to the CCAA claims process, I first note that it is hard not to conclude your letters and emails are written more to position UBS for its pending motion on February 14 and 21, 2012 in the CCAA proceeding than they are to address the CCAA claims process.

To suggest, for example, that our clients are delaying the claims process has no foundation. I will not get into a long debate with you over this in this letter, but I note that UBS decided eight months ago on June 18, 2011 to file for CCAA protection (it then announced this to the public on July 5, 2011), our clients filed their Proof of Claim before the September 19, 2011 Claims Bar Date, and it was not for three months later on December 9, 2011 that UBS took a position in those claims – and that was prompted by UBS's need to appear to be moving the CCAA claim process along in the face of the Motion to Remove Conflicted Directors that was returnable December 20, 2011.

Our clients are the largest creditors of UBS. Our clients want UBS to pay its debts owed to them as soon as possible. Our clients are very concerned about the significant professional fees being incurred by UBS as this represents a dissipation of the assets that could otherwise be available to UBS's creditors and other stakeholders.

That being said, I suggest it is best for us to cease this pointless back and forth correspondence and meet with the Monitor present to see if we can come to some agreement as to the procedure for the determination of Jolian's claims.

Our clients have responded to your summary judgment suggestion. This was done in the telephone call of February 1, 2012 and in Mr. Sahni's letter to you of February 7, 2012. In summary, while our clients agree the claims should be determined expeditiously, the process to do so needs to be fair, appropriate to the nature of the issues to be determined, and one which produces a record upon which the Court is able to make its determination. The claims and counterclaims between Jolian and UBS are based upon a complex set of facts and allegations that require full discovery and oral evidence and cross-examination as they relate to intentions and

actual conduct and will require the judge to fully appreciate all of the evidence in order to weigh evidence and assess the credibility of each of the parties. While expediency is important, it cannot come at the cost of the procedural and substantive fairness to which Jolian is entitled. Furthermore, as a first step in the claim determination process, the Court will need to determine Jolian's claim for payment of its ongoing post-filing costs in dealing with its claim and UBS's counterclaims.

As I stated in our February 9, 2012 email exchange, while the August 4, 2011 CCAA Order speaks of whether a Claims Officer or Judge of the Court should determine the claims dispute (and on that point, if it has not been clearly stated, our clients agree on a Judge of the Court), I believe the parties and the Monitor should also sit down and work out a proposal for the Judge to consider with respect to the procedure to determine the claims in dispute. When the Monitor moves for direction of the Court and for the Judge to be assigned, the first question the Judge will have is have the parties worked out a procedure to determine the claims in an expeditious but fair manner.

The parties and the Monitor, in my view, can most effectively do this by meeting. Exchanging numerous emails and letters has not worked for us so far.

While you had on two occasions said you would meet us to discuss the claims process, I take it you are not available to meet (and I would think you are also not available to consider the issue in written exchanges as you suggest) until after UBS's pending motion on February 21, 2012. Please let me know when you can meet and we can check with the Monitor's lawyer to see if he is available then.

Mr. McGoey's CCAA Claim

With respect to Mr. McGoey's CCAA claim, I will just state that Mr. McGoey's Proof of Claim, the Reasons for Decision of Justice Marrocco, and his Judgment speak for themselves and it will not assist for me to repeat them here.

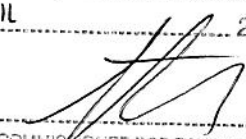
Yours truly,



Gavin Smyth

cc. Matthew Gottlieb, Lax O'Sullivan Scott Lisus LLP
Joe Thorne, Gowling Lafleur Henderson LLP
Raj S. Sahni, Bennett Jones LLP
Peter Roy and Sean Grayson, Roy Elliott O'Connor LLP
Joseph Groia, Groia & Company Professional Corporation

This is Exhibit "R" referred to in the
affidavit of JONAHBELLE COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012


A COMMISSIONER FOR TAKING AFFIDAVITS

-----Original Message-----

From: "Shea, Patrick" <Patrick.Shea@gowlings.com>
To: "Gavin Smyth" <GSmyth@groiaco.com>
Cc: <mgottlieb@counsel-toronto.com>, "Thorne, Joe" <Joe.Thorne@gowlings.com>, <SahniR@bennettjones.com>, <jgroia@groiaco.com>
Date: Wed, 22 Feb 2012 10:28:47 -0500
Subject: RE: UBS

Thank you. Please provide a suggestion for a process for determining your client's disputed claim.

E. Patrick Shea
Partner
416-369-7399
gowlings.com

From: Gavin Smyth [mailto:GSmyth@groiaco.com]
Sent: February 22, 2012 10:27 AM
To: Shea, Patrick
Cc: mgottlieb@counsel-toronto.com; Thorne, Joe; SahniR@bennettjones.com; jgroia@groiaco.com
Subject: Re: UBS

I suggest that the lawyers for all disputed claimants and for the Monitor get together to determine a procedure for determining the disputed claims that can be taken for approval by the Judge.

Do you have a sense of when the other lawyers could meet?

-----Original Message-----

From: "Shea, Patrick" <Patrick.Shea@gowlings.com>
To: <GSmyth@groiaco.com>
Cc: <mgottlieb@counsel-toronto.com>, "Thorne, Joe" <Joe.Thorne@gowlings.com>, <SahniR@bennettjones.com>, <jgroia@groiaco.com>
Date: Tue, 21 Feb 2012 18:03:08 -0500
Subject: Re: UBS

We have not had a reply to our e-mails. We are assuming, on that basis, that there will be no meeting tomorrow morning. We are quite anxious to move forward to determine the process for determining these claims. Can you

please provide your suggestions for a process to move this matter forward.

From: Shea, Patrick
Sent: Tuesday, February 21, 2012 03:52 PM
To: Shea, Patrick; 'Gavin Smyth' <GSmyth@groiaco.com>
Cc: 'mgottlieb@counsel-toronto.com' <mgottlieb@counsel-toronto.com>; Thorne, Joe; 'Raj Sahni' <SahniR@bennettjones.com>; 'Joseph Groia' <jgroia@groiaco.com>
Subject: RE: UBS

Good afternoon;

We have not heard from you with respect to whether you will be attending the meeting we scheduled to hear your view as to a process to determine your client's claim against UBS -- see below. Can you please confirm whether or not you will be attending?

Thank you.

E. Patrick Shea
 Partner
 416-369-7399
gowlings.com

From: Shea, Patrick
Sent: February 12, 2012 1:39 PM
To: 'Gavin Smyth'
Cc: mgottlieb@counsel-toronto.com; Thorne, Joe; Raj Sahni; Peter Roy; Sean Grayson; Joseph Groia; Shea, Patrick
Subject: RE: UBS

Thank you for your letter. We do not agree with most of the assertions in the letter, but there appears little utility in attempting to correct your statements. We are prepared to meet to discuss a process for determining the claims once any date after 21 February 2012. We proposed a meeting at our offices at 10:00 on 22 February 2012. Please confirm your attendance.

E. Patrick Shea
 Partner
 416-369-7399
gowlings.com

From: Gavin Smyth [<mailto:GSmyth@groiaco.com>]
Sent: February 12, 2012 12:28 PM
To: Shea, Patrick
Cc: mgottlieb@counsel-toronto.com; Thorne, Joe; Raj Sahni; Peter Roy; Sean Grayson; Joseph Groia
Subject: UBS

Patrick,

Please see the attached letter.

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Gavin Smyth

From: Matt Gottlieb [mgottlieb@counsel-toronto.com]
Sent: Tuesday, March 06, 2012 7:14 AM
To: 'Joe Groia'; Gavin Smyth (gsmyth@groiaco.com)
Cc: Anne Marie Harkin
Subject: RE: FW: UBS

I didn't know. Sorry, no it cant wait. It wont be a long meeting. I have been asking the parties to set out their proposed procedure in writing but no one has done so. Therefore, a quick meeting will be useful to get your thoughts.

From: Joe Groia [mailto:jgroia@groiaco.com]
Sent: March-06-12 7:06 AM
To: Matt Gottlieb; Gavin Smyth (gsmyth@groiaco.com)
Cc: Anne Marie Harkin
Subject: Re: FW: UBS

Matt ; I am sure you know we are in the OCA on UBS the next morning .

Can it not wait until after that ?

Let me know and we will seek instructions as to our position .

Joe
 Joseph Groia
 Groia & Company Lawyers
 A Professional Corporation
 Wildeboer Dellelce Place
 #1100 365 Bay St
 Toronto Canada M5H 2V1
 Direct 416 203 4472
 Fax 416 203 9231

This is Exhibit "S" referred to in the
 affidavit of JONAH BELLE COZ MONDEL
 sworn before me, this 2nd
 day of April 2012

 A COMMISSIONED NOTARY PUBLIC IN THE PROVINCE OF ONTARIO

-----Original Message-----

From: Matt Gottlieb <mgottlieb@counsel-toronto.com>
To: "Joseph Groia (jgroia@groiaco.com)" <jgroia@groiaco.com>, "Gavin Smyth (gsmyth@groiaco.com)" <gsmyth@groiaco.com>
Cc: Anne Marie Harkin <aharkin@counsel-toronto.com>
Date: Tue, 6 Mar 2012 11:53:01 +0000
Subject: FW: UBS

Gentlemen, see below. Can one of you be available for a meeting tomorrow at 2pm to discuss the procedure to get claims determined. The Monitor needs to bring a motion and wants your input.

From: Raj Sahni [mailto:SahniR@bennettjones.com]
Sent: March-05-12 9:40 PM
To: Matt Gottlieb; 'plr@rogers.blackberry.net'; 'smg@reolaw.ca'
Subject: Re: UBS

Sorry - meant please coordinate with Joe Groia and Gavin Smyth

Raj Sahni

Bennett Jones LLP
 Office: +1-416-777-4804
 Mobile: +1-416-618-4804
 Fax: +1-416-863-1716
 Email: sahnir@bennettjones.com

From: Matt Gottlieb [mailto:mgottlieb@counsel-toronto.com]
Sent: Monday, March 05, 2012 09:36 PM
To: Raj Sahni; 'plr@rogers.blackberry.net' <plr@rogers.blackberry.net>; 'smg@reolaw.ca' <smg@reolaw.ca>
Subject: Re: UBS

????

From: Raj Sahni [mailto:Sahnir@bennettjones.com]
Sent: Monday, March 05, 2012 09:27 PM
To: 'plr@rogers.blackberry.net' <plr@rogers.blackberry.net>; Matt Gottlieb; 'smg@reolaw.ca' <smg@reolaw.ca>
Subject: Re: UBS

Groia & Company are assisting Jolian relating to claims determination issues - please coordinate with Sean Grayson.

Thanks

Raj Sahni
 Bennett Jones LLP
 Office: +1-416-777-4804
 Mobile: +1-416-618-4804
 Fax: +1-416-863-1716
 Email: sahnir@bennettjones.com

From: plr@rogers.blackberry.net [mailto:plr@rogers.blackberry.net]
Sent: Monday, March 05, 2012 09:13 PM
To: Matthew Gottlieb <mgottlieb@counsel-toronto.com>; Sean Grayson <SMG@reolaw.ca>; Raj Sahni
Subject: Re: UBS

Matt

I sent an email to Raj but have not received a reply. We will meet you on Wednesday in any event. Would 2 work for you?

Peter

Sent from my BlackBerry device on the Rogers Wireless Network

From: Matt Gottlieb <mgottlieb@counsel-toronto.com>
Date: Tue, 6 Mar 2012 02:07:20 +0000
To: 'Sean Grayson' <SMG@reolaw.ca>; Peter Roy <PLR@reolaw.ca>; Raj Sahni <Sahnir@bennettjones.com>
Cc: Anne Marie Harkin <aharkin@counsel-toronto.com>; Laura Carey <LC@reolaw.ca>
Subject: RE: UBS

We will meet on Wednesday. *Peter let me know what time. Raj, if you can join us....great.*

From: Sean Grayson [mailto:SMG@reolaw.ca]
Sent: March-05-12 3:43 PM
To: Matt Gottlieb; Peter Roy; Raj Sahni
Cc: Anne Marie Harkin; Laura Carey
Subject: RE: UBS

Matt,

Peter is away returning I believe Wednesday, so we will not be able to meet until then at the earliest.

Sean

From: Matt Gottlieb [mailto:mgottlieb@counsel-toronto.com]
Sent: March-05-12 3:21 PM
To: Sean Grayson; Peter Roy; 'Raj Sahni'
Cc: Anne Marie Harkin
Subject: UBS

Gentlemen, can we please get together tomorrow or Wednesday at the latest to discuss the claims procedure. The Monitor intends to bring a motion for a process and I would like your input asap. Please get back to me today. Thanks much.

Matthew P. Gottlieb
 Direct: 416 644 5353
mgottlieb@counsel-toronto.com

Lax O'Sullivan Scott Lisus LLP
 Suite 1920, 145 King Street West
 Toronto ON M5H 1J8 Canada
 T 416 598 1744 F 416 598 3730
counsel-toronto.com



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Unique Broadband Systems, Inc. and UBS Wireless Services Inc.

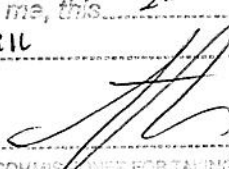
Claims Register - filed claims

As at February 10, 2012

(\$)

Creditor Name	Amount of claim filed (unsecured)	Status
2064818 Ontario inc.	TBD - unliquidated	Claim to be addressed
Alex Dolgonos	TBD - unliquidated	Claim to be addressed
		Notice of Revision or Disallowance and Notice of
DOL Technologies Inc.	8,042,716.00	Dispute filed
		Notice of Revision or Disallowance and Notice of
Douglas Reeson	585,000.00	Dispute filed
Gerald McGoey	TBD - unliquidated	Claim to be addressed
Goldman Sloan Nash & Haber LLP	22,397.59	Accepted as filed
Gorrissen Federspiel	32,116.67	Accepted as filed
Grant McCutcheon	TBD - unliquidated	Claim to be addressed
Heenan Blaikie LLP	6,149.48	Accepted as filed
Henry C. Eaton	TBD - unliquidated	Claim to be addressed
		Notice of Revision or Disallowance and Notice of
Jolian Investments Limited	10,112,648.00	Dispute filed
Look Communications Inc.	Provisional claim - contingent	Claim to be addressed
Peter Minaki	92,861.24	Accepted as filed
Robert Ulicki	TBD - unliquidated	Claim to be addressed
Stellarbridge Management Group	150,000.00	Accepted as filed

This is Exhibit "T" referred to in the
affidavit of JONAH BELL Coz MONDELO
sworn before me, this 2nd
day of APRIL 2012


A COMMISSIONER FOR TAKING AFFIDAVITS



This is Exhibit "U" referred to in the
affidavit of JONAH BELL COZ MONDELO
sworn before me, this 2nd
day of APRIL 2012

A COMMISSIONER FOR TAKING AFFIDAVITS

TORONTO, March 28, 2012 – Unique Broadband Systems, Inc. ("UBS" or the "Company") (TSX Venture: UBS) announced that its board of directors has today passed a resolution calling an annual and special meeting of shareholders (the "Meeting") and setting the record date for such Meeting. The Meeting has been scheduled for July, 11 2012 and the record date for the Meeting has been set for May 24, 2012. Formal notice of the Meeting and a management information circular will be delivered to shareholders in due course in compliance with applicable corporate and securities laws. The Meeting will be held at 10:30 a.m. at the offices of Gowling Lafleur Henderson LLP in the City of Toronto.

The items of business to be considered at the Meeting will include the matters that are the subject of the shareholders' meeting requisition that was received by the Company from 2064818 Ontario Inc. and 6138241 Ontario Inc., two companies that are directly or indirectly controlled by Mr. Alex Dolgonos (the "Dolgonos Shareholders"): (i) to remove all incumbent directors of the Company and to elect Kenneth D. Taylor, Azim S. Fancy and Daniel Marks to fill the vacancies created thereby; (ii) to increase the number of directors of the Company to four; and (iii) if the number of directors of the Company is increased, to elect Victor Wells to fill the vacancy created thereby.

In their press release dated March 8, 2012, the Dolgonos Shareholders indicate that UBS shareholders have been given two very different visions for the future of the Company: an unknown future with a new board of directors and the orderly liquidation and winding up of the Company. In order for UBS shareholders to have the necessary information to permit them to make an informed decision regarding these different visions, the board of directors continues to be of the view that of primary importance to all stakeholders is to ensure, prior to the Meeting, that the determination of the validity and quantum of the over \$18 million in claims against UBS (the "Claims") of affiliates of Mr. Dolgonos and Mr. McGoey, the former CEO of UBS, is completed as quickly as possible through the CCAA proceedings which are currently underway. Specifically, a determination of the disallowance of the Claims under the CCAA claims process could hold substantial value for all shareholders and the board of directors believes that shareholders are entitled to know the amount of such value prior to making a decision in respect of a change in board of directors.

UBS has been pushing for the determination of the Claims on their merits in the CCAA claims process in the most efficient and cost-effective manner, a process that is being challenged by affiliates of Messrs. Dolgonos and McGoey. UBS believes that it is reasonable to expect that the claims process should be able to be completed in advance of the Meeting. UBS, its board of directors and its chairman reserve the right, in their sole discretion, to either adjourn the Meeting or seek an order of the court to postpone the Meeting, including until such time as the claims process is completed.

TSXV Update

The Corporation has received notice from the TSX Venture Exchange (the "Exchange") that, in accordance with its Continued Listing Requirements outlined in Exchange Policy 2.5, the Corporation no longer meets the tests related to having a significant interest in a business or primary asset used to carry on business. The Exchange placed the Corporation on notice to transfer to NEX on June 7, 2012, subject to the Corporation making a submission that it meets all Tier 2 Continued Listing Requirements.

UBS Shareholders Urged to Reject the Dolgonos Offer

UBS Shareholders are reminded that the recommendation of UBS' board of directors to UBS Shareholders is that they **REJECT** and **DO NOT TENDER** their UBS shares to the unsolicited offer (the "Dolgonos Offer") from 2064818 Ontario Inc. to acquire up to 10,000,000 common shares of UBS, representing less than 10% of the Company's issued and outstanding common shares. A more detailed discussion of the reasons for rejecting the Dolgonos Offer is contained in the Directors' Circular that has been mailed to each

UBS Shareholder and that has been filed with the Canadian securities regulatory authorities. The Directors' Circular is available on SEDAR at www.sedar.com. UBS Shareholders are advised to read the Directors' Circular carefully and in its entirety, as it contains important information regarding UBS, 206 Ontario and the Dolgonos Offer.

How to Withdraw Tendered UBS Shares

To reject the Dolgonos Offer, if you have not tendered your UBS Shares, you do not need to do anything. Simply do not tender your UBS Shares to the Dolgonos Offer. UBS Shareholders who have already tendered their UBS Shares to the Dolgonos Offer can withdraw them at any time before they have been taken up and accepted for payment by 206 Ontario. The board of directors urges UBS Shareholders to withdraw any UBS Shares tendered to the Dolgonos Offer prior to May 11, 2012. UBS Shareholders holding shares through a dealer, broker or other nominee should contact such dealer, broker or nominee to withdraw their UBS Shares. Shareholders requiring assistance to withdraw UBS Shares from the Dolgonos Offer should contact: irinfo@uniquebroadband.com.

About Unique Broadband Systems, Inc.

UBS's shares are listed on the TSX Venture Exchange under the symbols "UBS". More information on UBS can be found at www.sedar.com.

The corporate information contained in this release includes forward-looking statements regarding future events and costs that involve risks and uncertainties that could cause actual results to differ materially. Assumptions used in the preparation of such information, although considered reasonable by UBS at the time of preparation, may prove to be incorrect. The actual results achieved may vary from the information provided herein and the variations may be material. Consequently, there is no representation by UBS that actual results achieved will be the same in whole or in part as those forecast.

Neither the TSX Venture Exchange nor its Regulation Services Provider (as that term is defined in the policies of the TSX Venture Exchange) accepts responsibility for the adequacy or accuracy of this release.

For additional information, please contact:

Grant McCutcheon, CEO
(905) 660-8100

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 UNIQUE BROADBAND SYSTEMS, INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)
(Proceeding commenced at Toronto)

**RESPONDING MOTION RECORD OF THE
RESPONDENTS JOLIAN INVESTMENTS
LIMITED AND GERALD MCGOEY**

GROIA & COMPANY
Professional Corporation ■ Lawyers
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365 Bay Street, 11th Floor
Toronto, ON M5H 2V1
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Tel: 416-203-4475

Co-lawyers for the Respondents
Jolian Investments Limited and Gerald McGoeY