

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE McEWEN

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FRIDAY, THE 25TH
DAY OF MARCH, 2022

B E T W E E N:

(Court Seal)

MARGARITA CASTILLO

Applicant

and

XELA ENTERPRISES LTD., TROPIC INTERNATIONAL LIMITED,
FRESH QUEST INC., 696096 ALBERTA LTD., JUAN GUILLERMO
GUTIERREZ and CARMEN S. GUTIERREZ, Executor of the Estate of
Juan Arturo Gutierrez

Respondents

AND IN THE MATTER OF THE RECEIVERSHIP OF XELA ENTERPRISES LTD.

ORDER

THIS CASE CONFERENCE, called by McEwen J. following an email report dated March 23, 2022 (the “**Email Report**”) by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings, and property of Xela Enterprises Ltd. (the “**Company**”) was heard virtually on March 25, 2022 via the Zoom videoconferencing platform by judicial videoconference at Toronto, Ontario.

WHEREAS on August 28, 2020, this Court made an Order with respect to the Company's documents and devices.

WHEREAS on October 27, 2020, this Court made an Order (the "**ATS Order**") authorizing Duff & Phelps to make a single disk image of certain servers under the control of Arturo's Technical Services Ltd. ("**ATS**").

WHEREAS on October 27, 2020, this Court made an Order (the "**Juan Guillermo Imaging Order**") authorizing Duff & Phelps to make a single forensic image of the devices of Juan Guillermo Gutierrez ("**Juan Guillermo**").

WHEREAS on March 25, 2021, this Court made an order that Juan Guillermo immediately provide the Receiver and Epiq Global ("**Epiq**") with all encryption codes, keys, passwords, or any other such information or knowledge necessary to unlock and access the data on the images of Juan Guillermo's devices, including but not limited to the DataShield Fantom Drive (the "**Hard Drive**").

AND WHEREAS the March 25, 2021 Order also provided, among other things, that within 14 days of the Order, ATS provide the Receiver with an electronic copy of all emails sent or received by Juan Guillermo (regardless of the email address to which it was forwarded and regardless of whether the email was sent directly to him or it was one on which he was copied) at any email address maintained on ATS servers to the date of the Order, along with any encryption codes, keys, or passwords used to secure the emails.

ON READING the Email Report and the material filed by Juan Guillermo, the

August 28, 2020 Order, the October 27, 2020 ATS Order, the October 27, 2020 Juan Guillermo Imaging Order, and the March 25, 2021 Order, and on hearing the submissions of the Receiver, counsel for Juan Guillermo, and counsel for ATS,

1. **THIS COURT ORDERS** that, by March 28, 2022 at 5 pm EST, Juan Guillermo and his solicitors shall attend a videoconference with Epiq Global (with the Receiver and counsel absent) and provide Epiq with all encryption codes, keys, passwords, or any other information necessary to unlock and access the data on the images of Juan Guillermo's devices, including but not limited to the Hard Drive (collectively the "**Hard Drive Data**").
2. **THIS COURT ORDERS** that following Epiq accessing and downloading the Hard Drive Data, Epiq shall re-lock the Hard Drive.
3. **THIS COURT ORDERS** that, by March 28, 2022 at 5 pm EST using Epiq's secure file transfer protocol, ATS shall provide Epiq with an electronic copy of all emails sent or received by Juan Guillermo (regardless of the email address to which it was forwarded, if the email was sent directly to him or if the email was one on which he was copied) at any email address maintained on any ATS server for the period up to March 25, 2021 (the "**ATS Juan Guillermo Emails**"), along with any encryption codes, keys, or passwords used to secure the emails.
4. **THIS COURT ORDERS** that the Hard Drive Data and the ATS Juan Guillermo Emails in Epiq's possession as a result of this Order shall be subject to the privilege protocol set out in the October 27, 2020 Juan Guillermo Imaging Order.

McE T.

(Signature of judge, officer or registrar)

MARGARTIA CASTILLO
Applicant

-and- XELA ENTERPRISE LTD. et al.
Respondents

Court File No. CV-11-9062-00CL

20 May 22

I reviewed to order with counsel today. They have agreed on the form and content. The order shall therefore go as of the date noted thereon.

MCE T.

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

PROCEEDING COMMENCED AT TORONTO

ORDER

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