

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 27th
)
JUSTICE MCEWEN) DAY OF OCTOBER, 2020

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, requested 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 this day via the Zoom videoconferencing platform by judicial videoconference at Toronto, Ontario due to the COVID-19 crisis.

ON READING the material filed by the parties, and on hearing the submissions of the lawyers for the Receiver and such other counsel as were present and listed on the Counsel Slip.

1. **THIS COURT ORDERS** that within seven days of the Order, Arturos Technical Services Ltd. (“ATS”) will schedule a mutually convenient date with Duff & Phelps, the Receiver’s Forensic Specialist, for the purpose of providing the Forensic Specialist access, in accordance with this Order, to certain servers more particularly described in Schedules “A” and “B” (collectively the “Servers”).

2. **THIS COURT ORDERS** that upon being provided with the access contemplated in paragraph 1 of this Order, Duff & Phelps be and is hereby authorized and directed to make a single disk image of each of the Servers listed in Schedule “A” (together, the “Images”) to be held by Duff & Phelps in accordance with the terms of this Order.

3. **THIS COURT ORDERS** that upon being provided with the access contemplated in paragraph 1 of this Order, ATS shall deliver up the Servers at Schedule “B” to Duff & Phelps (the “Schedule B Servers”) to be held by Duff & Phelps in accordance with the terms of this Order.

4. **THIS COURT ORDERS** that Duff & Phelps will make no additional copies or images of the Servers or any of the Images.

5. **THIS COURT ORDERS** that Duff & Phelps shall maintain and preserve the Images and Schedule B Servers until further order of this Court or written consent of the Receiver and ATS.

6. **THIS COURT ORDERS** that Duff & Phelps shall not conduct, or permit any other person to conduct, any analysis or review of the Images or Schedule B Servers or any data contained in the Images or Schedule B Servers, without a further order of this Court or written consent of the Receiver and ATS.

A handwritten signature in black ink, appearing to read "McE T.", positioned above a horizontal line.

(Signature of Judge)

SCHEDULE “A”

Description of Servers

Servers located at Cogent Canada, Inc., 245 Consumers Rd., Suite 300, North York, ON M2J 1R3:

1. XL88-5, serial number: KQYWHNG
2. XL88-15, serial number: 06KN471
3. XL88-25, serial number: KQ63ZVA
4. XL88-1, serial number: KQYWHNA
5. XL88-20, serial number: KQ6930H
6. XL88-30, serial number: KQ8X0LK
7. XL88-35, serial number: E2BG115

SCHEDULE "B"

Description of Additional Servers described as non-operational

	Hardware	Serial #
1.	IBM System x 3650 M3 7945-AC1 7945N2U	KQYWHPF
2.	IBM System x3550 7978 7978CCU	99L6433
3.	IBM System x3550 7978 7978CCU	99L6432

MARGARITA CASTILLO
Applicant

-and- XELA ENTERPRISE LTD. et al.
Respondents

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

27 Oct 20

Order to go on consent as per the draft filed and signed.

McE T.

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PROCEEDING COMMENCED AT
TORONTO

ORDER

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