

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)

TUESDAY, THE 16TH

REGIONAL SENIOR JUSTICE)

DAY OF FEBRUARY, 2016

MORAWETZ)

BETWEEN:

BONNIE CUMMINGS IN HER CAPACITY AS ESTATE EXECUTRIX
OF THE ESTATE OF THE LATE JOHN CUMMINGS

Applicant

- and -

PEOPLEDEGE HR SERVICES INC., WINSTON PARK FINANCIAL
SERVICES LTD., CMC FRASER LTD. AND 1624452 ONTARIO
LIMITED

Respondents

FINAL DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”) in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets owned and/or administered by (a) Peopledge HR Services Inc. (“**Peopledge**”) and by (b) Winston Park Financial Services Ltd. (“**WPFS**”), CMC Fraser Ltd. (“**CMC**”) and 1624452 Ontario Limited (“**162**”) (collectively, WPFS, CMC and 162 are the “**Related Companies**”, and together with Peopledge, the “**Debtors**”), for an order:

- (a) abridging the time for service of the notice of motion and motion record, including the Sixth Report of the Receiver dated February 10, 2016 (the “**Sixth Report**”), the Affidavit of Eugene Migus sworn February 5, 2016 (the “**Migus**”)

Affidavit") and the Affidavit of Marc Mercier sworn February 9, 2016 (the "**Mercier Affidavit**"), and dispensing with further service thereof;

- (b) approving final distribution of the remaining proceeds available in the estates of the Debtors as set out in paragraphs 98 and 99 of the Sixth Report (the "**Final Distribution**");
- (c) substantively consolidating the funds in the estates of the Related Companies with the Peopledge General Estate Funds (as defined in the Sixth Report) for the purpose of facilitating the Final Distributions;
- (d) approving the Record Destruction Process (defined and described in paragraph 107 of the Sixth Report);
- (e) upon the discharge of the Receiver, lifting the suspension of the administration of the Debtors' bankruptcy estates and authorizing and directing the Trustee in Bankruptcy to proceed directly to wind up the bankruptcy administrations of the Debtors;
- (f) approving the Receiver's consolidated statement of receipts and disbursements for the period ending February 5, 2016;
- (g) approving the Fifth Report of the Receiver dated November 3, 2014 and the Supplement to the Fifth Report of the Receiver dated December 8, 2014, together with the conduct and activities of the Receiver as respectively set out therein;
- (h) approving the Sixth Report, together with the conduct and activities of the Receiver as set out therein;
- (i) approving the fees and disbursements of the Receiver and its counsel for the period from March 31, 2013 to January 31, 2016, together with a holdback in the amount of \$40,000.00 for fees and disbursements incurred by the Receiver and its counsel for the period from February 1, 2016 to the completion of the receivership administration, including completing the Remaining Activities (as defined in the Sixth Report); and

- (j) discharging BDO as Receiver of the undertaking, property and assets of the Debtors and releasing BDO from any and all liability that BDO may have in any way arising out of the acts or omissions of BDO while acting as Receiver, or from matters that were raised, or which could have been raised, in the within receivership proceedings, as set out in the Receiver's draft order,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Sixth Report, the Migus Affidavit, the Mercier Affidavit, and on hearing the submissions of counsel for the Receiver and Celergo LLC, no one else appearing although served as evidenced by the Affidavit of Deborah Ferguson sworn February 10, 2016, filed;

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record (including service of the Sixth Report, the Migus Affidavit and the Mercier Affidavit) be and is hereby abridged and that the motion is properly returnable today and the requirement for service upon interested parties, other than those served, is hereby dispensed with and that the service as effected by the Receiver is hereby validated in all respects.
2. **THIS COURT ORDERS** that all capitalized and undefined terms used but not defined herein shall have the meanings ascribed to them in the Sixth Report.

APPROVAL OF FINAL DISTRIBUTION

3. **THIS COURT ORDERS** the Receiver's determination of Claims against the Debtors as set out in paragraphs 30 to 58 of the Sixth Report be and are hereby approved and confirmed, and shall be binding on the applicable Claimants.
4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to distribute, after payment of fees and expenses incurred by the Receiver and its counsel allocated in accordance with the May Directions Order, the following:
 - (a) the balance of the Canadian Customer Account Funds to Claimants with Proven Canadian Customer Deposit Claims on a *pari passu ex post facto pro rata* basis;
 - (b) from the Peopledge General Account Funds;

- (i) the sum of \$33,771.96 payable by the Receiver in satisfaction of its obligations to the former employees of Peopledge pursuant to Section 81.4 of the BIA;
 - (ii) the sum of \$18,570.21 to former employees of Peopledge in satisfaction of the priority afforded to the former employees for outstanding wages pursuant to Section 14 of the *Employment Standards Act*;
 - (iii) the sum of \$8,969.71 to Canada Revenue Agency (“CRA”) in satisfaction of the Peopledge Source Deduction Claim;
 - (iv) the sum of \$18,570.21 to CRA in satisfaction of the Peopledge HST Claim;
 - (v) the sum of \$20,292.28 to Bank of Montreal in satisfaction of its Claims against Peopledge;
- (c) from the 162 General Account Funds, the sum of \$5,644.63 to CRA in satisfaction of its Claims against 162;
- (d) subject to the payments set out in clauses (b) and (c), the balance of the General Estate Funds to:
- (i) Proven General Claims;
 - (ii) Residual Proven Canadian Customer Deposit Claims; and
 - (iii) Residual Proven US Customer Deposit Claims,

on a *pari passu ex post facto pro rata* basis and in full and final satisfaction of all such Claims.

5. **THIS COURT ORDERS** that the funds in the estates of the Related Companies shall be consolidated with the Peopledge General Estate Funds for the purpose of facilitating the distributions approved in paragraph 5(d) above.

RECORD DESTRUCTION

6. **THIS COURT ORDERS** that the Receiver's Record Destruction Process (as defined and described in paragraph 107 of the Sixth Report) be and is hereby approved and that the Receiver be and is authorized and directed to take all necessary steps to implement the Record Destruction Process.

DEBTORS' BANKRUPTCIES

7. **THIS COURT ORDERS** that, upon filing of the Discharge Certificate (defined below), the temporary suspension of the bankruptcy estates of each of the Debtors pursuant to paragraph 6 of the Directions Order of the Honourable Mr. Justice C. Campbell dated December 10, 2012 be and is hereby lifted and BDO, in its capacity as trustee in bankruptcy of the Debtors, be and is hereby authorized and directed to proceed directly to wind up the bankruptcy administration of the Debtors.

DISCHARGE AND RELEASE OF BDO AS RECEIVER

8. **THIS COURT ORDERS** that upon the Receiver filing a certificate certifying that it has completed the Remaining Activities as defined in the Sixth Report (the "**Discharge Certificate**"), the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Receiver.

9. **THIS COURT ORDERS AND DECLARES** that BDO is hereby released and discharged from any and all liability that BDO may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the

within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

APPROVAL OF CONSOLIDATED R&D STATEMENT

10. **THIS COURT ORDERS** that the Receiver's Consolidated Statement of Receipts and Disbursements for the period from October 29, 2012 to February 5, 2016 attached at Appendix "P" of the Sixth Report be and is hereby approved.

APPROVAL OF REPORTS

11. **THIS COURT ORDERS** that the Fifth Report, and the conduct and activities of the Receiver as set out therein, be and are hereby approved.

12. **THIS COURT ORDERS** that the Supplement to the Fifth Report, and the conduct and activities of the Receiver as set out therein, be and are hereby approved.

13. **THIS COURT ORDERS** that the Sixth Report, and the conduct and activities of the Receiver as set out therein, be and are hereby approved.

APPROVAL OF RECEIVER AND LEGAL FEES

14. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for services rendered for the period from March 31, 2013 to January 31, 2016, in the aggregate amount of \$218,912.54 plus HST as detailed in the Migus Affidavit, be and are hereby approved.

15. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, Cassels Brock & Blackwell LLP, for the period from March 31, 2013 to January 31, 2016, in the aggregate amount of \$209,661.29 plus HST as detailed in the Mercier Affidavit, be and are hereby approved.


16. **THIS COURT ORDERS** that the Holdback (as defined and described in the Sixth Report) in the amount of \$40,000.00 be and is hereby approved and the Receiver be and is hereby authorized to disburse the Holdback in order to satisfy the reasonable fees and disbursements of the Receiver and its counsel incurred for the period from February 1, 2016 to

the completion of the receivership administration, including completing the Remaining Activities.



A handwritten signature in black ink, appearing to read "A. J. Jones" followed by a horizontal line.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 16 '2016


BONNIE CUMMINGS IN HER CAPACITY AS ESTATE
EXECUTRIX OF THE ESTATE OF THE LATE JOHN
CUMMINGS

Applicant

-and-

PEOPLEDDGE HR SERVICES INC., WINSTON PARK
FINANCIAL SERVICES LTD., CMC FRASER LTD., 1624452
ONTARIO LIMITED

Respondents

Court File No. CV 12-9896-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**FINAL DISTRIBUTION AND DISCHARGE
ORDER**

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Lawyers for BDO Canada Limited,
in its capacity as Receiver of the Respondent
Companies