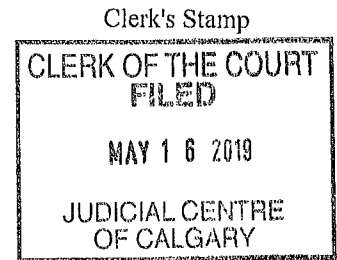


COURT FILE NUMBER 1801-16809
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *BANKRUPTCY
AND INSOLVENCY ACT*

AND IN THE MATTER OF THE
PROPOSAL OF
COMMERX CORPORATION

DOCUMENT **SECOND REPORT OF THE
PROPOSAL TRUSTEE, HARDIE &
KELLY INC.
MAY 16, 2019**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

PROPOSAL TRUSTEE
Hardie & Kelly Inc.
110, 5800 - 2nd Street SW
Calgary, AB T2H 0H2

Attention: Marc Kelly
Telephone: 403-536-8510
Email: mkelly@insolvency.net
Fax: 403-640-0591

PROPOSAL TRUSTEE'S COUNSEL
Bennett Jones LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary, Alberta T2P 4K7

Attention: Chris Simard / Michael Selnes
Telephone: 403-298-4485 / 403-298-3311
Email: simardc@bennettjones.com/ selnesm@bennettjones.com
Fax: 403-265-7219

**SECOND REPORT OF THE PROPOSAL TRUSTEE
HARDIE & KELLY INC.
MAY 16, 2019**

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INTRODUCTION

1. On March 7, 2019 (the “Filing Date”), Commerx Corporation (“Commerx” or the “Company”) filed a Notice of Intention to Make a Proposal pursuant to the *Bankruptcy & Insolvency Act* (the “BIA”). Hardie & Kelly Inc. consented to act as trustee (the “Proposal Trustee”) in the proceedings (the “Proposal Proceedings”).
2. On March 29, 2019, the Proposal Trustee prepared a report (the “First Report”) to the Court of Queen’s Bench of Alberta (the “Court”) in advance of the Company’s April 2, 2019 application (the “April Application”) for an extension of the time in which Commerx was required to file a proposal to its creditors (“Proposal”).
3. On April 2, 2019, the Court granted an Order extending the time in which the Company must file a Proposal to May 20, 2019 (the “Initial Extension”) along with an extension of the Stay of Proceedings (the “Stay”) afforded the Company pursuant to Section 69 of the BIA.
4. The purpose of this report (the “Second Report”) is to provide an update to the Court with respect to the following:
 - a. The Company’s operations since the date of the First Report;
 - b. The Company’s financial performance since the date of the First Report;
 - c. The status of the Company’s restructuring activities;
 - d. The Company’s request for a further extension of the time required to file the Proposal and a corresponding extension of the Stay through to July 4, 2019 and the Proposal Trustee’s recommendation with respect thereto;
 - e. The Company’s request for authorization to apply to the Court to increase the limits of the debtor-in-possession financing as provided for in the Order dated February 28, 2019 (the “DIP Order”); and

- f. The Company's request for authorization to apply to the Court regarding the determination of ownership and rights with respect to 51% ownership of the Class "A" shares of the Company previously transferred to Lotus Innovations Inc. ("Lotus").

TERMS OF REFERENCE

5. In preparing this Second Report, the Proposal Trustee has been provided with, and has relied upon unaudited financial information, certain books and records of the Commerx and discussions with management ("Management") (collectively the "Information"). Except as described in this First Report, the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("GAAS") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of such information.
6. Some of the Information referred to in this Second Report consists of forecasts and projections. An examination or review of any financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
7. All monetary amounts noted herein are expressed in Canadian dollars.

ONGOING OPERATIONS

8. Management represents that the day-to-day activities of the Company are being carried on in the ordinary course with no significant operational issues.
9. The Proposal Trustee is not aware of any suppliers having any issues in respect of the ongoing payment of post-filing obligations.

FINANCIAL PERFORMANCE

10. The Proposal Trustee has reviewed the Company's actual receipts and disbursements from March 25, 2019 through to May 12, 2019 in comparison to the corresponding period in the revised forecast (the "Revised Forecast") which was filed in connection with the April Application
11. A variance analysis is set out in the following table:

Commerx Corporation			
Forecast to Actual Analysis			
For the period of March 25 - May 12, 2019			
	<u>Actual</u>	<u>Forecast</u>	<u>Variance</u>
<u>RECEIPTS</u>			
Revenue / Collection of accounts receivable	471,592	371,047	100,545
Additional DIP Financing	0	150,000	(150,000)
Advances from/(to) US subsidiary	(73,669)	35,500	(109,169)
Funds from Nortel insolvency proceeding	135,926	0	135,926
Foreign exchange gain/(loss)	1,738	0	1,738
	<u>535,587</u>	<u>556,547</u>	<u>(20,960)</u>
<u>DISBURSEMENTS</u>			
General and administrative	(47,903)	(50,600)	2,697
Wages and benefits	(339,277)	(319,211)	(20,066)
Direct costs re subcontractors	(36,118)	(32,949)	(3,169)
GST remittances	(20,139)	(20,000)	(139)
Interest on DIP financing	(15,000)	(27,352)	12,352
Restructuring costs - Professional fees	0	(100,000)	100,000
	<u>(458,437)</u>	<u>(550,112)</u>	<u>91,675</u>
Net cash flow	77,150	6,435	70,715
Opening cash	69,769	69,769	
Closing cash	<u>146,919</u>	<u>76,204</u>	<u>70,715</u>

12. Commerx experienced positive cash flow of approximately \$77,000 over the period March 25 to May 12, 2019, which was approximately \$71,000 more than was estimated in the Revised Forecast.
13. The Company maintained a cash balance of approximately \$147,000 as at May 12, 2019.

14. The Proposal Trustee notes that the positive variance in the cash balance is a result of a combination of a number of variances in individual categories as set out in the table above. Overall, the Proposal Trustee has the following comments:
- a. The Company's accounts receivable collection efforts were more successful than anticipated, as it collected approximately \$100,000 more than it had forecast during the period. However, this is more than offset by the variance from advances made to the Company's U.S. subsidiary. The Company had anticipated it would borrow \$35,500 from its U.S. subsidiary but instead it advanced its U.S. subsidiary nearly \$74,000 during the period. Initially, the Company advised the Proposal Trustee that amounts advanced to the U.S. subsidiary were to cover a short-term timing issue and would be immediately repaid. However, the initial amount was not fully repaid and instead the Company advanced the U.S. subsidiary approximately \$50,000 more in the final two weeks of the period;
 - b. In the First Report, the Proposal Trustee noted that the Revised Forecast indicated that the Company's ability to continue operations while working through a restructuring period appeared to be dependent upon the receipt of additional debtor-in-possession financing ("Additional DIP Financing") of \$150,000, which had not yet been approved by the Court. The Revised Forecast anticipated that the details of the funding would be finalized and a Court application for approval of an additional debtor-in-possession financing charge would be scheduled in the near future such that the Additional DIP Financing would be received during the week of April 15 – 21, 2019. However, the Company has not received the Additional DIP Financing as of the date of this Second Report, nor has it finalized the details of the funding or scheduled a Court application for approval of further debtor-in-possession financing charge.

- c. As a result of the lack of Additional DIP Financing, the Company has Delayed payment of restructuring costs, being the fees of the Company's legal counsel, the Proposal Trustee and the Proposal Trustee's legal counsel, which Commerx had anticipated would amount to payments of \$100,000 during the period. The outstanding accounts and work in process of the Proposal Trustee and its legal counsel total approximately \$20,000 as of the date of this Second Report. The initial billings of the Proposal Trustee and its legal counsel through to March 31, 2019 totalling approximately \$22,000 were satisfied from the \$25,000 retainer provided by the Company prior to the commencement of the Proposal Proceedings;
- d. Payroll costs have trended higher than anticipated due to delayed timing of staff layoffs, while DIP financing interest has been lower than anticipated, due in part to the lack of Additional DIP Financing as well as the fact that approximately \$10,000 of the amount forecasted to be paid had already cleared the Company's account just prior to the forecast period; and
- e. The Company recently received a payment of \$136,000 (the "Nortel Funds") which the Company advises represents funds payable to the former shareholder of Alternate Communications International Ltd. ("Alternate") from the Nortel Networks Inc. insolvency proceedings. Alternate was acquired by Commerx in 2010 and was eventually amalgamated with Commerx. The Proposal Trustee understands that the former shareholder of Alternate may claim these funds as a priority entitlement, pursuant to an agreement dated August 20, 2013 between the former shareholder and Alternate. In the Second Revised Forecast described below, the Company has reported the Nortel Funds as a separate line item, for illustrative purposes. The entitlement of the former shareholder of Alternate to the Nortel Funds is yet to be determined.

15. Without the receipt of the Nortel Funds, the Company's cash balance as at May 12, 2019 would have been approximately \$11,000, which is approximately \$78,000 lower than forecast due to the overall negative impact of other variances discussed above.

CASH FLOW FORECAST

16. Management, with the assistance of the Proposal Trustee, has prepared an updated 13 week cash flow forecast for the period May 13, 2019 through to August 11, 2019 (the "Second Revised Forecast") which is attached hereto as Appendix "A".
17. A summary of the Second Revised Forecast is set out in the table below:

Commerx Corporation	
Cash flow forecast	
For the period May 13 - August 11, 2019	
	<u>Forecast</u>
<u>RECEIPTS</u>	
Revenues / accounts receivable collection	713,942
Interim financing	150,000
Advances from US subsidiary	60,000
	<u>923,942</u>
<u>DISBURSEMENTS</u>	
General and administrative (inc. rent and insurance)	(98,088)
Wages and benefits	(488,581)
Pre-NOI GST	(23,637)
Post-NOI GST	(30,000)
Direct costs re: subcontractors	(38,406)
Interest on DIP #1	(22,500)
Interest on DIP #2	(2,500)
Restructuring fees	(125,000)
	<u>(828,712)</u>
Net Cash Flow	95,230
Opening cash	146,919
Closing cash	<u>242,149</u>
Nortel Funds	<u>(135,000)</u>

18. The Second Revised Forecast reflects positive cash flow of approximately \$95,000 over the forecast period, leaving a forecasted cash balance of approximately \$242,000 at August 11, 2019. Given the current uncertainty regarding the requirement the status Nortel Funds to the former shareholder of Alternate, the Nortel Funds have been identified for illustrative purposes. The forecasted cash balance as at August 11, 2019, exclusive of the Nortel Funds is approximately \$107,000.
19. The Proposal Trustee offers the following additional comments in respect of the Second Revised Forecast:
 - a. The cash generated from collection of past and future sales revenues has been forecast based on amounts already billed and future revenues based on existing secured work and amounts already billed, collected within average timelines. The Proposal Trustee notes that the amount forecast to be received is consistent with the post-filing results to date;
 - b. Although the Company is still working to finalize the terms of the Additional DIP Financing, it anticipates that it will not be received until the week of July 1 – 7, 2019 after obtaining Court approval of the further debtor-in-possession financing charge. Without the Additional DIP Financing, the Company is likely unable to fund its forecasted restructuring costs. Therefore, the forecasted payment of the majority of the restructuring costs has been delayed in comparison to the previous Revised Forecast filed in conjunction with the April Application. The Proposal Trustee understands that the extended timeline for payment has been agreed to by the various restructuring professionals;
 - c. The Company has forecast that its U.S. subsidiary will advance \$60,000 in the second week of the Second Revised Forecast, such that it will have more than fully repaid all funds borrowed from Commerx since the Filing Date. Management advises that it is confident that the U.S. subsidiary will have sufficient cash available to fund the anticipated transfer;

- d. General administrative and operating expenses have been forecast based on planned workloads and historical results. The Trustee notes that these expenses to be slightly lower than post-filing results to date, which is consistent with the Company's efforts to reduce costs; and
 - e. The Company is no longer forecasting that it will repay the term loan associated with the initial \$500,000 of DIP financing during the forecast period. Although the loan agreement states that the loan is due June 1, 2019, the Company has advised that it is confident the lender will agree to an extension of the time to repay the loan as contemplated in the loan agreement. Therefore, the Company anticipates that the funds will not be required to be repaid until after the forecast period.
20. Overall, while the Company's operations appear to be self-sustaining, the Second Revised Forecast demonstrates that its ability to meet its obligations relating to restructuring costs, including professional fees and DIP financing interest, is dependent on the Company's ability to obtain funds from its U.S. subsidiary and raise the Additional DIP Financing. However, should it be determined that the Nortel Funds are available to be utilized by the Company, those funds would be available to fund such expenses.
21. Subject to the comments above, the Proposal Trustee is satisfied that the Revised Forecast is reasonable in the circumstances.

RESTRUCTURING EFFORTS

22. In the First Report, the Proposal Trustee advised that Management was having positive discussions with Super G Capital, LLC ("Super G") with respect to the removal of Super G's registration at the Alberta Personal Property Registry (the "PPR Registration") which encumbered all present and after-acquired property of the Company (the "Super G Registration") and that the ultimate removal of the Super G Registration would be an important factor that will pave the way towards the Company filing a viable proposal.

23. This matter has been successfully resolved since the date of the First Report and Super G has now discharged the PPR Registration.
24. Management continues to work towards securing Additional DIP Financing.

RECOMMENDATIONS

25. The Proposal Trustee is satisfied that:
 - Management continues to act in good faith and with due diligence with a view towards ultimately preparing a Proposal for presentation to its creditors; and
 - no creditor would be materially prejudiced if a further extension is granted.
26. In light of the above, the Proposal Trustee is of the view that a further extension of the time to file a proposal and corresponding extension of the Stay through to July 4, 2019 is warranted.
27. The Proposal Trustee is also supportive of the Company's requests to make application to the Court to increase the limits provided for by the DIP Order and for an order determining the parties' ownership and rights with respect to the 51% of the Class "A" shares of the Company previously transferred to Lotus, as Management believes each of these matters are important factors to be addressed prior to the formulation of the Company's proposal.

All of which is respectfully submitted this 16th day of May 2019.

Hardie & Kelly Inc.
in its capacity as the Proposal Trustee of Commerx Corporation
and not in its personal capacity



Per: Marc Kelly
Senior Vice President

APPENDIX "A"

Commerx Corporation
Weekly Report of 13 Week Cash Flow Forecast
for the period May 13, 2019 to Aug 11, 2019 (13 weeks)
(unaudited)

	Week 1 Projection May 13 May 19	Week 2 Projection May 20 May 25	Week 3 Projection May 27 June 2	Week 4 Projection June 3 June 9	Week 5 Projection June 10 June 16	Week 6 Projection June 17 June 23	Week 7 Projection June 24 June 30	Week 8 Projection July 01 July 07	Week 9 Projection July 08 July 14	Week 10 Projection July 15 July 21	Week 11 Projection July 22 July 28	Week 12 Projection July 29 Aug 04	Week 13 Projection Aug 05 Aug 11	Total
RECEIPTS														
Projected receipts from trade accounts receivable	\$33,145	\$30,620	\$30,337	\$157,709	\$5,896	\$31,897	\$5,951	\$26,878	\$0	\$1,530	\$0	\$18,030	\$0	\$341,992
Received from trade accounts receivable	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Principal source of revenue - WJF	0	0	0	5,000	15,000	15,000	15,000	17,500	120,890	20,890	20,890	20,890	120,890	\$371,850
Interim/DIP financing #2	0	0	0	0	0	0	0	150,000	0	0	0	0	0	\$150,000
Advances / Repayments from U.S. subsidiary	0	60,000	0	0	0	0	0	0	0	0	0	0	0	\$60,000
Fx gain (loss)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total receipts	33,145	90,620	30,337	162,709	20,896	45,897	20,951	154,378	120,890	22,420	20,890	38,920	120,890	923,942
DISBURSEMENTS														
General and administrative	4,619	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	52,619
Wages and benefits	6,181	90,000	0	75,000	5,800	75,000	0	75,000	5,800	75,000	0	75,000	5,800	488,581
Corporate insurance	0	0	0	0	0	0	0	3,853	0	0	0	0	0	11,560
Rent	0	0	3,853	11,303	0	0	0	11,303	0	0	0	11,303	0	33,969
Due to CRA - pre-NOI GST	0	0	0	23,637	0	0	0	0	0	0	0	0	0	23,637
Monthly GST	0	0	10,000	0	0	0	0	10,000	0	0	0	10,000	0	30,000
Other - direct costs (revenue producing subcontractors & costs)	0	0	7,812	5,190	0	0	0	7,812	5,190	0	0	7,812	5,190	38,406
Interest on DIP funding #1	0	0	7,500	0	0	0	0	7,500	0	0	0	7,500	0	22,500
Interest on DIP funding #2	0	25,000	0	0	0	0	0	0	0	0	0	2,500	0	27,500
Restructuring costs	0	0	0	0	0	0	0	50,000	0	0	0	0	0	50,000
Advances / Repayments to U.S. subsidiary	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total disbursements	10,800	115,000	32,853	119,130	9,800	79,000	4,000	169,268	14,950	129,000	4,000	121,758	14,950	828,712
Net cash flow	22,345	-24,380	-2,516	43,579	11,096	-32,103	16,951	25,109	105,940	-106,580	-16,809	-82,838	105,940	55,230
Opening bank balance	146,919	169,263	140,884	138,256	181,835	192,931	160,827	177,778	202,887	308,787	202,207	219,087	136,249	146,919
Closing bank balance	\$169,263	\$140,884	\$138,256	\$181,835	\$192,931	\$160,827	\$177,778	\$202,887	\$308,787	\$202,207	\$219,087	\$136,249	\$242,149	\$242,149
Netel Funds - See assumptions	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)	(\$195,000)
Net Cash Available	34,263	5,864	3,256	46,835	57,931	25,827	42,778	67,887	173,787	67,207	64,037	1,249	107,149	107,149

Commerx Corporation
Assumptions for Cash Flow Forecast
for the period May 13, 2019 to August 11, 2019 (13 weeks)
(unaudited)

Receipts of Cash

- Projected receipts from trade accounts receivable are based on actual billings that have already been generated in the billing cycle.
- Projected principal source of revenue - work in process is based on work that has been secured and is in process and to be billed during respective bill cycle, based on existing contracts and average collection timelines.

DIP #1 Funding

- \$500,000 was received prior to the forecast period.
- In accordance with the loan agreement, the maturity date of June 1, 2019 will be extended into the future.

DIP #2 Funding

- The company expects to secure DIP funding in the amount of \$150,000 in week 8 (July 1 to July 8, 2019)

Use of funds are as follows:

- \$25,000 to be reimbursed for amounts already disbursed to trustee pre-NOI.
- \$25,000 to be reimbursed for amounts to be disbursed in Week 2.
- \$50,000 for legal and trustee fees for restructuring expected to be disbursed in Week 8.
- \$50,000 for legal and trustee fees for restructuring expected to be disbursed in Week 10.

Administrative Expenses

- The estimated costs for administrative expenses are derived from analysis of previous monthly income statements and adjusted based on revised financial forecasts.
- See attached schedule for breakdown of month costs.

Past GST - Pre NOI

- Nov-18 7093.36
- Dec-18 9576.38
- Jan-19 6967.94
- Scheduled payment date is June 2019. These are forecast to be paid despite the stay of proceedings based on discussions with CRA.

Direct Costs (revenue producing resources)

- Two contracted staff working in Indonesia and three contracted staff working in India

Advances and repayments - U.S. subsidiary

- From time to time, funds are transferred between Commerx Corporation and Commerx US Inc in order to balance cash requirements.
- Amounts and timing of advances are based on cash requirements and available cash of the U.S. subsidiary based on projected operating results.

Restructuring Costs

- An additional \$25,000 is projected to be disbursed from operating funds in Week 2 payable to NOI trustee.
- See other assumptions noted above under DIP funding.

Interest on DIP advance

- DIP #1 interest was calculated, forecasted and payable to Ballhard Capital. Principal amount borrowed was \$500,000 and funds were received prior to the forecast period.
- Calculation and payment schedule is based on the contractual agreement.
- DIP#2 interest was calculated and forecasted based on borrowing \$150,000.

Nortel Funds

- Approximately \$135,000 CAD has been received from the Nortel Networks Inc. restructuring. These funds are the subject of an agreement with former owners of an amalgamation predecessor of the company.
- The Company is awaiting legal advice as to the entitlement of the funds; however, in the meantime an equivalent amount of funds has been separately identified for

Commerx Corporation
Schedule for SG&A Expenses for Cash Flow Forecast
for the period May 13, 2019 to August 11, 2019 (13 weeks)
(unaudited)

Monthly Costs

	\$CAD
Bank Service Fees	1,000
Insurance - Corporate	5,100
Telephone, Cellular and Internet	2,000
Office Supplies and Costs	600
Meal and Entertainment (Sales Department)	1,300
Travel (Sales Department)	2,500
IT Support Costs	2,000
Memberships, Dues and Subscriptions	1,000
Miscellaneous	500
Total Monthly Costs	16,000