



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE BROWN

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WEDNESDAY, THE 6TH DAY
OF JUNE, 2012

**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
PCAS PATIENT CARE AUTOMATION SERVICES INC.
AND 2163279 ONTARIO INC. (the "Applicants")**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

ORDER

THIS MOTION, made by PCAS Patient Care Automation Services Inc. ("**PCAS**") and 2163279 Ontario Inc., doing business as Touchpoint ("**Touchpoint**") and, together with PCAS, the "**Applicants**"), for an order, *inter alia*:

- (a) approving the Seventh Report of PricewaterhouseCoopers Inc. ("**PwC**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated June 1, 2012, filed (the "**Seventh Report**"), and approving the actions of the Monitor described therein;
- (b) sealing Confidential Appendix "B" to the Seventh Report;
- (c) approving an occupancy agreement among the Applicants and DashRx, LLC (the "**Purchaser**") in respect of the Applicants' premises at 2440 Winston Park Drive, Oakville, Ontario (the "**Winston Park Occupancy Agreement**") in substantially the form attached as Exhibit "E" to the affidavit of Farouk Ahamed, sworn June 1, 2012 (the "**June 1 Affidavit**");

- (d) approving any required occupancy agreement among the Applicants and the Purchaser in respect of the Applicants' premises at 2910 and 2880 Brighton Road, in substantially the form as the Winston Park Occupancy Agreement (the "**Brighton Road Occupancy Agreement**", and, together with the Winston Park Occupancy Agreement, the "**Occupancy Agreements**");
- (e) terminating the Administration Charge and the Directors' Charge (each as defined in, and established by, the Initial Order);
- (f) approving a scheme of distribution of the cash proceeds of the Transaction (as defined in the in the Order of the Honourable Mr. Justice Brown made June 4, 2012 in these proceedings (the "**CCAA Proceedings**") approving of the Sale Agreement, as defined therein (the "**Sale Agreement**"), and vesting in the Purchaser the Applicants' right, title and interest in and to the assets described in the Sale Agreement (the "**Approval and Vesting Order**");
- (g) approving the distribution of non-cash proceeds of the Transaction to 2320714 Ontario Inc. (the "**DIP Lender**");
- (h) directing that amount of certain tax refunds be paid to the DIP Lender on receipt;
- (i) discharging and releasing the Monitor, upon the filing of the Monitor's Discharge Certificate (as defined herein) with this Court; and
- (j) terminating the CCAA proceedings, upon the filing of the Monitor's Discharge Certificate with this Court,

was heard this day at 330 University Avenue, Toronto, Ontario and June 5, 2012 at 393 University Avenue, Toronto, Ontario.

ON READING the June 1 Affidavit and the exhibits thereto, filed, the affidavit of Kym Anthony, sworn June 5, 2012, filed, and the Seventh Report, filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP Lender, counsel for Castcan Investments Inc. ("**Castcan**"), counsel for Royal Bank of Canada ("**RBC**"), counsel for the Purchaser, counsel for Walgreen Co., counsel for Lanworks Inc.

Peter Saunders and no one appearing for any other person on the service list, although duly served as appears from the affidavit of Alyssa Keon sworn June 4, 2012, filed, and the affidavits of Susy Moniz sworn June 4, 2012 and June 5, 2012, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Seventh Report be and is hereby approved and the actions and activities of the Monitor described therein be and are hereby approved.

3. **THIS COURT ORDERS** that, until such time as the transaction contemplated in the Sale Agreement is completed, Confidential Appendix "B" to the Seventh Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon filing of the Monitor's Certificate (as defined in the Approval and Vesting Order).

4. **THIS COURT ORDERS** that:

- (a) the Winston Park Occupancy Agreement be and is hereby approved and PCAS be and is hereby authorized and directed to enter into the Winston Park Occupancy Agreement and to complete the transactions contemplated thereby, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary;
- (b) the Brighton Road Occupancy Agreement in respect of one or both of the Brighton Road Premises, in substantially the form of the Winston Park Occupancy Agreement, be and is hereby approved and PCAS be and is hereby authorized and directed to enter into the Brighton Road Occupancy Agreement and to complete the transactions contemplated thereby, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary; and

(c) notwithstanding:

- (i) the pendency of the CCAA Proceedings;
- (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) in respect of any of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (iii) any assignment in bankruptcy made in respect of any of the Applicants,

the Occupancy Agreements shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Applicants (a “Trustee”) and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

5. **THIS COURT ORDERS** that the Directors’ Charge be and is hereby terminated, released and discharged upon the filing of the Monitor’s Certificate with this Court.

6. **THIS COURT ORDERS** that distributions from the net cash proceeds of the Transaction (as defined in the Approval and Vesting Order) be made as follows:

- (a) the Applicants be and are hereby authorized and directed to distribute \$235,315 in connection with employee wage claims, in accordance with section 36(7) of the *Companies’ Creditors Arrangement Act* to those employees who are or have been terminated by the Applicants and continue to have any outstanding employee wage claims;

- (b) the Applicants be and are hereby authorized and directed to distribute \$420,070.38 to RBC, in respect of the debt secured by the security granted by the Applicants to RBC as at June 6, 2012, plus per diem interest charges of \$41.10;
- (c) the Applicants be and are hereby authorized and directed to direct the Purchaser to pay to the DIP Lender the cash component of the consideration payable to the DIP Lender under section 2.3(1)(d) of the Sale Agreement to be used by the DIP Lender: (i) to obtain the consent of Castcan to the discharge of its security interest and charge over the Purchased Assets and to obtain Castcan's consent to the issuance of the Approval and Vesting Order; and (ii) as to the balance, to be delivered to the DIP Lender in partial repayment of the credit facility provided pursuant to the Second Amended and Restated DIP Loan Agreement made between the DIP Lender and the Applicants (the "**DIP Facility**");
- (d) the Applicants be and are hereby authorized and directed to distribute \$242,100, in the aggregate, to the beneficiaries of the KERP Charge in connection with the KERP (each as defined in, and approved by, the Order of the Honourable Justice Brown made April 16, 2012); and
- (e) the Applicants be and are hereby authorized and directed to distribute \$100,000 to PwC for any fees and expenses incurred by the Monitor in connection with the CCAA Proceedings or any costs of the administration of the anticipated bankruptcies of PCAS, Touchpoint and the other direct and indirect subsidiaries of PCAS.

7. **THIS COURT ORDERS** that, subject to closing of the Transaction, the Purchaser be and is hereby authorized and directed to issue and distribute the non-cash consideration in respect of the Transaction, being the following promissory notes (collectively, the "**Notes**"), in accordance with the terms of the Sale Agreement:

- (a) the Secured Note (as defined in the Sale Agreement) to the DIP Lender;
- (b) the Unsecured Note (as defined in the Sale Agreement) to PCAS, to be held in trust for the benefit of the unsecured creditors of the Applicants;

- (c) the Additional Secured Note (as defined in the Sale Agreement), if applicable, to the DIP Lender; and
- (d) the Additional Unsecured Note (as defined in the Sale Agreement), if applicable, to PCAS or any Trustee, to be held in trust for the benefit of the unsecured creditors of the Applicants.

8. **THIS COURT ORDERS AND DIRECTS**, subject to filing of the Monitor's Certificate in accordance with the Approval and Vesting Order, the Applicants or, if appointed, the Trustee, to pay to the DIP Lender any Tax Credit Entitlements received by them, without deduction, including without limitation:

- (a) an amount equal to any payment received in respect of Touchpoint's February, 2012 Harmonized Sale Tax refund, notwithstanding section 67 of the *Financial Administration Act*; and
- (b) an amount equal to any payment received in respect of the PCAS' 2011 Scientific Research and Development refundable tax credit entitlements.

9. **THIS COURT ORDERS** that, upon filing by the Monitor of a certificate substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Discharge Certificate**") certifying that an assignment in bankruptcy has been made in respect of the Applicants:

- (a) PwC be and is hereby discharged and relieved from any further obligations, liabilities, responsibilities or duties in its capacity as Monitor pursuant to the Initial Order, any other order of this Court in the CCAA Proceedings, the CCAA or otherwise; and
- (b) the CCAA Proceedings be and are hereby terminated.

10. **THIS COURT ORDERS** that, in addition to the protections in favour of the Monitor as set out in the Initial Order, in any other Order of this Court or reasons provided by this Court in the CCAA Proceedings or the CCAA, the Monitor shall not be liable for any act or omission on the part of the Monitor, including with respect to any reliance thereof, including without limitation, with respect to any information disclosed, any act or omission pertaining to the

discharge of the Monitor's duties in the CCAA Proceedings or with respect to any other duties or obligations of the Monitor under the CCAA or otherwise, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Monitor. Subject to the foregoing and in addition to the protections of the Monitor as set out in the Orders of this Court or any reasons provided by this Court in the CCAA Proceedings, any claims against the Monitor in connection with the performance of its duties as Monitor are hereby released, stayed, extinguished and forever barred and the Monitor shall have no liability in respect thereof.

11. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court and on prior written notice to the Monitor and such further order securing, as security for costs, the full indemnity costs of the Monitor in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

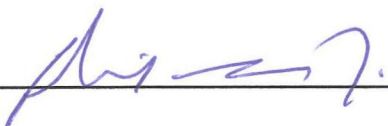
12. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights, approvals and protections in favour of the Monitor pursuant to the Initial Order, any other Order of this Court or reasons provided by this Court in the CCAA Proceedings, the CCAA or otherwise, all of which are expressly continued and confirmed.

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUN 06 2012

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Schedule "A"
Form of Monitor's Discharge Certificate

Court File No. CV-12-9656-00CL

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MONITOR'S DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated March 23, 2012, PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "**Applicants**") were declared companies to which the *Companies' Creditors Arrangement Act* (the "**CCAA**") applied and PricewaterhouseCoopers Inc. ("**PwC**") was appointed as the Monitor of the Applicants (the "**Monitor**").

B. Pursuant to an Order of the Court dated June 6, 2012 (the "**Discharge Order**"), PwC was discharged as Monitor of the Applicants to be effective upon an assignment in bankruptcy being made in respect of the Applicants.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE MONITOR CERTIFIES that an assignment in bankruptcy has been made in respect of the Applicants.

PRICEWATERHOUSECOOPERS INC.,
solely in its capacity as *Companies' Creditors*
Arrangement Act Monitor of PCAS Patient Care
Automation Services Inc. and 2163279 Ontario
Inc., and not in its personal or corporate
capacity

Per:

Name:

Title:

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Proceedings commenced at Toronto

ORDER

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