SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: BK-22-02853708-0032   DATE: 02-SEP-2022

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TITLE OF PROCEEDING   iS5 COMMUNICATIONS INC.

BEFORE JUSTICE OSBORNE

NAMES OF COUNSEL AND PARTY:

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☒
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ENDORSEMENT OF JUSTICE OSBORNE:

[1] iS5 Communications Inc. (the "Debtor") seeks an extension of the deadline for filing a proposal pursuant to section 50.4(9) of the BIA, authorization for an interim distribution to SVB of USD $209,666.66, the appointment of Mr. John Gillberry as an independent director with indemnification, and approval of the First Report, Second Report, and the activities of the Proposal Trustee as described therein.

[2] I am satisfied that the Debtor has acted, and is acting, in good faith and with due diligence, would likely be able to make a viable proposal if the extension is granted and no creditor would be materially prejudiced if the extension were granted.

[3] The Service List has been served with the motion materials and the relief sought today is unopposed. Both the Proposal Trustee and DIP lender support the relief sought, as does Phoenix, the proposed stalking horse, although the Debtor and Phoenix have yet to conclude a stalking horse purchase agreement. They require additional time to complete that, and hence the extension sought today.

[4] I observe that the material filed in support of the motion is clear that the Debtor received a SRED tax credit refund on August 11, 2022, with the result that it has sufficient liquidity to make the proposed interim distribution to SVB and still maintain operations through the extension period. The Debtor is current with respect to HST remittances, does not maintain a pension plan and is current on employee source deduction remittances. The Proposal Trustee supports, and the DIP Lender consents to, the interim distribution to SVB.

[5] Since June, 2022, two members of the company's Board of Directors have resigned with the result that only three remain. Mr. Gillberry has experience with companies experiencing liquidity issues at the board level and I am satisfied he will bring value to the Board of Directors, to the process and therefore to the stakeholders generally. It is also appropriate that he have the benefit of the protections enjoyed by the other directors under the DIP Order [as defined in the materials]. Phoenix supports his appointment to the board.

[6] Order to go in the form signed by me today which is effective without the necessity of issuing and entering.

Osborne, J.