District of Ontario
Division No. 9 - Toronto
Court File No. 32-2853708
Estate File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC. OF THE CITY OF MISSISSAUGA, PROVINCE OF ONTARIO

SECOND REPORT OF PROPOSAL TRUSTEE
Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)

August 26, 2022

Grant Thornton Limited
200 King Street West, 11th Floor
Toronto, Ontario
M5H 3T4

TABLE OF CONTENTS

INDEX OF APPENDICES

District of Ontario
Division No. 9 - Toronto
Court File No. 32-2853708
Estate File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC. OF THE CITY OF MISSISSAUGA, PROVINCE OF ONTARIO

SECOND REPORT OF PROPOSAL TRUSTEE
Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)

August 26, 2022

INTRODUCTION

1. This report ("**Second Report**") is filed by Grant Thornton Limited in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed on August 5, 2022 (the "**Filing Date**") by iS5 Communications Inc. ("**iS5**" or the "**Company**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").

2. iS5 is a company that provides customers with information technology services and proprietary hardware products. Specifically, the Company services critical infrastructure, including the energy, transportation, heavy industrial, and defense industries. The Company's products are used in digital transformation and cybersecurity applications. The

Company operates from a third-party leased premise located at 5895 Ambler Drive, Mississauga, Ontario.

3. On August 8, 2022, pursuant to a motion by the Company, the Court granted an Order approving, amongst other things, a DIP Facility, and three charges as follows:

   a) First – Administration Charge (to the maximum amount of CDN $150,000);

   b) Second – Directors' Charge (to the maximum amount of CDN $200,000); and

   c) Third – DIP Lender's Charge (to the maximum amount of USD $622,000 plus interest and reasonable costs and expenses payable under the DIP Term Sheet).

   A copy of the Order and corresponding Endorsement is attached hereto as **Appendix "1"**.

4. This Second Report has been prepared in conjunction with iS5's motion for an Order for certain additional relief, which the Proposal Trustee views as being consistent with the Company's overall objective and its efforts to restructure its business and affairs:

   a) approving the Company's request for an extension of the stay of proceedings to October 17, 2022, representing a 44-day extension from the expiry of the initial 30 day stay of proceedings pursuant to the filing of the Company's NOI on August 5, 2022;

   b) approving an interim distribution by the Company to the Company's primary secured creditor, Silicon Valley Bank ("**SVB**");

   c) approving the Company's appointment of Mr. John Gillberry as an independent director of the company to assist management during the Company's sale process and anticipated sale transaction;

d) approving the First Report, attached hereto as **Appendix "2"**, and this Second Report, including the actions and activities of the Proposal Trustee as describe in the First Report, and this Second Report.

PURPOSE OF THIS SECOND REPORT

5. The purpose of this Second Report is to provide the Court with information on the activities of the Company as provided to the Proposal Trustee and the Proposal Trustee's view on the following:

a) an update since the Proposal Trustee's First Report;

b) the Company's request for an extension of the stay of proceedings;

c) the proposed interim distribution to SVB; and,

d) the appointment of Mr. John Gillberry as a new independent director of iS5.

6. Detailed background information concerning the Company and its stakeholders is provided in the two Dias Affidavits which have been filed with the Court, and which are available on the Proposal Trustee's webpage, www.grantthornton.ca/iS5.

RESTRICTIONS

7. In preparing this Second Report, the Proposal Trustee has relied upon unaudited financial information, the Company's records, financial information, projections and discussions with the Company's management and employees. While the Proposal Trustee reviewed various documents provided by the Company and believes that the information therein provides a fair summary of the transactions and material as reflected in the documents, such work does

not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Proposal Trustee expresses no opinion or other form of assurance pursuant to GAAP or IFRS with respect to such information.

8. This Second Report has been prepared for the use of this Court and the Company's stakeholders as general information relating to the Company. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose.

9. All references to dollars are denoted in its currency.

10. Capitalized terms not defined in this Second Report have the meanings ascribed to them in the Dias Affidavits and the First Report.

UPDATE SINCE THE FIRST REPORT

11. Since the commencement of these Proceedings, the Company has continued to trade and carry on business in the normal course on a go forward basis. The Company has implemented a communication strategy, with the assistance of the Proposal Trustee, to effectively notify stakeholders (employees, suppliers, customers, lenders, shareholders, etc.) of these Proceedings, the Company's objective in seeking a sale transaction, proposed next steps, the potential impact to stakeholders, and the manner by which stakeholders can contact the Company (and the Proposal Trustee) if they have any questions or concerns.

12. The Company has worked extensively to create data room materials for a stalking horse sale process as well as to assist Phoenix with their due diligence in finalizing a stalking horse sale

agreement whereby Phoenix may act as a stalking horse purchaser in a sale process on terms as may be approved by the Court. The Proposal Trustee understands that it was the Company's intention to seek approval of a sale process along with a Phoenix stalking horse sale agreement at the scheduled September 2, 2022 Court hearing however, despite the progress being made between iS5 and Phoenix to date, the sale agreement has not been finalized. The Proposal Trustee is not aware of any issues which would cause iS5 and Phoenix to not finalize a stalking horse sale agreement, if the parties have additional time to complete their negotiations. It is anticipated that iS5 may seek a new date for a Court hearing, during the month of September 2022, to seek approval of a sale process and a Phoenix stalking horse sale agreement.

CASH FLOW

13. The Company has responded to all of the Proposal Trustee's requests, including providing supporting documentation to assist the Proposal Trustee in monitoring the Company's cash flow. The Company has maintained its cash flow in accordance with the initial Cash Flow Projection, with the exception of the early receipt of a SRED claim from Canada Revenue Agency in the amount of $1,249,942 (CDN). The SRED claim is subject to the terms of the DIP Financing Agreement whereby the DIP Lender's consent is required, acting reasonably, on the use of such SRED claim proceeds. It is the Proposal Trustee's understanding that aside from a partial distribution to SVB, the SRED proceeds may be used by iS5 in future operations, pursuant to the Company's updated cash flow projection (the "**Updated Cash Flow Statement**"), such that the balance of the DIP Facility may not be required by iS5 at this time. The Proposal Trustee has been advised that the DIP Lender has consented to the Company's proposed use of the SRED claim proceeds received from CRA.

14. In addition to approving the DIP Facility and certain charges, the August 8, 2022 Court order also authorized iS5 to make certain payments in respect of pre-filing liabilities, including accrued vacation pay, and other supplier related liabilities up to a maximum amount of $120,000 (USD), to ensure continuity of service by its employees and critical suppliers. Any proposed pre-filing supplier related payments require the Proposal Trustee's consent and are to be included within the Company's Updated Cash Flow Statement. As at the date of this Second Report, the Company has paid all accrued vacation pay arrears, and none of the authorized cap of $120,000 (USD) has been used for any pre-filing supplier-related payments.

15. Attached hereto as **Appendix 3** is a copy of the Company's Updated Cash Flow Statement, with actual results to the week ending August 19, 2022.

REQUEST FOR AN EXTENTION

16. The Company is seeking an extension of the stay under the BIA in these Proceedings to:

    a) provide additional time for the stalking horse sale agreement between iS5 and Phoenix to be finalized;

    b) seek court approval of that agreement and a stalking horse sale process

    c) if approved, administer such sale process;

    d) seek court approval of the successful bid; and

    e) complete the anticipated sale transaction.

17. In considering the progress made to date, the estimated liquidation value of iS5's assets compared to a going-concern sale transaction, and the receipt of the SRED proceeds which provides additional interim liquidity for iS5, the Company is seeking an extension period of 44-days, or to October 17, 2022 to continue its sale and restructuring efforts.

18. The Proposal Trustee supports the Company's request for an extension of the stay of proceedings to October 17, 2022 for the following reasons:

    a) the Company has continued operations in the normal course and, in the view of the Proposal Trustee, has complied with the requirements of the BIA;

    b) the Company has been acting in good faith and with due diligence;

    c) the extension will increase the likelihood of a successful proposal;

    d) no creditor would be materially prejudiced if the extension being applied for is granted; and,

    e) the Proposal Trustee is of the view that in order to complete a sale process, a sale transaction, and to consider the terms of a proposal while attempting to minimize the costs of these proceedings, that the requested extension of the stay in this Proceeding is appropriate in the circumstances.

SECURED CREDITOR DISTRIBUTION

19. The Company has advised the Proposal Trustee that they intend to make a partial distribution to SVB, the Company's primary secured lender, in the amount of $209,666.66 (USD), from the SRED proceeds. Such a distribution would be outside of the normal course

of business and as a result, the Company is seeking the Proposal Trustee's consent, and Court approval for such interim distribution.

20. The Proposal Trustee's counsel, Cozen O'Connor LLP ("**Cozen**"), has reviewed the security held by SVB, as granted by the Company (the "**Security Review**"). Cozen has provided an independent oral opinion to the Proposal Trustee, subject to customary qualifications and assumptions, that SVB has a valid and enforceable secured interest in the subject assets of the Company that would be enforceable against a License Insolvency Trustee of the Company. The Security Review conclusion is also subject to any unregistered interests, deemed trusts, statutory created priority claims, and the charges granted pursuant to the August 8, 2022 Court order.

21. The Proposal Trustee is not aware of any priority payable arrears and recognizes that the proposed distribution represents an interim distribution consisting of only a portion of the SRED proceeds.

22. It is the Proposal Trustee's view that the proposed distribution to SVB is appropriate considering that SVB has specifically loaned funds to iS5 in respect of the SRED proceeds, and that such interim distribution will not impact the viability of liquidity of the Company. The Proposal Trustee consents to the proposed distribution of $209,666.66 (USD) to SVB on the basis is in the circumstances.

APPOINTMENT OF INDEPENDENT DIRECTOR

23. The Company previously advised the Proposal Trustee of its intention to appoint an independent director to iS5's board of directors. The purpose of the appointment of the new

director is to provide assistance to management and to provide additional comfort to the Company's stakeholders. Certain of the Company's secured creditors requested the appointment of an independent director and support the appointment of Mr. John Gillberry in such role. The independent director would receive financial compensation and such consideration has been included in the Company's initial Cash Flow Projection and the Updated Cash Flow Statement. In addition, the independent director would benefit from the previously approved Director's Charge within these proceedings. The Proposal Trustee consents to the appointment of Mr. Gillberry as an independent director of iS5.

PROPOSAL TRUSTEE'S ACTIVITIES

24. Since the First Report, the Proposal Trustee has performed the following activities:

a) corresponded and held numerous discussions with iS5's management and iS5's counsel;

b) assisted with the implementation of a communication strategy involving the Company's various stakeholders arising from the filing of the NOI, and the granting of the Initial Relief from the Court on August 8, 2022;

c) prepared a creditor package in accordance with the provisions of the BIA and the direction of the Court, and issued such to all known creditors of the Company as provided to the Proposal Trustee, which package included the August 8, 2022 Order of the Court, and accompanying Endorsement of Mr. Justice Osborne;

d) monitored the Company's cash flow and compared such to the initial Cash Flow Projection on a weekly basis, in accordance with the BIA, and reported on same to SVB and the DIP Lender;

e) assisted the Company in gathering and preparing information and documentation for due diligence purposes for the anticipated sale process;

f) engaged Cozen as counsel for the Proposal Trustee; and,

g) maintained a public website for the Proceedings in accordance with the Commercial List E-Service Protocol.

CONCLUSION AND RECOMMENDATION

25. Based on the above, the Proposal Trustee supports the relief sought by iS5 and respectfully recommends that the Court grant such relief.

All of which is respectfully submitted,

GRANT THORNTON LIMITED
As Trustee under a Notice of Intention to
Make a Proposal filed by iS5 Communications Inc.
and not in its personal capacity.

Daniel Wootton

D. Wootton, CIRP, LIT
Senior Vice President

Appendix 1
Court Order and Endorsement of Justice Osborne dated August 8, 2022

Estate No. 32-2853708
Court File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)

THE HONOURABLE	)	MONDAY, THE 8TH
	)	
JUSTICE OSBORNE	)	DAY OF AUGUST, 2022

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC., OF THE CITY OF MISSISSAUGA IN THE PROVINCE OF ONTARIO

ORDER
(Re: DIP Term Sheet and Priority Charges)

THIS MOTION, made by iS5 Communications Inc. (the "**Debtor**"), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") was heard this day by video conference at 330 University Avenue, Toronto, Ontario.

ON READING the notice of motion, the affidavit of Clive Dias sworn August 5, 2022 (the "**Dias Affidavit**") and the Exhibits thereto, and the first report of Grant Thornton Limited, in its capacity as proposal trustee (the "**Proposal Trustee**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Debtor, counsel for the proposed DIP Lender (as defined below), counsel for Silicon Valley Bank ("**SVB**"), and such other counsel who were present as listed on the Counsel Slip, no one else appearing for any other person on the service list, although duly served as it appears from the affidavit of service of Mitch Stephenson sworn August 5, 2022,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and service is validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

OPERATIONS

2. THIS COURT ORDERS that the Debtor shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) the fees and disbursements of any employees, consultants, agents, experts, accountants, counsel and such other persons retained or employed by the Debtor in respect of these proceedings, at their standard rates and charges existing as of the date of this Order; and

(c) amounts owing to vendors determined by the Debtor to be necessary in order to ensure an uninterrupted supply of goods and/or services to the Debtor that are material to the continued operation of the Debtor's business; provided that such payments shall (i) be consistent with the cash flow forecast attached as Exhibit "N" to the Dias Affidavit, (ii) not exceed an aggregate amount of USD$120,000, and (iii) be approved in advance by the Proposal Trustee or by further Order of the Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

3. THIS COURT ORDERS that the Debtor shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Debtor after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

4. THIS COURT ORDERS that the directors and officers of the Debtor shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), which charge shall not exceed an aggregate amount of CDN$200,000, as security for the indemnity provided in paragraph 3 of this Order. The Directors' Charge shall have the priority set out in paragraphs 16 and 18 herein.

5. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Debtor's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 3 of this Order.

ADMINISTRATION CHARGE

6. THIS COURT ORDERS that the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Debtor shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Debtor as part of the costs of these proceedings. The Debtor is hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel for the Proposal Trustee and counsel for the Debtor on a bi-weekly basis and, in addition, the Debtor is hereby authorized, *nunc pro tunc*, to pay to the Proposal Trustee, counsel to the Proposal Trustee, and counsel to the Debtor, retainers in the amounts of CDN$15,000, CDN$20,000, and CDN$75,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

7. THIS COURT ORDERS that the Proposal Trustee and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Proposal Trustee and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

8. THIS COURT ORDERS that the Proposal Trustee, counsel to the Proposal Trustee, if any, and the Debtor's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount

of CDN$150,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Proposal Trustee and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 16 and 18 hereof.

9. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Proposal Trustee under the BIA or any applicable legislation.

DIP FINANCING

10. THIS COURT ORDERS that the Debtor is hereby authorized and empowered to obtain and borrow under a credit facility in the maximum aggregate principal amount of USD $1,100,000 (the "**DIP Facility**") from Phoenix Contact Venture Funds I GmbH (in such capacity, the "**DIP Lender**") in order to finance the Debtor's working capital requirements and other general corporate purposes and capital expenditures; provided that unless permitted by further Order of this Court, advances under the DIP Facility shall not exceed the principal amount of USD $600,000 (excluding interest, the commitment fee, and reasonable fees and expenses payable under the DIP Term Sheet).

11. THIS COURT ORDERS the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Debtor and the DIP Lender dated as of August 5, 2022, attached as Exhibit "O" to the Dias Affidavit (the "**DIP Term Sheet**"), subject to such minor amendments as may be acceptable to the Debtor and the DIP Lender, and supported by the Proposal Trustee and SVB.

12. THIS COURT ORDERS AND DIRECTS that the Debtor is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Debtor is hereby authorized and directed to

pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

13. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property as security for the Debtor's obligations to the DIP Lender under the DIP Term Sheet, which DIP Lender's Charge shall not exceed the amount of USD $622,000 (plus interest and the reasonable fees and expenses payable under the DIP Term Sheet). The DIP Lender's Charge shall not secure any obligation that exists before this Order is made, unless permitted by further Order of this Court. The DIP Lender's Charge shall have the priority set out in paragraphs 16 and 18 hereof.

14. THIS COURT ORDERS that, notwithstanding any other provision of this Order or the BIA (including sections 69 and 69.1):

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon notice to the Debtor, may exercise any and all of its rights and remedies against the Debtor or the Property under or pursuant to the DIP Term Sheet, the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Debtor and set off and/or consolidate any amounts owing by the DIP Lender to the Debtor against the obligations of the Debtor to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Debtor and for the appointment of a trustee in bankruptcy of the Debtor; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Debtor or the Property.

15. THIS COURT ORDERS AND DECLARES that, unless otherwise agreed to by the DIP Lender, the DIP Lender shall be treated as unaffected in any proposal filed by the Debtor under the BIA with respect to any advances made under the DIP Term Sheet or the Definitive Documents.

16. THIS COURT ORDERS that: (a) pending expiry of the time for filing a notice of appeal or application for leave to appeal, or an appeal in respect of this Order and the disposition of any claims, actions, proceedings, applications, or motions to review, rescind or vary this Order, or applications for leave to appeal or appeals from this Order (collectively, "**Challenges**"), the Debtor is authorized to borrow funds under the DIP facility in accordance with the DIP Term Sheet; and (b) irrespective of the disposition of any Challenges, the DIP Lender shall have the benefit of the DIP Charge and all other provisions of this Order in respect of all amounts so advanced; and (c) this Order is subject to provisional execution to the extent necessary to give effect to the foregoing.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

17. THIS COURT ORDERS that the priorities of the Administration Charge, the Directors' Charge and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CDN $150,000);

Second – Directors' Charge (to the maximum amount of CDN $200,000); and

Third – DIP Lender's Charge (to the maximum amount of USD $622,000 plus interest and reasonable costs and expenses payable under the DIP Term Sheet).

18. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

19. THIS COURT ORDERS that each of the Charges (as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or

otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency or any other entities (all of the foregoing, collectively being "**Persons**", and individually, a "**Person**"), except any validly perfected security interest in favour of equipment lessors.

20. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtor shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Debtor also obtains the prior written consent of the Proposal Trustee and the beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

21. THIS COURT ORDERS that the Charges, the DIP Term Sheet, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing or deemed filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Debtor entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Debtor pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

22. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Debtor's interest in such real property leases.

SERVICE AND NOTICE

23. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL 'www.grantthornton.ca/is5'.

24. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtor and the Proposal Trustee are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

25. THIS COURT ORDERS that the Debtor or the Proposal Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

26. THIS COURT ORDERS that nothing in this Order shall prevent the Proposal Trustee from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Debtor, the Business or the Property.

27. 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 Debtor, the Proposal Trustee and their respective 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 Debtor and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Debtor and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

28. THIS COURT ORDERS that each of the Debtor and the Proposal Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Proposal Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

29. THIS COURT ORDERS that any interested party (including the Debtor and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

30. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order, and this Order is enforceable without the need for entry and filing.

____

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC., OF THE CITY OF MISSISSAUGA IN THE PROVINCE OF ONTARIO

Estate No. 32-2853708
Court File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER
(Re: DIP Term Sheet and Priority Charges)

FASKEN MARTINEAU DuMOULIN LLP
Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Dylan Chochla (LSO: 62137I)
dchochla@fasken.com
Tel: 416 868 3425

Lawyers for the Moving Party, iS5 Communications Inc.

SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: 32-2853708 DATE: 08 August 2022

6

TITLE OF PROCEEDING

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF Is5 COMMUNICATIONS INC.

BEFORE MR. JUSTICE OSBORNE

NAMES OF COUNSEL AND PARTY:

- [x] APPLICANT(S) – **Dylan Chochla**
- [ ] PLAINTIFF(S)

Maurizio Milani (CFO-iS5)

PHONE

EMAIL dchocla@fasken.com

NAMES OF COUNSEL AND PARTY:

- [ ] DEFENDANT(S)
- [x] RESPONDENT(S) – **Kyle Plunkett** (SVB)
- [ ] DEFENDANT(S)
- [x] RESPONDENT(S) – **McKenzie** (McCharles Family Trust)

Mitch Grossell (Phoenix)
Jennifer Allen (Corp. Counsel, Phoenix)

PHONE

EMAIL kplunkett@airdberlis.com
mgrossell@tgf.ca
lawyerbill@rogers.com;

PHONE

EMAIL

NAMES OF COUNSEL AND OTHER PARTIES:

- [x] **Dan Wootton** (Proposal Trustee)
- [ ]

PHONE

EMAIL Dan.wootton@ca.gt.com

PHONE

EMAIL

ENDORSEMENT OF OSBORNE, J:

[1] This is a motion by iS5 Communications Inc., [the "Debtor" or "iS5"], for approval of DIP financing on an interim basis as more particularly described below, establishing an Administration Charge in the maximum amount of CDN $150,000, certain indemnification of the directors and officers and a D&O charge, and authorization for the company to pay prefiling amounts owing to certain suppliers if necessary to ensure the ongoing operation of the company, in the maximum amount of USD $120,000.

[2] The Debtor filed an NOI under the BIA on August 5, 2022. Grant Thornton Limited was named as Proposal Trustee.

[3] The relief sought proceeds on the consent of all parties present, save for that of Mr. McKenzie, counsel for the McCharles Family Trust ["MFT"].

[4] In particular, by Silicon Valley Bank ["SVB"], the primary secured lender who is most directly affected by the relief sought, and Phoenix Contact Venture Funds I GmbH ["Phoenix"], the proposed DIP lender who is also an existing creditor and the owner of approximately 14% of the equity of the Debtor, support the relief sought.

[5] MFT owns, according to the most recent capitalization table available to the proposed DIP lender, Phoenix, approximately 3.3% of the equity of the Debtor.

[6] MFT seeks an adjournment of this motion for approximately two - three weeks on the basis that it was just served with the materials last Friday, August 5, and that counsel for MFT, Mr. McKenzie, has not been able to obtain instructions from the principal of his client who is on vacation. Mr. McKenzie to the relatively brief adjournment he is seeking.

[7] Mr. McKenzie on behalf of MFT has filed no materials, nor has he sought to cross-examine the deponent on whose affidavit the Debtor relies today, Mr. Dias, recognizing as I do that he has had only a brief opportunity to consider doing so. His submissions today, however, as to why the adjournment ought to be granted, and made in the understandable absence of evidence from MFT, relate to possible concerns with the sale process contemplated by the Debtor, with Phoenix as a potential purchaser, and other matters not relevant today.

[8] While the concerns and issues or potential issues raised by Mr. McKenzie may be real and require further negotiation between the parties or a determination to be made by this Court, none of those issues is before me today. Approval of a sales process, and hopefully approval of a sale and vesting order, are all for another day.

[9] Mr. Chochla for the Applicant, supported by Phoenix and SVB, urged that the relief sought today is time-critical and emergent, and that the company will cease operations if the relief sought today is not granted.

[10] The Debtor relies on the affidavit of Mr. Dias, the chief executive officer, and principally on his evidence to the effect that the directors and officers will likely resign and leave the company without proper [or any] governance or leadership, and the fact that the company is out of money and unable to continue operations without the first advance contemplated to be made immediately pursuant to the terms of the DIP.

[11] I am satisfied that the relief sought by the Debtor should be granted and that the issues and concerns raised by Mr. McKenzie relate to the contemplated sales process and other issues not before the Court today. I have required, however, counsel for the Applicant to amend the proposed order sought to include a comeback clause permitting any affected party to return to Court as may be necessary and appropriate. I have also directed counsel that all stakeholders be put on notice and given a copy of this endorsement and a copy of the order, as revised, that I have signed today.

[12] I am satisfied that the relief sought should be granted and that there is no practical alternative to maximize the recovery for stakeholders.

[13] iS5 provides integrated services and information technology solutions to clients. It also manufactures ethernet projects primarily for industrial and infrastructure clients. It is an Ontario Corporation with its head office in Mississauga, Ontario.

[14] Until recently, the Board of Directors was comprised of five members. Two have resigned since June, 2022 as a result of liquidity issues, such that three remain.

[15] The company has 39 employees of whom 38 are full-time, salaried employees. None are unionized.

[16] The evidence of Mr. Dias, President, Chief Executive Officer and a member of the Board of Directors, is to the effect that, prior to the commencement of the NOI Proceeding, the company was negotiating with one of its existing creditors, Phoenix [or one of its affiliates], with respect to a potential sale. It has become apparent that the company lacks sufficient or indeed any liquidity to allow it the time to complete those negotiations without bridge financing.

[17] Phoenix has offered to provide DIP financing. It is contemplated that Phoenix will act in the role as a stalking horse with a view to promoting and facilitating the proposed sales process.

[18] SVB entered into an agreement with the company as of May 15, 2019 pursuant to which it agreed to make term loan advances available to the company up to an aggregate amount of USD $3 million on terms.

[19] As of July 26, 2022, the aggregate amount outstanding and payable to SVB is approximately $2 million, comprised of a term loan and revolving credit facility.

[20] The evidence of Mr. Dias is to the effect that SVB's security interest is in first priority position.

[21] The company also has issued and outstanding secured notes in the aggregate amount of CDN $11,104,905 inclusive of principal and interest, all owing to the "Secured Noteholders" as defined in the DS affidavit.

[22] The company also has approximately CAD $4 million in unsecured debt, in addition to exposure for unpaid wages and vacation pay which are contemplated by the company to be paid from the first advance under the DIP facility if approved.

[23] The company is current on all HST remittances and other government obligations such as business taxes and payments in respect of employee wage deductions at source. In addition, the company owes the Federal Economic Development Agency approximately CDN $2,590,000 in respect of two unsecured federal development loans.

[24] The Dias affidavit states that, according to the June 30, 2022 balance sheet of the Company, it is insolvent, with assets of approximately USD $6 million and total liabilities of approximately USD $13 million. The company's cash flow, operation and liquidity challenges are set out in the Dias affidavit.

[25] The DS affidavit further states that, commencing the week of August 8, 2022, the company will not have sufficient liquidity to meet its employee wages and ongoing obligations that will accrue thereafter in the absence of interim financing and further that the directors have indicated that they are unlikely to continue in that capacity as such without access to the proposed interim financing.

[26] The interim financing sought through the first advance proposed to be made under the DIP facility is limited to the amount required to allow Phoenix and the company a brief window to finalize the negotiation of a binding stalking horse purchase agreement and is capped at the maximum amount of USD $600,000.

[27] The relief sought today, as noted above, does not include approval of that stalking horse purchase agreement, and that is for another day.

[28] It was the company's liquidity crisis that led to the filing of the NOI.

[29] The company has prepared a cash flow statement which is attached to the Dias affidavit as Exhibit "N" and is also attached to the first report of the Proposal Trustee as Appendix 2.

[30] That cash flow statement supports the statements in the Dias affidavit to the effect that in the absence of approval of the DIP financing and particularly the first advance in the amount of USD $600,000, the company is insolvent and unable obligations including payroll obligations now.

[31] The DIP Term Sheet requires that the company close a transaction no later than October 31, 2022 and contemplates that Phoenix will provide further interim financing in the maximum amount of USD $1,100,000 to be advanced according to the terms of the DIP facility. That amount includes the initial advance of $600,000 referred to above.

[32] Phoenix would have the benefit of a charge over the assets of the company ranking in priority to all our claims and encumbrances, except for the Administration and D&O Charges and validly perfected security in favour of equipment lessors.

[33] The BIA at section 50.6 authorizes the approval of interim financing and an associated priority charge, if the three criteria set out in that provision are met:

a. notice has been given to secured creditors likely to be affected by the DIP Charge;

b. the amount of the DIP is appropriate and required, having regard to the debtor's cash flow statement; and

c. the DIP Charge does not secure a pre-existing obligation.

[34] I am satisfied that the criteria are met here. SVB is the company's senior secured creditor and it supports the relief sought. The second ranking secured noteholders have also received notice of the relief sought. The charges rank behind any validly perfected security interests of equipment financiers so that while they have not been provided notice, the charges are subordinate to their security interests.

[35] As noted above, the cash flow statement is clear as to both the need, and the immediacy of the need, for financing.

[36] Having considered all of the factors set out in section 50.6(5) of the BIA, I am satisfied that an order made under that section is appropriate here. They will allow the company to continue to operate as a going concern. There is no other practical alternatives. This will in turn permit the best opportunity for all stakeholders to maximize their recovery.

[37] Similarly, I am satisfied that the Administration Charge should be granted, in the maximum amount of CDN $150,000, to secure the fees and disbursements of the Proposal Trustee, and counsel. I am satisfied that the requirements of section 64.2 of the BIA have been met in this regard. Again, the secured creditors who are

likely to be affected by this security are on notice. I am satisfied that the services of the Proposal Trustee and counsel are necessary the next steps as contemplated. The quantum of the proposed charge is reasonable.

[38] I am also satisfied that the indemnity and charge in favour of the remaining directors and officers should be granted, in the maximum amount of $200,000, ranking behind the Administration Charge but above the DIP Charge. It is supported by the consent of Phoenix. Again, section 64.1 of the BIA authorizes such. The company and its stakeholders will benefit from the continued leadership and governance of those directors and officers remaining in office during the process.

[39] Finally, the company owes trade suppliers the aggregate amount of approximately USD $803,500. The evidence of Mr. Dias is to the effect that the company is dependent upon the continued supply of products from those vendors to ensure that it is able to meet the needs of its customers and therefore remain in business.

[40] Moreover, the authorization to pay prefiling amounts to those vendors deemed critical to the operations of the company is capped at a maximum aggregate amount of USD $120,000 in accordance with the cash flow statement, and subject to the approval of the Proposal Trustee or further order of this Court. In the circumstances, these limited payments are appropriate (See *1732427 Ontario Inc. v. 1787930 Ontario Inc*., 2019 ONCA at para. 13, 14).

[41] While noting the consent and support of the proposed stalking horse purchaser, itself an existing creditor and equityholder, as well as SVB, the first priority ranking creditor, I am mindful of the concerns raised by Mr. McKenzie on behalf of MFT, which is a minority [indeed a small] shareholder but not a creditor. The order provides for comeback rights for MFT and/or other affected parties. MFT or other affected parties have the ability to challenge at a later date the approval of the sales process and if the company gets that far, any sale approval and vesting order. Counsel for the company confirm that nothing prevents MFT from being a potential purchaser if it elected to submit a bid.

[42] The proposed order largely tracks the Model Order of this Court except as noted above and I am satisfied that it is appropriate in the circumstances for the above reasons. Counsel for the Applicant is directed to forthwith upload to CaseLines and file with the Commercial List Office all materials that were provided to the Court on a confidential basis, which materials can now form part of the public record.

[43] Order to go as signed by me today which shall be effective without the necessity of issuing and entering.

Conway, J.

Appendix 2
First Report of the Proposal Trustee
dated August 5, 2022 (without appendices)

District of Ontario
Division No. 9 - Toronto
Court File No. 32-2853708
Estate File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC. OF THE CITY OF MISSISSAUGA, PROVINCE OF ONTARIO

FIRST REPORT OF PROPOSAL TRUSTEE

Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)

August 5, 2022

Grant Thornton

Grant Thornton Limited
200 King Street West, 11th Floor
Toronto, Ontario
M5H 3T4

TABLE OF CONTENTS

INDEX OF APPENDICES

District of Ontario
Division No. 9 - Toronto
Court File No. 32-2853708
Estate File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC. OF THE CITY OF MISSISSAUGA, PROVINCE OF ONTARIO

FIRST REPORT OF PROPOSAL TRUSTEE
Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)

August 5, 2022

INTRODUCTION

1. This report ("**First Report**") is filed by Grant Thornton Limited in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed on August 5, 2022 (the "**Filing Date**") by iS5 Communications Inc. ("**iS5**" or the "**Company**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").

2. iS5 is a company that provides customers with information technology services and proprietary hardware products. Specifically, the Company services critical infrastructure, including the energy, transportation, heavy industrial, and defense industries. The Company's products are used in digital transformation and cybersecurity applications. The

Company operates from a third-party leased premise located at 5895 Ambler Drive, Mississauga, Ontario.

3. The affidavit of Clive Dias, President of iS5, sworn on August 5, 2022 (the "**Dias Affidavit**") and filed in connection with the Company's NOI proceedings (the "**Proceedings**"), describes, *inter alia*, the Company's background, including the rationale for the requested relief. Generally, the Proposal Trustee understands that the purpose of the Proceedings is to provide the Company with the opportunity to complete a sale transaction for substantially all of the Company's assets and operations. The Proceedings will be required to allow for interim financing, protective charges, approval of a sale process, approval of a stalking horse purchaser, approval of a stalking horse sale agreement, and eventually a sale transaction with a successful purchaser.

2. This First Report has been prepared in conjunction with iS5's motion for an order for certain initial relief consistent with the Company's overall objective (collectively, the "**Initial Relief**"):

   a) approving the DIP Financing Agreement (as defined below) and granting the DIP Charge (as defined below);

   b) establishing the Administration Charge (as defined below);

   c) declaring that the directors and officers of the Company shall be indemnified against obligations and liabilities that they may incur in their capacity as directors or officers of the Company after the commencement of these Proceedings and granting a D&O Charge (as defined below); and

d) approving an allocation of funds to be used for payments to Critical Suppliers (as defined herein), in order for the Company to maintain operations during these Proceedings.

PURPOSE OF THIS FIRST REPORT

3. The purpose of this First Report is to provide the Court with information related to the Initial Relief sought by the Company. This First Report specifically provides:

    a) background and information regarding the Company's financial position;

    b) the Proposal Trustee's comments and report on the Company's cash flow projection for the period ending November 4, 2022;

    c) the Proposal Trustee's views on the proposed DIP Financing Agreement and DIP Charge;

    d) the Proposal Trustee's views on the proposed Administration Charge and D&O Charge; and

    e) the Proposal Trustee's views on Critical Suppliers.

4. Detailed background information concerning the Company and its stakeholders is provided in the Dias Affidavit, which has been filed with the Court, and the Proposal Trustee has generally not repeated such information in this First Report.

RESTRICTIONS

5. In preparing this First Report, the Proposal Trustee has relied upon unaudited financial information, the Company's records, financial information, projections and discussions with the Company's management and employees. While the Proposal Trustee reviewed various

documents provided by the Company and believes that the information therein provides a fair summary of the transactions and material as reflected in the documents, such work does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Proposal Trustee expresses no opinion or other form of assurance pursuant to GAAP or IFRS with respect to such information.

6. Some of the information used in preparing this First Report consists of financial projections, including the Cash Flow Projection (as defined herein). The Proposal Trustee cautions that such projections are based upon assumptions about future events and conditions that are not ascertainable. The Company's actual results may vary from the Cash Flow Projection, even if the hypothetical and probable assumptions contained therein materialize, and the variations could be significant. The Proposal Trustee's review of the future-oriented information used to prepare this First Report did not constitute an audit of such information under GAAP or IFRS.

7. This First Report has been prepared for the use of this Court and the Company's stakeholders as general information relating to the Company. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose.

8. All references to dollars are denoted in its currency.

9. Capitalized terms not defined in this First Report have the meanings ascribed to them in the Dias Affidavit.

BACKGROUND AND FINANCIAL POSITION OF THE COMPANY

10. The Company has been operating for approximately 10 years. In the last five years, iS5 has focused on developing new products through research and development. The Company has experienced liquidity challenges and has been unable to fund the manufacture, at scale, of its new products in order to achieve positive cash flow and profitability.

11. The Company relied primarily on debt and equity financing to fund operations, including the cost of its research and development initiatives. In the past year, the Company has not been able to raise additional funds in order to maintain operations. As a result, in early 2022, the Company engaged IOI Capital and Markets, LLC to assist in identifying a potential sale, recapitalization, or investment transaction ("**Initial SISP**"). Unfortunately, such efforts did not result in any offers.

12. At the conclusion of the Initial SISP, the Company engaged in discussions with Phoenix Contact Venture Funds ("**Phoenix Venture**"), who, through its affiliates, is an existing noteholder, shareholder and customer of iS5. The discussions with Phoenix Venture involve a potential sale transaction with the Company whereby Phoenix Venture would become a stalking horse purchaser. A further description of such discussions and recent progress is described in this First Report.

13. The Company's senior secured creditor is Silicon Valley Bank ("**SVB**") which holds, among other things, a general security agreement over substantially all of iS5's assets, with the

exception of the Company's intellectual property and "consumer goods".[1] As of July 26, 2022, iS5 owed SVB approximately $1.9 million (USD).

14. The Dias Affidavit outlines other secured creditors with registrations on the Ontario Personal Property Registry that include ClearSky Power & Technology Fund II LLC, ClearSky Security Fund I LLC, BDC Capital Inc. and a number of equipment lessors.

15. As mentioned previously the Company has historically relied on debt and equity financing to fund its liquidity needs, primarily through secured notes and convertible secured debt issued to its existing shareholder groups. As of July 22, 2022, the Company has issued and outstanding notes in the aggregate amount of $11,104,905 (CDN), comprised of the principal amount of $9,875,000 (CDN) and interest in the amount of $1,229,905 (CDN) (collectively, the "**Notes**"). The Dias Affidavit outlines in further detail the composition and holders of the Notes.

16. As of the date of the NOI filing, the Proposal Trustee is advised of the following with respect to iS5's unsecured creditors:

    a. approximately $1,159,706 (CDN) is owing to trade creditors;

    b. approximately $NIL is owing to landlords;

    c. approximately $52,974 (CDN) is owing for accrued wages and $121,520 (CDN) for accrued and unused vacation pay;

    d. all payroll and source deduction obligations are current; and

---

[1] The Dias Affidavit provides further details in respect of the security held by SVB. In addition, the Dias Affidavit explains that a number of other security registrations have apparently been filed.

e. all government remittances are current.

OVERVIEW OF THE PROPOSAL TRUSTEE'S ACTIVITIES

17. Prior to and since the commencement of these Proceedings, the Proposal Trustee has performed the following activities:

    a. corresponded and held numerous discussions with iS5's management and iS5's counsel;

    b. assisted the Company with the development of a communication strategy;

    c. developed a protocol to monitor the Company's cash flows on a weekly basis in accordance with the requirements of the BIA and reporting on same to SVB and Phoenix (as the proposed DIP Lender);

    d. filed the necessary prescribed forms required under the BIA for the NOI. A copy of the filing certificate is attached hereto as **Appendix "1"**;

    e. assisted the Company in preparing the Cash Flow Projection; and

    f. maintained a public website for the Proceedings in accordance with the Commercial List E-Service Protocol.

CASH FLOW PROJECTION

18. In order to satisfy section 50.4(2)(a) of the BIA, the Company prepared a 13-week cash flow forecast to the week ending November 4, 2022 (the "**Cash Flow Projection**"). The Cash Flow Projection together with the Company's Report on the Cash Flow Projection dated

August 5, 2022 and the Proposal Trustee's Report on the Cash Flow Projection dated August 5, 2022, are attached hereto as **Appendix "2".**

19. The Cash Flow Projection has been prepared by management using probable and hypothetical assumptions set out therein (the "**Probable and Hypothetical Assumptions**").

20. In accordance with the BIA, and based on the Proposal Trustee's review, nothing has come to its attention that causes it to believe that, in all material respects:

    a. the Probable and Hypothetical Assumptions are not consistent with the purpose of the Cash Flow Projection;

    b. as at the date of this First Report, the Probable and Hypothetical Assumptions developed by management are not suitably supported and consistent with the Company's plans or do not provide a reasonable basis for the Cash Flow Projection, given the Probable or Hypothetical Assumptions; or

    c. the Cash Flow Projection does not reflect the Probable and Hypothetical Assumptions.

21. The Cash Flow Projection provides that iS5 will require incremental advances under the DIP Facility of approximately $1.1 million (USD) to fund operations and the Proceedings during the Cash Flow Projection period. The Company has estimated the need to maintain a cash balance of $100,000 (USD) in any given week to ensure that operations remain stable during the Proceedings.

22. The Proposal Trustee makes the following general comments on the Cash Flow Projection:

a. receipts represent the anticipated collection of receivables and ongoing sales that will be expected as the Company will continue to operate;

b. disbursements appear to be consistent with the level of operations contemplated by management and the Proposal Trustee for the Company during the Cash Flow Projection period;

c. the Cash Flow Projection contemplates the payment of accrued and unpaid employee vacation pay, post-filing employee obligations and related source deductions, as well as any post-filing government related obligations;

d. the Cash Flow Projection contemplates paying vendors in accordance with existing credit terms, with provisions for the possibility of revised credit terms;

e. the Cash Flow Projection treats all secured creditors the same, wherein there are no payments to secured creditors during the Cash Flow Projection period; and

f. disbursements include the payment to the Company's legal counsel, financial advisors, the Proposal Trustee, and the Proposal Trustee's legal counsel.

PROPOSED DEBTOR-IN-POSSESION FINANCING

23. As mentioned previously, iS5 historically obtained financing through debt and equity raises. Unfortunately, no such traditional financing has been available to the Company. As a result, the Company has secured financing through a proposed debtor in possessing financing facility ("**DIP Financing**").

24. The DIP Financing would be available to the Company during the Proceedings and based on certain milestones and based on the Cash Flow Projection. After the funding of the initial amount described in paragraph 25, the next milestone would be the Company's ability to secure a sale agreement with a stalking horse purchaser and the approval of a sale process, at which time an increase to the DIP Financing may be requested, and as contemplated in the Cash Flow Projection.

25. In considering Phoenix Venture's intention to become a stalking horse purchaser, iS5 entered into a DIP loan agreement (the "**DIP Financing Agreement**") on August 5, 2022 with Phoenix Venture (in such capacity, the "**DIP Lender**"). Phoenix Venture has agreed to advance to the Company a total amount of up to $1.1 million (USD) (the "**DIP Facility**"), which will be made available to the Company during the Proceedings, of which an initial amount of $600,000 (USD) will be advanced to the Company during the week ending August 12, 2022, and limited to the estimated amount required to complete a negotiation of the stalking horse sale agreement.

26. Given the limited resources and the circumstances of the Company, the Proposal Trustee is of the view that it would be very difficult for the Company to obtain financing outside of formal restructuring proceedings, or from any other source, given the limited amount of time available for the Company before it runs out of cash.

27. Based on the information it has received, the Proposal Trustee is of the view that the DIP Facility and the DIP Charge (defined herein) are appropriate in the circumstances.

PROPOSED COURT ORDERED CHARGES

28. The Court Order sought by the Company provides for three charges that rank as follows:

    a. first – the Administration Charge,

    b. second – the Directors and Officers Charge

    c. third – the DIP Charge,

    (collectively, the “**Charges**”). The proposed Order states that the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any individual, firm, corporation, governmental body or agency or any other entities (all of the foregoing, collectively being “**Persons**”, and individually, a “**Person**”), except any validly perfected security interest in favour of equipment lessors.

29. The Proposal Trustee is of the understanding that SVB, as the primary secured creditor, is aware of the Charges and has indicated that they will not oppose.

<u>ADMINISTRATION CHARGE</u>

30. The proposed Order contemplates the Proposal Trustee, the Proposal Trustee’s counsel and the Company’s counsel, be granted a court-ordered charge on the assets of the Company as security for the professional fess and disbursements relating to services rendered in respect of the Company (whether incurred prior to or after the commencement of these Proceedings) at the standard rates and charge in an amount not to exceed $150,000 (CDN) (the “**Administration Charge**”).

31. The Administration Charge threshold has been established based on the various professionals' previous history and experience with restructurings of similar magnitude and complexity. If the proposed Order is granted the Proposal Trustee believes that the proposed Administration Charge is required and reasonable in the circumstances.

DIRECTORS AND OFFICERS' CHARGE

32. In order to provide adequate protection to the Company's directors and officers, iS5 is requesting the approval of a charge against the assets of iS5 in favour of the director and officers in the amount of $200,000 (CDN) (the "**D&O Charge**"), The quantum of the D&O Charge represents one pay period of payroll and related expenses, including the period of time in which it takes for payroll to be remitted to employees, in the normal course.

33. The Proposal Trustee is of the view that the granting of the D&O Charge, as well as the quantum of the D&O Charge, is reasonable in the circumstances.

DIP CHARGE

34. As set out above and depicted in the Cash Flow Projection the Company will need to utilize the DIP Facility. As a condition of the DIP Facility a charge over the assets of the Company which would be limited to the amount advanced under the DIP Facility and pursuant to the terms of the DIP Financing Agreement (the "**DIP Charge**").

35. The Proposal Trustee is of the view that the granting of the DIP Charge is necessary and reasonable.

COMPANY'S REQUEST OF PRE-FILING PAYMENTS

36. The Company is seeking the Court's approval to make pre-filing payments to a maximum aggregate limit of $120,000 (USD) ("**Pre-Filing Payments**"), and in each case with the consent of the Proposal Trustee, and only to suppliers that are deemed critical to the Company's ongoing business operation and which are required to preserve the value of the Company's business (the "**Critical Suppliers**").

37. The Proposal Trustee is supportive of the Company's request considering the nature and location of the Company's suppliers and where such flexibility may be required in order to maintain operations and the opportunity to complete a future sale transaction.

CONCLUSION AND RECOMMENDATION

38. Based on the above, the Proposal Trustee supports the relief sought by iS5 and respectfully recommends that the Court grant such relief.

All of which is respectfully submitted,

GRANT THORNTON LIMITED
As Trustee under a Notice of Intention to
Make a Proposal filed by iS5 Communications Inc.
and not in its personal capacity.

Daniel Wootton
____
D. Wootton, CIRP, LIT
Senior Vice President

Appendix 3
Updated Cash Flow Statement
with Actual Results to August 19, 2022

iS5 Communications Inc.
13 Week Cash Flow Projection
As at August 26, 2022

Week Ended	12-Aug-22			19-Aug-22			26-Aug-22	2-Sep-22	9-Sep-22	16-Sep-22	23-Sep-22	30-Sep-22	7-Oct-22	14-Oct-22	21-Oct-22	28-Oct-22	4-Nov-22
	Budget	**Actual**	**Variance**	**Budget**	**Actual**	**Variance**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**
Cash Receipts (USD)																	
Collections	117,399	69,888	(47,511)	19,440	84,159	64,719	50,307	155,053	49,525	21,404	82,406	53,371	7,910	13,184	266,225	82,487	82,227
HST	-	-	-	-	-	-	-	-	15,000	-	-	-	-	15,000	-	-	-
SR&ED / Misc	-	-	-	-	977,581	977,581	-	-	-	-	-	-	-	-	-	-	-
Total Cash Receipts	117,399	69,888	(47,511)	19,440	1,061,740	1,042,300	50,307	155,053	64,525	21,404	82,406	53,371	7,910	28,184	266,225	82,487	82,227
Cash Disbursements (USD)																	
Operational																	
Trade Payables	(200,000)	(2,156)	197,844	(100,000)	(71,502)	28,498	(35,000)	(79,000)	(42,000)	(18,000)	(22,000)	(18,000)	(43,000)	(20,000)	(48,000)	(18,000)	(48,000)
Credit Cards and Employee Exper	-	(1,699)	(1,699)	(3,000)	(4,384)	(1,384)	-	(15,000)	-	-	(3,000)	-	(15,000)	-	(3,000)	-	(5,000)
Channel Partner Commissions	-	-	-	(6,000)	-	6,000	-	-	-	-	(6,000)	-	-	-	(6,000)	-	-
Consultants	(5,000)	-	5,000	-	-	-	(11,906)	-	(8,000)	-	-	(8,000)	-	-	-	-	(8,000)
Rent	-	-	-	-	-	-	-	(19,637)	-	-	-	(19,637)	-	-	-	-	(19,637)
Utilities	-	-	-	-	-	-	(1,912)	(3,498)	-	-	(966)	-	(4,991)	-	(419)	-	(4,991)
Bank Charges	-	(2)	(2)	-	-	-	(1,093)	-	-	-	-	(1,093)	-	-	-	-	-
Office/Communication	-	-	-	(1,686)	-	1,686	(121)	(1,953)	-	-	(1,686)	-	(2,074)	-	(1,686)	-	(2,074)
Independent Director	-	-	-	-	-	-	-	(13,672)	-	-	-	(13,672)	-	-	-	-	-
IT Systems/Software Subscription	(102)	-	102	(6,563)	-	6,563	-	(9,889)	(1,102)	-	-	-	(10,889)	(102)	-	-	(10,889)
Payroll																	
Benefits	-	-	-	(50)	-	50	(15,438)	(4,530)	-	-	(50)	(15,438)	-	-	-	(15,438)	(4,530)
Payroll Canada	(94,938)	-	94,938	(109,375)	(180,554)	(71,179)	-	(109,375)	-	(109,375)	-	(109,375)	-	(109,375)	-	(109,375)	-
Payroll US	-	-	-	(15,000)	(20,652)	(5,652)	-	(10,000)	-	(15,000)	-	(10,000)	-	(15,000)	-	(10,000)	(10,000)
Payroll International	-	-	-	-	-	-	-	(10,000)	-	-	-	(10,000)	-	-	-	-	-
Restructuring Fees																	
Trustee Fees	-	-	-	(25,000)	(22,379)	2,621	-	-	-	(25,000)	-	-	-	-	(15,000)	-	-
Legal Counsel Fees	-	-	-	-	-	-	-	-	-	(50,000)	-	-	-	-	(15,000)	-	-
Payment to SVB	-	-	-	-	-	-	-	-	(209,667)	-	-	-	-	-	-	-	-
Total Cash Disbursements	(300,039)	(3,857)	296,182	(266,675)	(299,471)	(32,797)	(65,469)	(276,554)	(260,768)	(217,375)	(33,702)	(205,215)	(75,954)	(144,477)	(89,105)	(152,813)	(113,121)
Net Cash Flow	(182,640)	66,031	248,671	(247,234)	762,269	1,009,503	(15,162)	(121,501)	(196,244)	(195,971)	48,704	(151,843)	(68,044)	(116,293)	177,119	(70,326)	(30,894)
Opening Cash (USD)	109,718	204,175	94,457	527,078	870,206	343,129	1,632,475	1,617,313	1,495,811	1,299,568	1,103,597	1,152,300	1,000,457	932,413	816,121	993,240	922,914
Debtor in Possession Financing (USD)	600,000	600,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing Cash (USD)	**527,078**	**870,206**	**343,129**	**279,843**	**1,632,475**	**1,352,632**	**1,617,313**	**1,495,811**	**1,299,568**	**1,103,597**	**1,152,300**	**1,000,457**	**932,413**	**816,121**	**993,240**	**922,914**	**892,020**

Disclaimers:

1. This statement of projected cash flow of iS5 Communications Inc. (the "**Company**") is prepared by the debtor in accordance with s.50(6)(a) of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report on Cash Flow Statement and the assumptions below.
2. The Company has prepared the Cash Flow Statement based on probable and hypothetical assumptions that reflect the Company's planned course of action for the period of August 12, 2022 to November 4, 2022. Management is of the opinion that, as at the date of filing the Cash Flow Statement, the assumptions used to develop the projection represent the most probable set of economic conditions facing the Company and that the assumptions used proved a reasonable basis for and are consistent with the purpose of the Cash Flow Statement.
3. The Cash Flow Statement has been prepared by the Company and has been reviewed by the Proposal Trustee. The Proposal Trustee has not verified or confirmed certain expenses incurred by the Company which are reflected in this Cash Flow Statement.
4. The information contained in the Cash Flow Statement is subject to changing assumptions and/or receipt of new or additional information; actual results may vary. This Cash Flow Statement should not be used for any other purpose than its stated purpose, and creditors are cautioned that the information provided in the cash flow could vary based on changing future circumstances.

Notes:

1. Note that all amount referenced above are in USD.
2. The Collections are based on actual sales, sales projections, related payment terms, and the Company's best estimate on the receipt of such sales.
3. Trade Payables, Credit Cards and Employee Expenses relate to ongoing operations with an adjustment to consider that certain payment terms may change during the Cash Flow Statement period.
4. The IT Systems/Software Subscriptions payments reflect expected payments based on existing contracts for software that is critical to the operations of the Company.
5. Payroll and related payments are based on contractual arrangements in place with the respective employees.
6. Restructuring Fees relate to the fees to be incurred during these Proceedings. These expenses include the Company's counsel, Proposal Trustee fees, and the Trustee's Counsel's fees.
7. The Company plans to utilize Debtor in Possession financing to support operations during the Cash Flow Statement period.
8. The Company has made a SR&ED claim and is anticipating a payment from the Canada Revenue Agency, however the payment has not been included in the above cash flow statement as timing of receipt remains unknown.
9. The Company's cash flow statement does not contemplate the payment of pre-filing unsecured creditors, with the exception of potential Critical Suppliers (as defined). Furthermore, the cash flow statement does not contemplate any ongoing payments to the Company's secured creditors during the Cash Flow Statement period.

Friday, August 26, 2022

iS5 Communications Inc.

Per:

Clive Dias, President

Grant Thornton Limited

Per: Daniel Wootton

Dan Wootton, CIRP, LIT

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF iS5 COMMUNICATIONS INC. OF THE CITY OF MISSISSAUGA, PROVINCE OF ONTARIO

Court File No. 32-2853708
Estate File No. 32-2853708

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at
Toronto

SECOND REPORT OF PROPOSAL TRUSTEE

COZEN O'CONNOR LLP
Bay Adelaide Centre – West Tower
333 Bay Street, Suite 1100
Toronto, Ontario M5H 2R2

Steven Weisz (LSO#: 32102C)
Tel : 647-417-5334
Fax: 647-805-0519
Email: sweisz@cozen.com

Lawyers for the Proposal Trustee