SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-00690563-00CL

DATE: January 20, 2023

NO. ON LIST 4

TITLE OF PROCEEDING IS5 COMMUNICATIONS INC.

COUNSEL INFORMATION-

For Moving Party

Name of Person Appearing	Name of Party	Phone Number	Email Address
	IS5 COMMUNICATIONS INC		

For Responding Party

Name of Person Appearing	Name of Party	Phone Number	Email Address
Steve Weisz	For the monitor		sweisz@cozen.com
Sharouz Hafez	For the monitor		shafez@cozen.com
David Collins	Monitor		

Other/ Self Represented

Name of Person Appearing	Name of Party	Phone Number	Email Address
Mitch Grossell	Phoenix Contact		mgrossell@tgf.ca

ENDORSEMENT OF JUSTICE STEELE—

1. The Monitor's motion proceeded before me on January 20, 2023 via Zoom. The motion is unopposed and the relief sought is recommended by the Monitor in its Second Report.

2. The Monitor seeks an order, among other things, authorizing the Monitor, on behalf of ResidualCo, to distribute the balance of the net sale proceeds, approving the Monitor's statement of receipts and disbursements dated January 9, 2023, approving the Monitor's and its legal counsel's fees and disbursements, approving a transfer of funds by the Monitor from the sale proceeds held by ResidualCo to Grant Thornton Limited and Cozen O'Connor LLP for the fees and disbursements required to administer the ResidualCo bankruptcy proceedings, approving the Monitor's Second Report and the activities set out therein, terminating the CCAA proceedings and discharging the Monitor.

3. The Monitor confirmed that following the granting of the Reverse Vesting Order ("RVO"), the transaction closed on December 14, 2022. Pursuant to the RVO, the shares of iS5 were transferred to the purchaser and the sale proceeds from the transaction were received by the Monitor and deposited into a trust account for ResidualCo. All of the liabilities of iS5 that were not assumed by the purchaser were transferred to ResidualCo. With the closing of the transaction, iS5 exited the CCAA proceeding and ResidualCo remains as the sole debtor. The Monitor has distributed sufficient funds to pay, in full, SVB, as the primary secured creditor. There are two secured noteholders, BDC Capital Inc. ("BDC") and Clearsky Power & Technology Fund II LLC ("Clearsky") that have valid security over the assets of ResidualCo. The Monitor seeks authorization to make distributions from the sale proceeds to these secured noteholders.

4. Based on the Monitor's submission in paras. 29-32 of its factum, I am satisfied that the proposed distribution to the secured noteholders can be approved.

5. There is a holdback for final fees to conclude the CCAA proceedings (the "Holdback"). There is also $45,000 as retainers for the anticipated bankruptcy related costs of ResidualCo (the "Bankruptcy Retainer"). If any portion of the Holdback and/or the Bankruptcy Retainer is not utilized, the surplus proceeds will be distributed to the secured noteholders based on the Monitor's Secured Noteholder Allocation.

6. The Monitor asks that the order be granted terminating the CCAA provisions and discharging the Monitor. I am satisfied that the CCAA proceedings have run their course and that they can now be terminated (and the Monitor discharged upon the completion of the remaining activities and the filing of the Monitor's Discharge Certificate).

7. In determining whether the Monitor's fees are fair and reasonable, the Court of Appeal in *Confectionately Yours Inc., Re (2002)*, 36 C.B.R. (4th) 200, at para. 51, endorsed as a useful guideline the factors set out in *Federal Business Development Bank v. Belyea and Fowler* (1983), 44 N.B.R. (2d), at para. 9, which include:

    - The nature, extent and value of the assets handled,
    - The complications and difficulties encountered,
    - The degree of assistance provided by the company, its officers or its employees,
    - The time spent
    - The [Monitor's] knowledge, experience and skill,
    - The diligence and thoroughness displayed,
    - The responsibilities assumed,
    - The results of the receiver's efforts,

- The cost of comparable services when performed in a prudent and economical manner.

8. Having considered the *Belyea* factors and the circumstances set out in para 38 of the factum, in particular, the complexity of this matter, the fees and disbursements of the Monitor and its counsel are fair and reasonable.

9. Order to go as signed by me and attached. The order is effective from today's date and is enforceable without the need for entry and filing.

Dated: January 23, 2023