

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR. JUSTICE McEWEN) THURSDAY, THE 22ND
) DAY OF OCTOBER, 2020

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF CANADIAN UNION
PROMOTIONS INC., A CORPORATION INCORPORATED
UNDER THE CANADIAN BUSINESS CORPORATIONS ACT

ORDER

(Approval of Sale Process)

THIS MOTION, made by Canadian Union Promotions Inc. (“CUP”), pursuant to Section 65.13 of the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”), for an order, among other things, **(i)** approving a “stalking horse” sale process substantially on the terms set out in Schedule “A” hereto (the “Sale Process”), **(ii)** approving the “stalking horse” asset purchase agreement (the “Stalking Horse APA”) entered into on October 16, 2020 between the CUP and Younion Travel, Inc., (the “Purchaser”), for the purpose of constituting a stalking horse bid under the Sale Process, and **(iii)** approving the break fee (the “Break Fee”) set out in Section 6.4 of the Stalking Horse APA, was heard this day via Zoom videoconference due to the COVID-19 pandemic.

ON READING the Motion Record and Supplementary Motion Record of CUP, the Responding Motion Record of Royal Bank of Canada (“**RBC**”), the second report of Crowe Soberman Inc., in its capacity as proposal trustee of CUP (the “**Trustee**”), dated October 21, 2020 (the “**Second Report**”) and the Appendices thereto, and on hearing the submissions of counsel for CUP, counsel for the Proposal Trustee and counsel for RBC, no one else appearing

although duly served as appears from the Affidavit of Service of Karen Jones sworn October 19, 2020, filed, and on hearing the consent of the parties:

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion, the Motion Record and the Second Report is hereby abridged and validated and this Motion is properly returnable today.
2. **THIS COURT ORDERS** that CUP, the Trustee and/or their lawyers are at liberty to serve or distribute this Order and any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to CUP' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation and notice requirements within the meaning of section 3(c) of the *Electronic Commerce Protection Regulations*, SOR/2013-221.

APPROVAL OF SALE PROCESS AND STALKING HORSE APA

3. **THIS COURT ORDERS** that the Sale Process is hereby approved and the Trustee is hereby authorized and directed to take such steps as it deems necessary or advisable (subject to the terms of the Sale Process) to carry out the Sale Process, subject to prior approval of this Court being obtained before completion of any transaction(s) under the Sale Process.
4. **THIS COURT ORDERS** that the execution, delivery, entry into, compliance with, and performance by CUP of the Stalking Horse APA be and is hereby ratified, authorized and approved.
5. **THIS COURT ORDERS** that the Break Fee set out in Section 6.4 of the Stalking Horse APA is approved and that the Stalking Horse APA is hereby approved solely for the purposes of standing as the Stalking Horse Bid in the Sale Process, provided that if the Purchaser is the successful bidder under the Sale Process, implementation of the transaction contemplated by the Stalking Horse APA will be subject to the Court's approval upon further motion by CUP.

6. **THIS COURT ORDERS** that CUP and the Trustee their respective employees, advisors, agents or other representatives (“**Representatives**”) shall have no personal or corporate liability in connection with the Sale Process.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Trustee, CUP and their Representatives are hereby authorized and permitted to disclose and transfer to each potential bidder (the “**Bidders**”) and to their Representatives, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in CUP’s records pertaining to CUP’s past and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale pursuant to the Sale Process (a “**Sale**”). Each Bidder or Representative to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Sale, and if it does not complete a Sale, shall return all such information to the Trustee, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Trustee. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction(s) contemplated in the Winning Bid(s) (as defined in the Sale Process), shall be entitled to use the personal information provided to it that is related to the assets acquired pursuant to the Sale Process in a manner that is in all material respects identical to the prior use of such information by CUP, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Trustee.

EXTENSION OF TIME TO FILE A PROPOSAL

8. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which CUP may file a proposal be and is hereby extended to December 7, 2020.

SEALING

9. **THIS COURT ORDERS** that Confidential Exhibits “D” and “F” to the Affidavit of Shy Jacoby sworn October 16, 2020, including as contained in the Compendium of CUP dated

October 16, 20202, and the Confidential Appendix to the Second Report be and hereby are sealed pending completion of a transaction to sell the assets of CUP as evidenced by the filing of a Certificate by the Trustee, or pending further Court Order..

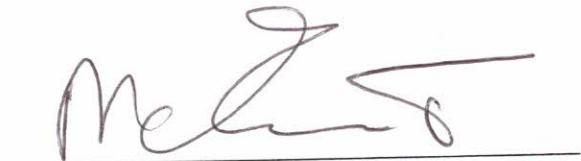
GENERAL

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, to give effect to this Order and to assist CUP, the Trustee, the Purchaser 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 CUP and to the 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 Trustee in any foreign proceeding, or to assist CUP and the Trustee and their respective agents in carrying out the terms of this Order.

11. **THIS COURT ORDERS** that each of CUP, the Trustee and the Purchaser shall be at liberty and are 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.

12. **THIS COURT ORDERS** that this Order is subject to the terms of the endorsement of today's date.

13. **THIS COURT ORDERS** that this Order is effective from today's date and is not required to be entered.

A handwritten signature in black ink, appearing to read "Melinda", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'M' at the beginning.

Schedule “A” – Sale Process

1. Definitions. All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Stalking Horse APA.
2. Advertisement. Not later than five (5) Business Days after the Sale Process Order is granted, the Trustee shall advertise for sale the Purchased Assets in The **National Post (National Edition)** and distribute a teaser document to potential interested parties.
3. Due Diligence. Not later than five (5) Business Days after the Sale Process Order is granted, the Trustee shall make available to prospective purchasers (collectively, the “**Prospective Purchasers**”), upon receipt of an executed confidentiality agreement from a Prospective Purchaser, access to a data room containing information reasonably required by Prospective Purchasers to consider submitting an offer for the Purchased Assets and facilitate the conduct of due diligence by the Prospective Purchasers. The Purchaser may have access to the data room.
4. Bid Deadline. Any offers to purchase the Purchased Assets must be submitted in writing to and received by the Proposal Trustee at Crowe Soberman Inc., 2 St. Clair Ave. East, Suite 1100 Toronto, ON M4T 2T5, attention: Hans Rizarri, or by email at hans.rizarri@crowesoberman.com, by 5:00pm (Toronto time) on November 23, 2020 (the “**Bid Deadline**”).
5. Qualified Bid. The Trustee in its sole discretion shall determine whether any offers are “**Qualified Bids**”. A Qualified Bid shall mean an offer to purchase substantially all of the Purchased Assets which is substantially the same or better than the Agreement, provided that no offer shall qualify as a Qualified Bid unless it meets, among other things, the following minimum criteria:
 - i. the Prospective Purchaser and the representatives thereof who are authorized to appear and act on its behalf must be sufficiently identified and written evidence of the offeror’s chief officer or other appropriate senior executive’s approval of the contemplated transaction must be submitted with the offer;
 - ii. the offer must be submitted in writing and include a blackline of the offer to the Agreement, reflecting the Prospective Purchaser’s proposed changes and a written commitment to close on the terms and conditions set forth therein;
 - iii. the offer must be accompanied by a deposit in the form of certified cheque payable to the Proposal Trustee which is equal to at least 10% of the aggregate purchase price payable under the offer;
 - iv. the offer must be open for acceptance by the Vendor until five (5) Business Days after the Auction (as hereinafter defined) or later;

- v. the offer must be on terms no less favourable and no more burdensome or conditional than the Agreement and shall not contain any provisions for a break fee or expense reimbursement;
- vi. the offer must not contain any contingency relating to due diligence or financing or any other material conditions precedent to the offeror's obligation to complete the transaction that are not otherwise contained in the Agreement;
- vii. the offer must contain written evidence of a commitment for financing or other evidence of the ability to consummate the sale with appropriate contact information for such financing sources; and
- viii. the offer must be for a price equal to or greater than the sum of the Purchase Price, the Break Fee and **\$5,000**.

6. Auction. Only if the Trustee receives one or more Qualified Bids by the Bid Deadline, the Trustee shall extend invitations by phone, fax and/or email by 10:00 a.m. (Toronto time) on the third (3rd) Business Day after the Bid Deadline to all bidders who submitted Qualified Bids and to the Purchaser to attend an auction (the "**Auction**"). The Auction shall be held at 10:00 a.m. on the fifth (5th) Business Day after the Bid Deadline (or such other date and time as the Proposal Trustee may in its sole discretion designate) at the offices of the Trustee or virtually by videoconference facility established by the Trustee.

7. Conduct of the Auction. The Trustee shall conduct the Auction. At the Auction, the bidding shall begin initially with the highest Qualified Bid and subsequently continue in multiples of \$10,000, or such other amount as the Trustee determines to facilitate the Auction (the "**Incremental Amount**"). Additional consideration in excess of the amount set forth in the highest Qualified Bid must be comprised only of cash consideration. The format and procedure for the Auction shall be determined by the Trustee in its sole discretion.

8. Winning Bid. In its sole discretion and based, *inter alia*, on the conduct of the Auction, the total financial and contractual terms of the Qualified Bids and various factors relevant to the speed and certainty of completing the sale of the Purchased Assets, the Trustee shall determine and accept the highest and/or best bid with respect to the Purchased Assets (the "**Winning Bid**"), subject to Court approval.

9. Court Approval of the Winning Bid. The Vendor shall make a motion to the Court to obtain approval of the Winning Bid and the Approval and Vesting Order as expeditiously as possible after the Auction, but in no event longer than ten (10) Business Days following the Auction.

10. Court Approval of Agreement if no Qualified Bid. If no Qualified Bid is received by the Bid Deadline (other than the Agreement), the Auction will not be held. Accordingly, the Agreement will be the Winning Bid and the Vendor shall seek, as expeditiously as possible, approval of the Court to consummate the Transaction contemplated by the Agreement, but in no event longer than ten (10) Business Days following the expiry of the Bid Deadline.

11. Return of Deposits. The deposits submitted with all Qualified Bids (except the Winning Bid), shall be held in escrow by the Trustee until five (5) Business Days after the date of the completion of the Auction and returned to those Prospective Purchasers thereafter. If the Winning Bid terminates pursuant to its terms or fails to close because of the Vendor's breach or failure to perform under the terms of the Winning Bid, the Trustee shall return the deposit submitted with such bid to the bidder that submitted the Winning Bid (the "**Winning Bidder**") forthwith. If the Winning Bidder fails to complete the approved sale because of its breach or failure to perform under the terms of the Winning Bid, the Trustee shall not have any obligation to return the deposit submitted with the Winning Bid and such deposit shall be retained by the Trustee as liquidated damages and the Purchaser shall be entitled to submit a new bid for the Purchased Assets, which the Trustee shall be at liberty to but not obligated to, accept on terms to be agreed upon between the Parties.
12. Modifications. Subject to the Sale Process Order, the Trustee shall have the right to adopt such other rules for the Sale Process, that, in its sole discretion, will better promote the goals of the Sale Process.

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CORPORATION INCORPORATED UNDER THE CANADIAN
BUSINESS CORPORATIONS ACT

22 Oct 20

Order to go on consent
as per the draft ~~Recd & Served~~
In own context that the provisions
contained in the draft order are
fair & reasonable.

McGill

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**ORDER
(Approval of Sale Process)**

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Lawyers for Canadian Union Promotions Inc

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COUNSEL SLIP

R. Brendan Bissell and Joel Turgeon (student at law) for Canadian Union Promotions Inc.

Ian Aversa and Jeremy Nemers, for Royal Bank of Canada

Graham Phoenix, for Crowe Soberman Inc. in its capacity as trustee of the proposal

Hans. Rizarri of Crowe Soberman Inc., trustee of the proposal [not counsel]

The emails for those attending are as follows:

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gphoenix@loonix.com; hans.rizarri@crowesoberman.com