

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.)
JUSTICE MCEWEN)
MONDAY, THE 7th
DAY OF DECEMBER, 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***

APPROVAL AND VESTING ORDER

THIS MOTION, made by Canadian Union Promotions Inc. (“**CUP**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**APA**”) between CUP and Yunion Travel Inc. (the “**Purchaser**”), dated October 16, 2020 and appended to the report (the “**Report**”) of Crowe Soberman Inc. in its capacity as proposal trustee (the “**Trustee**”) dated December 3, 2020 and vesting in the Purchaser CUP’s right, title and interest in and to the Purchased Assets (as defined in the APA) was heard this day at 330 via Zoom videoconference due to the COVID-19 pandemic.

ON READING the Motion Record of CUP and the Report and on hearing the submissions of counsel for CUP, counsel for the Purchaser and counsel for the Trustee, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Brendan Bissell sworn December 4, 2020 filed:

1. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the APA.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the APA by CUP is hereby ratified, with such minor amendments as CUP and the Trustee may deem necessary. CUP and the Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS** that CUP is hereby authorized and directed to perform its obligations under the APA and any ancillary documents related thereto.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Trustee's Certificate**"), all of CUP's right, title and interest in and to the Purchased Assets described in the APA (including those assets listed in Schedule "B" hereto) and the proceeds thereof (including for greater certainty, any funds received by the Purchaser on account of any Accounts Receivable but not the Purchase Price proceeds) shall vest in the Purchaser free and clear of and from any and all ownership claims, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts, constructive trusts, deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, claims (including, without limitation, any claim based on any theory that the Purchaser is a successor or continuation of CUP or CUP's business), demands, guarantees, restrictions, contractual commitments, right or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal, equitable, possessory or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated October 22, 2020 and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**" which term shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that the Trustee may rely on the written notice from CUP regarding fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Trustee's Certificate.

8. **THIS COURT ORDERS** that, provided that the APA has not been terminated, any proposal filed by CUP pursuant to Section 50.4(9) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") shall not derogate or otherwise affect any right or obligation of CUP or the Purchaser under the APA unless otherwise agreed by CUP and the Purchaser.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, CUP is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in CUP's records pertaining to CUP's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by CUP.

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of CUP and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of CUP;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of CUP and shall not be void or voidable by creditors of CUP, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ASSIGNMENT OF CONTRACTS

11. **THIS COURT ORDERS** that upon delivery of the Trustee's Certificate and payment of any Cure Costs (as defined below) in respect of the Contracts listed in Schedule "C", (i) all of the rights and obligations of CUP under the Contracts listed in Schedule "C" hereto (collectively, the "**Assigned Contracts**") shall be assigned to the Purchaser pursuant to Section 3.2 of the APA and pursuant to Section 84.1 of the BIA; and (ii) CUP's right, title and interest in the Assigned Contracts shall vest absolutely in the Purchaser free and clear of all Encumbrances.

12. **THIS COURT ORDERS** that each counterparty to the Assigned Contracts is prohibited from exercising any right or remedy under the Assigned Contracts by reason of any defaults thereunder arising from the assignment of the Assigned Contracts, the insolvency of CUP, the commencement of these proceedings under the BIA or any failure of CUP to perform a non-monetary obligation under the Assigned Contracts.

13. **THIS COURT ORDERS** that, notwithstanding the foregoing, and other than with respect to any Assigned Contract with Royal Bank of Canada as a counterparty (where the Court has already ordered CUP to make all payments as and when due), the assignment of an Assigned Contract to the Purchaser shall not take effect unless and until the Purchaser has cured any monetary defaults existing under such Assigned Lease as at the date of the Closing, if any, by

payment of the amount required to cure such monetary defaults (the “**Cure Costs**”) to the counterparty to the applicable Assigned Contract by no later than the day that is ten (10) business days from the date that the Purchaser receives wire remittance instructions or other payment instructions from such counterparty.

14. **THIS COURT ORDERS AND DIRECTS** CUP to send a copy of this Order to all of the counterparties to the Assigned Contracts.

GENERAL

15. **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 Trustee and its 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.



Schedule A – Form of Trustee’s Certificate

Estate No. 31-2663507

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

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*

PROPOSAL TRUSTEE’S CERTIFICATE

RECITALS

- A. Canadian Union Promotions commenced these proceedings by filing a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), on August 8, 2020 (the “**NOI**”).
- B. Crowe Soberman Inc. was named proposal trustee (the “**Proposal Trustee**”) under the NOI.
- C. Pursuant to an Order of the Court dated December ____, 2020, the Court approved the asset purchase agreement made as of October 16, 2020 (the “**APA**”) between CUP and Yunion Travel, Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of CUP’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the cash consideration under Section 3.3 of the APA; (ii) that the conditions to Closing as set out in the APA been satisfied or waived by CUP and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Proposal Trustee.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. CUP and the Purchaser have each delivered written notice to the Proposal Trustee that all applicable conditions under the APA have been satisfied and/or waived, as applicable;
2. The Proposal Trustee has received the cash consideration under Section 3.3 of the APA;
and
3. The Transaction has been completed to the satisfaction of the Proposal Trustee.

This Certificate was delivered by the Proposal Trustee at _____ on _____, 2020.

**Crowe Soberman Inc. in its capacity
as Proposal Trustee in the proposal
proceedings of Canadian Union
Promotions Inc., and not in its
personal or corporate capacity**

Per: _____
Name:

Title:

Schedule B – Purchased Assets

CLIENT CONTRACTS

- Service Contracts

Client Name

1. CUPE 4400
2. CUPE 1734
3. CUPE 1750
4. CUPE 3903
5. CUPE 4156
6. CUPE 2361
7. CUPE 2730
8. CUPE 2191
9. CUPE AC Component
10. CUPE AT Component
11. CUPE 218
12. ETFO Toronto
13. ETFO Peel
14. ETFO OT
15. UNIFOR 707
16. ERFPP
17. CFLPA
18. CFAU
19. CUASA
20. OECTASA
21. USW 5296
22. NSGEU

Schedule C – Assigned Contracts

OBLIGATIONS

- Leases:

Add Capital	27057	· Lease Payable - Add Capital Corp#16739
Add Capital	27058	· Lease payable-Add Capital#16755
AXIOM	27062	· Lease Payable-AXIOM # CAUNI 1
RBC	27034	· Lease Payable-RBC-Lease#35636
RBC	27035	· Lease Payable-RBC-Lease#36647
RBC	27036	· Lease Payable-RBC-Lease#37511
RBC	27042	· Lease Payable-RBC-Lease#39760
Dell	27033	· Lease Payable--Dell-Lease#6030244-006
Dell	27044	· Lease Payable- Dell-Lease#6030244-007
Dell	27050	· Lease Payable- - Dell #6030244-008
Dell	27054	· Lease Payable- - Dell #6030244-009
Grenke	27031	· Lease Payable--Grenke Lease#151-564
Grenke	27041	· Lease Payable--Grenke #151-001541
Grenke	27045	· Lease Payable-- Grenke #151-002178
Grenke	27049	· Lease Payable- - Grenke #151002298
Grenke	27052	· Lease Payable-Grenke#151002624
Grenke	27053	· Lease Payable-Grenke#151-002941
Grenke	27059	· Lease Payable--Grenke#151-003229
Grenke	27060	· Lease Payable--Grenke#151-03157
Indcom	27056	· Lease Payable-Indcom#14826
Gould	27055	· Lease Payable-Gould#09369
National	27040	· Lease Payable--National #2864851
LBC Capital	27061	· Lease Payable- - LBC Capital #53399
LBC Capital	27063	· Lease Payable- -LBC Capital #54923

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Estate No. 31-2663507

7 Dec 20

Order to go, on an unopposed basis, as per the draft filed and signed.
Soundair principles have been met, as have the BIA criteria.
The Proposal Trustee supports the motion.



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced in TORONTO**

APPROVAL AND VESTING ORDER

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