



Court File No. 06-CL- 6746

ONTARIO

SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR  
ARRANGEMENT WITH RESPECT TO 3791351 CANADA INC.  
CARRYING ON BUSINESS AS "CU-CONNECT") (the "Applicant")

**NOTICE OF APPLICATION**

**TO THE RESPONDENTS LISTED HEREIN:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the Applicant 3791351 Canada Inc. The claim made by the Applicant appears on the following pages.

**THIS APPLICATION** will come on for a hearing before a judge presiding over the Commercial List on Monday, the 20<sup>th</sup> day of November, 2006 at 10:00 a.m. or so soon thereafter at 330 University Avenue, Toronto, Ontario.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants and file it, with proof of service, in this court office and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the

Applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date: November 17, 2006

Issued by: Jan Stood  
Local Registrar

Address of Court Office:  
393 University Avenue  
Toronto, Ontario M5G 1E6

**TO: SERVICE LIST**

**KPMG INC.**

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P.O. Box 31 Stn Commerce Court  
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*Proposed Monitor for Applicants*

**AND TO: Borden Ladner Gervais LLP**

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Scotia Plaza  
40 King St. W.  
Toronto, ON, M5H 3Y4

**Roger Jaipargas**

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*Proposed Counsel for KPMG Inc.*

**AND TO: Goodmans LLP**

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**Kenneth Crofoot**

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*Solicitors for Kawartha Credit Union Ltd.*

## APPLICATION

1. The Applicant make this application for an Order:
  - (a) Abridging the time for, or dispensing with, service or further service of this notice of application;
  - (b) Abridging the time for filing this notice of application;
  - (c) Declaring that the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), applies to the Applicant;
  - (d) Authorizing the Applicant to file with the Court a plan of compromise or arrangement between the Applicant and its creditors or some of them;
  - (e) Staying all proceedings and remedies taken or that might be taken in respect of the Applicant, any of its property or any default by the Applicant without leave of the Court;
  - (f) Authorizing the Applicant to carry on business in a manner consistent with the preservation of, and realization on, its property and to make certain payments in connection with its business and the proceedings herein;
  - (g) Authorizing the Applicant to enter into arrangements with a lender or lenders to finance their continued operations and expenses during this proceeding;
  - (h) Appointing KPMG Inc. to act as the Monitor;
  - (i) Appointing Terry Chapman to act as Chief Restructuring Officer of the Applicant;
  - (j) Granting such further and other relief as the Applicant may request and that this Honourable Court may deem just.

2. The grounds for the application are:

- (a) the Applicant is a company to which the CCAA applies;
- (b) the Applicant has assets in Canada and do business in Canada;
- (c) the claims against the Applicant exceed \$5,000,000;
- (d) the Applicant intends to propose a plan of compromise or arrangement with its creditors;
- (e) the Applicant requires a stay of proceedings and the other relief requested in order to enable the Applicant to finalize a plan of compromise or arrangement;
- (f) because of the nature and urgency of this application, it has not been possible to provide all potentially interested parties with notice;
- (g) the information contained in the Affidavit of Terry Chapman, sworn November 16, 2006
- (h) the provisions of the CCAA;
- (i) rules 2.03, 3.02, 14.05 and 16 of the *Rules of Civil Procedure*; and
- (j) section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

3. The following documentary evidence will be used at the hearing of the application:

- (a) the Affidavit of Terry Chapman sworn November 16, 2006 in support of this Application and the exhibits annexed thereto;
- (b) the Consent of KPMG Inc. to act as Monitor; and
- (c) such further and other materials as counsel may advise and this Honourable Court may permit.

November 16, 2006

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*Solicitors for the Applicant*

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985,  
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AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OF  
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CARRYING ON BUSINESS AS "CU-CONNECT")

(The "Applicant")

Court File No: 06-CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**NOTICE OF APPLICATION**

**MILLER THOMSON LLP  
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