

COURT FILE NUMBER Q.B. 1639 of 2015  
COURT COURT OF QUEEN'S BENCH OF SASKATCHEWAN  
JUDICIAL CENTRE SASKATOON  
APPLICANT GOLDEN OPPORTUNITIES FUND INC.  
RESPONDENTS PHENOMENOME DISCOVERIES INC. and PHENOMENOME LABORATORY SERVICES INC.  
DOCUMENT FOURTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF PHENOMENOME DISCOVERIES INC. and PHENOMENOME LABORATORY SERVICES INC.

October 21, 2016

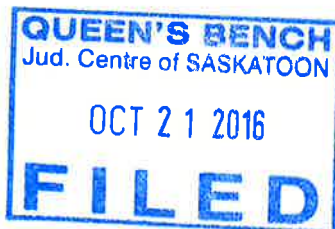
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## INTRODUCTION

1. On February 25, 2016 (the “**Date of Appointment**”), FTI Consulting Canada Inc. (“**FTI Consulting**”) was appointed as receiver and manager (in such capacity and not in its personal or corporate capacity, the “**Receiver**”) of all the assets, undertakings and properties (the “**Property**”) of Phenomenome Discoveries Inc. (“**PDI**”) and Phenomenome Laboratory Services Inc. (“**PLSI**” and together with PDI, the “**Company**”) pursuant to an Order of the Court of Queen’s Bench of Saskatchewan granted on February 26, 2016 (the “**Receivership Order**”).
2. On April 15, 2016, this Honourable Court granted an order (the “**KERP Order**”) which, *inter alia*, approved the KERP and an increase to the Receiver’s Borrowing Charge from \$400,000 to \$800,000.
3. On May 2, 2016, this Honourable Court granted an order (the “**Sales Procedures Order**”) which, *inter alia*, approved the Sales Procedures and a further increase to the Receiver’s Borrowing Charge from \$800,000 to \$3,000,000.
4. On August 30, 2016, this Honourable Court granted an order (the “**Receiver’s Borrowing Charge Order**”) which, *inter alia*, approved an increase to the Receiver’s Borrowing Charge from \$3,000,000 to \$3,650,000.
5. On September 16, 2016, this Honourable Court granted an order (the “**Approval and Vesting Order**”) which, *inter alia*, authorized and directed the Receiver to take such necessary steps to complete the transaction (the “**Transaction**”) with Med-Life Discoveries LP (“**MLD**”).
6. The Receiver’s reports and other publically available information in respect of these proceedings (the “**Receivership Proceedings**”) are posted on the Receiver’s website at <http://cfcanada.fticonsulting.com/pdi> (the “**Receiver’s Website**”).

7. The purpose of this report (the “**Fourth Report**”) is to inform the Court as to the following:
- (a) the status of various aspects of the Receivership Proceedings;
  - (b) the Receiver’s receipts and disbursements from the Date of Appointment to October 21, 2016 and budget to actual results for the Forecast Period (as defined below);
  - (c) the revised cash flow statement (the “**Revised Wind-down Budget**”) for the period of October 22, 2016 to December 10, 2016, (the “**Wind-down Period**”); and
  - (d) the Receiver’s request for an increase to the Receiver’s Borrowing Charge.
8. At an application returnable on October 25, 2016, the Receiver is requesting the following relief from this Honourable Court:
- (a) approval of the activities of the Receiver since the Date of the Third Report including its receipts and disbursements; and
  - (a) an increase to the Receiver’s Borrowing Charge.

#### **TERMS OF REFERENCE**

9. In preparing this Fourth Report, the Receiver has relied upon unaudited financial information, other information available to the Receiver and, where appropriate, the Company’s books and records and discussions with various parties (collectively, the “**Information**”).

10. Except as described in this Fourth Report:
- (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook; and
  - (b) the Receiver has not examined or reviewed financial forecasts and projections referred to in this Fourth Report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook.
11. Future oriented financial information reported or relied on in preparing this Fourth Report is based on assumptions regarding future events. Actual results may vary from forecasts and such variations may be material.
12. The Receiver has prepared this Fourth Report in connection with the Receiver's Application returnable October 25, 2016. This Fourth Report should not be relied on for other purposes.
13. Any information and advice described in this Fourth Report has been provided to the Receiver by its counsel, Blake, Cassels & Graydon LLP (the "**Receiver's Counsel**"), in order to assist the Receiver in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meaning in the Receivership Order and MLD SPA.

## RECEIVERSHIP PROCEEDINGS

15. The Receiver entered into a purchase and sale agreement with MLD (the “**MLD SPA**”) dated as of August 22, 2016 and the Target Closing Date for the Transaction was anticipated to be September 2, 2016. The only condition of the MLD SPA was the approval of, and the granting of, an approval and vesting order, by this Honourable Court.
16. On September 16, 2016, Madam Justice Rothery issued a fiat (the “**Decision**”), which among other things, concluded that the Receiver was entitled to sell the assets of PDI free and clear of any claim of Yolbolsum Canada Inc. (“**YBCI**”) pursuant to its license agreement with PDI and on September 26, 2016, this Honourable Court granted the Approval and Vesting Order.
17. On September 18, 2016, Bennett Jones LLP (“**Bennett Jones**”) issued a letter advising that its client (YBCI) intended to appeal the Decision and would be serving and filing YBCI’s notice of appeal after it fully assessed the Decision and the notice of appeal was complete.
18. On September 21, 2016, the Receiver’s Counsel was served with a copy of the notice of appeal of YBCI (the “**Notice of Appeal**”).
19. On September 28, 2016, the Receiver’s Counsel filed materials with the Court of Appeal for Saskatchewan which, among other things, included a notice of motion to strike the Notice of Appeal of YBCI.
20. On October 20, 2016, the Court of Appeal issued a consent judgment dismissing the Notice of Appeal.
21. As a result, the Target Closing Date of the Transaction has been extended from September 2, 2016 to November 1, 2016.

## RECEIPTS AND DISBURSEMENT

22. Receipts and Disbursements from the Date of Appointment to October 21, 2016 are summarized in the Schedule of Receipts and Disbursements below:

<b>Schedule of Receipts and Disbursements</b>	
February 26 to October 21, 2016	
<b>Receipts</b>	
Receiver Certificate	3,350,000
Bank Account Transfer	159,065
Opening Cash	54,444
Other	833
<b>Total - Receipts</b>	<b>3,564,343</b>
<b>Disbursements</b>	
Employee Related Obligations	866,096
Receiver's Fees and Disbursements	774,891
Occupation Rent	412,441
Consultants	254,958
Other Professional Fees	228,254
Legal Fees and Disbursements	119,359
Operating Expense	104,623
Asset Marketing Expense	96,722
GST/PST Paid and Remitted	86,610
Interim Receivership Payables	62,599
Insurance	21,783
Other Miscellaneous Disbursements	10,893
MLD Royalty Interest	8,751
<b>Total - Disbursements</b>	<b>3,047,979</b>
<b>Net Cash on Hand</b>	<b>516,363</b>

23. The amounts set out in the Schedule of Receipts and Disbursements are as follows:

- (a) Receiver's Certificate – in accordance with the Receivership Order the Receiver has issued Receiver's Certificates and the total represents the funds advanced from MLD, by its general partner Med-Life Discoveries GP;
- (b) Bank Account Transfer – balances in the Company's bank accounts on the Date of Appointment which were transferred to the Receiver's account and receipts from customers;
- (c) Opening Cash – cash balance held by FTI Consulting in its capacity as Interim Receiver pursuant to the Interim Financing;
- (d) Other – including bank interest and other miscellaneous receipts;
- (e) Employee Related Obligations – amounts paid by the Receiver in respect of employee related obligations including payroll, payroll remittances and health insurance;
- (f) Receiver's Fees and Disbursements – amounts paid to the Receiver for its fees and disbursements to and including June 30, 2016, the Receiver's fees and disbursements for July through September are currently outstanding;
- (g) Occupation Rent – amounts paid to the Company's landlord pursuant to its occupation rent to and including September 30, 2016;

- (h) Consultants – amounts paid to consultants, including management consulting services provided by the President and CEO, the Company’s representative providing business and contract research services in Japan and consultant engaged by the Receiver to assist with the Sales Procedures;
- (i) Other Professional Fees – amounts paid to the Company’s external legal counsel to maintain and protect its intellectual property;
- (j) Legal Fees and Disbursements – amounts paid to the Receiver’s Counsel for fees and disbursements in these Receivership Proceedings to June 30, 2016.
- (k) Operating Expenses – operating expenses relating to maintaining the Assets;
- (l) Asset Marketing Expense – amounts paid by the Receiver relating to the Sales Procedures including, amounts paid to public relations firms, to attend conferences, maintain the VDR and travel expenses of members attending the marketing events (note these amounts do not include the costs of the Receiver attending the same);
- (m) Interim Receivership Payables – amounts paid by the Receiver for approved expenses from the Interim Receivership period;
- (n) Insurance – amounts paid to maintain the Company’s insurance policy;
- (o) Miscellaneous Disbursements – amounts including bank charges, filing fees paid to the official receiver, payroll services charges and other miscellaneous disbursements; and
- (p) MLD Royalty Interest – amounts paid to MLD pursuant to the quarterly payments owing under the MLD Agreement.



24. As at October 21, 2016, the Receiver holds \$516,363 in cash on hand as summarized in the Schedule of Receipts and Disbursements above.
25. Through previous Orders of this Honourable Court the Receiver has secured financing in the amount of \$3,650,000 secured by the Receiver's Borrowing Charge. To date the Receiver has borrowed a total of \$3,350,000 and has submitted a funding request to MLD for the remaining \$300,000 authorized under the Receiver's Borrowing Charge.

### BUDGET TO ACTUAL RESULTS

26. A summary of the budget to actual results for the period of August 13, 2016 to October 21, 2016 (the "Forecast Period") against the forecast provided to this Honourable Court in the Third Report and explanations of the material variances is presented in the table below.

Cash Flow Statement	Forecast	Actual	Variance	Notes
<b>Receipts</b>				
Receiver Certificate	400,000	750,000	350,000	a
Opening Cash	168,588	168,588	-	b
Customer Cash Receipts	105,857	86,340	(19,518)	c
Other Receipts	160	180	20	d
<b>Total - Receipts</b>	<b>674,605</b>	<b>1,005,108</b>	<b>330,502</b>	
<b>Disbursements</b>				
Employee Related Obligations	319,164	221,805	97,359	e
Receiver Fees and Costs	369,618	-	369,618	f
Legal Fees and Disbursements	152,801	985	151,816	g
Patent & Trademark Lawyers	140,957	94,798	46,160	h
Occupation Rent	69,220	133,763	(64,543)	i
Operating Expenses	47,097	20,753	26,344	j
Consultants	42,913	11,137	31,776	k
Asset Marketing Expenses	1,260	(1,861)	3,121	l
GST Paid / Remitted	415	7,364	(6,949)	
<b>Total - Disbursements</b>	<b>1,143,446</b>	<b>488,744</b>	<b>654,701</b>	
<b>Ending Cash</b>	<b>(468,840)</b>	<b>516,363</b>	<b>985,204</b>	

- (a) Receiver's Certificate – permanent variance in connection with the increase in the Receiver's Borrowing Charge to \$3.65 million previously approved by this Honourable Court;
- (b) Opening Cash – no variance in cash on hand;
- (c) Customer Cash Receipts – timing variance expected to reverse in future periods, customers have continued to deposit funds in the Company's accounts and these amounts are transferred to the Receiver's account on monthly basis;
- (d) Other Receipts – no material variances;
- (e) Employee Related Obligations – timing variance expected to reverse in future periods, primarily relating to the key employee retention plan and higher payroll costs due to the Target Closing Date for the Transaction being extended to November 1, 2016;
- (f) Receiver's Fees and Disbursements – timing variance expected to reverse in future periods, the Receiver's fees and disbursements for the months of July, August and September are currently outstanding;
- (g) Legal Fees and Disbursements – timing variance expected to reverse in future periods, the Receiver's Counsel's fees and disbursements for the months of July, August and September are currently outstanding;
- (h) Patent and Trademark Lawyers – timing variance expected to reverse in future periods;
- (i) Occupation Rent – permanent variance in connection with the extension of the occupancy periods due to the delay in the Target Closing Date of the Transaction;

- (j) Operating Expenses – timing variance expected to reverse in future periods;
- (k) Consultants – timing variance expected to reverse in future periods, primarily relating to the delay in fees paid to the Company’s consultants to assist in preparing year-end financials, tax returns and scientific research and development tax claim.

**WIND-DOWN BUDGET**

- 27. The Receiver, with the assistance of the Company, prepared the Revised Wind-down Budget for the purposes of determining the Company’s liquidity requirements for the Wind-down Period. A copy of the Wind-down Budget is attached hereto as Appendix “A”.
- 28. There are no material variances from the Wind-down Budget previously provided to this Honourable Court with the exception of the deferred payment of professional fees and increased costs due to the Target Closing Date of the Transaction be extended from September 2, 2016 to November 1, 2016.
- 29. The Wind-down Budget indicates the following for the Wind-down Period:
  - (a) total cash receipts excluding advances under the Receiver’s Borrowings of \$35,269;
  - (b) total operating disbursements of \$336,104, including amounts payable upon Closing the Transaction under the key employee retention plan previously approved by this Honourable Court;
  - (c) total disbursements relating to accrued professional fees and estimates to complete the Receivership Proceedings of \$695,161; and

- (d) cumulative borrowings under the Receiver's Borrowing Charges of \$3.35 million prior to commencement of the Wind-down Period.
30. In connection with the foregoing the Receiver is requesting an increase in the Receiver's Borrowing Charge from \$3.65 million to \$3.85 million in accordance with the Wind-down Budget.
31. The Forecast has been prepared solely for the purposes of determining the liquidity requirements of the Company during the Receivership Proceedings, using probable and hypothetical assumptions, and readers are cautioned that it may not be appropriate for other purposes.
32. The Receiver does not anticipate any material events to occur that are expected to affect the liquidity needs of the Company for the Revised Forecast Period.

#### **CONCLUSIONS AND RECOMMENDATIONS**

33. The Receiver respectfully requests that this Honourable Court grant the following relief:
- (a) approve the activities of the Receiver since the date of the Third Report including its receipts and disbursements;
  - (b) in connection with the Wind-down Budget approve an increase to the Receiver's Borrowing Charge to \$3,850,000.

All of which is respectfully submitted this 21<sup>st</sup> day of October, 2016.

FTI Consulting Canada Inc. in its capacity as Receiver of the assets, undertakings and properties of Phenomenome Discoveries Inc. and Phenomenome Laboratory Services Inc.

  
Name: Deryck Helkaa  
Title: Senior Managing Director,  
FTI Consulting Canada Inc.

  
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FTI Consulting Canada Inc.

# APPENDIX

## A

