SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-25-00738691-00CL **DATE: April 30, 2025**

NO. ON LIST: 1

TITLE OF PROCEEDING: **MITEL NETWORKS CORPORATION**

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

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For Defendant, Respondent:

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ENDORSEMENT OF JUSTICE OSBORNE:

[1] At the conclusion of the hearing of this motion on April 24, 2025, I granted the requested Confirmation Recognition and Termination Order with reasons to follow. These are those reasons.

[2] Mitel Networks Corporation ("MNC") in its capacity as the Foreign Representative in respect of proceedings commenced in the United States pursuant to Chapter 11 of the United States Code, sought the Confirmation Recognition and Termination Order:

a. recognizing and enforcing in Canada the US Confirmation Order;

b. ordering that the Plan is recognized, and given full force and effect in all provinces and territories of Canada;

c. authorizing MNC to take all steps to enter into and implement the Plan;

d. approving the reports of the Information Officer in these Recognition Proceedings and the activities of the Information Officer described therein;

e. approving the fees and disbursements of the Information Officer and its counsel;

f. terminating the Recognition Proceedings and releasing the Court-ordered charges granted within on the terms set out in the materials; and

g. discharging the Information Officer effective as of the Termination Time

[3] MNC relies upon the Affidavit of Ms. Janine Yetter sworn April 18, 2025, together with exhibits thereto, and the Second Report of the Information Officer dated April 22, 2025, together with appendices thereto.

[4] Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Second Report, unless otherwise stated.

[5] The Service List has been served. The relief sought today is not opposed and is strongly recommended by the Information Officer.

[6] I am satisfied that the proposed relief is appropriate and should be granted.

[7] The Debtors, including MNC, are part of a group of Companies that comprise the Mitel Group, a global provider of business communications and collaboration solutions. MNC is the sole Canadian entity in the Mitel Group and the principal entity through which the Mitel Group conducts its business in Canada. MNC is also a guarantor of the Mitel Group's indebtedness of approximately $1.31 billion, and it granted security over its assets in respect of its guarantees of the Senior loans and the Junior loans.

[8] The Debtors commenced the Chapter 11 Cases on March 9 and 10, 2025, following months of extensive negotiations resulting in the execution of the Restructuring Support Agreement on March 9, 2025, by and among the Debtors and the Consenting Stakeholders holding 100% of the ABL Loan Claims, approximately

72.1% of the Priority Lien Claims, and approximately 81.1% of the Non-Priority Term Loan Deficiency Claims.

[9] The Restructuring Support Agreement and the Plan contemplate a global prepackaged restructuring, to be implemented through the Restructuring Transactions contained within the Plan.

[10] Upon completion of the Restructuring Transactions, the Debtors will deleverage their balance sheet by $1.15 billion, eliminate $135 million in annual cash interest expense, resolve the 2022 Transaction Litigation, and emerge with approximately $160.8 million in principal debt obligations and new money financing to fund emergence costs and the go-forward operations of the Debtors.

[11] This Court granted the Interim Stay Order on March 10, 2025. On March 11, the US Bankruptcy Court granted the First Day Orders, which included an order authorizing MNC to act as the Foreign Representative in respect of the Chapter 11 Cases.

[12] This Court then granted the Initial Recognition Order and the Supplemental Order on March 19, 2025.

[13] The Plan gives effect to the Restructuring Transactions contemplated by the Restructuring Support Agreement. Specifically, as contemplated by the Restructuring Support Agreement, the Plan implements, among other things:

a. the conversion of the DIP New Money Term Loans, in an aggregate principal amount of $60 million, together with the DIP Upfront Premium and the DIP Backstop Premium, into Tranche A-2 Term Loans on the Effective Date;

b. the equitization of an aggregate principal amount of $62 million of Priority Lien Loans held by the DIP Lenders (which have been rolled up into DIP Loans) into New Common Equity, subject to dilution only by the MIP Equity Pool;

c. receipt of approximately $71 million new money exit term loans to be funded on the Effective Date (inclusive of fees and premiums payable-in-kind); and

d. the equitization of approximately $1.31 billion of Allowed Priority Lien Claims and Non-Priority Lien Term Loan Deficiency Claims. Allowed General Unsecured Claims will be unimpaired under the Plan and treated in the ordinary course, provided, that Lease Rejection Claims shall be paid in full on the Effective Date.

[14] The Restructuring Transactions also fully and finally resolve the litigation in respect of the 2022 Transaction as fully set out in the Yetter Affidavit.

[15] It is a condition precedent to the effectiveness of the Plan that this Court grant the Confirmation Recognition and Termination Order.

[16] I am satisfied that it should be granted.

[17] This Court has jurisdiction to recognize the Confirmation Order. This Court has already recognized the Chapter 11 Cases as a "foreign main proceeding" pursuant to section 47 of the *CCAA* and the Initial Recognition Order. It follows that subsection 49(1) of the *CCAA* gives this Court broad discretion to grant

any order that it considers appropriate if the Court is satisfied that such is necessary for the protection of the debtor company's property or the interests of creditors. This Court has granted similar orders in other proceedings. See, for example, *Instant Brands, Paladin Labs* and *WeWork*.

[18] Recognition of the Confirmation Order here is consistent with the principle of comity, and is therefore also consistent with the legislative objectives reflected in Part IV of the *CCAA*, and particularly sections 44 and 52. The role of this Court in such circumstances is fundamentally different from the role of the Court overseeing the foreign main proceeding that is the primary forum for the restructuring.

[19] There is no good reason not to recognize the Plan as it has been confirmed by the US Bankruptcy Court here.

[20] The Plan is fair and reasonable and follows on extensive negotiations with certain key stakeholders. It provides for a comprehensive restructuring of the pre-petition funded debt obligations of the Debtors and preserves the going-concern value of their business, all as described above and in the materials.

[21] The Plan represents the best available outcome for the Debtors and their stakeholders, including Canadian Stakeholders. The Plan received strong support within the Chapter 11 Cases with Voting Classes voting overwhelmingly to accept the Plan.

[22] The US Bankruptcy Court found that the Debtors proposed the Plan in good faith, with the legitimate and honest purpose of maximizing the value of their estates and to effectuate a successful reorganization. All informal comments received on the Plan were resolved by the Debtors. While the Plan includes a fiduciary-out provision which permitted the Debtors to consider unsolicited alternative transaction proposals, no viable alternative proposal has been received by the Debtors.

[23] One objection raised at the confirmation hearing in respect of the Plan by the US Trustee was rejected by the US Bankruptcy Court, which approved the Plan and granted the Confirmation Order.

[24] The Plan ensures the continuation of the Canadian Business and minimizes the impact of the Debtors' restructuring on unsecured creditors. It provides for the continued operation of MNC and the Canadian Business on a going-concern basis as an integrated member of the restructured Mitel Group. Allowed General Unsecured Claims will be treated in the ordinary course, minimizing the impact of the Chapter 11 Cases on the Debtors' vendors, suppliers and employees, including those of MNC and the Canadian Business.

[25] The Plan received strong support from the Debtors' key stakeholders, with all three voting classes voting to accept the Plan as follows: (a) 100% in principal amount of the Class 3 ABL Loan Claims that voted; (b) 95.4% in principal amount of the Class 4 Priority Lien Claims that voted; and (c) 100% in principal amount of the Class 5 Non-Priority Lien Term Loan Deficiency Claims that voted.

[26] The Debtors were not required to solicit votes from holders of claims in the Non-Voting Classes because the holders in the Non-Voting Classes are either unimpaired under the Plan and presumed to accept the Plan, or are deemed to reject the Plan. The U.S. Bankruptcy Court found in the Confirmation Order that the Plan satisfied the "cram-down" requirements for confirmation under the U.S. Bankruptcy Code with respect to the relevant Non-Voting Classes.

[27] That overwhelming support for the Plan included support for the Release Provisions contained within the Plan, which include a Debtor Release, a Third-Party Release, the Exculpation and the Injunction. Each is

the product of arm's-length, good faith negotiations. The US Bankruptcy Court approved the Release Provisions, finding that they were each either an integral or essential part of the Plan and appropriately tailored to the facts and circumstances of the case.

[28] Third party releases have been permitted by Canadian Courts, particularly in recognition of US orders confirming Chapter 11 plans. See, for example, *Paladin Labs*.

[29] I am satisfied that the Plan is not contrary to Canadian public policy as contemplated in subsection 61(2) of the *CCAA*.

[30] Under section 1129(b) of the U.S. Bankruptcy Code, a U.S. court may confirm a plan of reorganization over the objections of a dissenting class of claims or interests if the plan has been accepted by at least one impaired class of creditors and does not discriminate unfairly against, and is fair and equitable with respect to, each dissenting class of claims or interest.

[31] In obtaining the Confirmation Order, the Debtors relied on section 1129(b) of the U.S. Bankruptcy Code to confirm the Plan over non-acceptance by the relevant Non-Voting Classes, being Class 9 (Existing Mitel Interests), which is deemed to reject the Plan, and Class 7 (Intercompany Claims) and Class 8 (Intercompany Interests), which were presumed to accept or deemed to reject the Plan.

[32] The U.S. Bankruptcy Court in the Confirmation Order determined that, based upon the evidence proffered, adduced, and presented by the Debtors prior to or at the Combined Hearing, the Plan does not discriminate unfairly against, and is fair and equitable with respect to, Class 7 (Intercompany Claims), Class 8 (Intercompany Interests), and Class 9 (Existing Mitel Interests).

[33] Canadian courts have recognized Chapter 11 plans that rely on this "cram-down" provision of the U.S. Bankruptcy Code to bind non-consenting creditor classes. See, for example, *Mallinkrodt, BJ Service Holdings Canada*, and *WeWork*.

[34] I am satisfied in the particular circumstances of this case that the Plan, including these provisions, should be recognized here and I accept the submission of MNC that the treatment of creditors as contemplated in the Plan is fair and reasonable notwithstanding that it contains provisions that may not be an explicit feature of Canadian insolvency law. The Plan is broadly consistent with the principles and framework of the *CCAA* and the nature of relief frequently approved in the context of *CCAA* plans. In short, there is no valid policy reason to interfere with the decision of the US Bankruptcy Court to confirm the Plan.

[35] It follows that termination of the Recognition Proceedings is appropriate. Once the Plan becomes effective, they will have achieved their purpose.

[36] I am also satisfied that this Court has the jurisdiction to approve the fees of the Information Officer and its counsel. Their accounts were required by the First Supplemental Order to be passed from time to time. The decision as to whether or not to approve the accounts is subject to the overriding principle of reasonableness, with the predominant consideration in such an assessment being the overall value provided by the applicable parties. See: *Bank of Nova Scotia v. Diemer, Laurentian University of Sudbury*, and *Re Nortel Networks Corporation*.

[37] I am satisfied that the fees charged were customary, consistent with relevant market rates, reflect the activities undertaken by the Information Officer and its counsel as reflected in the Reports, and were

accretive to the progress of this proceeding. I have considered all of the factors described by this Court in *Laurentian University* and *Re Nortel* and conclude they are satisfied here.

[38] I am further satisfied that the activities as set out in the Reports are consistent with the mandate originally given to the Information Officer and were appropriate. Accordingly, I am satisfied that they should be approved, recognizing as I do that the proposed Confirmation Recognition and Termination Order incorporates the limitation adopted by this Court in *Target Canada* and expressly provides that the Information Officer only shall be entitled to rely upon or utilize in any way such approval.

[39] For all of these reasons, I am satisfied that the proposed relief should be granted, and I signed the Confirmation Recognition and Termination Order. It has immediate effect without the necessity of issuing and entering.