

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
GROWTHWORKS CANADIAN FUND LTD.

ENDORSEMENT OF WILTON-SIEGEL, J
(Unofficial transcript – March 3, 2015)

All parties have been served. Five objections have been received but none of the objectors appear this morning. The only significant ground of objection pertains to the action commenced against the Offeree Shareholders. However, the following considerations are relevant in concluding that this is not a basis for denying the order. First, there is no allegation that the Offeree Shareholders had knowledge of the alleged fraudulent misrepresentations. There is therefore a significant possibility that the claim against them could not succeed given the language of the share purchase agreement which appears to limit claims to the Escrow Fund. Second, even if such claims were successful, given the lack of knowledge of the Offeree Shareholders, there is a probability of contribution claims over against the remaining shareholders. In these circumstances, I conclude that, based on the evidence before the Court, the settlement was for the benefit of all of the shareholders insofar as an amount is released in their favour from the Escrow Fund.

Based on the foregoing I am satisfied that the Offeree Shareholders should receive their costs of the litigation on the basis that it resulted in a settlement of benefit to all of the shareholders on a pro rata basis. I am also satisfied that the mechanism for finalization of these costs entails appropriate protection for all of the shareholders inasmuch as each of the Offeree Shareholders have a material interest in the determination of the reasonable expenses based on their shareholdings in the corporation prior to sale.

Order to go in the form attached.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) TUESDAY , THE 3RD
)
MR. JUSTICE WILTON-SIEGEL) DAY OF MARCH, 2015

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AND IN THE MATTER OF A PROPOSED PLAN
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
GROWTHWORKS CANADIAN FUND LTD.

**ORDER
(For the Distribution of Proceeds)**

THIS MOTION, made by GrowthWorks Canadian Fund Ltd. (the "**Fund**") for an order approving the distribution of the remaining proceeds of a sale of shares in Med-Eng Systems Inc. ("**Med-Eng**") currently held in escrow (the "**Remaining Proceeds**") pursuant to an escrow agreement dated September 17, 2007 (the "**Escrow Agreement**") , was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Records of the Fund, including the affidavit of Paul Echenberg sworn December 15, 2014, the affidavit of Donna Parr sworn December 15, 2014, and the affidavit of Paul Echenberg sworn January 19, 2015, and on hearing the submissions of counsel for the Fund, counsel to the other Offeree Shareholders, as defined in a share purchase agreement, dated August 3, 2007 (including the Fund, the "**Offeree Shareholders**"), certain former shareholders of Med-Eng who have filed objections to this motion (the "**Objecting Minority Shareholders**") and the Monitor, no one else appearing although properly served as appears from the Affidavits of Emilia Moon-de Kemp, sworn February 21, 2015 and February 27, 2015:

1. THIS COURT ORDERS AND DECLARES that service on the former shareholders of

Med-Eng (the “**Vendor Shareholders**”) has been effected in accordance with the Order of Justice Penny made on January 20, 2015 in these proceedings such that this Motion is properly returnable today and any further service is hereby dispensed with.

2. THIS COURT ORDERS that the Remaining Proceeds shall be distributed to each of the Offeree Shareholders in amounts equal to the professional costs each Offeree Shareholder has incurred to secure the release of the Remaining Proceeds, including the fees and disbursements of the advisors and experts retained by the Offeree Shareholders, in connection with:

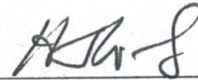
- a. The actions (the “**AVC Litigation**”) commenced in respect of the Indemnification Escrow (as defined in the Escrow Agreement);
- b. AVC’s claim in the Fund’s CCAA proceedings, including the motion brought in respect of AVC’s claim;
- c. The negotiation of the settlement of the AVC Litigation;
- d. The motion in the Fund’s CCAA proceedings for approval of the settlement;
- e. The implementation of the settlement; and
- f. The motions heard on January 20, 2015 and March 3, 2015;

3. THIS COURT ORDERS that the Offeree Shareholders shall jointly advise Computershare Trust Company of Canada (the “**Escrow Agent**”) in writing of the amounts to be distributed to each Offeree Shareholder in accordance with paragraph 2 hereof and, on receipt of such advice, the Escrow Agent shall distribute the amounts so advised to each Offeree Shareholder from the Remaining Proceeds.

4. THIS COURT ORDERS that the balance of the Remaining Proceeds, after deducting the amounts paid to the Offeree Shareholders in accordance with paragraph 3 hereof, shall be paid to the Vendor Shareholders by the Escrow Agent as provided in section 4.1(f) and Schedule 4.1(f) of the Escrow Agreement.

5. THIS COURT ORDERS that SVMCL Management Canada Limited (formerly, Schroder Venture Managers (Canada) Limited) and Schroder Ventures Holding Limited may direct the Escrow Agent in writing to distribute any amount payable to them pursuant to paragraph 4 hereof, and the Escrow Agent shall distribute such amounts in accordance with any such written direction.

6. THIS COURT DECLARES that no one, including any Offeree Shareholder, shall incur any liability arising from the settlement of the AVC Litigation and/or the distribution of the Remaining Proceeds in accordance with this order.



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Court File No. CV-13-10279-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding Commenced at Toronto

**ORDER
(In respect of the Distribution of Med-Eng
Proceeds)**

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

ENDORSEMENT OF WILTON-SIEGEL, J.

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