

COURT OF APPEAL FOR ONTARIO

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST GLOBAL COMMUNICATIONS
CORP., AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"

Applicants

**RESPONDING MOTION RECORD OF THE APPLICANTS
(Motion for Leave to Appeal)**

March 22, 2010

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TO: **THE SERVICE LIST**

SCHEDULE "A"

Court File No. CV-09-8396-00CL

**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 PLAN OF COMPROMISE OR ARRANGEMENT OF
CANWEST GLOBAL COMMUNICATIONS CORP.
AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"**

Applicants

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
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APPLICANTS

**AFFIDAVIT OF THOMAS C. STRIKE
(Sworn November 24, 2009)**

I, Thomas C. Strike, of the City of Winnipeg, in the Province of Manitoba, the President, Corporate Development & Strategy Implementation and the Recapitalization Officer of the Applicant, Canwest Global Communications Corp. ("Canwest Global"), MAKE OATH AND SAY:

1. I am the President, Corporate Development & Strategy Implementation of Canwest Global. I am also the Recapitalization Officer of Canwest Global and a Director of certain of the Applicants listed on Schedule "A", including Canwest Media Inc. ("CMI") and CanWest MediaWorks Ireland Holdings ("CMIH"). As such, I have personal knowledge of the matters deposed to herein. Where I have relied upon other sources for information, I have specifically referred to such sources and verily believe them to be true.

2. Capitalized terms not otherwise defined herein have the same meaning ascribed to them in the affidavit of John E. Maguire sworn October 5, 2009 (the "Initial Order Affidavit"). A copy of the Initial Order Affidavit (without exhibits) is attached as Exhibit "A" to this Affidavit.

3. I have read the affidavit of Gerald Cardinale (the "Cardinale Affidavit") sworn November 2, 2009, as well as the supplementary affidavit of Mr. Cardinale sworn November 19,

2009 (the "Supplementary Cardinale Affidavit"). The Cardinale Affidavits appear to address two principal issues:

- (a) The transfer of certain shares in CW Investments ("Shares") from 4414616 Canada Inc. ("441") to CMI, and the subsequent dissolution of 441; and
- (b) The sale by CMIH of its interest in Ten Holdings and the subsequent distribution of the Ten Proceeds in accordance with the Cash Collateral and Consent Agreement.

4. The GS Parties (as defined in the Cardinale Affidavit) brought a motion on November 2, 2009, subsequently amended on November 19, 2009 (as amended, the "GS Parties' Motion"). The GS Parties' Motion, in effect, seeks to undo the transfer of the Shares from 441 to CMI or, in the alternative, requiring CMI to perform, and not to disclaim, the Shareholders Agreement (as defined below). The GS Parties' motion also sought relief concerning paragraph 59 of the Initial Order herein. That aspect of the GS Parties' Motion appears to have been resolved. I am swearing this affidavit in support of a motion by the Applicants for a declaration that the balance of the relief being sought in the GS Parties' Motion is stayed by the Initial Order, or in the alternative that the GS Parties are otherwise precluded from pursuing it.

5. Very serious allegations are made in the Cardinale Affidavit, from both a contractual and legal standpoint. The CMI Entities emphatically reject those allegations. If this Honourable Court determines that the GS Parties' Motion is not stayed, or that the stay should be lifted, then the CMI Entities will vigorously defend themselves against such allegations. The CMI Entities have had to make complex and challenging decisions as they attempt to achieve a going concern restructuring that is in the best interests of all of their stakeholders. The GS Parties may well be unhappy about the way that their relationship with the CMI Entities has developed in light of the severe constraints within which they have had to operate and that the CMI Entities have filed for protection under the CCAA. In that regard, they are not alone.

6. The purpose of this Affidavit, however, is to provide this Honourable Court with the necessary context so that this Honourable Court can appreciate the complexity of the GS Parties' Motion, what it is that the GS Parties are seeking to do and why, in the CMI Entities' view, the GS Parties' Motion is stayed and otherwise improper.

The Transfer of Shares from 441 to CMI

7. As discussed in the Initial Order Affidavit, the day prior to filing for protection under the CCAA, CMI caused 441 to transfer the Shares to CMI, and then subsequently dissolved 441.

8. The GS Parties assert that these steps were taken with a view to preventing them from effecting a sale of CMI's interest in CW Investments Co. ("CW Investments"), which holds the Specialty TV Business (as defined below). That is essentially correct. For the reasons that follow, the CMI Entities gave careful consideration to the effect that a sale of the Specialty TV Business would have on all of their stakeholders. They considered the interests of the GS Parties, creditors of the CMI Entities including the 8% Senior Subordinated Noteholders, employees and various other stakeholder groups that might potentially be affected by an uncontrolled sale of CMI's interest in CW Investments. The CMI Entities concluded that a sale of CW Investments would materially prejudice any hope of a successful restructuring of the CMI Entities, and would be detrimental to all of their stakeholders. They gave careful consideration to what they could do to prevent such an outcome. They then, in accordance with the Shareholders Agreement (as defined below), took valid steps to ensure that the Shares were held by CMI at the time of the CCAA filing, and therefore protected by the stay ordered by this Honourable Court, and thus available to play a part of the long-term future of the restructured or recapitalized CMI Entities.

Canwest's Television Business

9. Canwest is one of the largest owners and operators of commercial free-to-air television stations and specialty television channels in Canada. Canwest's television broadcast business can be notionally divided between the CTLP TV Business (as described below) and the Specialty TV Business; although, as discussed below, the two businesses are managed together and enjoy a symbiotic relationship with each other.

10. The CTLP TV Business is comprised of (i) 12 free-to-air television stations that are wholly owned and operated by CTLP, and (ii) a portfolio of subscription-based specialty television channels that are owned by CTLP either in whole or in part (as further described at paragraph 49 of the Initial Order Affidavit).

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11. The Specialty TV Business is comprised of a portfolio of specialty television channels which were acquired jointly with Goldman Sachs from Alliance Atlantis in August 2007. In particular, the Specialty TV Business consists of: (i) 13 wholly-owned and partially-owned specialty television channels that are operated by CMI for the account of CW Investments and its subsidiaries (including Showcase, Slice, HGTV Canada, History Television and Food Network Canada); and (ii) 4 other specialty television channels in which CW Investments and its subsidiaries have 50% or lesser ownership interests and do not operate (consisting of Historia, Series +, DUSK (formerly Scream) and One: the Body, Mind and Spirit Channel). As noted above, CTLP also wholly owns or partly owns certain specialty TV channels. For the purposes of this affidavit, however, the "Specialty TV Business" refers only to the portfolio of channels acquired from Alliance Atlantis which are now owned by CW Investments and its subsidiaries.

Acquisition of the Specialty TV Business

12. Prior to the acquisition of its business by CW Investments and its subsidiaries, Alliance Atlantis owned 13 well-branded specialty television channels which broadcast targeted, high-quality programming. Alliance Atlantis also co-produced and distributed the hit CSI television programming franchise and indirectly held a 51% limited partnership interest in Motion Picture Distribution LP, a leading distributor of motion pictures in Canada, with motion picture distribution operations in the United Kingdom and Spain.

13. In the latter half of 2006, Alliance Atlantis put itself up for sale by way of an auction process. Offers were solicited to acquire all of the shares of Alliance Atlantis. Interested parties would therefore be required to acquire all of Alliance Atlantis' business operations.

14. Canwest Global was interested in acquiring the specialty television business of Alliance Atlantis to enhance its existing Canadian television business and in particular to expand its presence in the Canadian specialty television sector. However, it was not interested in acquiring the CSI or motion picture distribution segments of Alliance Atlantis' business. Canwest Global approached a number of private equity firms, including Goldman Sachs, to find an investor who would be willing to provide financial support for Canwest Global's bid in the Alliance Atlantis auction process, and who would also be willing to acquire those elements of Alliance Atlantis' business in which Canwest Global was not interested.

15. On January 10, 2007, Canwest Global and Alliance Atlantis announced in a news release that a new acquisition company had entered into a definitive agreement with Alliance Atlantis to acquire all of its outstanding Class A voting and Class B non-voting shares at a purchase price of CDN\$53.00 per share in cash for an aggregate purchase price of approximately CDN\$2.3 billion. On the same day, CMI and Goldman Sachs Capital Partners AA Investment LLC ("GSCP") entered into a binding term sheet (the "Term Sheet") setting out the basis on which they would acquire the business of Alliance Atlantis through a jointly-owned acquisition company, which later became CW Investments. The Term Sheet set out how the acquired businesses would be divided, including outlining the structure of the Specialty TV Business and the principal terms of the agreement between the parties with respect to their co-ownership of the Specialty TV Business, as later memorialized in the Shareholders Agreement.

The Shareholders Agreement

16. The Term Sheet contemplated that the parties would enter into a shareholders agreement to record their agreement (as outlined in the Term Sheet) as to the manner in which the affairs of CW Investments and the management and operations of the Specialty TV Business would be conducted.

17. The joint acquisition from Alliance Atlantis was intensely and very carefully negotiated by the parties. The binding Term Sheet, a copy of which is attached as Exhibit "B" to this Affidavit, set out the proposed terms of the acquisition in summary form. Including the detailed schedules, it was 55 pages long. I was not directly involved in the negotiation of the Term Sheet, but I was closely involved in the process leading from the Term Sheet to the definitive documents, including what became the Shareholders Agreement. I am very familiar with the structure of the transaction and the transaction documents and I am very familiar with the negotiations that led up to them. Having been involved in numerous other sophisticated, large-value corporate transactions, I can state that this was an extremely complex and difficult negotiation. The complexity and difficulty did not end with the Term Sheet. During the negotiation of the first version of the shareholders agreement (the "Initial Shareholders Agreement"), which was not concluded until several months after the Term Sheet was entered into, the parties were scrupulously conscious of the need to protect their own interests under various scenarios. Every aspect of the deal was carefully scrutinized, including the form, substance and precise terms of the Initial Shareholders Agreement.

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18. An important consideration in drawing up the terms of the Initial Shareholders Agreement was the fact that the management and operations of the Specialty TV Business are subject to regulation by the CRTC pursuant to the *Broadcasting Act* (Canada). In particular, the CRTC has authority to regulate the television broadcasting system in Canada to implement policy objectives, including the requirement that the Canadian broadcasting system shall be effectively owned and controlled by Canadians.

19. The acquisition of the Specialty TV Business from Alliance Atlantis was subject to CRTC approval. The shares of the acquired companies were initially placed in a trust, and the parties sought CRTC approval to transfer them to CW Investments. As part of that approval process, the parties submitted the Initial Shareholders Agreement to the CRTC for its review, so that the CRTC could satisfy itself that CW Investments was not controlled, either at-law or in fact, by a non-Canadian. A hearing was held before the CRTC, as a result of which the parties were required to make certain changes to the Initial Shareholders Agreement as a condition of CRTC approval. The parties made the required changes in an Amended and Restated Shareholders Agreement. A copy of the Amended and Restated Shareholders Agreement (henceforth, as amended and restated, the "Shareholders Agreement") is attached as Exhibit "C" to this Affidavit.

Shareholdings

20. The Shareholders Agreement sets out the holdings of the common and voting Shares in the capital of CW Investments. At the outset of the agreement the CanWest Parties (defined in the Shareholders Agreement as being CMI, 441 and permitted transferees) warranted that 441 held an approximate 35% equity interest and an approximate 67% voting interest in CW Investments. The GS Parties held the remaining approximate 33% voting interest and approximate 65% equity interest.

21. The Cardinale Affidavit greatly exaggerates and mischaracterizes the importance of 441 to the overall corporate structure of CW Investments. As discussed below, the operative obligations of the CanWest Parties to manage the Specialty TV Business and appoint directors of CW Investments reside with CMI. 441 had an obligation, while it was a shareholder, to vote its Shares in certain ways, such as to vote to appoint the directors of CW Investments that were nominated by CMI. Other than that, 441 had generic obligations that were applicable to all parties equally, such as the obligation of the parties to resolve disputes through arbitration (see

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section 9.3 of the Shareholders Agreement) and the obligation of the parties to keep certain information confidential (see section 9.2 of the Shareholders Agreement). In any event, the parties to the Shareholders Agreement recognized that CMI was, in fact, the force and substance behind 441 as evidenced by the fact that CMI was responsible for ensuring the performance by 441, or any other affiliate that would hold Shares, of its obligations under the Shareholders Agreement (see section 2.2(b) of the Shareholders Agreement).

22. In fact, the sole purpose of 441 was to insulate CMI from any liabilities of CW Investments. CW Investments is a Nova Scotia Unlimited Liability Corporation ("NSULC"). My understanding is that although creditors of a NSULC have no direct rights against a NSULC's shareholders and cannot sue its shareholders while the NSULC exists, shareholders of an NSULC may face exposure if the NSULC is liquidated or becomes bankrupt.

23. Accordingly, in order to protect itself from any potential liabilities as a shareholder of a NSULC, CMI chose to insert a wholly owned subsidiary corporation (441) to hold its Shares in CW Investments. The sole purpose of having 441, which was a limited liability company, hold CMI's interest in CW Investments was so that it could serve as a "blocker" company between CMI and CW Investments, so that CMI would not face any potential exposure as a shareholder in the event of a liquidation or bankruptcy of CW Investments.

24. GSCP's shares in CW Investments are similarly held by "blocker" entities, namely GSCP VI AA One Holdings S.ar.l and GSCP VI AA One Parallel Holdings S.ar.l (together, the "GS Holdco Entities").

25. Far from being a "critical party to the Shareholders Agreement" as suggested in the Cardinale Affidavit, 441 was in many ways an afterthought. As noted above, CMI and GSCP set out a very detailed summary of their agreement to acquire the Specialty TV Business in the Term Sheet. The Term Sheet does not make any reference to and does not provide for the inclusion of any intermediary entity between CMI and CW Investments. It was CMI that decided that it would hold its interest in CW Investments through a holding company and it was CMI that incorporated that concept in the first draft of the Initial Shareholders Agreement. I am advised by counsel to the CMI Entities that the first draft of the Initial Shareholders Agreement was delivered by them to the GS Parties' counsel on March 16, 2007. That draft was the first

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document which reflected CMI's intention to hold its interest in CW Investments through what eventually became 441.

Management of the Specialty TV Business

26. As a practical matter, the GS Parties have no ability to manage, and no interest in managing, the Specialty TV Business. Moreover, regulatory requirements require that the day-to-day management of the Specialty TV Business must be undertaken by Canadians.

27. Mr. Cardinale's assertion in the Cardinale Affidavit that 441 was the party that "implements the governance protections" in the Shareholders Agreement is incorrect. Decisions concerning the governance of CW Investments are generally made by a simple majority of the directors thereof (see section 4.7(a) of the Shareholders Agreement). Certain fundamental changes require approval by at least one of the nominees of GSCP (see section 4.7(b) of the Shareholders Agreement). Three of the directors of CW Investments are nominees of CMI, and two are nominees of GSCP (see section 4.1 of the Shareholders Agreement). It is CMI that nominates members to the board of CW Investments and CMI that caused 441 (while it was a shareholder) to vote for those nominees.

28. In accordance with section 4.8 of the Shareholders Agreement, CW Media Inc. has appointed a reporting committee. At least 80% of the members of the reporting committee are nominees of CMI. The reporting committee monitors and reports on the operation of both the Specialty TV Business and the CTLP TV Business, but has no authority to make decisions concerning either business.

29. The day-to-day operations of the Specialty TV Business are governed by a Management and Administrative Services Agreement, between CMI and CW Media Inc., a copy of which is attached as Exhibit "D" to this Affidavit. 441 was not a party to that agreement. In practice, the operations of the Specialty TV Business and the CTLP TV Business are highly integrated and intertwined, to the mutual benefit of both businesses.

30. Section 5.5(a) of the Shareholders Agreement contains a covenant by CMI that it will operate the Specialty TV Business and the CTLP TV Business in accordance with past practice and in a manner so as to maximise the economic value of the two businesses. CMI has done so, is doing so, and intends to continue to do so.

The GS Parties' Exit

31. The Shareholders Agreement contemplates that CMI will combine the CTLP TV Business with the Specialty TV Business in 2011. The Shareholders Agreement also contemplates that, starting in 2011, certain call and put rights will apply.

The Combination Transaction

32. As noted above, the CTLP TV Business and the Specialty TV Business are being operated on a combined basis, pursuant to the Management and Administrative Services Agreement. The parties agreed that eventually the two businesses would be legally combined as well (the "Combination Transaction").

33. The Combination Transaction is to take place in stages. As a first stage, the Shareholders Agreement contemplates that on or before December 31, 2009, CMI would transfer the CTLP TV Business to an entity owned by CMI in exchange for shares or partnership units of that entity. This obligation has already been satisfied. On or about January 1, 2009, CMI transferred the assets and securities of the CTLP TV Business to CTLP in return for additional limited partnership units and the assumption by CTLP of certain operating liabilities.

34. The second and final stage of the Combination Transaction is the legal combination of the CTLP TV Business and the Specialty TV Business, which is to take place no earlier than May 11, 2011. Section 5.2 of the Shareholders Agreement requires that on or after that date, CMI will transfer or cause the transfer of the securities of the entities holding the CTLP TV Business (that is, the limited partnership units of CTLP, together with the share capital of its general partner Canwest Television GP Inc.) to CW Investments, thereby in effect "vending in" the CTLP TV Business to CW Investments (together, the "Combined Business").

35. In exchange for the CTLP TV Business, CW Investments will issue securities in an amount calculated in accordance with the Shareholders Agreement. Essentially, the number of securities issued to the transferor (that is, CMI), and therefore the proportionate share of the Combined Business to be owned by CMI, is dependent on the value of the Combined Business, calculated based on the "Combined EBITDA" (as defined in the Shareholders Agreement) of the Combined Business less the net indebtedness of CW Investments and its subsidiaries on the combination date.

36. The mechanism for calculating the parties' respective interests in the Combined Business is set out in section 5.4 of the Shareholders Agreement. The GS Parties' share (the "GS Equity Value") is to be based upon their initial investment, after applying stipulated compound rates of return. The stipulated rate of return increases as the Combined EBITDA increases, from a minimum of 15% to a maximum of 25% per annum. Additional investments made by the GS Parties to fund acquisition costs are to be credited with a notional compound rate of return of 9%.

37. In essence, the more EBITDA the Combined Business will produce during the 12 months ended March 30, 2011, and the lower the net indebtedness of CW Investments and its subsidiaries at that date, the more of the combined enterprise CMI will own.

38. The Combination Transaction remains subject to certain conditions precedent pursuant to section 5.3 of the Shareholders Agreement. The transactions would require regulatory approval, including in particular CRTC approval. Moreover, the Combination Transaction cannot take place if there is an order restricting the combining of the two businesses.

39. In addition, at the time the Shareholders Agreement was entered into CMI and the GS Parties were well aware that the terms of the 8% Senior Subordinated Notes contain negative covenants that would preclude the consummation of the Combination Transaction and that the 8% Senior Subordinated Notes do not mature until 2012, which is after the date contemplated for completion of the Combination Transaction. Accordingly, section 5.2(d) of the Shareholders Agreement requires CMI to either repurchase the 8% Senior Subordinated Notes, or obtain waivers from the holders of those Notes, or otherwise address those notes so that they would not impair the ability of the parties to complete the Combination Transaction.

Put and Call Rights

40. The Shareholders Agreement provides for call and put rights for the GS Parties and CMI, respectively. The call and put options are designed to facilitate the exit of the GS Parties from their investment in CW Investments and are exercisable in 2011, 2012 and 2013, subject to certain restrictions.

41. Specifically, in each of 2011, 2012 and 2013, CMI will have the right to purchase (or at its option, it may cause CW Investments to purchase) up to 100% of the GS Parties'

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interest in CW Investments, at a price that varies depending on the Combined EBITDA and the net indebtedness of CW Investments and its subsidiaries, subject to leverage restrictions if less than 100% of the GS Parties' interest is acquired by CW Investments (the "call right").

42. In the event that CMI does not exercise the call right with respect to at least 50% of the GS Parties' interest in 2011, the GS Parties will have the right to require CW Investments to acquire interests which, together with any interests purchased pursuant to CMI's call right in 2011, would equal up to 50% of the GS Parties' interest, subject to leverage restrictions (the "put right"). If, because of leverage restrictions, CW Investments is unable to purchase all of the interests that the GS Parties elect to sell pursuant to this put right in 2011, the GS Parties will have the right to require CW Investments to acquire any such remaining interests (referred to as the "put shortfall shares") in 2012, subject once again to leverage restrictions. Finally, the GS Parties will have a further put right to require CW Investments to purchase any remaining interests that they hold (including any remaining put shortfall shares) in 2013, subject to CW Investments being financially able to purchase such interests.

43. If, following the exercise in full of the GS Parties' put rights, CW Investments is unable to acquire all of the GS Parties' interests, the GS Parties can require a sale of CW Investments in accordance with section 6.8 of the Shareholders Agreement. After first offering to sell their interests to CMI, and assuming CMI does not accept the offer, the GS Parties can sell their interests in CW Investments, and require CMI to sell its interests in CW Investments, to a third party.

44. If the GS Parties are unable to effect a sale of CW Investments pursuant to section 6.8 of the Shareholders Agreement, they can then require CW Investments to effect an initial public offering of the Shares of CW Investments owned by the GS Parties (see section 6.9 of the Shareholders Agreement).

CMI Approached the GS Parties in Q1, 2009

45. Mr. Cardinale asserts, beginning at paragraph 13 of the Cardinale Affidavit, that the GS Parties have been deliberately excluded from discussions concerning the impact of a restructuring at CMI on CW Investments. In fact, senior executives at CMI, including myself, contacted Mr. Cardinale directly as early as February of this year to discuss the potential financial restructuring of CMI and the impact that might have on its investment in CW

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Investments. In fact, soon after CMI began experiencing difficulties pursuant to its then existing senior secured credit facilities, CMI made it a priority to address the terms of the Shareholders Agreement with the GS Parties. To that end, members of CMI's senior management met with representatives of the GS Parties, including Mr. Cardinale, in February and March 2009. However, as described below, CMI's efforts to achieve what it believed to be a commercially reasonable compromise with the GS Parties were utterly unsuccessful.

46. The Shareholders Agreement, and in particular the rates of return and put/call valuation formulae embodied therein, reflect the fact that the acquisition of the Specialty TV Business was made at the very peak of the market in 2007. For the purpose of determining the equity the GS Parties are to receive as a result of the Combination Transaction, the Shareholders Agreement contemplates compound annual rates of return on the GS Parties' investment of between 15% and 25%. The exercise prices for the put and call rights are determined using an Equity Value (as further defined in the Shareholders Agreement) based upon 12x Combined EBITDA (less net indebtedness). Based on the CMI Entities' recent experience canvassing prospective investors, and based on advice from the CMI Entities' financial advisors, the Shareholders Agreement no longer reflects "market" terms.

47. As is made clear in the Initial Order Affidavit, the CMI Entities have been aggressively pursuing a refinancing or recapitalization transaction since their initial default on CMI's then senior secured credit facility in February 2009. CMI and its financial advisor, RBC Capital Markets (as described in the Initial Order Affidavit) approached a large number of potential investors to discuss potential refinancing or recapitalization transactions in early 2009. Based upon my own experience, and what I have been told by RBC Capital Markets, during those discussions prospective investors made it clear, among other things, that if the CMI Entities were going to be able to successfully refinance or recapitalize themselves, they would have to address the Shareholders Agreement in a way that would reflect the commercial realities of the dramatically different economic environment that exists now, versus the environment that existed when the Specialty TV Business was acquired in 2007.

48. It became clear to the members of CMI's senior management team that the Shareholders Agreement would need to be addressed as part of any successful recapitalization or restructuring plan. To that end, in February 2009, CMI approached the GS Parties for the first

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time concerning a proposed renegotiation of the Shareholders Agreement to reflect 2009 economic market conditions.

49. The GS Parties were unreceptive to any such proposed renegotiation. Instead, I am advised by members of CMI senior management that the GS Parties indicated they would allow the CMI Entities to buy them out for \$900 million. CMI was of the view that the GS Parties' proposal in no way reflected 2009 market conditions, and was in any event totally unworkable since the CMI Entities had no ability to raise the money to finance the proposed acquisition.

50. Nevertheless, the CMI Entities persisted in their attempts to renegotiate the Shareholders Agreement. On March 6, 2009, I (together with CMI's chief financial officer and representatives of RBC Capital Markets) met with representatives of the GS Parties (Gerry Cardinale, Sumit Rajpal, Gil Klenman and Tim Hodgson) in a further effort to persuade the GS Parties that a renegotiation of the Shareholders Agreement to reflect the commercial realities of 2009 was in the interests of both the GS Parties and the CMI Entities because it would maximize the enterprise value of CW Investments, facilitate keeping CMI out of CCAA proceedings and avoid operational disruption to the both the CTLP TV Business and the Specialty TV Business. The terms of the CMI Entities' proposal to renegotiate the Shareholders Agreement were rejected by the GS Parties.

51. A few weeks later, the GS Parties delivered a counter proposal to CMI. In general terms, the GS Parties' counter-proposal entailed them providing CMI with approximately \$276 million in the form of Senior Secured Notes (the "Proposed GS Notes"). One hundred million dollars of the Proposed GS Notes would be generated from the immediate contribution by CMI of the CTLP TV Business into CW Investments. Under the GS Parties' proposal, the remaining \$176 million would be provided to the CMI Entities in exchange for the GS Parties underwriting the sale of CMI's indirect interest in Ten Holdings in a "bought deal" at a proposed price of A\$0.40 per share. The effect of a "bought deal" at that price would be that any difference between A\$0.40 and the price ultimately realized for the Ten Shares would accrue to the benefit of the GS Parties. Between March 20 and April 30, 2009, the average price of the shares of Ten Holdings on the Australian Stock Exchange was approximately A\$0.80 per share. Moreover, under the capital structure proposed by the GS Parties, the GS Parties' existing and

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new investments would have had structural priority over the CMI Entities' investment, which would have significantly diluted any interest that stakeholders of the CMI Entities would have had in the Combined Business.

52. The counter-proposal received from the GS Parties further entailed that CMI would use the funds provided by the Proposed GS Notes to repay CMI's then current senior credit facility at par and to repay the 8% Senior Subordinated Noteholders at 19 cents on the dollar. The GS Parties proposal required that CMI be put through a CCAA proceeding to cleanse itself of any other liabilities. This proposal did not attribute nearly enough value to the CTLP TV Business or the Ten Shares and was disadvantageous to CMI's other stakeholders. It was not pursued by the CMI Entities.

53. For these reasons, I disagree with the assertion in the Cardinale Affidavit that the CMI Entities have not made a concrete proposal to the GS Parties regarding the renegotiation of the Shareholders Agreement. CMI made what it viewed to be a very reasonable proposal in March 2009, which was rejected out of hand. In response, the GS Parties' made a counter-proposal that was, if anything, more one-sided in their favour than the current Shareholders Agreement and which involved (i) the sale of a significant asset of Canwest, in respect of which the GS Parties had no interest, at a depressed market price; and (ii) the combination of the CTLP TV Business with the Specialty TV Business on terms which would have significantly disadvantaged the CMI Entities' stakeholders and significantly advantaged the GS Parties.

54. I also disagree with the assertion in the Cardinale Affidavit that the CMI Entities' recapitalization and restructuring discussions have been carried out with the intention of keeping the GS Parties in the dark. As pointed out in the Cardinale Affidavit, the CMI Entities have provided extensive public disclosure of the fact that they have been in discussions with the Ad Hoc Committee. Mr. Cardinale asserts that he has been following the CMI Entities' public disclosure with interest, and he might therefore have read some or all of the 26 news releases that Canwest Global issued between January 14, 2009 and October 5, 2009 relating to the development of a recapitalization plan, all of which were attached to the Initial Order Affidavit.

55. The Note Purchase Agreement did not prohibit CMI from engaging in pre-filing discussions with the GS Parties as the Cardinale Affidavit alleges. The Note Purchase Agreement simply required CMI to provide the Ad Hoc Committee with the opportunity to

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participate in any discussions with stakeholders in CW Investments concerning any proposed restructuring or recapitalization. Such discussions would have to take place in any event particularly because, as noted above, the terms of the 8% Senior Subordinated Notes preclude the parties from completing the Combination Transaction unless and until those terms of the Notes are appropriately dealt with.

56. I have had limited contact with the GS Parties since considering their counter proposal in late March 2009. I am aware that other representatives of the CMI Entities have been in contact with the GS Parties and have been unsuccessful in having fruitful discussions regarding the Shareholders Agreement.

The Transfer of the Shares and the Dissolution of 441

57. Pursuant to a Dissolution Agreement between 441 and CMI (a copy of which is attached as Exhibit "E" to this Affidavit); as part of the winding-up and distribution of its property, 441 transferred all of its property (which consisted of the Shares) to CMI effective as of the close of business on October 5, 2009 and CMI undertook to pay and discharge all of 441's liabilities and obligations. The dissolution of 441 was accompanied by various other documents, including a consent to transfer the Shares granted by 441 effective October 5, 2009 and delivered to CW Investments and articles of dissolution, all of which were filed on October 6, 2009 pursuant to the CBCA.

58. For the reasons set out below, both the transfer of the Shares to CMI and the dissolution of 441 were expressly permitted by the Shareholders Agreement.

The Transfer of Shares Was Permitted

59. Section 6.5(a) of the Shareholders Agreement permits the transfer of Shares to a Parent of a Shareholder (as those terms are defined in the Shareholders Agreement), in the following terms:

Notwithstanding Section 6.1, each Shareholder shall be entitled to Transfer Shares to a Parent of the Shareholder or to a corporation that is Controlled by the Shareholder or by a Parent of the Shareholder, provided that such Shareholder shall continue to be bound by all of its obligations under this Agreement. No such Transfer shall be effective until the transferee executes and delivers to the Corporation a counterpart to this Agreement in compliance with Section 6.1(b).

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60. The defined term "Transfer" includes, among other things, any sale, exchange, assignment or gift, whether or not for value.

61. Mr. Cardinale does not dispute that CMI was 441's Parent. He alleges, without any explanation, that CMI did not comply with the restrictions on transfer of shares contained in the Shareholders Agreement. The CMI Entities maintain that 441 was permitted to transfer the Shares to CMI.

62. Mr. Cardinale does, however, assert that he finds it "hard to believe" that CMI continues to be bound by 441's obligations under the Shareholders Agreement. It is not clear what he means by this. However, I note that all of 441's right, title and interest in and to any contracts were transferred to CMI pursuant to the Dissolution Agreement, and that CMI assumed all of 441's liabilities and obligations and indemnified 441 in respect thereof. CMI is already a signatory to the Shareholders Agreement and the Shareholder Agreement contains a covenant by CMI to ensure that 441 carries out its obligations thereunder (see section 2.2(b) of the Shareholders Agreement). Moreover, as set out above, 441's only specific obligations under the Shareholders Agreement were to deal with the Shares in certain ways while it was a shareholder. Those obligations have fallen away since it no longer owns the Shares.

63. Accordingly, the transfer of the Shares from 441 to CMI was permitted by the Agreement.

The Dissolution of 441 Was Permitted

64. Nothing in the Shareholders Agreement prohibited CMI from dissolving 441. To the contrary, the parties specifically agreed in section 6.13 of the Shareholders Agreement that CMI could not dissolve 4414641 Canada Inc., which is the direct holding company of CW Media Inc., without the consent of the GS Parties. 4414641 Canada Inc. is not 441, notwithstanding the similarity in names. There is no other restriction, in the Shareholders Agreement or otherwise, on the ability of CMI to dissolve any of its holding companies. Similarly, the Shareholders Agreement does not prevent the dissolution of the GS Holdco Entities nor does it otherwise limit or restrict how the GS Parties may manage the GS Holdco Entities.

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65. CMI caused the dissolution of 441 so that the transfer of the 441 shares to CMI could be effected in a tax efficient manner. As part of the wind up of 441, the Shares were transferred to CMI by way of a tax rollover. The tax rollover was intended to make the transfer a non-taxable event in the hands of the recipient CMI. The alternative would have been to transfer the Shares to CMI as a dividend, which would have been a taxable event in the hands of the recipient should any gain have existed with respect to the Shares. CMI dissolved 441 to render the transfer of its Shares a non-taxable event for CMI, thereby ensuring the maximization of value of CMI for its stakeholders.

66. On or about November 10, 2009, the GS Parties purported to revive 441. The CMI Entities are of the view that this action violated the stay provisions of the Initial Order. Moreover, the purported revival of 441 exposes CMI to the risk that the tax treatment of the transfer of the Shares may now be open to question. If that was to happen it might have very negative consequences for the CMI Entities and their stakeholders. A copy of correspondence from counsel to CMI to counsel to the GS Parties concerning the purported revival is attached as Exhibit "F" to this Affidavit.

Why the Shares were Transferred from 441 to CMI

67. At paragraph 12 of the Cardinale Affidavit, Mr. Cardinale refers to the role the Specialty TV Business will play "in the long term future of a successfully restructured CanWest". To the extent that Mr. Cardinale is suggesting that the CMI Entities' interest in the Specialty TV Business is important to a successful restructuring, I agree with him.

68. CMI's interest in the Specialty TV Business is critical to the restructuring and recapitalization prospects of the CMI Entities. It is one of the few segments of the CMI Entities' business that has substantially retained its value and it represents what amounts, in the prevailing market conditions, to one of the CMI Entities' "crown jewels".

69. In the period leading up to the transfer of the Shares, the CMI Entities were acutely aware that if CMI became insolvent, the CMI Entities would be exposed to the risk that the GS Parties would try effect a sale of their interest in CW Investments, and require a sale of CMI's interest (if it was still held through 441), pursuant to section 6.10 of the Shareholders Agreement. If the GS Parties were able to sell CW Investments, it would ensure that the

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Specialty TV Business would play no role in the long term future of the successfully restructured CMI Entities.

70. Section 6.10(a) of the Shareholders Agreement provides as follows:

(a) Notwithstanding the other provisions of this Article 6, if an Insolvency Event occurs in respect of CanWest and is continuing, the GS Parties shall be entitled to sell all of their Shares to any *bona fide* Arm's Length third party or parties at a price and on other terms and conditions negotiated by GSCP in its discretion provided that such third party or parties acquires all of the Shares held by the CanWest Parties at the same price and on the same terms and conditions, and in such event, the CanWest Parties shall sell their Shares to such third party or parties at such price and on such terms and conditions. The Corporation and the CanWest Parties each agree to cooperate with and assist GSCP with the sale process (including by providing potential purchasers designated by GSCP with confidential information regarding the Corporation (subject to a customary confidentiality agreement) and with access to management).

71. If the GS Parties were able to effect a sale of CW Investments at this time, and on terms that suit the GS Parties, it would be disastrous to the CMI Entities and their stakeholders. The Specialty TV Business is a critical component of the overall value of the CMI Entities. In particular, it has allowed the CMI Entities to:

- (a) diversify their revenue streams and reduce their reliance on advertising revenue by nearly quadrupling subscription revenue in 2008;
- (b) capture a greater component of the specialty television market which is experiencing double-digit growth;
- (c) integrate two operations – the Specialty TV Business and the CTLP TV Business – to maximize their combined market value; and
- (d) use the Specialty TV Business to maximize the efficiency of demographic targeting for advertisers.

72. Fiscal 2008 marked nearly a full year of operating the Specialty TV Business. Operating profits of the Specialty TV Business grew by 45% in fiscal 2008 and made up more than 70% of the CMI Entities' Canadian television operating profit in that year. Moreover, the management and operation of the Specialty TV Business and the CTLP TV Business allowed the CMI Entities to achieve cost savings of approximately \$16 million in 2008, and an anticipated \$35 million by the end of fiscal 2009. In addition, the CMI Entities use the specialty television channels, including both the Specialty TV Business and the specialty channels operated by CTLP, to leverage other improvements within the CMI Entities by sharing programming content across multiple platforms, cross promotions and selling free-to-air and specialty television with

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digital mediums together. The CMI Entities benefit greatly from the symbiotic relationship between the free-to-air television stations and the specialty television stations. Each segment is able to leverage the other, and benefits from the synergies and opportunities created by having both segments managed and operated together, to the significant enhancement of the overall enterprise.

73. Accordingly, the Specialty TV Business is a critical component of the CMI Entities' overall enterprise value, and therefore critical to any successful restructuring or recapitalization of the CMI Entities. A forced sale of CMI's interest in CW Investments would materially prejudice any prospect for a successful restructuring or recapitalization of the CMI Entities. Even the overhanging threat of a sale of CW Investments is adversely affecting the negotiation of a successful restructuring or recapitalization of the CMI Entities.

74. The CMI Entities have carefully considered the rights and interests of all of their stakeholder groups, including giving specific consideration to the respective rights and obligations of CMI and the GS Parties under the Shareholders Agreement. The CMI Entities concluded that CMI could and should, in order to preserve enterprise value and in the best interests of all of its stakeholders, take steps to ensure that its interest in CW Investments would be protected by the stay of proceedings if it filed for creditor protection.

75. Accordingly, and as expressly permitted by the terms of the Shareholders Agreement, CMI caused 441 to transfer its Shares of CW Investments to CMI.

76. Mr. Cardinale intimates in the Cardinale affidavit that the transfer of the Shares was motivated by the insistence of the 8% Senior Subordinated Noteholders. That is incorrect. The CMI Entities, the board of CMI and the Special Committee considered the interests of all of their stakeholders and acted in the best interests of the CMI Entities. The CMI Entities have consistently taken the common sense and market driven commercial view that in order to maximize enterprise value, their interest in CW Investments, and therefore the Specialty TV Business, should be preserved so that it can be dealt with as part of the overall restructuring or recapitalization of the CMI Entities. To be sure, the Ad Hoc Committee agreed with the CMI Entities in this regard. However, as previously described in this Affidavit this was an issue that the CMI Entities had identified early on as being necessary to effect a successful going concern restructuring or recapitalization.

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77. In this regard, it is important to note that when I (and others) met with the GS Parties in March 2009, we offered no assurance that we would simply allow the Shares to be subjected to a sale by the GS Parties on a "drag-along" basis. To the contrary, CMI specifically advised the GS Parties in Q1, 2009 that their ability to effect a sale of CW Investments pursuant to section 6.10 of the Shareholders Agreement could be frustrated by an insolvency of CMI.

78. As discussed above, the Shareholders Agreement was very carefully negotiated by sophisticated parties who were intensely conscious of the need to protect their respective interests under various scenarios. The steps that CMI took to transfer the Shares and dissolve 441 were either expressly permitted or not prohibited by the Shareholders Agreement. They were necessary to permit a going concern restructuring or recapitalization of the CMI Entities to succeed, and they were in the overall best interests of the CMI Entities' stakeholders generally.

The Sale of the Ten Shares

79. As noted above, the second principal issue raised in the Cardinale Affidavit relates to the sale of Canwest Global's indirect interest in the shares of Ten Holdings. The GS Parties have alleged that the sale of the Ten Shares was improvident and that the use of the proceeds from the sale of the Ten Shares, which was described in detail in the Initial Order Affidavit, conferred a preference on the 8% Senior Subordinated Noteholders.

80. To my knowledge, none of the GS Parties are currently creditors of any of the CMI Entities.

81. The GS Parties' Motion sought an order setting aside or amending paragraph 59 of the Initial Order herein. The CMI Entities proposed a revision to paragraph 59(c) of the Initial Order, to which the GS Parties appear to have agreed. As part of this motion, the CMI Entities are requesting that this Honourable Court amend the Initial Order as set out in CMI's Notice of Motion. In that way, if the Monitor must conduct an investigation of the sale of the Ten Shares and the distribution of the proceeds thereof, there will be no uncertainty as to whether the Monitor is at liberty to do so.

82. In light of the parties' apparent agreement to amend paragraph 59 of the Initial Order there is no need to describe the circumstances surrounding the sale of the Ten Shares. For the sake of clarity, however, the CMI Entities' proposal to amend paragraph 59(c) of the Initial

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Order is not, and should not be taken to be, an acknowledgment that there was anything untoward about the sale of the Ten Shares or the distribution and utilization of the proceeds therefrom. On the contrary, the CMI Entities are firmly of the view that both the sale of the Ten Shares and the distribution and utilization of the proceeds were valid.

The Disruption Caused by the GS Parties' Motion

83. I am advised by Osler, Hoskin & Harcourt LLP, ("Osler") as counsel to the CMI Entities and I believe, that if this Honourable Court agrees that the GS Parties' Motion is stayed, the GS Parties might nevertheless apply to have the stay lifted so they can pursue the GS Parties' Motion

84. In the interest of transparency, it is the position of the CMI Entities that allowing the GS Parties to continue with that motion would be enormously disruptive to the Applicants' restructuring efforts, from a number of perspectives.

85. First, as discussed above, CMI's interest in the Specialty TV Business is a significant portion of its enterprise value. The GS Parties' claim that they have the right to force a sale of CW Investments is very destabilizing for CMI's ongoing restructuring and recapitalization efforts.

86. Second, the GS Parties have made sweeping requests for documents in connection with the GS Parties' Motion, akin to documentary discovery in an action. A copy of the GS Parties' request for documents is attached to the letter at Exhibit "A" to the Supplementary Cardinale Affidavit. The GS Parties have asked for "full production" of various categories set out in a list that runs three pages in length. I am advised by Osler as counsel to the CMI Entities and I believe, that for the CMI Entities to develop appropriate search parameters, locate and catalogue responsive documents, and appropriately redact them for privilege, would take hundreds of hours and cost, at a minimum, hundreds of thousands of dollars. In addition to the costs of such an exercise, the efforts required by the employees of the CMI Entities to respond to the GS Parties demand for documents would be immense. The CMI Entities can ill afford to expend the time or resources to respond to the GS Parties' document requests. Further, the individuals who would be required to respond to the document request are the very same individuals who are spearheading the CMI Entities' restructuring and recapitalization efforts.

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87. The situation is compounded by the GS Parties' proposed scattergun approach to conducting examinations. The GS Parties have identified nine directors and/or senior officers of the CMI Entities whom they wish to examine. They have also asked to examine each and every member of the Ad Hoc Committee. Moreover, they reserve the right to examine an indeterminate number of additional witnesses if, based upon additional information, they feel additional examinations are warranted.

88. The witnesses that the GS Parties propose to examine include the most senior executives of the CMI Entities; those who are most intensely involved in the enormously complex process of achieving a successful going concern restructuring or recapitalization of the CMI Entities. Myself, Mr. Stephen, Mr. Maguire and the others are all working flat out on trying to achieve a successful restructuring or recapitalization of the CMI Entities. Frankly, the last thing we should be doing at this point is preparing for a forensic examination, in minute detail, of events that have taken place over the past several months. At this point in the restructuring/recapitalization process, the proposed examinations would be an enormous distraction and would significantly prejudice the CMI Entities' restructuring and recapitalization efforts.

SWORN BEFORE ME at the City of
Winnipeg, in the Province of Manitoba,
on November 24, 2009.



Commissioner for Taking Affidavits



Thomas C. Strike

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Schedule "A"

Applicants

1. Canwest Global Communications Corp.
2. Canwest Media Inc.
3. MBS Productions Inc.
4. Yellow Card Productions Inc.
5. Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.
6. Canwest Television GP Inc.
7. Fox Sports World Canada Holdco Inc.
8. Global Centre Inc.
9. Multisound Publishers Ltd.
10. Canwest International Communications Inc.
11. Canwest Irish Holdings (Barbados) Inc.
12. Western Communications Inc.
13. Canwest Finance Inc./Financiere Canwest Inc.
14. National Post Holdings Ltd.
15. Canwest International Management Inc.
16. Canwest International Distribution Limited
17. Canwest MediaWorks Turkish Holdings (Netherlands)
18. CGS International Holdings (Netherlands)
19. CGS Debenture Holding (Netherlands)
20. CGS Shareholding (Netherlands)
21. CGS NZ Radio Shareholding (Netherlands)
22. 4501063 Canada Inc.
23. 4501071 Canada Inc.
24. 30109, LLC
25. CanWest MediaWorks (US) Holdings Corp.

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Schedule "B"

Partnerships

1. Canwest Television Limited Partnership
2. Fox Sports World Canada Partnership
3. The National Post Company/La Publication National Post

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST
GLOBAL COMMUNICATIONS CORP., AND THE OTHER APPLICANTS LISTED ON
SCHEDULE "A"

APPLICANTS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF THOMAS C. STRIKE
(sworn November 24, 2009)

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Tab 2

Court File No. CV-09-8396-00CL

**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 PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST GLOBAL
COMMUNICATIONS CORP., AND THE OTHER
APPLICANTS LISTED ON SCHEDULE "A"

Applicants

**AFFIDAVIT OF JOHN E. MAGUIRE
(Sworn January 18, 2010)**

I, John E. Maguire, of the City of Winnipeg, in the Province of Manitoba, MAKE
OATH AND SAY:

1. I am the Chief Financial Officer of Canwest Global Communications Corp. ("Canwest Global") and its principal operating subsidiary Canwest Media Inc. ("CMI"). I am also a director of CMI and an officer of certain of the Applicants listed in Schedule "A" hereto (the "Applicants"). As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have specifically referred to such sources and verily believe them to be true.

2. This affidavit is sworn in support of a motion brought by Canwest Global and the other Applicants listed on Schedule "A" hereto and the Partnerships listed on Schedule "B" hereto (the "Partnerships" and, together with the Applicants, the "CMI Entities") seeking an Order extending the Stay Period (as defined below) from January 22, 2010 to March 31, 2010.

Background

3. The CMI Entities were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), pursuant to an initial order (the "Initial Order") of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated October 6, 2009 (the "Filing Date"). FTI Consulting

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Canada Inc. was appointed at that time to act as monitor (the "**Monitor**") in this CCAA proceeding.

4. The Initial Order, a copy of which is attached as Exhibit "A" to this Affidavit, granted, *inter alia*, a stay of proceedings (the "**Stay Period**") until November 5, 2009, or such later date as this Honourable Court may order. On October 30, 2009, the CMI Entities obtained an Order, *inter alia*, extending the Stay Period until January 22, 2010 (the "**October 30th Extension Order**"). A copy of the Order extending the Stay Period to January 22, 2010 is attached as Exhibit "B" to this Affidavit.

5. Later in the day on October 6, 2009, the Monitor obtained a Temporary Restraining Order from the United States Bankruptcy Court (Southern District of New York) (the "**U.S. Bankruptcy Court**") under Chapter 15 of the *U.S. Bankruptcy Code* (the "**Chapter 15 Proceedings**") temporarily enjoining certain suppliers, including television production studios, distributors and other key suppliers, from taking certain action against the CMI Entities who are party to the Chapter 15 Proceedings. On November 3, 2009, the Monitor obtained an order from the U.S. Bankruptcy Court granting formal recognition of the CCAA Proceedings as "foreign main proceedings" and a permanent injunction for the duration thereof.

6. On October 14, 2009, the CMI Entities obtained an Order establishing a procedure for the identification and quantification of certain claims against the CMI Entities and the directors and officers of the Applicants (the "**Claims Procedure Order**"). A copy of the Claims Procedure Order, without schedules, is attached as Exhibit "C" to this Affidavit.

7. Pursuant to the Claims Procedure Order, the CMI Entities were required, *inter alia*, to send a claims package to each of the known creditors of the CMI Entities (the "**Known Creditors**" and each a "**Known Creditor**") setting out the quantum of the Known Creditor's claim, based on the books and records of the CMI Entities, by no later than October 22, 2009. Subject to claims covered by the Extension Order described below, if a Known Creditor disputed the quantification of its claim by the CMI Entities, the Claims Procedure Order required the Known Creditor to deliver a notice of dispute to the Monitor by no later than November 19, 2009 (the "**CMI Claims Bar Date**"). In addition, the Claims Procedure Order required the CMI Entities to place notices in several major English and French newspapers in order put any unknown creditors of the CMI Entities (the "**Unknown Creditors**" and each an "**Unknown**

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Creditor") on notice that certain claims against the CMI Entities and/or the directors and officers of the Applicants were being called for in the CCAA proceedings. To that end, notices were placed in *The Globe and Mail* (National Edition), the *National Post*, *La Presse* and *The Wall Street Journal* between October 16 and 20, 2009. All Unknown Creditors who believe they have a claim against the CMI Entities and/or the directors and officers of the Applicants were required to deliver a proof of claim to the Monitor by the CMI Claims Bar Date. If the CMI Entities did not agree with the nature or quantum of an Unknown Creditor's claim, the Claims Procedure Order required the CMI Entities to deliver dispute notices to such unknown creditors by November 30, 2009.

8. Further details regarding the background to this CCAA proceeding are set out in the affidavits sworn by me on October 5, 2009 (the "**Initial Order Affidavit**"), October 22, 2009, October 27, 2009 and November 27, 2009, and unless relevant to the present motion, are not repeated herein. A copy of the Initial Order Affidavit, without exhibits, is attached as Exhibit "D" to this Affidavit.

9. Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Initial Order Affidavit.

STAY EXTENSION

10. Since the granting of the Initial Order, the CMI Entities have been operating their businesses as going concerns. The CMI Entities have been and continue to act in good faith and with due diligence in pursuing a consensual recapitalization transaction (the "**Recapitalization Transaction**"), as contemplated in the term sheet negotiated with the Ad Hoc Committee, in order to ensure that as many as possible of the CMI Entities, and the businesses they operate, continue as going concerns – thereby preserving and maximizing enterprise value and maintaining employment for as many employees as possible. With the assistance of the Monitor and the CMI CRA, the CMI Entities have, among other things, communicated and dealt with numerous stakeholders from an operational perspective, considerably advanced the identification and quantification of claims against the CMI Entities and the directors and officers of the Applicants pursuant to the Claims Procedure Order and, with the assistance of their financial advisor, engaged in a comprehensive equity solicitation process which remains ongoing in order to identify an equity investor(s) for the restructured Canwest Global.

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(a) Status of Claims Procedure

11. On or before October 22, 2009, the Monitor mailed over 3,400 claims packages to the Known Creditors, including to employees, setting out the CMI Entities' valuation of each Known Creditor's claim based on the books and records of the relevant company, pursuant to the Claims Procedure Order.

12. The Monitor received approximately 475 proofs of claim purportedly from Unknown Creditors prior to the CMI Claims Bar Date. Many of these claims were in fact filed on behalf of Known Creditors of the CMI Entities and required the Monitor and the CMI Entities to assess whether they were required to formally respond to each such claim by the November 30th deadline. In addition, claims filed on behalf of certain retirees of the CMI Entities (the "Retirees") by Cavalluzzo Hayes Shilton McIntyre & Cornish LLP, the Court-appointed representative counsel (the "Representative Counsel") for those Retirees, appeared to overlap with and were potentially duplicative of claims filed by counsel for the Communications, Energy & Paperworkers' Union ("CEP") and/or claims filed by individual employees. With the assistance of the Monitor, the CMI Entities have been working to resolve the duplicative claims. This required the CMI Entities to cross-reference the claims filed against lists of employees and Retirees.

13. In order to provide sufficient time for the CMI Entities, with the assistance of the Monitor, to review and respond to the proofs of claim filed by the Unknown Creditors, an Order was obtained on November 30, 2009 extending the deadline for providing responding dispute notices in respect of Unknown Creditor claims until December 11, 2009 (the "Extension Order"). The Extension Order also allowed Known Creditors who had been identified by the CMI Entities after October 22, 2009, and who were subsequently sent claims packages prior to the CMI Claims Bar Date, to respond to the CMI Entities' valuation of their claim by December 17, 2009. A copy of the Extension Order is attached as Exhibit "E" to this Affidavit.

14. The CMI Entities, with the assistance of the Monitor, reviewed and responded to all Unknown Creditor claims by December 11, 2009. The CMI CRA was consulted with respect to many of these responses. Approximately 475 notices of revision or disallowance were sent in respect of these Unknown Creditor claims. All but one of the asserted claims were rejected in their entirety. Pursuant to the Extension Order, Unknown Creditors who disagreed with the CMI

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Entities' rejection of their claim were required to deliver the required dispute notice to the Monitor by December 23, 2009.

15. Excluding claims filed by Representative Counsel and the CEP, approximately 230 Known Creditors have disputed their claims as calculated by the CMI Entities. A significant number of the disputed claims filed by Known Creditors involve disputes of \$25,000 or less and relate to accounts payable or employee matters. No further formal dispute notice is required to be sent by the CMI Entities to Known Creditors who have disputed the CMI Entities' valuation of their claims.

16. Including claims filed by Representative Counsel and the CEP, approximately 425 Unknown Creditors have disputed their claims as revised or disallowed by the CMI Entities.

17. The CMI Entities are in the process of reviewing the dispute notices that have been received from Known Creditors and Unknown Creditors and which remain outstanding and will attempt, with the assistance of the Monitor and the CMI CRA (where applicable), to resolve the disputes for voting and distribution purposes. To the extent that such creditor claims cannot be resolved on a consensual basis, they will be referred to a Claims Officer or the Court for adjudication in accordance with the Claims Procedure Order.

(b) Equity Solicitation Process

18. As noted in the Initial Order Affidavit, under the Recapitalization Transaction, it is proposed, *inter alia*, that one or more Canadians (the "New Investors") will invest at least \$65 million in a restructured Canwest Global Communications Corp. ("**Restructured Canwest Global**"). The equity interest in Restructured Canwest Global must be acceptable to CMI and the Ad Hoc Committee.

19. On November 2, 2009, the CMI Entities' financial advisor, RBC Capital Markets ("**RBC**"), commenced an equity solicitation process in order to identify a potential New Investor(s). RBC is conducting the equity solicitation process in two phases.

20. In the first phase, RBC contacted approximately 90 potential investors to inquire whether they would be interested in making an equity investment. The list of potential investors included both strategic and financial investors. In total, approximately 50 potential investors expressed interest and were sent a "teaser" document and a non-disclosure agreement ("**NDA**").

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The "teaser" provides a high-level overview of the investment opportunity and the equity solicitation process and was designed to assist potential investors in determining whether or not to execute an NDA and receive more detailed information regarding the investment opportunity. Ultimately, 22 potential investors executed NDAs and received a more comprehensive confidential information memorandum and access to an internet-based data room containing further confidential information. Potential investors who executed an NDA were invited to submit non-binding proposals, along with a mark-up of a proposed equity term sheet, by no later than December 2, 2009.

21. RBC has recently commenced Phase 2 of the solicitation process shortly after the receipt of non-binding proposals and has invited a number of the potential investors who submitted non-binding proposals in Phase 1 to participate in the process going forward. As part of Phase 2 of the solicitation process, the CMI Entities' management team, together with RBC, have provided each participant in Phase 2 with a management presentation as well as further detailed information regarding the investment opportunity to facilitate each party's ongoing due diligence. The CMI CRA has been actively involved in and the Monitor has been kept apprised of all aspects of the equity solicitation process.

(c) Other Key Dates

22. The granting of an extension of the Stay Period is also required as certain key dates with respect to the Recapitalization Transaction arise after the current expiry of the Stay Period. For example, the Term Sheet requires the Plan to be implemented by no later than April 15, 2010.

23. The CMI Entities and the Ad Hoc Committee are currently in discussions with respect to extending the date on which creditor approval of the Plan is required.

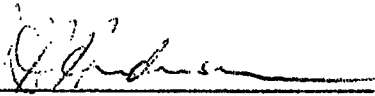
Conclusion

24. It is my belief that it is appropriate to extend the Stay Period to March 31, 2010. Extending the Stay Period will allow RBC to continue the equity solicitation process, which will allow the CMI Entities to continue to work towards the implementation of the Recapitalization Transaction through the development of a plan of arrangement or compromise. Extension of the Stay Period will also allow the CMI Entities to deal with creditor claims as required by the Claims Procedure Order, including adjudicating any disputed claims that cannot otherwise be


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resolved in a satisfactory manner, and to deal with other matters inherent in the proposed restructuring, all in consultation with the Monitor, with the objective of obtaining the best possible result for a restructuring for the benefit of all stakeholders. It is my understanding that the extension of the Stay Period to March 31, 2010 is supported by the CMI CRA, the Ad Hoc Committee and CIT Business Credit Canada Inc.

SWORN BEFORE ME at the City of
Winnipeg, in the Province of Manitoba,
on January 18, 2010.



Commissioner for Taking Affidavits



John E. Maguire

JANICE AUDREY ANDERSON
A NOTARY PUBLIC
IN AND FOR THE PROVINCE OF MANITOBA,
APPOINTMENT EXPIRES MAY 14, 2010.

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Schedule "A"**Applicants**

1. Canwest Global Communications Corp.
2. Canwest Media Inc.
3. MBS Productions Inc.
4. Yellow Card Productions Inc.
5. Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.
6. Canwest Television GP Inc.
7. Fox Sports World Canada Holdco Inc.
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10. Canwest International Communications Inc.
11. Canwest Irish Holdings (Barbados) Inc.
12. Western Communications Inc.
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22. 4501063 Canada Inc.
23. 4501071 Canada Inc.
24. 30109, LLC
25. CanWest MediaWorks (US) Holdings Corp.

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Schedule "B"

Partnerships

1. Canwest Television Limited Partnership
2. Fox Sports World Canada Partnership
3. The National Post Company/La Publication National Post

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C., 1985, c.C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CANWEST GLOBAL COMMUNICATIONS CORP.,
AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"

Court File No: M38600

APPLICANTS

COURT OF APPEAL FOR ONTARIO

Proceeding commenced at Toronto

**RESPONDING MOTION RECORD
OF THE APPLICANTS**
(Motion for Leave to Appeal)

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