

Division of: Ontario
Division No.: 11 - Kingston
Estate Number: 33-3044331
Court Number: 33-3044331

**IN THE MATTER OF THE BANKRUPTCY OF
12723121 CANADA INC. (FORMERLY KNOWN AS MAXSOLD INCORPORATED)
OF THE CITY OF KINGSTON
IN THE PROVINCE OF ONTARIO**

REPORT OF THE TRUSTEE'S PRELIMINARY ADMINISTRATION

Background

1. 12723121 Canada Inc. (formerly known as MaxSold Incorporated) ("**MaxSold**" or the "**Company**") was in the business of providing streamlined and efficient online auction services for large volume content sales across Canada and the United States (the "**Business**"). The Company employed 40 full-time salaried employees and approximately 110 part-time hourly employees.

Introduction

2. On February 15, 2024, MaxSold filed with the Official Receiver a notice of intention ("**NOI**") to make a proposal to its creditors and named Dodick Landau Inc. ("**DLI**") as Proposal Trustee ("**NOI Proceedings**").
3. Subsequent to the filing of its NOI and the granting of an initial 45 day stay extension by the Ontario Superior Court of Justice (Bankruptcy) (the "**Court**"), the Company completed a sale of its assets to a third-party purchaser, 1000822913 Ontario Inc. (the "**Purchaser**"). The sale is discussed further in this report.
4. As there were insufficient proceeds from the sale of its assets to the Purchaser to make a Proposal to its creditors, on May 6, 2024 ("**Date of Bankruptcy**") MaxSold was deemed bankrupt on account of its non filing of a Proposal within the Court-granted extension and DLI became Trustee in Bankruptcy (the "**Trustee**") of the estate of 12723121 Canada Inc. (formerly known as MaxSold Incorporated).

Causes of Financial Difficulties

5. In late 2022, MaxSold began experiencing significant cash flow pressures due to decreasing revenues, caused by extrinsic conditions including a slower housing market and rising acquisition costs from online marketing channels.
6. In response to the Company's cash flow pressures, the Company implemented an operational restructuring to modernize the Company's technology, improve the Company's market position, enhance the user experience, and significantly decrease operating costs.

7. Throughout the Company's operational restructuring, it continued to suffer cash flow pressures given the Company's historical debt, overbroad legacy contracts and the increasing capital required to modernize the Business.

Sales Process

8. As a result of the compounding financial pressures facing the Company, it determined it required a long-term solution to restructure its balance sheet and preserve its Business. In early February 2024, Management began an informal sale process with the purpose of canvassing the market for a possible sale or investment transaction.
9. After filing the NOI, the Company, in consultation with the Proposal Trustee, had continued to solicit interest in a sale or investment in the Company. On March 14, 2024, the Court approved the Sale and Investor Solicitation Process ("SISP"), a formal sales process undertaken by the Trustee. These efforts successfully led to the agreement of purchase and sale from the Purchaser. Eight other parties advised the Company they were interested in exploring a sale or investment transaction, signed a Non-Disclosure Agreement with the Proposal Trustee and carried out due diligence.
10. The SISP provided a mechanism to widely expose the Company's Business to the market and provide a structured and orderly process for interested parties to perform due diligence and submit offers for a potential transaction.
11. The SISP involved a stalking horse bid in the form of the Stalking Horse Agreement (the "**Stalking Horse Bid**"). The Stalking Horse Bid was intended to stimulate market interest by setting a "floor" price that bidders would bid against.
12. The SISP contemplated a 30-day sale process managed by the Proposal Trustee, with a potential auction phase to be conducted if one or more qualified bids were received. This process was in addition, and as a continuation, of the sale and investment process started by the Company in early February 2024.

The Sale Transaction

13. The Stalking Horse Bid was the only Qualified Bid (as defined in the SISP) and on April 16, 2024, the Trustee declared the Stalking Horse Bid to be the successful bid under the SISP. A second bid was received, however, it did not qualify and the offeror withdrew the offer the day after it was submitted because he couldn't amend the bid for it to qualify.
14. The sale transaction closed on May 6, 2024 ("**Closing**").
15. Certain key terms and conditions of the Stalking Horse Agreement are summarized below.
 - a) **Purchaser:** 1000822913 Ontario Inc.
 - b) **Purchased Assets:** All of the Company's assets, properties and undertakings other than the Excluded Assets. The Purchased Assets include, but are not limited to, intellectual property, the Company's software and technology, certain contracts, equipment, and the Company's receivables.

- c) **Excluded Assets:** The purchase price, all cash and money in bank accounts other than the Merchant Account, and the auction proceeds of customers in the Trust Account (all as defined in the Stalking Horse Agreement).
 - d) **Purchase Price:** The cash sum of \$750,000.00 plus the cash sum required to pay the cure costs for all the assumed contracts, if any.
 - e) **Treatment of Employees:** After the Closing Date, the Purchaser re-hired thirty-two of the forty full-time Canadian employees, as well as all of the part-time Canadian employees.
16. An amending agreement was entered into between the Stalking Horse Purchaser and MaxSold (“**Amending Agreement**”) on May 6, 2024 revising certain provisions in the asset purchase agreement (“**APA**”). The Amending Agreement directed that the Purchase Price would be reduced by the amount required to be paid to those vendors set out in Schedule F to the APA to the extent that the payments are not made by MaxSold prior to Closing. The funds earmarked for these payments by the Company would then remain as cash on hand at closing.

Insolvency Proceeding

17. Following its appointment as Trustee, DLI distributed a Notice of Bankruptcy, a copy of the Statement of Affairs and a Proof of Claim form with instructions to all known creditors by May 15, 2024, as well as placed a Notice of Bankruptcy ad in the Toronto Sun.

Assets

18. As noted above on Closing, the Proposal Trustee was paid \$675,000 by the Purchaser in respect of the balance of the Purchase Price (in addition to the deposit of \$75,000 previously paid to the Proposal Trustee). The Trustee allocated these funds as follows: (i) approximately \$52,000 was paid to those vendors included in the Amending Agreement in respect of Post Closing Payments; (ii) approximately \$73,000 was paid to the professionals for outstanding fees and disbursements pursuant to the Administrative Charge approved by the Court on March 14, 2024 with respect to the Proposal proceeding; and (iii) approximately \$625,000 remains with the Proposal Trustee (“**Net Sale Proceeds**”).
19. The Statement of Affairs contemplated that MaxSold would have no remaining cash on hand as of the Date of Bankruptcy. Cash on hand was not sold to the Purchaser. However, as the Company was unable to complete all the vendor payments required in schedule F to the APA prior to Closing, it had additional cash on hand of approximately \$52,000 in addition to the Net Sale Proceeds. In addition, the Trustee anticipates there will be outstanding cheques issued to consignors that may not clear the bank by the time the Trustee sweeps Maxsold’s account on May 31, 2024. At this time, this amount is unknown. The sweeping of Maxsold’s account on

May 31, 2024 will allow a fair amount of time for consignors to deposit final cheques mailed to them after May 6, 2024.

Books and Records

20. The Trustee has received the books and records but has not yet had an opportunity to review all of them.

Provable Claims

21. At the date of this report, the Trustee has received 50 proofs of claim from unsecured creditors totalling \$451,386.57, 24 proofs of claim from preferred creditors totalling \$29,945.12 and, to date, no claim from secured creditors, for total claims of \$481,331,69.
22. The Statement of Affairs lists National Bank of Canada (“NBC”) with a secured claim totaling approximately \$3.1 million. At the time this report was written, NBC had not yet submitted a secured claim, however, NBC has advised that it will do so.
23. The Statement of Affairs lists 181 creditors with potential provable claims totalling \$3.8 million. It did not include all employee claims, which were not all known at the time. Currently, with all known employee claims, potential provable claims are estimated to total approximately \$4.6 million.

Anticipated Realizations and Projected Distribution

24. The Total Proceeds in the Trustee’s possession will first be distributed to: (i) former employees of MaxSold in respect of super priority claims of up to \$2,000 each, or if funded by WEPP to the employees then as a reimbursement to WEPP; and (ii) all remaining proceeds will be paid to NBC in respect of its secured debt, subject to the Trustee’s review of NBC’s security which is underway.
25. Accordingly, the remaining Total Proceeds will be insufficient to repay NBC in full and NBC will experience a shortfall.
26. Employee claimants may also be eligible to receive funding of a portion of their claims from the Federal government’s Wage Earner Protection Program (“WEPP”). The creditor packages mailed to the employees provides them with information about the program and how to apply. The Trustee has also begun making submissions to the WEPP program for those employees who have submitted claims to date in the Bankruptcy, as required prior to the employees making their applications.

Transfers at Undervalue and Preferential Payments

27. To date, the Trustee has not commenced a review of MaxSold's records in the Trustee's possession to determine if there are any potential transfers at undervalue or preferential transactions.

Third-Party Deposit


28. Prior to the commencement of the NOI proceeding, the Trustee obtained a retainer deposit totalling \$15,000 from MaxSold as security for a portion of the costs of the NOI administration ("**Deposit**"). The Deposit was applied in full to the Proposal Trustee's fees and disbursements during the NOI proceeding. No additional deposit was received for the Bankruptcy administration.

Dated at Toronto, Ontario, this 27th day of May 2024.

DODICK LANDAU INC.

Acting solely as Trustee in Bankruptcy
of the Estate of 112726121 Canada Inc.
and not in its personal or corporate capacity.

Per:



Rahn Dodick CPA, CA, CIRP, LIT
President