on record

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SECURITIES
BD&P

1400, 350-7th Avenue SW, Calgary, Alberta T2P 3N9
Phone: 403-260-0100 Fax: 403-260-0332
www.bdplaw.com

BD&P Burnet, Duckworth & Palmer LLP Law Firm

Securities and other issues of On Record are available on our web site www.bdplaw.com

Securities, Managing Editor
Rhonda G. Wishart
rwishart@bdplaw.com
(403)260-0268

Contributing Writers and Researchers:
Bruce Allford, Ted Brown, Shawn Poirier and Kent Breedlove

Contact
For additional copies, address changes, or to suggest articles for future consideration, please contact Catherine Leitch in our Marketing Department at (403) 260-0345 or at cat@bdplaw.com.

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Securities Lawyers

Name	Email	Phone
Abougoush, Syd S.	ssa@bdplaw.com	403-260-0399
Allford, R. Bruce	rba@bdplaw.com	403-260-0247
Borich, Brian W.	bwb@bdplaw.com	403-260-0346
Breedlove, Kent	wkbreedlove@bdplaw.com	403-806-7871
Brown, Edward (Ted)	ebb@bdplaw.com	403-260-0298
Bugeaud, Gary R.	grb@bdplaw.com	403-260-0155
Campbell, Q.C., Harry S.	hsc@bdplaw.com	403-260-0281
Chetner, Stephen J.	sjc@bdplaw.com	403-260-0265
Clark, Kelsey C.	kcc@bdplaw.com	403-260-0172
Cohen, C. Steven	csc@bdplaw.com	403-260-0103
Cox, Lindsay	lpc@bdplaw.com	403-260-0192
Davidson, Fred D.	fdd@bdplaw.com	403-260-5718
Dewart, Colby	ctd@bdplaw.com	403-260-0369
Eldridge, Michael J.	meldridge@bdplaw.com	403-806-7818
Ervin, Michael	mervin@bdplaw.com	403-806-7873
Fridhandler, Daryl S.	dsf@bdplaw.com	403-260-0113
Gangl, Shannon M.	smg@bdplaw.com	403-260-0279
Goldman, Alyson F.	agoldman@bdplaw.com	403-260-0258
Greenfield, Keith A.	kag@bdplaw.com	403-260-0309
Hoeppner, Jacob	jhoeppner@bdplaw.com	403-806-7874
Kearl, Scott D.	sdk@bdplaw.com	403-260-0395
Kidd, James L.	jlk@bdplaw.com	403-260-0181
MacKenzie, Grant A.	gam@bdplaw.com	403-260-9466
Maslechko, William S.	wsm@bdplaw.com	403-260-0377
Masson, Dale	dzm@bdplaw.com	403-260-0198
Maxwell, David C.	dcm@bdplaw.com	403-260-5741
Mix, Tom M.	tmm@bdplaw.com	403-260-0358
Oke, Jeff T.	jto@bdblaw.com	403-260-0116
Peters, Q.C., John A.	jap@bdplaw.com	403-260-5748
Pettie, Q.C., Alan T.	atp@bdplaw.com	403-260-0127
Poirier, Shawn P.	spoirier@bdplaw.com	403-260-0126
Reid, Jay P.	jpr@bdplaw.com	403-260-0340
Sandrelli, Michael D.	mds@bdplaw.com	403-260-0115
Twa, Q.C., Allan R.	art@bdplaw.com	403-260-0221
Von Vegesack, Chris C.	cvv@bdplaw.com	403-260-0121
Zawalsky, Grant A.	gaz@bdplaw.com	403-260-0376

If you would like any further information on any members of our team, such as a more detailed resume, please feel free to contact the team member or the Managing Editor. You may also refer to our website at **www.bdplaw.com**.

New Toronto Stock Exchange Rules with Respect to SPACS

by Bruce Allford, Ted Brown and Shawn Poirier

The Toronto Stock Exchange (TSX) has recently adopted changes to its rules and policies to allow for the listing of special purpose acquisition corporations (SPACs). SPACs are already a familiar vehicle in the United States marketplace where, according to the TSX, prior to April 30, 2008 94 SPACs had completed their initial public offerings raising an aggregate of US$18.6 billion. SPACs in the United States have traditionally listed on the American Stock Exchange; however, the New York Stock Exchange and NASDAQ have recently adopted rules to allow SPACs to be listed. SPACs are essentially a blind pool whereby investors invest in a company that has no determined business plan other than to acquire an undetermined operating business.

The initial public offering (IPO) of a SPAC is generally marketed based on the strength and experience of the management team. The proceeds of the IPO are then held in escrow until such time as management identifies an appropriate target business for a qualifying acquisition. The SPACs' qualifying acquisitions are generally similar to reverse takeover or merger transactions of public companies by private companies; however, as noted by the TSX the SPAC generally offers certain advantages to most public company reverse takeover or merger targets including: (i) a clean public vehicle; (ii) a more experienced management team; (iii) greater potential ability to raise funds; and (iv) a wide securityholder base made up of institutional and retail securityholders.

The initial public offering (IPO) of a SPAC is generally marketed based on the strength and experience of the management team.

SPACs are similar in concept to Capital Pool Companies (CPCs) which are currently permitted to be listed on the TSX Venture Exchange (TSXV) which is the junior exchange in Canada. The TSX and the TSXV are Canada's two largest stock exchanges and both are owned and operated by the TMX Group Inc. The TSX generally serves the senior equity market in Canada and the TSXV serves the public venture equity market. The difference in focus of the two markets is illustrative of the main difference between SPACs and CPCs; where CPCs are permitted to raise a maximum of C$2 million TSX listed SPACs will be required to raise a minimum of C$30 million.

The SPAC Rules (as defined below) of the TSX take into account the SPAC rules recently adopted by the New York Stock Exchange and by NASDAQ. The TSX has also tried to take into account the best commercial practices it has observed in the SPAC market in the United States and that it believes the SPAC Rules incorporate a wide range of investor protections that mitigate the TSX's previous concerns about listing SPACs. Due to the larger size of the SPACs, the SPAC Rules are intended to involve much more stringent investor protections than those governing CPCs.

Despite current global economic difficulties, depressed stock prices and the difficulties operating businesses are experiencing raising money, a SPAC is a welcome addition to the M&A landscape as a SPAC with a strong management team will be well positioned to take advantage of currently depressed stock prices and asset values. As has been the experience with the CPC program, a SPAC may also present an expedient way to finance existing businesses or business segments given current market conditions and could promote consolidation of businesses in fragmented industry sectors.

Summary of SPAC Rules

The SPAC Rules were initially published for comment by the TSX on August 15, 2008. The comment period for the SPAC Rules expired on September 15, 2008. On December 19, 2008 the TSX adopted the SPAC Rules, with minor amendments to the rules as originally proposed. The SPAC Rules form part of the TSX Company Manual under "Part X – Special Purpose Acquisition Corporations" (the SPAC Rules). The following is a summary of the SPAC Rules.

ORIGINAL LISTING REQUIREMENTS

The original listing requirements for SPACs take into account the TSX's current original listing requirements for operating businesses, the need for investor protection, as well as the size and nature of the Canadian marketplace. Along with a number of specific requirements that are described below, under the SPAC Rules the TSX will retain discretion to take into account a number of factors it considers relevant and appropriate when assessing the merits of listing a SPAC including the following:

(a) the experience and track record of the officers and directors of the SPAC;

(b) the nature and extent of officers' and directors' compensation;

(c) the extent of the founding securityholders' equity ownership in the SPAC, which is generally expected by the TSX to be an aggregate equity interest of: (i) not less than 10% of the SPAC immediately following closing of the IPO; and (ii) not more than 20% of the SPAC immediately following closing of the IPO, taking into account the price at which the founding securities are purchased and the resulting economic dilution;

(d) the amount of time permitted for completion of the qualifying acquisition prior to the liquidation distribution; and

(e) the gross proceeds publicly raised under the IPO prospectus.

The SPAC Rules require that a minimum of C$30 million be raised on the SPAC IPO through the sale of shares or units. If units are issued each unit must consist of one share and no more than two share purchase warrants. The public distribution requirements are consistent with the existing minimum listing requirements for operating issuers. On completion of its IPO, a SPAC must have a minimum of 1 million freely tradeable securities held by a minimum of 300 public securityholders who hold a minimum of 100 shares each. The minimum prescribed price per share or unit pursuant to the IPO is C$2.00.

The SPAC Rules require that the founding securityholders of the SPAC hold an equity interest in the SPAC. The exact level of equity ownership is not prescribed. The TSX will use their discretion to determine an appropriate level of equity ownership taking into account such factors as the price paid for the securities by the founding securityholders and the quality and experience of the founding securityholders. The SPAC Rules suggest that an appropriate level of founding securityholders' equity ownership is in the range of 10% to 20% following completion of the SPAC IPO. The TSX will use their discretion to refuse to list a SPAC if the interest of the founding securityholders in the SPAC appears excessive, in particular if the equity interest of the founding securityholders was acquired at a price which is significantly less than the IPO price.

In addition, the founding securityholders must agree not to transfer any of their founding securities prior to the completion of the SPAC's qualifying acquisition and in the event the SPAC is liquidated and delisted, the founding securityholders must agree that their founding securities shall not participate in a liquidation distribution (as discussed below). The TSX believes these provisions will help align the interests of the founding securityholders with public securityholders and ensure founding securityholders' continued participation. It is generally expected that the founding securityholders will purchase their interest in advance of the IPO at a price which may be significantly less than the IPO price.

The SPAC must have no operating business at the time of its IPO. Although the SPAC may be in the process of reviewing a potential qualifying acquisition it must not have entered into a written or oral binding agreement in respect of a qualifying acquisition when seeking a listing on TSX. The purpose of this requirement, as noted by the TSX, is to prevent SPACs from being used to subvert the IPO and listing process for operating businesses; however, this will not prevent a SPAC from entering into confidentiality agreements or non-binding letters of intent prior to completing an IPO.

INITIAL PUBLIC OFFERING PROSPECTUS

In a TSX Staff Notice issued on December 19, 2008 concurrently with the adoption of the SPAC Rules, TSX staff indicated that in addition to the normal requirements under securities laws for prospectuses the TSX would expect that the IPO prospectus for a SPAC include specific disclosure of the following items:

1. the terms of the founders' initial investment in the SPAC, which terms must include an agreement by the founders not to transfer any founding securities prior to completion of the qualifying acquisition and an agreement that, in the event of a liquidation and delisting, the founding securities will not participate in a liquidation distribution;
2. a statement that, as of the date of filing, the SPAC has not entered into a written or oral binding acquisition agreement with respect to a potential qualifying acquisition (although a SPAC may be in the process of reviewing a qualifying acquisition);
3. the SPAC's target business sector or geographic area for its qualifying acquisition, if one is applicable;
4. the valuation method(s) intended to be used in valuing the qualifying acquisition, if known;
5. a statement that the SPAC will not secure debt financing prior to completion of a qualifying acquisition, other than in accordance with the SPAC Rules;
6. the proposed nature of permitted investments for the SPAC's escrowed funds and any intended use of interest earned on the escrowed funds from the permitted investments;
7. the anticipated allocation of funds for administrative and working capital expenses; and
8. any intention to not proceed with a proposed qualifying acquisition if too many securityholders vote against a proposed qualifying acquisition and exercise their conversion rights.

CAPITAL STRUCTURE

The SPAC rules set out the required capital structure for a SPAC in order for the TSX to approve the listing of the SPAC securities. The securities to be issued by the SPAC must include a conversion right and a liquidation distribution feature.

Conversion Right

The conversion right allows securityholders of the SPAC (other than founding securityholders) who vote against a proposed qualifying acquisition to convert their securities into a pro rata portion of the proceeds held in escrow if the qualifying acquisition is completed. Upon exercise of the conversion right, securityholders will be entitled to receive, for each security held, an amount equal to: (i) the aggregate amount then on deposit in escrow (net of any applicable taxes and direct expenses related to exercise of the conversion right), divided by (ii) the aggregate number of securities then outstanding.

Liquidation Distribution

The liquidation distribution feature will return a pro rata portion of the proceeds held in escrow to securityholders if a qualifying acquisition is not completed within 36 months of the closing of the IPO. Upon a liquidation distribution, all securityholders of the SPAC (other than founding securityholders in respect of their founding securities) will receive, for each security held, an amount at least equal to: (i) the aggregate amount then on deposit in escrow (net of any applicable taxes and direct expenses related to the liquidation distribution), divided by (ii) the aggregate number of securities then outstanding, less any founding securities held by the founding securityholders.

Although the founding securityholders do not vote on the qualifying acquisition the securities held by the founding securityholders are not excluded from the pro rata calculation for exercise of a conversion right because at this point such securities still participate in the qualifying acquisition if it is completed. However, in the event of a liquidation distribution as a result of not completing the qualifying acquisition, the founding securities held by the founding securityholders are not included in the pro rata calculation as they are not entitled to participate in the distribution.

Warrants

If any share purchase warrants are issued pursuant to the IPO the following requirements will apply:

(a) the share purchase warrants must not be exerciseable prior to the completion of the qualifying acquisition;

(b) the share purchase warrants must expire on the earlier of: (i) a fixed date specified in the IPO prospectus, and (ii) the date on which the SPAC fails to complete a qualifying acquisition within the permitted time; and

(c) share purchase warrants may not have an entitlement to the funds held in escrow upon liquidation of the SPAC.

The TSX's stated intent with respect to the warrant requirements is to limit dilution incurred by securityholders of a SPAC prior to completion of a qualifying acquisition due to the limited liquidity of SPAC securities prior to a qualifying acquisition.

PROHIBITION OF DEBT FINANCING

As a means of providing additional protection to securityholders the SPAC Rules prevent a SPAC from obtaining any form of debt financing prior to completion of its qualifying acquisition. Although the SPAC may enter into credit facilities agreements it cannot draw down such credit facilities until such time as it has completed its qualifying acquisition (or contemporaneously with completing its qualifying acquisition).

USE OF PROCEEDS AND ESCROW REQUIREMENTS

The SPAC Rules require that a minimum of 90% of the gross proceeds raised on the IPO be deposited into escrow with an escrow agent acceptable to the TSX such as a trust company, financial institution or a law firm. The escrowed funds may only be invested in certain permitted investments; however, the interest earned from permitted investments may be used by the SPAC, generally to fund administrative expenses of the SPAC, provided any such intended use is disclosed in the IPO prospectus. In addition, the escrow agreement governing the funds held in escrow must make provision for the conversion right as well as the liquidation distribution feature. The TSX's stated intent with respect to these requirements is to protect securityholders by ensuring that sufficient proceeds are available for a qualifying acquisition or to be returned to securityholders should a qualifying acquisition not be made within the permitted time frame.

In addition, any agents or underwriters of the SPAC on the IPO are required to deposit 50% of their commissions from the IPO into escrow with the IPO proceeds. This portion of the commissions will only be released to the agents or underwriters upon completion of a qualifying acquisition. In the event of a liquidation distribution or a securityholder exercising his or her conversion rights and the qualifying acquisition being completed, the securityholder will be entitled to receive his or her pro rata portion of the escrowed funds, including the deferred commissions. The TSX believes this provision will align the interests of the underwriters with those of the SPAC securityholders.

CONTINUED LISTING REQUIREMENTS PRIOR TO COMPLETION OF A QUALIFYING ACQUISITION

As mentioned above, the TSX is concerned about the dilution of securityholders in a SPAC prior to completion of a qualifying acquisition. To help alleviate the concerns a SPAC can only issue additional securities prior to a qualifying acquisition by completing a rights offering to existing securityholders where 90% of any funds raised pursuant to such a rights offering must be placed in escrow along with the other funds held in escrow. In addition, prior to completion of its qualifying acquisition a SPAC may not adopt any form of option plan or other type of security based compensation arrangement.

COMPLETION OF A QUALIFYING ACQUISITION

A SPAC will have up to three years from the date of the closing of its IPO to complete a qualifying acquisition. If the SPAC intends to complete multiple acquisitions to make up its qualifying acquisition, each transaction must be completed prior to the three-year deadline. The TSX has indicated that this is a hard deadline and no extensions will be given.

The fair market value of the businesses or assets forming part of the qualifying acquisition must represent at least 80% of the value of the IPO proceeds (in addition to any proceeds raised as a result of a completed rights offering) in escrow, excluding any underwriting commissions held in escrow. If multiple acquisitions are required to satisfy this requirement, these transactions must close concurrently. The TSX has stated that it considers this threshold appropriate in order to ensure that the qualifying acquisition can reasonably meet TSX original listing requirements and to ensure that the IPO proceeds in escrow are used for their intended purpose.

The qualifying acquisition must be approved by (i) a majority of directors unrelated to the qualifying acquisition, and (ii) a majority of the votes cast by securityholders of the listed SPAC, excluding founding securityholders, at a duly called meeting. If multiple acquisitions are required to complete the qualifying acquisition, each transaction must be approved by securityholders. It is expected that many SPACs will place a condition on approval of the qualifying acquisition that if more than a certain number of shareholders do not approve the qualifying acquisition, and are therefore entitled to their pro rata share of the escrowed funds, the qualifying acquisition will not be completed.

The information circular sent to securityholders with respect to a meeting where securityholders will be asked to approve a qualifying acquisition will be required to include prospectus level disclosure on the resulting entity following completion of the qualifying acquisition. The information circular will be required to be pre-cleared by the TSX prior to mailing to securityholders and the resulting issuer must meet the TSX's listing requirements.

In addition to the requirement to prepare an information circular with prospectus level disclosure, the SPAC Rules require that the SPAC prepare and file a prospectus containing disclosure on the resulting issuer to be filed with the securities regulatory authorities in each Province or Territory where the SPAC is or intends to be a reporting issuer. The SPAC must obtain a receipt for its final prospectus prior to mailing its information circular to its securityholders. In most cases, the prospectus will be a non-offering prospectus if additional securities are not being distributed to the public at the time of the qualifying acquisition. The prospectus disclosure will be identical to the disclosure provided with respect to the resulting entity in the information circular and the TSX has indicated that they will permit a SPAC to satisfy its information circular disclosure on the resulting entity by incorporating the prospectus in the information circular.

There is generally no requirement under applicable Canadian securities law to file a prospectus in connection with a qualifying acquisition. The TSX included the prospectus requirement to allow the applicable securities regulatory authorities an opportunity to vet and approve the prospectus and the disclosure provided about the resulting issuer. This is similar to a requirement in the United States, where the Securities and Exchange Commission pre-clears proxy circulars, other than for foreign private issuers, relating to securityholder meetings to consider a qualifying acquisition, as well as any registration statement for securities being issued on a qualifying acquisition.

The SPAC Rules open the Canadian marketplace to a new and creative investment vehicle, a welcome change despite the potential drawbacks of the SPAC program.

LIQUIDATION AND DELISTING FOLLOWING FAILURE TO COMPLETE A QUALIFYING ACQUISITION

If the qualifying acquisition is not completed prior to the 3-year deadline the SPAC must complete its liquidation distribution as described above within 30 days after the deadline. The SPAC will be delisted from TSX on or about the liquidation distribution date. Founding securityholders may not participate in any liquidation distribution for their founding securities. The aggregate amount then on deposit in escrow will be distributed to securityholders, net of any applicable taxes and direct expenses related to the liquidation distribution.

Benefits of the SPAC Rules

SPACs add an interesting new investment vehicle to the Canadian marketplace. There are many potential benefits to SPACs, including:

1. The SPAC will provide a clean publicly listed shell which will eliminate the time and expense of identifying, reorganizing and sanitizing a reverse takeover or merger candidate.
2. The conversion right and the liquidation distribution feature will provide the SPAC investors with limited risk until such time as the qualifying acquisition is completed, arguably assisting in the IPO marketing process.
3. The SPAC will have capital readily available to deploy in the event it identifies a qualifying acquisition which would allow the SPAC to react quickly to potential merger transactions and provide an advantage over other competing bidders who do not already have financing in place.
4. Multiple acquisitions by a SPAC could provide access to a TSX listing for companies that alone do not meet the minimum listing requirements prescribed by the TSX.
5. Multiple acquisitions by a SPAC could help to promote consolidation of businesses in fragmented industry sectors.
6. Requiring 50% of the commissions of underwriters and agents from the SPAC IPO to be held in escrow will help to keep the underwriters and agents committed to the success of the SPAC following its IPO.
7. Given the current global economic difficulties, the difficulties operating businesses are experiencing raising money and depressed stock prices it may be easier to raise money for a SPAC having a strong management team, with the SPAC then being well-positioned to take advantage of depressed stock prices and companies in financial difficulty. A SPAC may also present an expedient way to finance existing businesses given the current market conditions.

Issues with the SPAC Rules

To counter the potential benefits listed above there are some potential issues with the SPAC Rules, including the following:

1. The conversion right for SPAC securityholders who do not approve the qualifying acquisition increases the risk that a potential deal will not close and may hinder the SPAC's ability to enter into an agreement with respect to a qualifying acquisition as potential targets may be unwilling to accept the associated deal risk. The conversion right also provides a relatively small percentage of shareholders with the ability to block the qualifying acquisition despite the fact that a majority of shareholders may have approved the transaction. Shareholders exercising their conversion rights could leave the SPAC with insufficient cash to close the transaction or to meet the minimum transaction size imposed by the TSX. Other than trying to be consistent with the rules for SPACs in the United States, one might question the reason why conversion rights should be granted if the premise of the investment is a reliance on management to find an appropriate transaction that has been approved by the requisite majority of "disinterested" shareholders.
2. The requirement to prepare a prospectus to be reviewed and approved by the Canadian securities regulatory authorities in addition to the requirement that the information circular be reviewed and approved by the TSX could result in the qualifying acquisition process being lengthy, will increase deal costs and may reduce the ability of a SPAC to react quickly upon identifying potential targets.
3. Many strong management teams may not require a SPAC vehicle to raise money in a blind pool as they are able to raise funds privately and will therefore not avail themselves of the SPAC program due to the time, expense and risks associated with the process.

Conclusion

It remains to be seen whether this type of investment vehicle will be embraced by the Canadian marketplace. Given the current economic and market turmoil it can be certain that the SPAC will be facing the same difficulties in raising IPO funds as any other investment vehicle. That said, a SPAC may be a good vehicle for investors looking to back a strong management team in the current market of undervalued assets where "cash is king". The SPAC Rules open the Canadian marketplace to a new and creative investment vehicle, a welcome change despite the potential drawbacks of the SPAC program.

Non Disclosure Agreements Prevent Hostile Take-Over

by Kent Breedlove

Introduction

Recently in *Certicom Corp. v. Research in Motion Ltd.*,[1] the Ontario Superior Court of Justice (the "Court") issued an injunction preventing Research in Motion Ltd. ("RIM") from proceeding with a hostile takeover bid (the "Bid") for Certicom Corp. ("Certicom"). The Court issued the injunction upon finding that the Bid contravened two non-disclosure agreements ("NDA") between RIM and Certicom.

The Court's decision is significant in that it prevented RIM from proceeding with the Bid even though the standstill provision of the first NDA (which specifically prevented a hostile takeover bid) had expired, and the subsequent NDA did not contain a standstill provision.

Facts

RIM is a leading designer and manufacturer in the mobile communications industry (i.e. BlackBerry) and Certicom is an industry leader in the cryptography used by vendors of software and manufacturer's of product to embed security in those products. Historically Certicom had been a supplier of certain goods and software for RIM's products, and in February of 2007 RIM began considering some form of business combination, whereby it would acquire Certicom. On July 11, 2007, the parties entered into a NDA (the "2007 NDA"). The 2007 NDA stated that for five years following the execution of the agreement, Certicom's confidential information could only be used in order to fulfill "the Purpose" as defined under the 2007 NDA. Additionally the 2007 NDA contained a "standstill" provision which, among other prohibitions, prevented RIM from making a hostile takeover bid for Certicom's shares for 12 months following the execution of the 2007 NDA (the "Standstill Provision").

In September of 2007, Certicom delivered confidential information pursuant to the 2007 NDA, and in February of 2008, Certicom provided RIM with additional confidential disclosure, which by subsequent agreement was made subject to the terms of the 2007 NDA. Following these disclosures, Certicom informed RIM that it needed to focus on internal matters and negotiations between the parties were temporarily halted.

In June of 2008, and in relation to Certicom's ongoing business as a supplier to RIM, the parties entered into a subsequent NDA (the "2008 NDA"). Unlike the 2007 NDA, the 2008 NDA was not intended to facilitate a business combination and did not contain a standstill provision. The 2008 NDA only allowed the parties to make use of a confidential disclosure for the furtherance of the ongoing business relationship between the parties, unless the agreement was incorporated by reference into another agreement.

In September of 2008, Certicom and RIM resumed discussions regarding RIM's potential acquisition of Certicom and in October of 2008 Certicom provided additional disclosure to RIM (the "October 2008 Disclosure"). At Court both parties agreed that the October 2008 Disclosure was subject to the 2008 NDA.

Subsequent to the October 2008 Disclosure, RIM informed Certicom that it desired (on a friendly basis) to acquire Certicom and on November 28, 2008, RIM sent Certicom a non-binding expression of interest offering to acquire all of the outstanding common shares of Certicom at $1.50 per common share. On December 10, 2008, RIM mailed its hostile takeover bid directly to Certicom shareholders.

At trial, RIM did not dispute that the fact that the confidential information disclosed under the 2007 NDA and the 2008 NDA was used in the preparation of the Bid. Furthermore RIM admitted that the individuals who prepared the Bid were essentially the same people who had been involved with the due diligence and disclosures provided under the 2007 NDA and the disclosures made in October of 2008.

Decision

As the Bid was launched roughly 17 months after the execution of the 2007 NDA the Court found the Standstill Provision, valid for 12 months, had expired and therefore did not prohibit a hostile takeover bid. RIM argued that the Standstill Provision's explicit prohibition against hostile takeover bids for a restricted period, should be interpreted as evidence that RIM was allowed to bring a hostile takeover bid after the Standstill Provision expired. In other words, since the parties specifically negotiated a standstill provision, RIM argued that the general confidentiality obligation in the 2007 NDA should not be interpreted to extend the duration of the standstill. The Court held however, that the limitations on the use of confidential information in the 2007 NDA and the prohibitions found under the Standstill Provision should be understood as separate rights and protections to Certicom. The Court found the two clauses could easily be read together and be complementary to each other—in the sense that after the standstill had expired, it was open to RIM to mount a hostile bid as long as it had not received and used confidential information in assessing the bid.

When examining whether RIM's use of Certicom's confidential information in preparing the Bid was a *proper purpose* under the 2007 NDA, the Court looked to the language of the 2007 NDA to consider whether a hostile takeover bid constituted "some form of business combination between the parties". Since a takeover bid is an offer between the bidder and the various shareholders of the target company, the Court concluded that though a takeover bid *could* constitute a business combination between the parties, the plain meaning of "between the parties" dictated this would only be true if a takeover bid was supported by or consented to by Certicom. As this was not the case, RIM was held not to be using the confidential information for "the purpose" contemplated by the 2007 NDA.

The Court also concluded RIM breached the 2008 NDA. The 2008 NDA did not contain a standstill provision nor did it contain the phrase "some form of business combination between the parties" in the confidential information provisions. RIM's only real argument was that the 2008 NDA had been incorporated into a subsequent verbal agreement between the parties which allowed RIM to utilize the October 2008 Disclosure to prepare its Bid. However, the Court held the verbal agreement which RIM referred to was merely a subjective, "after-the-fact interpretation" of the 2008 NDA and it was not based on mutual agreement between the parties. Furthermore the Court accepted Certicom's contention that under the terms of the 2008 NDA, any modification of the 2008 NDA was to be made in writing and signed by both parties.

After concluding that both the 2007 NDA and 2008 NDA where breached by RIM, the Court examined the potential damages and various remedies, and concluded the only sufficient remedy was to issue an injunction preventing RIM from proceeding with the Bid.

Application

The Court's decision is a strong reminder that in commercial dealings negotiated terms will generally be construed in accordance with their plain and ordinary meaning. The Court's conclusion that the Standstill Provision offered a different and separate protection for Certicom, which was above and beyond the general limitations placed on RIM's long-term use of confidential information, demonstrates that particular attention should be paid when drafting a NDA. The NDA should clearly outline how a party may utilize confidential information throughout the life of the agreement and consideration should be given to any unintended consequences of the terms. Finally the Court highlighted that if RIM had prepared the Bid without the use of the confidential information it had received (and the people who had received such information) the Bid might not have contravened the NDAs. This emphasizes the fact that prior to launching a bid, offerors should ensure that they have carefully complied with all terms of any NDA which might be operative.

Footnotes

[1] [2009] O.J. No. 252

BD&P and Habitat for Humanity

Habitat Calgary works in partnership with low-income families and the community to build hope through the construction of simple, decent and affordable homes for Calgary's families in need. BD&P has partnered with Habitat for Humanity Calgary since 2002 to help address the crisis in affordable housing in our city. Together, we have built a relationship of which we are immensely proud.

BD&P is very excited about its 2008 build — its 6th build with Habitat for Humanity Calgary. BD&P is funding the building costs and providing significant volunteer labour and resources for one of 8 semi-detached homes in the Belfast neighbourhood of Mayland Heights, part of the Crossroads Community. The staff at BD&P enjoyed working side by side with the homeowners on this site, a couple with 3 young children, on framing day on June 21, 2008. The anticipated completion date of the duplex is the spring of 2009. We thank Habitat for Humanity for the opportunity to share with them in the miracle of changing lives.

COMMON SENSE,
UNCOMMON INNOVATION.

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BD&P Burnet, Duckworth & Palmer LLP Law Firm

1400, 350-7th Avenue SW, Calgary, Alberta T2P 3N9
Phone: 403-260-0100 Fax: 403-260-0332
www.bdplaw.com