

MARC J. WINTHROP -- State Bar No. 63218
GARRICK A. HOLLANDER -- State Bar No. 166316
KAVITA GUPTA -- State Bar No. 138505

**WINTHROP COUCHOT
PROFESSIONAL CORPORATION**

660 Newport Center Drive, Ste 400
Newport Beach, CA 92660
mwinthrop@winthropicouchot.com
ghollander@winthropicouchot.com
kgupta@winthropicouchot.com

Telephone: (949) 720-4100
Facsimile: (949) 720-4111

[Proposed] General Insolvency Counsel for
Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION**

In re:

NORTH AMERICAN SCIENTIFIC, INC.,
a California corporation,

Debtor and
Debtor-in-Possession

Case No. 1:09-bk-12675 MT

Chapter 11 Proceeding

Hearing:

DATE: March 30, 2009

TIME: 3:00 P.M.

PLACE: Courtroom 302

21041 Burbank Boulevard, Woodland
Hills, California 91367

**NOTICE TO CREDITORS AND PARTIES IN INTEREST OF
HEARING ON DEBTOR'S MOTION FOR ORDER (1) APPROVING THE SALE OF CERTAIN ASSETS OF THE
ESTATE FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS PURSUANT TO 11 U.S.C. §363; (2)
AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS; AND (3)
AUTHORIZING THE REJECTION OF THE DEBTOR'S INTEREST, IF ANY, IN CERTAIN EXECUTORY
CONTRACTS**

TO THE UNITED STATES TRUSTEE, CREDITORS, AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE that on March 30, 2009 at 3:00 p.m., in Courtroom 302 located at 21041 Burbank Boulevard, Woodland Hills, California 91367, a hearing will be held on the Motion of North American Scientific, a California corporation, the debtor and debtor-in-possession in the above Chapter 11 proceeding (the "Debtor"), for an Order (1) Approving the Sale of Certain Assets of the Estate Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. § 363; (2) Authorizing the Assumption and Assignment of Certain Executory Contracts; and (3) Authorizing the Rejection of the Debtor's Interests, if any, in Certain Executory Contracts (the "Motion").

By the Motion, the Debtor seeks an order of the Court granting the following relief:

1. Authorizing the sale of certain assets of the estate consisting of Debtor's prostate brachytherapy business (the "Assets") to Best Theratronics, Ltd., a Canadian federal corporation or its designee (the "Bidder"), or the highest bidder for the Assets ("Successful Bidder"), for a total consideration of at least \$2,500,000;
2. Authorizing, with appropriate findings, the sale of the Assets to the Successful Bidder, free and clear of all liens, charges, security interests, encumbrances or liabilities, including successor liabilities pursuant to Section 363 of the Bankruptcy Code or any adverse claims (hereinafter collectively referred to as "Liens and Encumbrances"), if any, pursuant to 11 U.S.C. § 363(f), with the Liens and Encumbrances to attach to the net sales proceeds in the preexisting order of priority;
3. Fixing the amounts necessary to cure any and all defaults of all executory contracts and unexpired leases assumed by the Debtor and assigned to the Successful Bidder, as set forth in the Net Cure column on Exhibit "1" to the Motion;

4. Authorizing, with appropriate findings, the Debtor to assume and assign to the Successful Bidder those unexpired leases and executory contracts set forth on Exhibit "1" to the Motion pursuant to Section 365 of the Bankruptcy Code, based on the cure amounts;
5. Authorizing the Debtor to reject its interests, if any, in certain unexpired leases and executory contracts.
6. With appropriate findings of the Court regarding the adequacy of notice to creditors and parties in interest relating to the within Motion;
7. With appropriate findings of the Court establishing: (i) the good faith of the Debtor and the Successful Bidder in connection with the negotiation, execution, delivery, and consummation of the sale of the Assets; and (ii) the arms-length nature of such negotiations and transactions, together with such other findings as are necessary to ensure that the Debtor and the Successful Bidder are each entitled to the protection afforded by 11 U.S.C. § 363(m) with respect to all transactions approved in such Court order; and
8. Waiving the ten (10) day stay of order provided in Rules 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure.

PLEASE TAKE FURTHER NOTICE that any party interested in bidding on the Debtor's assets must comply with the overbid procedures set forth herein.

PLEASE TAKE FURTHER NOTICE that if qualified overbids are received, an auction sale utilizing the overbid procedures approved by the Bankruptcy Court will take place in open Court, at the address and date and time listed above.

PLEASE TAKE FURTHER NOTICE that any party interested in obtaining non-public information about the Debtor for the purpose of conducting due diligence for a possible overbid shall contact Brett Scott, the Chief Financial Officer of the Debtor, whose telephone number is (818) 734-8600, or Garrick A. Hollander, Esq. of Winthrop Couchot Professional Corporation, general insolvency counsel for the Debtor, whose telephone number is listed at the upper left corner of this Notice, and request a confidentiality agreement. Once such agreement is signed by the Debtor and the interested party, the interested party will be provided with confidential information produced by the Debtor.

In support of the Motion, the Debtor represents as follows:

A. Background of Debtor

North American Scientific Medical, Inc., a California corporation and subsidiary of NAS Medical, which is publicly traded on NASDAQ (NASM), designs, manufactures, and sells radioisotopic products including brachytherapy seeds and accessories used in the treatment primarily of cancer. These products include Prospera® brachytherapy seeds and SurTRAK™ needles and strands, which are used primarily for the treatment of prostate cancer. The Debtor also has obtained FDA approval for its newest product – ClearPath™, which is used in the treatment of breast cancer.¹

The Debtor employs approximately 80 persons at its manufacturing facility and headquarters located in Chatsworth, California and its research and development facility in Irvine, California. While the Debtor's sales have consistently increased over the last three years (\$9,251,000 in 2006, \$11,428,000 in 2007, and \$13,927,000 in 2008), so have its losses (\$10,810,000 in 2006, \$11,497,000 in 2007, and \$14,688,000 in 2008).

B. Debtor's Financial Difficulties

The Debtor's financial difficulties have been caused primarily by a combination of factors, including: (i) unprofitable acquisitions, (ii) intellectual property litigation, (iii) delays in development and commercialization of new product; and (iv) mature technology and shrinking market in the Debtor's current primary commercialized product.

The Debtor has suffered significant losses as a result of failed acquisitions pursued in efforts to diversify and grow the Debtor's business. The Debtor was founded in 1987, at which time it focused on manufacturing standards and controls for medical and industrial applications related to radioactive materials. Capitalizing on its core competencies in radioactive substances, in 1998, the Debtor diversified into the therapeutic medical device market, where it manufactured Radioactive Iodine and Palladium seeds that were utilized as implants to treat early stage prostate cancer. The Debtor was profitable until Mentor Company, which served as the Debtor's marketing and sales distribution channel, terminated its relationship with the Debtor because Mentor entered into the Debtor's business on its own through the acquisition of a competitor. As a result, in addition to hiring its own sales force to market its products, the Debtor decided to diversify its business by acquiring Theseus for \$60 million in cash. Theseus was a Boston-based company that was conducting clinical trials in Europe on a pharmaceutical diagnostic agent that had shown promise as a predictor of the most effective chemotherapeutic agent to use for treating solid cancerous tumors. The clinical endpoints were not reached, and as a result, the Debtor shut down this operation in 2004.

In 2004, the Debtor decided to acquire Nomos, a small capital equipment company in Pittsburgh, \$54M in stock and cash. Nomos made capital equipment for external beam radiation delivery for the treatment of cancer. Unfortunately, this

¹ ClearPath™ significantly reduces the amount of time needed by patients for radiation treatment for early stage breast cancer, while improving the control to the relevant issue, thereby reducing the risk of radiation treatment and preventing damage to critical structures of the body.

acquisition was not complementary to either company. Making matters worse, Nomos was a complex start-up, causing the Debtor to lose more than \$10 million a year. Ultimately, the Debtor sold this division for \$500K in September of 2007.

The Debtor's losses have been exacerbated by ongoing litigation of intellectual property disputes. In 2006, the Debtor hired a new Vice President of R&D (Rick Terwilliger) from WorldWide Medical ("WW"), a competitor in the prostate seed market. Mr. Terwilliger owned certain intellectual property that the Debtor wanted to use to expand its product offering in the prostate seed business. Unfortunately, the hiring of Mr. Terwilliger led to a lawsuit with WW over patent rights, which is ongoing today. This lawsuit is scheduled for trial this year. Facts relating to this patent issue have led to another lawsuit brought by WW against Anazao, another competitor of the Debtor's, which also names the Debtor as a defendant.

Delays in the development and marketing of new products have caused additional financial difficulties for the Debtor. In 2006, the Debtor developed and received FDA approval for a new medical device to be utilized as a temporary implant in the delivery of radiation to breast cancer patients. Despite multiple attempts over 18 months, the Debtor's management team was not able to complete the development of the new device. The Debtor brought in new management in mid-year 2007 to revamp the company and replace the founders. The Debtor hired John Rush as the new President and CEO in May of 2007, at which time the Debtor was in need of financing, the stock price had seen a steady decline from \$35 to less than \$1 since 2004, and was losing \$10+ million a year, with no apparent end in sight.

The Debtor believes that it has taken steps to improve the profitability of its operations and maximize value for creditors. Mr. Rush has built a new management team, with a particular emphasis on the R&D team to finish ClearPath™ and an operations team to consolidate operations and improve margins. The new management team began selling assets to reduce cash burn and to focus on fewer opportunities. Nomos was sold in September of 2007 and its Non-Therapeutic Standards and Controls division was sold in September of 2008. The prostate seed business is under agreement to be sold in this Chapter 11 proceeding. The Debtor had anticipated selling this prostate seed business through the proxy process. Proceeds from this sale would have gone to fund early clinical launch of the new ClearPath™ device for breast cancer, which is ongoing. Unfortunately, the Debtors' secured lender, Silicon Valley Bank ("Bank"), pursuant to its rights under the loan documents, reduced the Debtor's borrowing availability. As a result, the Debtor does not have sufficient cash flow to sustain its operations to consummate a sell of its business through the proxy process. Therefore, the Debtor decided to file for Chapter 11 to expedite the sale process to preserve the going concern value of its business.

C. Secured Debt

On October 5, 2005, the Debtors entered into a Loan and Security Agreement with the Bank, and thereafter, into multiple amendments and forbearances (collectively, the "Loan Agreement"). The Loan Agreement grants in favor of the Bank a security interest against substantially all of the Debtor's assets. On October 6, 2005, the Bank filed a UCC-1 with the California Secretary of State. According to the Debtor's records, the Debtor owes approximately \$1.6 million to the Bank.

The only other secured claim asserted against the Debtor is CIT Communications Finance Corporation ("CIT"), from whom the Debtor leases phone equipment. The monthly lease payment is \$1,343 for approximately four more years.

D. The Debtor's Assets.

The assets proposed to be sold through this Motion consist of all properties and assets of the Debtor relating to the Debtor's prostate brachytherapy cancer business currently operated by the Debtor. The proposed sale does not include the Debtor's ClearPath™ product and related breast cancer business.

E. The Need for Sale.

As noted above, the Debtor's business consists of the prostate brachytherapy business and the breast cancer brachytherapy business. The Debtor has been losing money in its prostate brachytherapy business. The proposed Sale will help sustain the Debtor's operations long enough to effectuate an orderly sale of the breast cancer business. Based on the foregoing, the proposed Sale is critical to maximizing value for the creditors.

F. The Debtor's Marketing Efforts.

The Debtor has extensively explored the possibility of selling its prostate brachytherapy business. To that end, the Debtor engaged Robert W. Baird & Co., Incorporated ("Baird"), an investment banking firm, to provide assistance with respect to a possible sale of the prostate brachytherapy business.

Baird's representatives consulted with the Debtor's management to formulate a list of parties to contact to assess interest in a potential transaction. The representatives of Baird and the Debtor's management assembled a list of twenty-five potential parties to a transaction, and from September 2008 through January 2009, representatives of Baird contacted these parties to gauge their interest in pursuing a potential transaction for the prostate brachytherapy business. Of the twenty-five parties contacted, only four parties (including the Bidder) expressed an interest in pursuing discussions to explore a possible acquisition of the prostate brachytherapy business. The Debtor held various meetings with the potential purchasers and received non-binding offers from three of the potential purchasers. The Bidder and a second company were the only two potential purchasers that provided draft letters of intent to the Debtor.

The Debtor conducted a meeting to consider the potential transactions with the Bidder, the second company, and to consider whether the final terms of various agreements proposed in connection with the proposed sale, were advisable, fair to, and in the best interests of, the Debtor and its shareholders.

The Debtor's Board noted that the purchase price being paid for the prostate brachytherapy business in the Bidder's asset purchase agreement was less than the amount offered by the second company. However, the Debtor also considered that

the second company did not have financing immediately available to complete a transaction, would require additional time to conduct due diligence and negotiate definitive agreements, and there was no assurance a transaction would be concluded on the terms outlined in the second company's non-binding letter of intent.

After deliberation, the Debtor concluded that the sale of the prostate brachytherapy business to the Bidder pursuant to its asset purchase agreement was advisable, fair to, and in the best interests of, the Debtor, creditors, and shareholders. The Debtor thereafter met with the Bidder's representatives to discuss and negotiate the final terms of the transaction, ultimately reaching a deal approximately two weeks ago for the purchase of the Assets for \$5.0 million. Unfortunately, just last week, however, the Buyer terminated its agreement to purchase the assets, and then re-offered to purchase the Assets for \$2.5 million.

After the Buyer cut its offer in half, the Debtor went back to all of the other parties that had previously shown an interest in the Assets, but no one submitted an offer. At least one party, however, indicated that it intended to participate in the Sale as a potential overbidder.

G. Disclosure About the Bidder.

The Bidder has been in the medical community for approximately 30 years. The Bidder and its affiliates encompass a family of companies and organizations active in external beam therapy and self-contained irradiator products. External beam therapy equipment is used in the treatment of cancer, and self-contained irradiators are used for the irradiation of blood to prevent disease and for research purposes. The Bidder, along with the "TeamBest" family of companies, manufacture a wide array of radiotherapy products. The Bidder provides products and services in the healthcare field and is involved in innovative technology, developing, manufacturing, and delivering cost-effective, high quality products to benefit patients. In addition to its facilities in Ottawa, Canada; the "TeamBest" family of companies has manufacturing facilities in Dijon, France; Springfield, Virginia; Pittsburg, Pennsylvania, Bristol, Rhode Island; Taunton, Massachusetts, Gilberts, Illinois; Nashville, Tennessee; and Norcross, Georgia.

H. The Terms of the Proposed Sale.

All capitalized terms used herein and not defined have the meanings provided in the APA. The proposed material terms of the sale of the Assets to Bidder pursuant to the APA are substantially as follows:

1. Assets to be Acquired. The Assets to be acquired by Bidder will consist of the Debtor's prostate brachytherapy business as defined in Section 1.1 of the APA, but excluding the Excluded Assets defined below.
2. Excluded Assets. The sale of the Assets will not include the following assets of the Debtor:
 - a. All cash on hand or in banks or other depositories, including the cash in the Debtor's subsidiaries;
 - b. All credits and benefits, including without limitation any tax creditors or benefits, insurance benefits, and any indemnification rights, escrows and other assets, relating to any Retained Liabilities²;
 - c. Rights accruing to the Debtor under the APA or any agreement relating thereto;
 - d. The corporate seals, certificate of incorporation, minute books, stock books, Tax returns, books of account or other records having to do with the corporate organization of the Debtor;
 - e. All personnel records and other records that the Debtor is required by law to retain in its possession;
 - f. All insurance policies held by or for the Debtor and any benefits or proceeds paid or payable thereunder;
 - g. The Excluded Prepays;
 - h. Certain assets listed in a schedule attached to the APA;
 - i. Accounts Receivables existing as of the Closing Date, which are listed in a schedule attached to the APA; and
 - j. All assets solely related to ClearPath.
3. Consideration. The Bidder has offered to purchase the Assets, subject to overbid, for two million five hundred thousand dollars (\$2,500,000), subject to adjustments (the "Purchase Price").
4. Contracts to Be Assumed and Assigned to Bidder. Bidder shall assume those executory contracts and leases of the Debtor that are identified on Exhibit "1" to the Motion subject to the cure amounts set forth on Exhibit "1" to the Motion. In other words, if a contracting party objects to the cure amount set forth on Exhibit "1" to the Motion, then Bidder will not assume that contract.
5. Closing. The Closing of the acquisition will be subject to the entry of an Order of the Bankruptcy Court, satisfactory to Bidder, transferring the acquired assets free and clear of all liens, claims and encumbrances, and successor liability, and assigning the contracts to be assumed by Bidder, pursuant to Sections 363 and 365 of the Bankruptcy Code. The Closing must occur within five (5) Business Days following the satisfaction of the conditions set forth in Article 7 of the APA, or such other date as may be agreed upon in writing by the Debtor and the Bidder or by their respective counsel.

² All capitalized terms not defined herein shall refer to the capitalized terms in the APA.

I. Court Approved Overbid Procedures.

On March 12, 2009, the Bankruptcy Court entered an order approving a \$125,000 break-up fee for the Bidder, along with the following overbid procedures:

1. Any entity other than Bidder (an "Overbidder") that is interested in purchasing the Assets must file with the Bankruptcy Court and serve on the Debtor and Bidder and their respective counsel, an "Initial Overbid" in conformance with this paragraph, so that it is actually received by Bidder and the Debtor no later than March 27, 2009 at 3:00 p.m. (the "Bid Deadline") on the Sale of the Assets ("Sale Hearing"). Any Initial Overbid must
 - a. include a proposed asset purchase APA (the "Competing APA"), executed by the Overbidder, that is on substantially the same terms and conditions as those in the Bidder's APA, and on terms no less favorable than Bidder's APA, along with a redlined, marked copy showing all changes between the Competing APA and the Bidder's APA;
 - b. remain open until the conclusion of the Sale Hearing;
 - c. contain terms and conditions that are higher and better than the terms and conditions of the Bidder's APA as determined by the Bankruptcy Court following a report and recommendation by the Debtor as to the highest and best offer;
 - d. provide for a purchase price to be paid to the Debtor that exceeds the Purchase Price by not less than \$150,000;
 - e. be accompanied by admissible evidence in the form of affidavits or declarations establishing the Overbidder's good faith, within the meaning of Section 363(m) of the Bankruptcy Code;
 - f. be accompanied by admissible evidence in the form of affidavits or declarations establishing that the Overbidder is capable and qualified, financially, legally, and otherwise, of unconditionally performing all obligations under the Competing APA;
 - g. be accompanied by a cashier's check made payable to the order of the Debtor in the amount of \$150,000 (the "Overbidder's Deposit"), and further provide that (i) if the Bankruptcy Court approves a sale of the Assets to the Overbidder, the Debtor may retain the Overbidder's Deposit for application as a non-refundable deposit for application against the purchase price at the closing of the transaction, and (ii) if the Bankruptcy Court does not approve a sale of the Assets to the Overbidder, the Debtor will promptly return the Overbidder's Deposit to Overbidder;
 - h. disclaim any right of Overbidder to receive a fee analogous to the Break-Up Fee or to compensation under Bankruptcy Code Section 503(b) for making a substantial contribution; and
 - i. contain a proposed closing date that is not later than the Closing Date hereunder.
2. Any entity that submits a timely, conforming Initial Overbid, as set forth above, shall be deemed a "Qualified Overbidder" and may bid for the Assets at the Sale Hearing.
3. Any entity that fails to submit a timely, conforming Initial Overbid, as set forth above, shall be disqualified from bidding for the Assets at the Sale Hearing.
4. If no timely, conforming Initial Overbid is submitted, the Debtor shall request at the Sale Hearing that the Bankruptcy Court approve the proposed sale of the Assets to Bidder under the Bidder's APA.
5. If one or more timely conforming Initial Overbids is received, the Bankruptcy Court may nonetheless approve the Bidder's APA and the proposed sale of the Assets to Bidder, or the Bankruptcy Court may conduct an auction of the Assets at the Sale Hearing (the "Auction") in which Bidder and all Qualified Overbidders may participate. The Auction shall be governed by the following procedures:
 - a. all bidders shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and to have waived any right to jury trial in connection with any disputes relating to the Auction or the sale of the Assets;
 - b. bidding will commence at the amount of the highest bid submitted by a Qualified Overbidder, as determined by the Bankruptcy Court;
 - c. each subsequent bid shall be in increments of no less than \$25,000;
 - d. Bidder shall have the right, but not the obligation, in its sole and absolute discretion, to match bids made by any Qualified Overbidder and, in such event, Bidder's matching bid shall be deemed the highest and best bid for the Assets;
 - e. if, upon conclusion of the Auction, and consistent with the terms of these bidding procedures, Bidder's final bid matches or is greater than the highest bid made by a Qualified Overbidder, the Bankruptcy Court shall approve the Bidder's APA and authorize the Debtor to sell the Assets to Bidder, and the amount of Bidder's final bid (less the amount of the Break-Up Fee) shall constitute the Purchase Price under the Bidder's APA; and
 - f. Debtor may, with Bankruptcy Court approval, elect to deem Bidder's final bid to be the highest bid, notwithstanding the receipt of an apparently higher bid from another Overbidder, if the Debtor reasonably concludes that the Overbidder may not be able to close, or for any other reason.
6. Bidder has standing and is deemed to be a party in interest with standing to be heard on any motion, hearing or other matter related to the Bidder's APA or any Overbid, or other sale of assets subject to Buyer's APA.

The court approved uniform procedures for bidding on the Assets will allow the Debtor and the Court to promptly review, analyze and compare all bids received to determine which bid is in the best interests of the Debtor.

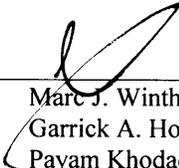
A copy of the Motion is available via electronic mail. To obtain a copy, please e-mail your request to PJ Marksbury at pj@winthropcouchot.com.

IF YOU DO NOT OPPOSE THE RELIEF REQUESTED BY THE MOTION, YOU NEED TAKE NO FURTHER ACTION. IF, HOWEVER, YOU OPPOSE THE RELIEF REQUESTED BY THE MOTION, PURSUANT TO THE COURT'S ORDER SETTING THE HEARING ON SHORTENED NOTICE, OPPOSITION MUST BE FILED WITH THE COURT AND SERVED UPON DEBTOR'S PROPOSED COUNSEL AT THE ADDRESS IN THE UPPER LEFT CORNER OF THE FIRST PAGE OF THIS NOTICE, SO AS TO ACTUALLY BE RECEIVED BY 5:00 P.M. PACIFIC DAYLIGHT TIME ON MARCH 23, 2009. ANY FAILURE TO TIMELY FILE AND SERVE OBJECTIONS AS SET FORTH HEREIN MAY RESULT IN ANY SUCH OBJECTIONS BEING WAIVED.

DATED: March 13, 2009

**WINTHROP COUCHOT
PROFESSIONAL CORPORATION**

By: _____


Marc J. Winthrop
Garrick A. Hollander
Payam Khodadadi

Proposed General Insolvency Counsel for
Debtors and Debtors-in-Possession