

Court File No. CV-10-9023-00CL
Estate File Nos. 31-456611, 31-456614, 31-456616, 31-456617

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

**IN THE MATTER OF THE BANKRUPTCY OF
DB MEDIA DISTRIBUTION INC., DB MEDIA DISTRIBUTION (CANADA),
CH LLC (CANADA) AND CH SUB LLC (CANADA)**

**NOTICE OF MOTION
(Motion returnable October 23, 2012)**

ALVAREZ & MARSAL CANADA INC., in its capacity as Trustee in bankruptcy (the “**Trustee**”) of each of DB Media Distribution Inc. (“**DB Media**”), DB Media Distribution (Canada) (“**DB Media Canada**”), CH LLC and CH Sub LLC (collectively, the “**Companies**”) will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on October 23, 2012 at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order substantially in the form of the draft order attached to the Motion Record (the “**Settlement Order**”):
 - (a) abridging the time for service of the Notice of Motion and the Motion Record herein and declaring that the motion is properly returnable on the date it is heard by this Honourable Court; and
 - (b) approving the Direct Brands Settlement (as defined in the Third Report) between the Trustee and Direct Brands, Inc. (“**DBI**”) and the Mutual Release (as defined in the Third Report) relating thereto; and

2. Such further and other relief as counsel may request and this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

1. Pursuant to orders of the Court dated December 10, 2010 (the “**Procedural Consolidation Orders**”), the Trustee was authorized to administer the bankrupt estates of the Companies on a consolidated basis for the purpose of carrying out its administrative duties and responsibilities as Trustee under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).

2. Pursuant to two separate additional orders granted by the Court on December 10, 2010 (the “**December 10th Orders**”), the Trustee was, *inter alia*, relieved of certain notice obligations to creditors and directed to conduct a spot audit of the Companies’ inventory for the purpose of complying with s. 16(3) of the BIA.

3. The Trustee has nearly completed the administration of the Companies’ estates in compliance with the Procedural Consolidation Orders, the December 10th Orders and the provisions of the BIA and now seeks to finalize outstanding claims against the Companies.

4. The Trustee has completed the proof of claims process and completed its review of potential preferences and transfers at undervalue (“**TUVs**”). Pursuant to such review, the Trustee identified, *inter alia*, certain non-arm’s length transactions between the Companies and their ultimate parent company DBI that were potential TUVs within the applicable review period set out in the BIA. The independent estate inspector (the “**Independent Inspector**”) instructed the Trustee to negotiate a settlement with DBI relating to such potential TUVs to avoid costly and drawn out litigation relating thereto. Following extensive negotiations with DBI, the Trustee is now seeking court approval of the Direct Brands Settlement, pursuant to which DBI shall (a) remit Cdn\$200,000 cash to the estates, (b) withdraw its claims against DB Media and DB Media Canada in the amount of approximately US\$3.9 million and (c) reimburse a further Cdn\$22,000 to the estate of DB Media Canada relating to professional fees paid to DBI’s counsel from a retainer provided by DB Media Canada.

5. The Independent Inspector supports the Direct Brands Settlement. In addition, the administrator of the Companies’ defined-benefit pension plans is satisfied with the process

undertaken by the Trustee and the Independent Inspector relating to the forgoing and has advised the Trustee that it is supportive of the Direct Brands Settlement.

6. The provisions of the BIA, including without limitation sections 183 and 192, and the inherent and equitable jurisdiction of this Honourable Court;

7. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

8. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Third Report; and

2. Such further and other material as counsel may advise and the Court may permit.

October 17, 2012

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Solicitors for Alvarez & Marsal Canada Inc., in its capacity as Trustee in bankruptcy of DB Media Distribution Inc., DB Media Distribution (Canada), CH LLC and CH Sub LLC and not in its personal capacity.