

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)

MOTION RECORD
(RETURNABLE OCTOBER 31, 2012)

October 23, 2012

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

TO: SERVICE LIST

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)

SERVICE LIST
(Motion Returnable October 31, 2012)

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE BANKRUPTCY OF
DB MEDIA DISTRIBUTION INC., DB MEDIA DISTRIBUTION (CANADA),
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TAB 1

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 31, 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 31, 2012 at 9:30 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 “**Supplemental 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;
 - (b) approving the Trustee’s Final Statement of Receipts and Disbursements (the “**Final Statement of Receipts and Disbursements**”) set out in Exhibit “H” to the Third Report of the Trustee dated October 16, 2012 (the “**Third Report**”) and the Final Cost Allocation (as defined in the Third Report);

- (c) approving the proof of claims process described in the Third Report and the Dividend Sheet set out in Exhibit "I" to the Third Report;
- (d) authorizing and directing the Trustee to distribute \$1,502,785.92 to creditors of DB Media and \$1,143,944.92 to creditors of DB Media Canada (inclusive of the distribution from DB Media to DB Media Canada on account of the intracompany balance owing as of the date of bankruptcy) in accordance with their respective priorities set out in the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3, as amended (the "**BIA**");
- (e) declaring that all steps taken by and activities of the Trustee and all amounts distributed by the Trustee are approved and that Alvarez & Marsal Canada Inc. shall have no further liability in respect thereof;
- (f) approving the Third Report and the activities of the Trustee described therein; and
- (g) approving and taxing the Trustee's fees and disbursements and those of its counsel Osler, Hoskin & Harcourt LLP; 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 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;
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 Direct Brands, Inc. ("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 sought and obtained court approval of the Direct Brands Settlement and Mutual Release (each as defined and described in the Third Report) pursuant to an order of the Court dated October 23, 2012;
5. The Office of the Superintendent of Bankruptcy Canada has reviewed the Final Statement of Receipts and Disbursements in accordance with the examination process set out in section 5(3)(g) of the BIA and has requested that the Trustee proceed to taxation (the "**Superintendent's Comments**") pursuant to section 60 of the *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368, as amended (the "**General Rules**");
6. The Trustee is now seeking the Supplemental Order for the remainder of the relief described in its Third Report in accordance with the Superintendent's Comments;
7. The provisions of the BIA, including without limitation sections 183 and 192, and the inherent and equitable jurisdiction of this Honourable Court;
8. The provisions of the General Rules, including without limitation section 60 thereof;
9. 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
10. 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 23, 2012

OSLER, HOSKIN & HARCOURT LLP

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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.

TAB 2

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)**

THE HONOURABLE)	WEDNESDAY, THE 31st DAY
)	
MR. JUSTICE PATTILLO)	OF OCTOBER, 2012

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

ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. ("**A&M Canada**") in its capacity as Trustee in bankruptcy of each of DB Media Distribution Inc. ("**DB Media**"), DB Media Distribution (Canada) ("**DB Media Distribution**"), CH LLC (Canada) and CH Sub LLC (Canada), for relief contemplated in the Third Report of the Trustee dated October 16, 2012 (together with all exhibits attached thereto, the "**Third Report**") and such further and other relief as counsel may advise and the Court deems just, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated October 23, 2012, the Third Report, and on hearing the submissions of counsel for the Trustee, no one else appearing although served as evidenced by the Affidavit of ● sworn October ●, 2012, filed;

1. **THIS COURT ORDERS** that time for service of the Notice of Motion and Motion Record dated October 23, 2012 is hereby abridged so that the motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Trustee's Final Statement of Receipts and Disbursements set out in Exhibit "H" to the Third Report, the Final Cost Allocation (as defined

Draft

in the Third Report) and the Dividend Sheet set out in Exhibit "I" to the Third Report be and are hereby approved.

3. **THIS COURT ORDERS** that the proof of claims process as described in the Third Report be and is hereby approved.

4. **THIS COURT ORDERS** that the Trustee is authorized and directed to distribute \$1,502,785.92 to creditors of DB Media and \$1,143,944.92 to creditors of DB Media Canada (inclusive of the distribution from DB Media to DB Media Canada on account of the intracompany balance owing as of the date of bankruptcy), in each case in accordance with such creditors' priority pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and the orders of the Court made in these proceedings.

5. **THIS COURT ORDERS** that all steps taken by and activities of the Trustee and all amounts distributed by the Trustee are hereby approved and that A&M Canada shall have no further liability in respect thereof.

6. **THIS COURT ORDERS** that the Third Report be and is hereby accepted and approved and the activities of the Trustee as described in the Third Report be and are hereby approved.

7. **THIS COURT ORDERS** that the Trustee's fees and disbursements (excluding HST) for the period from December 9, 2010 to and including September 15, 2012 in the amount of \$921,482.26 and the fees and disbursements (excluding HST) of its counsel, Osler, Hoskin & Harcourt LLP, for the period from December 9, 2010 to and including September 15, 2012 in the amount of \$165,122.94 as detailed in the Third Report be and are hereby approved and taxed at \$921,482.26 and \$165,122.94, respectively.

8. **THIS COURT ORDERS** that the estimate of Final Fees and Disbursements (as defined in the Third Report) to conclude the bankrupt estates be and is hereby approved and taxed in an amount not to exceed \$13,500 (excluding HST).

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**IN THE MATTER OF THE BANKRUPTCY OF DB MEDIA DISTRIBUTION INC.,
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**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at TORONTO

ORDER

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