

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)**

---

**SUPPLEMENTAL MOTION RECORD**  
**(RETURNABLE OCTOBER 23, 2012)**

---

**October 22, 2012**

**OSLER, HOSKIN & HARCOURT LLP**  
P.O. Box 50  
1 First Canadian Place  
Toronto, ON M5X 1B8

**Marc S. Wasserman** (LSUC # 44066M)  
Tel: (416) 862-4908

**Andrea M. Lockhart** (LSUC #55444K)  
Tel: (416) 862-6829

Fax: (416) 862-6666

**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 23, 2012)**

<b>PARTY</b>	<b>CONTACT</b>
<b>GENERAL</b>	
<b>PricewaterhouseCoopers Inc.</b> Mississauga Executive Centre One Robert Speck Parkway, Suite 1100 Mississauga, ON L4Z 3M3  <i>Administrator of Doubleday Canada Limited Employee Retirement Plan</i>	John Hnatiw Tel: (905) 949-7400 Fax: (905) 949 7415 Email: <a href="mailto:John.hnatiw@ca.pwc.com">John.hnatiw@ca.pwc.com</a>
<b>PricewaterhouseCoopers Inc.</b> Mississauga Executive Centre One Robert Speck Parkway, Suite 1100 Mississauga, ON L4Z 3M3  <i>Administrator of The Columbia House Limited Employee Retirement Plan</i>	Claire Mroz Tel: (905) 949-7400 Fax: (905) 949 7415 Email: <a href="mailto:Claire.mroz@ca.pwc.com">Claire.mroz@ca.pwc.com</a>
<b>Davies Ward Phillips &amp; Vineberg LLP</b> 44th Floor 1 First Canadian Place Toronto, ON M5X 1B1  <i>Lawyers for Direct Brands, Inc.</i>	Natasha MacParland Tel: (416) 863-5567 Fax: (416) 863-0871 Email: <a href="mailto:Nmacparland@dwpv.com">Nmacparland@dwpv.com</a>
<b>Mr. Lewis Lau</b> 721-80 Harrison Garden Blvd. Toronto, ON M2N 7E3  <i>Inspector</i>	Email: <a href="mailto:Lsklau2699@rogers.com">Lsklau2699@rogers.com</a>
<b>Mr. William Jackson</b> Direct Brands, Inc. 501 Franklin Avenue Garden City, New York 11530  <i>Inspector</i>	Email: <a href="mailto:William.jackson@directbrands.com">William.jackson@directbrands.com</a>

# INDEX

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)**

**INDEX**

<b><u>Tab</u></b>		<b><u>Page</u></b>
1.	Notice of Motion	1
2.	Draft Order	5

# 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)**

**SUPPLEMENTAL 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 Supplemental 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;
  - (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;

- (c) approving the Trustee's Final Statement of Receipts and Disbursements set out in Exhibit "H" to the Third Report (the "Final Statement of Receipts and Disbursements") and the Final Cost Allocation (as defined in the Third Report);
  - (d) approving the proof of claims process described in the Third Report and the Dividend Sheet set out in Exhibit "I" to the Third Report;
  - (e) 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);
  - (f) 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;
  - (g) approving the Third Report and the activities of the Trustee described therein; and
  - (h) 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 *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 10<sup>th</sup> 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 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 (the representative of the largest creditor of the estates) 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. On October 17, 2012, the Trustee served its motion record (returnable October 23, 2012) in connection with its motion for approval of the Direct Brands Settlement and the Mutual Release;

7. 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**”);

8. The Trustee is now seeking an order for all of the relief described in its Third Report in accordance with the Superintendent’s Comments;

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

10. The provisions of the General Rules, including without limitation section 60 thereof;

11. 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

12. 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 22, 2012

**OSLER, HOSKIN & HARCOURT LLP**  
 1 First Canadian Place  
 P.O. Box 50  
 Toronto, ON M5X 1B8

**Marc S. Wasserman (LSUC #44066M)**  
 Tel: (416) 862-4908  
 Fax: (416) 862-6666

**Andrea M. Lockhart (LSUC #55444K)**  
 Tel: (416) 862-6829  
 Fax: (416) 862-6666

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 ) TUESDAY, THE 23rd DAY  
 )  
● JUSTICE ● ) 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 16, 2012, the Supplemental Notice of Motion dated October 22, 2012, the Third Report, and on hearing the submissions of counsel for the Trustee, no one else appearing although served as evidenced by the Affidavits of Andrea Lockhart sworn October 17, 2012 and October 22, 2012, filed;

1. **THIS COURT ORDERS** that time for service of the Notice of Motion and Motion Record dated October 16, 2012 and the Supplemental Notice of Motion and Supplemental Motion Record dated October 22, 2012 is hereby abridged so that the motion is properly returnable today and hereby dispenses with further service thereof.

Draft

2. **THIS COURT ORDERS** that the Direct Brands Settlement and the Mutual Release (each as defined and described in the Third Report) be and are hereby approved and that the Trustee is authorized and directed to take such steps and execute such documents as may be necessary or desirable to give effect to the Direct Brands Settlement, including without limitation the Mutual Release.

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

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

5. **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.

6. **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.

7. **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.

8. **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.

9. **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).

---

Draft

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

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)**

Proceeding commenced at TORONTO

**ORDER**

OSLER, HOSKIN & HARCOURT LLP  
P.O. Box 50, First Canadian Place  
Toronto, ON M5X 1B8

Marc S. Wasserman (LSUC # 44066M)  
Tel: (416) 862-4908  
Fax: (416) 862-6666

Andrea M. Lockhart (LSUC #55444K)  
Tel: (416) 862-6829  
Fax: (416) 862-6666

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

Draft

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

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)**

Proceeding commenced at TORONTO

**SUPPLEMENTAL MOTION RECORD  
(Returnable October 23, 2012)**

OSLER, HOSKIN & HARCOURT LLP  
P.O. Box 50, First Canadian Place  
Toronto, ON M5X 1B8

Marc S. Wasserman (LSUC # 44066M)  
Tel: (416) 862-4908  
Fax: (416) 862-6666

Andrea M. Lockhart (LSUC #55444K)  
Tel: (416) 862-6829  
Fax: (416) 862-6666

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