

ESTATE NO. 31-2067684
ESTATE NO. 31-2067706

TRUSTEE'S PRELIMINARY REPORT
IN THE MATTER OF THE BANKRUPTCY OF
CHANNEL 11 LIMITED PARTNERSHIP AND 2208937 ONTARIO INC.

BACKGROUND

On December 11, 2015, Channel 11 Limited Partnership ("**CH11**") and 2208937 Ontario Inc. ("**220 Ont**", and collectively with CH11, the "**Bankrupts**") each filed an assignment in bankruptcy and the undersigned, MNP Ltd., was appointed as Trustee of the estate of the Bankrupts by the official receiver on December 11, 2015, subject to affirmation by the creditors of the Trustee's appointment by the creditors.

CH11 was formed under a partnership agreement dated July 30, 2009. The partnership is structured with 220 Ont as its general partner, and Bruce Houser as its limited partner.

CH11 had entered into a management services agreement with 2190015 Ontario Inc. o/a CHCH ("**CHCH**") dated September 24, 2010 (the "**Management Agreement**") wherein CH11 agreed to provide news programming, studio operations and general management services, at cost, to CHCH. That agreement was terminated prior to the bankruptcy.

220 Ont was incorporated on June 11, 2009 under the *Ontario Business Corporations Act*.

The Trustee has been advised that the bankruptcies are attributable to the following factors:

- decreases in CHCH's advertising revenue arising from the increased competition from online video providers;
- the elimination of certain public funding aimed at assisting local television broadcasters in improving the quality and quantity of their local content; and
- given the foregoing, labour costs, largely tied to creation of news programming, being too high and unsustainable.

On December 11, 2015, the Notice to Creditors advising of the bankruptcy and the First Meeting of Creditors, a list of creditors and a proof of claim form, along with a proxy, were sent to all known creditors of CH11 and 220 Ont. Pursuant to subsection 102(4) of the

Bankruptcy and Insolvency Act (“**BIA**”), the Notice of Bankruptcy was published in the December 14, 2015, edition of the *Hamilton Spectator* newspaper.

The materials related to the bankruptcy proceedings are available on MNP’s website at: <http://mnpdebt.ca/en/corporate-insolvency/corporate-engagements/pages/details.aspx?title=channel-11-limited-partnership-and-2208937-ontario-inc>.

The information contained in this report has been prepared from the available books and records of the Bankrupts. These books and records have not been reviewed or otherwise audited by the Trustee and consequently, the Trustee expresses no opinion whatsoever with respect to the validity, the exactness or the reliability of the information contained herein.

TRUSTEE’S PRELIMINARY EVALUATION OF ASSETS

On the basis of CH11’s statement of affairs, the realizable value of CH11’s assets (the “**Assets**”) are summarized below:

Computer Equipment	\$47,500.00
Accounts Receivable	12,430.00
Intangibles	1.00
Fleet of leased vehicles and ancillary broadcast equipment	5.00
	<u>\$59,936.00</u>

As reported below, Toronto-Dominion Bank (“**TD**”) entered into General Security Agreements, among other forms of security, with each of CH11 and CHCH wherein it has been granted a security interest in the personal property of CH and CHCH.

Since the date of bankruptcy, the accounts receivable have been collected, with the amount listed being forwarded to the Trustee.

The “Intangibles” represent the various licensing agreements entered into by CH11, with the various studios wherein CH11 is granted a license to transmit certain programming on the CHCH television channel. At this time, the Trustee has not assigned, transferred, released, or otherwise addressed its interest in these licensing agreements. The Trustee’s legal counsel has not opined on whether the TD’s security extends to these license agreements.

A recent PPSA search of CH11 and 220 Ont obtained by the Trustee confirms several registrations from vehicle finance companies. CH11 entered into various equipment and/or vehicle leases with PHH Vehicle Management Services Inc. (which has since been acquired by Element Fleet Management) and TD Equipment Finance Canada Inc.

CHCH is named as co-lessee under these leases. The Trustee has not sought an opinion on the validity and enforceability of these leases.

CONSERVATORY AND PROTECTIVE MEASURES

Upon its appointment, the Trustee took possession of certain of CH11's books and records and arranged to freeze CH11's bank account.

LEGAL PROCEEDINGS

The Trustee has not initiated any legal proceedings prior to the First Meeting of Creditors.

The Trustee has retained Gowling Lafleur Henderson LLP ("**Gowlings**") to provide it with legal advice, including but not limited to, providing the Trustee with a legal opinion in respect of the validity and enforceability of TD's security.

PROVABLE CLAIMS

As at 9:00 PM (Toronto time) on December 20, 2015, the following summarizes the proofs of claim that have been filed with the Trustee in respect of CH11 and 220 Ont.:

	<u>Total claims filed to date</u>
Secured	\$ 0
Preferred	0
Unsecured	<u>\$1,292,989</u>
	<u>\$1,292,989</u>

The Trustee has not made a determination whether these claims are admissible for the purposes of any distribution.

SECURITY INTERESTS

On the basis of the results of searches of the *Personal Property Security Act* registry and CH11's and 220 Ont's statement of affairs, the following parties are reflected as having a security interest/property claim against CH11 and/or 220 Ont:

	Approximate Amount Owed
TD Bank (" TD ")	\$1,500,000
TD Equipment Finance Canada Inc.	Unknown
Element Fleet Management	Unknown

Channel Zero Inc.
National Leasing Group Inc.

\$ 11,682
Unknown

Based on information provided by TD, CH11 is named as a co-borrower with CHCH in the loan documentation. Gowlings has advised the Trustee that subject to certain qualifications and assumptions, the TD's security appears to be valid and enforceable as against the Trustee.

ANTICIPATED REALIZATIONS AND PROJECTED DISTRIBUTION

On the basis of information currently available to the Trustee, the Trustee projects that the realizations arising from CH11's property will be insufficient to satisfy the claims of the secured creditors. Accordingly, it is unlikely that there will be any funds available for unsecured creditors.

TRANSFERS AT UNDERVALUE AND PREFERENCE PAYMENTS

The Trustee has carried out a preliminary review of the Bankrupts' books and records for the purpose of identifying any potential transactions at undervalue or preferential payments.

The Trustee's preliminary review consisted of:

1. A review of the Bankrupts' bank accounts for the one year period prior to the date of bankruptcy;
2. an examination of all transactions passing through the Bankrupts' bank accounts greater than \$25,000; and
3. a review of the changes in accounts payable balances over the three month period prior to bankruptcy.

Prior to the bankruptcy, CHCH owed Channel 11 approximately \$621,000 in connection with amounts owing under the Management Agreement. The Trustee is advised by the Bankrupts that this indebtedness was primarily in respect of unpaid vacation pay liability. On December 9, 2015, various related parties, including CHCH, advanced CH11 \$1,230,000. These advances satisfied CHCH's intercompany debt to CH11. With these funds, CH11 discharged its obligations for accrued and unpaid wages, vacation pay and other amounts due to employees. The payment to employees was \$1,142,431, of which \$681,976 was on account of unpaid vacation pay and \$460,455 was on account of wages and salary.

The Trustee has not yet completed its review, but has not, as of the date of this report, identified other reportable transactions.

OTHER MATTERS

Prior to consenting to act as Trustee, the Trustee received a deposit of \$33,900 towards payment of its fees and expenses from CHCH and an indemnity from CHCH and Channel Zero Inc. with respect to payment of its fees and disbursements.

CH11's former employees may be eligible to make claims under the Wage Earner Protection Program ("WEPP"). Subject to the employee filing a valid claim, Service Canada may issue maximum payment of \$3,807 per employee. The Trustee is gathering the information it requires in order to administer the Wage Earner Protection Program.

Dated this 21st day of December, 2015

MNP Ltd.

in its capacity as

Trustee of the Estate of

2208937 Inc. and Channel 11 Limited Partnership,

and not in its personal capacity

Per: 

Sheldon Title

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