

CANADA

Province of Ontario

Court No.: 31-1906471, 31-1906457, 31-1906487, 31-1906494

Estate No.: 31-1906471, 31-1906457, 31-1906487, 31-1906494

(CONSOLIDATED ESTATE)

TRUSTEE'S PRELIMINARY REPORT

IN THE MATTER OF THE BANKRUPTCY OF COUCH COMMERCE INC., DEALFIND.COM INC., MENUPALACE.COM CORPORATION and 8108773 CANADA INC. OF THE CITY OF TORONTO IN THE PROVINCE OF ONTARIO

BACKGROUND

Couch Commerce Inc., Dealfind.Com Inc., Menupalace.com Corporation and 8108773 Canada Inc. and (collectively, the "**Couch Commerce Group**" or the "**Companies**") operated various e-commerce companies for approximately eight (8) years. The primary businesses of the Companies consisted of e-commerce coupon/daily deal websites. For approximately the past four (4) years the Companies operated from leased premises located at 82 Peter Street, Toronto, Ontario (the "**Premises**").

CAUSES OF FINANCIAL DIFFICULTY

The Companies experienced financial difficulties since their inception resulting in total cumulative operating losses of approximately \$48 Million up to the date of the filing of Notices of Intention to Make a Proposal on August 29, 2014 (the "**Filing Date**"). As a result, the Companies' shareholders and Senior Secured Creditors (as defined below), advised the Companies' management that they were no longer prepared to provide financial support to the Companies.

Accordingly, in early 2014 the Companies sought alternate sources of financing and/or the sale of the Companies on an informal basis. This informal process was not successful. Therefore, on the Filing Date each of Companies: Couch Commerce Inc., Dealfind.Com Inc., Menupalace.com Corporation and 8108773 Canada Inc. filed a Notice of Intention to Make a Proposal (the "**NOIs**") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). MNP Ltd. ("**MNP**") consented to acting as proposal trustee in these proceedings (the "**Proposal Trustee**").

As noted in the Proposal Trustee's first report to Court (the "**First Report**"), during the fiscal year ended December 31, 2013, the Companies incurred losses from operations totaling approximately \$4.2M on net revenues (gross revenue less returns and merchant's share) of approximately \$14.4M or average monthly operating losses of approximately \$350K. For the seven (7) months ended July 31, 2014, the Companies had operating losses of approximately \$1.4M on net revenues of approximately \$5.9M or monthly operating losses of approximately \$202K.

The following table is a summary of the NOI proceedings leading up to the bankruptcies effective December 13, 2014.

Date	Description
August 9, 2014	The four (4) Couch Commerce Group Companies each filed a Notice of Intention to Make a Proposal
September 10, 2014	The Proposal Trustee filed its first report with the Court (the " First Report ").
September 11, 2014	Court Order issued approving among other things: (i) an administrative consolidation of the four (4) estates; (ii) extending the time within which the companies must file proposal(s) to October 30, 2014.
September 19, 2014	The Proposal Trustee filed its second report with the Court (the " Second Report ")
September 22, 2014	Court Order and Endorsement issued approving among other things: (i) the sale of substantially all of the property and undertakings of the Couch Commerce Group to nCrowd Commerce INC. with the exception of the Tax Losses (as defined in the Second Report); and, (ii) that the Proposal Trustee maintain a reserve fund in the amount of \$250,000 (the " First Reserve Fund ") pending consensual arrangements between the Proposal Trustee, NDX Merchant Services Inc. (a payment processor for the companies) and the Senior Secured Creditor (as defined in the Second Report).
September 24, 2014	Closing date of the agreement of purchase and sale contemplated by the September 24th Order (the " APA ").
	Following the closure of the APA, the Proposal Trustee assisted the Companies with the potential sale of the Tax Losses from which process one interested party was identified (the " First Tax Loss Purchaser ")
October 29, 2014	The Proposal Trustee filed its third report with the Court (the " Third Report ")
October 29, 2014	Court Order approving among other things: (i) an extension of the time within which the companies must file proposal(s) to November 28, 2014; and, (ii) that the Proposal Trustee maintain a reserve fund in the amount of \$160,000 (the " Second Reserve Fund ") pending consensual arrangements between the Proposal Trustee, PayPal (another payment processor for the companies) and the Senior Secured Creditor.
November 6, 2014	The First Tax Loss Purchaser submitted a term sheet in respect of its proposed offer to acquire the Tax Losses.
November 20, 2014	The First Tax Loss Purchaser advised it would not be proceeding with the transaction contemplated by the Initial Term Sheet.
November 21, 2014	The Proposal Trustee filed its fourth report with the Court (the " Fourth Report ") to advise the Court that discussions with the Initial Tax Loss Purchaser had ended.
November 26, 2014	A new party, 2192273 Ontario Inc. (the " Second Tax Loss Purchaser "), delivered a term sheet/letter of intent to the Proposal Trustee contemplating acquisition of the Tax Losses.
November 27, 2014	At the request of the Proposal Trustee, the Second Tax Loss Purchaser paid a non-refundable deposit of \$10,000 in relation to its letter of intent concern the Tax Losses.
November 27, 2014	The Proposal Trustee filed its fifth report with the Court (the " Fifth Report ") to advise the Court of the Second Tax Loss Purchaser and to request an extension of the time within which the Companies are required to file a proposal to December 12, 2014 for review of the proposal from the Second Tax Loss Purchaser.
December 8, 2014	Upon review of the Second Tax Loss Purchaser's proposal it was determined the transaction contemplated therein could not be completed.
December 12, 2014	The Proposal Trustee filed its Sixth report with the Court (the " Sixth Report ") to advise the Court of that the Second Tax Loss Purchaser's proposal could not be completed and that the Companies would not be filing proposals as required by December 12, 2014.
December 13, 2014	The Companies were deemed bankrupt effective December 13, 2014 for failing to file proposals as required by December 12, 2014.

The above noted six (6) reports of the Proposal Trustee are available from the Trustee's website at: www.mnpdebt.ca/couchcommerce.

BANKRUPTCY PROCEEDINGS

As noted in the chart above, the Companies did not file proposals as required by December 12, 2014 since they could not confirm a sale of the Tax Losses to fund a proposal. As such, the Companies were deemed bankrupt effective December 13, 2014 and MNP Ltd. was appointed Trustee subject to confirmation at the First Meeting of Creditors to be held on January 6, 2014.

On December 22, 2014, a Court approved Abbreviated Notice to Creditors advising of the bankruptcy and the First Meeting of Creditors was sent to creditors by regular mail. A copy of this notice is attached hereto as **Appendix "A"**. Pursuant to subsection 102(4) of the BIA, the Notice of Bankruptcy was published in The National Post newspaper on December 24, 2014 and in The Toronto Sun newspaper on December 26, 2014.

On December 23, 2014, the Couch Commerce Group Statement of Affairs (the “SOA”) was reviewed and sworn by the Companies’ sole remaining director and former CFO, John Sharpe. The SOA was filed with the Office of the Superintendent of Bankruptcy on the same date.

The information contained in this Preliminary Report has been prepared from the available books and records of the Companies. 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 taken from those records contained herein.

ASSETS

As noted above, substantially all of the Companies’ assets other than cash, accounts receivable and available tax losses and related attributes were sold to nCrowd Commerce Inc. (“nCrowd” or the “Purchaser”) during the NOI period pursuant to the Court Approved APA.

The Companies’ remaining assets in the bankruptcy (the “Assets”) and their estimated realizable value as set out in the Company’s SOA are described in further detail below:

Cash on Hand

As of the date of writing this report, the Trustee is holding approximately \$530,000 including the two reserve funds established by the Proposal Trustee totalling \$410,000 which are described below. A further amount of approximately \$63,000 is held with the Toronto Dominion Bank subject to their security agreements with the Companies. It is expected that approximately \$43,000 to \$63,000 of these funds will be released to the Trustee upon confirmation by TD Bank that there are no claims against these funds subject to the security in favour of TD Bank.

Reserve Funds

Substantially all the Companies sales to consumers were made by credit card through two payment processors NBX Merchant Services Inc. o/a Optimal Payments (“NBX”) and PayPal. In early September 2014, NBX continued to process payments by the Companies customers but would not release these funds to the Companies. NBX held these funds in a reserve. In mid-September 2014, the Companies and NBX began negotiating an arrangement whereby all post-filing customers who paid through NBX would be repaid and any merchant that provided corresponding post-filing supplies or services to the Companies would be paid for those supplies or services.

Although, the Companies, the Proposal Trustee, NBX, PayPal and Senior Secured Creditors have not been able to finalise the terms of an agreement with respect the funds held in reserve, the parties consented to Court Orders and/or Endorsements issued on September 22, 2014 and October 29, 2014 requiring the Proposal Trustee to set up two reserve funds totalling \$410,000 (\$260,000 and \$150,000 in respect of NBX and PayPal, respectively) pending consensual arrangements between the Proposal Trustee, NBX, PayPal and the Senior Secured Creditors (as defined below) or further order of the court.

The Proposal Trustee has engaged in discussions with the above noted parties in order to reach settlements with respect to disposition the reserve funds. The Trustee will seek directions from creditors/Inspectors and/or the

Court on a highly advanced agreement to distribute the reserve funds to post filing customers and/or merchants as applicable.

Accounts Receivable

As noted on the Statement of Affairs, the Trustee anticipates collection of approximately \$25,000 in respect of the outstanding accounts receivable due to the Companies as at the date of bankruptcy. In addition, the Companies initiated a claim against Wingbuddy Inc. in the amount of approximately \$30,000 in respect of outstanding accounts receivable. The Trustee will seek instructions from creditors/inspectors on the continuation of this action.

Shares in Subsidiary Company

The Companies own 164 shares of Tasteaway Inc. However, the Trustee understands from the Companies' management, that the Tasteaway Inc. shares have little or no value. The Trustee has not conducted an investigation into the affairs of Tasteaway Inc. and/or any potential recoveries from this asset.

STATUTORY DUTIES

The Companies approximately 70 staff were terminated just prior to or during the NOI period and/or prior to the date of Bankruptcy. All of the outstanding wages, salary and vacation pay owed to these employees was paid. Termination pay with respect to certain of these employees who were not hired by the Purchaser remains unpaid. The Trustee has received the necessary payroll records to evaluate the employee claims and to send corresponding notices to employees pursuant to the *Wage Earner Protection Program Act (Canada)*.

The Trustee has made arrangements for trust account examinations to be conducted by Canada Revenue Agency ("**CRA**") for Source Deductions and HST. The Trustee understands from the Principals that there are no amounts owing by the Companies in respect of Source Deductions or HST.

BOOKS AND RECORDS

The Trustee has taken possession of the Companies' available books and records that it considers necessary for the administration of the Estate (the "**Records**"). The Trustee also arranged for the completion of electronic copies of the available key post NOI filing transactional information. The Companies' electronic books and records including the physical servers were acquired by the Purchaser pursuant to APA. In addition, the Trustee has retained the services of the Companies' former controller who is assisting the Trustee in the administration of the Estate and completing such other duties as considered necessary.

The Trustee has access to the Company's bank statements for the 12 months preceding the date of bankruptcy and will seek the guidance of the Company's creditors and/or inspectors on the required level of review of the Records and bank statements.

CONSERVATORY AND PROTECTIVE MEASURES

As noted above, the majority of the Companies' assets were sold pursuant to the Court-approved APA. The Trustee did not take possession of the Premises. Prior to the Companies' bankruptcies, as required by the Court the Trustee took control of the Companies' bank accounts by placing them on deposit only and has received the balances held in these accounts as at the date of the bankruptcies. As noted above, the Trustee also obtained copies of the electronic records of the Companies.

LEGAL PROCEEDINGS

The Trustee has not commenced any formal legal proceedings. As noted above, the Trustee retained Dickinson Wright LLP as its independent counsel after its appointment as Proposal Trustee upon the Company's filing of the NOI on August 29, 2014. If its appointment as Trustee is affirmed by the Company's creditors, the Trustee will seek approval from the Company's creditors/inspectors to retain Dickinson Wright LLP to act as estate solicitor during the bankruptcy proceedings, as necessary.

PROVABLE CLAIMS

The claims of creditors as per the Company's Statement of Affairs as at December 13, 2014 and claims filed with the Trustee as at January 5, 2015 are summarized in the following table:

Creditor Type	No. S of A	(\$) Amount	No. Filed	(\$) Amount	Proxies
Secured/Deemed Trust Preferred	5	3,500,000	6	2,120,001	
Unsecured Contingent	2034	8,553,163	11	368,478	3

SECURED CREDITORS

A search of the *Personal Property Security Act* (Ontario) registry reveals the following parties with registered security interests against the Company's Assets (equipment leasing companies excepted):

SECURED CREDITOR	Amount Owed
Best Funds	\$ 3,500,000
TD Bank	-
Bank of Montreal	-

The Proposal Trustee's independent legal counsel, Dickinson Wright LLP, has reviewed the security granted to The Business, Engineering, Science & Technology Discoveries Fund Inc., B.E.S.T. Total Return Fund Inc., B.E.S.T. Active Fund 16 LP, B.E.S.T. Active Fund 17 LP, B.E.S.T. Active Fund 19 LP and/or B.E.S.T. Active 365 Fund LP (collectively, "BEST Funds" or the "Senior Secured Creditors"). Subject to the usual assumptions and qualifications, Dickinson Wright LLP has opined that the security granted by the Companies in favour of Best Funds creates a valid and enforceable security interest in all of the personal property of the Companies.

ANTICIPATED REALIZATIONS AND PROJECTED DISTRIBUTION

As noted above, the realization on certain accounts receivable is incomplete. In addition, there are two reserve funds subject to specific creditor claims and employee claims remain outstanding and/or are under review by the Trustee. However, given the secured claim of Best Funds and the likely realizations from the Assets, there will not likely be any distribution to the ordinary unsecured creditors.

FEES AND DISBURSEMENTS

Up to December 12, 2014, the Proposal Trustee's accrued fees are in the amount of \$156,404.50 and its accrued disbursements are in the amount of \$22,684.40 (both exclusive of HST). Up to December 23, 2014, the accrued fees of the Proposal Trustee's Counsel are in the amount of \$96,263.00 and its accrued disbursements are in the amount of \$672.94 (both exclusive of HST).

RELATED PARTY TRANSACTIONS

The Trustee is not aware of any related party transactions.

PREFERENCES AND TRANSFERS AT UNDERVALUE

The Trustee is in the process of reviewing the Records and is completing a disbursements review for the 12 months preceding the date of bankruptcy. Once this review is completed, the Trustee will report its findings, if any, to the inspectors.

OTHER

Prior to the date of Bankruptcy, the Proposal Trustee received deposits from the Companies in respect of the fees and disbursements of the Proposal Trustee its counsel totaling \$160,000.

The Trustee and its counsel have received an indemnity in respect of their fees and disbursements from Best Funds.

Dated at Toronto, this 6th day of January, 2015.

MNP LTD.,

in its capacity as the trustee in bankruptcy of the consolidated estates of the Couch Commerce Group and not in its personal or corporate capacity

Per: 

Jerry Henechowicz, CPA, CA•CIRP, Senior Vice President

APPENDIX "A"

CANADA
District of ONTARIO
Division of 09 - Toronto
Court No.: 31-1906471, 31-1906457, 31-1906487, 31-1906494
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Abbreviated Notice of Bankruptcy and First Meeting of Creditors (Subsection 102(1) of the Act)

**8108773 Canada Inc., Couch Commerce Inc., Dealfind.Com Inc., MenuPalace.Com Corporation
of The City Of Toronto,
in The Province Of Ontario**

1. The above noted bankruptcies are being administered on a consolidated basis (the "Couch Commerce Group" or the "Bankrupts").
2. The Couch Commerce Group was deemed to have filed an assignment on the 13th day of December 2014, and the undersigned, MNP LTD., was appointed as trustee of the estate of the Bankrupts by the Official Receiver (or the Court), subject to affirmation by the Bankrupts' creditors of the trustee's appointment or substitution of another trustee by the creditors.
3. The first meeting of creditors of the Bankrupts will be held on the 6th day of January 2015 at 10:00 AM, at The Sheraton Centre, Birchwood Room, located at 123 Queen St. W., Toronto, Ontario.
4. To be entitled to vote at the meeting, a creditor must lodge with the trustee, before the meeting, a proof of claim and, where necessary, a proxy. Creditors must prove their claim against the estate of the bankrupt in order to share in any distribution of the proceeds realized from the estate
5. For a full copy of Form 67, Notice of Bankruptcy and First Meeting of Creditors, including: a proof of claim form; proxy form; and, list of creditors with claims amounting to \$25 or more and showing the amounts of their claims, please visit our website at www.mnpdebt.ca/couch-commerce.

Should you have any questions regarding this Notice please email the trustee at couchcommerce@mnp.ca.

Dated at the City of Toronto, in the Province of Ontario, this 19th day of December, 2014.

MNP LTD.
Trustee of the Estate of Couch Commerce Group
and not in its personal or corporate capacity

Per:



Mark Thomson, CPA, CMA, CIRP
300-111 Richmond Street West
Toronto, ON M5H 2G4

