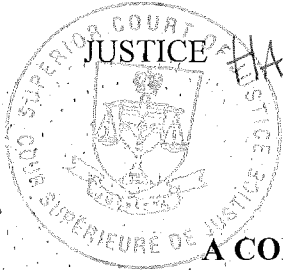


District of Ontario  
Division No. 09 -Toronto  
Court File No. 31-2295766  
Estate No. 31-2295766

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) MONDAY, THE 25<sup>TH</sup> DAY  
)  
)  
) OF SEPTEMBER, 2017



HAINES

**IN THE MATTER OF THE PROPOSAL OF  
DIGITAL UNDERGROUND MEDIA INC.,  
A COMPANY INCORPORATED PURSUANT TO THE LAWS OF THE  
PROVINCE OF ONTARIO, WITH A HEAD OFFICE IN THE CITY OF VANCOUVER,  
IN THE PROVINCE OF BRITISH COLUMBIA**

**ORDER  
(re Administration and DIP Charges)**

**THIS MOTION**, made by Digital Underground Media Inc. (“**DUM**”) for an order, *inter alia*: (i) approving the First Report of MNP LTD (“**MNP**”), in its capacity as the proposal trustee of DUM (in such capacity, the “**Proposal Trustee**”), dated September 22, 2017 (the “**First Report**”), and the actions of the Proposal Trustee described therein; (ii) approving a debtor-in-possession financing facility (the “**DIP Facility**”) with J.D. Craig Holdings Inc. (the “**DIP Lender**”) in the principal amount of \$750,000 and granting a priority charge over all of the assets, properties and undertakings of DUM (collectively, the “**Property**”) to secure repayment of the amounts borrowed by DUM under the DIP Facility; and (iv) granting a priority charge over the Property in the principal amount of \$115,000 to secure the fees and disbursements of counsel to DUM, the Proposal Trustee and counsel to the Proposal Trustee (the “**Administration Charge**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the First Report, and on hearing the submissions of counsel for DUM, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Diana McMillen sworn September 22, 2017, filed,

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**APPROVAL OF THE FIRST REPORT**

2. **THIS COURT ORDERS** that the First Report be and is hereby approved and the actions of the Proposal Trustee described therein be and are hereby approved.

**ADMINISTRATION CHARGE**

3. **THIS COURT ORDERS** that counsel to DUM, the Proposal Trustee and counsel to the Proposal Trustee shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$115,000 as security for their fees and disbursements incurred at the standard rates and charges of the Proposal Trustee and such counsel, both before and after the making of this Order, in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 11 and 12 of this Order.

4. **THIS COURT ORDERS** that counsel to DUM, the Proposal Trustee and counsel to the Proposal Trustee shall pass their accounts from time to time, and for this purpose the accounts of

DUM's legal counsel, the Proposal Trustee and the Proposal Trustee's legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

## **DIP FACILITY**

5. **THIS COURT ORDERS** that DUM is hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance DUM's working capital requirements and other general corporate purposes and capital expenditures during the period of its restructuring, provided that borrowings under such credit facility shall not exceed \$750,000 unless permitted by further Order of this Court.

6. **THIS COURT ORDERS THAT** the credit facility referenced in paragraph 5 of this Order shall be on the terms and subject to the conditions set forth in the DIP Loan Agreement between DUM and the DIP Lender dated September 22, 2017 (the "**DIP Loan Agreement**"), a copy of which is appended to the First Report.

7. **THIS COURT ORDERS** that DUM is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and DUM is hereby authorized and directed to pay and perform all of the indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Loan Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

8. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which shall not secure an obligation that exists before this Order is made, and shall not exceed the amount owed to the DIP Lender under the DIP Loan Agreement and the Definitive Documents. The DIP Charge shall have the priority set out in paragraphs 11 and 12 of this Order.

9. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Loan Agreement or the Definitive Documents, the DIP Lender, upon three (3) days’ notice to DUM and the Proposal Trustee, may exercise any and all of its rights and remedies against DUM or the Property under or pursuant to the DIP Loan Agreement, the Definitive Documents and the DIP Charge, including, without limitation, to cease making advances to DUM and set off or consolidate any amounts owing by the DIP Lender to DUM against the obligations of DUM to the DIP Lender under the DIP Loan Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against DUM and for the appointment of a trustee in bankruptcy of DUM; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of DUM or the Property.

10. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by DUM under the BIA with respect to any advances made under the DIP Loan Agreement or the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

11. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Charge (collectively, the “**Charges**”) shall be as follows: (a) first, the Administration Charge to a maximum amount of \$115,000; and (b) second, the DIP Lender’s Charge.

12. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, mortgages, claims and encumbrances, secured, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any other person.

13. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges are and shall be valid and enforceable against the Property for all purposes, including, without limitation, as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

14. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, DUM shall not grant any Encumbrances over any Property that

rank in priority to, or *pari passu* with, any of the Charges, unless DUM also obtains the prior written consent of the Proposal Trustee, the DIP Lender, and the beneficiaries of the Administration Charge, or further Order of this Court.

15. **THIS COURT ORDERS** that the Charges, the DIP Loan Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made in these proceedings; (b) any application for a bankruptcy order issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds DUM, and notwithstanding any provision to the contrary in any such Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by DUM of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from DUM entering into

the DIP Loan Agreement, the Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by DUM pursuant to this Order, the DIP Loan Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

16. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property shall only be a Charge in DUM's interest in such real property leases.

#### **E-SERVICE PROTOCOL**

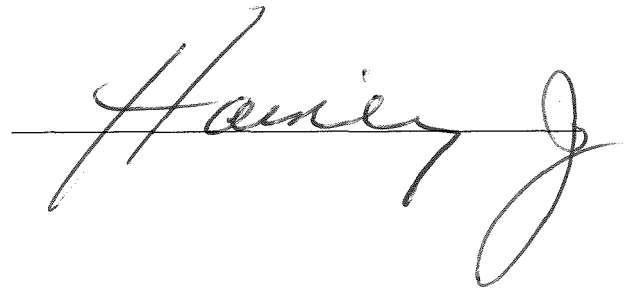
17. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") be and is hereby approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which appears on the Commercial List website at the following link: <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://mnpdebt.ca/en/corporate/engagements/digital-underground-media-inc>

18. **THIS COURT ORDERS** that the E-Service List Keeper (as defined in the Protocol) for the purpose of this proceeding shall be the Proposal Trustee.

**GENERAL**

19. **THIS COURT ORDERS** that the Proposal Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hamey J.", is written over a horizontal line. The signature is fluid and extends to the right of the line.



IN THE MATTER OF THE PROPOSAL OF DIGITAL UNDERGROUND MEDIA INC., A COMPANY INCORPORATED PURSUANT TO THE LAWS OF THE PROVINCE OF ONTARIO, WITH A HEAD OFFICE IN THE CITY OF VANCOUVER, IN THE PROVINCE OF BRITISH COLUMBIA

Court File No. 31-2295766

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceedings commenced at Toronto

**ORDER**

(re Administration and DIP Charges)

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Steven L. Graff (LSUC # 31871V)**  
Tel: (416) 865-7726  
Fax: (416) 863-1515  
Email: [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Miranda Spence (LSUC # 60621M)**  
Tel: (416) 865-3414  
Fax: (416) 863-1515  
Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

*Lawyers for Digital Underground Media Inc.*