

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE PROPOSAL OF
MASTERFILE CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO

SUPPLEMENTAL REPORT TO THE SECOND REPORT TO THE COURT SUBMITTED BY MNP LTD.,
IN ITS CAPACITY AS TRUSTEE ACTING IN RE THE PROPOSAL OF
MASTERFILE CORPORATION

JANUARY 18, 2019

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January 18, 2019

I INTRODUCTION

1. This supplemental report (the “**Supplemental Report**”) is to be read in conjunction with the Second Report of Trustee dated December 17, 2018 (the “**Second Report**”). All defined terms are as defined in the Second Report.
2. On December 17, 2018, the Trustee made a motion, originally returnable on December 21, 2018 and adjourned to January 22, 2019 (the “**Motion**”), to the Court seeking the Court’s advice and direction for an order:
 - (a) Permitting the Trustee to pay dividends via electronic means as opposed to cheque and directing the Debtor to provide the Trustee with any electronic payment information for creditors that is in its possession or under its control;
 - (b) An order approving the delivery by the Trustee to the Inspectors of the email addresses as directed at a meeting of creditors; and
 - (c) Such further and other relief as this Honourable Court may deem just.

II PURPOSE OF THIS REPORT

3. The purpose of this Supplemental Report is to update the Court with respect to: (i) the Office of the Superintendent of Bankruptcy's position with respect to the Motion, particularly relating to the manner in which the Trustee sought the creditors consent for receiving payments to creditors by electronic transfers; and, (ii) the revisions to the proposed manner in which the Trustee seeks the consent from creditors, after its discussion with the OSB (defined later) and consulting with the Inspectors.

III OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY'S POSITION

4. As noted in the Second Report, the Directive provides that "the trustee shall obtain the consent of a creditor/recipient to receive payment electronically: (a) such consent shall be provided to the trustee in the form set out in Schedule 3; ... (d) a creditor may revoke consent to receive electronic payments by sending written notification to the trustee."
5. At the Second Meeting, the creditors resolved that the Trustee seek the advice and direction of the Court with regards to making a distribution to creditors by electronic means on information provided by the Company.
6. In order to make distributions more efficient and cost-effective, the Motion materials previously sought to provide creditors with an ongoing ability to opt out of receiving electronic payments, as opposed to seeking the consent of the creditors as contemplated by the Directive.
7. Subsequent to receiving the Motion, the Office of the Superintendent of Bankruptcy (the "OSB") advised the Trustee that it wished for it to comply with the Directive for obtaining consent from each of Masterfile's creditors.
8. In addition to this, the Trustee asked the OSB whether it would permit the Trustee, when making interim distributions, to hold the funds of those creditors that had not returned its consent to the Trustee. The OSB responded by advising that "The idea of holding back the dividend for those who don't provide a consent to electronic payment is not acceptable. If an interim dividend is

going to be paid, it needs to be paid to all creditors in the class. Introducing a payment method requirement is not appropriate.”

IV THE TRUSTEE’S RESPONSE

9. On January 14, 2019, the Trustee called a meeting of inspectors (the “**Inspectors Meeting**”) to discuss the results of the Trustee’s discussion with the OSB and provide the Trustee with direction regarding this. A copy of the minutes of the Inspector’s Meeting are attached as **Appendix “A”**.
10. At the Inspectors Meeting, the Inspectors resolved that the Motion proceed on the basis that the Trustee seek the consent of each creditor to receiving payments electronically.
11. The Directive provides a form of consent that requests the creditor/recipient to provide account information for the purposes of receiving payments by electronic transfer. The Trustee proposes to modify the consent form to allow the creditor to provide the Trustee with its PayPal information.
12. The Trustee has advised the OSB of the results of the Inspectors Meeting and understands from the OSB that it will not oppose the Motion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18^h day of January, 2019.

MNP LTD.,
in its capacity as Trustee acting in re the Proposal
of Masterfile Corporation,
and not in its personal or corporate capacities
Per:



Sheldon Title
Licensed Insolvency Trustee

Appendix "A"

**IN THE MATTER OF THE PROPOSAL
MASTERFILE CORPORATION**

MINUTES OF THE INSPECTORS MEETING

These are the Minutes of the Inspectors Meeting (the “**Meeting**”) in the matter of the proposal of Masterfile Corporation (“**MFC**”) held at the Trustee’s office on the 15th day of January, 2019 at the hour of 11:00 o’clock in the forenoon.

Present:

Sheldon Title
Michael Mahovlich
Susan Morissette
John McDonald

Representing

Trustee
Inspector
Inspector
Inspector

Meeting Called to Order

The Trustee advised that there was a quorum, and the Meeting was called to order.

Agenda

- Trustee’s motion returnable on January 22, 2019 re: Electronic transfer payments
- Other

Trustee’s Motion

The Trustee advised that it served the motion record in support of its seeking advice and direction from the Court with regards to its authority to make electronic transfers to creditors, including the use of PayPal. The Trustee’s motion is related to the resolution given at the Second Meeting of Creditors, particularly that “The Trustee is to bring a motion (the “**Motion**”) to Bankruptcy Court seeking authority to make a distribution to creditors by electronic means on information provided by the Company, and if there is opposition to the motion, the Trustee is to communicate the opposition to the creditors.” The Motion was originally returnable on December 21, 2018 and was adjourned until January 22, 2019 to provide the Office of the Superintendent of Bankruptcy (“**OSB**”) an opportunity to consider its position vis-à-vis the Motion.

The OSB contacted the Trustee to advise that it objects to the Trustee’s proposed “opt out” mechanism. Directive 5R5, the Banking Directive, states as follows:

17. The trustee shall obtain the consent of a creditor/recipient to receive payments electronically;
 - (a) such consent shall be provided to the trustee in the form set out in Schedule 3 of this Directive;

(b) the trustee shall keep all consent documents in a separate file designated for this purpose for the period of time prescribed by the Rules for retention of estate documents or for the duration of the consent period, whichever is longer;

(c) the trustee shall take steps to ensure that consent documents are kept in a safe and secure manner; and

(d) a creditor may revoke consent to receive electronic payments by sending written notification to the trustee.

The Trustee asked the OSB whether it would permit the Trustee, when making interim distributions, to hold the funds of those creditors that had not returned consents to the Trustee. The OSB responded by advising that "The idea of holding back the dividend for those who don't provide a consent to electronic payment is not acceptable. If an interim dividend is going to be paid, it needs to be paid to all creditors in the class. Introducing a payment method requirement is not appropriate."

The Trustee advised that in order for the Motion to proceed on an unopposed basis requires that the Trustee comply with requirement to obtain consent from each individual creditor to its receiving payments electronically. The Trustee advised the Inspectors that the OSB contemplated that the form of consent would be modified by the Trustee to include PayPal information.

After discussion, the Inspectors resolved that the Motion proceed on the basis that the Trustee seek the consent of each creditor to receiving payments electronically.

FREQUENCY OF PAYMENTS

The Inspectors asked whether an interim distribution would be paid within one or two weeks after the date of the Motion. The Trustee advised that it considers it unreasonable to expect creditors to turn around the consent within one to weeks of the Motion. The Trustee suggested it was reasonable to provide the creditors with a minimum period of one month before considering the first interim dividend.

In the circumstances, the Inspectors requested that the Trustee draft the notice to creditors prior to the Motion and provide the Inspectors with a draft of the notice. The Inspectors encouraged the Trustee to be concise and succinct in drafting the notice. The Trustee also indicated that it anticipated being in a position to circulate the notice to creditors with proven claims soon after the Motion is heard, provided the Court authorizes the use of electronic transfer. The Trustee was asked to also send weekly reminder notices to creditors in an effort to expedite the return of the signed consents.

Termination

There being no further business, the Meeting was terminated.

Dated at Toronto, Ontario this 15th day of January 2019.

MNP Ltd.

*Trustee acting in re: the Proposal of
Masterfile Corporation*

Per: 

Sheldon Title

Approved by:

Michael Mahovlich

Susan Morissette

John McDonald