

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL)
)
SENIOR JUSTICE MORAWETZ)

MONDAY, THE 19th DAY
OF JUNE, 2017

HUK 10 LIMITED

Applicant

- and -

HMV CANADA INC.

Respondent



DISTRIBUTION ORDER


THIS MOTION made by Richter Advisory Group Inc. ("**Richter**") in its capacity as receiver (the "**Receiver**") without security, of the undertaking, property, and assets (collectively, the "**Property**") of HMV Canada Inc. ("**HMV**") for an Order:

- (a) that the time for service of the Notice of Motion and the Motion Record of the Receiver is abridged and validated so that this Motion is properly returnable today and dispensing with further service thereof;
- (b) approving the Receiver's actions and activities as set out in the pre-filing report of the Receiver dated January 26, 2017 (the "**Pre-Filing Report**") and the First Report of the Receiver dated June 9, 2017 (the "**First Report**");
- (c) approving the interim statement of receipts and disbursements of the Receiver for the period from January 27, 2017 to June 5, 2017 (the "**Receiver's Interim R&D Statement**");
- (d) approving the fees and expenses of the Receiver for the period from January 16, 2017 to May 12, 2017 and the fees and expenses of its counsel Gowling WLG (Canada) LLP ("**Gowling WLG**") for the period from January 4, 2017 to May 12, 2017;


- (e) discharging the charge (the “**Agent’s Charge**”) granted against the Property in favour of a contractual joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC, pursuant to the approval order issued by this Court on January 27, 2017;
- (f) discharging the charge (the “**Directors’ Charge**”) granted against the Property in favour of the directors and officers of HMV, pursuant to the order appointing the Receiver issued by this Court on January 27, 2017;
- (g) authorizing and directing the Receiver to make an interim distribution in the amount of \$31,975,000 to HUK 10 Limited (“**HUK10**”), or to such person as HUK10 may direct, in respect of its secured claim against HMV (the “**HUK10 Distribution**”); and
- (h) authorizing the Receiver, to transfer to Richter in its capacity as trustee in bankruptcy of HMV (in such capacity, the “**Trustee**”), the amount of \$50,000 (the “**Bankruptcy Administration Deposit**”), to provide the necessary funding for the respective administrative, professional, and other costs anticipated to be incurred by the Trustee in its administration of HMV’s bankruptcy proceedings;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Pre-Filing Report, the First Report, the fee affidavits of the Receiver and its counsel Gowling WLG as to their respective fees and disbursements (together, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, counsel to HUK10, and those other parties listed on the Counsel Slip, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Service of [NAME] sworn June 9, 2017, filed:

Thomas Gertner 

SERVICE 

1. ~~**THIS COURT ORDERS** that the time for service 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 ACTIVITIES, R&D AND FEES

- 2. **THIS COURT ORDERS** that the Pre-Filing Report and First Report, and the conduct, actions, and activities of the Receiver as set out therein, are hereby approved.
- 3. **THIS COURT ORDERS** that the Receiver’s Interim R&D Statement is hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period from January 16, 2017 to May 12, 2017, and the fees and expenses of Gowling WLG for the period from January 4, 2017 to May 12, 2017, as set out in the First Report and the Fee Affidavits are hereby approved.

AGENT'S AND DIRECTORS' CHARGES

5. **THIS COURT ORDERS** that the Agent's Charge and the Directors' Charge are hereby discharged, extinguished, and released and shall be of no further force or effect.

DISTRIBUTION

6. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to make the HUK10 Distribution.

BANKRUPTCY APPLICATION

7. **THIS COURT ORDERS** that the Receiver is hereby authorized to transfer to the Trustee the Bankruptcy Administration Deposit.

GENERAL

8. **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 Receiver 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUN 19 2017

PER / PAR: 

HUK 10 LIMITED
Applicant

v.

HMV CANADA LIMITED
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

DISTRIBUTION ORDER
(June 19, 2017)

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Lawyers for Richter Advisory Group Inc. in its capacity as the
Court-appointed receiver of HMV Canada Limited

June 19, 2017

Court File No. CV-17-11674-00CL

HUK 10 LIMITED
Applicant

HMV CANADA LIMITED
Respondents

v.

*F. Lamie for Richter Advisory Group Inc.
E. Lamie for HUK 10 limited*

June 19, 2017

*The motion proceeded unopposed.
The Receiver, through its counsel, has opined
that the security agreements in favour of HUK 10
are valid and enforceable and that HUK 10
is the highest ranking secured creditor.
The Receiver also opined that the
Direct Indebtedness, Guaranteed Indebtedness,
and Affiliated Indebtedness owed to HUK 10
is greater than the amount available
for distribution. Thus, it is not
necessary to address the issue
or to address the Toronto Fee
is appropriate to include in
the distribution owing to HUK 10.
Further, the counsel to the Receiver*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

MOTION RECORD

(Returnable June 19, 2017)

GOWLING WLG (CANADA) LLP

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Lawyers for Richter Advisory Group Inc. in its capacity
as the Court-appointed receiver of HMV Canada Limited



has advised that there has been no objection expressed to the proposed distribution. Distribution to HUK 10 is approved. There are no significant subsidiary secured parties and counsel to the Receiver notes that the issues of major key suppliers ~~has~~ has been addressed through the resolution of SSI.1 BIA claims. The issues relating to landlords have been addressed by the Receiver in a proactive manner.

The Receiver request approval of its ^{Filing} ~~Pro~~ Report and its First Report. No adverse comment has been received ~~the~~ and these reports are approved, together with the activities described.

The Interim § R+D Statute is approved.

The fees and disbursements of the Receiver and its counsel have been described as ^{being} fair and reasonable in the circumstances and the fee request is not opposed. The fee requests are approved.

The Agent's Charge and the Director's Charge
are discharged and released for the
The records set forth in the Report.
With respect to the proposed bankruptcy
of HMC, the Review ~~also~~ recommends
that the Bankruptcy proceed as it
will codify the process and will
eliminate guesswork. Counsel to
HMC is acknowledged that the
bankruptcy could result in a
reversal of HSI priority. However,
counsel to HMC is enjoined that the
taxing authorities, both federal and
provincial, have been served
with the materials and have
not indicated any opposition.
~~The~~ In these circumstances, I
am prepared to authorize the Review
to transfer to the Trustee the
Bankruptcy Administration Deposit.

No
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HUK 10 LIMITED
- Applicant -

- and -

HMV CANADA LIMITED
- Respondents -

Court File No. CV-17-11674-00CL

signed
MTR granted and order ~~stayed~~
in the form presented, save
an except for the paragraph
relating to service. The note
was served on June 9, 2017 and thus
the ~~pro~~ notice provision is not
required.

[Signature] 12.15.17

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)
(PROCEEDING COMMENCED AT TORONTO)

AFFIDAVIT OF EVAN STITT
(Sworn June 8, 2017)

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