



Estate File No.: 31-2524349

**IN THE MATTER OF THE BANKRUPTCY OF
WILLS & CO. MEDIA STRATEGIES INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**TRUSTEE'S REPORT TO CREDITORS ON
PRELIMINARY ADMINISTRATION**

1. Introduction

1. On June 18, 2019, Wills & Co. Media Strategies Inc. (the "Company") filed an assignment in bankruptcy and KSV Kofman Inc. was appointed by the Office of the Superintendent of Bankruptcy (Canada) as trustee of the Company's estate (in such capacity, the "Trustee"), subject to affirmation of the Trustee's appointment at the First Meeting of Creditors, to be held on July 9, 2019 ("First Meeting").

1.2 Currency

1. All currency references in this report ("Report") are to Canadian dollars unless otherwise noted.

1.3 Restrictions

1. In conducting its review and preparing this Report, the Trustee has relied upon financial and other information supplied by the Company and discussions with Ron Burrows, the Company's bookkeeper, and Gallagher & Mannisto ("Gallagher"), the Company's accountant.
2. The Trustee has not performed an audit or other verification of the Company's financial information and, accordingly, it expresses no opinion thereon. The Trustee shall have no responsibility for any reliance placed by any individual or entity on any financial information in this Report.

2. Background

1. The Company was incorporated in 2001 pursuant to the *Business Corporations Act* (Ontario). It planned media strategies and purchased television, radio and print media on behalf of its clients.
2. The Company operated from a small leased office located at 56 The Esplanade, Toronto ("Premises"). As referenced in Section 5, the Trustee has arranged to store the Company's books and records that had been located at the Premises and intends to disclaim the lease.

3. The Company employed four individuals including its sole shareholder and Chief Executive Officer, Jeff Wills. The Company terminated all of its employees in May 2019, other than Mr. Wills. Mr. Wills' employment was terminated by operation of law on the date of bankruptcy.
4. The Trustee understands that the causes of the Company's financial difficulties include, among other things, the loss of a significant customer and increased competition from larger media placement agencies, which is generally affecting smaller advertising companies in the industry.

3. The Bankrupt Estate

1. The following sections provide an overview of the Company's assets as of the date of the bankruptcy.

3.1 Cash

1. As at the date of bankruptcy, the Company's Canadian dollar bank account had a balance of \$354,000 and its US dollar bank account had a balance of \$3,000. The Trustee requested that the US funds be converted to Canadian dollars and that all the funds be transferred to its estate account.

3.2 Accounts Receivable

1. The Company has one account receivable of approximately \$46,000 related to a media program that it completed for one of its customers in June 2019.
2. The Company's records also reflect a receivable of \$45,000 related to an account that is subject to litigation. In this regard, the Company issued a statement of claim in May 2019; the defendant had until June 19, 2019 to file a statement of defence and may now be noted in default.

3.3 Loan Receivable

1. The Company's records reflect a loan receivable of \$40,000 owing from Mr. Wills, which the Trustee understands relates to a \$100,000 advance originally made by the Company to Mr. Willis in 2012. Gallagher has advised the Trustee that the loan is non-interest bearing, repayable in annual instalments of \$10,000 and matures on August 15, 2021. The Trustee also understands that historically, the annual repayments were recorded as part of Mr. Wills' compensation.
2. The Trustee has directed Mr. Wills to remit the remaining annual installments due under the loan to the Trustee in accordance with the terms of the loan. It is unclear whether this amount will be recoverable.

3.4 Other

1. In 2018, Canada Revenue Agency ("CRA") performed an audit of the Company's HST returns for the period April 2014 to December 2017. In May 2018, CRA issued a notice of assessment with a balance payable of \$767,000 ("Assessment"). The Company filed a notice of objection in August 2018.

2. Gallagher advised the Trustee that CRA has not yet reviewed the Company's objection to the Assessment.
3. On May 15, 2019, as required by the applicable objection procedures, the Company paid \$794,000 ("HST Payment") to CRA in respect of the disputed Assessment. If the Company's objection is upheld, it could result in all or a portion of the HST Payment being refunded to the estate. The Trustee intends to pursue recovery of the taxes paid.

4. Creditors

4.1 Secured Creditors

1. The Trustee conducted a search under the *Personal Property Security Act* (Ontario) and did not identify any secured creditors of the Company.

4.2 Priority Claims

1. The Trustee is not aware of any priority and/or trust claims.

4.3 Unsecured Creditors

1. According to the Company's Statement of Affairs, unsecured liabilities totalled approximately \$2.67 million at the date of bankruptcy before considering contractual obligations and the claims, if any, of former employees in respect of severance and termination. In respect of employee claims, the Trustee will be completing a claims process under the *Wage Earner Protection Program Act*.
2. As at the date of this report, proofs of claim totaling \$2.9 million have been filed against the Company.

5. Books and Records

1. The Trustee has taken possession of the books and records located at the Premises and is storing them at a third party record storage facility. The Trustee has also taken possession of the Company's minute book.
2. The Trustee obtained a backup of the Company's network and servers.

6. Preferences and Transfers at Undervalue

1. As part of its statutory duties, the Trustee conducted a preliminary review for preferences and transfers at undervalue by reviewing the Company's bank statements, cancelled cheques and general ledger for the year preceding the date of bankruptcy.

2. Based on the Trustee's review, it appears that most of the payments made by the Company during that period were for normal course operating expenses, including payroll, vendor payments and other selling, general and administrative expenses. The Trustee also identified payments in the same period totaling approximately \$572,000 that appear to have been made directly or indirectly to Mr. Wills. As noted below, the Company paid dividends to Mr. Wills as part of his annual compensation. Included in this amount is a payment of \$175,000 made on April 30, 2019 to CRA relating to Mr. Wills' personal income tax.
3. The Trustee reviewed the Company's unaudited financial statements for the fiscal years ended February 28, 2017 and 2018. The financial statements reflect annual dividends issued to Mr. Wills of \$451,800 and \$479,000 in fiscal 2017 and 2018, respectively, when the Company was in a deficit.
4. Financial statements for the year ended February 28, 2019 have not been completed.
5. The Trustee will discuss potential next steps regarding the above issues with the inspectors to be appointed at the First Meeting.

7. Anticipated Realization and Projected Distribution

1. Based upon the facts and circumstances known to the Trustee at this time, the unsecured creditors are expected to receive a distribution from the estate. The amount of the distribution will depend largely on recoveries, if any, in respect of the HST Payment, the accounts receivable, recoveries from Mr. Wills and the costs of these proceedings.

8. Other Matters

1. The Trustee intends to seek creditor approval for the appointment of DLA Piper (Canada) LLP as its legal counsel in these proceedings.

* * *

DATED at Toronto, Ontario, this 9th day of July, 2019.

All of which is respectfully submitted,

KSV Kofman Inc.

**KSV KOFMAN INC.
IN ITS CAPACITY AS TRUSTEE OF THE ESTATE OF
WILLS & CO. MEDIA STRATEGIES INC., A BANKRUPT
AND NOT IN ITS PERSONAL CAPACITY**