



GRANTED

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Transaction ID 66631494
Case No. 2021-0071-JTL



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In Re: Magic Mobile Communications)
Holdings, LLC, a Delaware) C.A.:2021-0071 JTL
Limited Liability Company)

PROPOSED ORDER

WHEREAS, on January 27, 2021, Pittsburgh Partners, LLC, a Delaware limited liability company, as one of two Managing Members and a 44.5% Member of Magic Mobile Communications Holdings, LLC (the “Company”), filed a Petition for Dissolution and Appointment of a Liquidating Trustee (the “Petition”), pursuant to 6 Del. C. §18-802 et seq., to enter an order of dissolution and appoint an independent Liquidating Trustee to dispose of the assets of the Company as a result of the ongoing inability of the Managing Members to agree upon the continued operation, funding, and management of the Company.

WHEREAS, Respondents TASA MMC Holdings, LLC, James Wu, and Dee Jae Diliberto were served with the Petition (“Respondents”).

WHEREAS, counsel for Respondents entered his appearance on March 10, 2021, and counsel filed a Response in Opposition to the Petition on March 17, 2021 for TASA MMC Holdings, LLC and Dee Jae Diliberto (not for James Wu).

WHEREAS, counsel for Respondents moved to withdraw his appearance on April 14, 2021, which the Court granted on April 16, 2021.

WHEREAS, the Court entered Case Management Order Number One (“CMO”) on April 16, 2021 requiring that, by May 7, 2021: i) successor counsel appear for Respondent TASA MMC Holdings, LLC and file an answer; and ii) Respondents James Wu and Dee Jae Diliberto have counsel appear or file a notice of intent to proceed pro se and file an answer.

WHEREAS, if Respondents did not timely fulfill their obligations under the CMO, the Court would deem that Respondents waived any opposition to the relief sought in the Petition.

WHEREAS, Respondents did not timely fulfill their obligations by May 7, 2021 as required by the CMO and, as of the date Petitioner filed this order, Respondents have taken no further action.

NOW, this _____ day of _____, 2021, upon review and consideration of the Petition and the record in this action, IT IS HEREBY ORDERED that the relief sought in the Petition is GRANTED.

It is FURTHER ORDERED that:

1. Pursuant to 6 Del. C. §18-802 of the Delaware Limited Liability Company Act (the “Act”), the Company is DISSOLVED; and
2. Christopher P. Simon of the law firm of Cross & Simon LLC is hereby appointed as Liquidating Trustee (the “Trustee”) of and for the Company, pursuant

to 6 Del. C. §18-805 of the Act until discharged from such duties by order of this Court. The Trustee shall, within ten (10) days of the entry of this Order, file in this Court a written acceptance of this appointment. The Trustee shall serve at the pleasure of this Court, and the provisions of this Order shall remain in effect pending further order of this Court.

3. As Trustee for the Company, the Trustee shall take charge of the Company's assets, and shall have the full power and authority to do all acts that might be done by the Company that the Trustee may determine to be necessary or appropriate for the final settlement of the unfinished business of the Company and winding up of its affairs, including making a final distribution of the Company's assets, in accordance with applicable law. The authority granted herein to the Trustee shall be interpreted broadly so that the Trustee has full power and authority to act in the Company's name in all administrative and judicial proceedings. Without limiting the foregoing, the Trustee shall have discretion to determine how the affairs of the Company should be wound up, and payment or provision for the Company's liabilities and obligations made, in accordance with the Act or such other manner as may be approved by the Court.

4. Rules 158 through 167, inclusive, of this Court shall not be applicable in this proceeding. In lieu thereof, the Trustee shall file quarterly reports with the Court summarizing his activities as Trustee. When the Trustee has completed the

process required to distribute the Company's assets in accordance with this Order, the Trustee shall file a final report prior to this Court's discharge of the Trustee from his duties as Trustee.

5. The Trustee is authorized to apply at any time and from time-to-time to the Court for further or special instructions with respect to any matter concerning his duties and responsibilities as Trustee and the liquidation of the Company and the winding up of its affairs. The Trustee may submit a request to this Court to modify the terms of this Order, including by seeking supplemental authority under this Order.

6. The Trustee shall not have power to cause the Company to engage in business or in any other activities beyond those necessary or desirable for the administration and orderly liquidation of the Company, the winding up of its affairs, the payment, performance, provision for, or discharge of the Company's liabilities and expenses, and the sale or distribution of any remaining assets of the Company in accordance with applicable law.

7. Subject to Paragraph 8 and excluding expenses payable to third parties in the ordinary course of business of an amount not to exceed \$500, the Trustee shall not distribute, pay out or transfer, or agree to distribute, pay out or transfer, any funds or other assets of the Company to any creditor or member without further order of

the Court. The Trustee shall seek approval from the Court for any such proposed distributions, pay outs or transfers at such time and in such manner as he deems appropriate in accordance with the Act and the terms of this Order.

8. The Trustee's powers under §18-805 of the Act may be exercised in whole or in part by agents and representatives so authorized by the Trustee. Subject to the approval by this Court in accordance with this Paragraph 8, the Trustee shall be compensated at his customary hourly rate and for expenses reasonably incurred by him in the discharge of his duties. The Trustee is authorized to retain, in the name of the Company, such financial professionals, legal counsel and other professional advisors as he deems appropriate for the efficient administration of the Company's routine affairs in connection with its liquidation and winding up and for advising him with respect to the performance of his duties and responsibilities as Trustee. Without limiting the foregoing, the Trustee is authorized to utilize the services of professionals from the law firm of Cross & Simon LLC and may use attorneys from Cross & Simon LLC as legal counsel. In the event that any potential or actual conflict of interest arises with respect to any engagement of Cross & Simon LLC by a third party that may have an adverse interest to Petitioner or the Company, the Trustee shall retain special conflicts counsel with respect to any such matters in accordance with this Paragraph 8. All advisors and professionals retained by the Trustee shall submit invoices to the Trustee for services provided on a monthly basis.

The Trustee's compensation and reimbursement and expenses and those of Cross & Simon, LLC shall be paid first from the Company assets, and if insufficient to cover all allowed fees and expenses of the Trustee, shall then be drawn from the Trustee Fund. Within ten (10) days after entry of this Order, Petitioner shall deposit the amount of \$15,000 in the IOLTA account maintained by Cross & Simon, LLC which shall constitute the Trustee Fund. The Trustee Fund shall be held in an IOLTA account maintained by Cross & Simon, LLC and shall consist of amounts contributed by the Petitioner within ten (10) days of this order (as described in the Petition). The Trustee and Cross & Simon, LLC shall submit statements to the Court for payment for services and expenses, which state the total amount of time spent and the type of services and work performed during such time. Expenses shall be itemized. Each payment to the Trustee and to Cross & Simon, LLC shall be approved by the Court prior to disbursement. Payment of the fees and expenses of the Trustee and any retained advisors and professionals approved by this Court in accordance with the foregoing shall have priority over all other obligations, payments, and distributions of the Company, but the aggregate fees and expenses of the Trustee shall not exceed the amount of the remaining Company assets and the Trustee Fund.

9. In the event that the Trustee seeks to sell any assets of the Company by auction or otherwise and the Petitioner is a prospective purchaser of those assets, the

amount that the Petitioner has deposited in the Trustee Fund may be included as a credit bid applied to the Petitioner's purchase price of any assets of the Company.

10. The Trustee shall be entitled to all protection, limitation from liability and immunity available at law or in equity to a court-appointed Trustee, including, without limitation, to the maximum extent of any protection, limitation from liability and immunity provided by the indemnification provisions of applicable law. Without limiting the foregoing, (i) the Trustee shall be entitled to be indemnified out of the assets of the Company, to the maximum extent that a director of a Delaware corporation could be indemnified under the provisions of 8 Del. C. § 145, for all reasonable expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by the Trustee in connection with any threatened, pending, or completed action, suit, or proceeding to which the Trustee is or was made a party, or is or was threatened to be made a party, by reason of the fact that the Trustee is or was serving in such capacity or otherwise arising by reason of or in connection with the Trustee's serving as Trustee for the Company (an "Indemnifiable Proceeding"), and (ii) the Trustee shall be entitled to the advancement of reasonable expenses, including attorneys' fees, incurred by the Trustee prior to final determination of any Indemnifiable Proceeding, subject to the repayment of any such amount if it shall be ultimately determined by this Court that

the Trustee is not entitled to indemnification in connection with such proceeding under applicable Delaware law.

11. The obligation of the Trustee to cause the Company to pay or discharge any of the Company's liabilities or expenses shall be solely the obligation of the Trustee in his capacity as such to cause the Company to pay or discharge such liabilities and expenses from and to the extent of the assets of the Company, and no recourse under or upon the Company's liabilities and assets shall be had against the Trustee personally or in any capacity other than his capacity as Trustee.

12. The Trustee shall not be liable to any member or claimant of the Company except for his own gross negligence or willful misconduct, and the Trustee shall not be liable for any act or omission of any agent, advisor, consultant or employee of the Company, unless the Trustee acted with gross negligence or willful misconduct in the selection or retention of such agent, advisor, consultant or employee on behalf of the Company.

13. No person shall commence any action against the Trustee in his capacity as such or by reason of any action or failure to act of the Trustee in his capacity as such unless such action is commenced in the Court of Chancery of the State of Delaware, and this Court shall have granted permission to commence such action. The Trustee shall be subject to the jurisdiction of this Court for purposes of

any proceedings or actions that may arise out of his service as Trustee for the Company.

IT IS SO ORDERED

Vice Chancellor J. Travis Laster

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: J Travis Laster

File & Serve

Transaction ID: 66630763

Current Date: May 25, 2021

Case Number: 2021-0071-JTL

Case Name: In Re: Magic Mobile Communications Holdings, LLC

Court Authorizer: J Travis Laster

/s/ Judge J Travis Laster