

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**



THE HONOURABLE JUSTICE HAINEY)
)
)

, THE 15th

DAY OF JANUARY, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020
CANADA INC., THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM
LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM
TRADING AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC.,
173470 CANADA INC., 2497089 ONTARIO INC., 6988741 CANADA INC.,
10011711 CANADA INC., 1592580 ONTARIO LIMITED, 955041 ALBERTA LTD.,
4201531 CANADA INC., 168886 CANADA INC., AND 3339611
CANADA INC.

(each an "**Applicant**", and collectively, the "**Applicants**")

ORDER

THIS MOTION, made by Representative Counsel to the court-appointed Representatives of employees and retirees with respect to pensions and post-retirement benefits of the Applicants ("**Representative Counsel**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Ken Eady sworn January 11, 2019, and on hearing the submissions of Representative Counsel, the Monitor, and ~~counsel to such other parties as were present.~~

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 that further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS** that paragraph 2 of the Order of November 7, 2017, as attached hereto as Schedule 'A' (the "**Retiree Committee Order**") is amended by deleting Brent Hollister, effective October 25, 2018.

3. **THIS COURT ORDERS** that the Retiree Committee Order is amended by adding the following after paragraph 6:

6(A) **THIS COURT ORDERS** that (i) the Retiree Committee is authorized to issue instructions to the investment manager(s) that are investing the funds in the RCA Trust to liquidate such investments that they designate in their discretion and in amounts that are required to pay the monthly supplemental pension benefits from the RCA Trust to its beneficiaries and the reasonable administrative costs of the Trustee of the RCA Trust and (ii) individual Retiree Committee Members shall have no personal liability as a result of the Retiree Committee issuing such instructions, save and except for any claim based on gross negligence or wilful misconduct on their part.


HAINEY, J.

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and counsel to such other parties as were present, and having read the consent of the Trustee (defined below) dated November 6, 2017.

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 that further service thereof is hereby dispensed with.

SRP Retiree Committee

2. **THIS COURT ORDERS** that despite the terms of section 8.2 of the Amended and Restated Retirement Compensation Arrangement Trust Agreement (the "**RCA Trust Agreement**") between Sears Canada Inc. and CIBC Mellon Trust Company (the "**Trustee**") effective October 1, 2012, the Retiree Committee for the purposes of the RCA Trust Agreement is hereby established and composed of Brent Hollister, George Hughes, Larry Moore, Claude Sénéchal, William Turner, and Ken Eady (the "**Retiree Committee Members**"), subject to further order of the court.

3. **THIS COURT ORDERS** that any instructions from the Retiree Committee to the Trustee shall be communicated to the Trustee by Representative Counsel (Koskie Minsky LLP).

4. **THIS COURT ORDERS** that the Retiree Committee Members shall have no liability as a result of their appointment or the fulfilment of their duties, as such, save and except for any claims based on gross negligence or wilful misconduct on their part.

5. **THIS COURT ORDERS** that Representative Counsel, the Retiree Committee Members and the Trustee shall be at liberty and are authorized at any time to apply to this Court for advice and directions in the discharge or variation of their powers and duties hereunder, including with respect to the payment of costs, as the case may be.

6. **THIS COURT ORDERS** that the reasonable legal, actuarial, and financial advisor costs, as the case may be, of the RCA Trust beneficiaries as incurred by Representative Counsel, to the extent such costs are not paid due to the exceeding of the fee cap of the


Represented Parties in the applicable letter agreement between Sears Canada Inc. and Representative Counsel dated June 22, 2017, shall be paid out of the fund of the RCA Trust.

7. **THIS COURT ORDERS** that none of the Applicants shall have any liability, responsibilities or duties with respect to the RCA Trust or any actions taken by the Retiree Committee from and after the appointment of the Retiree Committee, however, despite the foregoing, Sears Canada Inc. shall reasonably cooperate with respect to providing information and data in its possession or under its control to Representative Counsel as may be required for the administration or wind up of the RCA Trust. If the consent of the administrator of the Sears Canada Pension Plan is required for the provision of such information to Representative Counsel, Sears Canada shall seek the consent of the administrator.


HAINEY, J.

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C 1985. C. C-36, AS AMENDED

Court File No.: CV-17-11846-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA INC., THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC., 173470 CANADA INC., 2497089 ONTARIO INC., 6988741 CANADA INC., 10011711 CANADA INC., 1592580 ONTARIO LIMITED, 955041 ALBERTA LTD., 4201531 CANADA INC., 168886 CANADA INC., AND 3339611 CANADA INC.

(each an "Applicant", and collectively, the "Applicants")

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ORDER

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